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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: MARCH 3, 2014
PLACE: CICERO TOWN HALL

TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday March 3, 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:	Attorney
	Nancy G. Morgan:	Acting Secretary
	Richard Hooper:	Director of Code Enforcement

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

Mr. 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.

Motion was made by Mr.Natali, seconded by Mr.Rabbia, to approve the minutes of the January 6, 2014 Zoning Board of Appeals meeting, with the following correction: Page 22--second line in last paragraph--only need one "6.3 acres".

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 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 all the items on tonight's agenda.

AREA VARIANCE, DEFERRED FROM JANUARY 6, 2014, FOR KEN HOLLAND (SITEWORX), 8880 BEACH ROAD , 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 FEET WHERE 30 FEET IS REQUIRED AND COVERS APPROXIMATELY 31 % OF THE TOTAL LOT AREA WHERE A MAXIMUM COVERAGE OF 25 % IS ALLOWED.

Representatives: Pat Honors, Owner
Ken Holland, Siteworx

Mr. Honors: I am the owner and live at 8876 Beach Rd., representing Mr. Holland from Siteworx. We're coming back to the Board tonight with what I think is a much better plan, in regards to a better fit for the site. We have amended the Variances in meeting a front, a rear and a very small 26 % of a coverage Variance that would be needed as well. Ken has been in contact with the DEC and they are very close to giving approval.

Mr. Holland: I got a very optimistic approval on the phone today but nothing in writing as yet. I had an approval for a general permit application from an individual, which they gave me a new contact, a gentleman named Joe Elfort. We're just waiting to get that back. That one takes a little longer than a general permit, which we were hoping to have at this time, but we had to apply for that individual permit application.

Mr. Honors: Based on that, I'd like to ask approval contingent on that approval of the DEC--obviously nothing can happen without that. But we did want to make it back before the Board tonight to get some feed-back, if any, with regard to the changes and see what the thoughts of the Board are at this time to what entertain the changes. The side setback is 6 feet on one side--16 feet on the other side.

Mr. Stanton: Can I stop you right there? Do you have an actual plan we can look at because right now you're asking us to evaluate something we don't have in front of us. Was this submitted to the Codes Office?

Mr. Honors: I believe they have a copy of it.

Mr. Natali: I asked the Secretary today. She did not have a copy. Actually yesterday.

Mr. Honors. It was e-mailed but maybe it didn't go through. He showed Mr. Stanton the plan.

Mr. Stanton: Can someone make copies of this for the Board?

Mr. Hooper made the copies.

Mr. Natali: You're kind of putting us at a disadvantage here because we haven't had a chance to look at it and you do not have the approval. I think you're getting a little ahead of yourself. When do you expect the approvals?

Mr. Honors: That's based on the Board (inaudible).

Mr. Holland: They said about 2 or 3 weeks.

Mr. Stanton: It's an individual permit so there's a lot more to check into for the review.

Mr. Natali: I'll leave it up to the Board. Do you want to take a look at it? We can't make a determination tonight , which means you're still going to have to come back.

The Board Members agreed to look at the plan.

Mr. Stanton: I'm guessing what triggered the individual was a number of things. One is, you were within the 100 ft. wetland buffer established by the Freshwater Wet Lands Act. You're also in a Flood Zone E, basically because the proximity to Oneida Lake. An analysis was done to find out what your flood elevation was--elevation 373 ft. The Clean Water Act also gives the Army Corp of Engineers jurisdiction over this because it is a tributary to the water of the U.S. What specifically did you guys talk about for the individual permit, or are they looking at the actual site plan?

Mr. Honors: They're looking at the actual site plan. The last time I met with them—DEC oiffice on Erie Blvd.--we went over everything in detail that they're looking for--the DEC has to go over everything--that's the next step.

Mr. Stanton: While we're waiting for the copies to be made, I just wanted to bring to the Board's attention, we did have a Local Law 7-2013 that amended the Code on July 24, 2013. What it does is establish a restriction that a garage not to exceed 700 ft. in area when used as an accessory use to the principal residential use of the property. That's under “Permitted Uses” so we would be looking at an additional Variance tonight.

Mr. Snyder: I'm not sure that's what they had in mind or the Board had in mind when that was passed. You remember, we had a situation in a couple of places where people bought a piece of land in residential and wanted to put up a pole barn or in Brewerton, the people owned the lot next door to their house and wanted to put up a garage--we made them put the garage in back where it would normally be if there was a house on the lot. I'm not sure if this falls into the same category.

Mr. Stanton: This is an accessory use to the principal residential use--an accessory structure. Terry, would you agree?

Mr. Kirwan: I'm sorry, I was in a conversation.

Mr. Stanton: This proposed garage for a building that would actually be an accessory use to the residence ?

Mr. Kirwan: You're asking me?

Mr. Stanton: Yes.

Mr. Kirwan: Or it could be a stand-alone because it's on a different lot. Is it a different lot?

Mr. Stanton: No, it's the same lot.

Mr. Snyder: Are we saying no one in our Town will be able to come into the Codes Office and get a building being 700 sq. ft., even if it meets all the setbacks, unless they come to the ZBA ? Is that what we're saying?

Mr. Stanton: That's the indication, yes
.
Mr. Rabbia: Only residential districts, right?

Mr. Stanton: Yes.

Mr. Natali: I know you've got quite a bit of equipment on that lot. Is that your equipment ?

Mr. Honors: Yes.

Mr. Natali: What kind of work do you do ?

Mr. Honors: Construction.

Mr. Holland: We'll be getting that out of there--we've been to the Town of Dewitt for a site plan for some work we're doing on Taft Rd. (on the Dewitt side). The site plan for the building in Cicero will be for his personal use--boat, etc.

Mr. Stanton: Do you still plan on an office?

Mr. Honors: The office in Dewitt, yes.

Mr. Stanton: You said before there would be a home office?

Mr. Honors: Yes, a home office.

Mr, Natali: In the home, not in the new structure?

Mr. Honors: There'll be a small office in there, yes.

Mr. Palladino: So, other than your boat, what else are you going to put in there ?

Mr. Honors: 4 wheelers, snowmobiles.

Mr. Holland: His personal truck won't fit in the house side garage so that will go in there , too--storage for personal vehicles.

Mr. Palladino: And the 37 or 38 ft. boat ?

Mr. Honors: Yes, a 39 ft. boat and another 16 ft. boat.

Mr. Rabbia: Is there a new coverage calculation on the survey--I don't know if I see it?

Mr. Honors: It's not there. It's 11 sq. ft., which brings it to 26 % overall.

Mr. Palladino: If you're so close--getting under 25% and you've got 50 ft. left, why can't it be 40 ft. ?

Mr. Holland: The trailer is 48 ft. That's one thing I could probably shrink down to 48 ft., which earns it a 25.7--22 X 48--I could shorten up my trailer a little bit.

Mr. Palladino:When you were saying 38 or 39 ft., I thought that was the trailer and boat --everything.

Mr. Holland: No, the trailer and boat is total 48 ft.

Mr. Honors: I'd like to leave it the way it is but it's understandable to bring it down.

Mr. Natali: We just picked up another variance because your building is over 700 square feet. Now it's imperative that we come under 25% coverage.

Mr. Holland: 22 at 26 brings it to 25 %--22 at 48 brings it to 25.7 %--(inaudible).

Mr. Stanton: Yes , that gets us 25.3 %.

Mr. Rabbia: If that's the case, we're left with the front and rear, right ?

Mr. Stanton: Correct.

Mr. Stanton to Mr. Holland: Now if you did that--how would you propose to do that? Would you shorten from the back of the property?

Mr. Holland: More from along the front.

Mr. Honors: Simply to make a little easier, the swing to back something in--it gives you a little extra.

Mr. Natali: The rear would be 6 ft. then?

Mr. Palladino: The rear would be 4 ft. The front would go from 21 to 25 ft.

Mr. Stanton: That would—different from what you applied for.

Mr. Holland: The structure would be 22 ft. X 46 ft.

Mr. Snyder: So, they'll be lined up in the front or not?

Mr. Honors: Yes.

Mr. Palladino: And in the back.

Mr. Natali: Any other questions from the Board? There were none. We know what you're going to be coming in with. Can you get this to us early?

Mr. Honors: In regards to the permit from DEC----.

Mr. Natali: And the revised site plan to get you down to 25.3 %.

Motion was made by Mr. Natali, seconded by Mr. Stanton, to defer this case until the April 7, 2014 ZBA meeting.

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.

AREA VARIANCE FOR B. DEAN JOHNSON, ARCHITECT AND MIKE CHARLES, OWNER, 8886 MAPLE DRIVE, TO ALLOW THE EXPANSION OF A NON-CONFORMING STRUCTURE. THE EXISTING STRUCTURE HAS A MINIMUM SIDE YARD SETBACK OF 2.3 FEET WHERE 6 FEET IS REQUIRED.

Representative: Dean Johnson, Architect

Mr. Johnson: Mr. Charles plans to remodel this property, the former Wysocki property, for his personal use as a single family residence.

Mr. Rabbia: So, you're going to do some demolition on the west side?

Mr. Johnson: Yes, the west side was probably a home or a camp at one time many years ago. It's in pretty poor condition so the intent is to remove that entire side of the building. The east side is the large, former banquet hall which is going to be the great room of the house. We'll maintain the large, stone fireplace in there. We're proposing to rebuild right on the same foundation--3 ft. from the current foundation. The garage , which is shown on your site plan, towards the street side, is the old construction. It has to be moved over on the property so it will meet the side yard setback requirements.

Mr. Rabbia: It looks like that conforms with all the bulk regulations--no issues with the garage at all.

Mr. Stanton: One thing that struck me---if you're going to reconstruct the west portion of the building, it seems like that would be an opportunity to get the 6 ft. setback that's required. Honestly, if that occurred, I don't think you'd need to come in front of us for a Variance at all. We're talking 3 ft. and "change".

Mr. Natali: Are you actually going to use that foundation?

Mr. Johnson: There was some talk of rebuilding the foundation but my client is liking to get the most space as possible because that's the bedroom side of the house.

Mr. Palladino: He's got a mud room, a bedroom--that's all part of that existing foundation that you're going to tear up and put a new foundation in so, to take a couple more feet from that--it would kind of make the elimination of the bathroom and bedrooms---.

Mr. Rabbia: (inaudible)--the bulk regulations.

Mr. Natali: It's an odd size--off hand, do you know what the square footage is?

Mr. Palladino: I came up with about 5500 sq.ft.

Mr. Rabbia: We're talking about losing about 200 ft.

Mr. Johnson: The challenge is, you have one side of the house, it's the great room and kitchen that you can't really change. Then you've got to fit everything else into the other side. The other side of the house is twice the size but you really can't modify it structurally. It's a big clear span of roof and it's got a beautiful floor in it--it's a beautiful room. You wouldn't want to reduce the size of it. That's the challenge. We'd like to take the whole thing down but it's cost prohibitive to do that.

Mr. Natali: From a re-salability standpoint--you're still going to have a non-conforming piece of property.

Mr. Rabbia: I guess I'm stuck on why we can't conform to bulk regulations if we're going to do demolition. They're tearing it down to the foundation. This is our opportunity.

Mr. Natalli: We can always make it smaller.

Mr. Rabbia: I didn't say that.

Mr. Johnson: Anything is possible but we have to work with the footprint--that's the challenge now.

Mr. Palladino: Can you tell me what the height is ? You've got a 2nd story on top of the garage--it's scaled to 26 ft. but I'm just curious as to just what it actually is because I didn't pick it up on the drawing anywhere.

Mr. Johnson: I get 17 or 18 ft.--the roof is about 23 ft.

Mr. Kirwan to Mr. Johnson: You're asking for an Area Variance to allow the expansion of a non-conforming structure. The existing structure has a minimum side yard setback of 2.3 ft. where 6 ft. is required. I can't figure this out on your plan. What does the expansion consist of ?

Mr. Johnson: In reality, there's no expansion. It's being rebuilt on the current footprint. The only expansion is the addition of the garage.

Mr. Kirwan: But the garage is against the regulations.

Mr. Johnson: Actually, the part we're rebuilding is a partial 2 story--kind of a story and a half .

Mr. Palladino: The garage across the street, Maple Dr..--are you going to tear it down or leave it ?

Mr. Johnson: We're leaving that there

Mr. Natali: So, it really is expanding the footprint?

Mr. Johnson: No--only the garage.

Mr. Rabbia: Expanding a non-conforming property, right? It just happens to meet bulk regulations. The garage meets the bulk regulations--he's got a problem with the existing home.

Mr. Palladino: Is the foundation crumbling now?

Mr. Johnson : The foundation is in pretty good shape.

Mr. Rabbia: Are you going to do anything with the great room?

Mr. Johnson; A little bit of work on the windows--the windows are out of date--replace some windows and doors. Generally, no changes. It has a terrazzo floor I don't want to touch.

Mr. Rabbia: What's above the garage--storage?

Mr. Johnson: Yes, storage because there's no basement.

Mr. Stanton: A non-conforming structure condition for expansion is ---just for clarification, the lot is close to 5500 sq. ft. There's nothing non-conforming about the lot.

Mr. Kirwan: The lot conforms is what you're saying. So it's just this 2 X 3 ft. that's non-conforming?

Mr. Palladino: We're under the 25 % --even if you take the road as being a hard surface and call it non-green, non-absorbing, you're still under 25 %.

Mr. Stanton: Yes, that 3500 doesn't include (inaudible).

Mr. Rabbia: I can't recall a time when we've gone closer than 3 feet.

Mr. Snyder: It's the existing condition--but we've let people put their buildings back on the current foundation in past years. I curious to know---.

Mr. Rabbia: The choice--there's a certain dollar amount---.

Mr. Kirwan: All I'm saying is, if there's a structure that is non-conforming and they tear it down and build on the same footprint, it maintains that non-conforming status as long as it's not expanded upon.

Mr. Natali: But he's adding a garage even though it needs a setback.

Mr. Kirwan: But he's not expanding the non-conforming use because that garage, in of itself, complies with the conditions of the setbacks.

Mr. Stanton: See if you agree with me on this. When you look at the structure itself, the proposed coverage is about 17.6 %. We don't have an issue with area. It conforms to the Code for use.. The expanding area is not expanding a non-conforming condition--it would only be if we were pushing the setback further.

Mr. Kirwan: I agree with you. I realize we've addressed this topic for several years but (inaudible) changes or could potentially change the outcome.

Mr. Snyder: I guess I don't understand where there's a problem. All the other ones we've looked at and things we've done--and not actually go outside of the current foundation. Sure, we could make him re-design his house but if that were me and I had to start re-designing my house and yet I'm in a legal situation, that would probably make me a little upset.

Mr. Natali: Any other questions from the Board?

Mr. Stanton: I don't necessarily have any issue with it myself but we're charged with approving the minimumj Variance--there might be an alternative and I think Mr. Rabbia sees an alternative where we don't have anything.

Mr. Rabbia: That's the only area I'm coming from--there are alternatives.

Mr. Snyder: But you're saying that alternative is for this man to build a house less than what he feels is going to meet his needs and yet, the building is not being expanded beyond where it currently sits, which we've allowed people to do. I don't think we're here to tell this gentleman how big a house he should have unless it complicates the setbacks on his property line.

Mr. Rabbia: He's demolishing what is going to be part of the house.

Mr. Kirwan: In my opinion, that's fine as long as you don't expand the house. The only thing I haven't talked about yet is our Code, that we have wrestled with--"do not enlarge, increase or expand a non-conformity". He's saying he's putting on an extra half for storage, which , that may be why this is here in front of you--to expand the former use by 3 1/2 stories. Otherwise, there's no increasing the non-conformity because he's tearing down and building on the same footprint.

Mr. Natali: OK, let's base it on what we have.

Mr. Rabbia: How many square feet of living space in the existing home--forget about the great room area--edge of great room west ?

Mr. Johnson: I'll have to take a few minutes to calculate that for you.

Mr. Rabbia: Do you know the square footage of the new expansion?

Mr. Johnson: 25 X 48 feet.

Mr. Rabbia: I'm trying to get this expansion issue right. I think the new house is smaller than the old house.

Mr. Snyder: Is there a useable 2nd story in this property?

Mr. Johnson: Yes--probably above half of the 1st floor.

Mr. Snyder: So, the square footage we're adding to the house may be half of one floor ?

Mr. Johnson: Yes.

Mr. Natali: We have taken similar situations but they're usually with camps that are no where near 5000 sq.ft That's why this is not clear cut. It's something we've never done before. We've never seen a house like this in my 18 years as a Board member. We've never seen this combination. Obviously, it had a different use. It has an enormous great room. Like you said--you could have taken it all down. We just have a problem with a house this big and not making something correct for a few feet when you have that many square feet. Mark, how many sq. ft. are they losing?

Mr. Rabbia: About 204.

Mr. Natali: What's that --about a quarter of 1 %? Is you client here Mr. Johnson?

Mr. Johnson: No, he's not.

Mr. Natali: It's only March. Would you like to take care of this--have another conference with your client--or would you like us to bring it to a vote ?

Mr. Johnson: We'd like to get this started. If the vote is negative, then we'll have to make a choice. I think my client would like to get this footprint.

Mr. Natali: Any other questions?

There were none.

Mr. Natali opened the Public Hearing at 6:40 P.M

FOR:

My name is Daniel Nappa, Contractor for Mike Charles. The reason he's looking for this home--I know it's a big piece of property--he's been looking for about 2 years in the Cicero area. He wants to live there year round, he's retired.
He has a good size family and he has a couple homes--one in Liverpool and one in another county. He wants to put everything together and stay in one place. Mike looked at this property and the garages. The building has been empty for I don't know how long. It's been in an estate. There's nobody else that's going to come in there and look at that great room--that's what caught his eye was that room to make his living room and his dining room for his home. When he does something, he does it right. He wants to come to Cicero and put $175,000 to $200,000 besides buying the property--he wants to make his home here. If you walk thru that property right now, you've got the great room, a big kitchen and a big open area that will become the dining room. You have no garage or parking area and no storage rooms in that house. The property would sit there and nobody will buy it and nobody is going to take it as it is now and make it into a home the way it is designed. He's willing to take this "postage stamp" footer and build this home with a master bedroom, a couple of bedrooms and make this his home for the rest of his life. I think you have to take that into consideration when a man wants to come to your Town and set up his retirement home and live there year round. I'm sure this was maybe a camp at one time but this Town allowed someone to build that place up. Someone needed a Variance to do that. That Variance was awarded to them some time ago. We're not trying to change that. All we want to do is get a garage added on and some storage because there's no cellar. I'm working in Cicero now. You have a nice Town. The only thing we're adding is a garage--we're not adding living space. If you go thru that house now, the great room and the big kitchen are there. When you go thru the side, there's small bedrooms and bathrooms and closets but you'd have to make it a live-in house--if he takes that side down and re-builds it into a beautiful home. That's what he wants to do in your Town. You're looking at square footage--he does have a 2nd floor in there now. It's not a whole 2nd floor but it's living space. If you take the square footage of the living space you have right now, you're actually taking away living space because we're taking the back section of that house to make it into the garage. The garage is not living space. We bought the garage to perform the property the way it comes down from the road to go into a side load garage because that's the only way we can make the property enhance both neighbors--Mike's really concerned about that. You'll say to yourself--"somebody's going to bring this property back to us again". Somebody sat in your chair before and gave the Variance for what it is now. Why would you want somebody to take that away from you---.

Mr. Natali: We've allowed you to speak. You're a builder and not a neighbor, right?

Mr. Nappa: No , I'm not a neighbor, I'm the builder for the owner.

Mr. Stanton: Are you going to be the contractor for this project?

Mr. Nappa: Yes.

Mr. Natali: We let you speak you piece. We normally do not, unless you can add something to the mechanics or the construction, that's what we would want you to speak on.

Mr. Nappa: I would like to say this. The place is built on a crawl space.

Mr. Natali: That's even more reason you might want to consider a new foundation. We're not going to debate it. Thank you for your comments.

FOR:
Brad Wallker, next door neighbor. My father was Charles Walker. Both my parents have passed away in the last 6 months. They lived on the left (west) side of this property. Just a couple of things I want to say is there was always a joke--if you want any history of the place, I'm the best source for it. There was always the joke that the house was only 6 inches off the line. I'm assuming you did a survey. I'm not going to argue with that. Being I'm on that side of the house, I have no problems with it at all--in a positive way. Especially with the houses that have gone up on the right, they've gone up 2 full stories. That used to be the biggest place. I was out on the ice this weekend. Actually, Dan and Elaine's next door, from the lake, has a bigger presence because it's taller. It makes sense to put it on the original footer. It's not an issue for me.

Mr. Natali: Thank you. Anyone else to speak FOR it? NONE.

AGAINST: NONE

Mr. Natali closed the Public Hearing at 6:49 P.M.

Mr. Natali: Any other comments?

Mr. Stanton: We do have a resolution from the Onondaga County Planning Board. They're basically saying " the Onondaga County Planning Board has determined that this referral will have no significant adverse effect or Countywide implications".

Mr. Rabbia: This is just for us--I'm on 210-92, C2 and C3, "Non Conforming Structures"- Enlargement, Repair, Alterations. " Any non-conforming structure may be enlarged, maintained, repaired or altered provided no additional non-conforming condition is created or the degree of existing non-conformance is not increased.". I think we can say that's kind of the situation. There's a section on destruction. "in the event that any part of a non-conforming structure, which contributes to it's non-conformity, is damaged or destroyed by any means to the extent of 50 % of the cost to replace the said part new , such part shall be restored unless it shall thereafter conform to the regulations of this article. That's where I'm stuck--I'm trying to figure out what the language says--I agree with the repair and alterations but then I come down and read about the "Damage and Destruction ", which is what we're talking about here-- the demolition.

Mr. Snyder: What was originally talked about was if a place had a fire--they weren't talking about a gentleman coming in and taking a house down and rebuilding. We talked about this some time ago with the Town Board. It was in fact, for a place that had burned down. They were saying--if it's damaged more than 50 %, then the whole building comes down and they'd have to conform to all the Codes.

Mr. Rabbia: You don't think that's in there for demolition and reconstruction of 75 year old camps ?

Mr. Snyder: No.

Mr. Rabbia to Mr. Kirwan: Damage or destruction--is that demolition?

Mr. Kirwan: My interpretation is no but I didn't write the Ordinance.

Mr. Palladino discussed the 5 factors considered for an Area Variance and asked for the Board members feedback after each one.
1- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created ? Answer: No. I believe the new addition, even though it's 2 stories, will not be any higher than other 2 story houses in the area. I see that as the only issue with the new addition. The Board members agreed.

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. Kirwan: The key word is "feasible".
Answer: I say no.
-Mr. Natali: We do have a feasible alternative. Is it what he wants no-but it could be done.
-Mr. Snyder: If what the gentleman wants and it isn't feasible---.
-Mr. Palladino: This is a touchy issue.
-Mr. Natali: It means it's available to be done. If the guy wants something here and there's room to move it here--and we want to make a compromise--it's feasible--it physically can be done. We're not limited by the terrain or another building. It would be feasible to move it.
-Mr. Rabbia: I would tend to agree with that.
Mr. Snyder: But he's building it on the existing non-conforming foundation, which we allow you to do. So, we should be careful how this plays out.
Mr. Rabbia: It depends on how you read the Code.

3- Whether the requested Area Variance is substantial? Answer: Once again I say no. It's not--we're dealing with pre-existing conditions. It is 3.7 ft. and all other bulk codes are being complied with. The Board members agreed.

4- Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood ? Answer: No.

FACTOR 4 CONTINUED:

THE BOARD MEMBERS AGREED.

5- WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED ? ANSWER: YES. IT WAS SELF-CREATED DUE TO THE FACT THAT THE OWNER WANTS TO MAKE AN IMPROVEMENT AND DO WORK. SO, NOW HE'S OPENED UP A "CAN" AND HE'S WORKING ON A NON-CONFORMING LOT.
-MR. STANTON: : I AGREE BUT JUST ADD THE NOTE THAT THIS IS THE ONE FACTOR THAT IS IS NOT SOLELY A REASON TO DENY THE VARIANCE. THE BOARD MEMBERS AGREED.

MOTION WAS MADE BY MR. PALLADINO,SECONDED BY MR. SNYDER,TO APPROVE THE AREA VARIANCE FOR DEAN JOHNSON, ARCHITECT REPRESENTING MIKE CHARLES, OWNER, 8886 MAPLE DR., TO ALLOW THE EXPANSION OF A NON-CONFORMING STRUCTURE. THE EXISTING STRUCTURE HAS A MINIMUM SIDE YARD SETBACK OF 2.3 FT. WHERE 6 FT. IS REQUIRED.

MOTION WAS PUT TO A VOTE, RESULTING AS FOLLOWS:

MR.. RABBIA: YES. FOR THE RECORD, I DON'T HAVE ANY PERSONAL PROBLEM WITH THIS. I WAS JUST TRYING TO ENCOURAGE THE BOARD TO EXPLORE ALL THE OPTIONS AND THE LANGUAGE OF THE CODE. THIS COUNSEL HAS ADVISED US UNDER 210-92-C2. "ENLARGEMENT,REPAIR OR ALTERATIONS ". "ANY NON-CONFORMING STRUCTURE MAY BE ENLARGED, REPAIRED OR ALTERED PROVIDED NO ADDITIONAL NON-CONFORMING CONDITION IS CREATED OR NO NON-CONFORMING INCREASED". AFTER READING THAT 4 TIMES, I'M SAYING YES TO THE MOTION.
MR. SNYDER: YES TO THE MOTION.
MR. PALLADINO: YES TO THE MOTION.
MR. STANTON: YES TO THE MOTION
MR. NATALI: YES TO THE MOTION

MOTION DULY CARRIED.

AREA VARIANCE FOR DAVE JONES (RLB DEVELOPMENT,LLC) 5857-5927 EAST CIRCLE DRIVE, FOR A PROPOSED SUBDIVISION TO CREATE A NEW LOT (NUMBER 1 B) OF DRIVERS VILLAGE, IN A REGIONAL COMMERCIAL ZONE. THE PROPOSED MINIMUM LOT DEPTH IS 456 FEET ON THE NORTH AND 151 FEET ON THE SOUTH, WHERE A MINIMUM DEPTH OF 500 FEET IS REQUIRED.

REPRESENTATIVES: HAL ROMANS, ARCHITECT
DAVE JONES, RLB DEVELOPMENT,LLC.

Mr. Romans: Good evening. Does anyone need copies of the plan or anything ? Nothing has changed. I know it says February 14th but it's still got the Sears building on that survey, you've still got the ATM--I'm looking at this thing going what ??

Mr. Stanton: My colleagues brought this up—we are charged with evaluating alternatives, it is almost impossible to do so when the plans appear to not have been updated since I was in high school.
--laughter--

Mr. Romans, for the applicant: We're here tonight solely because the Hyundai dealership is going to be expanded and moved, hopefully, to this location, if we get the Variance and sub-division. It's going to be owned by a separate entity. If it was still going to be owned under RLB Development, we wouldn't 't be here for a Variance, we'd just go for a site plan. The Variance we're coming in for is just one Variance for the lot depth. All of this property is zoned Regional Commercial. The required lot depth is 500 ft. The definition says: " go at right angles from the street boundary to the rear line. The street boundary is Hogan Road. I show on the north side, I only have 456 ft. So I'm pretty close to 500 ft. there, But on the south side, I'm at 151 ft. I'm about 9 % on the north and about 70 % on the south. I did that so you'd know what the numbers are. The whole idea here was to put the new dealership in the spot that would compliment the overall Drivers Village. The parcel that's being picked out here is approximately 3.6 acres and what it does north, it's bordered by an access drive off of Hogan Rd. and on the south , it has another access drive. Then on the east boundary line that goes at an angle is really perpendicular with the old 5800 Circle Dr. building and the driveway is there. It's really so the drive patterns are maintained throughout Drivers Village, the way they function and work today with this new and expanded dealership coming. So, to square off the lot, what we'd be looking at is a Variance for the other building. I've already checked in to that. The dealership will be new. It will blend with the other dealerships that are out there. Drainage will be taken care of. We'll be building in an area that is asphalt parking area now so we really wouldn't be increasing any previous area so it's a friendly project we're trying to do here. I already told you the dealership is under a separate entity. That's why we need a subdivision. The separate entity will own that lot. They will have cross exits--for parking and the access drives. One of the reasons we're here is because we're trying to do something. Mr. Burdick came in here for this Variance. The whole idea here is that we don 't want to impact the drainage any more than we have to. If it was RLB that was doing it, we wouldn't need the Variance. Often times on these commercial projects, we see these kind of lots occur. They're separate entities and sometimes they have one or two item that don't conform to the lot requirements and that's what has happened here. Do you have any questions?

Mr. Stanton: The ring road isn't showing on here from what I can tell. Is that 456 ft. to the north ? Where does that lie in relationship to where the middle access road intercepts the ring road ?

Mr. Romans: That access is actually on the north property line.

Mr. Stanton: So as far as disrupting a pattern, you've got the ring road here and you've got this road that goes in front of 5800 but then you've got this access lane here.

Mr. Romans went up to Mr. Stanton to show him what they're discussing.

Mr. Romans: The whole idea was to keep the existing parking pattern , as much as possible, within Drivers Village.

Mr. Natali: You don't need extra roads either.

Mr. Rabbia: I couldn't see what you guys were drawing but if you take the rear property and kind of swing it towards the west at all--excuse me, I mean the east--?

Mr. Romans: It's easier for us to control it rather than have him own property that he's not going to have parking room for. He's not going to be able to utilize these parking spaces here (referring to the site plan).

Mr. Rabbia: The shape of the lot is to minimize the amount of land you're transferring ?

Mr. Romans: Yes, and to maintain the parking. There's parking lines here right now--there's a driveway right along here.

Mr. Palladino: That's more of a service road.

Mr. Romans: The whole idea is to keep it as uniform as it is right now without disrupting Drivers Village’s remaining parcels.

Mr. Stanton: The hand-out I gave you, shows where the original driving lane was. If you look at the middle access road, it's actually extended a little further in to the ring road.

Mr.Palladino: What are you calling the ring road?

Mr. Stanton: The actual road that rings around.

The Board members had a brief discussion about the roads.

Mr. Romans: The new Hyundai layout shows ample parking.

Mr. Rabbia: Did the dealership up their stock in this area that they're not going to own ?

Mr. Romans: They'll probably keep their stock.

Mr. Rabbia: Within their property?

Mr. Romans: Probably (inaudible).

Mr. Palladino: On the west side--the side that borders Hogan Dr. I've got 470 ft. Can he afford to give up about 20 parking spaces ?

Mr. Romans: Looking at the site plan, I would say no. What you're talking about is to shorten this up and make this line longer.

Mr. Palladino: Absolutely.

Mr. Romans:This is the lot line on LJR's site plan. We have parking going all the way out to here--keeping that there--we'll park some of our cars in the lot that we need for the facility to work.

Mr. Palladino: I know there's parking there, but you're going to utilize every square inch that you can, at least on the drawing. That's why I asked, do they really need these 20. You're going to go from a requested Variance of 70 % to one of 50 %--then we could discuss another .

Mr. Romans: The best way I can answer that is -- I have another car dealership that I'm working on and every car dealership I've run into is owned--I don't need less parking --I need all I can get--you have cars that come in--you have to prep it--detail it, you have big sale days when you have a lot of people showing up.

Mr. Palladino: So, right now he going to have outside utilities that you don't have control over, you're just going to have the one entrance ? Did you show this? So, you're going to have an entrance there ?

Mr. Romans discussed the plans in and out. Most discussion was inaudible!

Mr. Palladino: OK, so it's like a "gray acceptance" ?

Mr. Romans: No, it's not like that right now--but it's not defined ---.

Mr. Jones explained the parking and the plans.

Mr. Palladino: This borders up to a service road--actually a dead end ?

Mr. Jones: Yes.

Mr. Palladino: It doesn't want to go out this way and just "true" it up a little bit ? It won't effect the trafic flow..

Ensuing discussion was inaudible!

Mr. Palladino: I still don't understand why this can't come up this was--you say it's parking.

Mr. Romans: This way here, we don't have to depend on this right lane at all.

Mr. Palladino: It's not a thru driveway--it's a dead end.

Mr. Romans: It's just a service drive for the guys to jockey the cars around.

Mr. Jones: Why would we want that that we don't control or use?

Mr. Palladino: Because you're cutting this out of a big piece of land already. Instead of cutting in this shape--this shape is not already designated is it?

Mr. Jones: Yes, this drive lane is it.

Mr. Jones: It doesn't make sense to me to take a checkerboard square and put into something--the existing side lines are coming at an off angle just to make it square. We meet all the other requirements. I don't know how 500 ft. got picked for Regional Commercial lot depth or what the reason was behind that. The following comments were inaudible !

Mr. Natali: We're good--all 4 sides have a road.

Mr. Natali opened the Public Hearing at 7:16 P.M.

FOR: NONE
AGAINST: NONE

Public Hearing was closed at 7:17 P.M.

Mr. Natali made a separate motion that the subdivision that will create the new Lot 1 B will not be required to be sent to the Onondaga County Planning Board because it is not within 500 ft. of any State, County or Town roadway.

Mr. Kirwan: If I could add to that from a legal perspective, 239 M of the General Municipal Law--in this instance, the proposed action for this Board, is an Area Variance. So the Area Variance is self contained in Lot 1 B is not within 500 ft.

Mr. Snyder seconded the motion.

Mr. Natali: I make a motion that the proposed subdivision to create a new lot in Drivers Village, in Regional Commercial, be approved after considering the following factors:

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. The reason I say no is: the complex called Drivers Village is made up of multiple individual dealerships. The property that will be subdivided will be a "stand alone" Hyundai dealership owned by a separate entity after construction. The "stand alone" building will fit in with the entire complex and not produce any change in the neighborhood. The Board members agreed.

Mr. Kirwan asked that we back up and take a vote on the previous motion concerning Lot 1 B.

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

Motion duly carried.

5 factors continued:

2-Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue other than an Area Variance ? Answer: No.
The reason I say no is there is no other area within the complex to build a "stand alone" building without adding major infrastructure. While there's other land available , this has the facilities and easy access around the building.
Mr. Rabbis: I don't completely agree.
Mr. Palladino: I think there are other alternatives.
Mr. Snyder: The dealership says this is how much land I need to have this dealership work properly.
Mr. Palladino:The boundaries are not there for any fiscal reason-they're just drawn on a piece of paper.
Mr. Snyder: If I didn't need 10,000 sq.ft.to build that facility, why would I have to --so, you're telling me I'd have to pull a car out 20,000 sq. ft. because of our Code when in fact---.
Palladino: I don't understand where you're coming from-there's no reason why this line couldn't go up to here. No reason this going on to Hogan Rd. couldn't be 50 ft. shorter.
Mr. Natali: Gary, to be consistent with the fire case, where there was a feasibility-- every time there's a feasibility-- he may not be able to sell the property. The idea, this property because it's surrounded by 4 roads. It's ideal to be a stand alone. It's a private entity-that's the purpose of it.
Mr. Rabbia: I think there's a way to make this lot shaped so you don't need an Area Variance,
Mr. Natali: Without tearing up a road ?
Mr. Rabbia: Sure.
Snyder: NO vote
Palladino:YES vote
Mr.Stanton: I've been torn on this--using the roads for the basis of establishing the parcel--
I think we could at least get that 456 ft. dimension up to 500 ft. When you look at what Retail Commercial is supposed to be, the Code defines it as a “county-wide draw,” which I believe is the reason why it's asking for such a large parcel for it. Countywide is supposed to be big.
Mr. Snyder: What if the dealership would have been just an expansion of RLB right now and they decide to put a Hyundai dealership here to separate ownership and because of finances they've got to do this-- they wouldn't come before us.

Mr. Snyder continued:

Then 5 years from now they say we're going to let this be cut off for my nephew or whatever. Would we then require, in order to make that sale, that this thing would have to be a bigger piece of property ?
Mr. Stanton: I would think you'd have to look at it, When you're talking about something like this existing, of course you would need to look at that.
Mr. Snyder: I guess I'd be worried about that if this wasn't a car dealership. Think about it--no one is going to know, other than us, that that dealership is in separate ownership from all the rest of Drivers Village.
Mr. Natali: OK-I've got your opinion. This is only one factor out of 5. We have a 3 to 2 vote on this factor. This is always the most difficult factor.
3- Whether the requested Area Variance is substantial ? Answer: Yes and NO . The reason I say that is:Half of the Variance is substantial and half is not substantial. Considering the ideal location and the four (4) roadways and the shape of the lot, the Variance is not substantial.
North Variance is 9 % (459 ft. vs 500 ft.) and the south Variance of 70 %
(151 ft. vs 500 ft.) The shape of the property is defined by the roads already built.
Mr. Snyder: In the middle of Drivers Village, it is not substantial in this case.
Mr. Rabbia: I understand where Don's coming from.
Mr. Natali: If it was a house lot, we wouldn't even be here.
The Board members agree.
4- Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district ? Answer: No. The reason I say this is: Not one tree will be cut down. I considered the following: noise level; traffic patterns which are excellent and already proven by the existing four (4) roadways; drainage and run-off; and access of emergency vehicles.
There will not be physical impact.
Board members agreed.
5- Whether the alleged difficulty was self-created ? Answer: Yes. The reason I say this is: Almost all Variances are self created. When Drivers Village first became a dream, probably half the number of dealerships present were part of the plan with the extreme possibility that more could be added in the future. How could the applicant have known the need for a separate "stand alone" building as proposed.
Mr. Snyder: This is not a negative factor.
Mr. Natali: My question is: are there any other possible stand alones in your future?

Mr. Burdick: Not at this time. I tried to put everything in the footprint--all the rebuilding. I sold the 12 acres on the north to my niece and nephew--my brothers children. Now my younger brother would like to own their own property. I need the space where they are to expand the Audi dealership. We're put under pressure by the manufacturers to meet their standards and guidelines. What they've done over the years is reduce the marginof the vehicle and let you earn the margin back if you meet their standards. So, they take away the original margins--it's about half what it used to be but you can earn back, only if you meet all of their requirements--the size of the showroom--the size of the shops and parts department--they look at your customer satisfaction scores. They "drive" us more than they ever have been able to in the past.

Mr. Burdick continued:

So this is accommodating my brother and his son to have their own stand alone- their own ownership of a piece of property and give them the space where the Hyundai store is today--put the new Audi store in that footprint. Then the Porsche store needs more space so we'll expand that into the Audi footprint. Just one other note--these parking fields--this is 125,000 ft. lots where Burlington is today. We need all that lot today. Aspen fills that parking lot every night at 5 o'clock--that parking field is filled. And of course, we have a lot of snow.

Mr. Natali: Based on my comments, I'll entertain your comments on the self-creating.

Mr. Snyder: The ceator created it but I don't see that as a negative factor.

Mr. Natali: The benefit to the applicant does outweigh the detriment to the community or the neighborhood.

Mr. Snyder seconded the motion.

Motion was put to a vote, resulting as follows:

Mr. Rabbia: Given everything we talked about tonight regarding the use of the property, how much property is required to operate the dealership, I'm saying yes to the motion.

Mr. Snyder: Yes to the motion.

Mr. Palladino: When it's all said and done--like business--same property-- yes to the motion.

Mr. Stanton: Yes to the motion--mainly because the use is going to be the same.

Mr. Natali: Yes to the motion.

Motion duly carried.

Motion and vote was unanimously approved to adjourn the meeting at 7:35 P.M., as there was no further business before the Board.

Respectfully submitted,
Nancy G. Morgan, Acting Zoning Board of Appeals Secretary