

SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: November 4, 2015
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, November 4, 2015 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

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| Members Present: | Charles Stanton | Deputy Chairman |
| | Donald Snyder | Board Member |
| | Gary Palladino | Board Member |
| Others Present: | Terry Kirwan, Esq. | Attorney, Kirwan Law firm |
| | Steve Procopio | Code Enforcement |
| | Ann Marie August | Recording Clerk |
| Absent: | Gary Stanton | Board Chairman |
| | Mark Rabbia | Board Member |

Inasmuch as there was a quorum present, the **meeting opened at 6:00 P.M.**

Deputy Chairman Stanton called the meeting to order and asked for a roll call of Board Members present. He pointed out fire exits and requested that pagers and cell phones be silenced. He then asked everyone to stand for the Pledge of Allegiance.

Mr. Stanton: Has everyone read the minutes from the October 5, 2015 meeting?

Board: Yes.

Mr. Stanton: Are there any corrections?

Mr. Stanton: The only thing I noted was that there was a motion from Mr. Rabbia on behalf of Frank Chido that it out of place on Page 2 of the minutes. That's all I have.

Mr. Stanton: Do I have a motion to approve?

Mr. Palladino: I'll make a motion to approve the October 5, 2015 meeting minutes as corrected, seconded by Mr. Snyder.

Motion was put to a vote, resulting as follows:

Mr. Snyder Yes to the Motion
Mr. Palladino Yes to the Motion
Mr. Stanton Yes to the Motion

Mr. Stanton: The Cicero Town Board acknowledges the importance of full public participation at all public meetings and, therefore, we urge all who wish to address those in attendance to please come to the microphone located in the front of the room.

Motion was made by Mr. Stanton, seconded by Mr. Snyder, that all actions taken tonight are Type 2 and have a negative impact, that is no impact, on the environment unless otherwise indicated.

Motion was put to a vote, resulting as follows:

Mr. Snyder Yes to the Motion
Mr. Palladino Yes to the Motion
Mr. Stanton Yes to the Motion

Mr. Stanton: We have proof that all items on tonight's agenda have been advertised as directed by law.

Mr. Stanton: I will briefly review the process for tonight's meeting for the benefit of those present that have never been before the Zoning Board of Appeals. (1) Each applicant will have an opportunity to describe their project. (2) The Board will then ask questions about the project. (3) I will then open a public hearing where people will be able to speak for or against the proposed variance. (4) The applicant will then be given the opportunity to respond to the public input and provide additional information. (5) Board members will again have the opportunity to question the applicant. (6) The Board will openly discuss among ourselves the Five Factors that contribute to our final decision. Just as a note, this Board does not have a pre-agenda meeting so there is no prior discussion of cases outside of the meeting. (7) Finally, a motion will be made, either approving or denying the requested variance, it will be seconded and voted upon. As an additional note, because of tonight's special circumstances, we've advised all of our applicants that only three of our five Board members are present as such all votes to approve variances must be voted on as yes by all three of our Board members. A single no vote will result in a denial of the requested variance with no means of recourse for the applicant. In light of these facts, all of tonight's applicants have been given the opportunity to defer their case in advance of this meeting. Please note that this Board is not required to grant a deferral tonight for any case where the applicant has chosen to proceed with the knowledge of the possible consequences. We had a little jockeying around as far as the first case. Who is ready to proceed? [Voice in background stated, "We are ready."]

[Area Variance for STACY UZUNOFF begins on next page]

**STACY UZUNOFF
8431 BREWERTON ROAD**

**AN AREA VARIANCE FOR A PROPOSED ADDITION TO A NON-CONFORMING STRUCTURE.
THE EXISTING STRUCTURE HAS A FRONT YARD SETBACK OF 18.3 FEET WHERE A MINIMUM
SETBACK OF 50.0 FEET IS REQUIRED.**

Mr. Coyer: I'm Tim Coyer, from Ianuzi & Romans Land Surveying [Mr. Coyer went up to Board and distributed copies of the site plan.] The property is located at 8431 State Route 11, just north of Cicero Fire Department and an existing hair salon. The property is about 1.1 acres. There is an existing 2,200 square foot building on the property. The building right now sits about 18.3 feet from the front road boundary. The variance that we are looking for is for that 18.3 foot setback. The required distance is 50 feet. About a 30% decrease. The applicant is looking to put an addition on the existing building. They are not planning on putting anything closer to the road. Everything is going to be behind the building lot. Basically, this is a legal, non-conforming lot. Nothing is changing. Other than they will eventually put a proposed pole barn in the back, hopefully, they are going to go through a site plan approval. Right now we are trying to clean up the issue with the front yard setback so we can move forward with our site plan. Obviously, if we do not get the variance, they cannot move forward with the building addition and that is why we are here tonight to try to get that cleaned up. If you'd like, I can go through the five questions.

Mr. Stanton: Before we get to that I'd like to make note that we do have a decision from the Onondaga County Planning Board. Do you have a copy of that?

Mr. Coyer: Yes.

Mr. Stanton: They have a lot of "whys" and "wherefores" but the basic idea of this is that they have determined that the referral has no adverse intercommunity or county-wide implications. There are some conditions that you need to be aware of but we won't go over those tonight because that is more of an enforcement function. So go ahead.

Mr. Coyer: Alright. Number one, is the requested variance substantial. I said "yes." It's 37% but we can't change that. Number two, whether an undesirable change will be produced in the character of the neighborhood or create a detriment to nearby properties. I believe the answer to that is "no." Basically, nothing is really changing, it is 18.3 feet from the road boundary as it sits today. If this isn't granted, it's not going to change. Can the benefit sought by the applicant be achieved by some method feasible for the applicant to pursue? No, otherwise they would have to literally tear down the house and build another structure which is financially unreasonable. Number four, was the difficulty was self-created? Yes, it's an existing situation. We are going in with a site plan so yes, it was self-created. Will the variance have an adverse effect on the physical or environmental conditions? No, again, how it is today, they are not changing anything. When we go for the site plan, we will have to go through all the engineering to make sure nothing changes and nothing produces an adverse effect.

Mr. Stanton: At this time, I will open floor for questions and comments from the Board.

Mr. Palladino: Nothing at this time.

Mr. Snyder: I guess I just don't understand, not that I'm excited about it but 18 feet versus 50 feet and you said it's 33%?

Mr. Coyer: 37%

Mr. Stanton: I was actually going to address that, if you subtract the 18.3 feet from the 50 feet, you get 31.7 feet which is actually a 63.4% variance. I do the same thing myself, you have to reverse it.

Mr. Coyer: I apologize.

Mr. Snyder: [laughing] I was just questioning your math. I don't have a problem with it. I mean, it is what it is. You're not asking for any...we don't address the pole barn in the back because that's not even...

Mr. Coyer: Well, a, it's not approved, we still have to go through the site plan and the proposed location of the pole barn will not be in violation so I guess "no" you won't be addressing that.

Mr. Snyder: Okay.

Mr. Palladino: The total coverage is fine.

Mr. Stanton: The 7% does include the proposed pole barn.

Mr. Snyder: And any drainage issues the Planning Board will take care of that.

Mr. Coyer: It's all in the site plan.

Mr. Palladino: I guess the one point you did mention that really rings true is that this request for a variance for the addition, does not increase the non-conformity at all so it's not like we are making it worse.

Mr. Stanton opened the Public Hearing at 6:12 P.M.

Mr. Stanton: Is there anyone here who would speak for this variance? [no response]

Ms. Uzunoff: [Stacy Uzunoff of applicant indicates she would like to read a statement from the neighbors]

Mr. Stanton: Please come up and state your name.

Mr. Uzunoff: "Board Members, as owners of the property at 8437 Brewerton Road we are in favor of granting the variance." [unintelligible comments]

Mr. Stanton: Would you like to speak for?

Mr. Herman: Yes, my name is David Herman and I own the property south and I have no objection.

Mr. Stanton: Thank you.

Mr. Stanton: Is there anyone here who would speak against this variance? [no response]

Mr. Stanton closed the Public Hearing at 6:14 P.M.

Mr. Stanton: Does the Board have any further questions? [no response]

Mr. Stanton addressed the Five Factors:

Factor 1 – Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created? **Answer: No.** This neighborhood on Brewerton Road is primarily commercial in nature and this proposed addition is in keeping with that nature.
All agree.

Factor 2 – Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an Area Variance. **Answer: No.** The structure being added on to is an existing non-conforming structure which necessitates this variance. It should be noted that the expansion is not to the non-conforming condition which is the front yard.
All agree.

Factor 3 – Whether the requested Area Variance is substantial? **Answer: Yes.** The proposed variance is 31.7 feet or 63.4% of the required 50 feet. It should be noted that this is a pre-existing condition and is a legal non-conforming condition.
All agree.

Factor 4 – Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? **Answer: No.** As stated in factor one this neighborhood is primarily commercial in nature any increases in impermeable surfaces will be dealt with by the Planning Board.
All agree.

Factor 5 – Whether the difficulty was self-created? **Answer: Yes.** The applicant is choosing to construct an addition to a non-conforming structure. It should be noted that this is not solely a reason to deny the variance.

MOTION made by Mr. Stanton, seconded by Mr. Snyder, on behalf of Stacy Uzunoff of 8431 Brewerton Road for an area variance for a proposed addition to a non-conforming structure. The existing structure has a front yard of no less than 18.3 feet where a minimum setback of 50.0 feet is required. All other bulk requirements will be met and this is shown on the Ianuzi & Romans Land Surveying drawing entitled 8431 US Route 11, dated September 8, 2015. The only condition I will make on this is that the approval of this variance does not serve as an approval for the pole barn shown on the back of the property.

Motion was put to a vote, resulting as follows:

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|---------------|-------------------|
| Mr. Snyder | Yes to the Motion |
| Mr. Palladino | Yes to the Motion |
| Mr. Stanton | Yes to the Motion |

Motion duly carried.

Mr. Stanton: I would like to note that Mr. Robert Morrison did request a postponement of his case until the December 7th meeting. So, with that, our second case tonight is Ryan J. Beckley. Please come up.

RYAN J. BECKLEY
SNOWSHOE TRAIL (TAX MAP #809.-10-40.0)
AN AREA VARIANCE FOR A PROPOSED NON-RESIDENTIAL STRUCTURE IN AN
AGRICULTURAL ZONE. THE LOT AREA IS 1.81 ACRES WHERE A MINIMUM OF 2.0 ACRES
IS REQUIRED.

Mr. Beckley: Good evening. Before we get started, I'd like a little clarification. If we proceed with this does there definitely need to be a vote tonight?

Mr. Stanton: My feeling on this is that "no" it's not a forgone conclusion that there would be a vote tonight.

Mr. Beckley: Meaning we could proceed and possibly postpone it until the next meeting.

Mr. Stanton: There is an option for a deferral, yes.

Mr. Beckley: Okay, so, again, my name is Ryan Beckley and I am here to ask for a variance for building a non-residential structure on a lot that is less than two acres as required by code. The lot is 1.81 acres. I am looking to build a pole barn, garage, 40' x 60' for personal use, personal storage only.

Mr. Palladino: What's changed since last month?

Mr. Stanton: Yes, I was about to ask that same question.

Mr. Beckley: The building was moved 10 feet to the east and the size of the turnaround in front of the building has been reduced by 20 feet. Last time I was here, there was a question about the size of the lot and when that became an issue. At first I was under the impression when I made the purchase that it would come out to be two acres. Once my surveyor actually got out and started taking measurements, that's when we found out that it was 1.81 acres.

Mr. Snyder: Now you said last time or maybe two months ago, that you didn't want to short change or you didn't want to change the size of an adjacent lot. Now, did you own Lot A-1?

Mr. Beckley: Yes, so since our last meeting I did contact everyone I could possibly get land from. So, I'll run through...to see if I could get the two acres in some fashion. So, I started with...do you see Lot B, where that line is? [Indicating a position on the site plan to the Board] This is my lot here. This gentleman also owns this land here. When I talked to him he said he would possibly be willing to sell some land. He contacted the bank and I can't remember the bank's name. They basically told him no way. He already has a mortgage on it and they said everything short of no. It would be nearly impossible to make that happen. That was Sammy Spinella. He owns both of those lots. I thought that might be my easiest route. Then I went to Lot 46 which is Ron and Beverly Davies at 8488 to see if they would down at the bottom of their lot at the eastern end of it where it says brush and woods down there to see if they would give that up. He initially said yes and then I guess when he started doing some research, he has a reverse mortgage on it and his kids said no. So, that one was out. Then I went to Vinnie and Sandra Alcaras at 8500 Snowshoe Trail. Originally, I had given him a half acre behind his house in exchange for the 30 foot-wide access back and I was hoping to get the 1.9 (sic) acres from him and he said no because he is looking to do something with that land behind his house. Possibly building a pool in the

future. So that is a non-possibility also. I have nowhere else to go.

Mr. Snyder: That's just the history, so before you purchased the 1.81 acres, you did in fact own Lot A-1?

Mr. Beckley: No, no no.

Mr. Snyder: You made the comment that you didn't want to take more land because you didn't want to short change...so I was under the impression that you owned some land, so I wanted to get back to the surveyor if that was right.

Mr. Beckley: What I did, I will explain this, I know it's kind of crazy how this came together but...this lot here I originally owned and up here [referring to site plan] so this lot was originally two and a half acres. Which is what I originally thought it was going to be, but it's landlocked and there's no way back to it. Then I came up with the idea with this guy, Vinnie (Alcaras) that if I gave him a half acre behind his house, he would give me the thirty foot wide access back to it.

Mr. Stanton: Before we get much further I do want to address that we do have a Resolution from the Onondaga County Planning Board. We've looked at it and we believe it still applies to this specific variance request because there's no material change to what's in front of us. I wanted to note that they have indicated that the application will have no significant adverse or inter-community or county-wide implications. There are some conditions that they wanted followed. Going back to some of the concerns that were expressed about the original plan and I wish that Mr. Rabbia was here to maybe elaborate on that more. I think the concern that he stated was the proximity of the garage to Rollercoaster Drive. It was 50 feet, it is still 50 feet. He was a little concerned that you could still see that from Rollercoaster and from the back yards of the houses behind it. I know only one person came out to half-heartedly speak against it. I am wondering if you took that comment into consideration with your recent siting.

Mr. Beckley: Two things about that, number one, if I were to move the garage, the land is already cleared there and if I were to move the garage further north from where it is, it would have to move more than 100 feet. I'm going to guess pretty close to 100 feet before I would be back in the trees again and I would have to take down additional trees. The second part of that is that if I moved the garage into a different area I could possibly adversely affect where I would potentially build a house there.

Mr. Snyder: I think it should be noted too that the people who came and discussed your project, either happily or not, had a concern about drainage, they were not concerned about seeing this building and I guess I didn't have a problem with it because you were 50 feet from their line. There houses have to be 30 feet from the back line and they can put a shed within four feet or three feet of a back line, so we're 80 feet from anyone's window. Plus we have 50 feet or almost 50 feet of trees. I know now, if you're on Rollercoaster, I would be able to see the building but I would say for most of the summer, I wouldn't see it at all.

Mr. Beckley: There will be no windows or doors on that facing any house.

Mr. Snyder: If you moved it further to the north, those trees are already down so we're not getting any coverage. If the lot were still virgin you could say I'm going to leave another ten feet of trees but we can't do that because they are already down. I think the other point that was made last time. I know Chuck (Stanton) you had a concern and I'm glad Mr. Smith's here today because they make it very clear and I think Mr. Smith will speak to that. When they go before the Board (Planning), they are going to make sure this is used for a private garage for private use only and it cannot become some of the other things that you've seen other barns become

because they didn't go before the Planning Board. This now goes before the Planning Board because we have some changes so we have more control over this building than we had over some of the others in the past that may have changed the kind of uses they are. That's why I am not concerned about that.

Mr. Stanton: Well, I am very well aware of the Planning Board's function and I appreciate the attempt to educate me on that. My main concern here regardless of whether the Planning Board allows this to go or for what function they allow it, is that we are situated right in the middle of a residential neighborhood. There were some points brought up last time talking about Beach Road, Mudmill Road. I don't think they are a valid comparison because we've allowed pole barns to go up there which has basically changed the entire nature of those stretches of road. I believe, still, that placing a pole barn in the middle of a residential neighborhood; and unfortunately, this is still zoned agricultural and, yes, the only reason Mr. Beckley is here in front of us tonight is because his land is 1.81 acres instead of two but we have been mandated because it is less than two acres to look at the environmental impacts. My strong feeling on this is that having this size structure in the middle of a residential neighborhood will change the character of it. Again, if I am looking for a house in this neighborhood, I am going to go on Google Maps, I am going to go on Bing and as aerial photos get updated, I'm going to see this huge pole barn sitting here in the middle of this residential neighborhood and I am going to have concerns about buying a house in this area. I have seen the impact that some of these pole barns have had on neighborhoods and I understand that uses can be curtailed and we can even curtail the use through the use of conditions on it.

Mr. Palladino: So, if I understand you correctly Chuck (Stanton), it's not the location of the pole barn, it's the fact that it is a pole barn of that size.

Mr. Stanton: Yes, I have concerns separate from Mr. Rabbia's.

Mr. Palladino: So regardless of where, yes because Mr. Rabbia desired a location change and this may have helped him make a decision. But if I understand what you're saying is regardless of the fact that this pole barn is in the woods, it doesn't matter, it's a pole barn, it's 2400 square feet and it shouldn't be there.

Mr. Stanton: Correct. Unfortunately, it is before us and we have to make that decision.

Mr. Beckley: May I add something? Even though this is our third meeting and I know we haven't gotten to the part, this is the third time people could have come in to voice their concerns and I still do not see anybody here voicing their concerns and I do have a letter from one of the neighbors at 8488 supporting what I am trying to do.

Mr. Stanton: And we will enter that into the record and that points taken but it is, even though you didn't like hearing this at the last meeting either, it is our function to protect the people in that neighborhood whether they are really asking for it or not. So, that also speaks into my current opinion.

Mr. Snyder: I'd like to make a motion to postpone this...

Mr. Stanton: Well, we need to stop for a second, Mr. Snyder. Because this is a new application, we do have to open a public hearing. We're going to open it, if there is no one here to talk about it, we are going to leave it open until the next meeting. At this point, I will open the public hearing.

Mr. Stanton opened the Public Hearing at 6:30 P.M.

Mr. Stanton: Is there anyone here who would speak for this variance? [no response]

Mr. Stanton: Is there anyone here who would speak against this variance? [no response]

Mr. Stanton: If you want to read that letter into the record go right ahead, otherwise, we will attach it.

Mr. Beckley: I'll read it. This is from Ron and Beverly Davies at 8488 Snowshoe Trail. Re: Ryan Beckley variance for garage/polebarn. Attention Town of Cicero, Zoning Board of Appeals. We live at 8488 Snowshoe Trail adjacent to property Ryan plans to build garage/polebarn. We want to speak in favor of Ryan building a garage to store his 40 foot trailer. I believe that it is better for our neighborhood to have storage for the trailer rather than have it in full view in front of his house. When we purchased our house the trailer was in storage, now I see it every time I look out of the window. Keeping the trailer in a garage in back, out of sight, is better for property values as well as easier on the eye. It has been suggested that the driveway that has been built in the right of way interferes with the spring water problem. When we moved here in January of 2014, there was water laying, as was the case in the spring of 2015. The installation of the driveway did not create or add to standing water problem. Since we have moved here, we know Ryan to be very neat and to keep his yard and property in tip top order. I see no reason that the garage and surrounding property will not be kept in the same manner, thus improving the neighborhood. We will be out of town on November 4th and cannot attend this meeting. Please note our thoughts on this matter. Sincerely, Ronald and Beverly Davies.

Mr. Stanton: Okay, here's where we are going to go with this. Because we only have three members here and my sincere feeling is that if a motion is made that there will not be a second or there will be a negative vote, depending on who makes the motion and I also believe that Mr. Beckley is entitled to have a full hearing before our full Board, I am going to make a motion to defer this case until our December 7th meeting. Do I have a second?

Mr. Snyder: Second.

Motion was put to a vote, resulting as follows:

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|---------------|-------------------|
| Mr. Snyder | Yes to the Motion |
| Mr. Palladino | Yes to the Motion |
| Mr. Stanton | Yes to the Motion |

Motion duly carried.

Mr. Stanton: See you on December 7th.

Mr. Beckley: What was left of the building season has now evaporated.

Mr. Stanton: Does anyone have any other business.

MOTION AND VOTE WERE UNANIMOUSLY APPROVED TO ADJOURN THE MEETING AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD.

Respectfully submitted,
Ann Marie August, ZBA Recording Clerk