

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: MAY 7, 2012
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday May 7, 2012, at 7:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039.

Members Present:	Gary Natali:	Board Chairman
	Charles Stanton:	Board Member
	Donald Bloss:	Board Member
	Donald Snyder:	Board Member
	Mark Rabbia:	Board Member

Absent: None

Others Present:	Steve Procopio:	Codes Enforcement Officer
	Terry Kirwan:	Attorney
	Nancy G. Morgan:	Secretary

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

Mr. Natali pointed out the fire exits and requested that pagers and cell phones be turned off. He then read the following statement: The Cicero Town Board acknowledges the importance of full participation in public meetings, and therefore, urges all that wish to address those in attendance to utilize the microphones in the front of the room.

Motion was made by Mr. Rabbia, seconded by Mr. Bloss, to approve the minutes of the April 2, 2012 Zoning Board of Appeals meeting. There were no additions or corrections.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Motion was made by Mr. Natali, seconded by Mr. Bloss, 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. Snyder: Yes
Mr. Bloss: Yes
Mr. Stanton: Yes
Mr. Natali: Yes

Motion duly carried.

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

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

AREA VARIANCE FOR JOHN JOYCE, 9509 CHESTNUT ST., TO CONSTRUCT A PRIVATE GARAGE ON A VACANT LOT IN AN R-10 ZONING DISTRICT. A PRIVATE GARAGE IS NON-RESIDENTIAL USE. THE LOT DOES NOT MEET THE MINIMUM REQUIREMENTS OF SCHEDULE OR AREA, YARD & BULK REGULATIONS FOR NON-RESIDENTIAL USE.

Representatives: John Joyce, Owner
Mrs. Joyce, John's mother, Owner

Mrs. Joyce: We'd like to construct a garage on the lot that we bought, that is on the left.

Mr. Natali: What is the purpose of the building ?

Mrs. Joyce: For the boat.

John Joyce: Also, the lawn mower, snowmobiles and general garage use. So we won't have to pay storage fees.

Mrs. Joyce: To keep those things under cover.

Mr. Natali: It's a 3 car garage, 38 ft. by 30 ft. How many car garage do you have at home ?

Mrs. Joyce: We have a 3 car garage.

Mr. Rabbia: Will the garage be for your own use? Do you plan on renting space or use it for business ?

John Joyce: Yes, for our own use--no business.

Mr. Snyder: Your current property where your house and garage is and this garage are on 2 seperate parcels--they have not been combined ?

Mrs. Joyce: Yes, 2 seperate parcels. They have not been combined.

Mr. Bloss to Mrs. Joyce: As you face the properties, which is yours--right or left ?

Mrs. Joyce: Right--on the corner.

Mr. Rabbia: How long ago did you purchase the property ?

Mrs. Joyce: We purchased it in 2005.

Mr. Rabbia: You've been keeping a trailer and snowmobiles stashed back there for some time?

Mrs. Joyce: Yes.

Mr. Natali: Do you plan on paving the driveway--for regular usage or storage space ?

John Joyce: It will be paved but not right away.

Mr. Natali: Is there construction equipment in your own driveway ?

John Joyce: No-- there's just the snowmobile trailer.

Mr. Stanton: Am I right saying this will be a non-residential use ? I'm wondering what drove the choice to have the 25 ft. offset from the sideline when you have plenty of room to get the 30 ft. that is required by Code ?

John Joyce: I think eventually, my Dad is going to build a house there so he kind of kept it off to the corner, not knowing what the future plan will be for the house.

Mr. Snyder: If we had a house being built and a garage was going to be added to it--that wouldn't be as big an issue. Don't we have an issue because of what it is zoned and we want to put a garage on that lot as opposed to a house ?

Mr. Natali: That's true. Also, the Code is so much more strict because you don't have a home there. You basically need 2 acres instead of R-10 needing 10,000 Sq. Ft. so there's a big difference.

Mr. Stanton: We're talking about a Variance for the over twice the area. Right now , we're just shy of 1 acre for this lot--the Code requires 2 acres.

Mr. Natali: One of the requirements is--the request for the Variance is substantial. You're going to be asking for the lot size, the width, you're just under the depth, which is supposed to be 240 ft.--you're very close there. That's why my colleague suggested moving it 30 ft. so you wouldn't be asking for another Variance. Would you be willing to do that ?

John Joyce: The future plan is to build a house there. It's not like it's just going to stay a garage forever. It's an investment property. For now we want to eliminate the clutter. We'll do the garage now and the house later.

Mr. Stanton: We do understand that but the problem is we can't really bank on you building the house. Right now we've got an area where you need 2 acres--you have 1 and you're building a rather large garage in between 2 residences where if you decide not to build a house that could just stand like it is.

Mr. Snyder: Does it change the situation if they were to combine these two lots ? So they would have 1 lot --the total for the 2 lots together ? We would have a different situation as far as setbacks?

Mr. Stanton: You would eliminate the ability to build a second residence there.

Mr. Natali: Basically, this second lot is an investment, right ?

Mr. Snyder: In order for us to look at the size of the Variance, I'm wondering if you combined the properties now then we have a much easier job in being able to approve the request that they have--can they, at a later date, if they wanted to build a house on that, are they allowed at that point to split the property back the way it is now--then there would be different Codes with that? I'm trying to get them what they want now, but at the same time--sitting here now looking at the whole Town, I'm concerned about what may happen--if we combine the property --to allow them to do what they want to do-- if they would have the ability 2 or 5 years down the road to then come to us wanting to put a house on a lot--and say we will now split it again into 2 properties--I can see how that could be approved then but I don't see how you can do what their asking for right now with this lot and the garage they want to put on this lot.

Mr. Procopio: You're asking not to do more work in the long run. They're going to have to get a subdivision, create a new survey, this subdivision would have to be amended--then you're asking to reverse that process down the road.

Mr. Snyder: If they want to build a house at a later date. It allows me as a ZBA member to approve a realitively realistic request for a Variance as opposed to one that right now sounds---

Mr. Procopio: They wouldn't need a Variance if they combined the lots--it's going to make a difference where they reposition the building if they want to retreat that property line.

Mr. Rabbia: Have you considered putting the garage on the property where the house is ?

John Joyce: Yes.

Mr. Natali: One of the main concerns is the character of the neighborhood. It would definately change that neighborhood by having a 3 car garage on a lot next door to another 3 car garage. If you had a FOR SALE sign on it--trying to sell it--the design that you have-- most people today want an attached garage that conforms to the house. That neighborhood is very distinct in design. While we're not an architectural committee, we have to consider how it impacts that neighborhood. In my opinion, I'm trying to get a handle on where you're going and the need. You have a boat and a snowmobile--it sounds like a pretty big investment.

Mrs. Joyce: We have 4 snowmobiles, a boat, a Corvette. We have a lot of items and I think we are taking into consideration, the look of the neighborhood. Our house is a nice home--it's always kept nice and we like to keep our things under wraps so that it does make the neighborhood look nice--instead of having a boat sitting on the lawn--a trailer sitting there--it can now be under wraps. We're positioning it so it looks as if for the time being, it kind of does look like our home--so it doesn't look like it seperates from the neighborhood on a lot just sitting there.

Mr. Natali opened the Public Hearing at 7:14 P.M.

FOR: Albert Kirsch, 9505 Chestnut St., spoke in favor of the Variance. They maintain their home beautifully. I was concerned that it might be something Commercial but it doesn't sound anything like that.

AGAINST: NONE.

The Public Hearing was closed at 7:15 P.M.

Mr. Rabbia: Does the Board want to discuss among themselves, the 5 factors to be considered ?

Mr. Natali: Good idea.

Mr. Rabbia: When you think about undesirable change being made to the neighborhood, I don't think that will happen. I think possibly the way they're going to position it, it might look connected to the house--the current home they live in now--closer to the property line. Can they achieve their goals via a reasonable alternative which doesn't necessitate an Area Variance? We talked about a couple of possibilities tonight. There might be some other "hoops" that they would have to jump thru to combine the properties. They could always put it on their own property that the house is on. Is the Variance substantial? I don't think there's any arguing, the Variance is substantial. I don't think it's going to have any adverse physical impact on the environment of the neighborhood. Was it a self-created difficulty? I guess every one of these is self-created but it might not be enough to deny the Variance. These are my thoughts.

Mr. Snyder: I guess if the driveway to this facility were to be connected to the driveway of their current house rather than all the way to the street, it would certainly make the environment look a little better and also look like it's one unit not a garage sitting in the middle of a building lot. Do you plan to run the drive all the way to the street or what do you plan to do with the driveway when you're done with this?

Mrs. Joyce: The driveway we have there now is to the street. It runs parallel with our driveway. There's not a lot of space between the two. Our driveway is on the far left side of our lot--his driveway is on the far right side of the lot.

Mr. Snyder: So, you plan on leaving a separate driveway all the way back to the new garage?

John Joyce: Yes.

Mrs. Joyce: Yes, because of the future plans for the lot.

John Joyce: It's easier to back the boat and trailer in--going from the driveway we have--backing in the boat then making a 90 degree turn, then trying to back it into the garage--that's kind of silly.

Mr. Snyder: I was suggesting something similar to that I have which is: I go into my garage or the side and go into my shop area but I don't have a driveway that's 40 ft. wide.

Mr. Rabbia to Mr. Snyder: There's a fork in your driveway, right?

Mr. Snyder: Yes.

Mr. Bloss: They've addressed most of my concerns. When I looked at the property, my first thought process was what are they going to use this facility for. That's all been addressed and I think what you're going to do is going to work. Especially since your neighbor is here and he's not concerned and you live right next door. So you're not going to do something detrimental to your property. That's nice property up there.

Mr. Natali: Just to review--would you be willing to move the proposed garage 5 more feet to the left so that you're not asking for another Variance ?

John Joyce: We can, if that's what it takes to get this.

Mr. Natali: It's one less Variance. We're at 4 Variances now--then it would be 3. Our job is to minimize the Variances or find another alternative.

Mr. Bloss made a motion to approve the Area Variance for John Joyce, 9509 Chestnut Street, to construct a private garage on a vacant lot in an R-10 Zoning District. A private garage is a non-residential use. The lot does not meet the minimum requirements of schedule or area, yard and bulk regulations for non-residential use. We've addressed the 5 main concerns (factors). I'll address the Variances:

- 1- Their side setback is 25 ft.--we would like to change that to 30 ft.
- 2- The square footage for the lot is less than what is required.

Mr. Natali:

3- 2 acres are required--you have just shy of an acre--.99.

4- Building line requires 200 ft.--you have 180 ft.

5- Code requires 240 ft. --you have 239.27 ft.

Basically, you're only asking for 2 Variances, which helps your position. You're not going to do any extra excavation, are you ?

Mrs. Joyce: No.

Mr. Natali: Basically, you're not going to have any adverse physical environmental conditions that are going to change. And, whether the alleged difficulty was self-created? The answer is yes. When you bought the property, you probably knew it was a non-conforming lot but that's not going to carry enough weight.

Mr. Rabbia seconded the motion.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Snyder:	Yes
Mr. Bloss:	Yes
Mr. Stanton:	No
Mr. Natali:	No

Motion duly carried.

AREA VARIANCE FOR KEVIN & JENNIFER RIDGEWAY, 8437 ANGLERS CLUB, TO CONSTRUCT AN ADDITION TO A RESIDENTIAL STRUCTURE IN A R-12 ZONING DISTRICT. THE REAR YARD SETBACK IS 10 FT. WHERE 30 FT. IS REQUIRED.

Representatives: Kevin Ridgeway, Owner
James Owen, Contractor

Mr. Ridgeway: My wife and I would like to put in a therapy pool for our son. It would further his ability to progress. We would like to put in a therapy pool.

Mr. Natali: Enclosed , year round.

Mr. Stanton: I know we refer to this as a back yard, but because we're on a corner lot--technically, there's 2 front yards.

Mr. Owen: Correct. By definition, it's a rear yard but were the house positioned where its address was Electric Railway, it would be a side yard. The property to the east--that's their side yard.

Mr. Rabbia: I didn't do a coverage on this--did anyone else do a calculation?

Mr. Stanton: The current square footage of the house is around 2956 Sq. Ft. The addition is around 940 Sq.Ft. That brings us up to 3897 SqFt., which is 20.5 % coverage. I understand the need for the enclosure for the pool. Has there been any possible research into what you could do to still have that pool enclosed but bring that--if what we're talking about is truly the backyard--we're talking about a pretty significant intrusion into what the backyard setback is. Is there any kind of research into what you could do to bring that closer to the back of your house but still have the same function ?

Mr. Owen: I think the concern is having the proper distance/space around the pool and still be safe. We're a few feet off the building--about 13 ft. off the property line.

Mr. Snyder: You show a table and 6 chairs between the pool and the outside wall. I'm wondering about changing the difference and make things a little better. That looks like something that might be a therapy room. Could we eliminate that need for a table and chairs there--then we could almost make the wall straight across, therefore get a lot closer to the setback we'd like to see. Is that possible ?

Mr. Owen: The way the building is angled on that lot and the way it's situated to the property line, the couple of feet we might be able to get out of that might be to minimize that space on the side of the pool you're talking about.

Mr. Rabbia: Could you go north instead of east ?

Mr. Owen: Currently, to the north--the 22 ft. side of that, there's a living room with a fireplace and existing windows on the back of the house. If we start building too close perhaps we could slide the addition to the north.

Mr. Rabbia: It's a possibility. You're doing major work.

Mr. Snyder: So, you're at least willing to look at maybe reducing the overall by that 5.6 ft. that is taken up by the space for the table and chairs ?

Mr. Owen: I don't know if we can eliminate all of that space though.

Mr. Snyder: In theory, it would give you 3 ft. 6 in. in from the edge of the pool to the inside of the wall and you have your 6 ft. on the main side where you have your steps and the AD access lift.

Mr. Owen: We may be able to narrow that side where the seating is--if you narrowed that you might be able to move that corner away from the property line. Maybe a combination of doing that--narrowing it down and bringing it in, it kind of changes the geometry as it relates to the property line. Is there a distance you're more comfortable with rather than 30 ft. from the property line ?

Mr. Snyder: The one I'm comfortable with, you can't do. It's what we'd really like to see in Code is 30 ft. That's not obtainable and you still have a therapy pool.

Mr. Ridgeway: Certainly we are able to make changes. I just want you to know, it wasn't our intention to have this issue either when we built the house. We did talk to the Architect about wanting to do this. Somewhere along the line there was some miscommunication unfortunately.

Mr. Stanton: Can you walk us thru this--your son's entry and egress is going to be thru this lift, which is close against the existing structure now. What is the purpose of the remaining space around the pool--is that a Code requirement that you need that much width to make your way around? I'm just trying to figure out how you came up with your dimensions right now if the entry and egress is already covered--how much do you need around the perimeter ?

Mr. Ridgeway: When we were talking to the builder, he recommended having a little extra space if you wanted to use it for something more and that it wouldn't cost that much more to add that "bump out". Honestly, that would be useable space for other purposes if we needed it.

Mr. Snyder: Is there a normal requirement put out by Health people that says the minimum size of a therapy pool should be 12 ft by 24 ft. ? At what point does a therapy pool--do we figure what size it needs to be ? If the pool was a little smaller in one or both directions then obviously there's some offset there, also.

Mr. Ridgeway: The only problem, when we were talking with the pool people, is that if you get it too small then you can't maintain the water if you have people in it. It means you have to get into the process of draining it more often, cleaning it out and starting over.

Mr. Snyder: So, the pool is more than a therapy pool--it's also a pool for the family ?

Mr. Ridgeway: We would have other people in it other than my son or me--grandparents would go in with him. Even if you had just a couple of people, with the normal organics that are on your body--if you doon't have enough water, it becomes like a hot tub, where you have to drain it much more frequently.

Mr. Rabbia: It seems you could pick up some area--pool area-- by going north. I get the "window thing" but if we're looking for space, you could start sliding everything north. The further north you go, the further away you get from the property line, right ?

Mr. Owen: We might run into some light and ventilation issues with the livingroom if we eliminate the windows that are there.

Mr. Rabbia: You've got some windows built into the extra building that you're building ?

Mr. Owen: Right. But they're closed from the house itself directly. If you go to the east of the location, you do see in the middle of the house--that's the livingroom windows with the fireplace between them. By sliding (inaudible) it starts encroaching on those windows.

Mr. Rabbia: But there's a good deal of space from where the edge of the addition to the "bump out" for the fireplace.

Mr. Owen: If we eliminate one set of windows---

Mr. Rabbia: There's about 20 ft.

Mr. Owen: I think my concern with that is, disturbing the Code for light and ventilation of that room.

Mr. Natali: What you're asking for is to be 10 ft. from your neighbor's property. It's not like your neighbor's property is the backyard, where they have a lot of space. It's going to be pretty close to their home. If you get within 20 ft.--you've got some room here. We have to start thinking a little smaller. Rather than pass this right now--because we kind of threw you a surprise--why don't we defer this. You and your Contractor take a look at this and see where you can "shave" and still get the effect that you want. If the size of the pool is essential, then where you're going to have to cut is outside the pool or a combination of both. I guess what my colleague was pointing out is to be a therapy pool, do you necessisarily need the width versus the length. I'm sure we can accomodate some kind of compromise. Would you be willing to do that and we'll have you first on the agenda for next month ?

Mr. Ridgeway: Certainly.

Mr. Owen: From an Architect's standpoint, what would you like?

Mr. Stanton: We can't direct you. We can't say we'll give you 25 ft. or we'll give you 20 ft. What I need to convey is that we're charged with providing the minimum Variance necessary to accomplish this use. I think what the Chairman is asking is you go back and take a good hard look at it then come back with what you believe you can live with for the structure.

Mr. Natali: When you come back next month, I'll open up the public meeting.

Motion was made by Mr. Natali, seconded by Mr. Snyder, to defer this case until the June 4th ZBA meeting

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Snyder:	Yes
Mr. Bloss:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

AREA VARIANCE FOR THERESA CANGEMI, 5652 E. DAVEY ROAD, TO REBUILD AND EXPAND A NON-CONFORMING BUILDING IN AN R-10 ZONING DISTRICT. THE LOT HAS THREE RESIDENCES WHERE ONE FAMILY RESIDENCE IS ALLOWED.

Representative: Theresa Cangemi, Owner

Mr. Natali: I believe you have an announcement for us--a change of plans.

Ms Cangemi: Yes. I want to address my project in front of the Board. My changes as of today are that I am not going to go forward with the 6 ft. expansion. But I do want to be able to renovate, repair and remodel the existing structure on the existing building footprint. I want to make the existing 2nd floor loft into a full 2nd story.

Ms. Cangemi approached the Board with the following statement:

In the interest of time, I would like to change the direction of this meeting and request a withdrawal of my current request to expand the building footprint 6 feet. I have researched similar ZBA cases that very closely match my situation and based on my understanding of the ZBA's position and current "Code" , I have prepared an amendment:

1- To withdraw my request for an Area Variance to expand the existing building 6 ft. Based on my understanding, my original request for an Area Variance will probably not be granted based on past ZBA cases:

September 7, 2011 (Corsanini and Henson)
March 5, 2012 (Natali Rapasadi)

2- Based on these past cases, I would now like to:

--simply obtain a Building Permit in order to keep this building safe and bring it up to "Code".

--keep the same building footprint while trying to repair, remodel and renovate.

--increase the existing 2nd floor loft to a full 2nd story, keeping the roof height between 21 ft. to 25 ft., but no more than 35 ft., per the "Code".

3- This is a Legal Non-conforming property, built approximately in the 1940's prior to the first Town or Zoning Code in 1972.

--Existing setbacks and non-conformance are therefore "grandfathered" in and should not be an issue because the renovation project will be utilizing the same building footprint.

--Changing the second story existing loft to a full second story should not be an issue because according to regulation 210.16, the height of the building will not exceed 35 feet.

I am kindly requesting the ZBA vote to allow a Building Permit to be issued in order for this project to move forward.

Without needing a Variance now, I was told I needed to show up here anyway.

Mr. Stanton: The only hang-up I have on this in that under non-conforming uses of lots--this says "no non-conforming building or structure or use shall be enlarged, expanded or increased". An elevation difference--does that full 2nd story fall under that ?

Mr. Procopio: The Code doesn't have a definition of expand, enlarge or increase. I've heard it stated both ways--from past cases before this Board. The past cases

Ms. Cangemi stated--I think it's not expanding a non-conformity because you're not increasing the size--you're staying within the footprint. I think it comes down to what do you consider enlarge or increase. There's already an existing building there.

Mr. Natali: What is the use of this building for ?

Ms. Cangemi: My Grandparents have life use of this building. It's a residence and is considered a bungalow.

Mr. Natali: Does your family own the other two buildings on that parcel ?

Ms. Cangemi: I own the property but when I purchased the property from them, they wanted to maintain some--they still wanted to be able to come there and they were just protecting themselves and asked for a life time use of one of the buildings.

Mr. Natali: So, you're actually renting the other properties ?

Ms. Cangemi: I live in one of the houses and I rent the other one.

Mr. Natali: Who lives in this one ?

Ms. Cangemi: My Grandparents have life time use of it.

Mr. Stanton: For clarity, they are using it right now ?

Ms. Cangemi: Yes, they are. They're not there all the time but yet they do come.

Mr. Natali to Mr. Procopio: What have you denied at this point ?

Mr. Procopio: What was denied was the original request to expand.

Mr. Rabbia: OK--so she has withdrawn that.

Mr. Natali: Now this is a loft. In your other writeup you said you can't stand up in it ?

Ms. Congemi: You can but you're kind of like this (she bent over). There's only room for a single bed in the center of the peak. So, I would like to make it a full 2nd story. It will still be under the 35 ft. Code. Obviously, we don't need 35 ft. We just need to go up 7 to 10 feet and you're still way under the 35 ft.

Mr. Kirwan: A follow up on Mr. Rabbia's point, just for the record, the applicant made application to the Zoning Office for an Area Variance. She has withdrawn that. So the question is : How is she properly before you unless there's been some way she's been aggrieved by the Codes Officer, by way of a denial. Steve hasn't denied anything other than what he denied when she withdrew. So the question is how is this property for you right now ?

Mr. Stanton: The only way I think it would be before us is if someone is asking us for an interpretation on what enlarging and expanding is. If Steve's not asking me that I have no business answering that question.

Mr. Kirwan: So, I guess we're putting Steve on the spot here. We've talked about this Section 210.25 of the Cicero Code which states: No non-conforming building structure in use shall be enlarged, expanded or increased. So if there's no definition of what enlarged, expanded or increased means, then I guess common sense has to come into play here and you' ve got to make a determination whether this enlarges, expands or increases the structure. A lot of municipalities have codes which Steve and I have talked about, that the non-conformity can not be increased, which is not the case with this particular application nor is it the case with our particular Code. It doesn't specify that the non-conformity is to be increased for the width or the depth of the building. It just says enlarged, expanded or increased.

Mr. Natali: So, going up is the question.

Mr. Kirwan: Does that constitute an enlarged space ?

Mr. Natali: It does in my mind--expand--it means more room. Now she's asking for more room. Technically, there's already a loft there. What's she asking for--2 more feet in height?

Ms. Cangemi: I'll make this simple for everybody. There was a similar situation September 7, 2011--page 15. All I'm asking for is similar treatment for a similar case.

Ms. Cangemi continued:

They basically agreed when Attorney Kirwan said "There's nothing in the Code that says we can't go up". The expansion is measured by foot length. Mr. Dean says "that's correct". Mr. Snyder says "Isn't an uncovered patio not included in square footage"? Mr. Kirwan said "that's not part of the footprint". The bottom line is, there's nothing in the Code that says we can't go up and expansion is measured by footprint. I don't think there's anything else to discuss.

Mr. Rabbia: Personally, I agree with that. When I look at and interpret this, I always say "did it grow--width and length". That's my personal opinion.

Mr. Natali: We've never taken that position in the past. It doesn't mean we can't reconsider on this situation because you're not asking for a full--you're asking for a few more feet tall.

Ms. Cangemi: And it's a legal non-conforming.

Mr. Natali: What do you mean by that. ?

Ms. Cangemi: It's "Grandfathered". I'm not doing anything differently than what's already there.

Mr. Natali: We don't use that word in this Court. "Grandfathered" is not something we address.

Mr. Rabbia: Pre-existing, non-conforming might be the right terminology.

Mr. Natali: The Rapasadi case was totally different than yours. The fact that you have 3 properties on this is one of the main issues. We would have to bring your side setback and that would be considered your back setback in a conformity so really you're looking at 3 areas that we have to bring into conformity. We're stretching here for you so please consider that.

Mr. Rabbia: Again, she has a 2nd floor, although it's a loft. She's just increasing the height by several feet. The way I look at it personally is, when we get in these situations, are they going width and length.

Mr. Snyder: Mr. Chairman, I'm just wondering, to settle this, what we originally had as a case to review, has been pulled from the table. Really, this should be going back to the Codes Office. If the Codes Officer decides not to approve because of his interpretation then I guess it would come back to us. Otherwise, I guess we shouldn't be discussing it--is that right ?

Mr. Kirwan: That's accurate but even more importantly, this has to go to the County--it went to the County--it hasn't come back to the Town, so we're premature to make a decision.

Mr. Snyder: Did it go to Oswego County, too?

Mr. Kirwan: It has to go to Onondaga County. We have no resolution back from them.

Mr. Snyder: Because we're less than 500 ft. from the lake, doesn't it have to go to Oswego County also?

Mr. Procopio: This may be in a bay. I'll have to look at the map.

Mr. Snyder: There's been a situation where if you were within 500 ft. from another County, we also have to talk to that County. The shoreline of Oneida Lake is Oswego County. This case may not be here, as the Code Officer said, because of the bay or river.

Mr. Procopio: Whether it goes to an adjoining municipality--I'm not sure if it would go to West Monroe or Constantia. I'll have to look that up.

Ms. Congemi: Could you define why it has to go to the County?

Mr. Kirwan: Because Municipal Law 239 requires it. It says "when the proposed action is within 500 ft. of a boundary line of a Town, Village or County, it has to go to the Onondaga County Planning Board for action". Generally, they take no position on these but failure to do that is jurisdictionally defective for any action that is taken without it.

Mr. Stanton: Even if we wanted to, we can not make a decision on this tonight because the County hasn't responded.

Mr. Procopio: A decision isn't required--the question was raised.

Mr. Natali: Have the Board members seen this picture (referring to the structure with the loft). I swear that's a second floor. While we can't make a decision, we have to explore if the expansion is beyond the footprint. We've always taken the position--any enlargement of the space is expansion. We're talking a "hybrid" here--something very unique so we're going to make a motion to defer until we get the case back--so we understand what you're adjusting then at that point we can bring the other areas into compliance. It would be nice if you could bring back--this is out now, right?

Ms. Cangemi: It might look like that but the measurements (inaudible). I took 2 designs I thought might be--they were close to the footprint.

Mr. Natali: Are you agreeable with us deferring this until we hear from the County. Also, it would give us a chance to digest this.

Ms. Cangemi: Yes, I agree to defer. Also, the other case that I stated was Natali Rapasadi, which you mentioned before. That was basically a 2 story where they wanted to---they requested a Variance to go out but you had said that they were too close to the property line. There was too much there and you didn't want to give them the Variance.

Ms Cangemi continued:

You basically said for them to build a 3rd floor. Because a relative was coming to live with them, they had to put an elevator in the house. I was very surprised to see that. You asked Mr. Kirwan about going up with a 3rd floor.

Mr. Natali made a motion, seconded by Mr. Stanton, to defer this case until the June 4th meeting.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Snyder:	Yes
Mr. Bloss:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

Two neighbor's of Ms. Cangemi discussed briefly the county lines along the lake.

Mr. Natali remarked that he did not open the Public Hearing for the Cangemi case because there maybe some changes. He asked the 2 gentlemen if it would be convenient for them to come back next month when they can make their comments, which will be entered into the minutes

AREA VARIANCE , DEFERRED FROM APRIL 2, 2012, FOR ERIK BOHM, 5937 LAKESHORE RD. TO ALLOW A RECENTLY CONSTRUCTED GARAGE TO REMAIN ON A NON-CONFORMING RESIDENTIALLY USED AGRICULTURALLY ZONED LOT. THE LOT AREA IS APPROXIMATELY .40 ACRES WHERE 1 ACRE IS REQUIRED. THE MINIMUM LOT DEPTH IS 175 FT. WHERE 200 FT. IS REQUIRED. THE MINIMUM REAR YARD SETBACK IS 6 FT. WHERE 35 FT. IS REQUIRED.

Representatives: Eric Bohm, Owner
Gary Bohm, father of Erik

Mr. Natali asked Erik if he had read the minutes from the last meeting. Did your Dad discuss what happened at the last meeting ?

Erik Bohm: Yes, he did.

Mr. Natali to Gary Bohm: You did say you told him to get a Permit ?

Gary Bohm: Yes.

Mr. Natali: Just to give you an idea of where we're at, we have to look at this "already built" garage as if it's not there. Would we give a Variance if you came in with a piece of paper and said-- this is what I'd like to build. Does that kind of bring you up to date ?

Erik Bohm: Yes.

Mr. Natali: Help us with your thought process. What do you want to do with the property ? It looks like a shop.

Eric Bohm: Just to keep tools, lawnmowers and snowmobiles inside the shed. Keep the lawn cleaner. I did take pictures earlier--I had stuff outside all the time. I'm just trying to consolidate everything.

Mr. Natali: We requested that you have an updated survey with all of your dimensions.

Gary Bohm: We requested that from the Surveyor--he didn't refuse our calls--he didn't call us back. I told him I needed it and he did call back. He said it's 5.8 ft off the back line. He said it doesn't look like it scales that way.

Mr. Rabbia to Erik: You're a Contractor, right ?

Eric Bohm: Not a Contractor, I install gutters.

Mr. Rabbia: Take us thru the thought process not to get the Permit.

Erik Bohm: We talked about getting the Permit. We did have a plan in motion. I told Dad, we've got to do something. Everything is sitting outside and the shed is falling apart. I guess it got a little bigger than what we planned. I went on line--I thought the setbacks were only 5 ft.

Gary Bohm: We thought it was 3 ft. for a shed. We didn't know it was agricultural.

Mr. Rabbia: How long did it take you to build it ?

Gary Bohm: Maybe a week.

Mr. Stanton: I'm going to restate one of my observations from the last meeting which, it seems like with the rear setback of 35 ft. , that there are other opportunities--there would have been other opportunities for location of the building on this property, in the backyard without having to be--whether it's 5 or 5.8 ft. from the rear property line. I know your father made the point that it seemed logical to put it there because the driveway was on that side but you do have 17.7 ft. on the other side of your house, which could give you access for a side load and I also understand you have a chainlink fence--at least showing on the survey in the back--I think it's still there--those are a lot easier to modify than a regular wooden fence. If I was looking at this from someone coming in front of me to ask for it and it wasn't built, I would probably push real hard to keep it further away from the rear property line than it is right now. That's my observation.

Mr. Natali: Why did you build it on pilings ?

Erik Bohm: There's a big maple on the side of it with a big root system. We didn't want to lose the tree.

Gary Bohm: Once you start hacking into those things--the life expectancy isn't very long. So, we decided to save that tree. It seemed like an alternative rather than trenching it, putting footers down in the frost wall or digging down and putting in a slab on the ground. We had to dig down anyway. You have to get rid of the sub soil. We put down 10 inches of stone, which would have taken the root system out as well. It's a really nice tree, we'd hate to lose it.

Mr. Bloss: What's underneath that building right now ? What did you actually build it on?

Erik Bohm: They're concrete pavers about this square and this thick.

Mr. Bloss: After last month's meeting, I felt if you had taken a longer, harder look at your one car garage and built it onto the back of that. What's the possibility--we've got 5.8 ft. for a setback on that back line. What can you do to help us out ?

Gary Bohm: At this time--it is pretty big to try to move it and slide it forward. I'm hoping we don't have to do that.

Mr. Natali: It's almost inevitable.

Erik Bohm: I guess we could hook a wrecker to it and tow it forward. I think my neighbor's love where it is. They think it's perfect. I'm sure they wouldn't love having that shed pulled 35 ft.

Mr. Bloss: In both of the letters from from you neighbor, the word "shed" clearly jumps up to me. To me, 24 ft. X 24 ft. is a building not a shed. I know it's already there and everything but I've had some experience working in construction myself and I think the building could be moved relatively easy.

Gary Bohm: What would you like to see ?

Mr. Bloss: What would you be willing to give us ? We talked about the different Variances. To me , 5.8 ft. is hard to swallow. I'm speaking for myself.

Mr. Snyder: Is this a pole barn ?

Eric Bohm: It's not a pole barn where you actually have poles sunk in the ground.

Mr. Procopio: It's stick built. It's on piers.

Mr. Snyder: I've been by it but not close enough to see it. Could we take the back off and move the back end to some number of feet that would satisfy the Board?

Gary Bohm: As a construction point--that really wouldn't work. You'd have to move the whole thing--it's too hard to chop it up and redo it.

Erik Bohm: You mention what if everybody's shed was 35 ft. When you walked out your back door, I don't think you'd want to see a row of sheds or barns. They want to see trees and that's what they see and it's tucked back in the corner next to a line of cedar trees.

Mr. Snyder: But if you had come here before you built it we would have told you "no" and we wouldn't have let you do it at 5.8 ft. You didn't get a Permit and you did it and now you're here coming up with reasons why everybody would like it that way.

Gary Bohm: What would you like to see ?

Mr. Natali: 35 ft. is required.

Gary Bohm: I understand that.

Mr. Stanton: I'll give you the same answer as everybody else--you really have to come back with your best offer and individually , we'll make a decision as to whether that's acceptable or not to us. We can't really sit here and tell you 35 ft.

Erik Bohm: I guess it would be just as easy to move. I guess I can move it 2 ft. Once I start moving it , it's going to start moving.

Mr. Natali: You should take a look at your design. One of the suggestions was just take off the back. That might be easier. If you want to move it---

Erik Bohm: If you took off the back, what would you be left with--a 24 X 12 garage ? I mean, how much can you take off the back ?

Mr. Natali: It's a big garage to start with.

Erik Bohm: It's not big from a garage standpoint--it's kind of a minimum size.

Mr. Natali: We wouldn't have approved the size anyway.

Mr. Stanton: I would make the case that it's big for the property.

Gary Bohm: We're trying to move ahead. We're trying to get a feel for what you think is fair. 35 ft. seems unrealistic to me--maybe 20 ft.? Isn't that why we have Variances, to work things out that don't fit on lots? I had to get a Variance when I lived in Wampsville.

Mr. Natali asked what the setback for an R-10 was. The answer was 30 ft.

Mr. Stanton: It absolutely is but it's for things that have not been built yet.

Mr. Natali: I personally would like to see at least 20 ft. You certainly have enough room.

Gary Bohm: If we can agree on something, can we get a vote tonight so we could move ahead with this thing ? We can't just keep coming in every 30 days.

Mr. Natali: Yes, I'd be willing to make a motion to go no closer than a 20 ft. setback. Is that something you could live with ? You might as well go a little bit to the east.

Mr. Stanton: I don't think moving it to the east is necessary.

Mr. Natali made a motion to approve the Area Variance requested for Erik Bohm, 5937 Lakeshore d. The first Variance is .4 acres where 1 acre is required. The minimum lot size is 175 ft. where 200 ft. is required. The minimum rear setback is 35 ft. or no closer than 20 ft. You've got to really make sure where your lot line is. I'll go on to the 5 factors considered when approving an Area Variance:

- 1- Will this have a change in the character of the neighborhood ? Answer: No, it won't where it's going to be although it is a little large.
- 2- Is there some other means that we can minimize the Variance, which we just did ? Instead of 5.8 ft., you're going to only request 10 ft. because you're going to be 20 ft. from the rear lot line.
- 3- Is it substantial ? Answer: No. Now that we're changing it, I don't feel it's substantial.
- 4- You're not going to do any excavating or anything else so there will be no environmental or physical impact to the neighborhood.
- 5- Was the difficulty self-imposed? Answer: Absolutely. It was built without a Permit.

Mr. Snyder: Do we include in this that there will be a request for a Permit?

Mr. Procopio: He needs to apply for the Permit.

Mr. Bloss: When you lift that "Stop Work Order", they move the building ?

Mr. Procopio: It won't be filed and given a Certificate of Occupancy until it has the final inspection and it has been verified that it has been moved.

Mr. Snyder seconded the motion.

The motion was put to a vote, resulting as follows:

Mr. Rabbia: Before I give you my vote, just make sure you know the exact dimensions of your back line. I'd hate to see you pull it 14 ft. when you actually have to pull it 16 ft. I vote Yes.

Mr. Snyder: Yes

Mr. Bloss: Yes

Mr. Stanton: It appears that the fence is actually farther back from your rear property line. I vote Yes.

Mr. Natali: Yes

Motion duly carried.

There being no further business before the Board , it was unanimously approved for the meeting to be adjourned at 8:19 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 May 7, 2012 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

Nancy G. Morgan

May 20, 2011