

SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: November 5, 2014
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, November 5, 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:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
Others Present:	Richard Hooper	Director, Code Enforcement
	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 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: Has everyone read the minutes from the October 6th meeting?

Board: Yes.

Mr. Natali: Are there any corrections or additions?

Mr. Stanton: Mr. Chairman I just have two. On Page 2, first motion – the motion was actually made by Mr. Stanton, not Snyder and the second was Mr. Rabbia. The other correction is about mid-way down on page 2, when we get into the discussion of Fred Ryan, the first statement attributable to me (Mr. Stanton) if you could just insert, instead of “request more,” it should read in part, “Request *for* more information...” I would also like to note that as opposed to what’s shown in the minutes, we did actually approve the September minutes at this meeting.

Mr. Rabbia: I’ll make a motion to approve the minutes with the corrections to the October 6, 2014 meeting minutes, seconded by Mr. Palladino.

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 microphone located in the front of the room.

Motion was made by Mr. Natali, seconded by Mr. Snyder, 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 that all items on tonight's agenda have been advertised as directed by law.

RICHARD L. SPOSATO
6957 LAKESHORE ROAD

AN AREA VARIANCE FOR A SUBDIVISION WHERE THE PROPOSED MINIMUM LOT DEPTH IS 102 FEET AND 125 FEET IS REQUIRED.

Mr. Coyer: Good evening, I am Tim Coyer from Ianuzi & Romans, Land Surveyors. First of all, does everyone have a copy of the map? I have extra copies, if that isn't the case.

Board responded in the affirmative: [Everyone had a copy of the map.]

Mr. Coyer: Our client, Mr. Sposato, owns the property located at 6957 Lakeshore Road. It's located right at the corner of Totman Drive and Lakeshore Road as you can see. He would like to subdivide off the back portion of his land, located along Totman Road. He would actually like to sell it as a building lot. We are here tonight because we have applied for the subdivision and due to that we need a variance application or request for the lot depth to be reduced from 125' which is the required amount to the 102.3' that we actually have from Totman Road. Now, all the other requirements we meet as far as the building line, lot area. He has plenty of room if we did get it reduced to the 102.3' with the rear yard setback of 40' and the front yard setback of 30', you'd still

have about 40' to 42' to build a house in there so that doesn't limit us that much. There is an existing shed on the property right now. That would be removed. He does have an existing pool. If he left the pool in there, it would be encroaching on the rear yard setback for the new proposed lot so he's agreed to remove that as well. That way there is nothing encumbering the lot. There is existing water along Lakeshore Road and Totman Road, so we would be able to tie into that existing water. You will notice that there is only sanitary along Lakeshore Road so we would have to...and we are showing a proposed sanitary sewer easement for a lateral that would be used for that lot, when and if they build on that lot. As far as the...I'd like to go through the questions here: Is the variance substantial? It's basically an 18% reduction in the actual lot depth overall if we go from the 125' to the 102'. That's somewhat substantial, 18%, but I don't think...there's other lots right in that area that have the less of a lot depth that's right around the corner. So I don't think it's too much. Would it be an undesirable change, I don't believe so. It's just going to be a small residential house on a residential lot. That's the exact neighborhood. Everybody has small houses, small lots. Can they achieve it by any other method? Not with the existing lot as it is. If he wanted to make it conform, he would probably have to buy some more of the property east of him to get the required lot depth. Is it self-created? Yes. It's self-created because he's trying to do the subdivision and he'd like to sell it off. Would it have an adverse effect on the nearby environmental conditions? No. As I said it's just going to be a residential building lot. Are there any questions?

Mr. Palladino: You're going to be coming off of Totman? There's going to be a driveway on Totman to get to it?

Mr. Coyer: Correct.

Mr. Palladino: So the rear of the property is going to be the 94'?

Mr. Coyer: Correct.

Mr. Palladino: Across Totman you have the 142.49'?

Mr. Coyer: Yes. We show an existing asphalt drive over there but that's not necessarily where...they might even use it. It would be a smart idea but...

Mr. Natali: What size house are you going to put on it?

Mr. Coyer: At this time, he doesn't have any builders interested in it. He hasn't been able to advertise it as a building lot yet because we still need to get this variance granted but you could likely fit a 1200-1500 square foot house on here, pretty easily. It would probably be a small ranch-type house, wider than it is deep. Like I said, you only have about 40' of depth to actually put a house in there. Typical house is usually like 35' x 40'.

Mr. Snyder: So I take it that he does not plan on selling his house on Lakeshore Road.

Mr. Coyer: No, he is going to stay there.

Mr. Snyder: Because looking at it, all of sudden, you've got a house with no yard.

Mr. Coyer: Correct.

Mr. Snyder: I hope he realizes that.

Mr. Coyer: He's very aware and that's one reason why he's getting rid of the pool, so he has more of a yard.

Mr. Snyder: He may want to get rid of it but the next one that comes in might want a pool and might not buy the house because of that. As long as he's thinking far enough down the road.

Mr. Coyer: I agree and we've mentioned that to him as well that he's cutting his lot down and taking his chances as far as resale on his own, personal property. He is aware of that.

Mr. Rabbia: Even if you were to site a house on this lot, meeting all of the regulations, you're not left with a backyard for lot two.

Mr. Coyer: You'll still have 40' at the very minimum.

Mr. Rabbia: You mean 30' at the minimum, right? Thirty feet's our ten.

Mr. Coyer: Oh, yeah 30', I apologize.

Mr. Rabbia: That's not a lot, really, for a back yard. That would be less than he has on the corner, really. I just think it's a tough request. I mean you are looking to create almost a non-conforming situation really. I balance against, well it's almost a third of an acre, 12,000 square feet. I mean it's got the square footage. You just look at it from the depth side of it and say, can you put anything reasonable on this lot and be left with any type of lot...any type of back yard that's normal. I don't know.

Mr. Stanton: What guarantees do we have that the above-ground pool and the shed will be removed?

Mr. Coyer: I can, as far as, I guess that would be like an agreement that we could put together with the Town that if they don't remove it then the subdivision and everything is invalid. He definitely, absolutely has to remove the shed. Well, he has to remove both of them because he'd be in violation of...if they create this lot and those things are still there, he would need variances for the pool and he'd need a variance for the shed so he has to remove them to create this.

Mr. Stanton: You know that does bring up a point that if we approve this right now, we automatically have two non-conforming structures on these lots. Do you agree with that? We do this and all of a sudden, bam, the pool is...

Mr. Rabbia: Well that's where I was going, I feel like we are creating a problem if we entertain this.

Mr. Coyer: As far as the actual lot size, I do have a copy of the existing tax maps that show similar sized, actually smaller sized houses right around the corner. I don't know if you'd like to see that.

Mr. Stanton: No, we get that but I think one of the....

Mr. Snyder: We've got a lot of small lots in this town but if I were laying them out, we wouldn't do it that way.

Mr. Stanton: I believe that's the reason for the changes in zoning that have been instituted in this Town was to try and prevent these types of situations from happening. The small houses on top of each other with smaller lots.

Mr. Rabbia: I think that's where my issue is that we are creating a scenario where we are trying to jam more and more into a situation and I don't believe that's part of the vision of the Town, in my opinion.

Mr. Natali: We frown upon a subdivision that creates a non-conforming lot. That's what you're up against.

Mr. Coyer: I understand.

Mr. Natali: We could put conditions to remove these...and make sure the pool's out of there because it violates that setback. He is creating...I'm not sure what other possibilities you have. I'm sure you know these lots inside and out.

Mr. Coyer: We could possibly...

Mr. Natali: See the thing is that probably could have been a lot if they fitted it that way back when they put that together. Does he have a buyer?

Mr. Coyer: He does not at this time, no.

Mr. Stanton: My issue is, Mr. Chairman, that to do this correctly we actually need a variance for the new lot one to save time, otherwise Mr. Hooper would have to go out and cite them for being in non-conformance with the bulk regulations.

Mr. Natali: So, what you're suggesting is that we would have to take the entire lot.

Mr. Stanton: If we were going to entertain the subdivision then we would have to address the lot as a whole, much like we did two meetings ago with the commercial subdivision that we did.

Mr. Natali: Would you like to put something like that together for us?

Mr. Coyer: Basically, adding the pool to the variance and the shed to the variance request?

Mr. Natali: Yes and why don't you put a spec house at 25%. That would be a condition anyway.

Mr. Coyer: Okay.

Motion made by Mr. Natali, seconded by Mr. Stanton that the request for variance be deferred to our December 1st meeting. The applicant, Mr. Sposato, represented by Mr. Tim Coyer of Ianuzi & Romans, Land Surveying, will put together a package of the whole lot as it would ultimately be with a variance for the pool, removal of the shed, and a spec'd house at no more than 25% coverage.

Mr. Stanton: I just wanted to make sure you got the resolution from the Onondaga County Planning Board where they determined there was no significant adverse intercommunity or county-wide implications and with that I will second the motion.

Motion was put to a vote, resulting as follows:

Mr. Rabbia Yes

Mr. Snyder: Yes
Mr. Palladino: Yes
Mr. Stanton: Yes
Mr. Natali: Yes to the motion but also advised the public that until we see the whole package and until you see it. I imagine there are neighbors here. Am I correct? No, okay so until we see the whole package, we are not going to open the public hearing.

Motion duly carried.

**WILLIAM AITKEN (Applicant)
RICHARD & JOAN KALIN (Property Owners)
5293 MARY DRIVE**

AN AREA VARIANCE WEHRE THE PROPSED ACCESSORY GARAGE IS 1200 SQUARE FEET IN AREA AND A MAXIMUM OF 700 SQUARE FEET IS REQUIRED.

Mr. Aitken: Good evening, my name is William Aitken. I'm a contractor from Brewerton and I am here tonight on behalf of Richard and Joan Kalin who desire to build a garage on their property at 5293 Mary Drive. An application for a building permit was applied for and denied because it did not conform to the size requirements from the Town. Mr. & Mrs. Kalin currently reside in Fayetteville and Mary Drive is their weekend and summer home. Mr. Kalin is going to retire next spring and Mary Drive will become their principal residence. When downsizing and moving out of a house, everybody needs space and they are also boating enthusiasts so the plan is to move from Fayetteville and make Mary Drive their principal residence and they need a place to put their stuff. The application that I submitted for the building variance meets all the other criteria as far as setbacks and construction materials. The only issue at hand is the size requirement. We applied for 1200 square feet and were only allowed 700 square feet.

Mr. Stanton: So we're in R-10 here, residential?

Mr. Rabbia: Correct.

Mr. Stanton: The required minimum front yard is 30' and I'm seeing 25' from the garage to Mary Drive? So that would actually be another variance that is needed.

Mr. Aitken: Mary Drive is actually a private road. It is one entire lot. That is not a public road. The entire lot is one piece. The entire lot is 50' wide by 150' and 150'. It looks as though there's a street dividing the house on the river side and what would be the garage on the other side but that is not in fact the case. It is one long piece of property that is connected and is contiguous. There's no offset from a road.

Mr. Stanton: The town doesn't maintain this road, it doesn't plow?

Mr. Aitken: It does not.

Mr. Natali: It looks like it was just raked or something. It looks in good shape.

Mr. Aitken: Yes, I have photographs is you would like to see them.

Mr. Natali: Sure.

Mr. Aitken: May I approach?

Mr. Natali: Yes.

[Mr. Aitken goes up to the Board and shares the photographs with them.]

Mr. Rabbia: So why do they need 1200 square feet versus the 700 square feet that's specified in the code?

Mr. Aitken: The size requirement...the two of them both have vehicles and they are boating enthusiasts and this would afford them the opportunity to store their boat, their possessions in the attic and garage both vehicles.

Mr. Palladino: Running water? Are you going to have running water there?

Mr. Snyder: Is there going to be a bathroom in that garage?

Mr. Aitken: There is. A utility bathroom not a residence-type bathroom.

Mr. Rabbia: I would like to go back to the question on the size again. You said two cars in the garage and a boat.

Mr. Aitken: Yes.

Mr. Rabbia: It's 30' wide by 40' deep. What kind of boat is it, do you know?

Mr. Aitken: I don't know. I am not a boater and I cannot answer that question.

Mr. Rabbia: I'm just trying to figure out how a boat and two cars fit in there.

Mr. Aitken: The two cars occupy one side....and

Mr. Rabbia: You're going to stack the cars front to back?

Mr. Aitken: Yes.

Mr. Rabbia: Ok

Mr. Snyder: You said there will be a bathroom in this.

Mr. Aitken: Yes.

Mr. Snyder: So then you're going to run that to the sanitary sewer that's in between the current garage and the house?

Mr. Aitken: Yes.

Mr. Snyder: If the county lets you.

Mr. Rabbia: I still have more questions on this garage...

Mr. Snyder: Go ahead.

Mr. Rabbia: We can get two cars and a boat in a garage that's 700 square feet.

Mr. Aitken: I didn't do the calculations on that because I've only engaged the customer....

Mr. Rabbia: Well...something less than 1200 square feet that's for sure, especially if you are going to stack two cars front to back.

Mr. Aitken: Absolutely.

Mr. Rabbia: I think you get them in there with closer to 800, maybe 25' x 40' easily, if you are going to stack cars. Okay, if you don't know that's fine.

Mr. Aitken: I don't know. [silence] Was there a question about the plumbing?

Mr. Snyder: I am not sure that the county knows that you are wanting to hook this to the county sewer because it doesn't show on the plan. I didn't see on the plan any designation for a bathroom or did I miss that?

Mr. Aitken: It might not have been in the preliminary plans. I have engaged Syracuse Plumbing and had them out and they felt that their interaction with Onondaga County would not be a problem as far as the physical layout of it and to meet the general requirements of the sewer system.

Mr. Snyder: The bathroom's on the ground floor or....

Mr. Aitken: Ground floor. It would be gravity.

Mr. Natali: Does that include a shower or tub?

Mr. Aitken: No, toilet and sink.

Mr. Stanton: For the minutes, I would like to point out that we do have a resolution from the Onondaga County Planning Board. Do you have that also?

Mr. Aitken: I believe I do.

Mr. Stanton: Usually, when there is going to be a sewer connection, they will note it in here. You may want to...right now they are saying that your referral will have no adverse intercommunity or county-wide applications. That may affect some of their comments. You may want to let them know that you are intending to connect to the county sewers and stuff.

Mr. Aitken: Okay.

Mr. Natali: Our job is basically to allow a minimum variance possible...so we are looking for some give and take on this size. You're at 71% over the variance going from 700 square feet to 1200 square feet. The applicant's here, what's your consideration?

Mr. Kalin: Do you want me to come up there?

Mr. Natali: Please.

Mr. Kalin: Okay, first of all we are moving from Fayetteville. In Fayetteville, I have a cellar, I have an attic. We don't have any of that if I move to Mary Drive. We need a place to store all that we've had over the past 40 years as you can probably understand. So, that is why we are requesting a bigger place. We just need to store everything. We can't do that. We don't have the capability, obviously, to have a cellar in the place that we have so that's why we are looking for a little bit bigger place so we can store all of our stuff.

Mr. Rabbia: Primarily it's two cars and a boat?

Mr. Kalin: Yeah, right, and the other stuff we've stored over the last forty years while living in Fayetteville.

Mr. Rabbia: But you'd have the upstairs for that.

Mr. Kalin: Uhhh...I don't know if that would hold everything [laughs]

Mr. Stanton: You're wanting to build a structure here that is basically larger than your primary residence.

Mr. Kalin: Yes.

Mr. Stanton: It might be larger than some of the other residences on the street.

Mr. Kalin: I don't know if it's larger than...

Mr. Snyder: Mr. Chairman, the only thing I'm wondering about is in sitting in last year when we recommended this 700 square foot maximum, one of our big concerns was the proliferation of facilities like this on a single lot or on a lot next to a residence. I think we were honing in on that more so than someone who owns a lot that can take a structure of this size. So I'm a little concerned that had we done a little more thinking about that 700 square foot, we would have had some restrictions on when they could and couldn't use that 700 square foot. We even had a farmer come in here a couple months ago and had to ask for a variance because we had the 700 square foot and that's not what we were thinking of when we changed this and made it a 700 square foot requirement. So I don't have a problem with his 1200 square foot if it meets all the other requirements and meets all the other code concerns.

Mr. Natali: Anyone else have any questions.

Mr. Palladino: Is the boat garage going to be removed?

Mr. Kalin: Eventually, yes.

Mr. Palladino: So that will come down and did you ever have plans to use this new garage for living space?

Mr. Kalin: No.

Mr. Natali: So basically you are going with an all or nothing approach to this. You want an up or down vote. Is that what you are considering?

Mr. Aitken: May I talk with Mr. Kalin?

Mr. Natali: Yes

Mr. Aitken: [After talking with Mr. Kalin.] Yes, we would like to stay at the 1200 square feet.

Mr. Natali opened the Public Hearing at 6:30 P.M.

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

Mr. James Pesane (5295 Mary Drive, Brewerton, NY): I have the property to the east and I have a garage there and I don't have any problem with them putting in their garage. The only concerns I had was drainage in the area and most of the drainage goes into town property and I think it will still maintain that way. I have been assured by the homeowner next to me, Mr. Kalin, that if there is any drainage problems as far as backup or anything like that that they would take care of it. So I really don't have a problem with the garage going up.

Mr. Natali: Okay, thank you.

Mr. Natali: Is there anyone who would like to speak against? NONE

Mr. Natali closed the Public Hearing at 6:32 P.M.

Mr. Stanton: Let's discuss the five factors.

Mr. Natali: **Factor 1 – Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created?**

Mr. Aitken: It will not. It's a residential garage in a residential neighborhood.

Mr. Natali: Okay but a big garage. I didn't see any other big garages on that side of the street. I didn't see any on that street at all.

Mr. Rabbia: I think it does impact the way the neighborhood's going to look basically. The size of it.

Mr. Natali: Yes, I do too.

Mr. Rabbia: It basically impacts the way the neighborhood is going to look, based on the size of the garage.

Mr. Aitken: There is a large, metal constructed building behind that space.

Mr. Rabbia: I understand what's there. We are asking will this change it. I think you are adding more to the neighborhood.

Mr. Stanton: This is very similar to what we've run into in other areas where there's been this cascade of larger pole barns going up and unfortunately there's a tipping point where it tends to change the nature of how the neighborhood looks. I understand there's a pole barn structure two or three lots over but that is set significantly further back from the private Mary Drive.

Mr. Natali: So, Don [Snyder] do you think it's going to impact the neighborhood?

Mr. Snyder: I don't think so because it's on the non-lake side, not the river side. I mean the people who live there do not sit on their back step and look out towards these barns or look out toward Comstock. They sit on their front porches and they look at the river, swim in the river, and play in the river, whatever. So, I don't see that as a real problem. I see that we'll have two large structures and a double garage but I do not see it impacting...if I were there it would not bother me as a neighbor.

Mr. Natali: Gary [Palladino] what's your feeling?

Mr. Palladino: I think it will.

Answer: Yes.

Four of five agree, with Mr. Snyder disagreeing.

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: Is there an alternative, yes. There's no question you could downsize and get closer to the 700 square feet but you do not choose to go that route.

Answer: Yes.

All agree.

Factor 3 – Whether the requested Area Variance is substantial?

Mr. Natali: Is it extraordinarily large? I think 71% is. So we are already dealing with three out of the five factors.

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?

Mr. Natali: We'll give you number four as far as drainage. Impact as far as traffic. There's going to be nothing there.

Answer: No.

All agree.

Factor 5 – Whether the difficulty was self-created?

Mr. Natali: When you bought the property, maybe you had goals of having a shed there but at this point, it is self-created.

Answer: Yes.

Factor 5 -All agreed.

Mr. Natali: So out of the five factors, four are “yes.” With that in mind.

Motion made by Mr. Natali, seconded by Mr. Stanton, on behalf of Mr. Kalin that the variance for the construction of a 1200 square foot garage where 700 square feet is required is denied.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes
Mr. Snyder	No
Mr. Palladino	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

Variance was denied.

Motion made by Mr. Rabbia, seconded by Mr. Palladino to adjourn the meeting. [All agreed.]

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes
Mr. Snyder	No
Mr. Palladino	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

Motion and vote was unanimously approved to adjourn the meeting at 7:36 P.M., as there was no further business before the Board.

Respectfully submitted,
Ann Marie August, ZBA Recording Clerk