SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: April 1, 2015
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Wednesday, April 1, 2015 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali	Board Chairman
	Charles Stanton	Deputy Chairman
	Mark Rabbia	Board Member
	Gary Palladino	Board Member
	Donald Snyder	Board Member
Absent:	None	
Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Richard Hooper	Director, Code Enforcement
	Ann Marie August	Recording Clerk

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

Chairman Natali called the meeting to order and asked for a roll call of Board Members present. He pointed out 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 from the March 2, 2015 meeting?

Board: Yes.

Mr. Natali: Are there any corrections or additions?

Mr. Stanton: Just a few. Page 14 of 19, my comments in the last sentence, insert “may” between the “but” and “not.” Then, page 17 of 19, my comment should be “proscribed by the code.” Fifth comment up from the bottom, my comment “you can drive,” please insert “on” before the comma. That’s it.

Mr. Rabbia: I’ll make a motion to approve the minutes, with the corrections, to the March 2, 2015 meeting minutes, seconded by Mr. Snyder.

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 public participation at all public meetings and, therefore, urges all who wish to address those in attendance to utilize the microphone located in the front of the room.

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

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Mr. Natali: We have proof that all items on tonight's agenda have been advertised as directed by law.
I will now briefly review the process for tonight's meeting for the benefit of those present that have never been before the Zoning Board of Appeals. (1) Each applicant will have a chance to describe their project. (2) The Board will then ask questions about the project. (3) I will open a public hearing where people will be able to speak for or against the variance. (4) The applicant will then be given the opportunity to rebuff what is stated. (5) Board members will again have the opportunity to question the applicant. (6) The Board will openly discuss among themselves the Five Factors that determine the final decision. We have not had a pre-agenda meeting so this is the first time we get a sense of how each of us feels about the variance. (7) A motion will be made, seconded, and voted upon.

BILL ANDRIS (WIDEWATERS) (APPLICANT)
7980 BREWERTON ROAD
AN AREA VARIANCE FOR PROPSED LOT 1 SITE A: DUMPSTER ENCLOSURE HAS A 3.0 FOOT REAR YARD SETBACK WHERE 25.0 FEET IS REQUIRED AND PROPOSED LOT 2 SITE B: RESTAURANT BUILDING HAS A SIDE YARD SETBACK OF 10.4 FEET WHERE 15.0 FEET IS REQUIRED AND THE DUMPSTER ENCLOSURE HAS A REAR YARD SETBACK OF 0.0 FEET WHERE 25.0 FEET IS REQUIRED.

Mr. Natali: The first case we have this evening is a repeat of Widewaters with Mr. Bill Andris with a few changes. We do have your new survey

Mr. Zinsmeyer: Good evening everyone, my name is actually Neal Zinsmeyer from Napierala Consulting. I

am here for Bill Andris, from Widewaters Country Squire II, LLC, our clients. The last time we presented our plan the issue was setbacks with the dumpsters and the building. The Board was concerned with the location we had showed them previously, mainly for safety and what not. We brought the Board's comments back to the tenants and the owner, of course, and we gave you a modified plan with relocated dumpsters. The building is still where it was before but as you can see on the north side, the Dairy Queen, we pushed the dumpster to the northeast corner and we pulled the dumpster away from the intersection, closer to the building itself. I know the Board was concerned about visibility at the intersection and this plan…we still need the variances but I think we can all agree that this is better than what we presented last time.

Mr. Rabbia: I think you are down to two variances now, correct?

Mr. Zinsmeyer: Correct. Well three variances, one for the building and one for each dumpster.

Mr. Stanton: You've checked the turning radii for the garbage truck and your satisfied that you can fit that turning radii within your layout.

Mr. Andris: Correct. Especially for Dairy Queen as you can see we angled it as best as possible for access. They can get in and get out. As well we tried to align the Lot B dumpster with the drive by as best we could and we lose a couple of parking spaces but this is really as tight as we can get the project and still meet the requirements for the tenants.

Mr. Snyder: In Lot B you've put the dumpster cage right up tight to the building?

Mr. Zinsmeyer: No, it's five feet off the sidewalk.

[Board discusses which plan is the most recent.]

Mr. Snyder: I just couldn't believe you were going to put it right up next to the building.

Mr. Zinsmeyer: No, we had it that way once but we really needed the five feet. So we revised it again and resubmitted it for a third time. Yes, so we are five feet off the building to meet the fire code.

Mr. Natali: Any questions? [No response from the Board.]

Mr. Stanton: If the Board does not have any other questions, I'd like to go through the Five Factors.

Factor 1 – Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created? **Answer: No.** Area is commercial in nature and proposed dumpsters have been located to comply with the combined zoning and planning comments and provide adequate access for garbage trucks. The proposed side yards are adjacent to and separated from an existing access driveway.
All agree.

Factor 2 – Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an Area Variance. **Answer: No.** While other positions for the proposed dumpsters and the proposed unnamed restaurant exist, the current positioning is an ancillary result of combined Planning and Zoning Board comments and the applicant's attempts to meet said comments, as well as accessibility for garbage removal vehicles.
All agree.

Factor 3 – Whether the requested Area Variance is substantial? **Answer: Yes.** At least one of these is substantial, so I'm going to answer "Yes" on that. The requested variance for Lot 1 Site A 16.8% (25'-20.8'=4.2') of the required 25 foot rear yard requirement. The requested variance for the dumpster on Lot 2 Site B, which is the one I believe is substantial, is 64.7% (15'-5.3'=9.7') of the required 15 foot side yard requirement. The requested side yard variance for the building on Lot 2 Site B is 30.7% (15'-10.8'=4.2') of the required 15 foot side yard requirement. Please reference discussion of Factor #2 for additional reasoning on that but also note that this should not be a deciding factor.
All agree.

Factor 4 – Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? **Answer: No.** The two proposed structures will occupy a currently long standing empty lot in a commercial district. The structures are proposed to be restaurants, which comply with use requirements for this district.
All agree.

Factor 5 – Whether the difficulty was self-created? **Answer: No.** These difficulties were solely created by the combined Planning and Zoning Board's respective reviews. The Applicant's attempts to address these comments do not result in a self-created difficulty.

Mr. Natali: Well it's a moot point but I do consider it self-created and it's not going to weigh enough to sway the decision here. When you buy a piece of property you obviously cannot have the foresight but you are limited to what you can do. You could actually make it a little smaller but we managed to fit it here. So, I feel it is self-created. This doesn't have to be unanimous.

Mr. Palladino: I think it's self-created.

Mr. Snyder: It's hard, I mean it's a flip of the coin.

Mr. Rabbia: I agree, by definition, I think it's almost always self-created.
Factor 5 – opinions as noted above.

Mr. Natali: Mr. Stanton did you want to comment on the County?

Mr. Stanton: The County had various comments. They did not close this out by saying that there were no inter-county implications on this but the majority of the comments…all of the comments are outside of our purview so we can't address them.

Mr. Natali: Motion please.

Mr. Kirwan: Before he does that, we want to acknowledge that SEQR has probably been determined by the Planning Board so your initial motion that they are Type 2, will be deferred to the Planning Board for whatever

determination they make on SEQR.

Mr. Stanton: Perfect, thank you. To reiterate what our attorney said, regarding the SEQR determination, we are going to defer to the Planning Board on this.

MOTION by Mr. Stanton, seconded by Mr. Natali as follows:
Lot 1 Site A; proposed dumpster enclosure that has a rear yard of no less than 20.8 feet where 25.0 feet is required. Lot 2 Site B; proposed restaurant building that has a side yard of no less than 10.4 feet where 15.0 feet is required, and a proposed dumpster enclosure that has a side yard of no less than 5.3 feet where 15.0 feet is required. Variances reference structures depicted on drawing SK-18 entitled "Widewaters Commons Outparcel" dated 04 February 2015 with revisions on 1/23/15, 3/16/15, and 3/18/15. All other bulk requirements will be met.

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.

AARON BALLARD (APPLICANT)
7013 VAN ANTWERP DRIVE
AN AREA VARIANCE WHERE THE EXISTING HOUSE IS NONCONFORMING. IT HAS A MINIMUM SIDE YARD SETBACK OF 5.21 FEET WHERE 6.0 FEET IS REQUIRED. THE PROPOSED ATTACHED GARAGE ADDITION IS AN EXPANSION OF A NONCONFORMING STRUCTURE. THE PROPOSED SIDE YARD SETBACK IS 11.77 FEET WHERE 15.0 FEET IS REQUIRED.

Mr. Ballard: I was looking to put up a 24' x 28' detached garage. The house is currently without any garage at all. So, I'm looking to put up a two-car detached to match the house. The architect, Dean Johnson, who I am sure you are all familiar with, told me it was 10' from the house but then when we looked, he might have mentioned that it was 10' from the structure. So, of course, my porch that comes out on page three, you'll have to tell me if that 10' from the house or from the structure. I am willing to remove the porch if I have to. I really need the garage.

Mr. Stanton: The point on this revised plan that you've given us is that, for all intents and purposes, it appears that the garage kind of occludes part of the front step, the way it's drawn.

Mr. Ballard: Correct.

Mr. Stanton: Is that really the intent?

Mr. Ballard: No. I'd like to see if I could move it over to the right a little bit.

Mr. Stanton: But that's not on…I mean you're proposal is for 6' from the property line which sets it where it

is. If this isn't your final question, need to get that to us so we can make a determination.

Mr. Ballard: I think the question is how far can you go…five feet, six feet?

Mr. Stanton: Six feet is the code offset. If you are requesting something less than that, then we need to see it because that's part of what the variance process is. Not to jump out of line here but Terry (Kirwan, Attorney) and Richard (Hooper, Director of Code Enforcement), the County Resolution was based on an attached garage. Do we now need to throw this back in front of them because we have a detached garage?

Mr. Ballard: I was hoping not to because…

Mr. Stanton: I know I ask these wonderful questions during our meeting but…

Mr. Snyder: Can you tell us why you moved from an attached to a detached.

Mr. Ballard: Because of the $80,000 quote I got.

Mr. Snyder: $8,000?

Mr. Ballard: No, $80,000

Mr. Snyder: Wait a minute, say this again?

Mr. Ballard: The quote that I got to have it attached, to do all the concrete work and everything like that was just way too expensive for me. Way too expensive.

Mr. Snyder: You got multiple bids, I hope.

Mr. Ballard: Yes, I did.

Mr. Stanton: My concern is, not taking into account the price, you've shown us a feasible alternative that fits within all the zoning requirements and doesn't increase an existing conformity. I'm sorry, an existing non-conformity which was the existing side yard offset on the existing house. It keeps the front yard the same, there's a 6.5' side yard on the new garage and we don't violate any coverage. Really the only things that are wrong with it is that the lot is 50' wide and should be 75' which is out of your control and the side yard setback on the existing house. So you have actually shown us an option that can be done without us having to grant a variance on the garage itself.

Mr. Ballard: Do you have both plans in front of you?

Mr. Stanton: Yes

Mr. Ballard: Hey, if I can get a lower quote, I would be more than happy to have it attached; but as I was looking at the three quotes that I got, they were just way over what I had thought they would be.

Mr. Stanton: And that's where we need to have that explanation because the first question is whether there's an option that the applicant can pursue that minimizes the amount of impact here. Okay, you say $80,000 was your high quote what was the….

Mr. Ballard: $60,000, I'm just looking for a garage here and detached went down into the $30's.

Mr. Rabbia: How long have you owned the property for?

Mr. Ballard: Less than a year. It was April 10th. I would like a garage, obviously, for tools and lawnmowers, and…

Mr. Snyder: You don't own the one across the street do you?

Mr. Ballard: No I don't. All I have is the shed out back which is basically fishing equipment and life preservers. I have lawn mowers, bicycles in the side yard, and not only is it an eye sore but for security purposes. So, the reason I wanted to go over to the right a little bit is to have a garage door, a bay in the back. So you would be able to drive through.

Mr. Snyder: To get your boat…

Mr. Ballard: To get the boats or to get any type of thing…

Mr. Stanton: I did note that this was two stories, there's no plans for bathroom or any kind of rooms upstairs?

Mr. Ballard: Just a lot of storage.

Mr. Palladino: Just more storage is what the second floor will be used for?

Mr. Ballard: Yes. Symmetrically, I just want it to look like the house because it's a tall narrow house so I wanted the garage to actually, when you drive by or you're out on the lake, you just want it to look symmetrically…

Mr. Natali: So, you're in agreement then? We'll eliminate that variance for moving the garage?

Mr. Stanton: We are at 6' now, the issue is that the revised plan adds a new variance to it. The only way he could possibly remove that variance is going 4' back which would require removal of the deck. Are you really good with having about a foot and one-half clearance between your garage and the deck?

Mr. Ballard: I'm okay with it. Most people are looking at the other side of the house. I'm more concerned if I can get the house to the right over maybe two feet.

Mr. Palladino: But then it's another variance.

Mr. Ballard: Correct. But it the deck has to be removed, I'll remove the deck.

Mr. Stanton: I don't think we can comment on that because there's nothing with the deck that interferes with the construction so, from person-to-person I'm just asking you if you're okay with that.

Mr. Ballard: Well the back deck is composite deck and the front deck, I just stained because it was an eyesore. So, if it has to be removed, I might do that later but I'm not…

Mr. Kirwan: May I interrupt?

Mr. Natali: Absolutely.

Mr. Kirwan: I'm confused. The change came late. The request if for a proposed attached garage which the distances and or uses that are required section would seem to require modification. So, I think we start with that, talking about this portion of your application which says the existing house is non-conforming, if it's detached, that really doesn't matter. Right? It has a minimum side yard setback of 5.21' where 6.0' is required. The proposed attached garage addition is an expansion of a nonconforming structure. That is not the case any longer. The proposed total setback is 11.77' where 15.0' is required. I would be more comfortable if we modified that to what he is actually requesting and what he's proposing which is now a detached garage. A free-standing structure. Can you articulate that to the Board? What you are looking for now? Do you know exactly what you're looking for?

Mr. Hooper: I have a question though, it said 5.22' on this latest submission…is this 6' here from the property line? It is 6.0' so that meets it. How about the front yard setback? It's 26' where 30' should be...is that mentioned here?

Mr. Rabbia: But I still think the 5.21'…that exists, that's the house. That's there. And then I think what he's showing is…the 5.21' is the southwestern part of the house and that exists. On his latest plan he is showing 6.0' to the other side, to the eastern side of the garage but the problem is he's got 11.21' and that's where he has a problem because he needs 16' total. So, if he detached, he's okay with the house total, not the one side though, right he's still got the 5.21' so he doesn't meet the minimum. The other side he is okay. He meets the 15'. The garage is okay side to side.

Mr. Kirwan: The house is existing.

Mr. Rabbia: It's just the 30' to the road that he has a problem with.

Mr. Kirwan: That should be the only thing.

Mr. Ballard: To the road is 26' instead of 30' and it's 10.0' from the house but not 10.0' from the porch. Which then I wouldn't have any room for the garage if I were to do that so that's why I'm here today. And, while I am here, I was going to ask if I could get…how far to the right could I go. I don't want to go to zero but could I go to four feet and move that garage from in front of the porch so it's not that much of an eyesore.

Mr. Stanton: We're charged with granting the minimum variance and we can't tell you what that is until you ask. You need to ask us and then we can talk about it.

Mr. Ballard: Well, on this side of the house you've got the central air machine.

Mr. Kirwan: The right side? The east side?

Mr. Ballard: The right side. There is some obstructions on the right side and that's why I want that garage door a little bit over to the right. So, if I could ask for four feet instead of six.

Mr. Kirwan: Oh, you are asking for more…

Mr. Hooper: He is now because that garage door, to be able to get through to get to the lake.

Mr. Ballard: Yeah, without having to brush up against the side of the house. I'd like just some, I'm not asking to get on my neighbor's…I'd just like to get maybe four feet.

Mr. Snyder: Is this your neighbor here by any chance?

Mr. Ballard: Both of them are.

Mr. Natali: Mr. Zaluski is here. You'll have your opportunity sir.

Mr. Stanton: So, let me ask this question. With the amount of changes that were done to this, the proposal is completely different from what was sent on to the County for referral. Do we need to kick this back to the County to have them look at it again?

Mr. Kirwan: Mr. Hooper and I have discussed it and we don't think that it's that much different.

Mr. Ballard: Good, I'd like to start in April.

Mr. Snyder: The problem I have is that when I was given this drawing, I went to your property and I knew you were 6.0' off the property line and I was looking at that as compared to the rest of your neighbors and you were 30' back so I didn't even look at your structure as related to the front setback because, again, it was legal. So, I'm not sure that I'm in a position to say that 4.0' will or won't make any impact, for me, on the neighborhood. If the rest of the Board does not think that is a problem based on what they looked at then I guess I'm okay.

Mr. Ballard: I have pictures I can show you. I don't know what else that you might need. I can give you any information you need. I know 26' from the road is not too much to ask because the neighbors are from 25' to 5.0'. I'll still be the farthest garage up. Most garages are across the street…or I'd say some are across the street and some are between one car length…because we did walk and measure it. So, I know it's 30' but to ask for 26' I would hope would not be too much to ask for. And, again, to go from six feet to four feet would not be too much to ask for because, again, some of the neighbors are over on the other people's land much less two feet.

Mr. Palladino: So, as we sit here today, you're looking for the 26' front yard setback and you now would like to change the one side yard, the east side, to 4.0'. Are there any other changes right now that you want us to take into account?

Mr. Ballard: No.

Mr. Hooper: I'd like to ask the applicant a question. When you talked to Steve (Procopio) in the Code's Office, what did he say about the deck?

Mr. Ballard: Something about putting a fire wall on the garage.

Mr. Hooper: On the garage side?

Mr. Ballard: Yes.

Mr. Hooper: Okay

Mr. Ballard: I was talking about getting rid of the porch completely and just making steps going down.

Mr. Hooper: Well, if you got rid of the deck from what I can see, the garage wouldn't have to move because you're well over the half way point so the garage wouldn't have to move the four feet.

Mr. Rabbia: How about this. If you got rid of the deck could we move the whole structure back and minimize that front variance.

Mr. Hooper: He's still got to have a 10.0' but with the 10.0' he's still got to build a firewall on the garage.

Mr. Rabbia: Okay, I thought it was…

Mr. Hooper: Well, ten or less…

Mr. Kirwan: There's no way you can get around that firewall.

Mr. Rabbia: Is it three…I'm not a codes expert…

Mr. Hooper: If he goes back four to get thirty, that pushes it to six feet and that's pretty…

Mr. Rabbia: Do you see what we are saying? If he takes the deck off, he can move the whole structure back towards the house a little bit.

Mr. Snyder: What's crazy about that is if he built the thing attached to the house and just fire rocked the inside of the garage he'd be okay. So, it's…what we ask him to do because it's separated is almost more than we would ask him to do if it was together.

Mr. Ballard: It's costing from $69/sq. ft. all the way to $85/sq. ft. on the high end and we are talking 900 sq. ft. You know, it's just me and my daughter and I can't see putting in $70,000 into a garage. It's ridiculous.

Mr. Snyder: I didn't put that in mine, I can tell you that.

Mr. Ballard: No, if it would be feasible to…I'd like to have a detached garage.

Mr. Snyder: Attached garage.

Mr. Ballard: Yes, an attached garage. If you can find a contractor…

Mr. Hooper: Okay let's go with the 26' and 4.0' then.

Mr. Rabbia: Can we get there. Can we get there from a fire code perspective?

Mr. Hooper: Sure.

Mr. Kirwan: With the deck coming down.

Mr. Hooper: Stay at the 26' and you've got the 10' separation. If you get a variance for the 26' versus the 30' and then push it over to 4.0' on the east side, you're alright with that.

Mr. Rabbia: Oh, okay, I misinterpreted what you were saying. I thought you were saying, deck come down, move the whole structure northerly.

Mr. Hooper: No, let him go for the variance of 26' and 4.0' – 26' on the front and 4.0' on the side.

Mr. Kirwan: Is that what you are asking for?

Mr. Ballard: Yes.

Mr. Kirwan: So, you want to modify your application to include that?

Mr. Ballard: Yes.

Mr. Natali: Is that going to hurt your timetable?

Mr. Ballard: No, I'm just going to ask for the 26' and then the 4.0' and if I have to remove the front porch.

Mr. Natali: Okay if there's no more questions, I would like to open up the public hearing at this time.

Mr. Natali **opened the Public Hearing at 6:34 P.M.**

Mr. Natali: Is there anyone here who would speak against this variance? Mr. Zaluski is his neighbor. He's at 7015 Van Antwerp Drive.

Mr. Zaluski: I live on the east side, the lot is only 50' wide and every year I have to bring the boats up the side and I have to remove the snow from the east side of the house and when that's cut short, I'm in trouble.

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

Mr. Palladino: I don't understand.

Mr. Snyder: I don't understand, Ed, what you were saying. You're on the east side of this property.

Mr. Zaluski: Yes.

Mr. Snyder: So you bring your boat up…are you on his property when you bring your boat up?

Mr. Zaluski: No. There are times when I need to bring it up on that side. The thing is it's a small lot, it's only 50' and I bought a 12' and I been in Cicero 55 or 60 years and I hate to lose what I have because I'm using it.

Mr. Snyder: What I don't understand is and help me, is that if you bring your boat sometimes up beside the house which would be on the west side of your house, east side of his, if you're not on his property when you bring it up. If you've got enough room to bring the boat up then what this gentleman's wanting to do, he's not going to bring his house to his property line. There is still going to be 4.0' if we were to approve it between his property line and his building so if you bring your boat up and don't drive on his property now, it shouldn't be a

problem to you, unless I am misunderstanding.

Mr. Zaluski: Well, you are, I drive a small boat because I can't handle a big one because of my health but at one time I had a bigger boat and I used that all the time.

Mr. Palladino: Yes, but you can't use his property for your boat.

Mr. Zaluski: Well, I didn't use his property. I had to downsize my boat but I'm bringing it closer to my house which is okay, I'm on my property but the minute I lose some property, then I'm going to have problems.

Mr. Palladino: It won't affect your property.

Mr. Zaluski: He's coming up on my property but I don't get to use his property.

Mr. Snyder: I think there's a miscommunication here somehow because if you bring your boat up and don't go on his property…if he had a fence up on his property line, could you still get your boat up the side of your house?

Mr. Zaluski: The small boat but not the large one.

Mr. Snyder: The boat you have now?

Mr. Zaluski: Yes.

Mr. Snyder: Okay, well he's not going to have his…if he had a fence on his property line, which he's allowed to do, his building would not be where the fence is, it would be away from your property by at least four feet and we may say it's got to be six feet. So, I don't see how that would cause you a problem getting your boat up.

Mr. Zaluski: It hasn't now, but it may in the future.

Mr. Stanton: Just to be clear, we can't approve anything that would cause him to go across the property line so as long as you can still bring your boat up within the bounds of your own property, there shouldn't be an issue here.

Mr. Natali: Is there anyone who would speak for this variance? [no response] Okay, Mr. Ballard, you now have an opportunity to rebuff anything he said. Do you have a comment about that? Is there an issue now?

Mr. Ballard: No, the front is what I'm talking about. If we look to where the lake is there's over 20' between my house and…

Mr. Natali: No, I mean his comment.

Mr. Ballard: No.

Mr. Natali **closed the Public Hearing at 6:39 P.M.**

Mr. Natali: Does anyone want to initiate the discussion on the Five Factors leading to a motion?

Mr. Stanton: While you are thinking about that, I want to talk about this Resolution from the County. The Resolution is that the Onondaga County Planning Board has determined that said referral will have no significant adverse intercommunity or countywide implications.

Mr. Rabbia: On the prior plan.

Mr. Stanton: Yes, on the prior plan. It does not that there are things that you need to consider in this as far as taking a look at…

Mr. Palladino: Did you get a copy of the Onondaga County Resolution? It's interesting reading, I think you should look at it.

[Mr. Kirwan, Esq., gave a copy of the resolution to the applicant, Mr. Ballard.]

Mr. Stanton: There are certain things that I would recommend you look at in the Planning Board Resolution such as the fact that they say there is a species of animal, or associated habitats, listed by the state or federal government as threatened or endangered and a permit may be required from the New York State Department of Environmental Conservation (NYS DEC). You're located in or adjacent to an area designated as sensitive for archaeological sites. You also may possibly need a wetland survey and you're within a special flood zone.

Mr. Ballard: I think I handled all that with the purchase of the house.

Mr. Stanton: Any motion we make should be contingent on those items being satisfied.

Mr. Natali: Gary (Palladino) would you like to take the discussion on the five factors please?

Mr. Palladino: Yes. Let's talk about the Five Factors that we have to consider pertaining to this variance request. The requested variance is to construct a 672 sq. ft. garage with a front yard setback of 26' where 30' is required. It will also be on a piece of property that is nonconforming and the existing house has a minimum side yard setback of 5.21' where 6.0' is required. A lot width of 50' where 75' is required. The lot area is 9,950 sq. ft. where 10,000 sq. ft. is required and the coverage is 18.8%. The garage is now a detached garage and will have a minimum side yard setback of 4.0' where 6.0' is required and a front yard setback of 26' where 30' is required.

Factor 1 – Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created? **Answer: No.**
All agree.

Factor 2 – Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an Area Variance. **Answer: Yes.** If you reduce the size of the garage to 24' in depth and be within the front variance.
Mr. Stanton: I would tend to agree with Mr. Palladino. We saw, irrespective of the actual price, a proposal that actually meets the bulk requirements for an addition to the house. The applicant did say that the price was going to be prohibitive for him. Taking that into account, we are now entertaining this detached garage concept but frankly, the removal of or modification of the deck would allow for the removal of the front yard variance and the side yard variance is debatable. If you modified the deck then you may not need that either.
All agree.

Factor 3 – Whether the requested Area Variance is substantial? **Answer: No.**

All agree.

Factor 4 – Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? **Answer: No.** I do not believe so and one reason is the topo of the land. It slopes quite drastically to the lake so it should not cause the neighbors any problems with rain water and melting snow.

All agree.

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

MOTION made by Mr. Palladino, seconded by Mr. Snyder on behalf of Aaron Ballard at 7013 Van Antwerp Drive to approve a request for variance on a detached garage with a minimum side yard setback of 4.0' where 6.0' is required and a front yard setback of 26' where 30' is required. It is also a condition that the applicant meet all the requirements of the Onondaga County Planning Board's Resolution letter.

Mr. Rabbia Yes
Mr. Snyder Yes
Ms. Palladino Yes
Mr. Stanton: Yes, but we do need the condition that he meets the requirements of the Planning Board letter. Also, what has weighed heavily in my mind is the similar construction in the area. There's a number of garages that sit in front of the houses and this is no different.
Mr. Natali: Yes

Mr. Kirwan: Did you make it a condition that Mr. Ballard remove the deck?

Mr. Natali: I don't think it's necessary counselor but if you…

Mr. Stanton: At this point, I don't think it's necessary.

Mr. Hooper: I don't think there's any reason to in my opinion.

Mr. Kirwan: I just wanted to make it clear for the record.

Motion duly carried.

Motion and vote were unanimously approved to adjourn the meeting at 6:50 P.M., as there was no further business before the Board.

Respectfully submitted,
Ann Marie August, ZBA Recording Clerk