

The regular meeting of the Zoning Board of Appeals (ZBA) of the Town of Cicero was held on **Monday, December 2, 2013 at 7:00 p.m.**, in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Board Members Present: Gary Natali (Chairman), Rita Wicks, Donald Snyder, Gary Palladino and Charles Stanton

Others Present: Patrick Honors (Planning Board Member), Terry Kirwan (Esquire, Kirwan Law), Steve Procopio (Code Enforcement Officer) and Tonia Mosley (ZBA Clerk)

Absent: Mark Rabbia (ZBA Member)

Mr. Natali opened the meeting by asking for the roll call of Board Members present. He noted the fire exits in the room and asked that all cell phones and pagers be silenced. He then asked everyone to stand for the Pledge of Allegiance.

APPROVAL OF THE ZBA MEETING MINUTES FROM NOVEMBER 4, 2013

Mr. Snyder made a motion to approve the ZBA meeting minutes from November 4, 2013. **Mr. Stanton seconded the motion.** Mr. Natali asked for a roll call vote.

Mrs. Wicks:	Yes to the motion.
Mr. Snyder:	Yes to the motion.
Mr. Palladino:	Yes to the motion.
Mr. Stanton:	Yes to the motion.
Mr. Natali:	Yes to the motion.

NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) MOTION

Mr. Natali: The Cicero Town Board acknowledges the importance of full participation at all public hearings and therefore urges all in attendance to use the microphone located in the front of the room. **I make a motion** that all actions taken tonight are Type II Unlisted and have a negative impact on the environment unless otherwise indicated. **Mrs. Wicks seconded the motion.** Mr. Natali asked for a roll call vote.

Mrs. Wicks:	Yes to the motion.
Mr. Snyder:	Yes to the motion.
Mr. Palladino:	Yes to the motion.

Mr. Stanton: Yes to the motion.
Mr. Natali: Yes to the motion.

Mr. Natali: We have proof that all items on the agenda tonight have been advertised.

**AREA VARIANCE: CHANDLER AUTOMOTIVE, 6745 STATE ROUTE 31
AN AREA VARIANCE TO INSTALL AN ELECTRONIC MESSAGE SIGN WHERE THE PROPOSED SIGN
IS 0.3 FEET FROM THE STREET LINE WHERE 20 FEET IS REQUIRED**

Representative: Kent Chandler

Mr. Chandler introduced himself stating we are seeking a zone variance to install a digital sign within the, I'm not sure what the exact language is, but the Town 20' road boundary.

Mr. Natali: Has everyone been out to look at it?

Board members responded yes.

Mr. Natali: Any questions?

Mrs. Wicks: Mr. Chandler, I'm trying to get a visual. How far from the power line is where you want to be? Would any part of the sign be under the power line?

Mr. Chandler: No, the primary run is on the other side of the street and crosses on the eastside of the driveway to the pole located on the eastside. The wires on our side are just cable, television and Verizon wires.

Mr. Stanton: You do know that you are limited in sign size to one square foot per foot of width of your building which faces the road, unless you ask for something different from us?

I want to note that we do have a resolution from the Onondaga County Planning Board. The only resolution is that the applicant must obtain a highway work permit from the New York State Department of Transportation (NYSDOT) for any proposed work in the state right-of-way. I believe that also includes removal of the existing signs. Make sure that you check with them.

Mr. Procopio this is a better question for you. Some of the documentation that we have mentions a 20' easement, but it is really the 20' setback from the road line that is the Town Code, correct?

Mr. Procopio: Correct. About your comments on the square footage of signs, the Planning Board approves digital message boards and can approve square footage over the one square foot. This applicant has been to the Planning Board previously and received approval for a conforming location for the sign, 20' back. Since then Mr. Chandler has realized that is not going to work best for him. That is why he is here before the ZBA tonight.

Mr. Snyder: When the Planning Board approved the sign they approved it...?

Mr. Procopio: 20' back. It would have been a total relocation of the existing sign.

Mr. Snyder: Is that correct Mr. Chandler?

Mr. Chandler: Yes. I went back in my notes and looked. I wrote down 49.75 three different places. I went through the minutes. In the second meeting there is no reference, but in the first there is a reference to the 20'. So, I think I misunderstood them. I think that they were saying 49 plus 25. My understanding, incorrectly, was that it was 49 total. I thought the 20' Town easement was inside.

Mr. Snyder: As I looked at the location, I'm trying to think like a fellow who is trying to advertise his services; I personally think 20' back is going to cause me to have to turn my head to see the sign---as opposed to seeing it in my peripheral vision as I drive down the road.

My recommendation would be that we allow you to put the sign where I saw the base when I went to your site. I know that there is a 20' setback but we have the ability and we have done it in other places where we have put it very close to a road boundary.

The fact that it is a sign is why you want to have it close to the road. Whether it is the church across the street that has a message to give or whether it is car dealer/repair shop that has a message to give, I don't have a problem with it.

Mr. Stanton: I would tend to agree that the sight lines are severely limited by trees that border either side of the property.

Mr. Chandler: The Planning Board had an interest in putting it in the grass island that runs between the driveways where the cars are parked. We attempted to do that, but when we dug we hit utilities. We called 1-800-DIG-SAFE. They referenced the wrong telephone pole when they originally marked it and we lost water and power for two days. That took that grass peninsula financially out of the question because we would have to move all of the utilities and dig up a lot of pavement.

With the 49 plus the 20, that would locate the sign somewhere in the center of the parking lot.

Mr. Snyder: You were out of business for two days?

Mr. Chandler: We got a generator and we brought in some port-a-potties. We worked our way through it.

Mrs. Wicks: Mr. Chandler when you say electronic message sign, is that similar to the one that is at the Brewerton Fire Department right now along Route 11 heading north?

Mr. Chandler: I am not familiar with that one Ma'am. I'm thinking like the High School has. I have a picture if that would help. It is our proposal from the sign company.

Mrs. Wicks: It is one of those where you have a computer program and where you can change the message generated through the sign?

Mr. Chandler: Yes

Mr. Snyder: Will your sign have messages that last more than three seconds before it changes?

Mr. Chandler: Yes. That was one of the things that I believe the Planning Board asked for---that we have at least 15 seconds. I would think that it would be at least a minute or more. I simply do not have the time to make that many messages. It would not make sense to have them so short.

Mr. Snyder: I went up and down Route 31 after I looked at your site. There are houses that are closer to the road than your sign. I was concerned about the guard rail there. That helps protect the public from hitting that sign. If you did actually put the sign in the median strip between your driveways, it would be vulnerable to anyone hitting it like the telephone poles. So, I think from that standpoint, where you are proposing the location eliminates a safety problem for drivers.

Mr. Palladino: How high will the sign be off the ground?

Mr. Chandler: I believe the total height will be 19.5' to the top.

Mr. Natali: How far to the bottom of the sign? Six feet is required. That's probably what they approved. They don't like to make that any lower.

Mr. Chandler: I will have to do the math on it, but it will definitely be over six---probably 13-14 feet.

Mr. Stanton: You do have a drawing of the sign?

Mr. Chandler presented pictures to the Board noting this was the original proposal stating we show what it will look like compared to our existing sign. Those poles are the existing sign. The proposed sign is the same size as the existing sign. We show how it would look to drivers coming down the street.

Mr. Snyder: Your location would be to the left of what we are looking at, towards your building.

Mr. Chandler: Yes

Mr. Snyder: You took the railroad ties down and just have the old foundation.

Mr. Chandler: Yes

Mr. Snyder: If I remember, the new one is back in the bushes.

Mr. Chandler: Right, we have landscaping there. It was kind of convenient. So, it will be right in the center of the landscaping. Only the posts would be visible.

Mr. Palladino: How high is your building?

Mr. Chandler: It is over 40 feet in height.

Mr. Natali: Are there any other questions? (There was no response.) If not I will open up the public hearing. (The public hearing opened at 7:11 p.m.) Is there anyone here who would speak for this? (There was no response.) Is there anybody that would speak against it? (There was no response.) Okay, I will now close the public hearing. (The public hearing closed at 7:11 p.m.) Would someone like to make a motion?

Mr. Palladino: **I would like to make a motion** that we consider Mr. Chandler's application for a variance to allow a sign to be 0.3 feet off the street line where 20 feet is required. However, before I recommend whether we approve or deny this application, I would like to go through the five determining factors and open this up for Board comments.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created? I would have to answer that no. We are discussing a sign for an existing business. Route 31 is a mixture of residential and commercial properties. Chandler Automotive has been in business many years and already has a lit road sign.

Mr. Stanton: I would add to that the applicant has made efforts to move the sign out of the highway right of way. That's a positive.

Mr. Palladino:

2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the area variance? I would answer that no. Due to the remote area and the heavily treed surroundings, this sign needs to be located at the spot to be effective.

Other Board members agreed.

Mr. Palladino:

3. Whether the requested area variance is substantial? My answer to that is yes. If we look at just the numbers and the percentages then I believe that it is substantial. We are going 0.3 feet where 20 feet is required. That is substantial. However, I suggest that we also look at the overall goal when making our decisions.

Other Board members agreed.

Mr. Stanton: I would say that we have two mitigating factors here. One is the lack of sight lines if the sign is moved further back and the fact that right now the proposed sign will be approximately 30' from the edge of pavement of Route 31.

Mr. Palladino:

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district? My answer to that is no. All we are doing is permitting the base of a sign so that it is an 8 square foot footprint. It should not have any effect whatsoever.

Various Board members agreed.

Mr. Palladino:

5. Whether the alleged difficulty was self-created? Yes, it was self-created by the simple fact that you want to put up a new sign. In closing, I would also like to bring to everyone's attention that the Onondaga County Planning Board has determined that there would be no significant adverse inter-community or county-wide implications by approving this. They have also made a stipulation that the applicant must obtain a highway work permit from the New York State Department of Transportation for any work in the state right-of-way. So at this time I would like to recommend that we approve Mr. Chandler's application for a sign variance. **Mr. Stanton seconded the motion.** Mr. Natali called for a roll call vote.

Mrs. Wicks:	Yes to the motion.
Mr. Snyder:	Yes to the motion.
Mr. Palladino:	Yes to the motion.

Mr. Stanton: Yes to the motion.

Mr. Natali: Yes to the motion.

Motion carried.

**AREA VARIANCE: KEN HOLLAND (SITEWORX), 8880 BEACH ROAD
AN AREA VARIANCE TO CONSTRUCT A DETACHED GARAGE THAT HAS A REAR YARD SETBACK
OF 5 FEET WHERE 30 FEET IS REQUIRED, A MINIMUM SIDE YARD SETBACK OF 4 FEET WHERE 6
IS REQUIRED, A COMBINED SIDE YARD SETBACK OF 14 FEET WHERE 15 FEET IS REQUIRED, A
FRONT YARD SETBACK OF 18 FEET WHERE 30 FEET IS REQUIRED AND COVERS
APPROXIMATELY 31% OF THE TOTAL LOT AREA WHERE A MAXIMUM COVERAGE OF 25% IS
ALLOWED**

Representatives: Ken Holland, Siteworx, Applicant
Patrick Honors, Property Owner

Mr. Honors: Good evening Board. I'm Patrick Honors owner of 8880 Beach Road. Ken Holland is here as well representing Siteworx. Ken currently leases the property and hopes to purchase it in the near future. We are asking for variances to put up a garage building to house and clean up some of the things on the site as well as storing a boat. The garage would be very uniform in design to my garage. I live next door at 8876. The building would be similar in height, width, length, design and build. The façade would be similar colors, natural earth tones.

We are here seeking a variance to place the building in the far right corner of the building lot. As you know the lots on Beach Road are smaller—postage stamp size. But, based on the usability of the lot I think it will look okay.

Mr. Stanton: Mr. Chairman before we get started I want to note that we do have the resolution from the Onondaga County Planning Board. There are some relevant provisions here that I wanted to read:

WHEREAS, state and federal wetland maps indicate the presence of wetlands just to the west of the site, and the survey shows the approximate location of wetlands approximately 20 feet from the lot boundary; the survey does not show the 100 foot state wetland buffer, and it appears that a portion of the proposed garage may be located within the buffer; and

WHEREAS, the applicant must obtain appropriate permits from the New York State Department of Environmental Conservation (DEC) and/or the U.S. Army Corps of Engineers (USACE) for any proposed development or drainage in State and/or Federal wetlands, respectively, and/or State wetland buffers on site; and

WHEREAS, the current FEMA Flood Insurance Rate Maps (FIRM) indicate that the entire site is in the 100-year floodplain; and

WHEREAS, the Onondaga County Hazard Mitigation Plan has identified flooding as one of five primary natural hazards of local concern, with the potential to cause extensive threat to property and safety; buildings within the floodplain can negatively affect the free flow of nearby waterways and drainage, and building within a floodplain is therefore discouraged;

The resolution is that the Onondaga County Planning Board recommends that said application be DISAPPROVED for the following REASON(S): The proposed area variances would allow more intense development of a site located in the 100-year floodplain and state wetland buffer, which may negatively impact drainage patterns and the adjacent wetlands as well as increase the risk of property damage by potential flooding.

The only other note that I want to make is that I believe it will take a supermajority of this Board to override any resolution that the Onondaga County Planning Board makes. So that is a majority plus one. I just want you to be aware of that as we proceed.

Mr. Honors: I understand.

Mr. Natali: Did you get a copy of this?

Mr. Honors: Yes, I did get a copy emailed. In regards to the impact on properties, there are no properties surrounding. Behind it is an un-buildable land locked lot that Scott Wright owns--my neighbor to the south of my garage which borders the swamp and creek area that goes over the little bridge. That is a large lot primarily in the swamp. Most of it is unbuildable. The other adjacent lot is a vacant lot as well. That would be to the north of the proposed garage.

In regards to the 100-year floodplain, my garage is out of the 100-year floodplain. On my elevation certificate it is, I believe, 1.75 inches. The proposed garage would be the same—just above the 100-year floodplain by an inch or two.

In regards to flooding in that area, that area is actually one of the drier areas of Beach Road. The lots down past it tend to get a little wetter—the next 4-5 low lying areas.

In regards to mitigating some of the runoff, Ken will speak about some of the ideas that he has for drainage in between the two buildings and some other runoff areas.

Mr. Holland: First, we spoke to John Clancy with the DEC. They are going to come out and take a look at the buffer zone. They told us it was a 50' buffer from the wetland. In regards to drainage, because of the water I have a couple of ideas. That is one of the reasons we moved the building to the far corner—to keep as much space between the two existing buildings or his garage to a maximum—and put a drainage system in there. We would dig down and use a non-woven fabric on the bottom and larger stones like #2 or #3 so that the water migrates through. We would use rain barrels to the gutter system as well as a pervious paver driveway.

Mrs. Wicks: As a dovetail off of Mr. Stanton's comment regarding the supermajority, I don't know if it maybe in your favor to perhaps have something from the DEC to try and sway the rest of us. I understand because we are limited down in our area on what we are allowed to build, how we can build. The DEC certainly tells us what we can and can't do down there. I'm trying to encourage that if the DEC says yes, you do this, and this and this it may look better for the Zoning Board. If you go by the DEC and they say they would be okay if you did certain things, the Zoning Board might be more comfortable with your approval.

Mr. Honors: I believe that Mr. Holland was trying to get a letter from them.

Mr. Holland: I'm just waiting to meet with them. They are supposed to get back to me.

Mrs. Wicks: I would hate to make a motion and have it not pass...

Mr. Honors: We need something to their liking per se.

Mrs. Wicks: Right. So I'm wondering if we should wait. Mr. Natali, do you know where I am going with this?

Mr. Natali: Yes

Mrs. Wicks: I'm wondering if you want to put this off for a month to wait and see what the DEC says to build your case rather than hoping that we get the supermajority.

Mr. Stanton: I have two questions to follow up on that. Is the sale predicated on the building of this structure?

Mr. Honors: In a way yes simply because Ken would like to have an office. He works for himself out of the house and currently has an office inside. He would like to have his office in the garage. The garage would also be for more storage. It would help to clean up the lot.

I'm sure some of the Board members have been to the site and saw what was there prior and what has gone on as far as cleaning up the lot. You have seen what was down there and what has transpired over the last five years. I would like to continue to do that. Based on the size of the lot I understand that we are only allowed to do so much, but I'm here to ask for a variance for that reason.

Mr. Stanton: I think that you gave us an idea about what will happen there but what will ultimately be the disposition of this structure? Is it going to store the boat and the car?

Mr. Holland: I'm just trying to clean up the property. The main thing is the boat and putting in other things that are outside. I have boats and other things that are just cluttering up the yard.

Mr. Stanton: You mentioned an office too. Do you intend to run your business out of the garage?

Mr. Holland: No, that would be a home office. We have a property on East Taft Road that we are in the process of doing a site plan on for our offices and buildings.

Mr. Honors: In regards to the length of the structure, the boat is around 49'.

Mr. Holland: With the trailer it is 48.

Mr. Honors: I'm sure that you guys have been out and saw the boat there. Currently the boat is in winter storage.

Mr. Snyder: One of the things that we try to do is we try to give the least impact of variance that we can. You are stuck with the size of the lot. If the building was 20' shorter we would not have any problem in the back. If it were 2' narrower we would not have any problem with the one side or in fact the combine. We could get rid of three requested variances today if you said I only have this much space. If you did not have a problem with the front and the building lining up with your current building then there is some reason for us to say yes, that is acceptable. I'm hearing you say instead of 52', you made it 32' it would not be long enough to put in your boat.

Mr. Holland: My truck would barely fit in that.

Mr. Snyder: Your truck? I thought you were going to put your boat in it?

Mr. Honors: It's a tight fit in a garage that size.

Mr. Holland: If moving the structure over from the 4' on the one side, moving that over another 2', if that would resolve a lot of the variances we could propose that.

Mr. Honors: You're saying eliminate the side variances Mr. Snyder?

Mr. Palladino: I think that if you made it two feet smaller—you've got what 30'—if you went to 28 which is 7-8' you would have eliminated two side variances. Now you go to a 6' where we want a 6' you would make that and also the combined side would now be 15 where you make that.

When I first looked at it I questioned why 30? You are cutting up extra lumber for two feet when you could just make it nice even 28' with seven 8' panels or whatever it is. So four 8' panels rather and you are right there. And you eliminate two variances.

Mr. Holland: And that is just a half a panel, the 28.

Mr. Natali: On the same lines, you are over in the coverage. Quite honestly I can't remember when we have given approval on a non-conforming lot where the coverage exceeded 25%. So by going along with the suggestion, you will probably come pretty close to that 25%.

Mr. Honors: To be below the 25%? Would that achieve that?

Mr. Palladino: It takes a couple 100' off.

Mr. Natali: I would have to do the math but I would be closer. That's all I'm saying. You are building a garage that is bigger than your house. That is essentially what you are doing.

Mr. Stanton: Yes I believe a house that has two garages or two stalls in it.

Mr. Natali: You a lot of hurdles. I have to agree with Mrs. Wicks. If the DEC is working with this and you come in with an approval would we be able to send this back to the Onondaga County Planning Board if the applicant got approval from the DEC? I know that they have some other concerns here, the wetland situation. Do you think that would change their minds? Have we ever sent applications back?

Mr. Kirwan: Any time you modify it substantially you have to send it back.

Mr. Natali: So we would have to send it back. You have a couple of options here. As Mr. Snyder said, our job is to help you with what you want but grant you the minimum. You are asking for all the variances possible except for the height.

Mr. Honors: We could table the issue until the next meeting. Maybe come back after speaking with Ken and have him meet with the DEC and see what their feedback is. If they come back with a letter that it meets or does not meet their approval...

Mr. Snyder: Again, it sounds like the County is telling you don't build on this site. I'm not sure if you change the size of the building a little bit that they will change their attitude. What do you think Mr. Natali?

Mr. Natali: I can't make a decision for them but,

Mr. Snyder: But as you read what they say...

Mr. Natali: It is pretty strong in many areas but I'd like to go along with Mrs. Wicks. Get the DEC involved. Because, as soon as you move one stone you are going to have every neighbor calling the DEC so you might as well get that hurdle out of the way. And, if there is anything that you can do as far as excavation or what ever. When did you want to start building?

Mr. Honors: As soon as possible but we want to go through the correct procedures. I personally spoke to the other two neighbors. They are not in attendance tonight, but they did not have any issues with this.

Mr. Natali: If they were willing to go along with this we would like something in writing. But they do not carry as much weight as everyone else involved here. How does the Board want to approach this?

Mr. Stanton: I don't have a problem with the deferral. If you have not already I would recommend that you contact the Army CORPS of Engineers because they do have jurisdiction over navigable waterways. The lake would seem to be one of those. Just to make sure that you are not skipping a step.

Mr. Honors: That area is DEC only. Initially when I came before this Board I was going to put my house on that lot. I had approval from the DEC. It was the DEC who I had contact with.

Mr. Stanton: Okay. The DEC may tell you also when they come out to the site.

Mr. Honors: Correct. Because it is non-navigable waters they are in charge of that, what I would call, swamp area.

Mr. Stanton: I would also ask you to consider that we are creating a corridor of very large very tall structures here, right adjacent to that bridge. That is my only comment on that.

Mr. Honors: Are you referring to my structure?

Mr. Stanton: Correct. This being in addition to it creates a corridor with basically three structures on each side that are rather sizeable and rather close to the road.

Mr. Snyder: And don't negate what the Chairman said about the 31%. Coverage is a major issue. Of course that is directly connected to the size of your buildings.

Mr. Honors: So, if Mr. Holland and I speak together, do the math and crunch the numbers in regards to making it a little smaller to get it closer to the 25% or achieving that, that is one less variance as well.

Mr. Palladino: I want to clarify something that I think you said. I believe that you said a Mr. Clancy from the DEC said it was a 50' wetland buffer. The Onondaga County Planning Board said it was 100'.

Mr. Holland: In speaking with Mr. Clancy, yes a 50' buffer.

Mr. Palladino: If I am looking at this correctly, we have 100'. I'm just curious as to what is correct. The Onondaga County Planning Board also said the entire parcel was in the 100 year floodplain and you are saying that it is not.

Mr. Honors: It is in the flood zone AE. However, it will be up above the elevation of the flood zone which is 300 if I'm not mistaken.

Mr. Procopio: No, its 373 plus a little; in that area.

Mr. Stanton: That is an important point. If it is in there now, are you raising it up to get it out of the floodplain?

Mr. Honors: It will be an elevation certificate which will bring it above. Some of those garages down the way have water that runs into them. In this case it won't.

Mr. Stanton: It is the structure not the surrounding property.

Mr. Honors: Correct, that is correct.

Mr. Procopio: There is a proposed elevation on the survey.

Mr. Stanton: I just wanted to make sure that the entire property was not being elevated.

Mr. Honors: No, we are not bringing up that much.

Mr. Palladino: Those were just the two things that jumped out to me that the County made mention of. I just wanted to clarify.

Mr. Honors: Are you clear about what we are trying to achieve now?

Mr. Palladino: Yes

Mr. Honors: Any other Board comments would be appreciated.

(There were no other comments.)

Mrs. Wicks: Mr. Chairman I would like to make a motion. **I would like to make a motion** that the Ken Holland at 8880 Beach Road request of an area variance in the R-10 district to construct a detached garage be deferred until the January 2014 meeting. **Mr. Natali seconded the motion** and asked for a roll call vote.

Mrs. Wicks: Yes to the motion.

Mr. Snyder: Yes to the motion.

Mr. Palladino: Yes to the motion.

Mr. Stanton: Yes to the motion.

Mr. Natali: Yes to the motion.

Mr. Honors: I appreciate your comments. Have a good night.

Mr. Stanton made a motion to adjourn. **Mr. Palladino seconded the motion.** The motion passed **unanimously.**

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 7:40 P.M.

ZONING BOARD OF APPEALS
TOWN OF CICERO

DECEMBER 2, 2013
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Submitted by,
Tonia Mosley, ZBA Clerk