

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: MAY 6, 2013
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday May 6, 2013, at 7:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali:	Board Chairman
	Charles Stanton:	Board Member
	Gary Palladino:	Board Member, AdHoc
	Donald Snyder:	Board Member

Absent:	Mark Rabbia:	Board Member
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Others Present:	Steve Procopio:	Codes Enforcement Officer
	Terry Kirwan:	Attorney
	Nancy G. Morgan:	Secretary

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

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

Motion was made by Mr. Snyder, seconded by Mr. Stanton, to approve the minutes of the April 8, 2013 Zoning Board of Appeals meeting, with the following corrections: Page 3- paragraph 4 - in Mr. Stanton's statement- where it says SITE, it should be SIGHT.

Page 8- paragraph 5- in Mr. Snyder's statement- 1st line- where it says "land where you"- add: could have.

Page 10- paragraph 5 from bottom of page- near end of Mr. Deline's statement- \$200 should be \$200,000.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

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

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

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE FOR CHRISTOPHER R. SMITH, ESQ. (APPLICANT) & WILLIAM C. O'CONNELL, JR. (OWNER), 7282 LAKESHORE ROAD, TO ALLOW A SINGLE FAMILY RESIDENCE WHERE THE LOT AREA IS 6,249 SQUARE FEET AND A MINIMUM OF 10,000 SQUARE FEET IS REQUIRED AND THE LOT WIDTH , AT THE BUILDING LINE , IS 50 FEET AND A MINIMUM OF 75 FEET IS REQUIRED.

Representatives: Christoher R. Smith, Esq. (Applicant)
Jim Vivelo, Potential Buyer
Mr. O'Connell, the Owner, was absent.

Mr. Smith: He introduced Jim Vivelo, a potential buyer of the property we are discussing. We would like to build a single family home on the property at 7282 Lakeshore Road. We submitted the plans with our application, with the survey showing that it would meet the side setbacks. It's just not going to meet the total area square footage of 10,000 sq. ft. and the front setback of 75 ft. The lot is only 50 ft. wide. It appears, from our view of the subdivision map made in 1925, that all these lots along Lakeshore Rd., south side, were part of the subdivision then, This property is what is left of a large tract of land that was recently sold in 2010. If you look at the survey map, it gets ---.

Mr. Natali: Was that the B & B Family Partnership ?

Mr. Smith: Yes, it's all that 's left out of that sale.

Mr. Natali: What's the green stake just to the east of the pink flag ?

Mr. Vivelo: We had the surveyor stake out the corners of the lot.

Mr. Natali: What's the green stake ?

Mr. Smith: I believe the pink stakes outline the property.

Mr. Natali: Yes, but there's a green stake east of your corner--I couldn't figure out what that is. Do you think there was a Right-of-Way east of your property that goes to the back where the big saranda is ?

Mr. Smith: I reviewed the title to the property and I did not see any Right-of-Ways affecting this parcel of property.

Mr. Natali: OK--you're all set where your property is.

George Tucci, Realtor: There was 163 acres that were sold directly behind this property. The shift to the east of this property is a part of the 163 acres. That's all part of what was sold--it has nothing to do with this property.

Mr. Natali: I'm just trying to see if that's a building lot or is it just going to be used for access. Because it seems that the people to the east--their driveway is on your property.

Mr. Vivelo: That's the people to the west.

Mr. Natali: No--east.

Mr. Palladino: If you're looking at the lot--to the left--Gary's talking about the green stake--on the survey, it doesn't show the house. Now, if you go another lot over, there's a house. So, in between the house that's there and the lot that's being proposed for building, there seems to be an empty lot of about 50 ft.

Mr. Tucci: It is--and that's what I'm telling you--that's a part of the parcel of 163 acres.

Mr. Palladino: So, that isn't a separate lot ?

Mr. Tucci: No, it is not.

Mr. Palladino: So, it's adjoining to the back property ?

Mr. Tucci: It's access to the back property.

Mr. Natali: The property to the west is For Sale. Is that something you would entertain ?

Mr. Vivelò: I think he wants way too much money for it. He's asking \$43,000 for that.

Mr. Palladino: Are you contemplating putting on a deck on the back of the property ?

Mr. Vivelò: Right now, the plans don't have room for that because I'm going to have a bedroom or something there. There's no slider in the plan. The upstairs residential portion is still a work in process. I'll get the building permit first then figure out what to do. Maybe--but obviously that would require an additional permit.

Mr. Palladino: And a Variance.

Mr. Vivelò: The answer to the question would probably be no.

Mr. Palladino: Because if it was a thought, you have room to move the structure a little closer to the road, which then would give you an opportunity to put a deck on the back without coming back in front of us and asking for another Variance. It's a 30 ft. setback at the back of the property to the house. So you're another 14 ft. closer to the road which would give you about a 12 ft. deck in the back and still be within all the requirements.

Mr. Vivelò: My concern is, if I do that , how long would the driveway have to be ?

Mr. Stanton: You have a mandatory 30 ft. front yard that you would have to maintain.

Mr. Smith discussed the measurements with Mr. Vivelò and suggested keeping the building square.

Mr. Snyder: You might not be able to put 2 cars--one behind the other--if you moved the house all the way up to that point.

Mr. Vivelò: That was my concern. That's why I have the building in back. I'll probably just leave it as is.

Mr. Stanton: Right now, you're within the bulk regulations for the building itself--it's just the lot width that you're in front of us for so your structure could be located anywhere within those setbacks. We're just warning you now that we may not look favorably on it if you come back asking for a deck and you had the opportunity to move 15 ft. closer to the road.

Mr. Vivelò: How does that work as far as where the deck would have to end--that limit ?

Mr. Smith: It couldn't be any more that 30 ft. from the rear property line.

Mr. Stanton: You're probably about 32 ft. off of the closest corner.

Mr. Vivelo: Thank you for bringing that up.

Mr. Stanton: I just want to mention that we do have a resolution from Onondaga County Planning Board. They did resolve that they have determined the referral will have no significant adverse intercommunity or County implications and may be consequently acted upon by the referring Board.

Mr. Natali opened the Public Hearing at 7:15 P.M.

FOR: NONE
AGAINST: NONE

The Hearing was closed at 7:16 P.M.

Mr. Stanton discussed the 5 factors considered for a Variance:

1- Whether an undesirable change will be produced in the character of the neighborhood or be a detriment to nearby property would be created ? Answer: No. If you look at the neighborhood, this exhibits many different styles of structures. I believe any structure that is put up there would not adversely effect the neighborhood.

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 lot width and lot area are fixed and they can not be altered. In order to construct any structure on this lot, a Variance must be granted.

3- Whether the requested Area Variance is substantial ? Answer: No, the proposed structure does meet all the remaining bulk regulations, as evidenced by the Tax Map of the area. A 50 ft. width is consistent with many other lots with structures on them.

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. The proposed structure, if built, will convert previously unused land into a residence that will expand Cicero's tax base.

Mr. Natali to Mr. Vivelo: Do you plan on leaving most of those trees up ?

Mr. Vivelo: Yes. Actually when the survey was completed, I was a little surprised because I thought the lot was in that wooded section.

Mr. Stanton: You'll note, a majority of the trees are located off the property in question.

5- Whether the alleged difficulty was self-created ? Answer: Yes, the applicant did purchase this land and seeks to build a structure on it and it does not conform to the bulk regulations for lot width or area. It should be noted that a YES answer to this factor does not necessarily result in denial of the Variance.

Motion was made by Mr. Stanton, seconded by Mr. Snyder, to approve an Area Variance for Christopher R. Smith, Esq. (Applicant) for William C. O'Connell, Jr. (owner), 7282 Lakeshore Road, and allow a single family residence where the lot area is 6,249 square feet and a minimum of 10,000 square feet is required and the lot

Mr. Stanton's motion continued:

width, at the building line, is 50 feet and a minimum of 75 feet is required. The proposed structure will comply with all other bulk regulations.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

AREA VARIANCE FOR ORWELL ENTERPRISES- CRAIG STERNBERG (APPLICANT) AND GEORGE & GAIL POSPORELIS (OWNERS), 5571 LOUIS AVENUE, TO ALLOW A DECK WHERE THE PROPOSED REAR YARD SETBACK IS 25.56 FEET AND A MINIMUM 30 FT. REAR SETBACK IS REQUIRED.

Representative: Craig Sternberg (Applicant)
Mr. & Mrs. Posporelis (Owners) were absent

Mr. Natali: I see a deck 8 ft. X 24 ft. and then I see a structure in the back yard that's got to be at least 16 ft. X 16 ft., on the ground.

Mr. Sternberg: A concrete patio ?

Mr. Natali: No.

Mr. Palladino: Pressure treated wood --1X6's on a frame--it looks about 16 ft. X 16 ft.

Mr. Sternberg: On the back of the house ?

Mr. Palladino: Yes, on the ground in back of the house.

Mr. Sternberg: It wasn't there on Friday. Were you looking at the right house ?

Mr. Snyder: I saw the ledger board that was on the house.

Mr. Sternberg: We attached the ledger board in preparation for this.

Mr. Palladino: There is a deck there.

Mr. Sternberg: Is the new lawn/topsoil put in ?

Mr. Natali: We were there this afternoon.

Mr. Sternberg: I was there all of Friday and watered the lawn.

Mr. Natali: Are you still the contractor ?

Mr. Snyder: So, someone built something that isn't like this since I was there.

Mr. Sternberg: We poured a concrete patio earlier last week and topsoiled the lawn and we were hoping for a Variance to build a nice little deck with a ramp going down to the patio we prepared. I have no clue. We removed a shed that was there in order to conform to the lot coverage specifications that we had for our addition. I'm not aware of any structure that's there and I apologize. I didn't drive by to check today. I have to say in the homeowner's behalf-- they're very enthusiastic about their new home and Mr. Posporelis coming home from the hospital and having a ramp and deck and a little patio in his back yard. What they've done in their exuberance, I'm at a loss.

Mr. Snyder: Were you supposed to be building the deck ?

Mr. Sternberg: Yes.

Mr. Snyder: Because I talked to the daughter on Friday and I said, "keep in mind, if this gets approved, there's usually about a 2 week delay between the approval and it being able to be constructed. This isn't something that's going to happen right away". She said "I understand that". Now you're telling me someone built a deck between Friday and today.

Mr. Sternberg: It doesn't surprise me that they went out to Lowe's and bought something. I'm trying to picture what this might be.

Mr. Snyder: But you have the contract to build the deck ?

Mr. Sternberg: Yes, we've done \$115,000 worth of work on their home.

Mr. Natali: Referring to the drawing--see where the patio is--this deck is butted right up to it, on the ground--not in place where you have the board on the building--it's right in front of the patio. It's got to be at least 16 ft. X 16 ft. and it's about half done.

Mr. Palladino: That's right.

Mr. Natali: You're not going to move that too easily.

Mr. Sternberg: Would you call it pressure treated ground cover ? I'm trying to visualize this.

Mr. Natali: Beats me. I, quite honestly, expected you to come in with a new plan.

Mr. Snyder to Mr. Natali: So, they've got this roughed out on the patio concrete ?

Mr. Natali: No, it's beyond it.

Mr. Snyder: So, it's on the grass ?

Mr. Stanton: It's an extension into the lawn.

Mr. Sternberg: It maybe a pressure treated constructed patio extension out there-- if you can visualize that. I'm sure it must not have any railings--at grade or above grade.

Mr. Palladino: It's sitting right on the new grass. I'm speculating--it appears that you're building it and it appears to be 16 ft. X 16 ft. --then after it's all nailed in place--lift it up and carry it over to the house.

Mr. Sternberg: Unfortunately, they have a lot of people that are trying to help them-- a lot of people that want to volunteer--during this project, we've had to decline a lot of offers of help. They may have had someone over the weekend that thought they were doing them a favor.

Mr. Natali: It's framed out and it will not fit over the septic system--you don't plan on covering that on this plan ?

Mr. Sternberg: No. The septic vent is 12 1/2 feet away--we're not covering it with our proposed deck.

Mr. Natali: What I suggest is--can you get a hold of these people right now ?

Mr. Sternberg: I probably can get a hold of her by phone right this minute.

Mr. Natali: Instead of us adjourning this until we get the facts---.

Mr. Sternberg: Can you give me 5 minutes ? This is as big a surprise to me as it is to you.

Mr. Natali: Yes. I make a motion to allow the builder to try to get a hold of the owner so we can rectify this. Mr. Stanton seconded the motion at 7:20 P.M. The Board unanimously approved the motion to recess.

Mr. Stanton made a motion to resume the meeting. Mr. Natali seconded the motion at 7:25 P.M. The Board unanimously approved the motion.

Mr. Sternberg: Thank you. Yes, they did build--over the weekend, they had some help and they built a platform off the back of their new patio. I guess, by your standards, it's probably assumed to be a deck and would require a Variance because of the setbacks and lot coverage, etc. So, where do we go from here? Is what they did not to be allowed?

Mr. Snyder: If they built on a wood deck that's got a step to it because of the framing, then we're talking about additional ramp also. Otherwise, the space is no good to the owner that lost his leg and is in a wheelchair.

Mr. Sternberg: I'm going to assume it has a step. I'm guessing at their crude building technique--I can picture this. I will drive by to see this as soon as I leave here. I'll offer this--they had offered to disassemble immediately if it means getting the deck on the back of their house.

Mr. Natali: It's a different size. Did they give you the dimensions ?

Mr. Sternberg: No.

Mr. Natali: But they want it on the back of the house ?

Mr. Sternberg: Yes. And this patio is something in addition that they've done on their own accord.

Mr. Natali: So they'd like both ?

Mr. Sternberg: They'd like both--absolutely.

Mr. Snyder: But in order to do that, don't we need that to be patio not a deck? If they built it on the ground--if it's got a step to it, it's not---

Mr. Procopio: The structure in question is not the application in front of us either. That would be something they come to me and say " I'd like to build an on grade wood patio". People have in the past. I would issue that Permit. There's not a lot to that. And I wouldn't consider that subject to the rear yard setback requirement because it is at grade. It's not attached to the structure, which is one of the criteria that you would have an issue with the rear yard setback. It's not part of the principal structure--it's not attached to anything.

Mr. Snyder: I think with that in mind, we could go ahead and consider what is before us, with the proviso that this deck that has been built does get disassembled.

Mr. Sternberg: Disassembled or would we be allowed to apply for a Permit afterward?

Mr. Snyder: I don't think Steve is going to give you a Permit for that deck the way it sits if it's got structure. If it's an extension of the patio--am I right, Steve ?

Mr. Stanton: Steve also made the point that since this isn't really what's in front of us now, if they want to come and apply for a Building Permit, Steve can make that determination. Maybe they'll be back here next month.

Mr. Procopio: Without having seen it yet-- I'd like to see where it is and then try to make it compliant.

Mr. Stanton: I think the bottom line is we have a structure that was built without a Building Permit. Steve can take care of that.

Mr. Natali opened the Public Hearing at 7:33 P.M.

FOR: NONE
AGAINST: NONE

The Hearing was closed at 7:34 P.M.

Mr. Snyder went thru the 5 factors considered for Variance approval.

1- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties would be created by granting the Area Variance ? Answer: No, it has a lot to do with the location of the request, also.

2- Whether the benefit sought by the applicant can be achieved by some other method which would be feasible for the applicant to pursue but wouldn't require a Variance ? Answer: No. It does not appear there is any other solution to this project except to have it be handicap accessible from the rear because of what's going in front.

3- Whether the requested Area Variance is substantial ? Answer: No, the Area Variance is less than 5 ft. They have 25.56 ft. setback where 30 ft. is required, so I don't believe the Variance is substantial.

4- Whether the Variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood ? Answer: No. This is where I say because the ramp and deck being located in the rear yard, there's no effect or impact on physical or environmental conditions in the neighborhood.

5- Whether the alleged difficulty is self-created ? Answer: Remember , the severity of the illness that this individual has suffered was not his fault. So, when I say yes, it's self-created , I have a little problem with the fitness there but I also say this alone does not indicate a negative reaction to this request.

Mr. Snyder made the motion, seconded by Mr. Natali, to approve the Area Variance for Craig Sternberg (Applicant) and George & Gail Posporelis (Owners), 5571 Louis Ave., on the rear of the property, to allow a handicap ramp and a deck to be constructed. The ramp is approximately 14 ft. long and the deck is 24 ft. by 8 ft.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

There being no further business before the Board , it was unanimously approved for the meeting to be adjourned at 7:40 P.M.

I, Nancy G. Morgan, stenographer for the Zoning Board of Appeals of the Town of Cicero, Onondaga County, State of New York, and the person who attended a meeting of said Board of Appeals held May 6, 2013 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

Nancy G. Morgan

May 12, 2013