

SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: February 1, 2016
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, February 1, 2016 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Charles Stanton	Deputy Chairman
	Mark Rabbia	Board Member
	Rita Wicks	Board Member
	Gary Palladino	Board Member
	Terri Lockett	(Ad-hoc) Board Member
Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Richard Hooper	Director Code Enforcement
	Steve Procopio	Code Enforcement
	Ann Marie August	Recording Clerk
Absent:	Gary Natali	Board Chairman

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

Deputy Chairman Stanton called the meeting to order and asked for a roll call of Board Members present. He pointed out fire exits and requested that pagers and cell phones be silenced. He then asked everyone to stand for the Pledge of Allegiance.

Mr. Stanton: Has everyone read the minutes from the December 7, 2015 meeting?

Board: Yes.

Mr. Stanton: Are there any corrections?

Board: No.

MOTION by Mr. Rabbia seconded by Mr. Palladino to approve the minutes from the December 7, 2015 meeting.

Motion was put to a vote, resulting as follows:

Mr. Rabbia Yes to the Motion (not at last meeting, read minutes)

Ms. Wicks	Yes to the Motion (not at last meeting, read minutes)
Mr. Palladino	Yes to the Motion
Ms. Luckett	Abstained (not at the last meeting)
Mr. Stanton	Yes to the Motion

In favor: 4 Opposed: 0 Abstained: 1 Motion approved

Mr. Stanton: The Cicero Town Board acknowledges the importance of full public participation at all public meetings and, therefore, we urge all who wish to address those in attendance to please come to the microphone located in the front of the room.

MOTION made by Mr. Stanton., seconded by Ms. Wicks, that all actions taken tonight are Type 2 and have a negative impact that is no impact, on the environment unless otherwise indicated.

Motion was put to a vote, resulting as follows:

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

We have proof of posting that all items on tonight's agenda have been advertised as directed by law.

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

Mr. Stanton: For those who are new to this process, I will briefly review the process for tonight's meeting for tonight's meeting: (1) Each applicant will have an opportunity to describe their project. (2) The Board will then ask questions about the project. (3) I will then open a public hearing where people will be able to speak for or against the proposed variance. (4) The applicant will be given the opportunity to respond to the public input and provide additional information. (5) Board members will again have the opportunity to question the applicant. (6) The Board will openly discuss amongst ourselves the Five Factors that contribute to our final decision. Please note that this Board does not have a pre-agenda meeting so there is no discussion of the cases outside of this meeting. (7) A motion will be made either approving or denying the requested variance, seconded, and voted upon.

**MARCO MARZOCCHI (APPLICANT),
ELK HORN ASSOCIATES, LLC (PROPERTY OWNER),
8141 BREWERTON ROAD,
THE APPLICANT REQUESTS AN INTERPRETATION OF THE CODE
ENFORCEMENT OFFICER'S DETERMINATION OF VIOLATION AGAINST 8141
BREWERTON ROAD FOR NON-COMPLIANCE WITH ZONING PROVISIONS. THE
OFFENSE IS THE FAILURE TO IMPLEMENT THE APPROVED SITE PLAN
IMPROVEMENTS AND TO COMPLY WITH THE IMPOSED CONDITIONS OF THE
PLANNING BOARD APPROVAL FOR MARBLE INTERNATIONAL.**

Mr. Stanton: It is my understanding that the applicant has requested a deferment to our next meeting.

MOTION by Mr. Stanton, seconded by Mr. Palladino to defer the Elk Horn Associates, LLC, the property owner at 8141 Brewerton Road, Marco Marzocchi (Applicant) to our March 7, 2016 meeting.

Mr. Rabbia: One thing, let's just be sure we can get all the information relative to the interpretation. I know there's a couple of things that were given out at the last meeting that I did not get. I read part of it tonight but I'd like to get everything associated with the interpretation.

Mr. Stanton: I will have copies made of my copy and any other relative information will be distributed to everyone.

Motion was put to a vote, resulting as follows:

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

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

**PETER GIORDANO,
9012 BEACH ROAD,
AN AREA VARIANCE TO CONSTRUCT A ONE FAMILY DWELLING IN AN R-10 ZONE
WHERE THE PROPOSED FRONT YARD SETBACK IS 20.0 FEET WHERE 30.0 FEET IS
REQUIRED. THE MINIMUM SIDE YARD SETBACK IS 3.0 FEET WHERE 6.0 FEET IS
REQUIRED. THE TOTAL SIDE YARD SETBACK IS 6.0 FEET WHERE 15.0 FEET IS
REQUIRED AND THE TOTAL LOT AREA COVERAGE IS 33% WHERE 25% IS
ALLOWED.**

Mr. Giordano: (Peter Giordano, 9012 Beach Road, Applicant) I own a property at 9012 Beach Road. Right now there's a small camp on it and I'd like to knock it down and build my retirement home there. My mother had the camp for a long time and she was going to build her retirement home there but she had a stroke, she's ended up in a nursing home so I now have the property. She had a variance that said she could build 24' x 56' which was approximately 26.8% coverage. I've looked around and one of my biggest things is I need a garage. I am closer to 60 than 55 and in a few years, I'm not going to want to cross the street, plus the fact that my wife still works. She's not going to want to go across the street to get out. We have to have a garage so I went to a few builders and the best they could say is if you build 27' x 50' and take the 6' off. The coverage is exactly the same but now I have space where I can put a garage in the front. Actually the house would probably end up being smaller than what my mother was going to build because she didn't have a garage. I'm keeping it the same 26.8 by going 27' x 50' and I'm putting a garage in there. So the variance I'm looking for is basically right now by the survey, I'm about 3.7' from one side. I'm trying to get .77 inches extra on that side and then toward the other property, I think I'm looking for a foot and a half extra on that side so that I can go 27 so I'd be 3' from both sides and I'd be 50' long. That 50' long plus the fact that I'm asking to build 20' from the road instead of 30' from the road because most the houses out there are within ten or fifteen feet of the road. I'm looking for 20' instead of the 30' that would allow me to build the building I am looking for and actually it would not go any further than the building that's on there today, if you count the deck and the side railings.

Mr. Stanton: I do want to note that because we are on Oneida Lake, this has to be referred to the Onondaga County Planning Board. We did get a decision from then and when you get past all the "whys" and "wherefores," their resolution was that the Board does not endorse the granting of area variances for increased lot coverage for locations in a flood plain. Did you get a copy of this?

Mr. Giordano: Yes, I did and the only thing I can say to that is I am not looking for any bigger coverage. I already have the right to build 26.8 coverage on that land. It's grandfathered in on the deed. So, for them, maybe they didn't know that or they don't really care about that.

Mr. Stanton: As a matter of course, they tend to do this for many of the things that are on the lake. The one reason why I wanted to bring this up is I need to make you aware that because the Onondaga County Planning Board has recommended against granting the variance, we have to have a super majority vote so that's four of the five of us have to vote "yes."

Mr. Rabbia: When you say grandfathered in do you mean because you got a prior variance in 2009. Is that what you mean by that?

Mr. Giordano: Yes, my mother got it.

Mr. Palladino: I didn't check that but what did the County say the last time when Mrs. McCann came in front of us? Did they approve or deny? I think they disapproved it then too but I didn't find it so I was just curious.

Mr. Stanton: I'm not sure our file goes back that far and I don't think they did from what I remember.

Ms. Lockett: May I ask for an interpretation from the attorney? 210.31C says that a variance shall become null and void a year after the date of issue. Does it matter that it was in the deed? Does it expire? The code says that the variance is null and void a year after the date of issue.

Mr. Procopio: That was changed in 2013.

Ms. Lockett: Oh, this is an old version I am looking at?

Mr. Procopio: Yes, that was added in 2013. Previously, they just ran with the property.

Ms. Lockett: They don't anymore.

Mr. Procopio: Beginning in 2013 they expired.

Ms. Lockett: So this one is grandfathered in.

Mr. Procopio: This one is still valid.

Mr. Stanton: Since the time that we dealt with this, it seems that back in 2013 the property straddled the road. It appears that's not the case anymore?

Mr. Giordano: [Approached the board] Reading the old variance *[unintelligible]* it appeared it was hooked to the road. As you look at it now, it's two separate parcels so when I calculated the area it was based on the parcel....

Mr. Stanton: That's consistent with what I was seeing.

Mr. Giordano: The only thing I have right here is the information from the County that shows it as one property.

Mr. Stanton: Was that the County or is that your surveyor's...

Mr. Giordano: No, this is the County.

Mr. Stanton: May I see that.

Mr. Giordano: The surveyor of course says it's one property and the only thing I want to say is the Town of Cicero, when you print out the property, the 1090 that's on there in 94 is on both pieces.

Mr. Stanton: Honestly, I'm not sure this has any bearing on the case, I just wanted to make sure...

Mr. Giordano: I also has the County's signature and Wayne Dean's signature and whoever else's signature.

Mr. Stanton: Okay, very good. One of the things that I noted that when you go back toward Cicero, a lot of the houses are much closer to the roadway. Starting with your house, the houses almost start to set back a little bit more. I just had some basic concerns about you having just a 20' driveway if that's what is going to happen. If you have guests over, you can only queue up one or two people depending on how wide your driveway is.

Mr. Giordano: Of course, I have across the street too. The only thing I would say to that is I'm trying to stay 30 feet away from the water and once you have the house and you put a small deck on it, you're at the 30' basically and that's why I was keeping it at 20'. I mean I could give you a couple of extra feet but in one of the pictures you can see a car in the driveway and you still have quite a distance to the road.

Mr. Rabbia: On the plan and maybe I am reading this wrong but I'm showing the house is going to be 48' away from the water.

Mr. Giordano: Yes, I'm saying when you put a little deck on it after you come out of the sliding glass window.

Mr. Rabbia: A wide deck right?

Mr. Giordano: Well I wouldn't put it 18, like I said if you wanted me to give you a couple of extra feet...

Mr. Rabbia: Chuck (Stanton) is going where I was going. I'd like to see everything shift north...towards the lake.

Mr. Giordano: The only thing I'd like to say is when the ice came in it almost touched the deck where it is now. It destroyed the front deck and it was completely lifted up and there was ice all the way basically within a couple of feet of the current deck.

Ms. Lockett: Did your surveyor draw the flood plain on the survey that you have?

Mr. Giordano: He didn't and I have to go back to get that but I believe the flood plain is like 253 or something and I believe that's basically the height of that because my sister's camp, the one next door, is at 253 and back when the worst floods came 20 years ago, that property was dry. We actually had to walk through water up to our waist but when we got to our two camps the road was still dry. So, I think it's 253 but I'm going to build it up anyways.

Mr. Stanton: I'm sure Steve (Procopio) will correct me if I'm speaking out of turn but just as a technical matter, there is a minimum flood elevation that you have to maintain on the property and I think plus a little bit and if the structure's not at that, the land around it has to be raised up or the structure has to be raised up to the floor elevation so I don't think that's going to be an issue.

Mr. Procopio: The base elevation is 373.2.

Mr. Rabbia: As I said, I'd be interested in a shift a little bit towards the water just to give yourself more than 20 for the road line. Now, just take me down memory lane. We approved a 56' x 24' you said?

Mr. Giordano: Yes.

Mr. Rabbia: You're asking for what now?

Mr. Giordano: Six foot shorter and six foot wider, 27' x 50'

Mr. Rabbia: Six foot shorter and three foot wider, right?

Mr. Giordano: Yes, okay.

Mr. Rabbia: Why wider?

Mr. Giordano: Wider because I can fit in a garage.

Ms. Lockett: What's your objection to using the garage across the street?

Mr. Giordano: Well, first of all the garage across the street is very small. The boat is in there and the jet skis, whatever, we couldn't put a car in there but in the middle of winter, I don't think my wife wants to cross the street every day to get into her car to go to work. I got to please her. I don't work, she does, so... [laughter]

Mr. Stanton: Just so you understand where we are coming from, we are charged with granting the minimum number of variances that are required to be able to get a project completed so when you see some of this negotiation, there's a lot of variances associated with this mostly because of the lot size and configuration. What we are trying to do is either minimize or eliminate as many as we can.

Mr. Giordano: I think you have a drawing of the house in your package.

Mr. Rabbia: I am looking at the layout. Take me through why 27 gets you a garage and 24 does not.

Mr. Giordano: I'll have to go by memory but you'll notice in the kitchen there's only three foot from the oven to the island and then there's only three foot from the island to the couch. There's only seven foot if you're sitting on the couch to the television. That's pretty short. If I had to cut that down to 24 or even 26, it would be hard to even take a foot out of that let alone three foot. If you can show me where I can take a foot off that. It's pretty much breaking all the rules as it is with three foot from the island to the stove and only three foot from the island again to the couch.

Mr. Rabbia: As Chuck (Stanton) said we are charged with granting the minimum. You know you could swap your eating area with the fireplace and the couch, right? There's different ways you can reconfigure the space, I'm not going to do that for you but there's a way to do it, right?

Mr. Giordano: I guess, I guess...this just gives me a view of the lake, whether I'm eating or wherever. If I put one behind then....

Mr. Rabbia: I understand. What I didn't understand was how the 27 and the garage were related and you've explained it so I understand now.

Ms. Lockett: Do you worry that the water coming off your roof is going to get on your neighbor's property and drown their shrubs?

Mr. Giordano: We were talking about putting the roof the other way.

Ms. Lockett: It's not that way on this drawing.

Mr. Giordano: I'll have to get with an architect then. We were trying to get the roof to go this way but even if it didn't, I think with the gutter system, it wouldn't come off but it's our plan to have the roof go this way so when the sun comes up no moss would grow on the roof.

Mr. Lockett: So this isn't your final design.

Mr. Giordano: No, I haven't gotten an architect to give me the final drawing yet because I wasn't sure what it was I was going to be able to build.

Ms. Wicks: You were here back in 2009 correct?

Mr. Giordano: Yes.

Ms. Wicks: Do you remember having a in depth conversation in regards to your neighbor and his concern with having that house so close to his even though it is separated by the shrubbery. Do you remember that?

Mr. Giordano: Tony's here right now. I'm sure he'll talk to you about that but yes, we did have that conversation and today the house is by survey 3.7' from the line. I'm asking for .7 more.

Ms. Wicks: I know and that was a pretty in depth conversation that we had as the membership on even giving the three foot because we were trying to be respectful of your neighbor and it was a substantial request. So, I'm just trying to get a feel. I guess I'll wait and see what your neighbor has to say as well.

Mr. Stanton: At this point is there anything else?

Ms. Wicks: You have to get a majority from us so would you be willing to negotiate if you needed to. I know what I'm looking at and what we approved before, there's was a pretty good conversation the last time we had it. I know that you're trying to do the best you can with the property you have, unfortunately that's Beach Road, that's Muskrat Bay Road and you get what you get on the water but are you willing to work with us at all?

Mr. Giordano: You know, I can lose an extra foot here or there. I can bring it closer to the water and extra four foot but after that, it completely changes. For me to take a foot out of that drawing...ummm...and make it 26, then I have to come in through the side...which is okay....I'm willing to do that if it has to be done. I'm willing to push it four foot towards the lake, if it needs to be done...

Ms. Wicks: You're willing, okay...thank you.

Mr. Stanton: If no one has any other questions at this point.

Ms. Lockett: I have one other comment. As we are talking about bringing the house back further toward the lake, I'd like to either see the front façade equal to the house on your right or on your left. I don't want to see it jogged. I am not really opposed to you bringing your house closer to the road...

Mr. Giordano: That would still be...my sister's camp is 12' off the road. I wouldn't go that close. I wouldn't want to but I'm just saying.

Mr. Rabbia: I'd rather not. I wouldn't want him to end up with a 12' driveway to be honest with you. We are trying to avoid that down Beach (Road) as much as we can.

Mr. Palladino: But you could move the house towards the lake two or three feet so as not to interfere with your neighbor's view as you had indicated? I'm looking at the stakes from 2015.

Mr. Giordano: Right and the plan as drawn would be basically touching the end of the porch right now and I would go three foot closer if that's what you required. That would be perfect, I could live with that, no problem.

Mr. Palladino: Does your sister still own the property next door?

Mr. Giordano: Yes.

Mr. Palladino: She doesn't want to give up any land?

Mr. Giordano: Well, we got me, my brother and my sister. I'm getting one lot and they're getting two lots there and they're not happy because their lots are together and they have to live together so for me to go back to them and say I want a piece more...I might be able to do it but right now I'm trying to do it on my piece of land.

Mr. Stanton: Mr. Giordano, you may take a seat and I will open the public hearing.

Mr. Stanton **opened the Public Hearing at 6:26 P.M.**

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

Mr. Stanton: Is there anyone here who would speak against this variance? Please come up and state your name and where you live for the record.

Mr. DelVecchio: [Mr. Anthony DelVecchio, 8531 Old Towne Path, Cicero who is speaking for his father who is in Florida at this time. He is the trustee of their trust that is an irrevocable trust.] The only variance we would be against is one of which, I believed was discussed as far as moving toward the 9016 Beach Road.

Ms. Luckett: As you look at the house, you're on the left?

Mr. DelVecchio: Correct.

Mr. Palladino: So you are at 3.7' and he [Mr. Giordano] is proposing going to 3' and that's what you're saying you...

Mr. DelVecchio: ...are against.

Mr. Stanton: Just for our information, would you elaborate on why you are against coming closer.

Mr. DelVecchio: Well a couple of reasons, one of which is that I might possibly have to add on or build on to the house so if we were to go for a variance, I guess it might not be granted for us as well as devaluing the property.

Mr. Stanton: I mean that's something that although none of us are real estate agents, I'm not sure that would devalue the property but as far as future variances, we'd have to handle those on a case-by-case basis. So, unfortunately, we can't answer either of your questions.

Ms. Wicks: Mr. DelVecchio, did you see the survey and is the shrubbery totally on your property?

Mr. DelVecchio: It is.

Ms. Wicks: It is. So four feet of shrubbery is actually into your property. So, technically, you can't use that anyway.

Mr. DelVecchio: But we could put up a fence, right?

Ms. Wicks: It kind of is a fence. It certainly looks like one.

Mr. DelVecchio: Yes, we try to keep it up.

Mr. Palladino: Did you plant the shrubs?

Mr. DelVecchio: I did. Years and years ago. We've owned the property for over forty-six years.

Mr. Stanton: Do you have anything else you'd like to add?

Mr. DelVecchio: No.

Mr. Stanton: Does anyone have any further questions? [no response] Is there anyone else who would speak against this variance? [no response] At this time I will close the public hearing.

Mr. Stanton closed the Public Hearing at 6:30 P.M.

Mr. Stanton: Mr. Giordano you can come back up. Does the Board have any further questions?

Ms. Wicks: Questions? No.

Mr. Palladino: I guess it's six of one, half a dozen of the other, but if the house stayed where it is and we maintained at 3.7' and it was moved closer so the size of the house could be what is being asked for. So, that gives us a 2.3' on a side that has no structure and borders a family member. Is that something that could work?

Mr. Giordano: My sister would agree to anything like that.

Mr. Palladino: So you could move it over four feet then?

Mr. Giordano: No, if you're going to give me the 3.7' on that. I'll take the .7 on that.

Mr. Rabbia: 3.7' on one side and 3' on the other.

Mr. Palladino: If you do that, he's going to have to make the house narrower. If he's got to take 7" off his house, I don't know. I'm just trying to get everyone what they are asking for.

Mr. Giordano: I'd be amenable as long as you guys...there's no problem there. I wish I had brought my sister.

Mr. Rabbia: There's a fire code there isn't there?

Mr. Hooper: Five feet.

Mr. Rabbia: Okay, five feet so we're in to...

Mr. Hooper: He's going to be rating the walls of the building on either side.

Ms. Wicks: Isn't that a substantial cost that you're willing to incur.

Mr. Giordano: I'll do what I have to do.

Mr. Rabbia: Okay, so move the house 4' closer to the water. Give him 24' in the front and then on the east side, leave it at 3' and make it 3.7' on the west side I guess.

Mr. Stanton: So we'd be talking about coming 3.7' closer, or not, leaving it as is.

Mr. Palladino: Is there really a major difference between 2.3' variance and a 3' variance?

Mr. Stanton: The only comment I'll make on that is that this probably doesn't take the eaves into account so depending on the eaves, that could have a larger impact and that's happened in the past. We've approved variances that are very close to property lines and the eaves have completely blowing away the plan.

Mr. Rabbia: The answer to your question here is we are just trying to find the minimum.

Mr. Palladino: Yes, I realize that.

Mr. Giordano: I'd like to say, if my sister was here she wouldn't care if the eaves were a foot from her property or even on her property and if that's going to make a difference and I can get that extra seven inches, we can postpone it and I will bring her here next month to give the seven inches because as you can tell from the drawing, seven inches out of that room is...I don't know where I would get it.

Mr. Procopio: You make a good point with the eaves so if you wanted to put a condition on that, that's up to you guys.

Mr. Stanton: That's a good suggestion.

Mr. Rabbia: And snow right. I mean that type of roof.

Mr. Stanton: I would like to start talking this out so we can get to a resolution on it. Are you amenable to moving the house back at least the four feet that we were talking about?

Mr. Giordano: Yes. I mean if that's what you're looking for. I would agree to that. I would rather not but I would agree to it. I don't know that the four foot would make that much difference. It would cut more off in the front. The ice I'll have to worry about but four foot shouldn't bother me. I worry more about safety. If I have grandchildren and the camp's that close to the water and, again, four foot shouldn't bother me. I just don't know what it buys for the front that much because like I said even with a car in there today, I'm a good 20' from the road...but I'm happy with that believe me.

Mr. Stanton: I believe where we're coming from is when you look at the standard stall depth for parking, it's about 18' and if you're at 20', the rear end of your car is theoretically just about at the end of the road so it's more of a safety issue.

Mr. Giordano: Okay so 24' perfect, I'm happy.

Mr. Stanton: Mark [Rabbia] made some suggestions. What does everyone else think?

Ms. Lockett: I think it's a pretty substantial request from the original 15' that's allowed. I think the original

variance that was granted was pretty generous. I think an architect could work within that width.

Ms. Wicks: I, personally, would like to see us maintain the 3' on the DelVecchio side and put the other .7' toward your family. We already went through a tremendous amount of discussion for the variance the last time and I really would like to maintain that.

Mr. Giordano: I have no problem maintaining 3.7' on that side and 2.3' on the McCann side.

Ms. Lockett: I don't think we can do that without hearing her say that that's okay.

Mr. Kirwan: Well, she's not here and she has a right to be here.

Ms. Lockett: Yes, she was notified.

Mr. Rabbia: I think we can.

Ms. Lockett: We can?

Mr. Giordano: I mean if you need an extra month to do another thing and me bring my sister in, we can do that. I promise you, she'll be fine with that.

Mr. Stanton: I don't think that's really necessary. Would anyone like to discuss the five factors at this point assuming there's no further questions?

Mr. Rabbia: To summarize this will be an area variance to construct a dwelling with 24' where 30' is required in the front, minimum side yard setback to the east is going to be 2.3' where 6' is required, right?

Mr. Palladino: I think it's just the opposite.

Mr. Rabbia: Am I going the wrong way?

Mr. Palladino: North is toward the water so east would be...

Mr. Rabbia: So we'll have the 24' setback where 30' is required. Minimum side yard setback on the east side will be 2.3' and the side yard setback on the west side will be 3.73', what is that that's 6' where 15' is required and then we have the lot area at 33, will that pretty much cover it when we do the motion?

Mr. Palladino: Yes.

Mr. Rabbia addresses 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. I think it will make an improvement to what's there and I think, if done properly, will add benefit to the area.

Disagree: Ms. Lockett: I don't like increasing that density. I think it's too close I think it is an undesirable change.

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. These lots are a little tough. I think given what was presented, I think there's a way to do it however given what the applicant described regarding spacing between appliances, islands, and what not, it might make it challenging for what his desire is. So, the answer is yes but I kind of understand given the lot and where they are located.

Ms. Wicks: Agreed.

Mr. Palladino: **No.** For those reasons, I think it's "no."

Ms. Luckett: **Yes.** I think he can use the garage across the street. It's not a final design. I think a creative architect can work a garage in there for you within the width that's there.

Mr. Stanton: **No.** I would tend to lean toward "no" just because of the restrictive lot. There are a lot of restrictions that you're having to deal with right now.

Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes. Especially when you are talking about the side lots. Six where 15' is required is quite a bit. So, my answer is "yes" to that one.

Mr. Stanton: I would agree too and I would just note that because of some of the changes between now and then, the statement that the coverage is the same is not exactly correct at least the way the County is recording it right now. The coverage is going to be 33% based on the area of 4,034.7 sq. ft. that's stated on the survey.

Ms. Wicks: I do have a question. Didn't you say you owned across the street? [Mr. Giordano indicates in the affirmative.] So that coverage is including his property across the street or did you already address that?

Mr. Stanton: Previously we did because it appeared that they were together. When you look at this on the County tax website it draws a distinction between the two lots although it says they were sold together. I'm not viewing that as being an impediment, it's just something else we have to address if we go forward with the variance. So, it's 33% just on that lot.

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 think some of the concerns I had with driveway and parking have been mitigated by the applicant. The construction office will take care of the rest of the building requirements that we have so I think the answer is "no" there.

Ms. Wicks: I'm quasi on this one "yes" and "no" only because of the size of the building. It is taking up more than the footprint, so I'm not definitive on that one.

Mr. Palladino: **No.** I'll say "no" but one thing we didn't cover that was covered originally, you're still planning on putting the roof gutters up and directing the water away from the neighboring properties. [Mr. Giordano responds in the affirmative.] Okay, if that's still your intention, then I say "no."

Mr. Kirwan: If you want to make it a condition, then make it a condition and not rely on his intention.

Mr. Stanton: I would say that this would tie into the suggestion that we limit the eave size also?

Mr. Rabbia: Are we going to specify the size of the eaves?

Mr. Stanton: We could. You're making the motion.

Mr. Rabbia: Why not just say the water needs to be shed away from the adjoining properties toward the lake. I don't want to get into the eave size, we'll screw something up right?

Mr. Kirwan: You don't care if there's gutters then?

Mr. Rabbia: We want gutters.

Mr. Palladino: Roof gutters are implemented as agreed to originally and every attempt is made to direct

the groundwater away from the neighboring properties.

Ms. Lockett: **No.** I would say “no” if those conditions are met.

Mr. Stanton: **No.** I would also say “no.”

Factor 5 – Whether the difficulty was self-created? Answer: Yes. However, “yes” here is not a reason to deny.

Factor 5 -All agreed.

MOTION by Mr. Rabbia seconded by Ms. Wicks on behalf of Peter Giordano at 9012 Beach Road, to approve an area variance to construct a one-family dwelling in an R-10 zone where the proposed front yard setback is 24’ where 30’ is required. The minimum side yard setback to the east side will be 2.3’ where 6’ is required. The minimum side yard setback to the west side will be 3.73’ where 6’ is required for a total of 6’ where 15’ is required and a total lot area coverage of 33%. Roof gutters will be implemented so that the water runoff is drained toward the lake and away from neighboring properties.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion
Mr. Palladino	Yes to the Motion
Ms. Lockett	No to the Motion
Mr. Stanton	Yes to the Motion

In favor: 4 Opposed: 1 Abstained: 0 Motion approved with super majority required.

Mr. Stanton: Congratulations. Please note that you are not to start any construction until you are notified of the variance being granted. That will come from Mr. Hooper’s office.

Mr. Giordano: Thank you very much.

**JAMES PHILLIPS,
8022 KNEESKERN ROAD,
AN AREA VARIANCE FOR A PROPOSED NON-RESIDENTIAL STRUCTURE IN AN R-15
ZONE. THE LOT AREA IS .17 ACRES WHERE 2.0 ACRES IS REQUIRED. THE MINIMUM
BUILDING LINE IS 75.0 FEET WHERE 200.0 FEET IS REQUIRED AND THE MINIMUM
LOT DEPTH IS 100.0 FEET WHERE 240.0 FEET IS REQUIRED. THE MINIMUM SIDE
YARD SETBACK IS 11.0 FEET WHERE 30.0 FEET IS REQUIRED AND THE REAR YARD
SETBACK IS 28.0 FEET WHERE 40.0 FEET IS REQUIRED.**

Mr. Phillips: [James Phillips, 8022 Kneeskern Road, Applicant] Well, I've lived in my house for forty years and it's only 1,100 sq. ft. and I've run out of room. I have a shed in the back and it's full. For years I have been trying to buy the property behind and for one reason or another it never came up for sale. Now, the neighbor on this side got mad at the neighbor on this side and the neighbor who owned the property came over and said would you like to buy my lot. I said yes. So, we are looking to build a larger storage building to put all our stuff in because I presently have a 25' boat on a trailer and I keep it up at Congel's under shrink wrap and I want to get it into a building. I have a tow vehicle, then I have a lawn tractor and my kids still live at home so they have a bunch of stuff. We would also like to get rid of the plastic shed that's in the back, a 10' x 12' storage shed. We'd like to get rid of that and move the stuff in there into that building. There's stuff up in the attic. It's getting difficult to hike myself up into the attic space to pull down Christmas decorations and everything else. That's not working anymore so all that will probably end up out there too. The dimensions we were looking at were 24' x 40'. The next door neighbor also has the same sized dimensions on his building and we'd talked about it after he sold his property and he requested that I keep it off to one side because he likes the courtyard effect and I said no problem. I had no problem with that. We have the 30' setback on this lot which is 100' deep, 40' for the building itself and that leaves us another 30' between the two property lines and also we were looking to come in 10-11' in from the side yard which is just about where the house was sitting so tried to keep within the areas that we need to be in for construction. However, in talking with Steve (Procopio), the Town of Cicero only allows me 700 sq. ft. and I'm at 960 sq. ft. The reason why I need the bigger one is because of the "toy" my boat. By the time I get the trailer and everything else in there, you pretty much run out of room because you're looking about 28 or 29' by the time you have the back of the boat, the tongue of the trailer and everything else and this is one of those trailers that you can't just take the tongue off like some of the newer ones I guess do. I will be storing another vehicle in there. The tow vehicle for this will be stored in there too. So, that's pretty much where I'm at. The next door neighbor on the other side is very supportive of the building being toward his side of the lot. We discussed some drainage issues and everything else and he came over the other night and he actually said if we needed drainage work, he'd help pay for it. I kind of sat back on that one because we might have to put some drainage in just because of the way the roofs are and everything else. He's also helped me...they did have some drainage problems and they took all their gutters so we had nothing coming back in this back lot. I have one contractor that I was looking at and he came up to do a site survey and he was talking about putting up about 24" of gravel after scraping down topsoil which will bring the building floor right up to street level. Also, I think you have a copy of my elevation survey one of the concerns was drainage, we're above it. Unless we get one of those deluges like we did back in November, we did have some surface water sitting there but it

never made it over to his yard and we got the drainage that we talked about with the guy on the other side and he's willing to help do this. My request for the variance is pretty much at minimum, I guess where I was to be to put this in 700 sq. ft. wouldn't give me the length to get my "toy" (referring to the boat) in there where I'm at and is also in line with the neighbor next door who has a building the same size, he's also 24' x 40' and he was okay with that. I guess there's another one in the neighborhood. On Kneeskern Road there is nothing but garages and storage buildings on that road. So, this building would not take away from the neighborhood. Actually, the gentleman that's J&S Construction have been around here for 28 years. I think they've done RV Way rebuild and some other places around here, Congel's. So the town's familiar with their building practices and I think the picture shows quite a nice looking building compared to some of the other garages that are there. So I don't think anyone would object to it being there. So that's why I'm here tonight to see if I can get that extra 260 sq. ft.

Mr. Stanton: Before we get too much further there are some things I've been checking out with our Codes Office gurus over here. The way the code is currently written, it almost precludes garages that aren't an accessory structure. Would you be willing as a condition of approval if we were, assuming we went ahead with this, to make a condition that you actually combine the two parcels together?

Mr. Phillips: Certainly, the only reason I didn't was, as a matter of fact if you look at the survey, he did survey it actually shows it combined and I discussed it with Steve that I wouldn't have any problem with it if this didn't go through then I would obviously want to get rid of the property because all I would be doing with it is mowing it so there would be no problem there combining the lots into one parcel.

Ms. Wicks: Personally, I have no problem with the variance so I have no discussion.

Mr. Palladino: That would eliminate a lot of the other variances.

Mr. Stanton: Right. I don't think we can grant the variance on a future condition but it would make things better.

Mr. Palladino: What's it take to combine the two lots? What's the procedure?

Mr. Procopio: Complete and administrative application with our office. It's a simple subdivision, just combining two parcels.

Mr. Palladino: Are we talking a month, a year?

Mr. Procopio: We would require a legal description and a survey map drawn up showing this property as one and provided to our office for approval and we will stamp it and sign it and then he's going to take it with his deed and file it with the County.

Mr. Palladino: Is it rubber stamped in your office or does it have to come before another board?

Mr. Procopio: No, just in our office.

Mr. Rabbia: Why not do that first. Would you be agreeable to that?

Mr. Phillips: I can but my concern was that if we went through this whole thing and then the variance wasn't granted then I'm stuck with a piece of property that I'm going to just end up mowing for the rest of my life. I won't be able to get rid of it. So, when I talked to Steve about it I said I have no problem combining the lots which as I said when we did this survey which was only done a couple of months ago, we actually talked about doing the combination. Why not combine it. I mean tax-wise it will probably benefit me.

Ms. Lockett: So we can make the subdivision a condition of granting the permit.

Mr. Stanton: Yes, that's where I was going because Mr. Rabbia I think your concern was we may have had this happen before and the applicant has not gone through with the combination of the parcels. So if we make it a condition...

Mr. Procopio: So this is an accessory to his residence but in a technical sense, this is a separate piece of property and variance is written up as an area variance for lack of lot area for a non-residential structure. Once it's combined, he does need a variance for an accessory structure over 700 sq. ft.

Mr. Palladino: That would be his only variance at that time.

Mr. Procopio: That's it.

Mr. Palladino: Because right now, we are looking at five variances.

[Cross talk]

Mr. Phillips: I'm willing to do that.

Mr. Rabbia: Does it cost money to do what we are suggesting.

Ms. Lockett: It's just the map filing though.

Mr. Kirwan: That's \$200 bucks.

Mr. Procopio: You have to have the deed changed, an attorney, a surveyor so the professional piece.

Mr. Phillips: I've had three surveys done already since last summer and one of those is like \$600 bucks plus eight weeks before they'll do it so.

Ms. Lockett: I think the filing fee at the County is only like ten bucks.

Mr. Kirwan: You have to file the deed.

Mr. Stanton: Is there a way we can work the 700 sq. ft. into this and not have him come back.

Mr. Procopio: If you make the combination of the parcel a condition of the **[unintelligible]**

Mr. Stanton: Does anyone have any thoughts on the position, the size?

Mr. Rabbia: No, like I say given...having driven up and down that area and taking a look at the area, this is not out of character with how it looks.

Mr. Palladino: Really, that lot being separate if someone bought it and came in front of us to put a house up, we'd be looking at greater variances.

Ms. Lockett: Is the 32' setback is that because that's where the garage is...

Mr. Phillips: I actually had the survey map and when we were sitting down looking at this thing, we knew we had to go back at least 32' or 30' so when we started doing the planning and we needed 30' from the backside too, either way, so when we made the decision to go 40', we were originally looking at 50' and then we said well we can't do that so we'll go back to 40' and that will put us right in that square of both lines in the front and back.

Ms. Lockett: I'd like to see it set back from Kneeskern Road at the same set back on the buildings on both sides of you.

Mr. Phillips: They're all 30'

Ms. Lockett: So we want to put this one at 30'?

Mr. Phillips: Yes.

Mr. Stanton: You're showing 32' right now sir.

Mr. Procopio: The land surveyor will plot that back a foot or two more just to ensure there's room to build it.

Mr. Phillips: Is it back 32' or 30'? So in looking at the map here, it looks like it's back before that but that was only so we would have a little give and we went 11' from the sides so there's never an argument down the road so if I went in 32', again there's no argument about how close to the road we are. If you guys want me to go 30', I'll go back out 30' and that will be 30', 40', and 30'.

Ms. Lockett: I just wanted to see the fronts of the buildings all lined up but I can't tell from this survey where it is.

Mr. Phillips: Well we did that so no one down the road could come and say "you're supposed to be 30' but you're only at 29'" I figured this way here we were safe. They're going to come back out and stake it in the spring so if you want it at 30' we can do it at 30'.

Mr. Lockett: No, my point is I wanted it, I don't know where those buildings are on either side of you.

Mr. Phillips: They are all on one side of the road.

Ms. Lockett: No, I mean how far are they set back. Are they at 30' or...

Mr. Phillips: I think they are at 30' and I'm only saying that because the town requires it on the surveys. If you look up and down, they are all pretty close in that area so the building line is actually 30' here too. Like my house is 37' back from the road so...it changes there but if you want me to move forward up to 30' that's fine.

Ms. Luckett: I guess I can't comment on it because I don't know where the other garages are so we can drop that.

Mr. Procopio: I would say they are all generally 30' back but they are never always exactly the same.

Mr. Stanton: I don't know if the aerial photo helps but here it is. Any other questions?

Mr. Palladino: I think you stated on your application, no water, no sewer, no gas? There's no utilities on the property.

Mr. Phillips: Electric but as far as I know there's no water, sewer or gas because gas just went in just a few years back even on Oneida Trail.

Mr. Palladino: You're not planning on putting it in even if it's available.

Mr. Phillips: No. The only thing I might put in down the road is to put some heat in there but right now my intention is...

Mr. Palladino: Cold storage?

Mr. Phillips: Yes.

Mr. Palladino: No commercial, you're not going to run a business out of it. No income generated.

Mr. Phillips: Nope.

Mr. Palladino: I saw that truck in your driveway.

Mr. Phillips: That's my son's work vehicle and every night when the plow goes by we cringe because one pickup is going in the garage and I have stuff stored in a storage building in Bridgeport so that's another \$80 a month I won't have to spend. So, it's either that or build a bigger house but I thought this was the easiest way to do this.

Mr. Stanton opened the Public Hearing at 7:07 P.M.

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

Mr. Stanton: Is there anyone here who would speak against this variance? [no response] Mr. Phillips you cannot speak for or against but did you have a letter that you wanted to enter into the record.

Mr. Phillips: Yes, there should be a letter in one of the files that my neighbor actually sent one in and he's the one that actually wanted to help me with the drainage if we needed to do it.

Mr. Stanton: Yes, we have that. Would you mind if I read it into the record.

Mr. Phillips: I haven't seen it.

Mr. Stanton: [Reading letter from James and Mary Kate Rolf, 7897 Oneida Trail, Bridgeport]

To Whom It May Concern: I am writing to submit my 100% personal support of the application that James Phillips submitted to the Town for a garage to be built on his property on 8022 Kneeskern Dr., in Bridgeport (Tax map# 070.-02-11.0). I own the property adjacent to Mr. Phillips at 7992 Kneeskern Dr., where I too have a sole-standing garage on my property there. The neighbor to the other side of Mr. Phillips also has a sole-standing garage at that property. Many other Kneeskern Dr. property owners also have sole-standing garages on their properties, indicating that it is an accepted use of their lands there. Therefore, I respectfully request that my Public Comment on this matter be entered into the record as IN SUPPORT of the application that Mr. James Phillips submitted to the Town for Cicero for a variance for his private garage on his land.

Mr. Stanton closed the Public Hearing at 7:09 P.M.

Mr. Stanton: Does the Board have any other questions? With that I would like to discuss the five factors.

Mr. Stanton addresses 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. From personal observations this neighborhood consists of multiple residences on Oneida Trail with non-residential structures on Kneeskern Road and I want to note for the record that this, as opposed to other cases that come in front of us, this is a very unique application of having residences on one lot and what's essentially an accessory garage on another lot which mitigates a lot of previous concerns that we've had about situations like this.

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. With the size of the lot, regardless of whether you try to center the structure, move it further back, move it forward, you will still need the variances to be able to get the structure that you want.

Mr. Rabbia: I think that because it's non-residential R-15 makes it almost impossible given the requirements that are R-15 non-residential.

All agree.

Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes. I am going to go out on a limb and say "yes" to this. The reasons are that the area would require a variance of about 1.82 acres, that's about 94.5% of the required 2 acres. The variance on the building line would be 125' or 62.5% of the required 200' and the variance on the lot depth would be 140' or 58.3% of the required 240' depth and we do, assuming the building stays in the same position relative to the road boundary, we'd have a 12' variance on the rear yard or 30% of the required 40'. But, again, that's a function of the restrictive lot size itself, not necessarily anything else. I should probably mention the actual garage size which is 960 sq. ft. A 260 sq. ft. variance on the 700 sq. ft. maximum that we would allow if this were a residential accessory structure or 37% larger.

Mr. Rabbia: It's substantial based on numbers on a piece of paper but when you start looking at and I go back to the lot classification, the fact that it's not residential becomes awfully challenging to do anything in there but I agree with you that numbers on paper, it is substantial.

Ms. Wicks: Mark took the words out of my mouth.

Mr. Palladino: It is substantial, however, as I said before if you were to develop this land for anything other than what you are presently proposing, the variances would be much greater. I think this is a minimum variance that could be granted and still have the lot be usable but, yes, it is substantial.

All agree.

Factor 4 – Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? **Answer: No.** Construction will be held to current codes and the drainage will be reviewed by the Town of Cicero.

All agree.

Factor 5 – Whether the difficulty was self-created? **Answer: Yes.** I always answer this one, yes, you are choosing to build a new structure that does not conform to the bulk requirements. It should be noted however that this is not necessarily a reason to deny the variance. **All agreed.**

MOTION by Mr. Stanton on behalf of James Phillips, 8022 Kneeskern Road, to allow the construction of a proposed non-residential structure in an R-15 zone. The lot area is .17 acres where 2.0 acres is required. The minimum building line is 75.0 feet where 200.0 feet is required and the minimum lot depth is 100.0 feet where 240.0 feet is required. The minimum side yard setback is 11.0 feet where 30.0 feet is required and the rear yard setback is 28.0 feet where 40.0 feet is required and the proposed garage area is 960 sq. ft. where 700 sq. ft. is required as an accessory use to a residential structure.

Mr. Kirwan: Just for clarification, are you going to condition this on the subdivision. Doesn't that change the numbers a little bit?

Mr. Stanton: Can I condition this on something that hasn't happened yet?

Mr. Kirwan: Yes, because your variance doesn't go into effect until it does happen.

Mr. Stanton: His legal address will be Oneida Trail and Terry (Kirwan) that doesn't invalidate anything we are doing tonight? [Mr. Procopio speaking unintelligible] You're right, you almost have to treat this as a corner lot. So we will just be talking about the garage area.

Mr. Rabbia: The building line right.

Mr. Stanton: Yes, the building line is 85, the lot depth will be 150 but we have 200. The lot area we are right on it 1,500. Okay so let's do a revised motion.

REVISED MOTION by Mr. Stanton seconded by Mr. Rabbia on behalf of James Phillips, 8022 Kneeskern Road, to all the construction of a proposed accessory garage in an R-16 zone. The proposed garage area is 960 sq. ft. where 700 sq. ft. is required as an accessory use to a residential construction. The building line is 75' where 85' is required in R-15. The following condition is necessary in order to minimize the adverse impacts upon the neighborhood or community. That condition would be that the lots known as Lot 74 and Lot 79 (shown on the topographic survey Lot #74 and #79 of Harbor Village) be combined prior to the Town of Cicero issuing a building permit.

Motion was put to a vote, resulting as follows:

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

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously.

Mr. Stanton: Congratulations. The way this works is you combine the properties. Come back to the Town and they're going to have your variance all set up for your future condition which is the combined properties and as long as you're complying with everything you said you would comply with, they would issue the building permit.

**SAMUEL MERE,
5940 MCKINLEY ROAD,
AN AREA VARIANCE WHERE A 48.0' X 60.0' (2,880 SQ.FT.) POST FRAMED GARAGE IS
BEING PROPOSED WHERE PRIVATE GARAGES NOT EXCEEDING 700 SQUARE FEET
IN AREA ARE ALLOWED WHEN USED AS AN ACCESSORY USE TO THE PRINCIPAL
RESIDENTIAL USE OF THE PROPERTY.**

Mr. Mere: [Samuel Mere, 5940 McKinley Road, Applicant] I'd like to build a 48' x 60' pole barn on my property just to store my personal property, lawn equipment and my truck.

Mr. Stanton: The application specifically sites a garage but are you really asking for a garage or are you asking for more of a barn.

Mr. Mere: Well, it's a garage but it's considered a pole barn. For storage of like I said my personal stuff, my truck, farm equipment, lawnmower.

Mr. Palladino: Not to be used as a business but just personal use?

Mr. Mere: Just personal use.

Mr. Palladino: No income. Not a storage area? You're not going to use it to store your friends'...

Mr. Mere: No, I've got a lot of property to store myself.

Mr. Palladino: Water, gas, sewer, electric? What are you putting in there?

Mr. Mere: No, not yet. Maybe electric in the future. No water, no sewer, no gas.

Mr. Stanton: I did hear you say farm equipment.

Mr. Mere: Well, I have a Belarus tractor. I have a riding lawnmower also.

Mr. Stanton: No plans for second story residence. I see there's windows up on the second floor.

Mr. Mere: Well, that's just for lighting, you know until I put electricity in there and ventilation in the summertime.

Mr. Rabbia: So, I have got to ask. A 48' x 60 for a few personal belongings seems awfully big. Can you explain that a little bit more please?

Mr. Mere: Well, I have a dump truck, I have a 29' boat. I have a different truck with a plow on it. I have the riding lawnmower; the Belarus farm tractor.

Mr. Rabbia: Okay.

Mr. Stanton: I just wanted to note that the actual area when you calculate coverage is a little off because the actual overhang portion needs to be counted. That is 16'. What would you be using that for?

Mr. Mere: Well, I wanted to put maybe like tables underneath there; or if I'm not using one of my equipment in the summer time, I can just park it under there instead of pulling it in and closing the garage doors.

Mr. Stanton: No plans to close that in in the future?

Mr. Mere: No, no.

Mr. Rabbia: What do you use the other building for right now that's on the property?

Mr. Mere: That's storage. The garage is smaller and it doesn't fit much. I put the car in there. The other side we had horse stalls in there. A dirt floor. I couldn't do anything with that though because it wasn't high enough so it was cost efficient to just rebuild something.

Mr. Rabbia: So, are you going to get rid of that building?

Mr. Mere: No, I won't get rid of that building.

Ms. Wicks: There also appears to be other pole barns along the same road.

Mr. Mere: Yeah, there is...that road is...well you have industrial, commercial, residential. I don't know but yes, there's pole barns.

Ms. Wicks: Is it real wet back there?

Mr. Mere: No, in one section it's a little damp but no, it's mostly dry back there.

Mr. Stanton: Just for everyone's reference on the Board, as part of this, it gets screened as to whether there's going to be County involvement which deals with whether it is close to a County road. It's also screened for wetlands and I've got a note here that this is not a wetland area so we should be good with that.

Ms. Wicks: Thank you.

Mr. Palladino: Do you have any plans on subdividing that property?

Mr. Mere: No.

Mr. Palladino: You've got what about 400' of road frontage and substantial depth, right.

Mr. Mere: Maybe some time in the future I would like to build a ranch house when I get older but I'm not sure if that's going to happen, it all depends on...

Ms. Wicks: With that overhand, did you define what the square footage is going to be for that building?

Mr. Palladino: 2,896 sq. ft.

Mr. Stanton: For a coverage calculation, which it doesn't make sense to do, on this property because it's so big.

Mr. Procopio: The coverage is fine. The only thing is the sq. ft. overage on the building itself. That's the only thing.

Mr. Rabbia: So it's the 2,880 that we're looking at not the 3,840. We're talking about the 700 sq. ft., we're going to draw some parallel to say is this substantial or not which you can't do it on the lean-to portion as well. You only do it on the enclosed structure which is the 48' x 60'. That would be the 2,880 sq. ft. and not the 3,840 when you add in the lean-to, if you will. We just consider the area that is the enclosed part of the building itself.

Mr. Stanton: Does anyone else have any comments? [no response] At this point I will open the public hearing.

Mr. Stanton opened the Public Hearing at 7:31 P.M.

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

Mr. Stanton: Are you related? Do you live in the same house?

Mr. Calabufo: I'm the immediate neighbor.

Mr. Stanton: Please come up to the microphone and state your name and your address for the record.

Mr. Calabufo: [Thomas Calabufo, 5934 McKinley Road] He's been doing a lot of cleaning up and he wants to organize the property. His boat is outside and that's not helping his boat and his dump truck is always outside. I think it would look a lot better with that building there. That's all I have to say.

Mr. Stanton: Okay, thank you.

Mr. Pardee: [Loomis Pardee, 5977 McKinley Road] I live kitty-corner across the street from him. He's got plenty of land to put it on and I can't see where it will hurt anything.

Mr. Stanton: Okay, thank you sir. Is there anyone else to speak for this?

Mr. Stanton: Is there anyone here who would speak against this variance? [no response] Okay, at this time I will close the public hearing.

Mr. Stanton **closed the Public Hearing at 7:33 P.M.**

Mr. Stanton: Is there any additional information or response to any comments or anything else the Board would like to ask? [no response] Would someone like to cover the Five Factors?

Ms. Wicks: I will cover the Five Factors.

Mr. Stanton: Ms. Wicks, please cover the Five Factors.

Ms. Wicks addresses 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.** I'm going to say it will clean up the area because he will have a place to put his vehicles. I think it would look nice along with the other places who have pole barns on that road as well.

Mr. Stanton: I would agree and I would say because of the mixed nature of this area and the fact that we have such a large property, that mitigates a lot of the issues that we would typically look at with an oversized garage. **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.** He has plenty of property. He has enough room and I don't see where that's a factor.

Mr. Rabbia: Agreed. I don't think that a dump truck, tractor, boat, truck with a plow would fit in 700 sq. ft. **All agree.**

Factor 3 – Whether the requested Area Variance is substantial? **Answer: No.** I don't think it is substantial based on what his needs are for the garage and the amount he was actually given per the code.

Mr. Rabbia: Well, I think it is substantial. Again, given 2,880 proposed and the 700 allowed. I didn't do the math but it's over three times the square footage but I don't think that in itself is going to be enough to deny it based on the other factors around this.

Mr. Palladino: I agree. I don't think it's substantial. On paper it is but in actuality, with sixteen acres of land, approximately, I don't believe it's substantial.

Mr. Lockett: I agree.

Mr. Stanton: I would tend to agree that it is substantial but, again, as I stated, it's mitigated by a lot of factors, including the lot size.

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.**

Mr. Rabbia: I agree. I don't think there will be an impact on the physical or environmental conditions in the neighborhood.

Mr. Palladino: I agree with that as well. You have no neighbors...you are your own neighbor. [laughter]

Ms. Lockett: I agree, no.

Mr. Stanton: I also agree, no.

All agree.

Factor 5 – Whether the difficulty was self-created? **Answer: Yes.** There has because the code says 700 sq. ft.

and they are asking for 2,880 sq. ft. but that in itself is not going to be the basis for my denial.

Mr. Rabbia: I agree with that comment.

Mr. Palladino: I agree as well.

Ms. Lockett: I agree as well.

Mr. Stanton: I agree.

Factor 5 -All agreed.

MOTION by Ms. Wicks, seconded by Mr. Palladino that the area variance where a 48.0' x 60.0' (2,880 sq. ft.) structure is being proposed where private garages not exceeding 700 square feet in area are allowed when used as an accessory use to the principal residential use of the property be approved.

Motion was put to a vote, resulting as follows:

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

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously.

Mr. Stanton: Congratulations.

Mr. Mere: Thank you.

SAL & SHARON FANELLI,
8888 SENECA AVENUE,

AN AREA VARIANCE FOR THE CONSTRUCTION OF A 24' X 29' DETACHED ACCESSORY GARAGE. THE PROPOSED REAR YARD SETBACK IS 14.5 FEET WHERE 30.0 FEET IS REQUIRED.

Mr. Stanton: Before we start, I do have one question. The application said County. Do we have anything back from the Planning Board yet? Terry [Kirwan, Atty.] can we actually go through with this process and complete it tonight without having the County input? [Kirwan: "No"]. I knew what the answer was but I wanted to ask again in case it had changed. Okay, [speaking to applicants] because you are close to the lake, we require County input just like we had on a previous case tonight. The County Planning Board only meets at certain times. What we just learned is that it is not until Wednesday of this week. Therefore, we probably won't have a decision until next week. What I'd like to do tonight is give you one of two options. We can either defer this case to the next meeting so you possibly do not have to do the explanation twice or we can go through all the procedural points tonight and leave it open. Unfortunately, we cannot make a decision tonight because we need to know what the County says. You will still need to come back next month to a possibly shorter meeting and possibly not. At that time we would be able to give you a decision. Again, unfortunately that's the way the legislative schedule is with the County.

Ms. Sutphen: [Jamie Lynn Sutphen, Baldwin & Sutphen, LLP, Attorney for the Applicants] We were aware. I had explained to them about the County so we knew that was happening. What we were hoping is that we could do the presentation tonight and get an idea if everything is good and that the public hearing could be kept open and there would be no reason to go through it all again next month.

Mr. Stanton: Okay, as long as you are all fine with that. I just didn't want to waste anyone's time tonight.

Mr. Fanelli: [Sal Fanelli, 888 Seneca Avenue, Applicant] I had purchased a piece of land from Lakeshore Yacht & Country Club. It's sort of an out-of-bounds dead area that doesn't interfere with the golf course. When we went through this whole process, I talked to Steve [Procopio, Code Officer] a couple of times and he guided me through to make sure we could build a structure on it. The golf course knew that we needed it to put a driveway and garage in and they had no problem with that. I also have a letter signed by all of our direct neighbors across the street and on the side of us that had no problem with us doing it as well. Do you want to see this?

Mr. Stanton: When we get to public comment, why don't you submit that and we will get it entered into the record.

Mr. Fanelli: We have the golf course behind us and the golf course on the side of this so I'm not encroached by any neighbors' properties other than the country club. When we went through the whole process, I thought I was in compliance until I went and filed for my permit, Steve [Procopio, Code Officer] let me know that I did have one problem and that was that I was not 30' from the back property line on the whole structure. As you can see on the plan, if I follow the 30' it comes through at an angle and encroaches on half of the building there. So, why I am looking for a variance is to be able to put it where it is because I am within my build line of 30' and we are going to be behind it by a foot. I am going to be away from my house structure by the required 12'. I got 24' to the left of me which is more than plenty. It's just my back property line on the one-half of the building that I am going to be closer than 30' so I am looking for the variance for that. I mean the street is a narrow street. Those were old camp roads. Fortunately, we just got repaved but there's a lot of delivery traffic from the club going in and out of that whole area. If you park in the road, they drive on everyone's grass to get past you.

That's why we opted for the additional driveway with a garage. I also have a boat so it would be nice to be able to put the boat in the garage and have additional parking. Actually, I even let my neighbors park in the driveway in the winter time because there's not enough room in their driveway when company comes over and the plows need to get by. That's my reasons for doing this.

Ms. Lockett: What's required to be between the house and the garage? [unintelligible] Ten that's the requirement? Then why can't you...

Mr. Procopio: That wouldn't be zoning regulations, that would be a building code issue.

Ms. Lockett: Can you slide the building over any closer to 10'?

Mr. Fanelli: I believe the structure he's got is going from foundation to foundation. My house has like a two foot overhang and the structure for the garage will have a one foot overhang so that 18' in reality will be more like 15' because it would count the overhangs. So yes it could come over more if I needed to bring it over more.

Mr. Lockett: So you could slide it about five feet closer?

Mr. Procopio: Isn't the topography a concern, it slopes away from the house.

Mr. Fanelli: My house is a little bit higher than that land. It slopes down a bit.

Mr. Stanton: Do we already have a pad built out here?

Mr. Procopio: Not that I'm aware of.

Mr. Fanelli: When we had the driveway put in, they dug that area out and put runner crush on it. There's no cement or foundation or anything.

Ms. Wicks: I just have a question and it doesn't really make any difference but is there any liability with you being so close to the cart path for a recreational facility or whatever you want to label that. Is that an issue at all?

[Ms. Sutphen [Applicant's attorney] speaking from seat – unintelligible]

Mr. Fanelli: The closest part that our property line comes to the cart path is like 10' so from our property line to the cart path there's a good 10' clearance at the closest point and at other points it's about 20'.

Mr. Wicks: And that just might be my ignorance with country clubs versus houses.

Ms. Lockett: Does the garage need to be 29' wide?

Mr. Fanelli: I'm staying within the 700 sq. ft. and I want to put the boat and pull my truck in there and be able to still have room.

Mr. Lockett: So, your answer is yes.

Mr. Stanton: Ms. Lockett to address what you may be getting at. If you slide the proposed garage closer to the existing house, you wind up gaining some back yard. Is that your...

Ms. Lockett: This dimension, the 14.5' gets larger because that slides over and if the garage gets smaller, the dimension gets closer to the 30'.

Mr. Stanton: Right.

Ms. Wicks: Did I hear correctly that the topography is not good to move it.

Mr. Procopio: [unintelligible]

Mr. Rabbia: Look at the generator. The generator is about where the slope starts.

Ms. Lockett: It's about three feet right?

Mr. Fanelli: The generator, by code, is about five feet away from the house.

Mr. Rabbia: Five and then from the outside edge of the generator, it's about seven feet.

Mr. Stanton: You might have three feet that you could slide it.

Ms. Lockett: [unintelligible]

Mr. Rabbia: Does the code offsets include the deck as well or...

Mr. Procopio: [unintelligible]

Ms. Lockett: Is there a variance for the deck?

Mr. Fanelli: Yes. That was grandfathered in when we bought the house. The Franklins used to live there prior to us and when we bought the house and tore the deck down and put it back up, we came through and got a permit for it and we were going to get a variance but there was already one filed for the old deck.

Mr. Stanton: What, if any, utilities are you putting in there.

Mr. Fanelli: In the future, just electric.

Mr. Stanton: I know you supplied this picture but as far as the configuration, you have the two doors off set from the...

Mr. Fanelli: Yes, there's going to be two doors on the front and the service door is going to be on the side. It's a single story and there's no window on the top that that shows. That was the closest I could find you on their website. The colors would be the same which would match the house.

Mr. Stanton: So it would definitely be more "squat" if you will, or not as high as what is shown here.

Mr. Fanelli: Right. That one looks like it might have an upper loft in it or something. That's a true example of the pitch of the roof facing the road and a double garage door on the front and off their website, that's the color it would be, roof and siding.

Mr. Rabbia: It's going to be steel as well?

Mr. Fanelli: Yes.

Mr. Rabbia: There's not going to be any windows on the back right?

Mr. Fanelli: Yes, I'm going to have two windows on the back.

[General joking about golfers hitting the building]

Mr. Stanton: Do we have any other questions or comments at this point. [no response] Like I said, I will open the public hearing but we will leave it open until next time.

[Ms. Sutphen speaking – unintelligible]

Mr. Stanton: Okay, very good.

Mr. Stanton **opened the Public Hearing at 7:50 P.M.**

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

Mr. Fanelli: Here's the...

Mr. Stanton: Oh, yes. Is that a copy we can have?

Mr. Fanelli: Yes. These are all the neighbors across the street and my one neighbor to the left of me, well to the right as you look at the house.

Mr. Stanton: Okay, we will include this as part of the record but I will read it. *"We are the neighbors around the house on 8888 Seneca Ave. and we understand that they are filing for a variance to build a garage closer than the required 30' from the back property line. We understand that the back left corner of the proposed garage will be 14' from the back property line due to the shape of the property because of the cart path. There are no other houses or structures behind or on the side where the garage will be located and we do not have any issues with the Fanellis on 8888 Seneca Ave. building a garage on the proposed site."* Then it is signed by Hope Tuffley, Anthony Forte, Daniel Pandori, Samatha DiPirro and John Johnson.

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

[Public hearing has been kept open until the next meeting.]

[Ms. Sutphen speaking – unintelligible]

Mr. Stanton: Thank you.

MOTION by Ms. Wicks, seconded by Mr. Palladino to defer until the March 7, 2016 meeting.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion

Mr. Palladino	Yes to the Motion
Ms. Lockett	Yes to the Motion
Mr. Stanton	Yes to the Motion

In favor: 5 Opposed: 0 Abstained: 0 Motion approved unanimously

Mr. Stanton: Thank you.

MOTION AND VOTE WERE UNANIMOUSLY APPROVED TO ADJOURN THE MEETING AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD.

Respectfully submitted,
Ann Marie August, ZBA Recording Clerk