

SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: March 7, 2016
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, March 7, 2016 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali	Chairman
	Charles Stanton	Deputy Chairman
	Mark Rabbia	Board Member
	Rita Wicks	Board Member
	Gary Palladino	Board Member

Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Richard Hooper	Director Code Enforcement
	Terri Luckett	Ad hoc Board Member
	Mario Rector	Board Volunteer
	Ann Marie August	Recording Clerk

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

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

Mr. Natali: Has everyone read the minutes from the February 1, 2016 meeting?

Board: Yes.

Mr. Natali: Are there any corrections?

Board: No response.

MOTION by Mr. Rabbia seconded by Mr. Palladino to approve the minutes from the February 1, 2016 meeting.

Motion was put to a vote, resulting as follows:

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

Mr. Natali Yes to the Motion

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

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

We have proof of posting of all items on tonight's agenda.

Mr. Natali indicated that all actions taken tonight are Type 2 and have a negative impact that is no impact, on the environment unless otherwise indicated.

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

**SAL & SHARON FANELLI,
8888 SENECA AVENUE,
AN AREA VARIANCE FOR THE CONSTRUCTION OF A 24' X 29' DETACHED
ACCESSORY GARAGE. THE PROPOSED REAR YARD SETBACK IS 14.5 FEET WHERE
30.0 FEET IS REQUIRED.**

Mr. Natali: Our first case tonight is Sal Fanelli at 8888 Seneca Avenue was deferred from the February 1st meeting awaiting input from the County Planning Board. Therefore, I will reopen the Public Hearing at this time.

Mr. Natali **opened the Public Hearing at 6:05 P.M.**

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

Ms. Tuffley: [Hope Tuffley, 8847 Seneca Avenue, continuous property owner] I am their neighbor and they have done nothing but improve the area and with this new addition I think it will be a good site and it doesn't interfere with any of the golfers or the cart paths or any of the balls that will be flying. I've lived there over thirty years and have had no problems whatsoever.

Mr. Natali: Okay, thank you very much. Is there anyone here who would speak against this project?

Mr. Natali **closed the Public Hearing at 6:06 P.M.**

Mr. Natali: Are there any questions from the Board?

Board: No further questions.

Mr. Natali: Would anyone like to cover the Five Factors:

Mr. Rabbia: I will.

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 other than an Area Variance. Answer: No. I think if you look at the way the land is and the additional property purchased, I believe the answer to this one is "no."

All agree.

Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes. Again, from a sheer math perspective, I think you might say 14.5 feet where 30 feet is required is substantial but it's not out of the ordinary from what we see in these types of situations, especially these types of lots.

Ms. Wicks: I'll agree with that statement.

Mr. Palladino: I'll agree. I would like to note that the rear yard setback being 14.5' does not go up against a

house or another residence, it's an open green area.

Mr. Stanton: I agree.

Mr. Natali: Agreed.

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. Of course, almost all these are answered “yes” but that in itself is not a reason to deny the variance.

Factor 5 -All agreed.

MOTION by Mr. Rabbia, seconded by Ms. Wicks Sal & Sharon Fanelli, 8888 Seneca Avenue, for an area variance for the construction of a 24' x 29' detached accessory garage, with the proposed rear yard setback is 14.5 feet where 30.0 feet is required.

Motion was put to a vote, resulting as follows:

Mr. Rabbia Yes to the Motion

Ms. Wicks Yes to the Motion

Mr. Palladino Yes to the Motion

Mr. Stanton Yes to the Motion with just one comment. As Mr. Fanelli was saying, we do have a resolution from the Onondaga County Planning Board. They are not saying that they are approving it but that have determined that the said referral will have no significant adverse inter-community or county-wide implications.

Mr. Natali Yes to the Motion

Mr. Natali: Thank you. Good luck folks.

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

**NOELLE SNYDER,
6331 MUSKRAT BAY ROAD,
AN AREA VARIANCE FOR THE CONSTRUCTION OF A 40.0' X 22.0' RESIDENTIAL
ACCESSORY GARAGE. THE GARAGE HAS 880 SQ.FT. OF ENCLOSED AREA WHERE A
MAXIMUM OF 700 SQ.FT. IS PERMITTED.**

Mr. Snyder: Good evening. Thank you for having us. My name is Matthew Snyder and this is my wife, Noelle. We are here regarding an area variance at 6331 Muskrat Bay Road. We are seeking to build a 22' x 40' accessory garage. This is 880 square feet. The idea is to make it a little bit longer out toward the road than is permitted under code. Where it's located on the property, it is sited in line with the neighbors' garages on either side. One of which is 864 sq. ft. and the other of which is a little over 1,600 sq. ft. We have also sited it so as to avoid site lines of the neighbors' windows in their homes. This was a topic that we discussed with them in securing their signatures in support of this application for variance. The purpose of the building is to store my fishing boat, a few other small boats and canoes and outboard motors and such; snowmobiles and related equipment; duck decoys; kids' bicycles and toys; some tools and our two daily driven cars. We are currently storing these items in borrowed space or rented locations in four different places and we'd like to consolidate all that on our property. One of the things we considered in making this application was whether we could renovate the house to include this much storage space and we've determined through working with our architect and our builder that it would not be feasible without blocking off the neighbors' site lines and the house as it stands today has very limited storage space and none of it accessible from the driveway. We have also shared...do you all have the documentation that we brought forward last week regarding the drainage considerations and such? We are aware that the County Planning Board generally takes a dim view of things in flood plains and we've addressed that in our plan.

Mr. Natali: Who shovels the driveway?

Mr. Snyder: I get that privilege.

Mr. Natali: Since you share it with your neighbor.

Mr. Snyder: Actually, we share with the Willis family. There has been a long-standing arrangement going back to the two previous property owners that the driveway is plowed and the bill for plowing is split between the two families.

Mr. Rabbia: Did we get a County letter on this one. I don't remember seeing it.

Mr. Stanton: Yes, I would just like to note that we did get a resolution from the Onondaga County Planning Board. Because this is on the lake, they did resolve that their recommending that the application be disapproved because the Board does not endorse the granting of area variances to increase the allowable area of structures for locations in a flood plain. Basically what that means is that in order to approve this tonight, we will need a super majority which is four out of five votes.

Mr. Snyder: We understand that from having talked to the office and that was the intent of the letter that we sent last week. Essentially it spells out to the Board that we are taking some additional steps above and beyond what is spelled out strictly within the application for variance. The slab for the garage building will be built just above the 100 year flood plain. I lived through the floods in '93 and '94 and have a vivid and pretty unhappy

memory about what that was like so we are building so as to avoid that. Our builder understands very well what that elevation looks like with regard to the rest of the property. We are also going to be taking some steps...again, this is independent of tonight's outcome to address some of the drainage on the property. There are really two factors in play. One of those is in the event of another 100 year flood or near 100 year flood, having things built at levels that will survive that and not sustain much damage. The other, and what we think is the more important neighborly issue, is addressing the movement of water from Muskrat Bay swamp out toward the lake. There is a period in the springtime that lasts anywhere from two to six weeks where water pools in that swamp and then moves down the hill toward the lake. Right now as the property sits, the water tends to pool out in the street-side area and hang out there for a couple of weeks at a time until it can be absorbed into the ground and travel out to the lake. We are going to reestablish some of the drainage swales that were originally part of our property that run along the property lines and serve to transit the water from the swamp out toward the lake.

Ms. Wicks: Yes, on both sides. The brown house to the right as you look at it and the Willis property and do a French swale or something down the sides.

Mr. Snyder: That will be developed in consultation with the excavator but the working plan that he's aware of and that he is moving down the line of is swales on either side and then the potential for French tile on the lake side in addition to the swales.

Ms. Wicks: That is pretty moist where you are putting your garage.

Mr. Snyder: There's a garden shed there now and this would be built at a level that's a little bit higher than that so as to avoid some of the effects of that.

Ms. Wicks: And you're going to pave going down? That's a long driveway...going down to the garage and then towards the house...correct?

Mr. Snyder: No. We are not going to pave. The current driveway is runner crush and we are going to widen the existing driveway to accommodate the street-side entrance to the new garage.

Ms. Wicks: Yeah because the frost would eat it up. Okay.

Mr. Snyder: We've known Jerry and Linda Willis for a long time and part of the deal is that they don't want to put anything down there that would cost them a lot to maintain and we appreciate that.

Mr. Palladino: I'm just curious. Why are you putting a porch on a garage?

Mr. Snyder: Are you familiar with the Willis garage? How they have that roofed-over area?

Mr. Palladino: They have the boat under it.

Mr. Snyder: We are doing the same thing. It's just facing towards the house instead of facing toward the road.

Mr. Palladino: Okay, good answer.

Mr. Rabbia: It's not a porch per se, it's more of a...lean to for lack of better word.

Ms. Wicks: Like a carport.

Mr. Rabbia: There you go. Thank you.

Mr. Stanton: Are there any plans to enclose that port in the future.

Mr. Snyder: We don't understand that we can and the square footage for the garage as proposed is big enough to accommodate what we need present and future.

Ms. Wicks: Do you plan to heat the garage?

Mr. Snyder: We may have electric heat or kerosene heat or something in there unless code precludes that but we don't know that it does.

Mr. Rabbia: No living space on the second floor correct?

Mr. Snyder: No.

Mr. Natali: Any other questions? [no response] Okay, I'd like to open up the public hearing.

Mr. Natali **opened the Public Hearing at 6:15 P.M.**

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

Mr. Natali: Is there anyone here who would speak against this variance?

Mr. Natali **closed the Public Hearing at 6:15 P.M.**

Mr. Rabbia: Did this go to Oswego County as well? Did we get their comments?

Mr. Wicks: It borders on Oswego County because of the lake.

Mr. Natali: Because it's on the lake? Didn't we do away with notifying Oswego County for every property on the lake?

Mr. Kirwan: We went through Onondaga County Planning Board correct?

Mr. Natali: Yes, we went to Onondaga County but because it's on the lakeshore...Oswego County ends right at the shoreline. Did we decide that we were not going to notify them every time?

Mr. Kirwan: Yes, I believe so.

Mr. Hooper: I don't believe we have done so in the past.

Mr. Natali: Okay why don't you take a look at that just to make sure because I don't think Oswego County wants to see paperwork from everything on the Oneida Lake shoreline. They are happy that we handle their rescues out there.

Mr. Rabbia: Okay, just a question. Thanks.

Mr. Palladino: I'd like to address the Five Factors which we consider before we make a motion whether to approve or deny the application:

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. As stated by the applicant, there are other garages of similar size and larger at relative locations to where the applicant is proposing to place this garage.

All agree.

Factor 2 – Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an Area Variance. Answer: No. To achieve the desired space to store the recreational equipment and the two cars, they will need the additional 180' over and above the 700 sq. ft. limitation.

Mr. Stanton: I agree and I would point out that there is a mitigating factor here that the less wide portion of the garage is facing the street, the sort dimension the 22' is facing the street, rather than the 55' which somewhat mitigates the larger area that they are asking for.

All agree.

Factor 3 – Whether the requested Area Variance is substantial? Answer: No. I don't believe so. It's 180 sq. ft. over the allotted 700 sq. ft.

Mr. Natali: I disagree but here's the issue. You are well within the setbacks so therefore we can be a little more lenient. You are 125%, almost 126% of what we allow. In other situations where you would be asking for another variance for a side setback we probably wouldn't necessarily go along with it. I wanted to point out that it is substantial but it's well within the setbacks.

Mr. Stanton: I would agree with the Chairman.

Mr. Rabbia: I am with the Chairman on this one as well, it is 26% over but the way the lot is set up, it certainly can handle it.

Ms. Wicks: Agreed.

Mr. Palladino: Agreed how?

Mr. Wicks: I agree with Mr. Natali, sorry.

Four yes (Mr. Palladino – no)

Factor 4 – Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? Answer: No. I don't believe so especially if the applicant diverts the water runoff and reestablishes the drainage swales as stated in the attached letter dated March 2, 2016 which was submitted as part of the application for his requested variance.

Mr. Rabbia: I agree. Do we need to put the drainage swales as part of the conditions for the variance?

Mr. Natali: I think when he goes for the building permit, it will be addressed.

Mr. Hooper: We can review that when they submit their building permit. We would certainly want to be a part of that to look at the drainage.

Mr. Palladino: Making the statement that they are going to reestablish that, seems to lock that in between us and you.

Mr. Hooper: So that should be entered in there somewhere.

Mr. Palladino: I just made it a part of the conditions.

Mr. Kirwan: We aren't there yet, we are still on the Five Factors.

Mr. Palladino: Yes, but I included that as part of the Five Factors.

Mr. Kirwan: We want to make that part of the motion.

Mr. Palladino: Okay, we can do that as well.

All agree.

Factor 5 – Whether the difficulty was self-created? Answer: Yes. There would be no request for a variance if the applicant didn't want to build a garage 180 sq. ft. greater than the allowed maximum square footage.

Factor 5 -All agreed.

Mr. Stanton: I wanted to address the building line because it is at the face of the garage. If we could add that the proposed building line is 45.24' where 75' is required.

Mr. Natali: It is a non-conforming lot and Mr. Stanton is bringing it into conformity by approving an extra variance that was not requested in the current application. Thank you.

Mr. Kirwan: Make it conditioned upon whatever you're reading there.

Mr. Palladino: The Board's determination is conditional upon the applicant fulfilling the statement in a letter dated March 2, 2016 to divert the water runoff and reestablish the drainage swales.

Mr. Stanton: Do we want to add that this will be done in concert with the Codes Department?

Mr. Kirwan: The condition is deemed satisfied by the Codes Department so they have to review it with them.

Mr. Palladino: How would you like this to read?

Mr. Stanton: Maybe the way to say it would be the onsite drainage is to be corrected or modified as consistent with the direction of, or in concert with the Codes Enforcement Department.

Mr. Hooper: The recreation of any drainage swales or any drainage easements should be reviewed and approved by the Department of Zoning and Planning.

MOTION by Mr. Palladino, seconded by Ms. Wicks, that the Board approve the Snyders' application for an area variance located at 6331 Muskrat Bay Road. Said variance is for the construction of a 40.0' x 22.0' residential accessory garage. The garage has 880 sq. ft. of enclosed area where a maximum of 700 sq. ft. is permitted. The proposed building line is 45.24' where 75' is required. The recreation of any drainage swales or any drainage easements are to be reviewed and approved by the Town of Cicero Department of Zoning and Planning.

Motion was put to a vote, resulting as follows:

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

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

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

Respectfully submitted,
Ann Marie August, ZBA Recording Clerk