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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: JULY 1, 2013  
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday July 1, 2013, at 7:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali:	Board Chairman
	Charles Stanton:	Board Member
	Donald Snyder:	Board Member
	Mark Rabbia:	Board Member
Absent:	Gary Palladino:	Board Member, AdHoc
	Steve Procopio:	Codes Enforcement Officer
Others Present:	Terry Kirwan:	Attorney
	Nancy G. Morgan:	Secretary

In as much as there was a quorum present, the meeting opened at 7:00 P.M.

Mr. Natali pointed out the fire exits and requested that pagers and cell phones be turned off. He then read the following statement: The Cicero Town Board acknowledges the importance of full participation in public meetings, and therefore, urges all that wish to address those in attendance to utilize the microphones in the front of the room.

Motion was made by Mr.Snyder, seconded by Mr.Stanton, to approve the minutes of the June 3, 2013 Zoning Board of Appeals meeting, with the following corrections made by Mr. Snyder and Mr. Stanton:

page 3- 6th paragraph-should say "--building a sidewalk".  
page 3- 1st paragraph- two places in paragraph--word should be "accessory".  
page 3- 5th paragraph- should be Mr. "Stanton".  
page 3- 9th paragraph- 1st word should be "getting".  
page 6- 14th paragraph- should say: "--says it's OK--then we save a couple --".  
page 8- last paragraph- should say: "--the old deck--".

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Mr. Natali: We have proof of posting for all cases on tonight's agenda on file in the Zoning Office. Also, any action taken tonight will not be official until the minutes are filed with the Town Clerk, which has a deadline ,by law, of two calendar weeks.

Motion was made by Mr. Natali, seconded by Mr. Stanton, that all actions taken tonight are Type 2 Unlisted Actions under the New York State Environmental Quality Review Act, with a negative impact on the environment, unless otherwise indicated.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE DEFERRED FROM JUNE 3, 2013 FOR DENNIS GREEN, JR., 6067 DEER SPRINGS ROAD TO ALLOW THE CONSTRUCTION OF A 16 FT.X 20 FT. STORAGE BUILDING A DISTANCE OF 16 FT. FROM THE STREET LINE WHERE 30 FT. IS REQUIRED.

Representative: Dennis Green, Owner.

Mr. Natali: We did receive a notice from the County that there will be no significant problems with you having what you want. What have you decided--any changes at all to your first proposal ?

Mr. Green: No.

Mr. Stanton to Mr. Green: At the previous meeting--I want some clarification of one of the things you mentioned. You said that, with regard to the height of the structure, it would be about 8 ft., then you would slant it down to run the water away from the house. Does that mean that up against the house it will be 8 ft. high, and then you'll pitch the roof away from the house ?

Mr. Green: After talking with my brother-in-law that is going to help me build, we're going to go with an "A" frame because it has to be 10 ft. away from the house because of the Fire Code. The yard slants down so the water run-off from the rain--it's just going to be a regular pitch like you see on anybody's shed.

Mr. Stanton: When I think of "A" , I think of "A" all the way down to the ground. So, you're talking about a regular shed with the pitch right in the middle ?

Mr. Green: Yes.

Mr. Rabbia: You're still considering a 20 ft. X 16 ft. shed--is that your request?

Mr. Green: Yes, Sir.

Mr. Snyder: How much does your truck weigh?

Mr. Green: I don't know.

Mr. Snyder: Over a ton?

Mr. Green: Yes.

Mr. Snyder: I've been looking at something in the Code for myself--it says "tractor trailers, trucks and vans with a carrying capacity of one ton, shall not be parked in any Residential Use District, except for deliveries or service calls". I'm not sure how that effects what we're doing or how we have to take that into consideration. That's in the Code --210.17-1, page 210.23. I know Mr. Procopio indicated last time, he was looking at this thing like a carpenter having a business that he does away from the house but a carpenter doesn't normally have a truck that's bigger than a ton capacity.

Mr. Green: Well, campers weigh more than a ton. An "F450" is going to weigh more than a ton--it's going to carry more than a ton. They're all over the neighborhood.

Mr. Snyder: RV's are different. They have to be back out of the way-- you can't see them from the road. I was worried about that myself. Mine sits way back from the road--about 300 ft. or so. In another Section, they're talking about certain parking prohibited. They talk about a truck weighing more than a ton shouldn't be parked there. So, I don't know what to do with that.

Mr. Kirwan: I would say those are all questions for Steve. But, you're not approving his use or erection of a shed, in conjunction with his use of a truck. You're just granting , if you do, a Variance for the construction of a shed. That's it. So, you're not approving or disapproving the use of a truck or anything like that. You don't even have the power to do that. It's a good warning to the applicant that Steve might get in touch with you to discuss your truck.

Mr. Snyder: That's what I don't want to happen--to have him build a shed then a neighbor comes back and says "it says blah-blah"-- next thing you know, he has a nice shed in his back yard but he's not allowed to park his truck there. That's kind of going against what he wants to do.

Mr. Natali: Terry, I had a conversation with Steve about this. He did not have a problem. I also spoke to his next door neighbor and he didn't have a problem. What I would like to suggest is--I know what you're trying to do here--is there any way you could extend your driveway forward, so it would be fenced in the evening ?

Mr. Green: I can fence in the truck.

Mr. Natali: Thank you. I think that's what might be on the agenda for Steve.

Mr. Green: If the shed goes where I want it , I'm going to gain about 14 ft.

Mr. Rabbia: But the truck will be quite a bit further back from the (inaudible).

Mr. Green: Actually, with my garage now, due to the gutter, the gutter runs in front.

Mr. Natali: I see what you mean.

Mr. Stanton: For the sake of conversation, we're still talking about having the accessory structure at the back corner of that deck that you have ?

Mr. Green: Yes , Sir.

Mr. Rabbia: The truck is 28 ft.?

Mr. Green: 16 ft.

Mr. Rabbia: Your plan, as I recall, is to get as close to the shed when you park--is that your plan ?

Mr. Green: Yes, Sir.

Mr. Snyder: So, maybe a little bit of fence would make the truck "disappear".

Mr. Natali: I think that's probably where Steve's going to go , but it's not a major issue with us, especially since the neighbor didn't 't complain. If there was any difficulty, you would have known about it by now.

Mr. Rabbia went thru the 5 factors taken into consideration before approving a Variance:  
1- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties would be created ? Answer: No, I like the fact that the truck will be even further from the Deer Springs line, so it kind of disappears from the road.

Mr. Rabbia continued:

2- Whether the applicant can achieve his goals by some method feasible for the applicant to pursue other than a Variance ? Answer: We talked a lot about that at the last meeting, in terms of maybe positioning the shed a little differently. However, the use for the shed is to provide storage for his shipments and extra things. So, I think I would say no because of the location of the shed relative to where the truck is going to be parked.

3- Whether the Variance is substantial? Answer: 16 ft. where 30 ft. is required, I think it does make it substantial. But, given the situation and the orientation of the property and Thompson Rd. and the general layout of the property, there's not a lot of choices for him in this case.

4- Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district ? Answer: I don't believe they will at all.

5- Whether the alleged difficulty was self-created? Answer: You can argue that yes there has but that in itself is not enough to deny the Variance.

Mr. Natali: I just want to add that the County had no problem with this Variance. This is based on the June 6th letter from the County.

Mr. Snyder to Mr. Green: Have we agreed in the whole process that you will bring your fence line within your property, inside the easements for drainage on both sides?

Mr. Green: I think it was said--"when it falls down". Yes, I'll be more than happy to bring it in.

Motion was made by Mr. Rabbia, seconded by Mr. Natali, to approve the Area Variance for Dennis Green, Jr., 6067 Deer Springs Road, to allow the construction of a 16 ft. by 20 ft. storage building a distance of 16 ft. from the street line where 30 ft. is required.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE FOR TIMOTHY REEVE, 6210 MICHAELJON WAY, TO CONSTRUCT A 6 FT. HIGH COMPLETELY OPAQUE FENCE 15.9 FT. BEYOND THE BUILDING LINE WHERE ONLY A 4 FT. HIGH AND 50 % OPAQUE FENCE IS ALLOWED.

Representative: Timothy Reeve, Owner.

Mr. Reeve: I'm submitting an application for an Area Variance to construct a 6 ft. high completely opaque fence 15.9 feet in excess of the 30 ft. building line on my property along Thompson Rd.

Mr. Rabbia: I didn't measure while I was out there but the neighbor behind you--about how far with the alignment--will you be further towards Thompson or inside of his fence? What's the plan ?

Mr. Reeve: I was hoping to be in line with it. Through investigation, turns out his is apparently on the edge of the property line, which on my property, would put me in the utility easement for Thompson so I had to move it in. I was originally hoping to put it 28 ft. from my structure but after the Surveyor did the survey, I had to come in 8 ft. so I'll only be 20 ft. from my house.

Mr. Snyder: It appears that there will be, with your neighbor in the back, your fence will leave the swale open for the County

Mr. Reeve: Yes.

Mr. Stanton: Mr. Chairman, we haven't received anything from the County on this one ?

Mr. Natali: No, we haven't.

Mr. Stanton: So, we can't rule on this tonight until we get the County letter ?

Mr. Natali: No, we can't.

Mr. Snyder: Did anyone ever ask you to take one of those pine trees down as you try to pull out on to Thompson Rd. ? Your fence, to me, isn't the issue. That pine tree is going to be a "killer". I don't know what your liability ends up being if there's an accident because someone can't see. I had to pull all the way out to the edge of the white line in order to look up and down the street safely before I pulled out. You may want to check into that--pine trees are beautiful but--.

Mr. Rabbia: You're asking for a 6 ft. fence?

Mr. Reeve: Yes. We haven't finalized the design but it will be no higher than 6 ft. at the posts.

Mr. Snyder: Is that so your children can't climb over it?

Mr. Reeve: One is 18 months, he can't quite climb over it--he's the oldest.

Mr. Natali? Would you consider 6 ft.?

Mr. Reeve: That's what I'm asking for.

Mr. Natali: Oh--sorry--what was I thinking? That's a very busy street.

Mr. Stanton: I assume the main reason for requesting this is to maximize your back yard.

Mr. Natali: opened the Public Hearing at 7:20 P.M.

FOR: NONE  
AGAINST: NONE

The Public Hearing was closed at 7:21 P.M.

Motion was made by Mr. Snyder, seconded by Mr. Natali, to defer action on this item until we get the information from the County, for the August 5<sup>th</sup> meeting.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

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

Representatives: Thomas Diana, Owner  
Daniel Nappa, Contractor

Mr. Diana: I'm asking for 2 Variances on one property. We'd like to put an 8 ft. by 24 ft. open porch on the front facing the lake. And on the back, I believe its a12 ft. by 3 ft. addition that would be off the bedroom.

Mr. Rabbia: Take me thru it again, Sir--towards Lakeshore, there's an addition?

Mr. Diana: Towards Lakeshore--that would be a 12 ft. by 20 ft. addition, which would be a bathroom in the master bedroom.

Mr. Rabbia: OK--then you're doing something towards the lake as well?

Mr. Diana: Yes, that would be an open porch with a roof--8 ft. by 24 ft.

Mr. Stanton: You're also enclosing something as well, is that right?

Mr. Snyder: He's enclosing the existing porch and then building another porch toward the lake.

Mr. Diana: The existing porch will be part of the living room.

Mr. Rabbia: How big is that area?

Mr. Diana: The existing porch?

Mr. Rabbia: No, the space that you're enclosing and converting into living space.

Mr. Diana: 8 ft. by 24 ft.

Mr. Snyder: Actually, it looks like the addition is only 12 ft. by 18 ft.

Mr. Nappa: The back addition is 22 ft. by 12 ft.

Mr. Snyder: My question is not related to the project. Is there a wheelchair necessary--one of the reasons you're doing this ?

Mr. Diana: I have Pulmonary Fibrosis.

Mr. Nappa: We're putting in 36 in. doors throughout the house and taking care of the steps, in consideration of later on.

Mr. Snyder: The door , for example , between the hall and closet--the hall in the bathroom --are on 2 ft. doors.

Mr. Nappa: That was the original plan and before we ordered doors, we changed them to 36 in. I talked to them about that and told them it would be foolish not to make it accessible.

Mr. Snyder: That's what my experience tells me. Also, I can't measure it but the addition on the lakeside--how far are you from the lake to that addition ?

Mr. Stanton: It looks to be about 69 ft. at the closest.

Mr. Snyder: So, we should be in good shape there.

Mr. Stanton: I just want to note that the Variance is specifically for the additions--it's for the 1.4 ft. setback on the existing structure. The rest of it looks to be within the existing bulk requirements.

Mr. Rabbia: That is 7 ft. there on that corner towards Lakeshore?

Mr. Stanton: Let me double check. Yes--7 ft.

Mr. Snyder: So, the Variance they're asking for is a pre-existing condition?

Mr. Stanton: Yes. #2 is the 1 ft. then the 60 ft. lot where 75 ft. is required. I checked the numbers and the lot area/coverage is 16 %.

Mr. Rabbia: Was it advertised?

Mr. Stanton: No, we don't do that anymore.

Mr. Kirwan: No, we don't.

Mr. Natali: We say "Variances plural".

Mr. Snyder: I hope you and your new neighbor are on good terms since you will have a common driveway.

Mr. Natali: When you were looking at this house, did you have in mind the addition, when you were considering buying it ?

Mr. Diana: Yes, we knew we would need more space.

Mr. Natali: Did you ever consider making that a contingency before you purchased it, that you'd get a Variance ? Your Attorney didn't advise you to make it a contingency?

Mr. Diana: No, because we didn't know we would even need any Variance to do such work.

Mr. Nappa: Where they live now is a two story structure and I've done a lot of construction work for people as they get older and they want to go to a ranch style home. They were looking to do this--looking for property--when they found the property, they originally looked at the house next door that's also for sale. We looked at it to see what we could do with it to make it livable. They want to retire there and live there year round. You can see the project they've put together to make it like brand new. So, to do that--the living space where they're living now is about 2400 Sq. Ft.--they're downsizing also but they do need the room on the one level--we want to try to keep it ranch style. For them, for a ranch style, one story, one floor level, is what they want for a retirement home. They needed to get another bedroom and another bathroom in there. It will end up about 1700 sq. ft. when it's finished.

Mr. Natali opened the Public Hearing at 7:29 P.M.

FOR:                   NONE  
AGAINST:            NONE

The Public Hearing was closed at 7:30 P.M.

Mr. Kirwan: Before we make a motion, we have to make sure we have the information from Onondaga County Planning and we have to assure that we give notice to Oswego County because it's within 500 ft. of their boundary line, which is the lakeshore.

Motion was made by Mr. Stanton, seconded by Mr. Snyder, to defer this case for Thomas & Catherine Diana, until the August 5th meeting, when we should have information from both Onondaga County and Oswego County.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Mr. Natali: This case was deferred because it was referred to the County Planning Board. Unfortunately, they do not meet until Wednesday, so it's the timing you submitted your application. By the time we sent it to them, they have their meetings scheduled thru the year for appointed days. So, we can't push them either way and we can't make it contingent on it. We'd be in trouble if you started and they had a problem with it. We should be ready to hear it on August 5 th.

Mr. Stanton: We don't just randomly push these on. It's the fact that where you're located--first, on the lake then the road you're on that requires us to pass that on to the County.

Mr. Natali: You're on a County Rd. and the shoreline is Oswego County.

Mr. Diana: Does their ruling over rule your ruling?

Mr. Natali: No, we do not have to accept their ruling. If we don't, it has to be a "Super Majority" vote--a majority plus one. We're on your side--remember that--you're our customers.

Mr. Kirwan: For this, can we make sure Steve or Heidi gives notice to Oswego County?

Mr. Natali: Yes, I made a note to tell them.

AREA VARIANCE FOR JAMES POPCUN, 6171 MONITOR WAY, TO CONSTRUCT AN ADDITION WHERE THE PROPOSED SIDE YARD SETBCK IS 4 FEET WHERE A MINIMUM OF 6 FEET IS REQUIRED.

Representative: James Popcun, Owner  
Rick Rowland, Builder

Mr. Popcun passed out photos of his property to the Board Members.

Mr. Rabbia: While we're looking at the photos, tell us what you would like to do.

Mr. Popcun: What I want to do is add another garage on to the existing part of the house--tied into the house . It will be a step down from the main roof and I'm asking for less than 2 feet. I'm going to need 9 ft., which will leave me 4.2 ft and 4.0 ft. in the back. I also brought my neighbor here, Gary Bombard. He has no objections.

Mr. Natali: OK, I'll call on him when I open the Public Hearing.

Mr. Rabbia: Does your structure have a full deck--the 32 ft.?

Mr. Popcun: I have a family room in the back.

Mr. Rabbia: What's going to be in the last 10 ft. of the new addition?

Mr. Popcun: It all will be garage.

Mr. Rabbia: You'll lose a window or door. Am I mistaken?

Mr. Popcun: I'll lose a side window. I'm going to put another window in the back of the garage and a door in the front. I want to accommodate a 8 ft. by 7 ft. garage door.

Mr. Rabbia: Where are you going to put the door--in the side?

Mr. Popcun: You mean the walk-in door--it's going to be on the side--probably 1 1/2 ft. or 2 ft.

Mr. Snyder: The slope is a little high--the step is a "killer".

Mr. Stanton: It looks like there's going to be some trees that have to be trimmed.

Mr. Popcun: The tree is coming down---the tree right next to it.

Mr. Stanton: That's your tree?

Mr. Popcun: Yes, it's coming down and we'll take the root out of the ground.

Mr. Rabbia: Are you going to open up the space between the 2 garages? Blow one wall out ?

Mr. Popcun: No, that's going to stay existing.

Mr. Rabbia: It will be a separate garage?

Mr. Popcun: It will be a separate garage. The wall on the outside will be 5/8ths fire wall--inside 5/8ths fire rock all the way up. The back is going to be plywood and the front will be plywood.

Mr. Rabbia: OK, I'm sure you followed the rules and regulations of the construction Code.

Mr. Snyder: Steve will watch you--like he watched me. The driveway lines up perfectly with what you're trying to do, doesn't it ? A little bit of patch in the front where the driveway and the new garage come together will do.

Mr. Popcun: Don, you were there when the garage door was open and saw my car, bags of charcoal and the assorted stuff there. My wife is saying "we need space". The basement is filled. We got married just a few years ago--now we have all her stuff so I'm trying to accommodate things--just for garage space only. Instead of putting a shed in the back, which will deteriorate in a few years--it has to be maintained--you can't really put a lot of stuff in a storage shed.

Mr.Snyder : You know why I'm grinning don't you ? You'd end up with another storage shed anyway.

Mr. Popcun: No, I'm not. This is the whole purpose of doing this. I will increase the value of the property. It's not going to hurt anything. It's going to look nice--a real clean job.

Mr. Snyder: We don't show it here but will the front actually step back a foot or two? Right now you show the front line of the old garage and the new garage being together but didn't you talk about stepping it back a little bit because you're going to lower the roof line ?

Mr. Popcun: We're going to drop the roof line--we could go either front--leave the fascia continuing all the way over then just drop the height of it down, the trusses are elongated trusses. They're short on the front and long on the back. I do have the plans here if you want to look at them.

Mr. Stanton: You're OK with having that side door open on to basically 4 ft. worth of your property as far as access to the side of the garage ?

Mr. Popcun: You mean the side door?

Mr. Stanton: Correct.

Mr. Popcun: Yes.

Mr. Rowland: You need a side door in case, God forbid, you had to get out or if the garage door didn't open or the opener didn't work. You need another way to get out of there--plus the 2 windows.

Mr. Snyder: That brings up a point. The existing garage floor is, right now, almost 2 ft. above grade. When you build this garage, it's elevation will be the same--2 ft. above grade. So, you're going to end up putting a little stoop and a couple of steps to get out of that door, down to grade front and back.

Mr. Popcun: Yes. I'll probably end up building some extra concrete from the floor--I'll form some steps.

Mr. Snyder: What that brings up (in that zero) doesn't the stairs become part of that building--then you have a reason for a "0" Variance ?

Mr. Popcun: What if I just put a little step there and a little stoop out of wood?

Mr. Stanton: I think it's still elevated like a deck, at that point.

Mr. Popcun: No, wait a minute. We could cut the block down in that one area--do you follow me ? And have the door come out just flush--to go out.

Mr. Rowland: You could do that.

Mr. Snyder: Why do you need the door on the side?

Mr. Popcun: I just thought it would "play" right with what I have now.

Mr. Snyder: The concern I have is--the minute you have to use that door, you've got to build something to get to grade. Which then puts that thing you build closer to the property line than the 4.2 ft. that you're asking for now.

Mr. Rabbia: What about the door off the back?

Mr. Rowland: What if we just raise the grade? We're going to have extra dirt.

Mr. Snyder: You've got to be careful about running water on to your neighbor's property.

Mr. Popcun: It's kind of tapered that way anyway. His tapers this way and mine tapers that way.

Mr. Rabbia: How about the door off the back of the garage?

Mr. Popcun: A door off the back side?

Mr. Rabbia: Right.

Mr. Snyder: Then you could do anything you wanted. You could tie it to your deck.

Mr. Rowland: If we raised the grade right where the door is, it's not going to be the whole length of the garage. It would be just in front of the structure--maybe back 4 or 5 Ft.

Mr. Popcun: We'll have a lot of fill left--we'll just raise this up--the doors going to swing in instead of swinging out.

Mr. Stanton: I guess the point is, we really can't tell you where to put the door. We're just trying to make you cognizant of the fact that if we give you 4 feet away from the property line, that's it--there's nothing else.

Mr. Popcun: I understand what you're saying but if we put some extra fill there--taper it down and bring it back a little bit--then taper his over.

Mr. Popcun continued:

I told him we're going to have to call an excavator in and dig it up a little bit--to put the footers in and lay the blocks--we expect some deterrent. I told Gary we'd fix his property also in the process--reseed it--topsoil it and everything else--to grade it and make it look right.

Mr. Snyder: That actually is the only solution if you have the door on the side that will get it approved.

Mr. Popcun: I think it would "play" better than having the door on the back of the structure. It's pretty secluded back there. There's been a lot of thefts in the neighborhood lately--at the house up around the corner two nights ago. They've broken into 2 of my vehicles. If the door is on the back--once they get thru it--they're in the garage--then they'd go from that garage to the other garage--then no one would see them because there's no windows in the garage--then thru the garage door--then they'd be in the house. That was one of the reasons I want to put the door on the side.

Mr. Natali: Is it safe to say you need this because of your occupation?

Mr. Popcun: Yes.

Mr. Natalli: That's not the general purpose for a Variance in a residential area.

Mr. Popcun: Well, it's going to be for storage.

Mr. Natali: I understand. We never have enough storage. Is the request unreasonable to have the door in the back so you don't have to, basically go closer than 4.2 ft., because you're going to have a step and you might as well have something overhead--something to handle the weather. Since it is mostly for storage, you've got the door from your garage, and to go outside, they could go out the back. Would you consider being flexible in that area? Then you don't have to deal with build-up and the possible run off because, quite honestly, now you're getting in to changing the neighborhood as far as the physical aspect--you're going to do some grading--do you want to put a swale in there to make sure it runs to your back? 2 ft. takes a lot of fill to move 2 ft. I think where my colleague was going is justified.

Mr. Popcun: Are you saying door or no door?

Mr. Natali: No, just have a door out the back--I can understand that. You'll have access from the new garage area into the 2 car garage--you already have the door there. Ideally, we would say--make that a driveway and build a garage in your backyard--then don't ask for a Variance. You have the flexibility. If there's another alternative, we have to explore it.

Mr. Natali continued:

You're a contractor, so it's going to fit right in with the same siding, same roof.

Mr. Popcun: I've already got all the material we need.

Mr. Rowland: We've got the siding, doors, and windows.

Mr. Snyder :Mr. Chairman, you made a comment--I wasn't sure whether that was your thought. I only saw one or two things that appeared to be part of your vocation. Am I correct in saying that you, as a contractor, don't have a lot of stuff in that garage because you're a contractor ? Most of the stuff in the garage is there because it's a second marriage ( I've been thru that).

Mr. Popcun: I've got a lot of stuff, there's no doubt.

Mr. Snyder: Does it have to do with your business?

Mr. Popcun: No. This has to do with her baking and craft stuff--the basement is full. This has is primarily to get stuff out of the basement--get it elevated--build some shelves-- and just use it for storage. That's the way it's going to be.

Mr. Snyder: If the door in the back were a steel fire door--no window--which is the way I'd go even if it was a side door--then from a security standpoint, it can be fairly secure--put a dead bolt on it. Someone trying to go thru it--"ain't" going to happen. As the Chairman said, you will have access from the existing garage to the new garage, plus the overhead door. The only time you would use the side door or back door would be if for some reason the door got locked and got shut and you didn't have a key for it. It seems to make things a lot neater if the door was in the back.

Mr. Popcun: Esthetically, I was just trying to "play" with what the house was originally.

Mr. Snyder: If the original ended up with a 2 ft. or 18 inch step, which is causing this other problem with the transition from the current garage floor to a grade is very difficult to do in the space you have.

Mr. Popcun: If you look at the driveway, right now it's high on that one back side towards the house. It's got to be 6 or 8 in high--maybe 10 in. high. That's going to be filled and tapered down. I don't think there's going to be---(inaudible). As far as building something up, I don't think I'd have to build it up. I think once we fill it up and grade it back--fill it in with the trees-to-be, I think it's going to "play" right. Taper it like this and direct the water towards the back of the house between my property and his property. I'm not going to build a step or anything like that--just walk right out into the driveway. Can I bring the drawings up to show you ?

Mr. Rabbia: Sure.

The Board discussed the drawings with Mr. Popcun.

Mr. Stanton to Mr. Natali: Mr. Chairman, back to your point. I want to give them a bit more insight into the points that you made which was, we're charged with approving the minimum Variance. One of the things we have to do is looking at alternatives. When you talk about just being able to provide extra storage within the property, there appears to be an ample amount of back yard space when you take into account the 30 ft. minimum rear yard, then the 6 ft. setback on one side and 9 ft. setback on another side. I guess I want to get some more insight from you on that and why you don't think a shed or some accessory storage building would be more appropriate-- which you wouldn't need a Variance for at all.

Mr. Popcun: Are you talking about putting a shed up as opposed to this structure?

Mr. Stanton: I think the size you're talking about is more of a storage building rather a shed.

Mr. Popcun: Well, it's still going to be a garage space and it's going to be for storage.

Mr. Snyder: You're building a 3rd garage.

Mr. Popcun: There's a lot of garages in Cicero that are 3 car garages. There's quite a few houses in Gulfstream that have 3 car garages right across the front of the property.

Mr. Natali: The lots are probably more than 10,000 sq. ft.

Mr. Popcun: If I don't put the side door on and I move it to the back or if I have no door-- if I have just the windows there--will you accept that ?

Mr. Natali: We still have to open up the Hearing to see how Mr. Bombard feels about it.

Mr. Stanton: And frankly, I'm of the opinion that we can't even talk about the door--we have no jurisdiction on the side door.

Mr. Natali: Right--we can't make it a condition.

Mr. Natali opened the Public Hearing at 7:55 P.M.

FOR: Gary Bombard, 6169 Monitor Way, neighbor: I'm speaking for it. I have no problem with it. I think he's going to do a good job with it--it will look nice. I have no issues with it. My question was about re-sale value--anything I ever do to my house--would I have a hard time selling it. That was my only question to Jimmy.

Mr. Snyder: So, you live on the side, which he's going to build the garage--you're the closest neighbor--the one that would be impacted ?

Mr. Bombard: Yes.

Mr. Snyder: I want to get that straight.

Mr. Natali: Is that tree right next to your shed, is that on your property or on his property ?

Mr. Bombard: It's on Jim's property.

Mr. Natali: It's just about on the line.

Mr. Bombard: I believe so. I think our fence is the line.

Mr. Natali: That's a serious question you pose.

Mr. Bombard: You mean about that?

Mr. Natali: How many other 3 car garages are on your street?

Mr. Bombard: Around the corner---

Mr. Natali: Is that the same development that you're in--built at the same time?

Mr. Bombard: Yes.

Mr. Natali: Is it a straight line or a corner lot or corner side?

Mr. Bombard: It's a straight line.

Mr. Natali: Is it a double lot or an extra lot? No two properties are the same.

Mr. Bombard: No, I don't think (inaudible). It's very wet as it is where we live. But I don't think there will be an issue there--put a gutter on it and run it thru the driveway so there won't be any extra water coming off.

Mr. Natali: Thank you.

AGAINST:                NONE

The Public Hearing was closed at 7:58 P.M.

Mr. Natali: Can we consider the 5 main factors: 2- Is there any possible alternative? And 1- If you had a one car garage, I would probably go along--most families today have at least 2 cars. You're trying to solve a storage situation not a car situation. A good size shed would probably accommodate your needs.

Mr. Popcun: I don't want to go with the shed. I think it will increase the value of the house and would "play" right with it and I don't want to go out of the house to a shed in the backyard to put every thing in there--then come back out. It's not going to--a shed can be broken into at any time--I'm telling you--a house can be broken into also. I think what I'm asking for is really not out of line--I think it will "play" right. If the issue is with that door, I will move the door to the back or I'll have no door on the side, if you grant me my Variance. The door will not exist on the side.

Mr. Kirwan: Are we set with the County already on this?

Mr. Natali: There's no County in on this--no wetlands.

Mr. Kirwan: No 500 ft. within a County highway?

Mr. Natali: No, it's more than 500 ft. off Torchwood and Rt. 31.

Mr. Popcun: I'm in back of Fire Station 2--back of Damon's. It's a perfect lot. I'm not asking for a lot. If the door is an issue on the side, I'll be more than happy to go loose it. I'll put the door in the back and just put the 2 windows there on the side.

Mr. Snyder: I generally don't have a problem with what he's trying to do. It certainly will add value to the house. I don't think it's going to hurt his neighbor. I understand the situation with the shed in the back because I have a big out-building that's 100 ft. and some odd feet from my house, so I understand what that's all about. The next guy, after you sell this house, might not have a second wife with the furniture, so maybe they'd actually put vehicles in the garage, so I guess that might help you sell the house.

Motion was made by Mr. Snyder, for James Popcun at 6171 Monitor Way, for approval of a sideyard Variance..

Mr. Natali: Can I interrupt, please?

Mr. Snyder: Yes.

Mr. Natali: We have 4 Board Members here tonight. We normally have 5. Just so you know, you have the option to wait until next month when we have a full Board here. If it's a tie, then it's NOT APPROVED. I just want you to know that you have the option.

Mr. Popcun: So you're saying if it's 2 to 2----.

Mr. Natali: If it's 2 yes and 2 no--that's a tie--we have no tie breaker--a tie is NO APPROVAL. You have the option--I don't know what your time schedule is--this is a pretty busy season when it doesn't rain. I wanted to explain it--please go ahead.

Mr. Popcun: So, you're saying --if it's 2 to 2, it's a tie--it's "no go". I walk out of here and I can't do it--no appeal.

Mr. Natali: No appeal. You can re-apply and say "I'm going to do something".

Mr. Popcun: Gary if the side door--are you kind of in favor of this?

Mr. Natali: I'm looking for "all in favor"--don't read anything into it. If I was to lean toward this, that would be something but we can't make that a condition. I was trying to point out that the door would create another problem. You have to build up--now you're talking neighbor--now you're moving dirt--you're doing excavation. That's a portion of our criteria. The physical environment will change. Run off is a big thing, as you know. You already said you have water in the back. So, this is definitely going to create run-off to the back because of the peaked roof--it's front to back roof line. So, you're going to add more water because it's not going to come straight down and absorb into the ground.

Mr. Rowland: There will be less water. The water that falls in front of the house will run thru a gutter and will run down the driveway. It won't run towards the side.

Mr. Natali: I'll accept that hypothesis.

Mr. Popcun: The back side will have a gutter--then Gary's got his gutters from his house --drain pipes coming over so it won't drain toward the two houses. We don't have any standing water right now between the two houses. It's way in the back by the trees and into the woods.

Mr. Natali: We'll continue. Mr. Snyder, please start the motion again.

Mr. Snyder asked Mr. Popcun if he'd like him to continue?

Mr. Popcun: I'd love you to.

Mr. Snyder continued his motion for a sideyard setback approval for where one should be 6 ft.--a total of 15 ft. We are requesting 4 ft. as the minimum to build a garage, attached to the existing structure.

The 5 factors to be considered are:

1- Whether an undesirable change would be produced in the character of the neighborhood or detrimental to nearby property ? Answer: If you tell me there is no door or the door is in the back---

Mr. Popcun: The door would either be in the back or no door. I don't know yet.

Mr. Snyder: Answer to #1 factor: Now I know there's going to be no door in the back, now I can say what I wanted to say about this--That there will be no undesirable change to the neighborhood with this project. The Board Members had no comments.  
2- Whether the benefit sought by the applicant can be achieved by some method which would be feasible ? Answer: Yes, but that unto itself does not necessarily mean a negative response to his request.

3- Whether the requested Area Variance is substantial? Answer:

Answer to #3 factor:

Mr. Stanton: The 2 major problems I have going thru this is the description just for storage. I would get it if it was for a vehicle or a boat. But I also look at what other property you have and just doing some more calculations, I'm seeing in excess of 2000 sq. ft. in the back of your house that is per-say buildable. Your addition is only 314 sq. ft. I'm having a real hard time saying you can't achieve it by some other method.

Mr. Natali: That's where I'm at, too. It is a significant part. The only thing that will not sway it is the self-created aspect.

Mr. Snyder continued with #3 factor: Whether the requested Area Variance is substantial ? Answer: I'm not sure how to answer that.

Mr. Natali: It's a judgment call.

Mr Snyder: I guess I'd say no, it's not substantial. I don't know if you all agree or not.  
4- Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood ? Answer: I think the last conversation relative to the door not having to be graded, I think the answer to that can be no.  
5- Whether the alleged difficulty was self-created? Answer: It obviously is. Again, a yes determination to self-created does not necessarily go on to create a negative response to this request.

Mr. Kirwan: Before you go any further, can we open up #3 and #4 for potential discussion if anybody has any comments on that ?

Mr. Stanton: I would agree that 33 % is not a substantial requested Variance.

Mr. Natali: I agree with that. Not in this case.

Mr. Rabbia: I agree with that.

Mr. Snyder: What I would be concerned about is that he still has a wide enough area on the other side of the house to have access to the back yard. I really worry about people that build out their house--we let them do it--and now there's no way to get to the back yard except thru your neighbor's yard. I think we had a couple of cases early on that were like that that we disapproved. But he still has 13 ft. on the other side of the house.

Mr. Stanton: As far as #4 is concerned, I appreciate the drainage discussion. I think that was valid.

Mr. Natali: There's no question in my mind that this is going to change the physical environment whether it's 2%, 5% -- it's definitely going to change.

Mr. Stanton: For #5, I would concur that, like Mr. Snyder says, this is a self-created condition. But again, that's not necessarily a reason to deny the Variance.

Mr. Snyder: I guess one of the things I'm looking at is, I think even though he could build a shed in the back and it could cost him maybe less money, I think from a re-sale standpoint and still accomplish something--he'll get more out of it by building this nice structure, concrete floor and everything than putting a shed in the back yard. That's why I'm in a positive mood for what it is he's trying to do.

Mr. Natali: It's not our position to judge the re-sale ability. I would be concerned if I was a neighbor having a piece of property--a building 4.2 ft. from my property line on a small lot. They don't even make 10,000 sq. ft. lots anymore. The minimum now is 12,000 sq. ft. I'm not a judge when it comes to real estate but I think it's something that has to be in the back of everybody's mind.

The motion to approve the Variance was seconded by Mr. Rabbia.

Motion was put to a vote, resulting as follows:

Mr. Rabbia: YES, given to the fact he's agreed to reposition the door and handle whatever concerns we had on the environmental conditions of the space. I understand what Chuck pointed out in terms of pursuing his goals via a reasonable alternative but, who knows, maybe next week he'll decide to put his cars in the garage, I don't know.

Mr. Snyder: YES, to the motion.

Mr. Stanton: NO, to the motion, solely based on #2 factor. I do believe there's a feasible alternative to construct storage space on this property.

Mr. Natali: NO, to the motion. I also feel that there's definitely a feasible, viable alternative with a lot of pluses including expense, removing the possibility of run-off and in the long run, I question if this would look like it's exactly original construction.

The vote was 2 YES, 2 NO--NOT APPROVED.

Mr. Popcun: So, what do I do now?

Mr. Natali: I think you should think about what the Board's position is and go back to the drawing board. We don't have any say at this point.

Mr. Popcun: Are you saying because it's over the 2 ft.? If I was asking for less than 2 ft. would it be agreeable or not agreeable ?

Mr. Natali: Not as far as I'm concerned. If there was, I would have asked for that. In other words, as we look thru #2--if #1 is a go, it's not going to change the neighborhood. #2 really is what we can focus on--it has to be viable. Like I said, to build a garage back there, that wouldn't be viable. If I thought 2 ft. closer would work, I would have opened it up as a possibility. You've moved on beyond the scope of what you're supposed to do at this point. We're not going to change our vote and your position should be--take another look at it.

Mr. Popcun: After all my time and effort, Sir.

Mr. Natali: This meeting is over. I think we gave you ample time. If you want to add something or come up with another suggestion to remedy this. The other thing is--if your neighbor ever built a fence, you would have to have access over by the other side of the property.

Mr. Popcun: He has a fence back there, Sir.

Mr. Natali: No, I mean along the side. If you built a fence along the side of your property--extend the existing fence.

Mr. Popcun: You couldn't extend it--it's in front of the house.

Mr. Natali: You could always ask for a Variance. Every rule in this book can be challenged. You can ask for a Variance.

Mr. Popcun: So, I need to re-apply and come back again?

Mr. Natali: Yes. I would talk to Steve first before you spend another \$200.

Mr. Popcun: I'm just saying--I've spent a lot of money and effort on this already--with an updated survey--I went thru all the commands--the house is a beautiful house--I'm not asking for the world here--I just want to put up this structure.

Mr. Natali: We understand. Thank you.

Mr. Natali: Did everybody get the letter from the Town of Clay?

Mr. Kirwan: Yes.

Mr. Natali: Because a Variance is close to us, they have to notify us--just like we do. This was a June 4<sup>th</sup> letter. We can't really rule against it. They just put us on notice. It's basically an addition on Orangeport Rd. It happens to be real close to the Town line.

Mr. Kirwan: There's nothing to do--you don't have to respond.

Mr. Natali called the Secretary forward to make the following announcement:

Dear ZBA Chairman Gary,

Please be advised that I am resigning as Zoning Board of Appeals Secretary as of July 31, 2013.

I am moving out of State. It has been a pleasure working with everyone on the ZBA.

Best wishes to all.

Sincerely,

Nancy G. Morgan

There being no further business before the Board , it was unanimously approved for the meeting to be adjourned at 8:20 P.M.

I, Nancy G. Morgan. stenographer for the Zoning Board of Appeals of the Town of Cicero, Onondaga County, State of New York, and the person who attended a meeting of said Board of Appeals held July 1, 2013 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

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Nancy G. Morgan

July 12, 2013