

STATE OF NEW YORK  
ONONDAGA COUNTY  
ZONING BOARD OF APPEALS

SS:

MINUTES OF MEETING  
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: MAY 5, 2014  
PLACE: CICERO TOWN HALL  
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, May 5, 2014 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali	Board Chairman
	Charles Stanton:	Board Member
	Gary Palladino	Board Member
	Donald Snyder:	Board Member
	Mark Rabbia:	Board Member

Absent: None

Others Present:	Todd Loscombe	Applicant
	Hal Romans, L.S.	Applicant's Representative
	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Richard Hooper	Director of Code Enforcement
	Jessica Zambrano	Town Supervisor
	Ann Marie August	Recording Clerk
	Community Members	

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 the 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. Do we have any corrections or additions to the minutes of April 7, 2014?

Mr. Stanton: Mr. Chairman I had corrections but I wrote them out and handed them in beforehand. There was nothing substantial.

Motion was made by Mr. Rabbia, seconded by Mr. Stanton to approve the minutes of April 7, 2014.

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

Mr. Rabbia: Yes

Mr. Snyder: Yes  
Mr. Palladino: Yes  
Mr. Stanton: Yes  
Mr. Natali: Yes

**Motion duly carried.**

Mr. Natali: The Cicero Town Board acknowledges the importance of full participation in all public meetings and, therefore, urges all who wish to address those in attendance to utilize the microphones located in the front of the room.

**Motion** was made by Mr. Natali, seconded by Mr. Palladino, that all actions taken tonight are Type 2 Unlisted 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  
Mr. Snyder: Yes  
Mr. Palladino: Yes  
Mr. Stanton: Yes  
Mr. Natali: Yes

**Motion duly carried.**

Mr. Natali: We have proof of posting for the item on tonight's agenda. I would like to start off by explaining the process so that everyone will have a chance to express their feelings. We will start off by having the applicant's representative, Mr. Roman, present the project. The Board will then question them in any areas that we need answers. I will have a public hearing. I will ask who will speak in favor of this project and then I will ask who will speak against this project. After we have heard some general statements from the audience, unless you have something to add in the way of any new ideas or comments, we will have the flavor of your position and repeating the same statements would be unnecessary. We will then close that part of the meeting and give the applicant's representative an opportunity to address some of the concerns. At that point, the Board will be asked to make a motion to approve, deny, or modify this variance. With that in mind, I would appreciate it if anyone who wishes exercise their right to speak would raise their hand and come forward. Otherwise, please no yelling out. If that happens, I will ask you to leave the meeting.

TODD LOSCOMBE  
ORANGEPORT ROAD (Tax Map #116.-01-05.4)

AREA VARIANCE TO CONSTRUCT AN APARTMENT COMPLEX WHERE THE PROPOSED HEIGHT OF THE BUILDING IS 48 FEET WHERE A MAXIMUM HEIGHT OF 35 FEET IS ALLOWED.

Representatives: Hal Romans, Surveyor & Planner & Todd Loscombe

Mr. Romans: Good evening. My name is Hal Romans, Surveyor and Planner for the applicant. I am here tonight with Todd Loscombe. We are seeking a variance on a proposed project off of Orangeport Road on the North side. It's just east of Wickham Drive. The property is actually zoned commercial. This property actually

is zoned RM so it is properly zoned for this type of use. We are proposing a 49-unit apartment building. We are asking for a variance on the height of the building. You already have a plan up on the board. If you want, I will just step up there and explain it. This is the subject property here. This is a sketch plan that we had presented to the planning board to show how it could possibly lay out with a 3-story building and detached garages for the apartments. A proposed community building here out near Orangeport Road. It would have direct access to Orangeport Road and then it has the ability on Walnut Hill Road that currently just ends here at the property line to provide a backup access to us. The reason we are asking for a variance on the height is that if you look at the property, you can see that this portion at the southeast corner, has an existing drainage easement on it that is actually a drainage facility that was put in for the single-family, detached residential Walnut Hill. As part of that project it has a drainage easement that comes from the existing residential community into that basin. There is also a sanitary sewer easement that runs or bisects the property down in this area here. By doing a three-story building, it allows us to reduce the impervious area. Rather than a doing a two-story building that would meet the height. I have a sketch plan that I've worked on for this project that shows how we would do a two-story meeting the height requirement. What happens is, we still end up with two apartment buildings here. We actually end up with an apartment building over in here. Our garages expand out to the north, so we end up impacting the property with approximately four-tenths of an acre of impervious area. What we are trying to do is to build a nice apartment complex here that actually gives some buffering from the single-family detached residential that's here along Wickham Drive. You would have the apartments here and then you'd have the commercially zoned property here that is out on Route 11. The variance that we are asking for is to 48' which is 13' higher than what the code allows here. Which is a 37% increase in the height of the building. The intent here is we are trying to do something... I will put an elevation drawing up on the board to show what the units would look like. I provided that as part of the submittal package so you can see what they would look like. What we are trying to do is to have a peaked roof like you'd see on a typical residential project here. These would be more upscale apartments rather than something that is....the applicant is known for custom home making and once they have some of the amenities that he usually puts into his custom homes in these apartments, they would have the ability to have gas fireplaces and granite in the kitchen. Each unit would have it's own balcony or patio and really what we are seeking here is the peak of the roof, that height there, comes out to just under 48'. So we are asking for 48' to cover that and it's really to allows us to have sufficient pitch on the roof for snow load and so that you don't have the appearance of a flat roof on an apartment building. We really want to get away from that, we'd like it too look residential in character. You can see he plans on mixing up the siding here, with the ability to do some stonework if he can on the lower portion. Then with a different style of siding on the apartments and up in the peak area here. The reality of it is if we don't get the variance on the height, what does that really do and we have this drawing here that shows how the development spreads out and the actually apartment buildings get closer to the single-family housing. You can see here that the difference is where I had the apartments here with the one story garages that I was using for a combination of that an expanded green space area for buffering. Then I actually end up with three apartment buildings and then my garages head north and come actually in closer here. So you can see the difference in this plan versus this plan here. You can see with our plan for the three-story units we actually have 60' from the west end of the garages to the property line and on the east side we are still 40' from the property line.

Mr. Natali: Hal, is this gentleman part of your team?

Mr. Romans: No

Mr. Natali: Sir, he's trying to make a presentation.

Man at the board in front of panel: I didn't see this before.

Mr. Natali: Okay, neither have we. So we will allow time for that. We are just being introduced to it. We will give everyone ample time to parade through; but he was giving a presentation. Sorry Hal. Thank you.

Mr. Romans: That's okay. So that plan there just shows you how we would lay out the project if we don't get the ability to go to three stories. What it does is that the impervious area increases by about 3 to 4 tenths of an acre which means at the end of the day we are going to have more....a greater impact probably as far as the drainage on the project and we are going to have a greater impact toward the west which we are trying to avoid. We recognize that there are single-family detached houses on the west. One of the things that we are trying to do with the other layout was by having three stories you would use the garages that are basically one story with that 60' of green space to provide an ample screening area for the project. And it makes sense as far as putting in sanitation, sewer, pavement and everything else, you could reduce all that by about a third on the apartment building. I did see the County referral and brought a copy of that with me actually.

Mr. Natali: Hal, as far as the County referral. The items on there don't really fit within our job description. Most of those are by other agencies...DEC, DOT...so we are not going to get into discussing those. I know those are hoops you still have to overcome. Right now we are talking about the variance for the height. So anything else you want to add to your project?

Mr. Romans: That's it other than the plan we submitted is very basic. We haven't been in front of the Planning Board as far as for landscaping, buffering and everything else. What it is is that before my client invests money into all of that, we wanted to see if we were going to be able to get the variance on the height because it impacts everything else we do on the site plan.

Mr. Natali: Okay, thank you. What I am going to do is allow the Board to go up and take a look at it first and then we can ask some questions. Then before I open the public hearing, I will let everyone parade up and take as much time as you want because we haven't seen the alternative plan. What he means by the alternative plan is that will meet the setbacks and the project could go ahead with the three buildings. Right now before us is two buildings and the 48' height.

Mr. Stanton: Mr. Chairman, just to clarify the process because someone may be confused about this. There is actually two steps this builder has to go through before they can actually build. First, it is coming before the Zoning Board which is us to get the variance on the height of the building. If they get that, it doesn't mean they can build. They still have to go in front of the Planning Board and get site plan approval because that is actually part of our code. So it's a Step A, Step B process rather than all or nothing tonight.

Mr. Natali: Thank you. Gentlemen, let's take a look at this.

[Board members come down to review the three-building site plan.]

Mr. Natali: Okay folks, thank you. Mr. Romans I just wanted to ask a question about ownership. Does Walnut Hill Corporation own the land now or did Mr. Loscombe purchase it? Does the applicant already own the property?

Mr. Romans: The applicant does not. He is a contract purchaser of the property. Walnut Hill the owner of the property was the one that developed the residential that's around it and that RM zoning has been there, I believe since the housing went in and the original tracts were approved by the town. The only other thing that I wanted to explain is that the difference in the plans simplified is that to code we'd have a full two-story apartment building and with the variance on the height we have the ability to put in one-story garages to help

buffer it instead of having it that close. Realisticly, with this building here, I am doing it to code here. I have probably almost the same space or distance here to the property line. The difference is that instead of a one-story garage being there, there is a two-story building with a peaked roof. The applicant who wants to build and retain ownership of these. In other words, this is something that he will keep as a family business and recognizes the fact that it would be better from a screening standpoint and everything else if we can do the three-story over here and it really makes the impact on the residential less in our mind.

Mr. Rabbia: Now what is the elevation change from the homes to where those buildings are proposed.

Mr. Romans: Right now this property does drain all down to the retention facility. I do know that, I think as part of the original construction of this that I believe some of the grading was done in here to bring it down to like a road level. It was always intended that in the original planning of this project here that this would come through here and there would be townhouses or apartments here. I think originally it called for like the multi-row townhousing, not the two unit but the six and eight. There is enough of a slope coming down through here that working it this way, with the road being put it, if it follows the original grading plan which it probably would pretty much, it would make it so that this end here would be a little bit higher than this end down here as far as the natural grade. You would probably do something where we stepped the buildings. That's one thing that's nice about this layout is with this little area here is like a connector between the two building so you can step the apartment buildings. I do know that there definitely looks to me, we haven't done the topography survey yet, but it definitely looks to me like there's been some grading done.

Mr. Rabbia: I was talking more about the east to west elevation change.

Mr. Romans: Oh east to west here? It's actually pretty consistent, it might have a slight cross slope. We did look at turning the buildings east to west. The problem is you then end up with two- or three-story buildings that end up close to the single family residential which we really wanted to try to lessen as much as possible.

Mr. Snyder: Where does the drainage go from this new project?

Mr. Romans: Where will it go?

Mr. Snyder: Yes.

Mr. Romans: There's this facility here that may have to be modified but we also have the ability to put another facility over in here. So, one of the reasons to go with the three-story is reducing that impervious area is going to reduce the amount of stormwater mitigation we are going to have to do. This is an actual drainage easement for the facility. Obviously, it was probably done before the recent stormwater regulations have changed, so I picture that there's going to be some stormwater quality at the very least that we are going to have to do.

Mr. Stanton: When you look at the building elevations relative to the existing houses and I know you haven't done a topographic survey, there's a chance that standing in one of the existing houses and looking at the new development, it might actually seem to be higher than 48'. I'm saying like you are standing in the back yard of one of the existing houses. If that grade is going up a little bit and you are actually stepping the buildings as you go north you could be experiencing a building that is for all intents and purposes, higher than 48'.

Mr. Romans: What I do is look at this point here, if this is east to west, then if this is the property line here. What you are doing is holding the one story garages as you first line of buffer, then you have your three-stories which sit back here. So what you might need to do is have you stand there and see what it looks like. That's

something we could do if you'd like. A lot of times what I find that is by having the one story garages here and supplementing that with landscaping is that you really don't see much of, or hardly any of the building behind it because the garage itself being closer to the property line, even though it's shorter, where a person stands, it helps screen out a lot of that.

Mr. Stanton: There's a lot of existing growth there which could mitigate some of the view, or at least it looks like it could mitigate...

Mr. Romans: Our intent is to keep that.

Mr. Stanton: In understanding that the pitch on the roof that you have right now is advantageous, it's not insurmountable that a steeper could work from a structural standpoint, is there anything in the roof space – vaulted ceilings, mechanicals that would preclude that pitch from changing?

Mr. Romans: Slightly down you mean? It probably could come down a little bit. Obviously, the flatter pitch does two things, one is snow load and two, it takes away from having a residential roof and being able to see just the roof end of it. There might be a little bit of play there. I could check with the architect. If there is, I'm thinking, it's probably a matter of a like a foot or two. It isn't anything significant. If anything, this area teaches us that you never know when you are going to have those winters that bring a lot of snow and the whole idea here is not to have something that looks like – sometimes you see roofs that are so lowly pitched, that they have the look of having a flat roof and it's really to get away from that so that it does have a residential character.

Mr. Snyder: The floor to floor height. I just don't know how you get the 48' if I have an 8' ceiling and I'll give you two' for utilities, etc., in between, that's 10' per floor, that's 30' for the living part of the building. How do we go from 30' to 48'? We have 18' height on the roof?

Mr. Romans: Basically, if you look at this plan here, they have about 9' 1-1/8" for each floor that's not including the floor joists and everything in between it. What they are using is a six up and 12 out so that for every six feet up, you are going twelve feet out. Which is the standard pitch for this area with the typical snow loads that you have. When you look at a residential house you have on the order of that kind of a pitch on its roof.

Mr. Rabbia: Hal, as you know state law requires you to show the benefit that the applicant stands to receive from the variance as opposed to the burden to the health, safety and welfare that may be suffered by the community. You know we are going to go through the five factors, I'd like you to go through those as well with us. Start a discussion on those.

Mr. Romans: Right now?

Mr. Rabbia: Whenever you want, we'll do it at some point.

Mr. Romans: No, I can do it right now, that's fine. I actually did my submittal that's part of the project description and what I do is that I try to do that in such a way that it goes through the five standards of proof.

Mr. Rabbia: Okay was that in the application?

Mr. Romans: Yes, it's in letter format to Heidi Lalone. So, if you look at, it kind of goes through that. It gives a brief description. I'll just read it. [Reading letter from Ianuzi & Romans Land Surveying, PC addressed to

Heidi Lalone, Cicero Zoning & Planning, dated and received April 9, 2014.] The applicant is the contract purchaser of a 7.31 +/- acres parcel on Orangeport Road. Applicant would like to construct 49 apartments with garages, a community building, parking, etc., on the property that is zoned RM district. Allowing the applicant to build three stories versus two stories would impact the site less for stormwater mitigation and move the proposed buildings further from existing single-family homes on the west side of the property and closer to the commercial along US Route 11. So when you look in the application package you can see how I'm following through on the actual questions that come out. The requested variance of 48' is a 13' or 37% increase in the maximum height. So that goes into the question on the....

Mr. Rabbia: So let's answer it is the requested variance substantial?

Mr. Romans: I would say 37% is substantial.

Mr. Rabbia: I agree.

Mr. Romans: [Continuing to read the above-referenced letter.] The proposed apartment complex will be built and owned by the applicant. The intent is to provide a pleasing transition from the single family on the west to the commercial on the east. (along US Route 11). The Cicero Planning Board will review the building elevations, drainage, traffic circulation, landscaping, etc., as part of their site plan review.

Mr. Natali: Would you say that changes the character of the neighborhood or not?

Mr. Romans: It's a trade off from the two-story plan versus the three-story plan. There is a tradeoff . With the two-story plan there is going to be two-story apartment buildings closer to the single family versus the three story that is going to have the actual apartment buildings on the east side of the property and the buildings will be a lot further from the single-family residential on the left and because the three-story will have less impervious area, you'll have more green space. When I compare it, I compare it to what's allowed to code, the two-story diagram versus the three story needing the variance. The reality of it is that if the three-story variance isn't granted then we will proceed under the assumption that we go two story and meet the requirements.

Mr. Rabbia: Just for everyone's benefit, I think the factor reads as such: whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance. That's the factor.

Mr. Romans: I look at it that I think it would be less of a detriment to have the three stories further away from the residential using that to screen whatever becomes commercial along Route 11 because there is some properties that are developed but there are some properties that are not developed. You could have some pretty intense commercial uses there. I think the three story provides a better screening both for the single family from the commercial but also it provides better screening from the single family to the apartments because you only have a one-story garage within 60' versus a two-story apartment complex.

Mr. Stanton: So, Hal, basically the only variance that you believe is required is on the height?

Mr. Romans: That is correct.

Mr. Stanton: In your opinion, if we didn't have the variance on the height, you could have gone right to the Planning Board.

Mr. Romans: Right.

Mr. Stanton: And I'm assuming the Zoning Office agrees with that? [Someone responds but unintelligible]  
Okay.

Mr. Romans: The side, front and rear setbacks I can meet with both layouts. We have enough room on both layouts to mitigate the stormwater. The three story makes our mitigation smaller, less of an impact to the property and the community as a whole. The reality of it is without the variance we will be going to the Planning Board to build it according to code. It just seems it is a win-win for the developer and the community on a number of issues. One is aesthetics, being further from the single-family residential, less impervious area, so more green space and that's really the way I've been looking at it.

Mr. Natali: Any questions?

Mr. Romans: If you want me to read the rest of them, I can.

Mr. Rabbia: Yes, we will discuss whether and undesirable change is produced or there is detriment to nearby properties. We discussed whether the variance is substantial. Whether the benefits sought by the applicant can be achieved by some method which would be feasible for the applicant to pursue which would not require a variance. We have talked about that. The option is to go to a third building versus the two that you are proposing. Whether the proposed variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district. Having lived over in that area for over sixteen years, we dealt with water all the time. That's something that is a concern for me as we get into this. That's not really what we are talking about tonight but as we talk about environmental conditions, it's something we need to be cognizant of. And then whether the alleged difficulty was self created.

Mr. Natali: I'd like to stick with number four for a few minutes.

Mr. Rabbia: Go ahead finish it off.

Mr. Natali: These are approximately 1,200 square feet. You are going to get a substantial rent for those. Could you tell us what range they are looking at to open up?

Mr. Romans: Actually, I don't know if the applicant has the price range set up yet but looking at what he wants to do on the interior of the buildings. It's going to be two-bedroom apartments at a minimum. The idea is that anyone who rents an upper apartment is going to want at least two bedrooms so that they can have either two bedrooms or a bedroom and an office. He builds custom homes, pretty much has done that for the majority of his career and he wants to be able to use amenities that you don't find in the apartments that are available out in Brewerton and this area now. He wants to have granite counter tops in the kitchen. He wants to be able to have a fireplace, whether it's a gas fireplace, which it probably would be in the apartments. So....

Mr. Natali: Okay, but give me a range. Are you going to get at least a thousand, twelve hundred?

Mr. Romans: I think it's going to have to be at least a thousand, twelve hundred.

Mr. Natali: So, we're talking two income residents to afford that. Let's be realistic. So we're talking about traffic pattern, which is under number four, which I'm very concerned about. You have spaces for 119 vehicles. I imagine it's about the same on the three building, right?

Mr. Romans: Yes

Mr. Natali: Okay, so on the weekends, you're going to have both the income producing people at home. Now we are talking 98 spaces. You have guests. Someone may have a party in the community room. You are talking about a lot of extra traffic. I'm not sure if I lived on Walnut Hill that I'd be too happy about that extra traffic because that's a pretty quiet neighborhood with no access there. I know the County recommends that highly. You don't have to do it and we don't have to approve what the County wants but I'm concerned about the amount of extra traffic. Have you done any kind of studies. Do you anticipate the 119 spaces being enough?

Mr. Romans: I know that Cicero does not have specific requirements as far as their parking for specific uses but in the surrounding towns such as Clay and Salina, typically what you account for is two spaces per unit. Usually, what we do in an apartment complex is we put in additional spaces just for those reasons such as that you would have someone coming to visit or a get together or something like that so we have some additional parking spaces built in for it. The County would be the one that if anyone asked for a traffic study, it would be them because of the fact that Orangeport Road is a County road. We have not gone to that point yet of the site plan process to find that out. If they require us to do one, we will do one. Typically, the traffic analysis or study is done at the time of the zone change. Because this property is currently zoned for this use and since the number of units that we show is the number of units that is allowed, based upon... We take the square footage of the property for your code and we subtract out the easements that are on the property that do not directly benefit the property. So we take out the drainage easement for the stormwater. We take out the for the drainage easement coming in and sanitary going across which are considered transition easements. What is left is just the unencumbered area and we divide that by your 5,445 square feet and what is allowed by your code is 49 units and that is what we are proposing. We are not proposing anything more than what the code allows. Could there be a traffic study required by the Planning Board or the County DOT? They may. As far as Walnut Hill Road, I show the ability and actually show a gate there so that we could put one if we wanted to limit access only out to Orangeport Road. I know my client has talked to the fire department. They have a copy of the plan because we went to the Planning Board for a sketch plan. They looked at it and didn't see an issue as far as being able to serve the building in an emergency. Mainly because we show the ability to have a drive lane around three sides of it. It's going to be a sprinkler building because they all have to be sprinkled now anyway. They did say that they would discuss the gate once we get into site plan because it's really a site plan issue. He has to talk to the fire department about it.

Mr. Natali: I'm sorry, the gentleman who just came in, are you Scott?

[VOICE] Yes, I am.

Mr. Natali: Well, he [referring to Mr. Romans] just brought up emergency vehicles. I invited the Fire Chief, Town of Brewerton. His name is Scott. His last name is L E A B E R Y, Leabery. Scott Leabery.

Mr. Leabery: I just got a set of plans so I haven't been able to review them. The gate will not hinder us too much. If we have to we can take the gate out to get in there. I would prefer not to see it. My main review of this is I can put my scale ruler on it, is going to be the access for me to put my engine and my truck in here and to be able to move around and put my outriggers out. That's basically the only thing that I'm worried about and then the hydrant location. So I can access both ends and not block it with supply line in case we have a fire.

Mr. Snyder: Do you have any problem with the height of the buildings?

Mr. Leabery: No. There are going to be no taller than Bayshore which are already in existence which we already serve.

Mr. Natali: Any other questions for our Fire Chief.

Mr. Leabery: Just need the access, which I can review and get back to you on.

Mr. Natali: Chief can you stay for the open meeting?

Mr. Leabery: Sure.

Mr. Natali: Thank you.

Mr. Snyder: Mr. Romans are there elevators in these three-story buildings?

Mr. Romans: We have the ability to do elevators if we want. As it is right now, we haven't planned that far to say if we are definitely having them or not. Typically, the only reason we would want to do something like that is if it were totally geared toward empty nesters or seniors and that's not really the intent here. It's to be just an upscale apartment so right now, I don't think he's decided whether he's going to have them. Obviously, elevators have come down in price and the ability to put them in buildings like this and that would have the ability to have them.

Mr. Snyder: I was just thinking if I were paying \$1,000 or more I really couldn't see myself or my wife carrying groceries up three stories. Mr. Chairman I need to ask this question. Am I right in assuming that if this were not to be approved, that this developer can come in, can build the two-story buildings with the garages, as Mr. Romans has laid out, meeting all the setbacks. Is that what we are talking about?

Mr. Natali: Okay, that's step one which means he may buy the property. Right now he probably has an option. We've already determined that. Number two, he's got to go before the Planning Board and they have a lot of questions but there's also rare plant and rare animal studies to be done. There's all kinds of water conditions studies. I mean their work has just begun, but why spend that money if he isn't going to get past this Board. If everything else in a perfect environment, could this project go forward? Yes, in a perfect environment this project could go forward.

Mr. Snyder: I guess I am just wondering that if I were sitting out there, rather than sitting here, as a member of the community, then the choice they see us making is one, we allow three stories to be built or two, you are going to get two story facilities.

Mr. Rabbia: And that's the dialog I think we have to have. I mean never have I seen a situation where the five factors I have answered yes. I have gone through the five factors and I've answered yes to every one. Not a good sign as far as me being able to prove this. Now I'm stuck with saying do we give the variance on the height so there's only essentially two buildings versus three. I don't know, it's a dialog we are going to have to have when you start talking to us.

Mr. Stanton: Just to go back to the parking space question. Buried in our code is a requirement that each multifamily use shall have at least one and one-half parking spaces for each dwelling unit. If I look at that, that works out at 48 units to 72 parking parking spaces. We have 71 open spaces plus another 48 garaged spaces so I think they have more than exceeded what the code requires.

Mr. Romans: To answer that most apartment complexes out there that are successful, you have a minimum of two spaces per unit. That's the reality of apartment living. Even if you have no....even if it's just a spouse and husband or two people living together, they usually have two cars and if someone visits. Usually have at least two. Even the senior apartments, by code in the other towns, two spaces per unit. I know some senior projects say they can get by with 1.3 or 1.4 per unit that's fine if it is a true, total senior project.

Mr. Palladino: Mr. Romans, I have a question for you. Do the apartments run north and south or east and west?

Mr. Romans: The interior of the units?

Mr. Palladino: Yes.

Mr. Romans: What you are going to have is...see this dashed line here...this is a hallway here. So, typically you're going to have the units like that.

Mr. Palladino: Does the unit completely go from east to west?

Mr. Romans: No, well this space here when you see a side elevation, you are going to see the same on the other side.

Mr. Rabbia: It's basically eight per floor, four on each side of each building.

Mr. Palladino: So, the apartments on the third floor on the west end will actually be looking out at the garages and the houses on Wickham Drive, correct? I understand the reasoning for three stories. Did you look at whether that was going to be a privacy issue? On the second floor with the garages there that you propose, I don't see where there would be a privacy issue looking into the back yards but on the third floor, some 30' in the air, did you look at whether or not those people standing on the third floor could actually look into the back yards?

Mr. Romans: We did not look specifically at that and really what we would have to do is look at the vegetation there.

Mr. Palladino: Right, there is a tree line there, is it going to be left, is there going to be... And also, I know you didn't do the topo yet but the north end being higher there are several, probably three lots or so on that north end on Wickham that might be affected. I was just wondering if you looked at that at all.

Mr. Romans: Only enough to realize that if we had a two story here, it would be a lot more problematic than this here because you're looking at....

Mr. Palladino: Would you have balconies coming out the two stories facing west as well?

Mr. Romans: Yes.

Mr. Palladino: You would.

Mr. Romans: Basically, what would happen is that we would have patio on the first floor and balcony on the second. In that respect, it would probably be very little difference from having two story houses back here with

backyards but what might be the difference is with the two story apartments, the roof line and everything else because of what your building may be higher but still within the code.

Mr. Rabbia: Have you considered doing the project with 32 apartments versus 48?

Mr. Romans: The economics of it actually works out with the 49, barely.

Mr. Rabbia: Do you have that with you?

Mr. Romans: No. When you get into smaller complexes like that, like 32, that would be fine if we were buying a smaller amount of property that would only support that but usually what you are doing is you are paying based upon the number of units that are capable of being supported on that. So, there's be no reason, if we don't get the variance to drop it to 32 units, unless we couldn't meet stormwater mitigation for some reason which I don't picture that happening. The Town's code is really set up to make sure that doesn't happen by taking ... you gotta realize if you take out this whole are here from the calculation and this and this here, so you take out the unusable portion of the property, really what you are doing is...with coming up with the number of units per square foot, takes that into account and is really that is based upon past experience.

Mr. Natali: Any other questions?

Mr. Natali **opened the Public Hearing at 6:52 P.M.**

FOR: NONE

AGAINST: Let's have the people on the right side come up, take as much time as you want, within reason and then we'll have everyone else come up. [The people on the right side came up to inspect the drawings.] Come on up folks [The people on the left side came up to inspect the drawings.]

Mr. Natali: Okay, at this point is there someone who would act as a spokesperson? We have already opened up the public hearing and everyone has had an opportunity to look at the drawings, the two renditions of the plan [referring to the two-building and three-building plans]. We can start with anyone who prefers to come up. Are you a spokesman or do you just want to lead off. [Mr. McGraw speaking, I'll lead off.] Okay, your name please.

Mr. McGraw: My name is Owen McGraw, 9481 Wickham Drive, it's across the street. First, I had no notice of this. A neighbor put this meeting notice in my mailbox. Isn't there something in the town that I'm supposed to get a written notice in advance?

Mr. Natali: Yes, sir.

Mr. McGraw: Why did I not get that from the town.

Mr. Natali: I can't answer that. All contiguous properties should be notified. We have a list of the people that are....

Mr. Rabbia: Are you an adjacent property owner, are you adjacent to this, or are you across the street.

Mr. McGraw: I'm across the street.

Mr. Rabbia: Okay, adjacent property owners get the notification.

Mr. McGraw: I didn't get a notice.

Mr. Stanton: Right but are you on the section of Walnut Hill Road that the two parcels are...

Mr. McGraw: I'm on Wickham Drive.

Mr. Stanton: Right, so you're actually across the street from....

Mr. McGraw: Across the street from the development.

Mr. Natali: West side of Wickham.

Mr. Stanton: Our code requires notification to the people on the East side because they directly abut that property.

Mr. McGraw: I'm not required to be notified of this occurring in my neighborhood because I am across the street from where this development is planned.

Mr. Stanton: That's correct.

Mr. McGraw: Okay. Nothing that was said here is based on fact. The biggest thing that comes out to me is \$1,000 price point when at Bayshore you have low-income, subsidized housing that isn't even full. What is this developer going to do when he can't get \$1,000? He's going to drop it to \$700 or \$500 and that low income that's tucked in over on the corner over there that I just heard from our Fire Chief, Scott Leabery, that they can't get any trucks around the back of those buildings because they require 360 degree access. There's no 360 degree access here. It's not there. He also said [referring to Mr. Romans] that or he made some statements that they were going to put townhouses in originally when they came into the development. No. Single family homes was the plan. It's a swampland back there. Our road is crap and it hasn't been paved or touched because of drainage problems in years and that has not been addressed.

Ms. Zambrano: Yes it has. This year, right now, this year it's starting, Wickham will be paved.

Mr. McGraw: Will I get notice of that when that's happening?

Ms. Zambrano: Probably not.

Mr. McGraw: I don't even know who you are.

Mr. Natali: Okay, sir.

Mr. Zambrano: I'm Jessica Zambrano and I'm the Town Supervisor.

Mr. McGraw: Oh, I just read about you in the paper. Yeah, okay, let's proceed here.

Ms. Zambrano: [continues to speak without the mic, unintelligible]

Mr. McGraw: I'm sorry I thought I had the floor.

Mr. Natali: You do. Let's stick with the subject. The condition of the road doesn't belong in this room.

Mr. McGraw: If this developer wants to put custom-built homes to increase the property values of the homeowners, I have no problem with that whatsoever. But there is nothing that has been presented today that's going to show me that it's worth me staying in my house on Wickham Drive. Nothing. My property values have only gone down because of the inaction from the town in order to maintain the infrastructure that's there already. Boatworks up on the corner, they are supposed to have so many parking places for their business. Everyday when I come home, there is traffic across the street because there is no parking on the shoulder of the road.

Mr. Natali: Sir, with all due respect, this is not a public forum for what is wrong with the Town, please discuss this project and give someone else in the room an opportunity who has a specific question or statement.

Mr. McGraw: This is within feet of this entrance to this planned development. This business is across the street with no parking and it is within feet of the entrance to this development. So it is relevant. My concern is that you will not represent the best interest of my community as you sit there today. I don't see it happening. This development should not go forward at all. There is plenty of property to build high-end apartments but not the first right off Orangeport Drive. Picture it in your backyard. Picture them out on their third-story deck or their second-story deck looking into your backyards on a Friday or Saturday afternoon when you are out there with your family. It's not needed, it's not wanted. Brewerton doesn't need it. Tell me how many people are renting \$1,000 apartments in Brewerton that don't already own a home or wouldn't put that into a mortgage based on the interest rates? It's not necessary, it's not wanted and we will do everything we can collectively as a group to make sure this project doesn't go ahead.

Mr. Natali: Thank you. Please come up sir. State your name please.

Mr. Otis: My name is Nicholas Otis, 5403 Walnut Hill Road. I live in the center of the northern part of the road. I'd like to thank everyone for the opportunity to speak today. I've been a resident of Brewerton for my entire life. I went to Central Square High School, followed by Clarkson University in Northern New York. Upon graduation I lived in Utica and find myself gravitating towards my roots, Walnut Hill Road. As of right now, I am in the final stages of purchasing my childhood home which is 5403 Walnut Hill Road. I am doing this because of the ambiance which the town and the neighborhood both give off. Walnut Hill is a safe, friendly environment which is a great place to make a home. The development has long been a family neighborhood with many of the residents who are here tonight, I've known my entire life because we have all lived here our entire lives. The homes being the original builders, it's a place for families to grow with the proposition of an apartment complex, I feel as if we are losing that mentality. We are going from a place where you can put your roots in to a throughput. It's going to be an area where people are not going to be staying and making their home. With the plans of building an apartment complex in our town, many concerns come to my mind which I am sure along with others of our group here, I'd like to bring to your attention. My first question being has there been any research regarding the effects of building an apartment in such close proximity to an elementary school, Brewerton Elementary School, right across the street. I know that those class sizes are already very large within the school district and I have a concern of how that's going to affect the school district. What would the structure of the lease agreement look like with regards to its longevity. Is it month to month, is it yearly. How will that be working out. Has there been research looked into with regard to the need for another apartment complex within Brewerton? I recently moved and my last apartment was Rivers Point Way out in Clay, New York, which are apartment complexes very similar in scope. Three story buildings and I think there was about sixteen buildings in total with forty rooms in each, very similar in scope and they are just finishing them up. Now, my question

being is why fifteen minutes down the road do we need the exact same thing? The prices were for an 1,100 square foot home, I was paying about \$1,200 a month. My reason for moving to Brewerton was because I could be buying a house for that. Also my other question on that is what is the fill rate on all these other apartments? Is there a necessity for this. My final concern is what is the necessity to the connection to the complex on Walnut Hill Road? Is there anything that makes it necessary for this road to connect to our development? I am worried about through traffic. There's main road access on Orangeport Road. Why do we need traffic to come through our development. I understand that there is a proposition of a barrier there but what is our guarantee of that? I hope these questions resonate with everyone here and my concerns are taken into consideration. Brewerton is my home and I only want to see it continue to prosper as a great place to live. I thank you for listening and allowing me to voice my concerns.

Mr. Natali: Who would like to be next? Please come up sir. Mr. Romans will have an opportunity to address some of these questions.

Mr. VanEpps: Bob VanEpps, from Fran's Flower Shop. I lived there all my life. I'll keep this short. One concern is the traffic. That Orangeport corner, that can't handle 100 more cars a day. If you've ever tried to get out of there at rush hour time, it's a mess. The other thing is drainage. I've got to ask this gentleman here [speaking to Mr. Romans]. What's the setback from the buildings, from the edge of the creek to the buildings there? What's the setback you've got on that? [Mr. Romans spoke but unintelligible.] Last I knew DEC wetlands required 100' and that put a dead stop to the raceway over in the Town of Hastings. That's what's holding them up right now for one thing.

Mr. Romans: I don't believe that it shows up as a DEC wetlands.

Mr. VanEpps: Oh it doesn't? [Someone speaking from crowd speaks – It's flagged, my backyard's flagged.] There's a gentleman down in the Cortland Office DEC, he handles seven counties, this wetlands man does and he told me, not on this particular project but on other projects that I've been involved with, that it's 100' from where they say the line is. They come spring, summer whenever they get there and they say this is the water line and then they go back 100' and you can't be within that 100' of where they mark it, where they flag it.

Mr. Romans: That's true if it's a regulated wetland.

Mr. VanEpps: That stream was originally a lot bigger than it is now. Before they put the houses in there, they used to start up by the railroad tracks up by the Guyhill Road. That stream used to be 30' wide down through there. They put the houses in there and that whole field where Wickham and Woodlawn is from the church down was drained and sloped to the creek and nobody had any problems there and now, I think if you ask most of these people who live there, Wickham they have wet cellars, most of them do. That's why they came in there and flattened it and put these drainage basins in and by the way, that doesn't handle it right now. The drainage basin on my side, we're just barely getting by. My cellar's wet all the time. That's where 90% of my inventory is. You put more drainage in there, I'm out of business, cause you're going to flood both my cellars.

Mr. Natali: This would be handled by the site plan and the code office. The proper drainage would have to be there.

Mr. VanEpps: I think if the DEC was involved, I think you'll see that you're way to close to that drainage down through there, across the whole, all the way from Walnut, right down through.

Mr. Natali: Okay, anything else on this project.

Mr. VanEpps: Just the drainage is my concern. I'm not happy about it. I wouldn't want to be these poor people on Wickham Drive looking out at that. Traffic and the drainage – drainage is a serious one and the traffic too.

Mr. Rabbia: You said you've been there all your life, did you know this was zoned residential, multi?

Mr. VanEpps: Did I know it was? I didn't. What's that got to do with it?

Mr. Rabbia: I am just trying to get the perspective of someone who's been in that area for awhile.

Mr. VanEpps: I was told when they extended Wickham to the north and Woodlawn, I was told when that was done that they couldn't come any closer east because of the water...because of the drainage basin that they built at that time. ...they build two of them on on each side of Orangeport. There are supposed to be maintained, I believe by the Town, they are all sifted in and haven't been touched since those houses were built. We've got a mess there. All this other drainage from these buildings comes in there. Like I said, you're gonna put me out of business. It'll be over the road probably. If they even let you build that close.

Mr. Natali: Thank you. I understand where you're coming from. This gentleman in the back raised his hand.

Mr. French: Just to expand a little bit on your question. My name is Mike French, aka Lot 27. I am on that abutting property line so when I built in there, I think I was the fifth house being built. At that time, we were told that somebody had said something about building apartments back here and that the Town said absolutely not no apartment complexes, so I bought. Here I am over 25 years later faced with bad and worse. The gist of what I'm getting here is that we are getting an apartment complex whether we like it or not. The question is, is it 32' tall or is it 48' tall. At which point, I'd like to know if anybody's done an evaluation of myself and all my neighbors of how that's going to affect our property values and if it's going to negatively impact us, either with bad or worse, where's my avenue to recoup? How do I become whole. Because what I see here is that somebody's gotta write me a check or I gotta get the hell out of dodge because I don't wanna look at this regardless of what you do.

Mr. Natali: Okay thank you.

Mr. Hamilton: This has been very interesting. Mr. Snyder brought up a really good point.

Mr. Natali: Your name please.

Mr. Hamilton: Jeffrey Hamilton, I'm in lot 24 on Wickham Drive and yes I do live there. Mr. Snyder brought up a really good point that has me very concerned, that he was asking okay this is really about is it going to be 32' for 48'. So, the first question in my mind was okay if that's what this is about, why am I here? I don't think that anything anyone says here....maybe this isn't the appropriate time for us to be saying these things? It seems to be like what we have to say and how we feel is not a concern at this point; but I'm up here because I have to say some things. We moved from Liverpool to Cicero because there were too many people and too much traffic. We moved from Cicero to Brewerton because there were too many people and too much traffic. When we looked at the house on Wickham Drive, we loved the house but when we got in the back yard the real estate guy said, hey, you're never gonna have any backdoor neighbors because that's a preserve out there. That was a great selling point to the house. I have the same concerns as everybody else here. Traffic is going to be a (expletive). It's already congested at the peak hours. There's already a long wait at certain times and you put another 100

cars in there in and out, especially on weekends. when people who can afford those kinds of places, don't work weekends. Not to mention the fact that a community that's quiet. It's not a close-knit community but it's a very comfortable community, very low rates of crime. It's a great place to live and I work a 55 to 60 hour a week job and it's a stressful job and when I get home and I go out in my backyard and I have a nice quiet, peaceful environment, it's pretty important to me. If there's going to be apartment buildings with 96 people behind me, that's gonna anger me quite bit because it's going to be taking away something that I earned the right to have. I have a question, who's gonna benefit from this. I think two people will benefit from this. This is nothing more, it might not have a retail store sign in the front but this is a business. This is like any other business. There's gonna be someone making' money off of other people. He's gonna benefit and the businesses are gonna benefit. So this really all comes down to money to me and if the path of money is chosen over the well being of the people living in that community that are close to that, there is something seriously wrong and if that's the case, I don't wanna live in Brewerton.

Mr. Natali: Okay thank you. Please come up.

Ms. Wilson: Good evening. I'm Amy Wilson, I live at 5410 Walnut Hill Road. I'm number 28 on the Lot. My husband and I, Jeff Wilson. We just bought our home in 2013. We haven't been there a year. We are the only house on that dead end and across the street we have two wonderful neighbors and that's all we want. We have two very young children and out of all the people we have met in this neighborhood they have children too. We do not want the traffic. We do not want anybody in our backyard and privacy issues, right behind our house where all this is going to abut up to....we are taking the hit here in this back. They are going to see in my home. Who is looking at them. Who is walking past them. There is going to be a gate on this dead end road right next to my house. Who is going to manage this. Who is going to keep my kids safe because right now, me and my husband do that and my neighbors and God bless them all. They are the nicest people I've ever met. I don't know any of those people who are going to be living in an apartment and Nick made a very great point. He grew up in Brewerton and so did I, in a home. We didn't live in apartments in Brewerton. Brewerton is about people who have lived there their whole life and keep coming back there to settle their roots. Not to live in an apartment and go fly their wings somewhere else. That's not what this is about. This is about our community. This small safe haven that we moved into less than a year ago for that reason. We live on a dead end road that I thought no one ever... when I got this letter a week and a half ago. I'm still floored right now. Mr. Loscombe, I'd like to see his backyard with his children who go to my kids' schools. Is he going to have to worry about my concerns and all of our concerns? Nope. He's going to be getting the money from those apartments, if he can sell them and when he can't, what's going to happen then? If anyone can give me those answers tonight, which I know you can't, so I'm not asking you to but what I want you to hear is this is not ... Brewerton is not about this, it's about family and communities like everybody else has spoken up here and the safety of our families and this to me is very scary. I cannot put my house on the market tomorrow and get another down payment for another home because if I could, in a heartbeat if this is gonna happen, I would, but I can't. Nobody can give me that money either and my relator, is now our friend and I don't want her to be part of my family. I didn't marry her and that's what this is gonna turn into a marriage with my relator and that's not what we wanted. Thank you for listening.

Mr. Natali: Please come up.

Ms. Russell: Hi, my name is Cheri Russell and I'm actually not at the dead end. I'm across the street from Amy and Jeff (Wilson). I am on away from the house that would abut to the new property. I'm very close to where all of the traffic that does not exist now would be coming in to. The road would be extending beyond my road. I've lived there for fifteen years and I've lived there that long because of the two dead ends at the corner of the property that I live in. My son has played in those streets because there's no traffic. We have a basketball

court at the other end that all the neighborhood kids play at, because there's no traffic there. They ride their bikes along the back street, because there's no traffic there. There are always neighbors looking out for one another in that neighborhood. Whether they be the retired folks that are walking their pets or people with kids. All of us look out for each other and all of us in some way, shape or form know who the other person is because it's that small. My concern is that all of that will be taken away when you start bringing traffic through out neighborhood. Even if it's a gate with a card, that's still two cars per apartment per day having the potential to come through our neighborhood. The traffic would be too much. I'm also concerned, from what I understand tonight, is what we are really looking at is whether there is going to move forward with a two-story or a three-story, not whether or not it's going to happen. It looks like that's another meeting. Is that right?

Mr. Natali: Another board.

Ms. Russell: Yes, right, there's another meeting with other approvals that would need to happen so some of the conversations that we've had need to carry over it sounds like and we need to express our concerns in that direction. Today, I'm having a hard time understanding the benefit of either one of them; but given that there's a two-story or a three-story being proposed today, I think the privacy issue is going to be an issue regardless. I think given the height differential...if you look at our neighborhood we are very low, we are set very low, and there is a gradual and rather grand incline as you go in that direction so anything that would be built upon, even if they took some of that dirt out, it already starts out a higher point than our neighborhood so you'll be looking at even with a two-story type of structure, they're gonna be looking right over us; and the direction of the balconies, it's gonna be like having dinner with the apartment folks. The transient quality of an apartment building is of concern to me but I know that's a separate venue. We have a very stable neighborhood. People stay. The houses in our neighborhood sell within a couple weeks because of the fact that they're private because there's nothing behind us and that's a huge draw for people like Amy and Jeff (Wilson) who just moved in because it's quiet, it's private, there's no traffic. All of that will be taken away if this is built. I guess I'm having a hard time understanding the benefit of either one. So you might be able to talk to us a little bit more about what that's gonna look like! Height wise because I'm not a mathematician that would be great.

Mr. Natali: Thank you.

Mr. Wilson: Hi, Jeff Wilson, 2854 10 Walnut Hill. It seems like things are kind of out of order. Is there any way for you guys to say, we're not gonna vote on the height variance because we need to figure out if this is possible or not?

Mr. Natali: Not really. We have a job to do tonight, one way or another. Do you have anything to add?

Mr. Wilson: The way somebody else put it, it's either bad or worse, I understand that.

Mr. Natali: We understand the options sir. Please come up.

Mr. Hickok: Good evening my name is Charles Hickok and I live at 9485 North Wickham. The only thing I can say is bringing this proposal forward. What you have done tonight is that you have united our entire neighborhood and we are going to fight this as hard as we can.

Mr. White: My name is Tim White, I live at 9525 Woodlawn Drive. If we have 49 apartments going there at roughly \$1,500 a month. That's \$900,000 for the builder. How much do you think these people are going to get for their homes if they try to sell at the current price? Everything's going to go down in that neighborhood. Now the traffic with another 120 vehicles at that corner. I live on Woodlawn Drive, the overflow traffic is gonna be

coming down Woodlawn Drive. We don't need that traffic, our kids play in the road, they ride their bikes in the road, who's gonna be responsible then? We're gonna be the bad people for letting our kids have a good time. Who approved the project in the first place? Did you fellas?

Mr. Stanton: Mr. Chairman can I just say something?

Mr. Natali: Sure.

Mr. Stanton: Just for clarification, this project has not been approved. The only reason this is up here tonight and you folks have been notified is because the builder came and wanted to construct a building that violated our zoning code. So, we did not initiate this. The builder came, wanted to build a structure and the town has a process in place where we say time out, this needs to be looked at because you are proposing something that violates our zoning code. At this point, no one on this Board is either for or against it. There is a reason for the public input and there's a reason for the process. We are listening to all of you, we are taking notes, and we are considering what's going on here; but if anyone is under the impression that the Town spearheaded this, that's completely incorrect.

Mr. White: Well, the way it sounded is that the 32 apartment complex is approved. Is that approved or not approved.

Mr. Natale

Mr. White: Okay, so nothing's been approved.

Mr. Natali: All it means is if they elect to go that route with the 32 units, they bypass our Board. We are an appeals board. His decision was [referring to Mr. Richard Hooper, Director of Code Enforcement] you're violating the height. You have a right to appeal his decision and that's what we are doing tonight. You're appealing his decision. We don't handle sidewalks, water, floods, cattails, that's all the site plan and all the agencies that protect our environment so they have a lot of hoops to go through after us. So, that's why I am trying to keep us on task. You bring up some good points.

Mr. White: Okay so before you guys make an approval or disapproval decision, go down and look at the back of the houses physically. Go look at the real brick and mortar that's there, not something on a piece of paper. There's families in every single house. Take a look at what's gonna go up behind them.

Mr. Stanton: I was there just this afternoon.

Mr. Natali: It's a requirement of this Board to go out. I know who has a porch, who has a side porch. You can't even hide with a side porch. We understand or we are not doing our jobs. We want to hear from each and every one of you, although you are starting to repeat, we'll stay here until midnight if we have to. I want you satisfied that we took into consideration all your feelings as long as they are within our job description and then we are going to go through the five factors again. Hal [Romans] deserves due process to answer some of the questions about the studies; he can answer some of those but he's not going to spend time on drainage. Drainage has to be part of the site plan. They won't put one brick up without all the agencies so I appreciate your comments and if you have more, please continue.

Mr. White: Well, just remember when you make a decision, it's not just the buildings that you see there on the back side, it's forty homes in the whole community. Thank you.

Mr. Natali: Okay you were up once but you were short and sweet, you can come up again.

Mr. Wilson: Will you be sharing what you've heard tonight with the Town Planning Board?

Mr. Natali: It will be in the minutes sir. She's recording the minutes. We have a chance to review the minutes and believe me, Mr. Smith, the Chairman of the Planning Board, he will go over all of them and the applicant's already been before him. Likewise we have already read their minutes so while reading the minutes isn't mandatory for my Board, as Chairman, I read the minutes just to see if there might be something I missed. He [referring to Mr. Smith, Chairman of the Planning Board] will have a copy of them as well as all the Town Board members. They're very interested in the project and as you see, the Town Supervisor took time out tonight to be here because she knows this is an important project and she's very concerned about it. The minutes will be here, you can go on line and look at the minutes. If you think something was mis-led or mis-said, we have to save the tapes. In fact they have a packet of tapes over there from the last several meetings. I hope that answers your question. That's why the process is important and this is only the beginning.

Mr. Wilson: Do we know when the Planning Board will be dealing with this?

Mr. Natali: They meet twice a month.

Mr. Snyder: They meet this Wednesday the 7<sup>th</sup> but I don't know if it's on the agenda.

Mr. Natali: Yes, it might not be on the agenda. It's too soon for them to be on the agenda but I don't know.  
Mr. Romans what are you shooting for?

Mr. Romans: Actually what we are waiting on is to see if we get the variance before we initiate the topo survey and everything else.

Mr. Natali: So, it would be two weeks from Wednesday.

Mr. Romans: Or longer...

Mr. Natali: ...or longer. Okay next?

Mr. French: Okay you'd stated that this is a very important project to the town so I would like to know, what is the Town's anticipated tax revenue from this project succeeding.

Mr. Natali: Not appropriate for this meeting sir, I'm sorry.

Mr. Snyder: We didn't say that it was an important project.

Mr. French: You said it was a very important project to the Town Supervisor.

Mr. Natali: To be on top of because she wants your votes, she wants you happy.

Mr. French: And she's also looking at anticipated revenues and I'd like to know what that is.

Mr. Natali: All that information would be available down the road but not as part of this meeting. Anybody

have anything new to add that hasn't been said? Please come up sir.

Mr. Smith: David Smith, 9508 Woodlawn Drive. I know this is just a 38' or 49' variance in the height and I would go with the lower. Don't give the variance.

Mr. Stanton: I'm sorry sir, you'd vote "no" for the lower height?

Mr. Smith: I'd vote "no" to the variance and stay at the lower height.

Mr. Natali: Stay at the lower height. Anybody else? Okay, something new?

Mr. McGraw: What is the date of the next Planning Board Meeting?

Mr. Snyder: Wednesday

Mr. McGraw: This Wednesday at what time?

Mr. Snyder: At 6:30

Mr. McGraw: In this room.

Mr. Snyder: Yes.

Mr. Natali: But the applicant doesn't think he's going to be ready. He's going to need some more time.

Mr. Stanton: Those agendas and who comes in front of the Planning Board is available on the Town website so, in addition to those notifications that those who abut the property receive, I would recommend that anyone who doesn't get those notifications, check the Town website to see what's on the agenda.

Mr. Natali: Okay, anyone? Something new?

Mr. DiNiro: Matthew DiNiro, 9450 Wickham Drive. Has a feasibility study been completed for this project. The reason I ask is because we are having difficulty building single-family homes down in Kildare. Estates which actually adds value to personal wealth. This is going to be increasing the neighborhood by approximately 140%. There is only 40 houses in the development. You are looking at adding possibly 49 more units so that's a 140% increase in a confined space. I was just wondering if any of this has been taken into consideration.

Mr. Natali: I understand. The applicant is going to have a chance to answer some questions and that's the first one I will ask him, okay? Alright, we are looking for something new at this point. Yes ma'am?

Ms. Russell: [Cheri Russel returns] I just wanted to reiterate that I think that what tonight is about is...we are very emotional group...we are very connected so we lose track of what is actually going on tonight. I think that right now what folks are trying to do is to decide whether, if this were to be approved down the line, whether we as a group, would prefer it to be two-story or three-story and that they would consider what we are feeling and thinking when they looking at whether or not to approve the variance for the three-story building. So, I think that that's all, if I'm correct, that's really what we are talking about now and that we all need to go to the Planning Board meeting in the future and that will bring in some of the other concerns that we have. So, if we could focus on two-story or three-story buildings tonight. I think they are looking at that type of feedback from us so that

that can help them make their decision.

Mr. Stanton: Ma'am that was much more eloquent than I put it, thank you.

Mr. Natali: Okay, Mr. Romans. We are still in the open hearing. Mr. Romans, question of any feasibility studies that your applicant did to know that this is a viable project and any impact on the environment.

Mr. Romans: I will have to check with him and see what he has. Really, the last person that was up, that's really why we are here. The property, just so everybody understands, the property is zoned for this use. It's not an approved project. What it is is that the applicant who would like to do an apartment project here wants to know whether he can go to a three-story or remain at a two-story for the project. So that really is what this board is looking at. The feasibility study, or traffic study, or stormwater design. That's all things that the Planning Board may ask, definitely they will the traffic, definitely they will the stormwater. I don't know if they will on the feasibility only because we are not looking to change the zoning or use here. The zoning is RM. It allows for this use. The project is privately funded. It's not public money that's going into it. Usually, my clients, developers, do a certain level of study to see if they...they're putting up their money. They are not doing this to lose money. So they usually do a certain amount of studies themselves to make sure the project is going to be viable. What exact studies he has, I can definitely find out but as related to two-story versus three-story. It really doesn't have an impact, at least in my mind. At the end of the day when we go through site plan approval, if it's determined that there is wetlands on the property...obviously we have to avoid those or mitigate anything like that. Stormwater mitigation I have already discussed. Traffic that's something again that we would go through with the Planning Board. Usually what happens is, we hire an engineer to design the facilities, they are then reviewed by the Town engineer so you have one professional designing them and one professional reviewing them. The County will weigh in again under site plan just like they did under this variance; but as you said at the beginning of the meeting a lot of the issues they brought up were site plan issues and not related to this. Really why we are here tonight before my client starts to complete all his studies is does he have the ability to do a three-story which would alter greatly his layout or not. If he doesn't get the variance then all indications are to me that we would proceed under the assumption that we didn't get the variance, we keep it to two-story. We meet the code on stormwater, traffic analysis, anything they might ask.

Mr. Natali: I do want to say Hal [Romans], traffic patterns fits under number four. That's why I'm very concerned about the traffic pattern and the increase. Okay anything else.

Mr. Stanton: Along with the physical impacts, because I have my notes, I was listening. Could you explain the connection to Walnut Hill Road?

Actually, we just showed that with a gate thinking that it would be an emergency access only. For the simple reason that most emergency responders like to have a backup entrance in case, for some reason, you had an accident at the other entrance, you have that secondary exit. It's not meant to be anything that's carded or anything like that. It would strictly be kept locked and then if the fire department was responding to a situation there; if there were an accident in the driveway out front, they have the ability to get into the facility from another avenue. Usually, what most fire departments tell me is, we'll get in whether we cut the lock off of the gate or drive through it. Who's responsible for that? It's on the applicant's property, he'd be responsible for it.

Mr. Stanton: The other question that stood out in looking at the physical impacts on the neighborhood, is has any thought been given to shielding the existing houses, any privacy aspects? A fence. I understand you said you were going to, sorry the builder was going to try to keep as many trees as possible. Are there any other thoughts on that could be done.

Mr. Romans: We had been thinking about that again. It's how we lay it out here as to what we are going to do. The Town of Cicero Planning Board is very proactive on screening. So, what we pictured is that we would submit something and they would probably ask for either additions or changes or accept it and we would work with them to come up with adequate screening. Most projects of this nature, the developer wants screen as much as the adjacent people.

Mr. Rabbia: How would you screen a three-story view down?

Mr. Romans: There's a number of things which you can do. One is you can put a berm along the back of the garages, plant trees on top of the berm. One thing that's nice about having the garages 60' away from the property line is it does give you room to gradually berm up the property in order to do that. I'm a big proponent of keeping the vegetation in tact if you can. To me, that's important. One of the other things is, we may be asking for the 48' but if we can do something grading-wise that actually brings down that portion of the property where the building is, that in fact helps the screening too because instead of trying to meet the grade on the north end where it's higher, perhaps we cut in and excavate out, take material out and this northern part comes down, closer in elevation to the southern part. There's a number of things we can do but we don't know to the extent of how much of that we are going to do until we know which layout we are working with.

Mr. Stanton: I just wanted to make sure Mr. Chairman. Did we open for the "for" and no one wanted to speak to that portion and we closed it; and then we opened it for the "against" and everyone who came up has spoken against.

Mr. Natali: Correct.

Mr. Stanton: Okay just wanted to make sure.

Mr. Rabbia: I'd like to make a recommendation that we do our debate and then maybe we ask for a straw poll.

Mr. Natali: Let's close the public hearing. I now close the public hearing.

**Mr. Natali closed the Public Hearing at 7:49 P.M.**

Mr Natali: At this point, we want to go through the five factors. Would someone want to make a motion or take the lead on this?

Mr. Stanton: Yes, Mr. Chairman, I can take the lead on this. Just to lead into this, so that no one is confused as to what our purpose is, again. We are charged with approving the minimum required variance on the existing code barring any alternatives that would allow this project to be built. We do not issue the building permit, we don't give any of the planning approvals, we don't give anything else except what is being asked which is a 48' high structure where the code allows a building height of 35' in an area zoned Residential-Multifamily. So in order to evaluate that, we have 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: Yes.** That is with some caveats. This area was planned as an RM, Residential-Multifamily. However, the proposal is to build a taller than allowed structure and in my opinion, this

is not in keeping with the feel of the residential neighborhood.

Mr. Natali: I agree.

Mr. Rabbia: I agree. In my mind this obliterates the neighborhood in terms of the character of the neighborhood. I think, yes, it's been zoned Residential-Multi but I think there is a number of different ways to do it to get Residential-Multi. Maybe they are not the most desirable from a pay-back perspective but there's different ways to do it and I think this does impact the character of the neighborhood.

Mr. Natali: Just to add to that. A lot of effort and grant money has been put in to preserve the hamlet of Brewerton and that's only a few blocks away from this project and that's definitely, in my opinion, not in keeping with the neighborhood. There's no other apartments in the area. I'm talking about the immediate area that we're concerned with. Yes, there's very little commercial and it's very light commercial. While they said they would make a buffer protecting the residential from the commercial, there's enough room there so it really should be residence. So are we all in agreement that it is changing the character of the neighborhood?

**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: Yes.** The applicant showed that tonight but there's opportunities to even reduce the impacts of the variance being requested by changing the pitch of the roof, maybe depressing the first floor, or constructing more buildings with two stories which is what was proposed as an alternate and this would all allow the requested number of units to be constructed.

Mr. Natali: I agree.

Mr. Rabbia: I agree, it's a yes. We need to come back to this one I think.

Mr. Snyder: I agree. I really want to get a straw vote.

**All agree.**

**Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes.** The requested Variance is a 37% increase over the maximum building height of 35'.

Mr. Natali: The applicant agreed with us that 37% was 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: Yes.** I put a lot of thought into this one and I feel that as proposed, the answer to that it yes. The applicant is proposing to construct an apartment complex adjacent to a residential neighborhood. Now it is zoned that way. However, my feeling on this is this is much more of a, if you want to call it a “commercial-style” apartment complex than something in keeping with what the neighborhood would be. This is going to result in, at a minimum, increased traffic, increased population density and alterations to existing drainage patterns, which would obviously have to be addressed but I do have to mention it.

Mr. Natali: I want to add that it definitely affects the traffic pattern. Orangeport and Route 11 will be very very difficult to get in or out of without a light and getting a light is very difficult. Any other comments on the physical aspects?

Mr. Palladino: I agree with you but not for the stated reasons. Whether the proposed Variance will have an adverse affect. I think it will by the fact of the height. I mean we are talking about the height. If this project goes through with two-stories and three buildings, you're still going to have road problems, you're still going to have issues that need to be addressed. We are talking about the height, and that in itself, I would normally say no because it is substantial in talking about the height. In this particular case however, I agree with the decision that it is an adverse affect because as it stands now, I don't know and I don't think any of us know how a 47 plus foot building is going to affect the early-morning sun, affect back neighborhoods, mold issues...on and on and on. So, I vote yes but for that reason.

Mr. Natali: So we have a Yes for number four.

**All agree.**

**Factor 5 – Whether the difficulty was self created? Answer: Yes.** That's always an easy one to answer. The answer to that one is yes.

Mr. Rabbia: I think it's important to note that it's very rare for us to answer “yes” to all five of these. One maybe two but “yes” to all five is a very rare situation.

Mr. Natali: It has not happened in the seventeen years I have been on the Board.

Mr. Stanton: The reason why it is self-created is because the applicant is choosing to propose to construct structures that are over the 35' maximum allowed by the code. This is the one factor, however, that we have leeway on. If everything else was “no” and this one was “yes” this is not solely a reason to deny the variance.

Mr. Natali: So the applicant's probably happy he didn't purchase the property.

Mr. Stanton: As my colleague did mention and we've said this before, we do have a resolution from the Onondaga County Planning Board. We've read it, we've noted it but for better or worse, it does not apply to our decision here tonight.

Mr. Rabbia: I think we have a situation where I can see how taller might be better. I can see the down side of shorter as well. I can see it both ways so I could be swayed to go either way here depending on what the feeling is out there.

Mr. Natali: I'm sorry sir, not at this time. Thank you. Here's what we have before us. Number one, we've all agreed that it is affecting the character of the neighborhood. Number two, we do have an alternative, it's right there. He can operate within that or he could even maybe come down, change the design, excavate, and now ask instead of 13' or 37%, he might be asking for 10% which we might consider but that's not what's before us. We have to vote on what we have and number four, we've already talked about some of the limitations although they are not, a lot of them are out of our bailiwick, but we have five “yes's” so based on that, we're gonna vote.

Mr. Snyder: Can we have a straw vote first? I think what my concern for the people who are impacted by this is whether three-story, less building near them, or two-story, more building. I don't think there's a question in your mind whether you want the project to go through. I think the answer is you don't want the project at all but that's not what we are dealing with. That's the Planning Board and that's where you would have to bring your concerns. I guess, I'm just curious if it got down to where we just had A or B, two-story, three buildings or three-story, two buildings what would the neighborhood want if that was the only choice they had.

Mr. French: May I be allowed?

Mr. Snyder: I don't know, you'll have to ask the Chairman.

Mr. French: May I be allowed, sir.

Mr. Natali: Why don't we keep this as transparent as possible and allow this, as long as we don't get emotional and as long as we don't cover things that we have already covered. It's highly inappropriate to poll the public in a situation like this but my colleague might be going somewhere with this. We'll allow it and it may influence his decision but it may not influence anyone else's opinion. So if you'd like to come up again.

Ms. August: Are we opening the public hearing again.

Mr. Natali: No, we'll have to open the public hearing but let me get the ground rules first okay. I will open the public hearing. We can't review everything that's been reviewed. It should be fairly simple. We have allowed a lot more than is really necessary but we want you to feel that you have input. In our minds, you can see where we are headed but my colleague obviously has a message here so I will open the public hearing at 8:02 PM.

**Mr. Natali opened the Public Hearing at 8:02 P.M.**

Mr. French: My concern with what he is proposing is we are faced with a bad or worse situation and as a group we have not had the opportunity to talk to one another to see what it is we would be comfortable with and so to ask us to take a straw poll when we haven't had the time to really analyze it, I think is not fair to us. I understand the difficulty of the decision you have to make but that's my concern. I'm only speaking for me

because I would like to get input from my neighbors to see how they feel about two versus three. That's my concern.

Mr. Stanton: Let me put a spin on this. One, I think it's a personal thing and not a group thing as to whether you would prefer the two or three story buildings. The overriding point here is that if we deny this variance tonight, the applicant can come back with a 45 ½' structure so that doesn't preclude him coming back...or he could come back with two 50' structures, it doesn't preclude him from coming back as many times as he wants to with different alternatives to buildings of different heights. This decision tonight would not necessarily shut the door on anything this is us ruling on whether we feel that there was an alternative, some feasible alternative, or that this is the minimum variance that is required.

Mr. Natali: Okay we are not going to take a straw vote.

Mr. Natali closed **the Public Hearing at 8:04 P.M.**

**Factor 5 -All agreed.**

**Motion** was made by Mr. Natali, seconded by Mr. Snyder, to **deny the Variance** for the 48' height based on the five factors that have already been discussed. There was a "yes" to all five factors and therefore the benefit to the applicant does not outweigh the benefit to the community.

Motion was put to a vote

Mr. Rabbia	Yes
Mr. Snyder:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

**Motion was duly carried.**

Motion and vote was unanimously approved to adjourn the meeting at 8:05 P.M., as there was no further business before the Board.

Respectfully submitted,  
Ann Marie August, ZBA Recording Clerk