

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: SEPTEMBER 7, 2011
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Wednesday September 7, 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: None

Others Present:	Wayne Dean:	Dir. of Planning and Development
	Terry Kirwan:	Attorney
	Jessica Zambrano:	Town Board Liaison
	Nancy G. Morgan:	Secretary
	Donald Bloss:	Board Member AdHoc

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. Palladino, to approve the minutes of the July 6, 2011 Zoning Board of Appeals meeting, with the following corrections: page 21, 11th paragraph--the road should be 75 ft. not 65 ft. page 22, last paragraph, Mr. Rabbia's motion--add:

"Rather than describing the length of the building, project the line from the rear of the neighbor's home which establishes the rear of the garage. You have to meet the front setback of 50 ft., which leaves the building approximately 50 ft. long. That is to be confirmed by the Surveyor."

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Natali:	I was absent but I have read the minutes and I vote Yes.
Mr. Palladino:	Yes
Mr. Snyder:	I was absent but I have read the minutes and I vote Yes.
Mr. Winters:	Yes

Motion duly carried.

Motion was made by Mr. Winters, seconded by Mr. Snyder, 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 FOR ELAINE & DAN BASSANO, 8884 MAPLE DRIVE, TO REMOVE EXISTING AND CONSTRUCT A NEW GARAGE ON A LOT IN AN R-10 ZONE. THE LOT IS 45 FEET WIDE WHERE 75 FEET IS REQUIRED. THE FRONT YARD SETBACK IS 25.1 FEET WHERE 30 FEET IS REQUIRED. THE REAR YARD SETBACK IS 6.6 FEET WHERE 30 FEET IS REQUIRED. THE MINIMUM SIDE YARD SETBACK IS 3.1 FEET WHERE 6 FEET IS REQUIRED.

Representatives: Elaine & Dan Bassano, Owners

Mrs. Bassano: We would like to remove the old garage and build a new one.

Mr. Palladino asked about the shed that is there presently.

Mr. Bassano :We were told we don't need a Variance for the shed.

Mr. Snyder: Do they still need a Permit for the shed ?

Mr. Dean: Yes, but not a Variance for the shed.

Mr. Bassano: The shed will be much closer to the house.

Mr. Rabbia discussed the 6.6 ft. measurement and the north west corner of the garage with Mr. Bassano.

Mr. Winters opened the Public Hearing at 7:12 P.M.

FOR: Neighbor, Gerald Retchless, 6591 Lakeshore Rd., spoke in favor of the Variance.
AGAINST: NONE

The Hearing was closed at 7:13 P.M.

Motion was made by Mr. Winters, seconded by Mr. Snyder, to approve the Area Variance for Elaine and Dan Bassano, 8884 Maple Dr., to remove the existing and construct a new garage on a lot in an R-10 zone. The lot is 45 ft. wide where 75 ft. is required The frontyard setback is 25.1 ft. where 30 ft. is required. The rear yard setback is 6.6 ft. where 30 ft. is required. The minimum side uard setback is 3.1 ft. where 6 ft. is required. The 5 factors taken into account are as follows:

- 1- Whether an undesirable change will be produced in the character of the neighborhood ? Answer: No.
- 2- Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to prusue other than a Variance ? Answer: No.
- 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.
- 5- Whether the alleged difficulty was self-created ? Answer: That's a toss up.

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.

AREA VARIANCE FOR KEN YOUNG, 503 CHURCH STREET, TO CONSTRUCT A GARAGE ON A LOT IN AN R-15 ZONE. THE LOT IS 69.17 FT. WIDE WHERE 85 FT. IS REQUIRED THE LOT AREA IS 14,546.451 SQ. FT. WHERE 15,000 SQ. FT. IS REQUIRED.

Representative: Ken young, Owner.

Mr. Young: I want to build a new garage on my lot in an R-15 zone. I brought in some stone. There were slabs where I want to place the garage.

Mr. Rabbia: The bulk regulations and the siting are in good shape.

Mr. Winters opened the Public Hearing at 7:18 P.M.

FOR: Neighbor, Donald Turnbull spoke in favor of the Variance.
AGAINST: NONE

The Public Hearing was closed at 7:19 P.M.

Mr. Natali discussed the 5 factors considered for a Variance :

- 1- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties ? Answer: No.
- 2-Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an Area Variance ? Answer: No.
- 3- Whether the requested Area Variance is substantial ? No, the current lot size is 14,546.451 sq. ft. where 15,000 sq. ft. is required.
- 4- Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood ? Answer: No.
- 5- Whether the alleged difficulty was self-created ? Answer: Yes , but this does not weigh heavily as a factor in this case.

Motion was made by Mr. Natali, seconded by Mr. Snyder, to approve the Area Variance for Ken Young, 503 Church St., to construct a garage on a lot in an R- 15 zone. The lot is 69.17 ft. wide where 85 ft. is required. The lot area is 14,546.451 sq. ft. where 15,000 sq. ft. is required.

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 mentioned that he had received a letter from Onondage County Planning about Ken Youngs property.

AREA VARIANCE FOR JAMES WAVLE (CROWN CONSTRUCTION, INC.)
6693 PARK ROW WAS POSTPONED.

AREA VARIANCE FOR DAVID BUSHEY (G & I HOMES), 8893 MAPLE DRIVE, TO
CONSTRUCT A NEW RESIDENCE ON A NON-CONFORMING LOT. THE LOT IS
60 FT. DEEP WHERE 125 FT. IS REQUIRED. THE FRONT SETBACK OF 12 FT.
DOES NOT MEET THE REQUIRED SETBACK OF 30 FT. AND THE REAR SETBACK
OF 6 FT. DOES NOT MEET THE REQUIRED SETBACK OF 30 FT. THE LOT
COVERAGE OF 25 % IS ALSO EXCEEDED.

Representative: David Bushey (G & I Homes).

Mr. Bushey: I would like to build a new home on a non-conforming lot.

Mr. Rabbia: The survey doesn't show how the house is going to be placed on the lot.
I'd like to see it laid out on the survey.

Mr. Bushey: The side porch will be enclosed. The house will be 31 ft.X 38 ft. The screen
porch will be 10 ft. X16 ft. The covered deck on the front will be 6 ft. X18 ft.

Mr. Rabbia: Is it 17 ft. from the property line ?

Mr. Winters: Was this 2 lots ?

Mr. Bushey: Yes, they were merged years ago. We have the drawing, the map done
and the the Building Permit process. We're trying to approach this--there's a lot of cost
here--moving the power lines, the demolition of the house. We can't get the Building
Permit until we get the Variance. So, we want to apply for the Variance first.

Mr. Winters: I'm not seeing any concern with the project itself. I'm seeing there is a
concern for the accuracy because when we say it's less than 25 % coverage, we want to
be able to stand behind that. It's hard to do with a drawing like this. Wayne, can they go
ahead with demolition ?

Mr. Dean: Yes, if he gets his asbestos survey.

Mr. Winters: I don't think it would slow you down that much if we deferred this.

Mr. Rabbia: I would say it would be money well spent to get your project laid out the way
you want it--if it's close to what you have hand drawn--I just want to get it sited properly
on your survey.

Mr. Bushey: So, it would be next month's meeting ?

Mr. Winters: Yes, October 3rd.

Mr. Bushey: Is there another fee for that ?

Mr. Winters: No.

Mr. Winters opened the Public Hearing at 7:30 P.M.

FOR: NONE
AGAINST: NONE

The Public Hearing was closed at 7:31 P.M.

Motion was made by Mr. Snyder, seconded by Mr. Palladino, to defer this Variance request by David Bushey (G & I Homes) until the October 3, 2011 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.

AREA VARIANCE FOR ELISA D. PADRAO, 6126 MUSKRAT BAY ROAD, TO CONSTRUCT A GARAGE ON A NON-CONFORMING LOT. THE LOT IS 40 FT. WIDE WHERE THE ZONING REQUIRES 75 FEET.

Representative: Elisa Padrao, Owner.

Ms. Padrao: I'm here because I'd like to build a 24 ft. X 32 ft. garage on my property.

Mr. Palladino: Is it in the back yard where the stone and ground work is ?

Ms. Padrao: Yes.

Mr. Winters: I think we all had an opportunity to look at it. One of my observations was the sewer line going through there. There's a Pumping Station there--to get it to your house there, then pump it back past your house. I think we ought to be absolutely certain that there's nothing under that ground that we don't know about.

Ms. Padrao: I called NY DIG and the County Sewer--they came out. They marked the sewer and they told me to stay 10 ft. from either side of the sewer main, which was depicted by those green stakes on the property. That's why I decided to build 10 ft. from the sewer main. I don't know if you saw the manhole 2 yards to the left. That would be the main. I have paperwork with that. Steve told me I didn't have to hand that in. Also, National Grid and all the authorities were called.

Mr. Snyder: Wayne, this isn't the forced main is it ? This is the gravity fed line she's near ?

Mr. Dean: Yes, I believe it's the gravity line she's near. Especially because of the proximity of the manholes. Because of the manholes, that location of the sewer is pretty accurate.

Mr. Rabbia: It appears that your Surveyor laid out the proposed building. It looks to me that the bulk regulations have been met in terms of where you've sited the building, which is great. Really, what we're left with is the lot width.

Mr. Winters: That's the concern I have, is that you can't drive a vehicle by the house to get to the garage.

Ms. Padrao: The building won't be for the storage of a vehicle.

Mr. Snyder: A boat ?

Ms. Padrao: No, I don't have a boat. If I wanted access with a car, I would probably have to change the stairs up to that entry with the small porch, because I have 9 1/2 ft. on that side of the property that could be a driveway. But, I'm just looking for storage--seasonal furniture, etc. You buy a house, then you start growing. I just don't have any room in my house for storage--things that shouldn't be stored outside.

Mr. Winters: I don't know that we have any regulations that prohibit, do we Wayne, of putting up a building with no vehicular access ?

Mr. Dean: No.

Mr. Winters: There's no wetlands are there ?

Mr. Dean: That was an issue when Steve and I went out there last week. Ms. Padrao, did you hear back from the D.E.C.?

Ms. Padrao: I called your office on Tuesday morning and they said they hadn't heard anything. So, I took the initiative to call Kevin Bliss from the D.E.C. I spoke to him on the phone. He e-mailed me a 2 part application--the 3rd part is instructions to submit it to the D.E.C. office on Erie Blvd. I haven't done that yet until I find out the outcome of tonight's meeting before I proceed.

Mr. Winters: I don't think we can give a Variance until we have that information, can we Terry ?

Mr. Dean: I don't see why it's needed for the Variance. It is needed for the Building Permit. If we were to pass this tonight, she could proceed with that and they could go concurrent while I'm waiting to get the minutes back.

Mr. Dean continued:

I don't know how long the D.E.C. will take to respond.

Mr. Snyder: I'm sure Ms. Padrao will not let the D.E.C. linger, will you ?

Ms. Padrao: No.

Mr. Winters opened the Public Hearing at 7:37 P.M.

FOR: NONE
AGAINST: NONE

The hearing was closed at 7:38 P.M.

Motion was made by Mr. Rabbia, seconded by Mr. Natali, to approve the Area Variance for Elisa D.Padrao, 6126 Muskrat Bay Rd., to construct a garage on a non-conforming lot. The lot is 40 ft. wide where the zoning requires 75 ft. The 5 factors used to determine this variance are as follows:

1- Whether an undesirable change will be produced in the character of the neighborhood? Answer: No.

2- Whether the applicant can achieve her goals via a reasonable alternative ? Answer: No, in this case.

3- Whether the Area Variance is substantial ? Answer: You could say the lot is 40 ft. and the zoning requires 75 ft. , but that's not the applicants fault.

4- Whether the proposed Variance will have an adverse effect on the physical or environmental conditions of the neighborhood or district ? Answer: No, I see no adverse impact., especially with the structure being 160 to 170 ft. off the road.

5- Whether there's a self-created difficulty ? Answer: One could argue that the applicant bought the house--but that in itself is really not a reason to deny the Area Variance.

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.

AREA VARIANCE FOR BRIAN MANTHEY, 7275 LAKESHORE ROAD, TO RE-MODEL TWO RESIDENCES ON A NON-CONFORMING LOT. THE LOT IS 50 FEET WIDE WHERE 75 FT. IS REQUIRED. THE EXISTING SIDE SETBACK OF 4.1 FEET IS ALSO NON-CONFORMING.

Representative: Brian Manthey, Architect for the Owners.

Mr. Manthey: I'm here to represent the owners of this property. This is an application that came before you in March and remains open. At that time, it was an application for both an Area and a Use Variance. Since March, the owners reconsidered their desire for the Use Variance and have "switched gears". They have engaged me to develop renovation plans for the existing structures. This property has 2 houses on it, on Oneida Lake. It is narrower than the required minimum. What we're proposing to do now is reconstruct and renovate the existing structures. I've identified them on the plans as the Corsanini residence in the front and the Henson residence on the rear of the property, closer to the lake. The front residence would be renovated and reconstructed within the exact footprint of the existing structure compromised of the main building and a surrounding enclosed porch. That enclosed porch would become part of the main living area, as depicted on the construction plan. The Henson property would be renovated with a slight expansion of about 64 sq. ft. on one side and about 28 ft. on the other side. By doing so, it would not encroach any further on the required setbacks on either side but it would complete the--make a linear shape out of the footprint of the building to fill in that one corner. That would be reconstructed as a 2 story structure, within the footprint of the existing, with the exception of that 90 sq. ft. or so. I performed an area calculation for the 2 structures on the site. The required maximum is 25 % of the site. They currently take up about 13 % and that extra 90 sq. ft. bumps it up about less than 1 %--13.8 %. The requested Area Variance does very little to effect the lot coverage. It does not negatively impact the current non-conforming setback conditions and occurs generally in the footprint of the existing.

Mr. Rabbia: The house closest to Lakeshore Rd.--the porch you show drawn around--is that going to be covered or open ?

Mr. Manthey: That would be incorporated into a revised plan, in elevation, whereby it becomes more part of the main living area.

Mr. Rabbia: Will it be covered or open ?

Mr. Manthey: It will be covered. Actually, it will have a second story.

Mr. Rabbia: The 10 ft. 8 in. dimension that the Surveyor showed on your survey you copied into your plan here--that's not exactly accurate. It's going to be a lot closer than 10 .8 ft. on that side, right ?

Mr. Manthey: That's correct. It's probably more like 4 ft. But again--it's an existing, covered porch that will be covered structure after the renovation.

Mr. Natali: Your footnote says the existing porch is going to be converted into living space ? So, you're going to knock the building down ?

Mr. Manthey: We're going to save as much of the existing as possible. No, we're not going to knock that building down. The building is going to be renovated and whatever structure we can save, we will, but it will be at the same finished floor elevation as the main living area. It will have a second floor put over the top of it and it will be within the footprint. of the existing covered porch.

Mr. Snyder: Are you putting a new foundatin under it ?

Mr. Manthey: I haven't analyzed the existing foundation yet to see if it's capable of supporting that additional load.

Mr. Natali: If you're taking down 3 sides , why not take it down and do it right ? You're making that all into living space, right ?

Mr. Manthey: Yes.

Mr. Rabbia: Don't we have an issue if he takes down a certain amount of it ? He's not going to put 2 residences back on the piece of property, right ?

Mr. Natali: You can't expand on a non-conforming lot and that's what you're doing with that proch. It's going to convert to living space, now we've got an issue.

Mr. Snyder: The porch is covered, on the house in front. When they get all done, it's going to be house. If we were not standing there watching it , the building would be almost completely taken down. Especially if there's a foundation problem.

Mr/ Natali: Right. Why would you even label it "porch" ? Why don't you just scratch out porch and say that's what you want ?

Mr. Manthey: The drawings show the existing conditions of the first floor plan in drawing #3A for the front residence. Drawing #4 shows the renovated area, annexing that porch area into an overall revised floor plan. The only difference is, is that it's going to get heat. It will be reconstructed but it's covered now and will be covered after the reconstruction. The difference is , it doesn't have heat now, it will have heat and air conditioning afterwards. We are looking to expand the other residence--the one in back--by an area 8 ft. X 8 ft. and a small bump on the east side 2 ft. X 14 ft. We're not looking to expand the front house at all beyond it's existing footprint of covered space. I looked in your Code and didn't find any threshold beyond which a renovated structure became....

Mr. Snyder: Wayne, if he wanted to take both structures down but build them in the same footprint--that would be a "no-no", right ?

Mr. Dean: I don't believe so.

Mr. Kirwan: No, as long as they're not expanding the footprint then they're fine.

Mr. Snyder: But the minute he starts expanding the footprint, which he is--the structure close to the lake.

Mr. Kirwan: Then you lose your non-conformity.

Mr. Manthey: There's a lot of issues of non-conformance about it--lot width, setbacks.

Mr. Natali: This property has been before us before. It's an unusual property--you have 2 families. She couldn't build that today. Let's just stay within the footprint. You're expanding a non-conforming piece of property.

Mr. Kirwan: The Code says "no non-conforming building or structure for use shall be expanded, enlarged or increased." One should be OK but the other is not.

Mr. Natali: That's basically what should be done with this property--make it into one home and do it right--do what they want.

Mr. Manthey: Well, that's not what they want. What the Code wants, you mean ?

Mr. Natali: That's why we have a Code, because that's what we'd like to see done with this property. Since some of them were already there before this Code was put in, in the 1970's, we came up with a rule that you can't expand, enlarge or increase a building on a non-conforming property. I'm sure that's what your neighbors want to see--we haven't heard from them. If I was a property owner, I'd want to see that eventually be one property or at least the same size it is. Are people living in it now ?

Mr. Manthey: It's seasonal use.

Mr. Natali: It's never been discontinued as a residence ?

Mr. Manthey: No.

Mr. Natali: OK, because that would really end your progress here.

Mr. Winters: Let me make sure I understand--they can renovate the rear property?

Mr. Kirwan: With no action.

Mr. Manthey: The lake is at the top of the drawing.

Mr. Snyder: So, the one closest to the road is OK.

Mr. Winters: I'm trying to define what OK means.

Mr. Kirwan: No action for the non-conforming use for the one furthest from the lake, then the one closest to the lake, he loses the non-conforming status and he'd have to get Variances.

Mr. Winters: Does this Board have the authority to grant the expansion of a non-conformity for this piece of property ?

Mr. Kirwan: It would lose it's non-conformity and then it needs a Variance for everything to bring it into compliance.

Mr. Winters: OK, so everything would start all over again. Does that extend to the other property, too ?

Mr. Rabbia: The fact is there's 2 houses on a single piece of property. That's a "biggie".

Mr. Winters: What you do to one effects the other.

Mr. Kirwan: The best thing for this project would be to refrain from expanding.

Mr. Natali: Right--that's basically your option--just improve what's there--and not to try to make it any bigger than it already is.

Mr. Manthey: We're talking about not making it any bigger than it already is--we're talking about not expanding the footprint beyond the existing ?

Mr. Rabbia and Mr. Natali: Right.

Mr. Natali: You can just leave it alone--it was there.

Mr. Manthey: We could reconstruct it in that footprint--if we need to, there could be very little left of the existing if we stay within the footprint, is that what I'm hearing ?

Mr. Natali: It wouldn't even come before us. It would go before Mr. Dean for the Building Permit. We wouldn't have a reason to discuss it accept it's still a non-conforming lot.

Mr. Rabbia: I think we still have the issue before us--the lot width--some setback issues.

Mr. Natali: Wayne, if he's just going to remodel--put siding on it---

Mr. Snyder: It's not going to happen--no way he can just put siding on those 2 structures--there's almost nothing there--I could almost push it over when I was there today.

Mr. Winters: No--that's not their plan. What we're trying to determine is what involvement this Board has to have, if they don't change the footprint.

Mr. Dean: In the past, if we have looked at a house or a structure and it's an existing house but it intrudes into the setback, we include it in the Variance to make it legal. That's basically what we're doing here. We're saying that we recognize there's a non-conformity and we're going to give a Variance for it to make it legal.

Mr. Rabbia: I think there was a couple of statements made that they didn't need a Variance. I think that's inconsistent with what we've done in the past.

Mr. Natali: Are you willing to keep the house in the same footprint and spend money improving it ? Is that your plan ?

Mr. Manthey: Obviously, our plan was to ask for an expansion. If that's not feasible--if the Board can't grant that Variance then a second fall back position--would be to renovate the existing in the footprint position and not to expand at all.

Mr. Winters: Let's make sure we all understand where we are. If you choose to stay within the same footprint, we would look at the Variance required for the existing structures and either grant a relief on those or not. That's one answer. the other is; you stay with your plan and request that we grant Variances to allow you to do the expansion.

Mr. Natali: We're not saying we'll approve it or disapprove it-- those are your 2 options.

Mr. Manthey: Understood. What's in front of you today is a request for that additional area. If we get rejected for that, we would come back looking to renovate the properties within the exact footprint of the existing structures.

Mr. Natali: You'll spend another fee--another application.

Mr. Manthey: None of the non-conformities are the making of this owner. They've all existed since the 1940's. I think the first question is--can we have the Area Variance, that we've requested, for the additional square footage ? I think I know the answer. Why, in your mind, is it a separate application process and a separate fee to revise that request to eliminate that 90 sq. ft.

Mr. Rabbia: No, I don't think it would be.

Mr. Natali: If you want us to put all that in compliance, we can do it if you're going to work within the footprint.

Mr. Winters: I don't think that was the question, Gary. If you say we want your opinion on what we've presented and we provide that. If we turn it down, then it becomes another request process. It wouldn't work if you say how about if I cut 2 ft. off ? And we say--no we can't do that. Or cut 6 in.---it just doesn't make sense. We can only pass on one request at a time.

Mr. Manthey: So, you're saying that second request would have another fee and application.

Mr. Winters: It is actually another request.

Mr. Manthey: Being that this is the one that we have paid for and applied for, to date, I would ask you to give an official response as to the Board's position on the additional area for the Hansen property.

Mr. Rabbia: Maybe Terry can help--for my own edification--let's say we we make a motion to approve the plans as they're laid out. The motion is hypothetically denied. Could someone from from the Board make a motion to approve the plans without the added area ?

Mr. Manthey: Plans are approved conditionally all the time.

Mr. Rabbia: There's a negotiation that happens in terms of plans that are put in front of us, fairly regular.

Mr. Winters: We've already been through the negotiation here. The 2 options were laid out--the 2 reasonable options. Then, they chose to pursue the original one.

Mr. Manthey: This isn't the same project that was in front of you in March.

Mr. Winters: We know that. We're only dealing with what we have before us right now. Thru negotiation, we're trying to give you alternatives. If you say I'm going to get your opinion on the project as it exists, we'll provide that.

Mr. Manthey: And if you don't take a vote on it tonight, then I'm open to come back next month with a revised plan without that square footage showing ? Under the same application ?

Mr. Winters: Yes--right .

Joanne Corsanini, Co-owner of 50 % of the property: My parents and my aunt and uncle bought this house over 30 years ago. As Mr. Snyder said, if you went out and looked at it today--they probably didn't do any updates in over 30 years. It's a seasonal property. I bought 1/2 out from my family and the Hensons bought the other 1/2 out. All we're trying to do is make the property presentable. It needs work. It looks like garbage on Lakeshore Rd. What we're trying to do, as we presented back in March, we were willing to invest the money to knock down both properties, put up one duplex from G & I Homes. We couldn't do that based on the zoning, codes and all that. We turned around and worked with Brian to present some plans to upgrade the property. All we wanted to do is look nice. We want to enjoy it and look nice for the whole neighborhood.

Mr. Winters: And we have the same objective.

Mrs. Corsanini: Brian comes back and presents this for the second time--I understand the part about staying within the footprint but if we want to renovate and upgrade-- if this does not get approved--do we have to come back here again or does that just go to get the permit to start some renovations and upgrade ?

Mrs. Corsanini continued:

We keep coming back here--you know what we want to do so why don't you tell us what we have to give to help make the property decent.

Mr. Winters: My understanding of what you have to go thru is, if you're denied this tonight, you would then have to come back and request a Building Permit from Wayne and if he chooses to send it back to this Board because of existing non-conformities on the property then you would be right back here for Variances on the property that have never been approved. Am I right, Wayne ?

Mr. Dean: That is correct. The biggest conformity, as we just said, is 2 residences on 1 property--that's the biggest one. I'm not going to issue a Building Permit with that facing me. You can't expand the building but you can leave the square footage the same, correct ?

Mr. Kirwan: If they want to build a second story, they'd have to come before you. I think this Board will acknowledge, for Wayne's purposes, this is a legal non-conforming use lot. If they want to stay within that and get the Building Permit and not expand on that, then Wayne could probably issue a Building Permit. If, however, they want to expand like they proposed here, they're going to need Variances for everything that's not legal non-conforming use. We either acknowledge it as non-conforming use and Wayne gives them a Building Permit to stay within the footprint or they modify their application.

Mr. Dean: I guess my question is: Expanding the building--if you have a building that was 1200 sq. ft. it would be 30 ft. by 40 ft.--can that be rebuilt to a 60 ft. by 20 ft.--it's not making it any bigger, it's just reconfiguring the space.

Mr. Kirwan: But, there's nothing in the Code that says they can't go up.

Mr. Rabbia: There's a maximum height, at some point.

Mr. Kirwan: They have to comply with what the Code says.

Mr. Monthey: You said expansion is measured by the footprint.

Mr. Dean: That is correct.

Mr. Snyder: Isn't the uncovered patio not included in the square footage ?

Mr. Kirwan: Is it part of the footprint ?

Mr. Snyder: If they wanted to put a porch on--a deck that wasn't covered ?

Mr. Dean: It would not be included in the print.

Mr. Manthey: These plans depict decks which are not covered and not included in the area calculations, for that reason.

Mr. Rabbia: The house closest to Lakeshore Rd.--you've got that converted into living space, correct ?

Mr. Manthey: The covered porch ?

Mr. Rabbia: Correct.

Mr. Manthey: The covered porch right now would be converted to living space.

Mr. Rabbia: Correct.

Mr. Snyder: But you're putting an uncovered deck on that 187 sq. ft. that's not in your numbers.

Mr. Manthey: Correct. It's my understanding that decks are not counted as covered area--uncovered deck--which they are proposing.

Mr. Snyder: The proposed addition on the side, for the Area Variance--it looks like a blank space behind a fireplace or something and also to make the landing work the way you have it laid out. There's no way we can rearrange that footprint--that plan--so it would still be a usable facility and we aren't sitting here looking at expanding a non-conforming structure ?

Mr. Manthey: I can revise the plan to eliminate the 2 ft. bump on the east side. The 64 sq. ft. in the corner which currently exists as a uncovered deck does make the house flow a lot better.

Mr. Snyder: So, the little piece in the back is an uncovered deck now.

Mrs. Corsanini: Actually it's just a corner of wasted space--it would just square that corner off.

Mr. Snyder: They're not walls that go to the ground, in that area, now ?

Mrs. Corsanini: Correct.

Mr. Snyder: So, that's why , by squaring it off, you're expanding the facility which gets us in this bind we're in.

Mr. Palladino: The 2 shaded areas on the north property, on the lake, is what's causing this--if you could do away with those 2 shaded areas, I think things would go a lot smoother. It's those shaded areas that are causing this to become a "can of worms".

Mr. Manthey: But it would be here anyway. Wayne just got thru saying that it would be back before you even if I took those 2 shaded areas off the plan, because he's got 2 residences, a narrow lot---

Mr. Snyder: No, that's not what he said.

Mr. Kirwan: Right now, it's legal non-conforming use. You don't need anything other than a Building Permit. If you're going to change that then you need Variances.

Mr. Pallidino: The question is, can you live without the 2 shaded areas ?

Mrs. Corsanini: Yes.

Mr. Manthey: It's not position A, but we'll take it. But we're knocking it down and building a single family house.

Mr. Snyder: It takes the space where the 2 chairs are sitting and eliminates it.

Mr. Manthey: No, where the dining room table sits. You're looking at the wrong property. You're looking at the front property.

Mrs. Corsanini: I know you have rules and regulations. We want to get started. We want to make the property look nicer--expand up--clean it up. That's why we keep coming back here.

Mr. Winters: Wayne, just let me check this. My understanding is that the 2 avenues now are--we take a vote on this request tonight--up or down. If it's down--you go to Wayne and request a Building Permit and go with Plan B.

Mr. Manthey: Which would not put us back in front of this Board again ?

Mr. Winters: That's my understanding--right, Terry ?

Mr. Kirwan: Right. When they built these 2 houses in the 1970's , they were acceptable. We change the Code and the rules so they get " grandfathered " in and they're OK. We're not going to go back and do anything--as long as they don't change it. That's Plan Plan A--they can go and get a Building Permit and stay within the confines of the footprint. However, if they want to expand that, they need a Variance. That's the 2 Plans. If he's asking you to vote on whether the Variance would be granted for the 2 gray areas. If you grant it OK--if you don't, then they have to go back to Plan A and get a Building Permit.

Mr. Rabbia: Figure #2 on your site plan--I see the 4.10 ft. setback from the west property line--we know the overall width of the lot--not much you can do there--I think to be true to the process--you're a lot closer to the east property line than what you're showing here. I think you might be 3 or 4 ft., right ?

Mr. Rabbia continued:

When you add those two together, you're well below the 15 ft. that you need for side setbacks.

Mr. Manthey: Which are existing conditions.

Mr. Rabbia: I understand--I don't think you noted that on either of the two sides.

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

FOR: NONE
AGAINST: NONE

The Public Hearing was closed at 8:16 P.M.

Mr. Rabbia: We're voting on what he's asking for ?

Mr. Winters: Exactly.

Mr. Palladino: Is that what you're asking for or are you asking us to vote on what you brought in front of us minus the shaded areas ?

Mr. Manthey: No, because I don't need a Variance for that.

Mr. Winters: I don't see that those 2 additions are substantial. I don't think they change the character of the neighborhood or any of that.

Mr. Snyder: I guess what I'm worried about is--is it 1 in., 2 in. or 6 in. or 2 ft. or 3 ft. It says in order to do this, we shouldn't change the footprint. You say can I change the footprint an inch--where do you stop. It says very clear, in this wierd situation--2 old houses--I don't see how we can approve it.

Mr. Rabbia: I think if you follow the way the Code is written, as soon as you touch it, immediately what hits you is that you have 2 residences on a single piece of property. That's a big one. Once you open it up, you've got a major issue. Forget about all the side setbacks and the width.

Mr. Natali: It would be setting a terrible precedent. We have another piece of property that's been before us and has since recinded, that has 2 structures on it. We have held firm because we've never made an exception in this area. I don't know how many others might be out there--a converted barn that people have been living in--have established residence. Two other structures both had electricity--different names and getting mail. We just haven't gone there. I've been on the Board over 15 years so I can attest to that time frame. And Wayne probably knows of no other exception. It's just one of those areas that is very clear in this Town.

Motion was made by Mr. Snyder to disapprove this request for an Area Variance for Brian Manthey, 7275 Lakeshore Road. Based on the fact that there's 2 homes on one property. They're non-conforming and the Code clearly says that we can update them and make them look better but we have to maintain the footprint. The things handed to us today do not do that. It expands the footprint of one of the structures and I think it sets a bad precedent that we don't want to get wrapped into. Motion was seconded by Mr. Natali.

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: I just want you to know, we really understand and appreciate what you're trying to do. What we just did by this action is avoid more difficulty for you, because once we open that door, there's no going back.

Mr. Manthey: Despite the negative vote, I still think we accomplished something because you've clarified a way to move forward.

There being no further business before the Board, motion was made and unanimously approved to adjourn the meeting at 8:20 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 September 7, 2011 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

Nancy G. Morgan

September 17, 2011