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STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: January 7, 2015
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Wednesday, January 7, 2015 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali	Board Chairman
	Charles Stanton	Deputy Chairman
	Mark Rabbia	Board Member
	Gary Palladino	Board Member
	Rita Wicks	[Ad hoc] Board Member
Absent:	Donald Snyder	Board Member
Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Richard Hooper	Director, Code Enforcement
	Ann Marie August	Recording Clerk

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

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

Mr. Natali: Has everyone read the minutes from the December 1, 2014 meeting?

Board: Yes.

Mr. Natali: Are there any corrections or additions?

Mr. Stanton: Mr. Chairman I just have two. On Page 11, about half-way down the page, my first comment should read "I do want to 'note' rather than 'know'. The other correction is on Page 16, the continuing paragraph from page 15. The last sentence in my statement should read "We have "know" rather than "no."

Mr. Natali: I'll make a motion to approve the minutes with the corrections to the December 1, 2014 meeting minutes, seconded by Ms. Wicks.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes
Mr. Wicks	Yes
Ms. Palladino	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

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

Motion was made by Mr. Natali, 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
Mr. Wicks	Yes
Ms. Palladino	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

Mr. Natali: We have proof of posting that all items on tonight's agenda have been advertised as directed by law. I will now briefly review the process for tonight's meeting for the benefit of those present that have never been before the Zoning Board of Appeals. (1) Each applicant describes the project. (2) The Board members will ask questions about the project. (3) I will open a public hearing giving attendants the opportunity to speak for or against the variance. (4) The applicant will then be given the opportunity to rebuff what is said at the public hearing. (5) Board members will again be given the opportunity to ask questions. (6) The Board will openly discuss the Five Factors that determine the final decision. (7) Motion will be made, seconded, and voted on.

WILLIAM VERITY
5429 GUY YOUNG ROAD

AN AREA VARIANCE TO CONSTRUCT A SECOND STORY ADDITION TO AN EXISTING ONE STORY RESIDENCE. THE EXISTING STRUCTURE HAS A FRONT YARD SETBACK OF 17.9 FEET WHERE A MINIMUM OF 75 FEET IS REQUIRED AND SIDE YARD SETBACKS OF 17 FEET AND 0.6 FEET WHERE A MINIMUM OF 30 FEET IS REQUIRED.

Mr. Natali: Would Mr. William Verity please come forward.

Mr. Verity: I'm William Verity and I would like to thank everyone for being here. I have a project through my architect where I live at 5429 Guy Young Road in Brewerton and it's a small house and my fiancé and I are going to be married, we have two 14 year-old kids and I wanted to add two more bedrooms upstairs. There is already an existing room upstairs but because we live in an area where it's zoned for industrial, that's the reason for the variance application. It will all be done upstairs we are basically having a second story on the house, to the existing upstairs room that exists already and then we are going to have like a pitched roof put over the

whole thing. So it would be like a two-story home; and if you look in the area, there's a lot of homes that do have second stories and this will fit right in with the character of the neighborhood for the most part. So, it shouldn't be...it should be pretty uneventful for...as far as it goes. That's pretty much it.

Mr. Natali: Okay. Any questions.

Mr. Stanton: Just so we get this into the record, there will be no increase in footprint for the structure, correct?

Mr. Verity: Correct.

Mr. Stanton: You are basically going straight up, correct?

Mr. Verity: Correct, just a second story.

Ms. Wicks: My question is, have you figured out the logistics of how you're going to get your trusses and other materials in there without intruding on the other people's property?

Mr. Verity: Yes, there is actually a side road which is Walnut Street and I live right on the corner. It's a pretty quiet road and the only people who use it are the ones who live there so that is a good spot for it. So, we have already addressed that and it looks like it's going to work fine. It's not going to intrude on anybody going up and down Guy Young Road or anything. So, it should work fine.

Mr. Stanton: Mr. Chairman, I would just like to note that we do have a resolution from the Onondaga County Planning Board. Did you receive a copy of this Mr. Verity?

Mr. Verity: No, I did not.

Mr. Stanton: You can have my copy after I'm done.

Mr. Verity: Okay.

Mr. Stanton: Basically, the reason why we had to refer this to the Onondaga County Planning Board was that we were within five hundred feet (500') of Route 11 which is a county road. The County reviewed this and determined that there is no significant adverse inter-community or county-wide implications so that we as the Town of Cicero Zoning Board can solely act on this.

Mr. Verity: Okay, great.

[Mr. Verity approached the board and obtained the copy of the report from Mr. Stanton.]

Mr. Rabbia: Do we have lot depth and building lines to address as well?

Mr. Stanton: Without the benefit of having the actual special-use permit, the only thing I had to go on was the industrial zone requirements so I did what I usually do and went through the entire gambit of what's there.

Mr. Palladino: Well, that perhaps is a question. Mr. Verity do you have...the Town would have issued a special-use permit at some time. Do you have a copy of that permit?

Mr. Verity: Yes, I do and it was denied, of course, because of the zoning. When I applied for a permit...

Mr. Palladino: No, way back probably in the 80s or 90s this property was granted a special-use permit to be zoned residential in the industrial zone. I was wondering if you had a copy of that permit.

Mr. Verity: No, but the person I talked to when I filed the paperwork for the variance...he said that they had something in there that said pretty similar to what you said but he never gave me a copy of it.

Mr. Stanton: This is where I will talk to Mr. Hooper [Director of Code Enforcement] because the only indication that we have that there's a special-use permit is this letter from PHZ Architects so there's an assertion being made that there was a special-use permit granted for this house.

Mr. Hooper: I don't know. Unless Mr. Verity knows who he spoke to in codes. Was it recent?

Mr. Verity: It was about 3 or 4 weeks ago.

Mr. Hooper: Can you remember who you spoke to?

Mr. Verity: No, I can't remember who it was. I have no idea.

Mr. Stanton: My thoughts were that if we treated it as an existing non-conforming structure, we really can't go wrong regardless of what the special-use permit says.

Mr. Palladino: Just out of curiosity, how long have you owned the house?

Mr. Verity: Just over a year. I had a big house and I wound up getting a divorce and stayed there a couple years but it was too big and too expensive so I wanted to downsize and then low and behold I met up with my girlfriend at the time. I probably should have kept the house but that's hindsight ya know. [laughter] That's the reason we wanted to make more room, to accommodate her and our two kids.

Mr. Natali: Any other questions?

Mr. Natali opened the Public Hearing at 6:12 P.M.

Mr. Natali: Is there anyone here who would speak against this variance? Please come forward and state your name and address.

Ms. Balange: My name is Marilou Belange and I live right next door to him. [5427 Guy Young Road]

Mr. Natali: To the West?

Ms. Balange: Yes. I don't understand why that house could hold going up. They are all small houses. There are four of them built by Schaefer...Gordon Schaefer years ago. His two and two up the street. They don't have any second stories on them. They are all small ranch houses. I've been at my house 47 years.

Mr. Stanton: That's correct mam but as a condition of the building permit, the person who's actually building this has to certify that that house can hold it. So, any structural upgrades that are required to build that second story, actually have to be cleared by the town before that house is built.

Ms. Belange: I know there's an electrical power pole right on the corner there too. Is that going to be in the way?

Mr. Natali: That's all out of our jurisdiction mam. That all has to be approved by the code office.

Mr. Stanton: And if there's any problem swinging the trusses in, National Grid gets called in. If there's clearance issues with the overhead power lines, while not handled by us, it is handled by some entity at some point in the process.

Ms. Belange: Okay now, if this is Okayed and allowed, there's going to be more parking area in his yard. I was just telling him that since he put the fence in, when they get out of the car and close their car doors, it's like mini-explosions in my house. It startles me because we are really close.

Mr. Natali: We have all been out and looked at the property. It's a requirement of this Board.

Ms. Belange: I want people to understand that it's going to impact my life there. I don't plan to move out until I die.

Mr. Stanton: I guess I'm wondering if the existing driveway is going to be enlarged at all?

Ms. Belange: They've enlarged it as far as they could to the property line. It was done like that with the previous owner.

Mr. Stanton: Right, but that is pre-existing so really your complaint is there may be even more cars.

Ms. Wicks: Okay. I'm looking at some of the other properties and I've got an aerial photo of the area and I can say that your situation is not dissimilar to a lot of the other people in your neighborhood. That entire section between the fire house and the river is packed full. There is some commercial, but those houses are very close together. I am sure you are not the only one with a complaint like that within that area; however, unfortunately people are allowed to have vehicles and close the doors.

Ms. Belange: When I bought the place that area was zoned industrial and then they switched it to industrial slash residential or so I understood.

Ms. Wicks: You are not that far from the fire house either which the sirens coming out of there you will hear and they will startle you as well. I am trying to weigh what you are saying against the other things that happen within that area. You have Daily's, you have Rosie's which there's...

Ms. Belange: Oh, yeah. Guy Young Road, I'm tellin' ya is a terrible road.

Ms. Wicks: Exactly, so I guess my point is to say that the slamming of the car doors...there's other noises around where you live.

Ms. Belange: I've learned to ignore the others but this is something new and I just told him that when they get out and they close their doors, that slam, that noise has nowhere to go, it bounces off his fence and back in. I feel like I'm in a canyon because my house, his fence, his house....when he slams the door, it's like a small explosion. It startles me.

Ms. Wicks: We will take that under advisement when we make our determination, okay?

Ms. Belange: I did say that he could change that part of the fence and make it chain link and that might help.

Ms. Wicks: And that's where you have to have a good relationship with your neighbor. But, yes, we will take that under advisement when we discuss this. Thank you.

Ms. Belange: Okay. Thank you.

Mr. Natali: Is there anyone who would speak for this variance.

Mr. Verity: Can she speak?

Mr. Natali: Is that your partner?

Mr. Verity: Yes.

Mr. Natali: Come on up.

Ms. Borland: [Michelle Borland-Mr. Verity's fiancé] We can't afford to keep up both houses. I have a 14-year old and he has a 14-year old.

Mr. Natali: So they won't be driving for a few years and there will be no extra cars than are there now.

Ms. Borland: Just his and mine, that's it.

Mr. Natali: Alright.

Ms. Borland: No snowmobiles, no motorcycles, no nothing. There's a racetrack we hear every Friday night. You can sit outside his house and listen to the racetrack. We just want to make a nice, comfortable living arrangement for all of us.

Mr. Natali: Okay, thank you. Any other questions? Okay, I will close the public hearing at this time.

Mr. Natali closed the Public Hearing at 6:17 P.M.

Mr. Natali: Would someone like to start off with the discussion on the five factors? We will take one apiece. Let's start out with Mr. Rabbia. Will it change the character of the neighborhood?

Mr. Rabbia: **Factor 1 – Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created?** Certainly no change to the neighborhood. There's enough residential homes in that neighborhood where I think this will be a desirable change not a detriment.

Ms. Wicks: I would like to add that with the Brewerton revitalization that is in the area where we are trying to revitalize the area and I think that would definitely be an improvement.

Answer: No.
All agree.

Mr. Natali: Okay, good. Would you like to take the second factor?

Ms. Wicks: **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.** I don't believe there is. Unfortunately, you are confined to where you are unless there was property around you to buy to be able to expand and there is not. So, I'm going to say no.

Mr. Stanton: I would just note that since the lot is zoned industrial, there is no other feasible alternative.

Answer: No.
All agree.

Mr. Natali: Okay. Mr. Palladino.

Mr. Palladino: **Factor 3 – Whether the requested Area Variance is substantial?** Being as there is no addition to the footprint of the house and there are no encroachments on the side lines, back or front property lines, and the total height of the house with the addition does not exceed the permitted height under the industrial zone, I would say, no.

Mr. Natali: Okay. Does everyone agree?

Mr. Rabbia: I think the variance is substantial by the letter of the law for what is being asked for. However, given what we are looking to do which is to go straight up and not go outside the confines of the house, I think it's something that we can consider.

Mr. Stanton: I would normally say yes under these conditions, however this structure is a pre-existing non-conformity and we are not increasing the non-conformity.

Mr. Rabbia: Right.

Ms. Wicks: Yet it is substantial.

Answer: Mr. Palladino, Mr. Natali, Mr. Stanton - No.
Mr. Rabbia & Ms. Wicks - Yes.

Mr. Stanton: **Factor 4 – Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?** I am going to say a qualified no. The area is largely residential in nature and this construction would be consistent with that nature. It does not appear to affect drainage in the neighborhood. We did have one complaint about the noise of the car doors slamming. However, I cannot blame that on the addition. That is more a situation of the way the houses are located; and, honestly, that noise would be there regardless of the occupants.

Answer: No.
All Agree

[Ms. Balange interrupted speaking from her seat.]

Mr. Natali: Mam, mam excuse me. We are all set for now. Let us finish with this. I gave you ample opportunity and we have addressed the issue. Okay, I'll take the last factor.

Factor 5 – Whether the difficulty was self-created? It is self-created. You knew when you bought the house a year ago that if you needed more space, the only way was up and you knew you would need to come and get a variance due to the fact that it's an industrial zone. So, it was self-created but that fact in and of itself will not disqualify our thinking.

**Answer: Yes.
All Agree.**

Mr. Natali: So, with that in mind would you like to make a motion? Mr. Stanton?

Ms. Wicks: I'll make a motion.

Mr. Natali: Okay.

Ms. Wicks: I'd like to make a motion that Mr. Verity of 5429 Guy Young Road is approved for an area variance to construct the second-story addition to an existing one-story residence. In addition to approving the setbacks which would be at 17.9 feet where a minimum of 75 feet is required and the side yard setback of 17, where a minimum of 30 feet is required so we would need at .6 feet...is it 17.6 feet? So it's 17.6 feet?

Mr. Stanton: It is 17.9 feet. I think that's how that worked out.

Ms. Wicks: The one underneath that, the side yard. It says 17 feet and 0.6 feet, so it's 17.6 feet?

Mr. Stanton: No, it was 17 feet on one side and 0.6 feet on the other.

Ms. Wicks: Okay, so they are two separate ones. That's how I'd like it to read.

Mr. Stanton: Just because we don't have whatever the original approval of this was, if we could just amend on to this the lot area which is 7,978.5 square feet where 20,000 square feet is required; building line of 59.10 feet where 100 feet is required; and a lot depth of 135 feet where 200 feet is required. That way, we do not have to deal with this again.

Mr. Natali: Will you move to approve it?

Ms. Wicks: Yes, I will move to amend my motion to include Mr. Stanton's amendment.

Mr. Palladino: I will second that.

Motion made by Ms. Wicks, seconded by Mr. Palladino, on behalf of Mr. Verity of 5429 Guy Young Road to approve an area variance to construct a second-story addition to an existing one-story residence. In addition, approving the setbacks which would be at 17.9 feet where a minimum of 75 feet is required and the side yard setbacks of 17 feet and 0.6 feet where a minimum of 30 feet is required. Also, adding an amendment to the variance to include approving the lot area which is 7,978.5 square feet where 20,000 square feet is required; a

building line of 59.10 feet where 100 feet is required; and a lot depth of 135 feet where 200 feet is required.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes
Mr. Wicks	Yes
Ms. Palladino	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

Motion and vote were unanimously approved to adjourn the meeting at 6:35 P.M., as there was no further business before the Board.

Respectfully submitted,
Ann Marie August, ZBA Recording Clerk