

SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: July 7, 2014
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, July7, 2014 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali	Board Chairman
	Charles Stanton:	Board Member
	Gary Palladino	Board Member
	Donald Snyder:	Board Member
	Mark Rabbia:	Board Member

Absent: None

Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Richard Hooper	Director of Code Enforcement
	Rita Wicks	Ad Hoc Member
	Ann Marie August	Recording Clerk
	Ken Holland	
	Patrick Honors	
	William Pufky	

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: Any changes or revisions to the minutes of May 5, 2014

Mr. Stanton: No

Motion by Mr. Snyder to approve the minutes of May 5, 2014. Do I have a second on the motion to approve the minutes?

Mr. Palladino: Second

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

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

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

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Mr. Natali: We have proof of posting for the items on tonight's agenda.

WILLIAM PUFKY
7724 LANGDEN LANE

AN AREA VARIANCE TO REPLACE AN EXISTING 6-FOOT HIGH COMPLETELY OPAQUE FENCE CONSTRUCTED IN THE REQUIRED FRONT YARD. THE FENCE IS 20 FEET FROM THE STREET LINE WHERE 30 FEET IS REQUIRED.

Representative: William Pufky

Mr. Pufky: I have pictures and information I would like to give to the Board. I apologize that I didn't know how many of you were up there so I have three but there are five of you.

Board: We can share.

[Mr. Pufky passed out photos, etc., and the Board took time to review the information.]

Mr. Pufky: I originally put in the application and I believe I also submitted the survey, and I was denied on my original application to replace the fencing on both the Langden Lane side, which I've provided pictures for

and also the Brigadier side. It's an existing fence, stockade fence, and I was advised at that point that even though it is a pre-existing fence for over ten years, there is a building line there. I am seeking to just replace the existing without having to move it back into where now it would expose my shed and expose a good portion of my current yard. We just purchased the home June 1st so I'm fairly new to that area and I wasn't aware there was a building line there when I was going to attempt to replace it. The other thing we are looking to do which doesn't affect my permit I don't believe, is I was moving the fence 17 feet from where it says "pavers" on the survey and the fence would be moved back away from the road, making it even further away so it wouldn't impede anything. As you can see from the pictures almost every post and there's 39 of them is being heaved right out of the ground. I believe that's what's causing the fence to ... a couple of sections have actually fallen down since I've been there and we've had to prop them back up, I'm always afraid to do anything permanent until I speak with you to request the variance to leave what's there on that corner pertaining specifically to the building line, leave what's there and just replace it with new posts and possibly new stockade.

Mr. Rabbia: So, let me get this right to the north side of your home, you are bringing the fence all the way to the rear of your home? Is that what you're doing? Then you are going to project to the north?

Mr. Pufky: I'm not sure on here, I believe it would be to the north...it would be next to where it says "black top" and then there's "24-2" on the side of the home going towards the wood deck. Bringing the fence towards where it says wood deck, right past "pavers."

Mr. Rabbia: You're going to start from the rear of the house, project, that would be north, and then you are going to go out and come back towards the east and connect to the existing fence line.

Mr. Pufky: Yes, sir.

Mr. Rabbia: Why are you doing that?

Mr. Pufky: We are going to start using that side entrance as the main entrance to the home because the front entrance is a very small corridor and it's difficult to get more than two people in that area. We also have a camper and we would put it behind the fence and back far enough where it wouldn't bother anybody, not that it does in the driveway, but I think it would look better back further. Then we would have that walkway there as our main entrance to come into the home to come in through the garage during the winter months.

Mr. Rabbia: Okay

Mr. Snyder: So are you going to expand the driveway also?

Mr. Pufky: No, not at this time.

Mr. Snyder: You said your shed, if you put the fence on the building line, your shed would be exposed. The way it's drawn if you had to put the fence on the building line, the shed would still be behind the fence.

Mr. Pufky: Well, I was under the impression, when I spoke, when I came for the original application. I don't know, all I remember is his first name was Dave. When he took his ruler out and showed me physically that it would have to go to the corner of my shed. The first corner which I am assuming now would be the southeast and I would have had to continue it at the back of my shed which would be the northwest corner. So it would have exposed and he explained to me that it would expose my shed.

Mr. Stanton: I don't believe that's correct. You're limited by the building line in the front yard but on the side yards and the rear you're actually limited by the property line itself. So, your stockade fence can actually be on the property line on the north and the west side. You can't be over it but you can be dead on that property line there. That assertion was incorrect.

Mr. Snyder: Isn't there a setback for a shed from the property line? On the north line wouldn't he have to have....

Mr. Stanton: Well it's from the rear and then the side has to maintain whatever the side setback is but he can be right on the building line.

Mr. Snyder: Right but the shed cannot go any closer to the north line.

Mr. Stanton: Correct.

Mr. Pufky: My request to the Board at the time of the denial was to ask for more than anything to replace the existing fence either with posts or the same panels from where the building line starts and continue it from where it has been for the last 29 years I guess. I am not making any changes or any difference in footage from what's already in place. It's more for aesthetics right now because it is falling down.

Mr. Stanton: You're aware you're over the property line with the fence in your rear yard?

Mr. Pufky: On the west side? Yes, we were made aware of that when we purchased the home on June 1st.

Mr. Stanton: Okay. It's my understanding from what you said is that the entire fence is going to get replaced?

Mr. Pufky: No sir. Right now I am looking to replace...I have two options...originally I was going to replace all the panels on Langden and all the panels and posts on Brigadier, and leave everything else alone. Now I'm looking at it because more and more of it is falling down to just attempting to replace posts. Take the old ones out which you can see by the pictures are falling out. Take them out, re-drill them, new concrete, new posts and put the fence back upright the way it belongs. Right now it's starting to tear off and fall. Whatever panels are saveable, I would just use them, power wash them, clean them, stain them and whatever wasn't usable I would have to attempt to replace.

Mr. Stanton: You know that we cannot give you permission to go over your property line so whatever else happens, you're going to have to settle up with the codes office for that portion that's over the property line.

Mr. Pufky: That corner there?

Mr. Stanton: Yes.

Mr. Pufky: If I knew exactly how far it had to come in, I would bring it in as I was replacing posts. I have no problem with that. I don't know exactly what the distance is to bring it in from where it's existing now.

Mr. Stanton: Four feet, roughly.

Mr. Pufky: Four feet?

Mr. Stanton: Roughly.

Mr. Pufky: So, if I were to replace the posts, while I was doing that, if I brought that over four feet and just connected it to where my existing is now, the way it goes.

Mr. Rabbia: Four feet at the worst, I mean it goes down to a foot, like midway.

Mr. Stanton: My recommendation would be to have someone lay it out, whether it's the fence contractor, if you're going to have a contractor do it or you may want to get a surveyor out there just to get that one point.

Mr. Rabbia: You don't want to do it twice.

Mr. Pufky: Okay, I would definitely put that back to where it belongs. Again, we weren't aware of it until we purchased the home. That was an encroachment issue which we weren't aware of at the time. We have since talked to that neighbor and they are fine. I mean I told him I would move it if I had to but he didn't really care. It's actually our fence that they are using on that side so he was like whatever I don't care.

Mr. Snyder: I think for your own protection.

Mr. Pufky: Yes sir and if we are granted this variance to do that and replace these posts, for me to bring it in four feet all the way down to where it joins and like you said get a surveyor or something is not a big deal. We are already doing the work anyway.

Mr. Stanton: How many feet is it from the fence on Langen to the road.

Mr. Pufky: I'm sorry sir what's that?

Mr. Stanton: How many feet it is from the fence on Langen, the fence surface, all the way to the pavement. Have you measured that at all or no?

Mr. Pufky: Yes, we did, I think I put it on one of them there in your picture packet. I can't remember off the top of my head. I want to say 38 or 39 even though the survey, I don't know where that goes from, says 33-2. There should be pictures of just the road side sir that will show you Brigadier to the fence.

Mr. Stanton: I'm working it.

Mr. Pufky: Okay, they were the last for pages I believe.

Mr. Stanton: It's the fourth page from the back.

Mr. Pufky: Yes, sir.

Mr. Stanton: 50

Mr. Pufky: It's like 50 on one side and 38 on the other or something like that.

Mr. Stanton: Because the road kind of curves back?

Mr. Pufky: Yes, sir.

Mr. Rabbia: Your neighbor's fence attaches to yours.

Mr. Pufky: Yes, sir. It attaches. That's where my fence encroaches on ... yes, we're attached, it goes straight across.

Mr. Stanton: Okay, I'm sorry this is Brigadier.

Mr. Pufky: Yes, sir, that's Brigadier. He has a gate on that side and I don't.

Mr. Stanton: I got it. I was disoriented for a second.

Mr. Pufky: There should be two for Brigadier and two for Langen.

Mr. Stanton: Got it.

Mr. Rabbia: 10 feet over the building line, is that what you guys got?

Board Members: Yes, the northeast corner is off ten and it goes to zero.

Mr. Natali: How far do you think you are over the building line on the north side?

Mr. Pufky: I'm guessing maybe ten feet? Now I'm looking at this behind the shed and I am doing this off the top of my head. I can make two passes with the riding lawn mower and that's got to be about four feet wide so, uh, I'm guessing 8 to 10 feet sir. And it looks like according to that it tiers right back to zero. I guess that's what I'm asking for is that triangle to stay as is, there on that north corner.

Mr. Palladino: That's approximately 35 linear feet.

Mr. Pufky: OK

Mr. Palladino: We are not talking about the entire fence, we are not talking about the entire fence on the Langen side or on the Brigadier side. We are only part that I see that is not in compliance is that 35'

Mr. Pufky: And that's that triangle, I assume?

Mr. Palladino: Yes.

Mr. Pufky: OK, I don't know, I'm just trying to replace the fence.

Mr. Natali: Did you show the fence company your survey at all?

Mr. Pufky: When I originally was going to hire Leader Fence, yes. They had the survey and I actually have their writing on one of them and they had it and that's why I was dumbfounded when I came here and they said I had to get the permit. That's no problem. I had a quote from them, I gave them a check which I have since canceled and everything but I have it....and they actually wrote on the survey.

Mr. Natali: Okay, but did he suggest to you that you were over the building line?

Mr. Pufky: No, sir. That's why I was not aware when I came up here. I just came up here for a permit and that's when I was made aware that I was over and I showed the gentleman at the time that it was Leader that had done it and he was also surprised that they didn't see it. But, no they had quoted me and I'm sorry I am unable to find it right now but I'm sure I submitted it.

Mr. Pufky: Okay, may I approach?

Mr. Snyder: Yes. We have those.

Mr. Pufky: This is one of them from Leader Fence where they did the whole drawing of what was there.

Mr. Natali: Yes, we have that. We really can't go with that. So you see no problem in bringing in the fence to be in line with your property. So we are really only going to be dealing with that triangle, right?

Mr. Pufky: Yes, sir, that's correct.

Mr. Natali: It started to rain but I didn't see anything in that corner. You don't have any plants or anything in that corner, so for you to stay within the building line...is that something you would consider?

Mr. Pufky: I would probably leave the fence the way it is until it rotted and fell down. That's a lot of yard there and I do have kids that like to play back there and as of right now, my neighbors on the other side as you can see in the pictures, have quite the flower gardens and all that and I don't want to have that exposed on my side. It's right up to our fence, it's on their property but that would make it all exposed to us. They have quite a flower garden-type thing there.

Mr. Natali: Did you look at the survey before you bought the property?

Mr. Pufky: To be honest with you sir, I don't think I did. I might have breezed over it but not as far as looking at it to see the lines. I didn't even understand that line until the gentleman who was very helpful at the codes showed me it. I still didn't understand it and I guess I am not understanding some of it because I measured today, or we measured today, and one of them we measured like 15' from the house to the edge of the grass but that shows 32. So I'm not sure where the measurements come from.

Mr. Stanton: This is actually the right-of-way line here as opposed to the street line. Is that where you were measuring to?

Mr. Pufky: Yes, I went to the curb. So, that's what I mean, I don't it's the first time I've had to do this. I don't know. I'll admit it, I don't know. I have no problems with any of the neighbors. I did ask a few neighbors, the ones across the street and next door. They said they were find, no problem. I said well I don't know if that's a necessity or not. I don't know if it impedes anything because I'm not going any further out. I am just leaving it the way it's been or attempting to.

Mr. Rabbia: So, you're not going to replace the fence, you're just going to do posts. Is that the plan?

Mr. Pufky: I'm planning on doing posts unless the ... if one section is really decayed. If I have to replace some boards, if one was decayed, I would. Right now, it doesn't appear that any of them are to the point of

replacing a panel. I may have some single boards to replace because we do want to power wash it and stain it but I don't see any panels right now and that's also why I'm backing off of Leader to replace all of those panels. That's just a very large expense to have them do that. And since they never saw this when they asked me to come and get the permit, I'm not real positive I'd go with them anyway.

Mr. Natali: Would you object to having this laid out on a survey? So we know exactly how many feet you're asking for in the corner. We are talking about the triangle. So you would ask your surveyor, go back to the same guy, and what he would do is put on the survey exactly where the fence is and give us the dimensions from the corner of the garage or from the building line to where the fence is. So we know exactly how much that triangle is going to represent. That would be what your variance is. Plus you're going to have to bring the back yard into conformity which you would want to do anyway.

Mr. Pufky: That's no problem sir.

Mr. Natali: If you do that, we'll see you next month and we can get going on this.

Mr. Pufky: I have a couple of questions on that sir. This is my third home in Cicero and this is the first time I have run into this but I've already been put back a month which I understand but we have a graduation party for my daughter on the 19th and we wanted to get this done and this is the only thing we have been holding on. On top of that that's another expense on top of the \$200 which I just incurred which I may be denied anyway. I mean it's just getting very costly for me to even replace what is already there. I mean, you know, what's already been there for 29 years. If that's what I have to do, I have no other choice, but I still don't have a guarantee that after I'm out all that and I still don't have a fence sitting there for two and a half months that I can't do anything with. If you give me no other options, I'll have to do it. I just want to replace what's there. Whether it's posts or whatever.

Mr. Natali: Well, I'll leave it up to the Board. Can we determine what that distance is. Chuck (Stanton) estimates it's ten feet – 35 x 10. We could make the motion, in place of the existing fence, because you are going to replace the posts.

Mr. Pufky: Yes, sir.

Mr. Rabbia: We could say in place of the existing fence but no further than 10' away from the existing building line or something like that.

Mr. Natali: Right, we don't know exactly and that's why I'm saying it looks like it's almost half the space but....

Mr. Rabbia: The problem is when we begin guessing numbers and we say 10 and you're actually 11, no you got a problem.

Mr. Pufky: There's not going to be any post replacements other than what is there. I am not going any bigger any wider again, that's more of an expense for me to make it any bigger and that's not what I'm looking for. I don't want to change the design or impede anyone from street view either. They've got 38' or whatever now and I'm not going to take any away from them, we love a big lawn. So, I guess I'm asking to just replace them. However you can... if you can...

Mr. Natali: Okay any more questions? I'll open up the public hearing.

Mr. Pufky: I have none sir.

Mr. Natali: Okay. Anybody on the Board? [no response] Okay.

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

Is there anyone who would speak for this?

Is there anyone who would speak against it?

Mr. Natali closed the Public Hearing at 6:26 P.M.

Mr. Natali: Let's discuss the Five Factors first of all. It definitely won't change the character of the neighborhood. It will improve it.

Mr. Pufky: Yes, sir which is our intention.

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

All agree.

Factor 2 – Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an Area Variance.

Mr. Palladino: Can you do something else other than coming to us and asking for a variance. That's basically what it says. Yes, you can. You can run the fence so it butts up against the northeast corner of the shed and then you don't need a variance. You need no variance for being opaque or no variance on the six-foot height. The only problem I see with that is that would be kind of ugly [laughter]. I'd like to make it a little fancier....

Mr. Pufky: I'd like to interject with that ugliness...if you look where we are going to move, bringing that 17 feet that means it would be five feet maybe and then immediately go to...yeah it would be not aesthetically pleasing which is what we are trying to do sir.

Mr. Palladino: Looking somewhere around 35' along the front that borders Lang en Lane, that's where you start to take and encroach on the code. It would not be pleasing but to answer the question fairly, it's a YES.

Answer: Yes.

All agree.

Factor 3 – Whether the requested Area Variance is substantial?

Mr. Snyder: If it's ten feet when it needs to be 30' then it's 33% which is in our normal review is a substantial request.

Answer: Yes.

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
All agree.

Factor 5 – Whether the difficulty was self created? Answer: Yes.

You had the opportunity. You should have had some guidance from the realtor, the surveyor, the attorney...we can list everyone that should have said, "You have a fence that's not conforming, it's built within the building line and if you ever want to change anything, you're going to have a problem."

Mr. Pufky: I wish I knew that sir. I really do.

Mr. Rabbia: I think if we step back and say, "is this going to be an improvement to what's there today"? I think the answer in my mind is, yes. Do I have a problem with him replacing what he has there? In my opinion the answer is no. Again, as long as he follows the same lines that he has with the exception of what he's going to do around the house, I personally don't have a problem with this plan here.

Mr. Palladino: If it was a chain link fence or something that wouldn't decay, it wouldn't be rotting but it would still be a violation of our code. So, it is falling down and all he's trying to do is make it look nice, improve the appearance. So I agree with what you are saying.

Mr. Snyder: I guess I don't have a problem with it either as long as we at the same time, you're in agreement that you're going to correct the back line that's as much as four feet over the property line. That you will take the point in the front and actually I'd want a surveyor to tell me where my back corner is and that's where I would move my fence back to because you're friends with your neighbor right now but if you're not with the next one that buys the house and you've got to move the fence because you're three inches over the line that's crazy. It would be worth the money to pay a surveyor to spot that line.

Mr. Pufky: You're guessing that's 4 to 6 feet?

Mr. Rabbia: As well as I can get with a ruler to the lines.

Mr. Pufly: I'm the type of guy who will run it 8 feet and say I'm good. That 2 to 3 feet is not going to

Mr. Rabbia: It looks to be four-ish...would you agree?

Mr. Stanton: I would agree but just don't come back in here later and tell us "you said it was four feet"

Mr. Pufky: Oh no no, I have no problem moving it over.

Mr. Natali: So what are we going to say it's going to be. Why don't we just say in the same post holes.

Motion was made by Mr. Natali, to approve the fence repair as it now sits except for the west side that will be brought into conformity with the property line. The north side of the house, the area in question, that's within the building line which is approximately 35' x 10' will be replaced exactly where the post holes are currently located. Based on that we used the Five Factors. Number 1, it would not change the character of the neighborhood.

Number 2, although there is another means it would change the aesthetics of your property and we can appreciate that. Number 3, it is considered 33% variance, therefore it is substantial. Number 4, there is no change in the physicality of the property as far as drainage run off and Number 5, it is self created but that in and of itself does not hold up a variance. That is the motion.

Seconded by Mr. Stanton, to approve the Area Variance as stated.

Motion was put to a vote

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

Motion was duly carried.

Mr. Pufky: Can I ask one question, am I still okay with that 17' going away? I don't have to do anything with that right?

Mr. Stanton: Anything inside the building line.

Mr. Pufky: Okay, I wanted to make sure. Thank you for your time.

KEN HOLLAND (SITEWORX)
8880 BEACH ROAD

AN AREA VARIANCE TO CONSTRUCT A DETACHED GARAGE THAT HAS A REAR YARD SETBACK OF 5 FEET WHERE 30 FEET IS REQUIRED, A MINIMUM SIDE YARD SETBACK OF 4 FEET WHERE 6 FEET IS REQUIRED, A COMBINED SIDE YARD SETBACK OF 14 FEET WHERE 15 FEET IS REQUIRED, A FRONT YARD SETBACK OF 18' WHERE 30' IS REQUIRED AND C OVERS APPROXIMATELY 31% OF THE TOTAL LOT AREA WHERE A MAXIMUM COVERAGE OF 25% IS ALLOWED.

Representatives: Mr. Ken Holland and Mr. Patrick Honors

Mr. Honors: Just to give you a lowdown as to what transpired in the last couple months. It was quite the runaround from the DEC. Finally they did approve and give us, actually not a "general" permit, it is a "special" permit but that's what they did approve. They did say that the general permit was outside the parameters and that we were in need of a special permit and they went ahead and granted that. That's what you have in front of you there. Other than that, I don't have too much more to present to you in regards to any other changes. That was our biggest hold up was them and they definitely held us up quite awhile.

Mr. Rabbia: I'm not familiar with this DEC permit process. Does it matter that the dimension of the garage and what's on the permit is different?

Mr. Honors: I spoke to them on that. The size of the garage that we actually applied for was bigger. So they said "no" it didn't matter. If it was larger, then we would have to go back.

- Mr. Natali: Well, we didn't know you were coming tonight because we were told this morning about this.
- Mr. Holland: I spoke with Heidi the beginning of last week and told her we were ready and we were going to be here.
- Mr. Natali: The last email I got from Heidi was the letter from the DEC saying they couldn't make the deadline.
- Mr. Holland: I emailed her later on that afternoon saying and she said she forwarded the email to the Board.
- Mr. Natali: Okay, what would she have forwarded?
- Mr. Holland: It was not the permit itself but it was an email saying the permit was ready and I could come in on Monday and pick it up. We had already informed her previously in the week that...
- Mr. Natali: It was the 4th of July Holiday so...were you involved in this at all Rich (Holland)?
- Mr. Holland: It was going for signature, it wasn't approved.
- Mr. Holland: At 3 something we got an email that it was approved and I did inform Heidi, I think it was Tuesday that we'd be ready.
- Mr. Natali: I am going to leave it up to the Board to decide if they want to make a decision on this tonight or digest all this.
- Mr. Snyder: I have a questions on this permit expiration. Does it mean on July of 19 they have to tear the building down because we're not going to...
- Mr. Stanton: It's a permit for construction, so they have to complete it by then.
- Mr. Snyder: Got it, a five-year approval on the permit.
- Mr. Holland: That's pretty much all we were waiting on is the DEC permit. We brought the size down to conform with the 25%. The revised plans were turned in at that meeting on, I believe it was May.
- Mr. Snyder: And you're down now to 22' x 46'
- Mr. Holland: Correcting
- Mr. Stanton: When I couldn't read it, I went out and it scaled 40'
- Mr. Snyder: I think they're still probably 12% over.
- Mr. Stanton: Let me see.
- Mr. Holland: 46', 4', and 25' is 75'

Mr. Stanton: [calculating] Over by 30 square feet. [Board quietly discussing measurements.]

Mr. Holland: It was actually the April 7th meeting, that we were here and that's when we discussed the 22' x 46' being 25%.

Mr. Honors: That brought it down to the 25% so as not to have to achieve that variance.

Mr. Natali: Slingshot that's your boat right?

Mr. Holland: Yes, sir.

Mr. Natali: That trailer is a monster. Is that going to fit with that tongue.

Mr. Holland: Yes, we've measured it. It's just about right there but my friend owns Phoenix Welding and I've discussed with them about shortening up the tongue on that trailer.

Mr. Natali: Alright because that's what I was going to suggest.

Mr. Holland: It will fit.

Mr. Natali: Well we have seven pages here to digest. The bottom line is why did they have to go to a special permit?

Mr. Holland: Anything over 1,000 sq ft has to go to a special permit. It's 1,012 sq. ft.

Mr. Snyder: So for 12 sq ft you needed a special permit.

Mr. Natali: Okay gentlemen, I'm going to leave it up to the Board.

Mr. Snyder: Well Chuck (Stanton) is working on the numbers. Do they fall in line now Chuck (Stanton)?

Mr. Stanton: I have in my notes that we were going to be 26 after the changes.

Mr. Holland: Yes, it's 25 point something.

Mr. Rabbia: Just to refresh us here cause it's been a few months...we've got a front setback issue to the road. Front, rear and percentage. I think the first time we came it, it had some side issues as well which is not an issue anymore.

Mr. Natali: Right.

Mr. Holland: And I know it was high on the total coverage and we've brought it down substantially.

Mr. Rabbia: Which is what I think the 22' x 46' did was get it in the ballpark.

Mr. Snyder: Right.

Mr. Holland: We were originally at 31% before we changed it.

[Board discussion]

Mr. Palladino: Is the deck covered

Mr. Holland: No

Mr. Stanton: So the house is about 1,208.24 sq. ft. The garage at 22' x 46' adds another 1,012 sq. ft. which gets you up to 2, 220.24 sq. ft., if you want to carry it out that far. When you look at the full lot area, it is around 8,759 sq. ft. which gets you coverage of about 25.3%.

Mr. Palladino: If the deck was covered, that would have changed the percentage a lot. When did we start this in December?

Mr. Holland: Yes, December. That's when we first started with the DEC and I've got letters from them in February when we revised the permit. We were going to have our answer within 45 days and I just got it today.

Mr. Stanton: If you look at 210-11 B4 private garage not in excess of 700 sq. ft.

Mr. Natali: How do you interpret number 7? Do you have a copy of the letter?

Mr. Honors: In my dealings in that area on Beach Road, the Army Corps of Engineers does not come into play, it's all DEC controlled down there. Any knowledge I have.

Mr. Holland: I spoke with them in the beginning on that as well.

Mr. Stanton: Even though you haven't seen them, you are a certain distance within a navigable waterway which is the lake.

Mr. Rabbia: Which one are you looking at?

Mr. Holland: Number 7

Mr. Stanton: Unfortunately, this is not the end of this.

Mr. Natali: Would that affect our decision though?

Mr. Kirwan: I don't think it does.

Mr. Natali: We can make our decision subject to....

Mr. Kirwan: You can't overrule what the Army Corps of Engineers says anyway. So if they come in and say they can't do this. Then, they can't do it. And it says "may," it doesn't say "is."

Mr. Stanton: We had that same argument on the DEC because we said if the DEC doesn't approve it, then it's on them.

Mr. Natali: Let me ask you this, if we approve this are you going to start building or are you going to wait and see what the DEC says....I mean the Army Corps of Engineers?

Mr. Holland: Well, obviously if we built something and the Army Corps told us to tear it down, we'd have to tear it down so we would contact them and make sure we were in compliance.

Mr. Natali: Wouldn't it be prudent to at least call them....

Mr. Holland: That's what I said. Yes, we would contact them prior to starting the structure.

Mr. Natali: Okay let's see if we can make a decision one way or another. The closest we can get is a little over 25% on the coverage? What is it less than 1%.

Mr. Snyder: Less than half a percent.

Mr. Natali: We'll go through the five factors.

[P.S. Based on the fact that no one was present other than the Siteworx representatives, Mr. Ken Holland and Mr. Patrick Honors, the Public Hearing was not opened.]

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?** I don't think it's going to change the character of the neighborhood since there's one right next door.

Mr. Stanton: The one thing that I see is we're approving these structures going down the line. Now are we...is that changing the character of the neighborhood?

Mr. Snyder: If this were the first one, my answer would be different. I don't see a problem. If we had a problem with the first one, we wouldn't be dealing with the second one. I don't know how it got approved.

Mr. Kirwan: What about the first one changes the character of the neighborhood?

Mr. Snyder: I think the physical size, the closeness to the road.

Mr. Rabbia: There are a lot of garages on that side of the street. I think that's what I'm falling back to. When I drive down Beach Road, there are a lot of garages on that side of the road.

Mr. Natali: It's not like Long Point where the garages are in the front yard. Okay what do you say Gary (Palladino)?

Mr. Palladino: I don't think it's an undesirable change.

Mr. Natali: I don't either. So we've got three to two and that's a "no."

Answer: No.

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.

Mr. Natali: Of course you can always make it smaller but that is not really appropriate since your goal is to

have it for a specific purpose which is to house a large boat.

Mr. Holland: And to clean up the yard itself in regard to the clutter that's been there. Gary you remember what it looked like years ago when the gentleman who was there had a rusty pickup truck sitting on the ground. I've kind of started to clean it up and I hope to continue to do that to make it look a little better than it did.

Mr. Natali: Gentlemen, we're good. If you have something to say at the end, I will be glad to listen to your position.

Mr. Snyder: Well that's the twist with number two, whether something else could be done. Yeah you could build a 500 sq. ft. garage, now you fall well within the parameters, but it doesn't serve the purpose.

Mr. Rabbia: I don't think there's a reasonable alternative. My opinion.

Mr. Natali: What about you Chuck (Stanton).

Mr. Stanton: I would agree with that.

Mr. Natali: Okay so that's a "no."

Answer: No.

All agree.

Factor 3 – Whether the requested Area Variance is substantial?

Mr. Natali: We are only going 1% on the coverage.

Mr. Rabbia: Yes, but it's substantial. The rear setback is substantial. The 210-11 B4 over 700 sq. ft. is substantial.

Mr. Natali: Okay we can't deny it's substantial.

Answer: Yes.

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

All agree.

Factor 5 – Whether the difficulty was self created? Answer: Yes.

Mr. Natali: You haven't purchased the property yet have you?

Mr. Honors: I still own the property.

Mr. Natali: Oh you still own the property so you still have a chance to back out (laughter). Number five would be yes also. So that's three areas that are "no" and two that are "yes" and these are not weighted. Number one, number two and number four are "no." Three and five are "yes," substantial and self-created.

Motion was made by Mr. Rabbia: I'll make a motion for Ken Holland, 8880 Beach Road, for an area variance to construct a detached garage that has a rear yard setback of 5' where 30' is required. A front yard set back of 24' where 30' is required. Covers approximately 25.3% of the total lot area where maximum coverage of 25% is allowed. Additionally, the garage is approximately 1,012 sq. ft. which is more than what has been defined in 210-11 B4 that does not allow private garages to exceed 700 sq. ft. when used as an accessory to a principal residence. So, we have an issue there that we are addressing as well. In addition, as a condition to this is approval by the Army Corps of Engineers. We know that the application has been forwarded to them for consideration and you'll want to get approval from them before you go forward.

Seconded by Mr. Natali, to approve the Area Variance as stated.

Motion was put to a vote

Mr. Rabbia Yes

Mr. Snyder: Yes

Mr. Palladino: Yes

Mr. Stanton: No to the motion, qualified by the fact that we have this new law on the books limiting accessory structure garages to 700 sq. ft. and we're exceeding that quite substantially.

Mr. Natali: Yes

Motion was duly carried.

Motion and vote was approved to adjourn the meeting at 7:25 P.M., as there was no further business before the Board.

Respectfully submitted,
Ann Marie August, ZBA Recording Clerk