

AMENDED & REVISED ZONING BOARD OF APPEALS MINUTES OF
FEBRUARY 4, 2008

Zoning Board of Appeals

February 4, 2008

Town of Cicero

Page 1
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STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: FEBRUARY 4, 2008
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Organizational and Training Meeting of the Zoning Board of Appeals was held Monday February 4, 2008 at 7 P.M. at the Cicero Town Hall, 8236 South Main Street, Cicero, New York 13039.

Members Present:	Gary Natali:	Board Chairman
	Robert Wilcox:	Board Member, AdHoc
	Donald Stewart:	Board Member
	Mark Rabbia:	Board Member
	Charles Stanton:	Board Member
	Richard Griola:	Board Member
Absent:	Michael Stassi:	Board Member
Others Present:	Wayne Dean:	Director of Planning & Develop.
	Nancy G. Morgan:	Secretary
	Chester Dudzinski:	Supervisor
	Vernon Conway:	Councilman, ZBA Liaison
	Charlotte Tarwacki:	Councilwoman

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

Mr. Natali introduced the new Zoning Board of Appeals Members, Richard Griola and Charles Stanton. The other new member, Michael Stassi, was out of Town and could not attend this meeting.

Mr. Natali pointed out the fire exits and requested pagers and cell phones be turned off. There were no microphones because the meeting was held in the Conference Room.

Motion was made by Mr. Rabbia, seconded by Mr. Stewart, to approve the minutes of the December 3, 2007 Zoning Board of Appeals meeting.

Motion was put to a vote, resulting as follows:

Mr. Natali:	Yes
Mr. Wilcox:	Abstain
Mr. Stewart:	Yes
Mr. Rabbia:	Yes
Mr. Stanton:	Yes
Mr. Griola:	Yes

Motion duly carried.

Motion was made by Mr. Natali, seconded by Mr. Wilcox, that all actions taken tonight are Type II Unlisted Actions and have a negative impact on the environment, unless otherwise stated.

Motion was put to a vote, resulting as follows:

Mr. Natali:	Yes
Mr. Wilcox:	Yes
Mr. Stewart:	Yes
Mr. Rabbia:	Yes
Mr. Stanton:	Yes
Mr. Griola:	Yes

Motion duly carried.

Mr. Natali: A short explanation of Type II Unlisted Action for our new members. The easiest SEQR explanation is that Type II is not going to harm the environment at all.

Mr. Natali greeted the new members of the Board and thanked the present Members. This is a training and organizational meeting.

Mr. Dudzinski commented that he was here at this meeting as Supervisor, Councilman Conway is liaison between the Town Board and the Zoning Board of Appeals. Councilwoman Ms. Tarwacki will be arriving momentarily, making three Town Board Members present at this meeting, which could

constitute a violation of the Open Meetings Law. This meeting was advertised as a Training and Organizational Meeting.

Director of Planning and Development, Wayne Dean:

He did not submit a written Mission Statement but did say that he hopes his Department will act professional and treat all with consistency on issues coming into that office. He will say this again at his staff meeting tomorrow. Any Board members are welcome to come in to ask questions. He handed out a list of employees in the Zoning & Planning Department. Some have not been there very long because they replace several recent retirements. He also handed out a list of the 2008 ZBA meeting dates, a copy of a Zoning Complaint form and a notice to new residents informing them of instances when they might need a Building Permit. One thing I try to catch is to make sure they submit their survey with their application. An information package was passed out to Board members that is given to those wanting to make an application to come before the Zoning Board of Appeals. In reference to an Organizational Chart, Mr. Dean thinks of the Zoning Officer, Zoning Board of Appeals and Planning Board as being "side by side"

Mr. Natali to Mr. Dean: Who's your Boss?

Mr. Dean: Supervisor Dudzinski.

Mr. Natali: Who's my Boss?

Mr. Dean: You don't have one. You are the Boss.

Mr. Natali: That's the problem. We don't have a Boss.

Mr. Natali stated that this is a quasi-judicial Board, which means, we're a layman's court. If we have all the "tools" to do our job and do it right, our decisions rarely get overturned in court.

Mr. Dean and Mr. Rabbia discussed what residents should be told is needed when they come in for an application for a variance.

Mr. Rabbia: Who takes in the application?

Mr. Dean: Any of the three secretaries can accept them.

Mr. Rabbia: Where we have a challenge is when someone brings in a 10 year old survey with the application hand drawn in. Wayne can help us by telling the applicant that they must have an updated survey.

Mr. Dean: If any of you have a problem reading the plans or survey, come and see me. I can help you. I used to be a surveyor before I was an engineer.

ZBA Member Mark Rabbia:

Mr. Rabbia passed out a paper that explains Chapter 662, Laws of 2006, pertaining to the ZBA. It requires Planning and Zoning Board Members to receive four hours training per year. Board Members failing to receive the required training are ineligible for reappointment to their Board. Board Members should keep track of their own training time. He has a Training Book that Board Members may borrow. The Law applies to AD HOC Members, also. The Zoning Office should establish a system to keep track of Board Member's training. He also suggested that all Board Members should have an updated Town Map and a copy of the new Town Code.

Mr. Natali: Mr. Dean has authorized the Zoning Office Secretary Toni to keep a record of the ZBA Board Members certification slips that you received when you completed the training. Make a copy for yourself. I think I will have the Deputy Chairman keep track of member training progress. You have a very good head-start because you've already put in 4 hours. Future meetings, when we only have 2 or 3 cases and the meeting doesn't last very long, maybe we could cover some questions. This is a team--if you see some tapes or equipment in the Federation News, let us know if you want to get them.

Mr. Rabbia: This book we got at the training session has a short course for self-study, in the back--there's a lot of good things in it.

Mr. Conway: Those books are all available thru the New York State Planning Board.

Zoning Board of Appeals Chairman Gary Natali:

He discussed the inspection of property, criteria for decisions and analysis in writing. He also stressed the importance of memorizing the following information taken from the AREA VARIANCE FINDINGS & DECISION form: FACTORS CONSIDERED:

- #1- Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties.
- #2- Whether benefit sought by applicant can be achieved by a feasible alternative to the variance.
- #3- Whether the requested variance is substantial.
- #4- Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood.
- #5- Whether the alleged difficulty was self-created.

Several cases were discussed when the Board went over the previous 5 questions. Our job is to weigh the benefit of the applicant VS the detriment to the community.

DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above 5 factors find that: Benefit to the Applicant DOES NOT outweigh the detriment to the neighborhood or community and therefore the variance request is denied.

-OR-

Benefit to the applicant DOES outweigh the detriment to the neighborhood or community.

The ZBA further finds that a variance of ___ from Section ___ of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because___.

CONDITIONS: The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1:

Adverse impact to be minimized ___.

Condition No. 2:

Adverse impact to be minimized___.

Mr. Natali: We plan to revise the AREA VARIANCE FINDINGS AND DECISION (FORM) from two pages down to one. This will be done in about six months. The most important part is the five factors considered. We must see every property and relate it to these criteria.

Mr. Conway stated that you are required to go out and physically look at the property applying for the variance. It works well for a pair to go out together to look at the property. You really can't make a decision unless you have actually been on the property. Also, you should have a copy of the survey with you. I'd also like to mention--on building codes--to the property line--combustible is minimum of 3 feet to the property line--noncombustible can go to within 1 foot of the property line. That is State Code regulations. That includes the eaves. Also remember, you can not grant a variance in an easement.

Mr. Wilcox: Sometimes a fence is put in an easement.

Mr. Conway: But if the Town has to go in and clean an easement, they will take the fence out. At some of the new houses you are going to find the easement is 10 feet from the back of the house.

Mr. Dean: Some of the lots in the new tracts, you may have a 3 acre lot--you can barely fit a house on it, with a small deck on the back and the rest is wetland, buffer zone or something else.

Mr. Conway: A couple of years ago, when they had the "Parade of Homes"
Zoning Board of Appeals
Town of Cicero

February 4, 2008
Page 6

in the development off of Thompson Rd., all those \$300,000 or \$400,000 homes only have a 10 ft. backyard--the rest went into swamp or swale.

Mr. Dean: Their Broker or lawyer should tell the buyers that before they buy the house, but they don't.

Mr. Conway: Alot of new houses have sliding doors on either side but there 's not room to put a deck on.

Director of Planning & Development Wayne Dean:

The new Town Code will be out in a couple of weeks. The following are items this Board's members must know:

- Setbacks-30 ft. from the front property line--Property between the curb line and property line is the Right of Way (ROW)
- Residential building height-35 ft.
- General Commercial Plus building height-60 ft.
- You measure from the lowest point.
- Side setbacks vary.
- Density is area covered by roof--no paved area--just roofs of buildings on the property.
- A patio is on the ground and does not need a building permit. A deck is raised above the ground and does need a building permit.

Mr. Dean passed out a legal bulk regulation of a Setback to all Board Members.

Board Member Mark Rabbia:

He explained that Non Conformance means that the property or lot was established before the law in the Code and zones were designated. This happens frequently along the lake shore.

Mr. Conway: A Non Conforming lot can not be subdivided into 2 non-conforming lots. You can not deny a building permit on a non conforming house. If you demolish more than 50 % of a non conforming house, it has to be re-built to the new setbacks and Codes.

Mr. Natali: If you are looking at a variance on a non conforming lot, you can not add to, alter or expand upon it in anyway.

Mr. Stewart submitted a list of 10 most asked questions by new Board Members. Then he gave a " David Letterman" version of the 10 questions.

Mr. Natali: When you are out inspecting a property, make sure the owners understand that you have to inspect the property by Code regulations and the decision

on the variance is made by all 7 Board Members. Also, that when the decision is made, you will hear all the facts. You have to go out and look at the property and be prepared to measure it.

When you go out to inspect a new house, you should probably wear boots or old shoes because it will probably be muddy.

Mr. Natali suggested that you wear collared shirts and footwear that is appropriate. You might be dressed up if you go out after work or after Church. Tie is not necessary. In summer, NO tank tops or sandals but shorts are O.K.

Mr. Stewart: If the resident is home when you go out to inspect the property, be sure to ask them if they have a current survey and tell them they will need one when they go into fill out the application.

Mr. Conway: The Zoning Office should tell them they have to have a survey no more than 2 years old.

Mr. Conway : Another thing to consider is the Safety aspects.

Mr. Natali: What about a dog in the yard? Carry your cell phone. You should call ahead anyway to make sure the resident is going to be home or leave a message telling them the date and time you will be there to inspect the property and that if they have any questions about it , to please call the Town Zoning Office.

In regard to meetings, the Zoning Board of Appeals meeting is the 1st Monday of the month. If something unexpected comes up and you can't make the meeting, please call me as early as possible so I can call our AD HOC Member in to the meeting.

Your friends and neighbors may ask you alot of questions now that you are a ZBA Member. Mr. Rabbia says "they'll think you are an expert on anything and everything in the Town of Cicero". If you want to attend Planning Board meetings, they are held the 1st Wednesday and the 3rd Monday of the month. When you are driving around Town, look around at what's being built, signs, etc. Now we're "Keepers of the Town". Most people have never had to apply for a building permit and a variance scares them. Each Board Member received a copy of "WHEN DO I NEED A BUILDING PERMIT?" It answers many of the questions your friends and neighbors might have. It is up to us to be "customer friendly".

Mr. Rabbia--concerning meeting formalities:

-Roll call

-Type II unlisted action (SEQR)

-Agenda

-Chairman will call for 1st case on agenda to come forward to state name, address, what they want to do.

-Discussion between Board Members

-Chairman asks those in attendance to come forward and speak FOR or

Zoning Board of Appeals

Town of Cicero

February 4, 2008

Page 8

AGAINST the case.

-Public Hearing will be closed by the Chairman.

-Board will review the 5 factors to be considered..

-Motion will be made to approve or deny the variance, then seconded and a vote will be taken.

-This process is repeated for each case.

-If more information is needed, the case may have to be deferred until the next meeting or another date.

-If you ADJOURN a case, the Public Hearing portion is closed. If you DEFER a case , it's put off until the next meeting and you can still receive public input.

Mr. Dean: Residents should have no unlicensed car on their property for more than a month. He also explained complaint forms, which you may find on our website.

Mr. Natali: There may be a time when you want to abstain from voting because you feel it could be a conflict of interest, such as : a neighbor, a co-worker, a relative, a customer. You can abstain and state the reason you are doing that.

Mr. Natali and Mr. Dean discussed sign regulations with the Board Members.

Mr. Dean: During site planning, the Planning Board can allow more signage than is allowed in the Code.

EXECUTIVE SESSION

Motion was made by Mr. Natali, seconded by Mr. Wilcox, to adjourn the meeting and go into Executive Session to discuss employment.

Motion was put to a vote, resulting as follows:

Mr.Natali:	Yes
Mr. Wilcox:	Yes
Mr. Stewart:	Yes
Mr. Rabbia:	Yes
Mr. Stanton:	Yes
Mr. Griola:	Yes

Motion duly carried.

The Board adjourned into Executive Session at 8:33 P.M.

Motion was made by Mr. Natali, seconded by Mr. Stanton, to reconvene the Board to regular session from Executive Session at 9:03 P.M.

Motion was put to a vote, resulting as follows:

Mr. Natali:	Yes
Mr. Wilcox:	Yes
Mr. Stewart:	Yes
Mr. Rabbia:	Yes
Mr. Stanton:	Yes
Mr. Griola:	Yes

Motion duly carried.

Mr. Natali made a motion that Mr. Robert Durr was not reappointed as Zoning Board of Appeals Attorney and that Mrs. Melissa DelGuercio was appointed as Zoning Board of Appeals Attorney at an annual salary of \$3,500.00. Mr. Rabbia seconded the motion.

Motion was put to a vote, resulting as follows:

Mr. Natali:	Yes
Mr. Wilcox:	Yes
Mr. Stewart:	Yes
Mr. Rabbia:	Yes
Mr. Stanton:	Yes
Mr. Griola:	Abstain

Motion duly carried.

Motion and unanimous approval made to adjourn the meeting at 9:10 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 the said Board of Appeals, held February 4, 2008 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.