

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: MARCH 3, 2008
PLACE: TOWN HALL

TIME: 7:00 P.M.

The regular meeting of the Zoning Board of Appeals was held Monday March 3, 2008 at 7:00 P.M. at the Cicero Town Hall, 8236 South Main Street, Cicero, New York 13039.

Members Present:	Gary Natali:	Board Chairman
	Charles Stanton:	Board Member
	Donald Stewart:	Board Member
	Richard Griola:	Board Member
	Mark Rabbia:	Board Member

Absent:	Michael Stassi:	Board Member
	Robert Wilcox:	Board Member, Ad-Hoc

Others present:	Wayne Dean:	Director of Planning & Development
	Melissa DelGuercio:	Attorney
	Vernon Conway:	Councilman, ZBA Liaison
	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 use the microphone in the front of the room.

Motion was made by Mr. Natali, seconded by Mr. Rabbia, 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. Stanton:	Yes
Mr. Stewart:	Yes
Mr. Griola:	Yes
Mr. Rabbia:	Yes

Motion duly carried.

AREA VARIANCE ADJOURNED FROM 12/3/07 FOR EDWARD & DONNA SIERS, 6120 MUSKRAT BAY ROAD-TO ALLOW REPLACING A PORCH WHICH WILL INFRINGE IN THE SETBACKS IN AN R-10 ZONE.
(SEE ATTACHMENT A)

Representatives: Kevin Nolan, Attorney
Edward Siers, Owner

Mr. Nolan: My client wants to remove an 8 ft. X 24 ft. porch that currently exists and to replace it with a 16 ft. X 24 ft. porch that will conform to the same dimensions along the setback variance. The whole structure at this point is on a 3 ft. setback variance, so it won't change the actual setback. I believe, in the record, there is a statement from the neighbor on that side, who has no objection to that setback. The existing structure needs to be torn down--it's been there for some time--it's structurally unsound. The footers are coming up thru the floor boards. The roof is caving in. It needs to be removed, then they would like to extend the length of the porch as a hardship. The father is currently ill suffering from early stages of senility. He lives in Florida. They'll be bringing him back to Syracuse. Mr. Siers has Power of Attorney and Health Care Proxy and they need to expand the room to give him a suitable living space. I read the record of the 12/3/07 meeting. I understand there are some objections I read the objections of neighbor Hendricks. From what I saw, all those were baseless objections, without merit. All the things he brought up there--all the work the Siers have done has all gone thru the proper channels. We have the proper permits for all of them. He's making claims that things were done improperly. Mr. Siers did go thru the proper legal channels and everything was permitted. Currently, there are only 2 bedrooms in the property. There won't be enough room for his father to live there with him . Mr. Sier's father suffers from sleep apnea and often can not share the same living area.

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So, they need a larger living area with a 3rd bedroom. The current area, only

8 ft. in length, is not suitable for a bedroom. The proposed room they want to add on will conform with the existing setback that the whole structure is on. They also want to match the roof to the current roof of the rest of the house to give a better overall look to the property.

Mr. Rabbia: You mentioned the disrepair. Is it the whole building or just the front part?

Mr. Nolan: The front porch--the 8 ft. X 24 ft. porch that needs to be torn down anyway. Do you have the pictures?

Mr. Rabbia: Yes. we have the pictures.

Mr. Nolan: Again, the footers are coming up thru the floor, the roof is caving in, the windows are cracked and don't close properly

Mr. Rabbia: I have the updated survey but there doesn't appear to be a surveyors stamp on it. Were they updated?

Mr. Nolan: Yes, let me give you copies to pass around.

Mr. Rabbia: I think the question last time was, when that 8 ft. addition projects out from the house, how far would it be from the edge of the pavement? I think this survey answers the question.

Mr. Nolan: Over 30 ft. from the center line of the road.

Mr. Rabbia: In this area, we look at the edge of the pavement. In this case, it looks like 24 ft. from the proposed addition to the edge of the road.

Mr. Griola: So do you want to add 8 or 7 ft. to the front of the structure? The application says 7 ft..

Mr. Nolan: 8 feet, I believe.

Mr. Griola: The application says 7 ft.

Mr. Rabbia: So the plan is , you'll take down the front of the house, extend the roof line out 8 ft. from the existing structure-- is that correct ?

Mr. Nolan: Correct.

Mr. Rabbia: When we start counting the 8 ft. -- is that from the existing structure?

Mr. Nolan: Yes.

Mr. Rabbia: Is that fence on the west side yours?

Mr. Siers: Yes.

Mr. Rabbia: How far out does that project from the front of the structure ?

Mr. Siers: About 8 ft. from the house.

Mr. Rabbia: So you would be inside that tree with your addition.

Mr. Siers: Yes. I would.

Mr. Natali: When you look at the survey, you see your nominal street line, actually nominal road line--from that line to the corner of the house is 20.4 ft. Yet on the west side you don't have a measurement. According to our minutes of December 3 rd, the surveyor talked with Mr. Siers, and I guess that's projected at 17.9 ft. Is that what you feel it is? It's definitely less than 20.4 ft.--we can see that. I'm curious why that was not indicated, being such a crucial measurement.

Mr. Siers: I believe the question we had was whether it was the nominal line or the edge of the pavement. Was that clarified at the last meeting? That was the issue at the time--we did one on one side and one on the other-- that's why they're both on one side

Mr. Natali: The property to your east-- the front of their property would be how much further out from your existing porch?

Mr. Nolan: The front of their actual structure?

Mr. Natali: Yes.

Mr. Nolan: The one to the east ? It would be pretty much even.

Mr. Natali: It's out a little bit. It's out further than you . I would say anywhere from 18 in. to 2 ft.

Mr. Nolan: That's if you include the deck.

Mr. Natali: If you look at all the homes right down the east, they are so much in line. It was snowy when Wayne and I were out there, but I know it's not 8ft.

Mr. Nolan: Are you asking how much it is currently or how much it will be ?

Mr. Natali: Currently.

Mr. Nolan: 7 ft. 6 in.

Mr. Natali: So if we gave you that many feet to the edge of that property-- even though it's not the 8 ft. you want-- your overhang to be equal to his-- would you be willing to adjust your plans accordingly ?

Mr. Siers: Yes, I would.

Mr. Rabbia: How are we going to quantify that?

Mr. Natali: We would have to get the exact measurement. We would have to have that as a condition that the footers would have to be inspected. It wouldn't modify what you're going to do.

Mr. Stewart: Do you know how far the tree is from the current structure?
About 10 or 12 feet ?

Mr. Siers: I don't know.

Mr. Stewart: But the 8 ft. addition is well inside that tree?

Mr. Mr. Nolan: Yes--it is inside it.

Mr. Siers: I talked to the owner about the roots and he said , "I wish someone would kill this tree."

Mr. Stewart: We're trying to quantify this. If the 8 ft. is in that tree.

Mr. Natali: It's not. I've been there 3 times. Wayne and I were just out there. I don't want to say 8 ft. I'd like to make your property no closer to the lake than any other property.

Mr. Siers: I'm not asking for that.

Mr. Nolan: If it's a conditional approval, that would be fine.

Mr.Natali: We want to do it right and I'm sure you do also.

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FOR: NONE
AGAINST: Nedra & Anthony Sposato, 6116 Muskrat Bay Rd.

We live two houses to the east of Siers. I got signatures from residents in both directions. Nedra read the following petition from neighbors in opposition and gave copies to the Board Members.

OPPOSITION TO THE REQUEST FOR VARIANCES MADE BY ED & DONNA SIERS, RESIDING AT 6120 MUSKRAT BAY RD., BREWERTON, NEW YORK.

Petition: We the undersigned individuals would respectfully request that the Zoning Board deny the variances requested by Ed & Donna Siers, who reside at the above address. Their requests would allow them to add an additional 8 ft. to the front of their porch.

It is felt that this would be detrimental to the neighborhood for a number of reasons. The view from the Schuler home, which is to their west, would be blocked to the east. Views from neighboring homes would also be reduced. If a car was parked in the driveway, near their front door, it would be difficult for neighbors to exit their driveways because of reduced visibility. It would also extend this home out into the Town's right-of-way.

Another concern would be the appearance of the neighborhood as these homes are pretty much built in a line with each other. one house "sticking out," would make it less appealing, perhaps lowering property values as these homes are on lots that are only 40 ft. wide.

We are concerned with the effect digging a foundation would have on a very large and beautiful hickory tree. The foundation would be approximately 5 feet from the edge of this tree and the root system and and the integrity of this tree would be compromised. We have all seen what the wind can do to the healthiest of trees.

The addition would effectively act like a snow fence to the houses west of it. With snow coming mainly from the northwest, it would make snow removal more difficult than it already is. With these narrow lots, the driveways run next to houses and finding places to put the snow is challenging at best.

Lastly, water would be shed more quickly onto the road in an area that is already in flood plain.

We would like to thank you for your consideration in this matter.

There are 16 signatures on this petition.

the houses are as close to the road as what the Siers would like to do. I can tell you, it's no picnic. You're sitting in your front area and the snow plow goes by, and you're hearing the stones and things from the road hitting your window. They are going to be that much closer. Three of those houses have been hit by cars--one was hit just this winter--that's 3 houses to our east. I think all these things need to be considered. As far as the neighbor immediately between us, saying he wishes someone would kill that tree, he is not the actual home owner--his mother is the owner and she loves that tree. I have some pictures to show you and to give you the petition copies.

Mr. Rabbia: You did mention Barbara Schuler. She has a letter here, saying she has no problem with it.

Mr. Sposato: She sees "both sides of the coin." I have talked to her. She's not against them extending their home but would not like to see that tree dead. I can sympathize with Ed and what he going thru with his father. I'm going thru similar things with my mother. She loves that tree. The tree is going to be an issue.

Mr. Sposato: I've lived on that lake all my life--if you block my view--somebody's going to end up dead--bottom line. I've taken boats off the lake--I've taken people out of the water because I've been able to see. You put something out there and I can't see anymore--I can't see my granddaughter walk down the road from 4 houses down--you guys are killing me,

Mr. Natali: You have the high porch?

Mr. Sposato: I've got the high porch and the day you were there, he (Mr. Siers) stood a foot inside that fence and said "this is where the house is coming." Actually, if it's an 8 ft. fence, that's where it is on your roof and your truss line will bring it out further. All in all, it's going to be a wind break, you're going to block--you're going to fill driveways up with snow if you fill it up too far.

Mr. Natali: You've heard the compromise. You've heard they're willing to do less than the 8 ft.

Mr. Sposato: How many feet?

Mr. Natali: That's the issue right now. It doesn't seem like it's 2ft. to me. We can work on the semantics.

Mr. Sposato: When you come up with what it's exactly going to be, that's fine and dandy, but you just can't say yes you're going to do it without

knowing what you're going to do.

Mr. Natali: No, I realize that Sir, we'll give them the exact inches. But I don't want to make it from the road like we usually do. I want to make it even with the property to the east--eves and everything.

Mr. Sposato: He's even with the 2 properties to the east.

Mr. Natali: I don't think he is--it sets back.

Mr. Sposato: It doesn't set back farther than my house and I'm to the east.

Mr. Natali: There's a little bend there--you set back even further. Thank you for your comments.

Richard Hendricks, 6122 Muskrat Bay Rd.: I'm their neighbor on the other side. I want to know , when they kill the tree and it comes down and lands on my house , who's going to pay for it ? Or are the Schulers, that don't have any money going to pay?

Mr. Natali: That's not what this Board is all about.

Mr. Hendricks: They're putting my life in danger. If that 80 ft tree dies and comes down--I sleep in the front of my house. If it comes down in a wind storm--60-80 M.P.H. wind-- 15 trees came down a year or two ago-- so when it lands on my house after they kill the tree, what happens?

Mr. Rabbia: You're house is closer to the road than theirs, correct ?

Mr. Hendricks: Yes, but there's a bend in the road, that's why mine sticks out further than the subsequent houses. Can you answer my question ?

Mr. Natali: No, that's not what we're here for.

Mr. Hendricks: You don't know what is going to happen?

Mr. Natali: You're saying because they're going to dig the footers 5 feet, it's going to kill that tree.

Mr. Hendricks: Which is going to make it worse when the wind kicks up. That tree is going to come down and take out 2 or 3 houses. He's counting on you not doing your homework. I hope you're doing your homework and that you consider all the objections.

Mr. Rabbia: I'd like to see how far the house at 6122 is from the road.

Mr. Natali: I don't know how much that is but I'm reluctant to give him a dimension from the road because I know where I'd like to see it-- equal and no greater including eaves; so that we're not granting anything that's not already been there. We've allowed people to do that and we don't want to be a lot closer to the road than the neighbors, so there's room for compromise here.

Mr. Natali to Mr. Dean: When you and I went out there, granted there was snow and we were just "ballparking", how about I make a motion to defer this until we can go out and measure it and give an exact inch to where the footers would be, then we'll put it to a motion at the next meeting. You're in no hurry. April 7th will be the next meeting. Mr. Siers--you guys have to live together. Wayne, is that something we could do together?

Mr. Dean: Yes.

Motion was made by Mr. Natali, seconded by Mr. Griola, to defer this until the April 7th meeting, so we can come up with the exact dimensions, to where we will make a compromise on your request.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Mr. Siers: Would you like to have a surveyor put this on the survey?

Mr. Natali: I would prefer to see it on a survey. You can submit that directly to Zoning-- the sooner the better, then we'll get it out to everybody. Thank you.

ROAD, TO ALLOW INSTALLATION OF A T-MOBILE SIGN TO BE LARGER THAN ALLOWED BY CODE IN A GENERAL COMMERCIAL ZONE.

Representative: John Vella, Manager Color Ad Sign Corp.

Mr. Vella: The client is looking to upgrade what they have now to putting signs on both elevations of the building. Since they're on a corner, there's two elevations to that T-Mobile. They feel the original sign is too small, since there's so much competition, they're trying to get as much exposure as possible. You have a revised print of how the signage would look on the building, both elevations. The sign would be 3 ft. 6 in. by 20 ft. 10 in. The existing sign is 2 ft. 3 in. by 13ft. 4 3/4 in. That's what is there right now on one elevation.

Mr. Rabbia: So, you want to go bigger on the Route 11 side and add a sign on the Caughdenoy Rd. side?

Mr. Vella: Correct.

Mr. Rabbia: What's the total square footage of what you want to do ?

Mr. Vella: What you have now is 30ft. 14 in. We want to install 73 sq.ft. per elevation. It's about 43 sq. ft. more per elevation.

Mr. Rabbia to Mr. Dean: What did we agree on when we did this plaza? I can't recall what the signage agreement was.

Mr. Dean: I don't have the site plan with me. Generally, they have been going up to 2 times what the Code allows, which would equate to 2 sq.ft. for each lineal foot of footage of store.

Mr. Rabbia: What did we do for Edible Arrangements?

Mr. Natali: Edible Arrangements we cut down. That's why I'm surprised. I think the sign looks great there. You want to put one on the end. When you sit at the Caughdenoy Rd. traffic light and you start north on Route 11, because Rite Aid takes up that whole parking spot on the corner, the "window" when your side opens up, you're in front of the store already. I don't see how we can go larger on the front of that building. If you want one for the end-- I know there's alot of competition in the phone business.

Mr. Rabbia: What's the lineal footage of the front plus the side?

Mr. Vella I have 32 ft. for the front elevation. I don't have the side. It looks like it might be the same.

Mr. Natali: It's way deeper than wide.

Mr. Rabbia: What about the brick decorated portion on the side?

Mr. Vella: That's what I 'm talking about-- probably the same amount. It looks square. Are they allowed a sign on the side elevation or is that against the Codes?

Mr. Natali: It's against the Code, that's why you're here for a variance. We like to accommodate business any way we can. But I think you should be happy with the bigger sign on the front and either match it or go smaller on the side.

Mr. Rabbia: In my packet, I have the minutes of the 2006 Planning Board meeting. They were talking about Benderson Development. Mr. Leone made a motion to approve the site plan dated March 15, 2006 and that they except the signage package that allows for 2 sq.ft. per lineal foot of building frontage. I think what they were doing was trying to help the developer figure out signage for the clients as they came in. It looks like you have 32 ft. across the front, which correlates to the existing sign's square footage, which you said was about 30 sq.ft.-- so that's close.

Mr. Vella: You said it allowed 2 to 1-- that would be 6 ft., but nothing on the side.

Mr. Dean: I can clarify something. You're allowed 2 sq.ft. per each lineal foot of frontage. You're allowed what the Planning Board said. If you can stay within that approximate 64 sq.ft. , you could put a sign on the side.

Mr. Vella: If we put a sign exactly as we have here and put one on the side, it would be acceptable then/ The way it stands, we're not going to go any bigger on the front and we can put the same size on the side elevation.

FOR:	NONE
AGAINST:	NONE

Hearing was closed at 7:37 P.M.

Mr. Rabbia: I think it's reasonable to allow the 2 lineal sq. ft. per frontage.

I think it's similar to what we did for Edible Arrangements.

Mr. Natali: Is that what he has now?

Mr. Rabbia: He basically has half of what he wants now.

Mr. Vella: Right. If you go with the 2 sq.ft. lineal foot of store frontage, we'd be under the guidelines.

Mr. Rabbia: Right.

Mr. Stewart: If the Planning Board paperwork supersedes a motion, that's the thing we have to look at.

Mr. Stanton: I think if you look at the Planning Board minutes. on the back it gives the rationale as how that size was come up with. It looks like they were banking the entire frontage of that strip rather than just the store.

Mr. Natali: It was part of the approved site plan.

Mr. Rabbia: I think why they did this is because they didn't know how big each store was going to be and how the frontage was going to go.

Motion was made by Mr. Stanton, seconded by Mr. Natali, to accept the 2 sq.ft. per lineal foot of frontage as allowance for the sign size and the same sign for the end. The same as the current size: 2.3 ft. X 13.4 3/4 ft. That stays--just duplicate the size for the sign on the side.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE FOR SONDRAL BERGQUIST, 9156 BEACH ROAD,
TO ALLOW CONSTRUCTION OF AN ADDITION TO A HOUSE
WHICH DOES NOT COMPLY WITH TOWN FLOOD DAMAGE
REGULATIONS.

Mrs. Bergquist: What we have now is a porch with a room above it on the second floor. There's 3 rooms on the second floor. We want to extend the room on the second floor and extend it 4 feet because it's too narrow right now. Our baby is coming in May. It's going to be a baby's room. We want to keep the elevation at 373.8, as it is now, even though the Code says 375 ft. Because the room above it--- it already exists--we're extending it not adding it. So, the porch below it is going to be enclosed and extended out 4 f t.. It's right under the room. If we go with the new Code, we would be stepping up quite a bit, into the lower room that's going to be enclosed. We want to keep the same elevation that exists. We called FEMA and they said it was O.K.

Mr. Dean: I called FEMA to ask them what their regulations were. They want the house at or above 373 feet. In last year's code, FEMA required any new construction to be 1 foot above mean flood elevation, which would be 374 ft. for this location. The new Code that came out and was enacted last year but into effect after the first of this year, requires the lowest habitable space to be 2 ft. above mean flood elevation, which would be 375 ft.. When I talked to FEMA, their only requirement was to be at or above flood stage. You can be higher but not lower. It meets their criteria but it does not meet the Town Code regulations for building in a flood zone. The variance is to adjust that elevation of the new construction, that would be 8/10th of a foot--about 9 inches--above the flood elevation rather than the 2 ft. . As she said, they're trying to match the existing floor elevations. If they did that, there would be a step in the middle of the room. It would be impractical.

Mr. Natali: Does the flood risk bother you at all?

Mrs. Bergquist: No, it doesn't bother me any more than usual. The rest of the house is what it is already, as we bought it. That would just be one smaller space on the road side--so it doesn't bother me.

Mr. Natali: That part of Beach Rd. isn't as wet as the other part.

Mrs. Bergquist: No, it's the nicer, dryer part of Beach Rd.

constitute a representation, guarantee or warranty of any kind or nature of the Town of Cicero or by any officer or employee of the practically or safety of any use or structure proposed. And shall create no liability upon or cause action against any public body, officer or employee for any damage that may result pursuant hereto." So we're off-the-hook by giving this variance to you. You're all alone and obviously you feel 90 % of your current home is safe.

Mrs. Bergquist: I didn't say I felt that.

Mr. Rabbia: Was it just pure luck that the proposed garage went right to the building--it's not going to go over the building line, correct ?

Mr. Bergquist: The architect did that and met the requirements.

Mr. Natali: Actually, none of these are in violation of the Code. The only issue now is the elevation. Wayne is going to work with them. They're not asking for a variance for anything else. That's why it's not exact and I didn't want to return it for that.

Mr. Griola: So the only negative of this is to the homeowner not to the neighbor or the environment.

Mr. Dean: The other thing it's based on is how far you are above flood elevation. It varies quite a bit. If it's 2 ft. above, your rates are roughly 1/3 or 1/4 of what they would be if you were at the flood elevation.

Mrs. Bergquist: I don't think it would change my flood insurance because the majority of the house is what it is already. I'd love to raise it all up but I can't do that,

FOR: NONE
AGAINST: NONE

Hearing closed at 7:47 P.M.

Motion was made by Mr. Rabbia, seconded by Mr. Griola, to approve an Area Variance for Sondra Bergquist, 9156 Beach Rd., to allow construction of an addition to a house, which does not comply with Town Flood Damage Regulations. She wants to construct an addition with a floor elevation of 373.8 ft where the Building Code requires 375 ft.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Motion and unanimous approval made to adjourn the meeting at 7:50 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 March 3, 2008 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

Nancy G. Morgan

March 15, 2008