



The Planning Board of the Town of Cicero held a meeting on **Monday, June 23, 2014** at **6:30 p.m.** in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Agenda:

- Pledge of Allegiance
- Notes from the Chairman
- Approval of the Minutes from the June 9, 2014 Meeting (**approved**)
- Site Plan, Public Hearing, Carm's Dog House, 6256 & 6262 State Route 31, Proposed Dog Day Care and Grooming (**Use Approved. To return for Site Plan review and approval.**)
- Minor Subdivision Preliminary & Final Plan, The Birches Part of Section 4 Amended Subdivision, 9399 Birch Tree Road, 2 Lots (**Approved**)
- Minor Subdivision Preliminary & Final Plan, Wallington Meadows, Section 7B – Phase 1, Whiting Road (Tax Map #087.01-60.1) 4 Lots (**Approved**)(**Attachment "1" and Attachment "2"**)
- Minor Subdivision Preliminary & Final Plan, Set Public Hearing, Cicero Commons, Meltzer Court (Tax Map#092.-01-27.0), 2 Lots (**July 14, 2014 at 6:30pm**)
- Zone Change Recommendation, Town of Cicero, 30 Properties located on the North side of Taft Road between Northern Blvd. and Totman Road (Tax Map #: 056.-02-18.1, 16.2, 20.1, 15.0, 21.2, 12.3, 25.2, 29.1, 28.1, 23.3, 16.1, 20.2, 12.1, 17.3, 30.0, 24.2, 11.1, 12.2, 32.1, 16.3, 14.0, 17.0, 21.1, 24.1, 31.0, 26.0, 22.2, 27.1, 23.7, 23.8, #056.-01-19.1 and 29.0) Regional Commercial to General Commercial Plus(**approved**)
- Site Plan, Sketch Review, CMC Dance Company, 6092 State Route 31, Proposed building addition (**to return**)

Board Members Present: Bob Smith (Chairman), Chuck Abbey, Pat Honors, Mark Marzullo, and Joseph Ruscitto

Others Present: Neil Germain, Planning Board Attorney, Mark Parrish, Planning Board Engineer, Richard Hooper, Director of Zoning Enforcement, and Don Snyder, Zoning Board Member, Vern Conway, Town Board, Jessica Zambrano, Town Supervisor

Chairman Smith opened the meeting by noting the locations of the three emergency exits, asked that all cell phones be silenced and noted if anyone had difficulty hearing the proceedings please bring it to the Clerk's attention so the audio system could be adjusted.

Mr. Abbey led the Pledge of Allegiance.

Chairman noted that there are a couple of applications that have been sitting on the agenda for some time and there are some time constraints so our attorney wrote them a letter.

Mr. Germain: There were two items one was a laydown yard and one was the subdivision, Beckley. We put them on notice that their applications would be considered abandoned if they did not provide further information of follow through. We had no response from the laydown yard so that is being



considered abandoned by the planning board. The other one the applicant did respond and they had some issues but want to proceed with their application. We will return any unused fees to the laydown yard.

Mr. Abbey made a motion to approve the Planning Board Minutes from June 9, 2014. **Mr. Ruscitto seconded the motion.** The Chairman called a vote.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

**SITE PLAN, PUBLIC HEARING,
CARM'S DOG HOUSE,
6256 & 6262 STATE ROUTE 31
PROPOSED DOG DAY CARE AND GROOMING
ROBERT ABBOTT, CARMEN CESTA & MIKE CESTA**

Representative: Robert Abbott, Carmen Cesta and Mike Cesta

Chairman Smith noted that during the course of the application they will also be doing boarding which we will be considering tonight.

Mike Cesta: The proposal for the facility for Carm's business which is a doggy day care, grooming and boarding. The other building will be where Carm will leave and the front have will be used possibly for an accountant or layer and the other is residential rental.

Carm Cesta: The hours of operation are 6:30am to 6pm, the dogs go out in the morning starting between 6:30-7:00am and they would be back in side by 5:30-6:00pm. The boarding would be overnight and the dogs would only be out from 8-8:30 at night, no later than that and I could adjust to make things work. The dogs are not out all the time, they go out and in. The dogs that are boarded will not be out past 9:00pm because of the Town Ordinance. The dogs cannot go out and in by themselves I have to let them out. There will be 3 employees and 1 that does the mobile grooming. With the boarding, if we are allowed to do the boarding kennels outside, when the dogs are let out at night, it would be a shorter time to let the dogs out 8-10 at a time rather than one at a time.

Mike Cesta: It would be a difference between 50 minutes or 10 minutes.

Chairman Smith: How many does would you be kennel at one time?

Carm Cesta: I wouldn't do any more than 10 dogs to kennel and for daycare it would be 15 dogs maximum. The only other animals I do board are cats but they don't go outside.

Mike Cesta: We are willing to do whatever works for the neighbors as far as the water issues and fence for sound.



Chairman Smith: Those are site items the Planning Board will work out with you, the first thing we are looking at is use.

The Chairman asked Mr. Germain to review the general rules of a public hearing. Mr. Germain stated that anyone wishing to speak for or against the project would be given an opportunity to be heard. Anyone wishing to make any comments would be recognized and asked to approach the podium and provide their name and address for the record. Only the comments from the person recognized to speak at the podium would be considered. Mr. Germain asked that people not simply shout comments from the audience as they are not subject to recording and will not be part of the public record.

Chairman Smith opened the Public Hearing at 6:42pm.

Chairman Smith asked for those who wished to speak against the project.

Art Russell (8355 Eva Circle): Concerned about the drainage from Merrill Meadows Section 2, the grades are very flat. We don't want the property altered because it could cause flooding in our development and basements. All our sump pumps are connected to the storm sewer and not a swale. We are also concerned about the dogs barking day and night. And lastly we are concerned about whether they will be storing or selling used cars at the new site like they are at the current site.

Joseph Corapi (8337 Eva Circle): I would first like to commend Mr. Cesta for stopping in the neighborhood in the last few days to take the time to apprise us of the situation that he is in. I had an opportunity to walk the property and there are a couple things. There are two ponds back there that are overgrown and is not allowing water to move towards 31. The ditch along the western side of the property is overgrown and filled in. I am also concerned about the barking dogs. I would say my issues are 20% the barking dogs and 80% drainage situation. Also I am concerned if there are going to be any automobiles being stored there.

Chairman Smith: We are all aware that the drainage is an issue. The Town Board and the ZBA are the department that maintains the drainage systems and they are aware of it. The Planning Board addresses how the drainage will work on this site if we move forward.

Kristin Bottseifritz (8344 Nates Lane): I am a dog owner, and my concern is the barking dogs. I imagine that that they are let out only one time a day. I understand the grooming but I do not want the boarding. I have a home office and I am home most of the time and that would be a concern for me hearing barking all the time. In our neighborhood sounds travel so much.

Chairman Smith asked if there was anyone else who wished to speak against the project.

Chairman Smith asked for those who wished to speak for the project.



Sharon May (Torchwood Lane): I have a Yorkie, and we have been a client of Carm's since he opened. When he first started it was nothing but a shell, he improved it, and he improved our community to where it was something you wanted to be around. Then he did the same thing with the building on Route 31. Carm's is a very clean, well run establishment. I understand your concerns about barking dogs, but Carm's employees are with those dogs all day. Your concerns about water and drainage, are the Town's problem not Carm's. Your concerns are very minor and I know he will take care of them.

Don Kelly (8904 Shelman Drive): My knowledge of Carmen is when he graduated CNS with my granddaughter. I do a little business with him and I have been in his place quite often and it is quiet, it is clean, it is nice. He did some nice landscaping in the front and it looks nice. It is a small business, and it's a great story for Cicero. A young man that graduated from CNS, started his own business, hired some people to work with him and I think that is something we should be proud of.

Bob Fortino (Mudd Mill Road): I am an acquaintance of Carm. We all would want a son like this, at 26 years old he was able to get enough money together to buy this property and improve it. America was built on small business and that is what he is trying to do here. Your concerns Carm will take care of, you should give him a chance at making this work.

Angela Cesta (5856 Mudd Mill Road): Carm is my son and I couldn't be prouder. This project had been going on for a long time and he has stuck with it to make his dream come true. He wanted to live in one building, rent the other and open the doggy day care in the last building. He has loved animals his whole life, he is a hardworking, he runs his business 7 days a week, and he is there from open to close. If you have concerns, talk to him and he will listen. He is looking to make the community a better place. To make it where people can bring their dogs and know when they leave they are well taken care of. We will take care of the water, we will take care of the land and he will do this with the help of all of us because that is what we do as families as communities and as parents. Thank you all for coming and speaking for him and raising your concerns, they are also very wanted.

Sharon May read two letters thanking and in support of Carm and Carm's Dog House. The first one from the Cicero Police Department (Attachment "1") and the second one is from his new neighbor Spiras Grocery (Attachment "2").

Chairman Smith asked is there anyone else who would like to speak for the project (None).
Chairman Smith asked again if there is anyone else who would like to speak against the project.

Shelby Canestraro(Dorin Avenue): The pond that everyone is saying is a cesspool is my back yard. It is a beautiful place and is so much wildlife in it that you would be destroying if it was drained out. I have a dog, my concern about the dog place being built, is that no matter how well the dogs are taken care of because it will not stop them from barking.

Chairman Smith closed the Public Hearing at 7:00pm.



Chairman Smith: After discussion with the Board a lot of the issues that were heard tonight have the potential during site plan by the Planning Board, such as storm water issues, and regulating the hours of operation and hours the dogs are let out. It is a tough decision, there are the concern of the community and the neighborhoods but there are also the facts that it is a small business and it is general commercial land.

Mr. Marzullo: What is our agenda tonight?

Mr. Germain: Your agenda tonight was to have a public hearing and you probably want to address the issue of use. Boarding is not specifically enumerated as a use in general commercial, however, this Board could make a finding that based on the Code that it is consistent with the property development of the property and that is an appropriate use for the property. But you would have to make a special determination that that is an appropriate use for the property as it has been outlined by the applicant because general commercial does not include a specific category for animal boarding. The Code couldn't enumerate every single possible use, it leaves it up to your discretion.

Chairman Smith: If the board is going to determine that is not an appropriate use there is a lot of expenditures that get made in the site plan process itself and I feel it is only fair to the applicant for us to determine that. There are other avenues for him he would have with the ZBA he could take.

Mr. Germain: Yes, or he could amend his site plan to remove it. There are other avenues he could take based on whatever decision you are going to make based on the actual use.

Mr. Marzullo: We are an administrative body, we take the rules that are established by the Town Board and implement them. The only place where boarding comes up is with regards to a Veterinary clinic and it is not to be within 200 feet of a residential area.

Mr. Germain: That is correct, but that is not the issue, the issue is that according to the Code you would have the ability to assess this particular use of boarding, independent about what it says about a Veterinary clinic you would still have the power to make the decision for this application. You can use that as part of your consideration in making the determination, but the code specifically empowers you to make the determination.

Chairman Smith asked Mr. Parrish about the distance to the residence.

Mr. Parrish: From the back corner of the building to the residential property they have listed 57'3".

Mr. Rusitto: What is the intent for the ponds?

Mr. Parrish: The ponds are required as storm water quality measures in accordance with NYS DEC. I don't believe the intent will be to drain those ponds. There may be some abilities to improve the drainage through that area without draining the ponds to make them drain a little better. Nothing is



finalized because we really have to work with the Town engineer and the developers engineer to look at the situation and see if we can improve the situation through there.

Chairman Smith: I spent some time at the site, I went to the current location and I didn't hear any dogs. I understand the neighborhood concerns and the drainage concerns. Things could have been done better back when it was developed but I think this provides us with an opportunity to work with the applicant to try to improve the storm water. Mr. Germain I would like to make a motion for determination to approve the use for boarding.

Mr. Germain: You are going to move for the adoption of a resolution making a finding that the proposed dog boarding as set forth in the site plan application known as Carm's Dog House, 6256 & 6262 State Route 31, Proposed Dog Day Care and Grooming is a permitted use as set forth Section 210-12 C. (7) of the Code.

Chairman Smith made a motion as stated by Mr. Germain above. **Mr. Ruscitto seconded the motion.** The Chairman called a vote.

Ayes: 4 Nays: 1 Abstained: 0 **Approved**

Chairman Smith asked for a roll call vote.

Mr. Ruscitto: Yes

Mr. Abbey: Yes

Mr. Honors: Yes

Mr. Marzullo: No

Mr. Smith: Yes

The motion was **approved**.

**MINOR SUBDIVISION PRELIMINARY & FINAL PLAN,
THE BIRCHES PART OF SECTION 4 AMENDED SUBDIVISION
2 LOTS, IANUZI & ROMANS**

Representative: Hal Romans, Surveyor and Planner, Ianuzi & Romans

Chairman Smith indicated this was brought back to discuss the issue with concerns about the driveway brought up by Mr. Marzullo.

Mr. Romans: The driveway for the new lot. The parcel that is not part of our subdivision, has a driveway that comes out enters here and has an egress ingress easement on Brian Casey's property that runs with the land. The house if it's going to be built the driveway will come out in the exact location so it is an easement for the benefit for this guy on 59A.



Chairman Smith: The building permit was issued for 59A that allowed them to put in a side load garage, but what the intent was no one remembers. The concern is the Town pushes the snow directly back. Where is he proposing to bring his driveway in, across, because that won't interfere with the plowing of the snow?

Mr. Romans: I imagine that you would put the garage on the high side so it would be right opposite the same spot so across the same way.

Chairman Smith: So the Town would be able to continue to push the snow right to the end. The concern would be that you were going to bring the driveway in straight ahead across.

Mr. Romans: We can make a note on the plan right now that says the driveway has to be on the north side of the property.

Chairman Smith: Mr. Marzullo's concern is that the plow goes in is they push the snow forward.

Mr. Romans: At the last meeting the person concerned I did look at their lot and anything that is done here shouldn't affect them at all. I did check NYS Building Code and anything less than 150 feet off a main road you don't have to do a turn around.

Chairman Smith: The current driveway is exiting onto a private property, so are they getting an easement?

Mr. Romans: They have an easement already. 59A dumps onto Casey's property and they have an easement already. Also there are Town easements for storm water and sewer where they currently pushing the snow now. So it is not like someone could ever build a structure there.

Chairman Smith: When 59A was built they should have required that the driveway went into a public street but they didn't. Consequently they got an easement over private property.

Mr. Parrish: Even if that driveway wasn't there, you would still be faced with the same issue with this lot that you are dealing with here. If the Board is going to consider allowing this I would recommend is that we get an easement to the Town to be able to plow and store the snow and to have access to turn around and bring the snow removal vehicles into that area. We should probably consult with the Highway Superintendent to see what he feels is an adequate easement in order to do that along with the requirement that the driveway come out at essentially a 90° angle similar to the other so we are not plowing the snow into their driveway.

Chairman Smith asked Mr. Germain to weigh in on these issues.



Mr. Germain: If we don't have an easement to remove snow or have access to it that is a problem. It is a problem at the Town level because we are right now apparently utilizing it without any legal right to do it. So the time to get that easement would be now.

Mr. Romans: So are you thinking like a 60 foot wide.

Mr. Parrish: It should be width as the road right of way would be my recommendation, how far it should go beyond the limits of what it does right now, maybe 10, 15 or 20 feet beyond the current limits, I don't know. But I recommend that you talk with the Highway Superintendent.

Mr. Germain: As long as the easement is done properly it would give the Town the right to plow it, access it and store snow there. Even though it's private property the easement would give you the right to use that private property consistent with whatever the easement provides.

Mr. Romans: If we could get approval subject to whatever easement the Town Supervisor or the Town wants I am confident my client would give whatever it takes. Obviously the plan can't be signed until the easement is in place.

Mr. Germain: We should let the easement be what the Highway Superintendent wants.

Chairman Smith: I won't sign the map unless we have an easement in place that has been reviewed by Mr. Germain. This application has been around awhile and I don't want to be a hardship on the property owner but I also don't want to create any issues for the Town. We are fixing a problem that should be there but is there.

Mr. Ruscitto made a motion regarding the SEQR. He read: Be it further resolved that the Planning Board of the Town of Cicero hereby determines that the proposed action will not have a significant effect on the environment and that this resolution shall constitute a negative declaration for the purposes of Article 8 of the Environmental Conservation Law of the State of New York. **Chairman Smith seconded the motion** and called a vote.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

Mr. Germain: You are going to move for the adoption of a resolution approving the subdivision application known as The Birches Part of Section 4 Amended Subdivision, 9399 Birch Tree Road, 2 lots – plan last dated 5/22/2014. This approval is contingent on the following:

1. Applicant shall submit a grading plan to the Town of Cicero for approval prior to the issuance of any building permit in regard to this subdivision.
2. The applicant shall provide an easement to allow the Town of Cicero for snow storage and removal and whatever access the Town needs in this regard. Said easement shall be approved by the Town Highway Department and shall be acceptable to the Town in all respects.



The applicant is hereby notified that the Chairman of the Planning Board will delay signing of the final plan until the chairman verifies that the applicant has executed any and all necessary agreements with the Town and that all security or undertakings are in place.

Chairman Smith made a motion as stated by Mr. Germain above. **Mr. Ruscitto seconded the motion.** The Chairman called a vote.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

**MINOR SUBDIVISION PRELIMINARY & FINAL PLAN
WALLINGTON MEADOWS, SECTION 7B – PHASE 1,
WHITING ROAD (TAX MAP#087.-01-60.1)
4 LOTS, IANUZI & ROMANS**

Representative: Hal Romans, Surveyor and Planner, Ianuzi & Romans

Chairman Smith indicated this was on tonight’s agenda because the Board had some concerns about the roads being in for a long time. They received a copy of a letter from C&S regarding lot 7A (see attachment “3”). But he noted that lot 7B was in front of the Board tonight not lot 7A.

Mr. Romans indicated that he had spoken with Tom and discussed the situation.

Chairman Smith: Tom has to be satisfied with how the roadways are going to be dealt with. The Board seems to be satisfied with what has been proposed. And note that I will not sign anything until we receive the ok from the Town.

Mr. Romans: We will have to have securities agreement in place as well.

Chairman Smith asked Mr. Germain and Mr. Parrish and the Board Members if they had anything further and they had nothing additional.

Mr. Ruscitto made a motion regarding the SEQR. He read: Be it further resolved that the Planning Board of the Town of Cicero hereby determines that the proposed action will not have a significant effect on the environment and that this resolution shall constitute a negative declaration for the purposes of Article 8 of the Environmental Conservation Law of the State of New York. **Chairman Smith seconded the motion** and called a vote.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

Mr. Germain: You are going to move for the adoption of a resolution approving the subdivision application known as Wallington Meadows, Sect. 7B – Phase 1, Whiting Road (Tax Map #087.-01-60.1),



4 Lots, – plan last dated 8/7/2012. This approval is contingent on the following:

1. The applicant entering into an acceptable agreement with the Town concerning the roadway and any other issue regarding this section of the subdivision.

The applicant is hereby notified that the Chairman of the Planning Board will delay signing of the final plan until the chairman verifies that the applicant has executed any and all agreements with the Town and that all security or undertakings are in place.

Chairman Smith made a motion as stated by Mr. Germain above. **Mr. Abbey seconded the motion.** The Chairman called a vote.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

**MINOR SUBDIVISION PRELIMINARY & FINAL PLAN,
SET PUBLIC HEARING, CICERO COMMONS,
MELTZER COURT (TAX MAP#092.-01-27.0)
2 LOTS, DAVID MOONEY (LORETTO)**

Representative: Jack Pease

Mr. Pease: Could I get a public hearing scheduled?

Chairman Smith asked Mr. Germain to craft a resolution for the public hearing.

Mr. Germain: You are going to move for the adoption of a resolution calling for a Public Hearing in the matter of Minor Subdivision Preliminary & Final Plan Cicero Commons, Meltzer Court (Tax Map #092.-01-27.0) 2 Lots. This public hearing shall commence at 6:30 pm at the regular scheduled meeting of the planning on July 14, 2014.

Chairman Smith made a motion as stated by Mr. Germain above. **Mr. Marzullo seconded the motion.** The Chairman called a vote.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

**ZONE CHANGE, RECOMMENDATION,
TOWN OF CICERO, 32 PROPERTIES LOCATED ON THENORTH SIDE TAFT ROAD
BETWEEN NORTHERN BLVD. AND TOTMAN ROAD (Tax Map #056.-02-18.1, 16.2, 20.1, 15.0, 21.2, 12.3,
25.2, 29.1, 28.1, 23.3, 16.1, 20.2, 12.1, 17.3, 30.0, 24.2, 11.1, 12.2, 32.1, 16.3, 14.0, 17.0, 21.1, 24.1,
31.0, 26.0, 22.2, 27.1, 23.7, 23.8, #56.-01-19.1 and 29.0)
REGIONAL COMMERCIAL TO GERNERAL COMMERCIAL PLUS**



Chairman Smith asked Mr. Germain to explain why this was on the agenda.

Mr. Germain indicated that 2 properties have been added to the recommendation to amend the zoning from Regional Commercial to General Commercial Plus.

Chairman Smith: Neil, would you construct a resolution?

Mr. Germain: You are going to move for the adoption of a resolution recommending the Town of Cicero's application to amend the Zoning Classification for 32 Properties Located on the North Side of Taft Road between Northern Blvd and Totman Road, Tax Map numbers as set forth on this evenings Planning Board Agenda which are incorporated herein by reference from Regional Commercial to General Commercial Plus.

Chairman Smith made a motion as stated by Mr. Germain above. **Mr. Marzullo seconded the motion.** The Chairman called a vote.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

**CMC DAND COMPANY,
6092 STATE ROUTE 31
PROPOSED BUILDING ADDITION,
IANUZI AND ROMANS**

Representative: Hal Romans, Surveyor and Planner, Ianuzi & Romans

Mr. Romans: The applicant is looking to do a 7,200 sq. foot expansion onto their current dance studio. They have a 2.16 acre parcel that the building is on where conduct their dance lessons. The building addition will look similar to the building that currently exists. The hours of operation are Monday – Friday 3pm-9pm and Saturdays as well. Occasionally they will be open on Sunday if they have a dance competition. They have a total of 9 employees but there are usually only 6 there at a time.

Chairman Smith: I visited the site with Mr. Hooper and it's a good business and they have just outgrown their site. We can send this to County.

Mr. Abbey: Are they keeping just one entrance?

Mr. Romans: Yes, they are narrowing the entrance to the west, which is a two way entrance. Its 24 feet at the throat which DOT doesn't like but that is what works for them. They may have some stacking at times but they have enough room to accommodate it, when it happens.

Chairman Smith: Are they prepared for a sidewalk?



Mr. Romans: They can be, yes.

Chairman Smith spoke about being conscientious about putting sidewalks around in that area.

Chairman Smith asked the each of the board members if they had anything additional at this time. The board members had nothing further at this time.

Chairman Smith made a motion to adjourn. Mr. Abbey seconded the motion. The motion was approved unanimously.

Next Scheduled Regular Meeting: JULY 14, 2014 at 6:30 PM.

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 7:53pm.

Submitted by Kristin Ryder
Planning Board Clerk