

The regular meeting of the Zoning Board of Appeals (ZBA) of the Town of Cicero was held **Monday, August 5, 2013** at **7:00** p.m. in the Cicero Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Board Members Present: Gary Natali (Chairman), Mark Rabbia, Rita Wicks (Ad Hoc Member), Gary Palladino and Charles Stanton

Absent: Donald Snyder

Others Present: Terry Kirwan (ZBA Attorney), Steve Procopio (Code Enforcement Officer), Jessica Zambrano (Town Board Member) and Tonia Mosley (ZBA Clerk)

Chairman Natali called the meeting to order and asked for a roll call. He pointed out the exits in the room and asked those present to stand for the Pledge of Allegiance.

#### **APPROVAL OF THE ZBA MINUTES FROM JULY 1, 2013**

**Mr. Rabbia made a motion** to approve the July 1, 2013 Zoning Board of Appeals' meeting minutes. **Mr. Palladino seconded the motion.** The motion was **approved** with the following roll call vote:

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

#### **NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) MOTION**

Chairman Natali: The Cicero Town Board acknowledges the importance of full public participation in 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. **I make a motion** that all actions taken tonight are Type II Unlisted and have a negative impact on the environment unless otherwise indicated. **Mr. Palladino seconded the motion.** The motion was **approved** with the following roll call vote:

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

Mr. Natali: I have proof of advertisement for all of the items that are on the agenda tonight.

**AREA VARIANCE, DEFERRED FROM JULY 1, 2013, TIMOTHY REEVE, 6210 MICHAELJON WAY  
AN AREA VARIANCE TO CONSTRUCT AN 6 FOOT HIGH COMPLETELY OPAQUE FENCE 15.9 FEET BEYOND  
THE BUILDING LINE WHERE ONLY A 4 FOOT HIGH AND 50% OPAQUE FENCE IS ALLOWED**

Representative: Timothy Reeve

Mr. Natali: You were deferred from the July 1, 2013 meeting. We have indication from the County that there is no problem with your fence. Are there any changes to the original design?

Mr. Reeve: No

Mr. Palladino: On the corner of Thompson and Michaeljon, are those big pine trees yours?

Mr. Reeve: They were there when I purchased the house. I believe that they are on my property.

Mr. Palladino: I see the trees as more of an obstacle for vision than the fence that you propose.

Other Board members agreed.

Mr. Kirwan noted the public hearing was opened and closed at the last meeting.

**Mr. Rabbia made a motion** stating: I make a motion for Timothy Reeve at 6210 Michaeljon Way for an area variance to construct a 6 foot high completely opaque fence 15.9 feet beyond the building line, where only a 4 foot high and 50% opaque fence is allowed. Before we vote on the motion, I would like to review the criteria for the area variance.

1. Will an undesirable change be produced in the character of the neighborhood or detriment to nearby properties be created? In my opinion the answer is no. It is a unique situation. With the road expansion, the road widening up and down Thompson Road, I don't believe that there is going to be any change in the character of the neighborhood. Is there any other discussion?

Mr. Stanton: The only other note I would make is that this proposed fence would not be obstructing any driveways entering out onto Thompson Road.

Mr. Rabbia agreed noting I was going to get to that during question four, but we could say that here as well.

2. Can the applicant achieve his goals via a reasonable alternative which does not involve the necessity of an area variance? The answer is no. If he is looking to put a side fence in he will have to go to over the building line. Staying in line with the fence and not affecting the sight lines is exactly where he needs to be there.

3. Is the variance substantial? You can argue that almost 15 feet beyond the building line is substantial. However, given the uniqueness of this situation—you have the road widening and some of the other fences in the area and how all of the fences will line up—I don't believe that it is substantial. (There were no other comments from the Board.)
4. Will the variance have an adverse impact on the physical and environmental conditions in the neighborhood or district? I believe the answer is no. As Mr. Stanton noted it does not create a negative sight line situation, especially when driving in and out of Michaeljon Way. (There were no other comments from the Board.)
5. Is this a self-created difficulty? You can argue that maybe this has been but in itself that is not a reason to deny the motion.

**Mrs. Wicks seconded the motion.** The motion was **approved** with the following roll call vote:

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

Mr. Reeve thanked the Board.

**AREA VARIANCE, DEFERRED FROM JULY 1, 2013, THOMAS & CATHERINE DIANA, 7251 LAKESHORE RD  
AN AREA VARIANCE TO CONSTRUCT RESIDENTIAL ADDITIONS TO AN EXISTING NON-CONFORMING  
STRUCTURE IN AN R-10 ZONING DISTRICT. THE EXISTING STRUCTURE HAS A SIDE YARD SETBACK OF  
APPROXIMATELY 1 FOOT WHERE A MINIMUM OF 6 FEET IS REQUIRED.**

Representative: Thomas Diana

Mr. Natali: Are there any changes to your plan?

Mr. Diana: No

Mr. Natali: Okay. Does the Board have any questions?

Mr. Rabbia: Do we have to get feed back from Oswego County?

Mr. Kirwan: We just have to provide notice. Do we have proof of that?

Mr. Procopio: We did send notice.

Mr. Kirwan: As long as you show that, that's all we need.

Mr. Stanton: We do have the response from the Onondaga County Planning Board. I thought that part of the response was unique. They had two comments. One was the Municipality and the applicants are encouraged to reduce stormwater runoff and improve stormwater quality. This much is practical by reducing impermeable surfaces and utilizing green infrastructure. And then the municipality is encouraged to uphold local flood ordinance requirements as required for good standing in the National Flood Insurance Program. Secondly, insure that any proposed development would not negatively affect drainage patterns in or near the floodplain. The only reason I bring that up is I have not seen conditions like this attached on prior referrals.

Mr. Procopio: You are going to find those becoming fairly common now.

Mr. Natali: We opened and closed the public hearing at the last meeting. There were no objections. Would someone like to make a motion?

Mr. Stanton: **I would like to make a motion** on behalf of Thomas and Catherine Diana of 7251 Lakeshore Road. Before I do so we will discuss the five factors as consistent with our policy.

1. The first is whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created. My answer to that is no. The additions would be constructed within the existing bulk regulations and will not infringe on either the front or rear yards. The view of the additions will be partially blocked from the street by the existing garage. Does anyone have any additional comments? (The Board responded no.)
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. The answer to that is no. The requested variance is for the existing non-conforming structure not for the additions and would require demolition of portions of the existing house. (Other Board members agreed.)
3. Whether the requested variance is substantial. I do believe that it is a substantial variance. The requested variance is 83% of the requested 6 foot set side-back. It has to be noted though that this setback is on the existing non-conforming structure. It does not apply to the additions. (Other Board members agreed.)
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The answer to that is no. The proposed additions will be constructed consistent with other structures in the area. And again, the view of the additions will be partially hidden by the existing garage.

Mr. Rabbia: I think that we just want to heed the warning here of the Onondaga County Planning Board again regarding stormwater runoff in terms of reducing impervious surfaces and utilizing green infrastructure. (The Board agreed.)

Mr. Stanton: And then finally number five.

5. Whether the alleged difficulty was self-created. I believe the answer to that is yes. The applicant is choosing to expand an existing non-conforming structure and knew that it was non-conforming. But, it should be noted that this is not solely a reason to deny the variance.

With that, **my motion** for Thomas and Catherine Diana is to construct residential additions to an existing non-conforming structure in an R-10 zoning district. The existing structure has a side yard setback of approximately 1 foot where 6 feet is required and a lot width of 60 feet where 75 feet is required. The additions will be built within the bulk regulations. **Mrs. Wicks seconded the motion.** The motion was **approved** with the following roll call vote.

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

**AREA VARIANCE, BRIAN J. NIEZABYTOWSKI, 6115 OWLWOOD DRIVE  
AN AREA VARIANCE TO CONSTRUCT A 6 FOOT HIGH COMPLETELY OPAQUE FENCE 19 FEET INTO THE  
REQUIRED FRONT YARD AREA WHERE A FENCE NO HIGHER THAN 4 FEET FROM GRADE AND NO MORE  
THAN 50% OPAQUE IS ALLOWED**

Representative: Brian J. Niezabytowski

Mr. Niezabytowski: We would like to move our existing fence over 8 feet towards Duckwood Road to allow room for us to put a play-set in our backyard.

Mrs. Wicks: Have you spoken to your neighbor, Marilyn Hilt?

Mr. Niezabytowski: Yes

Mrs. Wicks: Okay. Do you understand what her concerns are and what is your take on that?

Mr. Niezabytowski: Yes. We talked about it. We have a difference of opinion. I think that it is subjective. I understand her view. We just have a difference of opinion.

Mrs. Wicks: Have you tried to think of a different plan that might accommodate her as well as you?

Mr. Niezabytowski: We discussed that. I suggested maybe we could on the back side by her, instead of coming out 90 degrees we could cut it at a 45 degree angle—so that it isn't a straight shot. She said that sounded better to her.

Mrs. Wicks: Okay. So you have gone above and beyond trying to be accommodating. That's good.

Mr. Palladino: Did you consider putting the play area on the south side of your property? It looks pretty open. You have a shed there now.

Mr. Niezabytowski: You need quite a bit of room. With most of the play-sets that we have looked at I believe that you need to have 6-8 feet. I don't remember the exact numbers but with the distance you need to be away from the fence, and of course the pool, it would not fit.

Mr. Palladino: It looks like you have about 16 feet from the edge of the concrete to the existing fence. You will have 19 feet if you move the fence. So you would be picking up 3 feet by requesting a variance that your neighbor doesn't want.

Mr. Rabbia: Is the fence really at an angle on the south side where Mr. Palladino was just talking about?

Mr. Niezabytowski: That south corner is on an angle.

Mr. Rabbia: Would it be possible to square that off making it a 90 degree and pick up a bunch of area?

Mr. Niezabytowski: It drops down in the back.

Mr. Rabbia: It's a swale?

Mr. Niezabytowski: Right

Mr. Stanton: You had originally requested a variance to build the fence as it is now. I wanted to go back to one statement that you made when you were talking with Mrs. Hilt. You were actually considering putting that back portion of the fence at an angle?

Mr. Niezabytowski: We talked. I said if I could do something to make it look better. She asked if it was a look thing. Then I said if she felt it would look better, I think we could make that corner, instead of coming in at 90 degree angle we could it to like a 45 degree angle.

Mr. Stanton: That's not shown here.

Mr. Niezabytowski: That was after this was submitted. That was last Wednesday.

Mr. Stanton: Okay. I just wanted to note that Mrs. Hilt's letter also said that she was concerned with sight distance from her driveway. Obviously, there is a tree blocking the way that she said she intends to cut down. However, I did note that the back corner--if we do approve the expansion--will be about 11 feet from the road boundary. And, Duckwood actually curves back further. So while 11 feet would give you enough sight distance from the driveway to be able to see up to Owlwood and someone turning on to it coming towards you, by the time that you get back to her driveway you may have significantly less width to be able to see.

Mr. Niezabytowski: If I understand you correctly, if we cut that corner to a 45 degree angle like we discussed that would alleviate that.

Mr. Rabbia: Would it be noted on the survey if there was an easement in that south corner?

Mr. Palladino: It should be and its not.

Mr. Stanton agreed.

Mr. Rabbia: So fill could in theory be brought in there and that could be made into a 90 degree angle with essentially the same amount of space from the edge of the concrete in that corner that he would have in the other corner, roughly.

Mr. Niezabytowski: There are three of us: Mrs. Hilt, the neighbor next to us and us, who have sump pumps that come out in that ditch right there. Bringing in fill would at least cover ours.

Mr. Rabbia: I'm just looking for a reasonable alternative to what you are proposing.

Mrs. Wicks: Another thing that we are supposed to look at when we look at properties is property values for the neighborhood and if the request will affect that. I question whether putting the fence like you have here would actually negate her ever selling her house. It almost looks like it is up against a wall at that point with a 6 foot fence. In essence that's almost to the road.

Have you thought about coming back to where your door is and squaring that off? You talked about a 45 degree angle. Could you actually bring it back a little bit and make an out cropping from you door or from inside that door?

Mr. Niezabytowski: Which door?

Mrs. Wicks: On the west side here it looks like you have a door there, the gate and then just boxing it back that way. If you put in a 45 you are going to have a lot of wasted space. I'm just trying to come up with some other options. You are the one that needs to choose. It is something to think about.

Mr. Rabbia: What do you need for area for the play-set, length and width?

Mr. Niezabytowski: We have not found one exactly yet. We actually plan on doing this later on.

Mr. Rabbia: So in theory, it could be smaller.

Mr. Niezabytowski: The small ones that I have looked at with the slide are roughly 14 feet front to back and maybe 12 feet wide.

Mr. Palladino: So we are looking at a 12 x 14 footprint. We have to look at all of the possibilities. Your next door neighbor is not in favor of this and that is something that we have to take into consideration.

You were already here once in May of 2006 requesting a variance to put a fence up. That worked fine for seven years and now you are pushing closer to the road for another variance. It almost seems to me that the back south corner, whether you have sump pumps draining into that or not, it can't be on your property it has got to be just off of your property in an easement. It seems to me that would be an area where you could put a 12 x 14 footprint or a 134 square foot play-set and not come in for another variance on top of the one that you got in 2006.

We'll challenge you. We have to make sure that everybody, your neighbors and you, are happy.

Mr. Niezabytowski: I honestly didn't think that we could do much with that corner. If we can fill that in without getting into any problems--

Mr. Palladino: It doesn't say that it is a drainage easement. There's no right-of-way on it. It just might be the way the builders sloped it.

Mr. Niezabytowski: Ours is there. We could extend it out.

Mr. Palladino: You would still be 3 feet off the fence at most, correct? You would pick up all of what you are looking to get by moving the fence.

Mr. Niezabytowski: Yes. Honestly, we would like to keep our tree on the side too. We looked at our backyard every which way; the way that it is now. We had not considered that.

Mr. Procopio: The neighbor to the south, you are saying there is a swale or ditch there that you are draining to. How deep is that behind your neighbor's house? I haven't looked at the tract map but judging by where your neighbor's fence is to the south, there is a drainage easement behind their property. Do you see how that fence is set back? It's about 10 feet back. My guess is there is probably an easement here. So, you might be just sheet draining into that easement. I don't know how deep that is. I don't know if you have the ability to fill that in without creating a steep slope.

Mr. Niezabytowski: It's pretty deep.

Mr. Procopio: I didn't look at it so I'm not sure that it is completely feasible or if it would be able to flow in the entire corner.

Mr. Rabbia: So that's alternative one. There is another alternative. You don't go all the way towards the east property line or the Hilt residence. You basically bump out the 20 feet from your existing deck like you are talking today and you maybe run east 25 feet, kind of make an area to put the play-set in, and come back towards your original fence. Come back 90 degrees and go back right to the original fence. Then the original fence can keep going towards the Hilt property. I'm just giving you enough area to put a 12 x 14 play-set. You could fit it a number of different ways.

Mr. Niezabytowski: That could work. Aesthetically speaking though, I think an angle with a 90 L would not look better than being sloped. I would prefer the slant to something like that.

Mr. Rabbia: I think that we have some things to look at.

Mr. Natali: Well you have some options. Why don't we hear from your neighbor? I'd like to open up the public hearing. **(The public hearing opened at 7:25 p.m.)** Is Mrs. Hilt here by chance? Her letter said that she would not be here, but are there any representatives? (There was no response.) Is there anyone here who would like to speak for this? (There was no response.) Is there anyone who would speak against it? (There was no response.) We will now close the public hearing. **(The public hearing closed at 7:26 p.m.)** You have a couple of options on the table.

Mr. Rabbia: My recommendation is you should take some time to kind of nail down how much space you need. Then we can start looking at where to site this thing and how to site it. I think that you can

figure out what you could do. Maybe you can kind of work with Steve. You could pick up a bunch of area in that back corner if you could make that fence 90 degrees. I think that it is a nice place for a play-set back there.

Mr. Niezabytowski: I would prefer that option too. I just didn't consider it.

Mr. Palladino: It's away from the road too.

Mr. Stanton: I can just throw out another possible option. Obviously Duckwood Drive is on a curve right there. If the fence was to be at a constant offset from the road boundary—right now towards the west side it is at 13.7 feet. If you made that 14-15 feet and carried that offset all of the way down to the end that would keep the fence in line with the road, or parallel to the road. It would increase the site a little bit and still maximize some of the space there too. Again, it is just a thought.

Mr. Palladino: If we have a bad winter I question whether or not the 11 feet off the road will affect visibility or the line of sight from the snow banks. That snow wouldn't be spread over what was a larger area. It would go right up against the fence. And that's where it is going to sit.

Mr. Niezabytowski: There is a lot more than 11 feet there.

Mr. Procopio: For clarification, the road boundary is not the edge of pavement. There's still road right-of-way. There's probably maybe 10-12 more feet of lawn before the actual gutter.

Mrs. Wicks: We don't want to hap-hazardly make a motion and have it not be what you want. We need to know how you would like to proceed. You have a couple of different options. Go home, look at everything and figure out what would work best for you so that we can understand what motion to make.

Mr. Niezabytowski: I like the idea of the slant option you presented. I could look at the south corner and what it would take.

Mr. Stanton: I would encourage you to talk to Steve too. He does have information on measurements, drainage and what not.

Mr. Natali: **I make a motion** to defer this until our September meeting. We will have you first on the agenda. If you have any real questions you may want to discuss it with Steve. He has a pretty good feel for what we are looking at.

The Clerk noted that meeting would be September 16<sup>th</sup>.

**Mr. Rabbia seconded the motion.** The motion was **approved** with the following roll call vote:

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

**AREA VARIANCE, SOMMART LIANGSIRI, 8676 LAVENDER LANE  
AN AREA VARIANCE TO CONSTRUCT A 6 FOOT HIGH COMPLETELY OPAQUE FENCE 9 FEET BEYOND THE  
BUILDING LINE WHERE ONLY A 4 FOOT HIGH AND 50% OPAQUE FENCE IS ALLOWED**

Representative: Sommart Liangsiri

Mr. Liangsiri introduced himself and his wife. We moved here in 2008. For any improvements, like putting in a shed, we would go get a permit. We got an approved permit from Steve for our shed. We went to get a pellet stove installed in the basement. We got a permit for that.

We were planning a pool last year and were told that we needed fences. Our neighbor recommended Ace. So, I went to the Town. They said no permits were required. I thought that was weird, it's a pretty big project. On the website it says no permit. It doesn't make any sense. So, I up the fence.

I couldn't put it too close because burglars get through. Because of the basement windows, if there was a fire, I couldn't get out. I mean we couldn't evacuate. In addition, the stove is in the back of the house, on the corner of Brandy. I couldn't put it too close to that because of the exhaust.

I didn't know this variance procedure until I got a letter this year. Steve recommended getting an area variance.

Mr. Rabbia: When did you build the fence?

Mr. Liangsiri: Last year, in August or September.

Mr. Palladino: One of the questions is why you are coming here after the fact? You just didn't know?

Mr. Rabbia: Did Ace, your fence company, suggest anything to you when you were laying out the fence? Because you have a corner lot you have some unique situations.

Mr. Liangsiri: They said if there was like a pipe burst; they would come out and help out.

Mr. Rabbia: But they didn't talk about the issue of maybe bringing the fence all the way up to the front of your house? They didn't mention that to you at all?

Mr. Liangsiri: I think that it was the property line ran three feet off of the house.

Mr. Stanton: Do you know if your fence contractor actually used your survey to layout the fence?

Mr. Liangsiri: Steve suggested that I go get a new one.

Mr. Stanton: Understood, but, when the fence was built did your fence contractor actually use the survey that came with your house to layout fence?

Mr. Liangsiri: Yes, I gave them the old survey.

Mr. Rabbia: Did you mention to them that you are in this predicament now?

Mr. Liangsiri: We got the best to make it look nice. We got LED lights. We pretty much got the best looking fence there is. It cost us over \$13,000 to install it so it is going to be detrimental to my family's pocket.

I looked at it. There's no obstruction to the stop sign, traffic or anything. There's no blockage to drainage or anything.

Mr. Palladino: Actually the cars in your driveway obstruct the vision more than your fence does. But there's nothing you can do about that.

Mr. Rabbia: You mentioned something about pellet stove exhaust. Where is that?

Mr. Liangsiri: Do you see at the end of the house? Right there in back of it. It is probably 6-7 feet from the corner.

Mr. Rabbia: You made a comment about the pellet stove's exhaust. What was your comment related to that?

Mr. Liangsiri: Well the exhaust comes out, hot air or fumes. If the fence was too close I thought that it might cause a fire.

Mr. Natali: Is your contractor willing to fix this for you?

Mr. Liangsiri: If I ask him.

Mr. Natali: If you ask him. Have you had any discussion at all?

Mr. Liangsiri: He said come and see. He said come here.

Mr. Natali: Did you stake out where you wanted the fence or was this his suggestion?

Mr. Liangsiri: At first we were lucky. Everything was okay until we got to the house, to the corner of Brandy. Like I said the decision is like it's too close is not feasible.

Mr. Rabbia: Say that again? When you decided to place the fence?

Mr. Liangsiri: The fence is three feet to the house. The windows have easy accessibility. Like I said the basement has two windows that could be used to exit in a fire. There is enough space to go out.

Mr. Rabbia: But you could have stopped the fence at the rear of the house, right?

Mr. Stanton: That's the point I was going to make.

Mr. Liangsiri: Like I said the exhaust also.

Mr. Natali: It looks like the contractor knew where the easement was. That's why I am surprised that he didn't know where the building line was.

Mr. Rabbia: Where is the exhaust on this photograph, below the window?

Mr. Liangsiri: Yes, right in the corner. You see something right there, between the window and the corner.

Mr. Rabbia: He's saying that he has pellet stove exhaust below this bumped out window, down lower. Is it coming from your basement or your family room?

Mr. Liangsiri: From the basement

Mr. Rabbia: Typically they are not hot. Basically the combustion air is being drawn in around the

outside of the exhaust. I think that we have established that the discharge for the pellet stove is on the rear face of the house.

Mr. Stanton: I would like to make two notes. First, because we are within a certain distance from Thompson Road, which is a County road, we have a resolution from the Onondaga County Planning Board. They have determined that there is no significant adverse inter-community or County wide implications. The other thing that I did which is similar to what I did in this exact same neighborhood almost a block over was to just take a quick look at what the sight distances were. The stop sign is on Brandy and Lavender. It looks like this fence does not impact any sight distances whereby it could cause an accident—because you could not see a car coming.

Mr. Rabbia: I don't know if the contractor messed up or---do you think that your contractor made a mistake? Or did you tell him to put the fence there?

Mr. Liangsiri: Ultimately yes. We are in a predicament. I wish I had somewhere to go.

Mr. Rabbia: Did your fence contractor have a discussion with you to say that this is beyond the building line?

Mr. Liangsiri: He did, but I didn't know where to go. I thought that I could at least go to the permit place and say what's up.

Mr. Rabbia: Thank you for being honest.

Mr. Stanton: In terms of relative variances that we gave, Cosgrove was on Pizzuto and Lavender which is literally just kiddy corner to this. That fence was not up at the time we were discussing it, but we granted a 9.7 foot variance over the building line.

Mr. Rabbia: I'm trying to recall. Did that fence come right to the house?

Mr. Stanton: I thought that it came to the rear of the house. They had about 32.4 feet to the house from the street line. We have 33 feet here. I'm not sure that it makes much of a difference. And again, what's nice here is that the road boundary is not the edge of pavement line.

Mr. Rabbia: I concur with your assessment of sight lines. I did that today as well. I don't see a health and life safety issue as a result of having this fence there. It's curious how the fence got there.

Mr. Natali: Let's see what the public has to say. I would like to open the public hearing. *The public*

**hearing opened at 7:45 p.m.** Is there any body that would speak for this? (There was no response.) Is there anyone who would speak against it? (There was no response.) Okay, we will close the public hearing. **(The public hearing closed at 7:46 p.m.)** Would someone like to make a motion?

Mr. Rabbia: Are we okay with the fence going all the way to the front of the house?

Mr. Natali: It doesn't obstruct any views.

**Mr. Palladino made a motion.** I would like to make a motion that we consider Mr. Liangsiri's application for an area variance. But before we make a decision to approve or deny this request I would like to go over the five determining factors.

1. Whether an undesirable change will be produced to the character of the neighborhood or a detriment to nearby properties will be created. My answer to that is no. There are other examples within your development of fences on corner lots that we have given variances for. Any comments?

Mr. Stanton: I agree.

Mr. Palladino:

2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the area variance. Honestly, yes. You put us in an uncomfortable situation. The fence could have started from the rear portion of your house, stayed within the building line and no variance would have been needed. It's yes but any comments?

Mr. Stanton: I think the one comment that I would make is that there are other alternatives. But when you look at the location that it is the only quote un-quote legal fence would be something thing that is no greater than 4 feet high and no more than 50% opaque. And that really does not accomplish the goal of creating a private backyard.

Mr. Rabbia: Or moving it right back to the building line.

Other Board members agreed.

Mr. Palladino:

3. Whether the requested area variance is substantial. No, I honestly don't believe that it is substantial. Its 9 feet. That's a 9 foot area variance that is being requested. There is still 21 feet to the street line. And as I have said before, there are others that we have brought up in

this meeting that are around the corner from you within that same parameter.

Mr. Natali: Right, this is an issue with corner lots. So in another case, a nine foot variance maybe substantial but on a corner lot it isn't.

Mr. Rabbia: I just look at this and say, would we approve this if there wasn't a fence there today? I might approve to the back of the house, but I guess I'd have heartburn going all the way to the front of the house.

Mr. Natali: You probably don't even use that little area on the side, do you?

Mr. Liangsiri: It's feasible to go in and out. For emergencies in the back I have a gate where, if there was a fire, you could just push it to get out.

Mr. Natali: You are right. We would have probably approved this from the back of the house.

Other Board members agreed.

Mr. Palladino:

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. My answer to that is no. Mainly because I don't feel that this is a substantial variance.

Mr. Stanton: The only thing that I would add to that is in reading through, and it seems like we have been doing this more often than not lately, when you are reading through the fence requirements Paragraph 210:19 C2 says on corner lots there shall be no obstruction to visibility between the height of two feet and ten feet per grade for a distance of 20 feet from the property corner along both streets. Right now we are sitting at 20.9 feet is the closest. Even though we are violating some things requiring a variance the biggest one, at least in my view, this satisfies.

Mr. Palladino:

5. Whether the alleged difficulty was self created. Definitely yes. There were other alternatives to the placing the fencing in the back yard that you could have taken if you came in front of us before the fence was installed.

In addition to this we have received a letter from the Onondaga County Planning Board where they have no objections to the fence. Now with some reluctance **I would like to make a motion** that we approve Mr. Liangsiri's area variance to construct a 6 foot high completely opaque fence 9 feet beyond the

building line where a 4 foot high and 50% opaque fence is allowed. **Mrs. Wicks seconded the motion.**  
The motion was **approved** with the following roll call vote:

Mr. Rabbia: Reluctantly, yes to the motion

Mrs. Wicks: Yes to the motion

Mr. Palladino: Yes to the motion. But it is not a good practice to ask for forgiveness and not permission.

Mr. Liangsiri: I apologize.

Mr. Stanton: I would add to my colleague's comments that it is with a little bit of reluctance that I am saying yes. Yes to the motion

Mr. Natali: I also want to approve this but say that we would gain nothing by not approving it. You have a nice looking fence there. There is plenty of room, so we wish you luck.

Mr. Liangsiri thanked the Board.

**Mr. Stanton made a motion** to adjourn. **Mr. Natali seconded the motion.** The motion was **approved** unanimously.

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS  
ADJOURNED AT 7:54 P.M.

Submitted by  
Tonia Mosley, ZBA Clerk