

SS:

STATE OF NEW YORK  
ONONDAGA COUNTY  
ZONING BOARD OF APPEALS

MINUTES OF MEETING  
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: August 3, 2015  
PLACE: CICERO TOWN HALL  
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, August 3, 2015 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali	Board Chairman
	Charles Stanton	Deputy Chairman
	Mark Rabbia	Board Member
	Gary Palladino	Board Member
	Rita Wicks	Ad hoc Board Member

Absent:	Donald Snyder	Board Member
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Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Steve Procopio	Code Enforcement
	Ann Marie August	Recording Clerk

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

Chairman Natali 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. Natali: Has everyone read the minutes from the July 6, 2015 meeting?

Board: Yes.

Mr. Natali: Are there any corrections or additions?

Board: [no response]

Mr. Rabbia: I'll make a motion to approve the June 1, 2015 meeting minutes, seconded by Mr. Palladino.

**Motion** was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion
Mr. Palladino	Yes to the Motion
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

**Motion duly carried.**

Mr. Natali: 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 utilize the microphone located in the front of the room.

**Motion** was made by Mr. Natali, seconded by Mr. Stanton, 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. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion
Mr. Palladino	Yes to the Motion
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

**Motion duly carried.**

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

Mr. Natali: 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 open a public hearing where people will be able to speak for or against the variance. (4) The applicant will then be given the opportunity to rebuff what is stated. (5) Board members will again have the opportunity to question the applicant. (6) The Board will openly discuss among themselves the Five Factors that determine the final decision. We have not had a pre-agenda meeting so this is the first time we get a sense of how each of us feels about the variance. (7) A motion will be made, seconded, and voted upon.

**MARTIN CUSTOM HOMES (APPLICANT),  
LYNNE INGALLS (PROPERTY OWNER),  
7131 LAKESHORE ROAD,  
AN AREA VARIANCE FOR A PROPOSED HOUSE WHERE THE PROPOSED FRONT YARD  
SETBACK IS 20.0 FEET WHERE 30.0 FEET IS REQUIRED**

Mr. Coyer (Representative for Applicant): I am Tim Coyer from Ianuzi & Romans, Land Surveyors.

Mr. Natali: We have your plans unless they have been changed.

Mr. Coyer: I just updated the house a little bit, the porch is a little bit smaller as far as width.

[Mr. Coyer brings plans up and distributes them to Board members. Board reviews revisions to the plans.]

Mr. Coyer: What we are asking is for a reduction in the front yard setback from the 30' that's required to the 20' that we are asking for to allow for the porch and the side of the house. The reason the house is going over the building line is mostly because as you can see behind the house, there is a series of Onondaga County sanitary sewer easements that really restrict how far back you can put the house on the property. As you can see the adjacent houses are closer to the property as it is. There used to be a house on here. It is now gone. The previous

house was in front of the building line. Obviously it's gone so we weren't able to locate and exact position to give you an exact distance of what it used to be. Overall, it's about a 33% reduction in the front yard setback.

Mr. Natali: Any questions?

Mr. Rabbia: Why not go right back to the easement in the back there?

Mr. Coyer: We would but we are giving ourselves a two-foot buffer. In reality what will probably happen is I will push this house a foot further back so that we have about a foot of play around the house, just in case something, God forbid, goes wrong with building the house and they like, twist it or something gets twisted and then we have to come back for another variance or all of a sudden the house is in an easement. We'd rather have a little buffer for room.

Mr. Rabbia: I see that the easement in the northerly area gets quite wide, what's in there? Is there a sewer line in there?

Mr. Coyer: Yes, there's a sewer line in there. You can see where we show a couple of sewer vents.

Mr. Rabbia: I see that on the other side of the property. I was wondering what was going on the west side.

Mr. Coyer: I believe the sewer goes out and it actually turns. We haven't done a full topo of the site yet. If this is approved, we have to do a full topo because it is in the 100-year flood and we have to make sure the house is elevated properly and we would get all the sanitary information at that time. Currently, the sanitary easement is where it is...you can't move it. So it restricts us from where we are going with the house being pushed back.

Mr. Natali: Any other questions?

Mr. Palladino: Yes, the front porch, is it covered?

Mr. Coyer: I will refer that question to Mr. Martin. This is Dave Martin from Martin Custom Homes.

Mr. Martin: [Goes up to the board with a drawing rendition of the proposed dwelling. The Board reviews the drawings.]

Mr. Martin: Basically, it's an overblown raised ranch that doesn't look like a raised ranch. We've taken what would be the porch on the outside and put steps going up there.

Mr. Palladino: So, the five-foot area that you have noted as "proposed front porch" is actually going to be a stairs?

Mr. Martin: Yes, that's the way I'm seeing it right now. These are the preliminary drawings that we've got right here but that's the way I see it. They liked the drawing as it sits, pretty much, I mean there may be some changes on the inside but...

Mr. Natali: Okay, we are really dealing with the 20' and that's not going to change, correct?

Mr. Martin: Right.

Mr. Natali: The porch isn't going to be any bigger?

Mr. Martin: No, that's basically what we are working with right here.

Ms. Wicks: And I'm looking at this as an R-10 so our height requirement is 35, that picture looks like its 36?

Mr. Martin: Nope, it's 35. Believe me, we were really careful about that.

Mr. Natali: Thank you Mr. Martin.

Mr. Natali: If there's no more questions, I would like to open up the public hearing.

**Mr. Natali opened the Public Hearing at 6:10 P.M.**

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

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

**Mr. Natali closed the Public Hearing at 6:10 P.M.**

Mr. Natali: 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.** As you can see the two houses to the east are a lot closer, one is 4.8' and the other is 13.2'.

**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.** Not really, the closer you go to the back you run into the easement so 20' would work on this project.

**All agree.**

**Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes.** It is substantial 33% variance is substantial.

**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.** With the help of the Code Office, I am sure that will not happen.

**All agree.**

Factor 5 – Whether the difficulty was self-created? Answer: Yes. But that in itself is not enough to deny the variance.

**All agree.**

MOTION made by Mr. Natali, seconded by Ms. Wicks on behalf of Martin Custom Homes (Applicant), Lynne Ingalls (Property Owner), 7131 Lakeshore Road, that we allow the 10' variance and that this house will be built no closer than 20' from the front yard setback.

Mr. Natali: We also note that Onondaga County indicates that there are no significant impacts on this. However, they do have several comments regarding flood plain, DEC, etc., which are not items we address in this venue. With that in mind, I will finalize this motion on behalf of the applicant.

Mr. Stanton: One more thing, the lot area is a little under the 10,000 square foot requirement, it's 9,933 sq. ft. so we'd have a second variance of no greater than 67 sq. ft. under the required lot area of 10,000 sq. ft.

Mr. Rabbia Yes to the motion  
Ms. Wicks Yes to the motion  
Ms. Palladino Yes to the motion  
Mr. Stanton Yes to the motion  
Mr. Natali: Yes to the motion

**Approved Unanimously.**

Mr. Natali: Thank you, good luck.

CINDY & PAUL KACZANOWICZ (APPLICANT)  
7806 BULL STREET

AN AREA VARIANCE WHERE THE PROPOSED 12'X20' (240 S.F.) SHED IS LOCATED A DISTANCE OF 10 FEET FROM THE REAR PROPERTY LINE WHERE 30 FEET IS REQUIRED AND A DISTANCE OF 15 FEET FROM THE STREET LINE WHERE 30 FEET IS REQUIRED. THE STREET LINE IN QUESTION IS ASSOCIATED WITH A FUTURE ROAD NOT YET CONSTRUCTED.

Mr. Natali: Okay, you have a challenge to place your shed on your property?

Mr. Kaczanowicz: We do. We live at 7805 Bull Street in Bridgeport. We had a previous shed that we tore down when we moved in. It was a preexisting shed. Right on the property line. Right next to the driveway. We tore that down basically because it rotted. All the water runs right through that area. So, when we went to look for a new shed, we purposely looked for a spot on the property where that wouldn't happen again. Where we proposed it is the highest area on the property. We didn't understand that there was a 30' offset from the easement and the future non-existent road. So we came in and talked to the people in the planning department and they told us what we needed to put up the shed. We are looking to place the shed 15' off the future road easement property line and 10' off the back easement. That's what we'd like to do.

Ms. Wicks: No digging; just set up on cinder blocks?

Mr. Kaczanowicz: I'm just taking a sod cutter, taking out an inch and then putting down some runacrush and it's being delivered by Primo Products. We've already purchased it about three months ago, not anticipating this problem and he's ready to deliver it any time.

Mr. Natali: Is that future street a reality?

Mr. Kaczanowicz: Ummm we've been there 12 years.

Mrs. Kaczanowicz: We mow the future road every week. It's not really a road, it's grass.

Mr. Kaczanowicz: When we moved in, it was a dumping ground. I actually out of my own pocket got rid of snowmobiles, 50 gallon drums, it was just a swamp. I purchased a yard of soil and had that put down. I seeded it...just so my property would have a better appeal. We take pride in our property and our landscaping. If we build the shed, we are going to landscape around that as well and we think it would fit in nicely with the property.

Mr. Palladino: How long have you lived there?

Mr. Kaczanowicz: Twelve years.

Mr. Palladino: If you came towards the house two or three feet, I think it actually higher ground. Would you have any objections to that?

Mr. Kaczanowicz: I don't as long as it's not in the dripline of the weeping willow tree. It's a 60' weeping willow. Coming forward is not a problem but going any closer to the future road, that's when you're on a slant and anything over further is under seven inches of water in the spring.

Mr. Palladino: I can understand that.

Mr. Kaczanowicz: We are not putting any electricity out to it. We are not storing any automobiles in it. It's for lawn furniture, tractor, snow blower and that's about it.

Mr. Natali: When was your house built, what year is it?

Mr. Kaczanowicz: 1969 maybe.

Mrs. Kaczanowicz: When we bought it is was 11 years old and we been there 12 years so 23 years old

Mr. Natali: So you wouldn't be opposed to moving that? Can we come up with some approximate footage?

Mr. Palladino: Twelve feet, it's not but it helps. I would be comfortable with that. Twelve feet of the rear property line.

Mrs. Kaczanowicz: You're still keeping it 15' from the street.

Mr. Palladino: Yes, definitely. I don't see a future road coming in there and I agree with the homeowners, if you go any closer or any further away because of the way the land is, kind of "wavy" so without bringing a lot of top soil in there or cutting the tree down and you don't want to do that.

Mr. Natali: Mr. Natali **opened the Public Hearing at 6:20 P.M.**

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

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

Mr. Natali **closed the Public Hearing at 6:209 P.M.**

Mr. Palladino: 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.** The shed is tucked back and there are other sheds in the area.  
**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.** There's always other ways of doing something but they are not feasible.  
**All agree.**

**Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes.** Based on the percentage of setback requested for the variance, it is.

**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.** There's plenty of open land, there's grass, and it won't block any drainage.

**All agree.**

**Factor 5 – Whether the difficulty was self-created? Answer: Yes.**

**All agree.**

**MOTION** made by Mr. Palladino, seconded by Ms. Wicks on behalf of Cindy & Paul Kaczanowicz, 7806 Bull Street, for an area variance where the proposed 12'x 20' (240 s.f.) shed is located no closer than 12' from the rear property line where 30 feet is required and no closer than 15 feet from the (future) street line where 30 feet is required.

Mr. Rabbia	Yes to the motion
Ms. Wicks	Yes to the motion
Mr. Palladino	Yes to the motion
Mr. Stanton	Yes to the motion
Mr. Natali:	Yes to the motion

**Approved Unanimously.**

**AREA VARIANCE DESIGN SHOP SIGNS AND GRAPHICS INC. (APPLICANT),  
RAVAR REALTY LLC (CMC DANCE CO.) (PROPERTY OWNER),  
6092 STATE ROUTE 31,**

**AN AREA VARIANCE WHERE THE PROPOSED LOCATION OF THE ELECTRONIC  
MESSAGE SIGN IS 4.0 FEET FROM THE STREET LINE WHERE 20.0 FEET IS REQUIRED.**

Mr. Taylor: Good evening. I'm Dave Taylor, I'm with the CMC Dance Company and I'm working with the Design Shop. We had applied during our expansion of the CMC Dance Company, we purchased a sign that was placed on the site plan, which after the site was built, we realized exactly how far off the road it was and with its placement the difficulty of being able to see the sign for the people who are going by. Right now it's about the sign and we put a prototype up to kind of see where that was. We're actually proposing to move the sign about four feet from the property line and I think the application for this says the street line, but it's the actual property line. I can show you this plan here. Right now it's proposed at about 45' from the street line and it's about 20' from the property line.

Mr. Natali: Do you have a new survey?

Mr. Taylor: I do.

Mr. Natali: Do you have one for all of us?

Mr. Taylor: I don't. [Goes up to the desk with the survey] As you can see, what complicates the whole thing

is the property line actually ends over here and literally you have to get to about this point and as you're passing, you don't even see the sign from either side.

Mr. Natali: The copy we have is really small.

Mr. Stanton: One clarification here is that the street line is not the actual edge of the asphalt, it's the actual right-of-way line.

Mr. Taylor: We took it from the actual white line on the road to this actual sign is about 45' back. The difficulty is the purpose of having a sign is to be able to see it and unfortunately you don't see this sign at all. So, with the amount of money we are spending, we thought what we would try to do is, which is unfortunately complicated by the way our property line actually, kinda cuts back on the west side of the property, right where the sign would go, so we couldn't go, I believe what is it a 20' offset. The plan is drawn at 20' but we are proposing to move it up so that it can actually fall between a light pole and a guidewire that is kinda on the edge of the property.

Mr. Palladino: Is that where that pole is at the electrical box and the surveyor's stake? That's where you are proposing to put the sign?

Mr. Taylor: Yes.

Ms. Wicks: Where you have the CMC Open House sign?

Mr. Taylor: Yes, where you see the CMC Open House sign is where we proposed to put the sign.

Mr. Stanton: Mr. Taylor, you are aware that coming from west on 31 that the utility pole kind of blocks the view of the sign. I just saw that this morning.

Mr. Taylor: Well we are putting it behind the pole.

Mr. Stanton: So, a little bit further back than where this sign is actually located.

Mr. Rabbia: To clarify, when you say behind do you mean closer to the building?

Mr. Taylor: Yes, further off the street.

Mr. Stanton: Not that this really should matter but I was as bit confused as to what the actual size of the sign was. I know the whole installation is 7.3... [interruption by Mr. Taylor]

Mr. Taylor: Roughly 5' x 5'

Mr. Stanton: That's including the electronic message board? The whole thing is roughly 5' x 5'?

Mr. Taylor: Correct. The whole thing together is 7' x 7' with the stone. You've got the stone which is about 2' and then the actual sign is 5' x 5' with the actual reader board.

Mr. Natali: When I talked to you this afternoon, I mentioned to you that the survey wasn't anything that we could actually see and I thought you had said you had already submitted another update. Did you mail something in? Is there something that should be here in the building?

Mr. Taylor: What I sent was Hal Roman had produced the site plan and sent it in a PDF file so when we made the application, I just forwarded that PDF file to them so it was just a matter of...uh....how large they printed it I suppose. It could be printed larger than that.

Mr. Natali: We understand a need for a sign. Our problem is because we are already giving you a variance with the 20' off the regular setback for commercial property. You want to be 4' off and we need to be able to tell exactly where this goes and we can see the road curves right there. Personally, I would like to see this section blown up. A survey showing that portion of the property where we can see where we are at because the line of sight is not a problem. Being closer to the road I don't see as a problem with the residential to the west of you and no sign to the other side and the dentist down the street is further away. I don't know how the rest of the Board feels about it do we go ahead with a "no closer than" or how do you want to address this?

Mr. Stanton: The one issue I have is we are dealing with a very substantial variance here 4' where it should be 20' and we've got what is essentially a pencil sketch on paper which I'm not even sure is...[interruption by Mr. Procopio]

Mr. Procopio: The PDF version is actually a scaled drawing from the plan surveyor. What you have as a photocopy is just something they drew up.

Mr. Taylor: Yeah, that's just something that I drew.

Mr. Rabbia: You still can't see it though.

Mr. Palladino: Honestly, I was having some difficulty with the mockup sign that they have and now they want to move it closer.

Mr. Natali: How far away is the Summit sign across the street?

Mr. Taylor: About 35'

Mr. Stanton: My question is do you have competitions or any outside events where people driving would benefit by having the sign closer to the street or is this just for the general public. Because that's one thing but if it's just people routinely coming here then it's different.

Mr. Palladino: I think this is more destination than impulse business so for you to be right on the road. It's not like oh, I think I'll get ice cream. People are coming to your business because they know you. I can't imagine people will drive by and think oh, dance, let's go dance.

Ms. Wicks: ...but if there's competitions or get togethers with other dance companies that actually go to his business, they would need to identify that as where they need to go. So, I tend to disagree.

Mr. Palladino: So people would be driving and looking for it and that's why it's not an impulse, but is a destination. They are driving and looking for it.

Mr. Taylor: There are people, we advertise for open registration. I mean if there's no sign saying, you know, open house, or registrations, you know fall season starts September 1, you know that's where the additional clientele would come from. This is a picture of where the sign is and that's in front of the pole and we are looking to put it behind the pole. So this is much further up than we intend to put it.

Ms. Wicks: I think what we need is actually where the sign is going to sit. It's so difficult to tell based on this.

I personally would be more comfortable if you tell me exactly where it's going to be.

Mr. Stanton: Does the town have a wide-format printer. There's a portion of this that is the applicant's responsibility to provide something that is the correct size as opposed to relying on the Town to expend resources to provide an appropriate document.

Mr. Procopio: We could do that or I could go back and try to blow up that section. If the Board would be willing to wait but that would be up to you.

Ms. Wicks: I don't mind waiting if the rest of the Board is good with that.

Mr. Stanton: The sign on the smaller format one looks like it's dimensioned out to 10' which is incorrect to begin with. I'm not even sure it's in the right location.

Mr. Rabbia: I'm not sure this is what we want but you can try it.

Mr. Natali: Rita (Wicks) would you like to make that motion?

Ms. Wicks: The motion that I would like to have scaled document so that we know what we are looking at? Yes, I would make that motion.

Mr. Natali: I would second that motion. Please call the roll.

Mr. Taylor: Can I ask...what does that mean...how long are we looking at? Just so I understand, what kind of delay does that put on to installing this sign? Are we looking at another month?

Ms. Wicks: It would be contingent on how quickly you can get the information to the Town so that it can be put on the calendar for the September 14<sup>th</sup> meeting. I understand you put your faith in another person providing what we need...unfortunately, I can't read it.

Mr. Natali: I mentioned that to you when we spoke.

Mr. Stanton: And I'm not sure it's even showing what is being requested by the applicant.

Ms. Wicks: So, we want to be sure we are doing our due diligence not only for the Town of Cicero but for you as well so that there's no repercussions later. Once we get what we need we can make an appropriate decision in regard to your request.

Mr. Taylor: A month is going to hurt us. A month...our registration is between now and we start the first week in September. So, we were hoping that with the expansion we were counting on increased registrations to fund this project. Every day that goes by that we don't have that sign up is.... [Ms. Wicks interrupting]

Ms. Wicks: And I apologize for that, you do need to understand our position... [Mr. Taylor interrupting]

Mr. Taylor: I know, I just wish, I didn't know that was an issue for you and I guess I'll hand bring them down. If I'd known it, I would have made sure that you had it.

Mr. Stanton: Just so that we know we've exhausted every avenue would it be worthwhile to try to print this out and see what we can do?

Ms. Wicks: The only other dovetail I have off this is are these the correct dimensions. We've talked about 10' x 10', 5' by 5' on the inside. These are the correct dimensions?

Mr. Taylor: Yes.

[Mr. Procopio from the Code Office goes back to try to obtain an appropriate-sized document for Board review.]

Mr. Stanton: While we are waiting for that, we do have a resolution from the Onondaga County Planning Board. The biggest thing of note is that the Onondaga Planning Board has determined said referral will have no significant adverse inter-community wide or county wide implications. There are some comments that you need to be aware of. Do you have a copy of the Onondaga County Planning Board Resolution?

Mr. Natali: Did you receive it?

Mr. Taylor: No.

Mr. Stanton: Okay, you can have my copy. A lot of it is noted toward the Town. The County has to review this because it is adjacent to an area that they are concerned with. I would recommend that you read that and familiarize yourself with what they are saying.

Mr. Rabbia: Yes, they will be talking about the speed of what is scrolling on the sign. They don't want any flashing on the road.

[Board continues to try to review the document presented to them by Mr. Taylor until Mr. Procopio brings out the enlarged document. The Board then reviews the enlarged document.]

Mr. Natali **opened the Public Hearing at 6:50 P.M.**

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

Mr. Natali: Is there anyone here who would speak against this variance? Please come up and state your name.

Mr. Tymkiw: Against seems a little harsh though. I am John Tymkiw; I live at 8340 Parker House Path. I am the house directly behind CMC. I just wanted to make a comment about the rule of unintended consequences. In the renovation and expansion of the studio there's a newer parking lot, along with sign and provides additional lights. The parking lot and the lights from the cars in the parking lot now shine directly in my family room. So, I'm just concerned about unintended consequences. What could happen that we don't think about, particularly with regard to us, we have lights shining in our house at night and it's not really pleasant? We just spoke and we are going to try to work something out but I just wanted to be sure we got this on the record. Thank you.

Mr. Natali: Do you have anything to say about that Mr. Taylor?

Mr. Taylor: Actually, until I just talked to them, I don't think it was something that any of us thought would be an issue. [Speaking from his seat muffled.] I can certainly understand what he's saying that the cars are pulling in with their lights on and they probably would go through at the level at which the parking lot sits so knowing that's a problem for them, maybe we need to look at what we could do.

Mr. Natali: Well, that would be addressed by the Planning Board. I just wanted to give you an opportunity to respond Mr. Taylor. That's out of the hands of this Board.

Mr. Natali **closed the Public Hearing at 6:55 P.M.**

Ms. Wicks: 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.**

**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.** I don't think that's possible; however, you did say you were willing to compromise which is what the Planning Board tries to do to mitigate our exposure.

**All agree.**

**Factor 3** – Whether the requested Area Variance is substantial? **Answer: Yes.** My answer is yes, but I don't think you would be able to put a sign within our code where anyone would be able to see it.

**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.** With the Summit building across the street, I think it will play nicely with the appearance rather than having it skewed.

Mr. Stanton: With the Chairman's indulgence, I just wanted to ask one more question and I apologize if I didn't hear this the first time you explained it. With regard to the nature of the messages that are being put up, are you simply having a static change every 20 or 30 seconds or will there be obnoxious flashing.

Mr. Taylor: No, we are not going to make it obnoxious. Our only intent is to advertise the things that we are doing...open house, registrations and events that we have going on and most of its...we do the haunted house there so we'd have the haunted house sign up. They did ask us that whatever we have for a reader board that we would use that sign for like an amber alert and we agreed that it would not be a problem. The idea is not to make it obnoxious.

Mr. Stanton: Thank you.

Mr. Palladino: Let me as a question. So, it's not going to be a changing sign.

Mr. Taylor: It will change. I'm not exactly sure what it will be yet.

Mr. Natali: I asked him if it was going to be similar to Chandler's, you get three signs before you even pass it and he said no.

Mr. Palladino: You are asking for a variance to put a sign closer to the road and LED we know is bright. It's a bright sign and it's great at what it does. If it's rapidly changing, I see that as such a distraction to drivers because you are low. Your sign is not up, it's at eye level.

Mr. Taylor: I don't know if rapidly changing would benefit me anyway.

Mr. Natali: This is strictly a Planning Board issue. We like to get a feel for it.

Mr. Procopio: It can change no sooner than 15 seconds.

**All agree.**

**Factor 5 – Whether the difficulty was self-created? Answer: Yes.  
All agree.**

Mr. Natali: Any other questions?

**MOTION** made by Ms. Wicks, seconded by Mr. Natali on behalf of the Design Shop Signs and Graphics Inc. (Applicant), Ravar Realty LLC (CMC Dance Co.) (Property Owner), at 6092 State Route 31, for an area variance where the location of the electronic message sign is 5.5 feet from the street line where 20.0 feet is required.

Mr. Rabbia	Yes to the motion
Ms. Wicks	Yes to the motion
Ms. Palladino	Yes to the motion
Mr. Stanton	Yes to the motion
Mr. Natali	Yes to the motion

Mr. Natali: Good luck folks.

**MARIE KELLY  
7918 EISENHOWER BLVD.  
AN AREA VARIANCE FOR A SHED WHERE THE SHED IS LOCATED A DISTANCE OF  
1.5+/- FEET TO THE SIDE PROPERTY LINE WHERE A MINIMUM OF 6.0 FEET IS  
REQUIRED.**

Mr. Natali: We already have a shed 16' x 12'.

Mr. Wilcox: [Rick Wilcox, Representative, same address] It's 10' x 16'

Mr. Natali: Okay, I stand corrected. What happened here?

Mr. Wilcox: The shed was rotting away and falling down so we tore it down and built a new one. We didn't realize we needed a permit. The other one was there for over twenty years.

Mr. Natali: Did you make an addition on the back of the house or did you buy it like that?

Ms. Kelly: It was my parent's home and my mom still lives there.

Mr. Natali: So we don't have too many options here do we folks?

Mr. Wilcox: Let us have the variance.

Ms. Wicks: There was no variance on file for the previous shed correct? [Speaking to Mr. Procopio, Code Office]

Mr. Procopio: No but I don't believe the shed was in that location.

Mr. Natali: Did any neighbors give you any hints or say hey, what are you doing? No, they were glad to see the old one go, right?

Mr. Wilcox: Right.

Mr. Stanton: When was this put up?

Mr. Wilcox: Last year.

Mr. Rabbia: Did you build it or did someone deliver it?

Mr. Wilcox: I built it.

Mr. Rabbia: Did you not think to get a permit?

Mr. Wilcox: Didn't think I needed one. I replaced the existing one.

Ms. Wicks: Is the shed on concrete, concrete blocks...

Mr. Wilcox: It's on blocks.

Mr. Rabbia: What's the minimum distance between two combustible structures?

Mr. Procopio: Ten feet and five feet from the property line.

Mr. Wilcox: I can go through that tract and get you pictures of fifty other sheds and garages closer than that.

Mr. Natali: What do you have in it now?

Mr. Wilcox: Lawnmower, tractor, tools.

Mr. Natali: Is it the same size as the previous shed?

Mr. Wilcox: The other one was 8' x 10' and this one is 10' by 16'.

Mr. Stanton: There's no verification that the fire code's been met because it's 8' as opposed to 10', well, no because there's been no building permit.

Mr. Natali: So you expanded a non-conforming building. Even the old shed was non-conforming because it didn't meet the setbacks. Not only did you not get a permit but you build something that is illegal.

Mr. Wilcox: Four doors down there is a 12' x 24' garage that's closer to the property and the house than that shed. I can go around the tract and give you 50 pictures of...

Mr. Natali: I drove around; I understand sir but we are only dealing with your property. There are 14,000 pieces of property in this Town and no two are the same and I didn't see anyone as close to your property line. There are some but they are not very big lots.

Mr. Rabbia: You could move it back towards the south, toward the back property line.

Mr. Wilcox: It's real swampy.

Mr. Palladino: How did you end up in front of us?

Mr. Wilcox: I came in to you and you told me I had to pay twice. I paid for two permits and you denied it.

Mr. Procopio: I don't believe it was me but that's okay.

Mr. Natali: I have the file here Steve [Procopio] if you want to look at it.

Mr. Procopio: You started building a shed without a permit. You were informed you needed a permit.

Mr. Wilcox: I built it and you guys saw it.

Mr. Natali: Then he got a stop order and finished it.

Mr. Wilcox: I didn't get a stop order.

Mr. Natali: Steve help us here.

Mr. Procopio: Can I see the file?

Mr. Natali: Yes.

Mr. Procopio: He was dealing with Dave, not with me.

Mr. Natali: Steve [Procopio] did a neighbor notify you?

Mr. Procopio: I believe David saw it out in the field. He saw that the shed was constructed...

Ms. Kelly: I think this started with the fence because we replaced the fence not knowing we needed a permit to do that.

Mr. Procopio: [Reads from the file.] Shed was constructed prior to applying for the building permit.

Mr. Wilcox: I didn't realize I needed one. That's what I told you guys when I came in.

Ms. Wicks: The gentleman obviously admits to making an error in not knowing he needed the variance. As the zoning board is there some way we can compromise with these people so that they can maintain their shed? Is it feasible to discuss moving it? In trying to work with a person in the Town?

Mr. Natali: I didn't go in your backyard because of the structure of the fence, shed, fence, yard so I really was unable to look for an alternative but could it be moved back.

Mr. Wilcox: You're going to make us move it 10' off the fence so then it will be in the middle of the yard and we're not going to make the 30' off the back, it's swamp.

Mr. Natali: Does it slope there?

Mr. Wilcox: Yep. It slopes down into the swamp out back.

Mr. Rabbia: I'm more concerned with the fact of the minimum distance between two combustible structures.

Mr. Stanton: I'm a little more concerned about that too. The aerial photos that I'm looking at show storage behind the shed also?

Mr. Wilcox: Just firewood.

[Board reviews aerial photos of the structure prior to the addition to the house and the new shed.]

Ms. Wicks: I don't want to see you lose your shed. You made an error, you did this without a permit and we all makes mistakes but I think we have to come to a compromise and unfortunately it may cost some money. You could increase the grade in the back yard and move the shed back and in a little bit so that... [Mr. Wilcox interrupting]

Mr. Wilcox: Then it's in the middle of the yard, what good is that?

Ms. Wicks: I'm trying to offer some suggestions, that's all.

Mr. Stanton: It's still a shed, that's what good it is.

Mr. Wilcox: It's a shed.

Mr. Stanton: And if it's moved, it's still a shed is what I think my colleague is trying to say as opposed to nothing.

Ms. Wicks: Yes, because of right now, you've made a bad error...

Mr. Wilcox: Other people get away with it out there.

Ms. Wicks: We are not here judging other people.

Mr. Wilcox: I'm asking you how they do it. They must have gotten a variance right?

Mr. Natali: They probably did.

Mr. Wilcox: So, how did they get a variance to put it closer to their house than what we are doing?

Ms. Wicks: If they got a variance, they did it before the shed was constructed, not after.

Mr. Natali: I doubt if they got a variance that close to the property line because we just don't give them out.

Mr. Wilcox: Then how did they get away with it?

Mr. Natali: Sir, we are dealing with your property. You have the issue. I drove all over Eisenhower, Rinaldo, I know that area. I had a lot of clients in that area. I didn't see anything close to, a shed, a shed is not something...if it was an addition where you needed another bedroom for twins coming along, now we have some different issues.

Mr. Wilcox: A garage is different than a shed. You can park a car in there and there's one four doors down closer than this shed.

Mr. Natali: We are asking you to move a shed, not a garage.

Mr. Wilcox: So what happens now?

Mr. Natali: Any other ideas?

Mr. Wilcox: It's not feasible to move it.

Ms. Wicks: So can I surmise that it's all or nothing for you.

Mr. Wilcox: It has to be. There's no way we can move it. I can't get the gravel back there, I can't fill it in. I'm not going to put it in the middle of the back yard. That's stupid. The best place for it is where it is.

Ms. Wicks: Do you understand the consequences if we don't grant the variance?

Mr. Wilcox: You haven't told me what the consequences are.

Mr. Natali: You'd have to take it down or move it.

Mr. Wilcox: Okay, I'll move it to the front yard, how's that. I'll put it right in front of the house, on the side of the driveway. There's no place to put it.

Mr. Natali: Well then take it down.

Mr. Wilcox: I'm not taking it down.

Mr. Natali: If you came in with those plans, we would not have approved it and you wouldn't have built it in the first place.

Mr. Wilcox: I already admitted that and I'm sorry. I screwed up. This just cost me \$500 so you could tell me I gotta take it down or spend another \$2,000 to move it?

Mr. Natali: Is that all it would cost is \$2,000 to move it?

Mr. Wilcox: I don't know what it would cost.

Mr. Rabbia: What would the material have to be closer than 10' between two combustible structures?

Mr. Procopio: This structure as it sits would require to be fire rated wall not only of the east side but the west side as well.

Mr. Rabbia: And that's because it's close to the property line. What is that?

Mr. Stanton: Without delving too far into it that could be sheet rock, that could be insulation?

Mr. Procopio: That would be either UL listed standards or USG listed standards that would spell out different types of assemblies that would meet that requirement and that would be on the exterior as well as on the interior of those walls.

Mr. Natali: If you had come to us for a building permit, we would probably have said it needed to be block. Are you willing to do that?

Mr. Wilcox: Interior and exterior, that's ridiculous. I put the sheetrock inside.

Mr. Stanton: You have to understand that we have no control over the fire code of the State of New York and that is something that would have to happen regardless of what we do.

Mr. Wilcox: That's ridiculous.

Mr. Stanton: It may be to you but we can't grant a variance to a safety code.

Mr. Natali: Steve, who wouldn't that take precedence before us. Why wouldn't he be given the option to bring it up to State code before he comes to us?

Mr. Procopio: I'm not sure I'm following your question. He can't build it without a variance. He didn't apply for a building permit before he constructed it. So he needs a variance. If you granted a variance today, he will have to modify that building or take it down.

Mr. Natali: What we are saying is, you have an expense, why not put the shed where it needs to be. Take the money you would have to use to bring it up to State code and move it to a place where we can come to an agreement on a lesser amount of variance.

Mr. Wilcox: You have a survey, where am I supposed to move it?

Mr. Natali: I didn't go in your backyard.

Mr. Wilcox: You have a survey.

Mr. Palladino: You can move it back ten foot or put it in the southeast corner. The easiest move is to move it straight back. Then you are away from the house.

Mr. Wilcox: But you're complaining that I'm against the parking lot too.

Mr. Palladino: Well, you've got about four violations. You want to talk about one at a time or do you want to talk about them all. We are trying to work with you here.

Mr. Wilcox: I guess we've got to move it back.

Mr. Natali: So, do you want an up and down vote here?

Mr. Wilcox: What's the issue going to be if I move it ten foot back?

Mr. Procopio: It doesn't solve the fire code issue.

Mr. Wilcox: So Steve's saying there's nowhere to put it.

Mr. Stanton: No, there's nowhere to put it on that side. The southeast corner would still work. That would have a rear yard variance and a side yard variance.

Mr. Wilcox: That's ridiculous to move it way over there. That's the other side of the house. I don't know how the {expletive} everybody else gets away with the {expletive} they do.

Mr. Natali: Is that an original patio?

Ms. Kelly: That's from when my parents had the house.

Mr. Natali: There is an alternative here. There are a couple of them actually. You probably use the deck more than the patio right?

Mr. Wilcox: What patio?

Mr. Stanton: You keep referencing the survey and it shows a 12' x 12' patio off the deck.

Mr. Wilcox: There's a hot tub on there.

Mr. Natali: Okay, let's summarize here. Right now you're not interested in any of our suggestions. Basically, you want an up or down vote on this?

Mr. Wilcox: There's no way to move this stuff because he's still gonna tell me it ain't legal so what am I winning? I'm not going to tear it down.

Mr. Natali: If you really need the shed, you're going to spend money either way. I think you can read our feeling that we are not going to give you a foot and a half variance. We've never done that. There's not a property that came through legally that has one. We can't do it.

Mr. Wilcox: How can they be there if it's not legal? Why aren't they getting nailed? I can take you four doors down from my house and show you... [Mr. Natali interrupting]

Mr. Natali: Sir, can we get off of that, we are trying to help you here. We are trying to help you. That's our job.

Mr. Wilcox: Okay what do you want me to do?

Mr. Natali: We are trying to present you with options. We have two engineers here. We have more education at this table and we are trying to help you.

Mr. Wilcox: Give me the options.

Mr. Natali: I would like to see you move it or take it down then you don't have to spend any money except you need a permit for that too by the way.

Mr. Wilcox: Oh that's the Town of Cicero.

Mr. Natali: Any town you do.

[Silence]

Mr. Natali: Okay, this situation falls in the Chairman's lap.

Mr. Rabbia: Again, I don't know what's in your backyard particularly in the southeast corner so I'm talking all the way to the back corner. You could slide it all the way down with the proper setbacks and leave it as it is.

Ms. Kelly: There's a big tree next door.

Mr. Rabbia: Okay, that area would sit with the proper setbacks. You wouldn't have to touch the exterior or the interior of the shed. You can get five feet all the way around if you wanted to. I'm just looking for solutions, I guess.

Mr. Wilcox: There's no way to get anything back there to move it. It's not something you can just pick up and carry over there.

Mr. Rabbia: You can't get a tractor back there to move it?

Mr. Wilcox: It will tear the yard up; it's always wet.

Mr. Rabbia: Okay, well that was my suggestion so...I'm out of suggestions.

Mr. Stanton: Mr. Rabbia, I thought the same thing that if you turned it sideways, you could do six feet off the property line and five feet off the rear and give you something that's still mowable and usable and you'd be more than ten feet away.

Mr. Rabbia: Right but what he's saying is he can't do it because it would tear up the lawn.

Ms. Kelly: It's wet.

Mr. Rabbia: I understand.

Mr. Wilcox: We'd have to go through the neighbor's yard to get equipment out there. It's not feasible.

Mr. Rabbia: You say go through the neighbor's yard, what's on the east side of your property? There's 11.9' between the side line and your house?

Mr. Wilcox: There's a gate and a privacy fence with posts. That we just had put in. We'd have to tear that all out and redo it again.

Mr. Rabbia: Like I said I'm just trying to help you find a solution.

Mr. Natali: Sir, you put yourself in this situation. You're going to have an expense if you have to tear it down or make it smaller.

Mr. Rabbia: Rita (Wicks) just mentioned having a fork truck come in and just pick it up and move it to that position on the property.

Mr. Wilcox: It will sink. You're not understanding, it's wet.

Mr. Rabbia: I understand...like I said I understand...I'm presenting various suggestions.

Mr. Wilcox: Someone would have to drive through the yard to get it over there. It's always wet.

Mr. Palladino: They can drive on plywood. You put plywood down to save a yard and you drive on top of the plywood.

Mr. Wilcox: How would I know? I never done this.

Mr. Palladino: I'm explaining it to you. It's done all the time. We live in Cicero and the land is always wet. Sheets of plywood are placed down and you drive over it.

Mr. Wilcox: I can't believe everybody else can do this {expletive} and we're gettin' this.

Ms. Kelly: We should just sell the house.

**Mr. Natali opened the Public Hearing at 7:30 P.M.**

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

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

**Mr. Natali closed the Public Hearing at 7:30 P.M.**

Mr. Rabbia: Let's understand this here. I think we presented a lot of options. I'm not sure that they have taken the appropriate time to consider all the options properly. We've presented a lot of things and Mr. Wilcox is immediately saying that he can't do it and I'm not sure he's taken the time to consider the consequences of that. I feel we should take a month and let him take a look at it and say I either want to make it fire rated on both sides or I have figured out a way to move it so I can get it in a spot on my property where I can hit the setbacks and I'm not near any other structure that's combustible.

Mr. Natali: Is that okay with you folks?

Mr. Wilcox & Ms. Kelly: That's fine.

**MOTION** made by Mr. Rabbia, seconded by Mr. Stanton, on behalf of Marie Kelly, 7918 Eisenhower Blvd., for an area variance for a shed where the shed is located a distance of 1.5+/- feet to the side property line where a minimum of 6.0 feet is required, be deferred to the September 14, 2015 meeting to allow the applicant additional time to consider the options in terms of disposition of the shed.

Mr. Rabbia	Yes to the motion
Ms. Wicks	Yes to the motion
Ms. Palladino	Yes to the motion
Mr. Stanton	Yes to the motion
Mr. Natali	Yes to the motion

**Approved Unanimously.**

**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