The regular meeting of the Zoning Board of Appeals (ZBA) of the Town of Cicero was held on **Monday, October 7, 2013** at **7:00 p.m.** in the conference room at 8236 Brewerton Road, Cicero, New York 13039.

Board Members Present: Gary Natali (Chairman), Mark Rabbia, Donald Snyder, Gary Palladino and Charles Stanton
Others Present: Steve Procopio (Code Enforcement Officer), Rita Wicks (Ad Hoc Board Member) and Dawn Maurer (Acting Clerk)
Absent: Terry Kirwan (Esquire, Kirwan Law) and Tonia Mosley (ZBA Clerk)

NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) MOTION

Chairman Natali: The Town of Cicero acknowledges the importance of full public participation. And since we are not meeting where we have a microphone, I'm going to ask you to speak up as loud as you possibly can. **I will make a motion** that all actions taken tonight are Type II Unlisted and have a negative impact on the environment unless otherwise indicated. **Mr. Rabbia seconded the motion.** Chairman Natali called for a roll call vote:

Mr. Rabbia:	Yes
Mr. Snyder:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes to the motion.
Mr. Natali:	Yes to the motion.

Motion carried.

Mr. Natali: We have proof that everything on the agenda tonight has been publicized.

APPROVAL OF THE ZBA MEETING MINUTES FROM SEPTEMBER 16, 2013

Mr. Stanton made a motion to approve the ZBA meeting minutes from September 16, 2013 with two amendments. On page 11 in the fourth paragraph from the bottom under my comments the first sentence should be corrected to read: I have a resolution from the Onondaga County Planning Board. On page 20 in paragraph 3, please remove the first sentence. **Mr. Snyder seconded the motion.** Chairman Natali called for a roll call vote:

Mr. Rabbia:	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 carried.

AREA VARIANCE, DEFERRED FROM SEPTEMBER 16, 2013, PUBLIC HEARING IS CLOSED
CARL & MARY ELLEN REISTROM, 9170 BEACH ROAD
REQUESTS AN AREA VARIANCE TO REMOVE AN EXISTING RESIDENCE AND RECONSTRUCT A NEW RESIDENCE IN AN R-10 ZONING DISTRICT. THE PROPOSED FRONT YARD SETBACK IS 25'WHERE A MINIMUM OF 30' IS REQUIRED.

Representative: Carl Reistrom

Chairman Natali: To recap, Mr. Snyder went through a discussion of the five factors at the September 16, 2013 meeting. They are outlined on pages 14 and 15 of the September 16th minutes. The public hearing was conducted with no comments. What held up the vote was that Oswego County was not notified under General Municipal Law 239. The Code Office has determined that the notification is only required for use variances and not area variances. Onondaga County had no recommendation at this time. Therefore **I make a motion** to approve the area variance for Carl & Mary Ellen Reistrom of 9170 Beach Road to construct a residence with a front yard setback of 25' where 30' is required. Also approve the lot that has 50' where 75' is required. **Mr. Stanton seconded the motion.** Mr. Natali asked for a roll call vote

Mr. Rabbia:	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 carried

AREA VARIANCE, DEFERRED FROM SEPTEMBER 16, 2013
ERIC & EMILY DEMARCHE, 6302 HARDWOOD LANE
REQUESTS AN AREA VARIANCE TO CONSTRUCT A 6 FOOT HIGH COMPLETELY OPAQUE FENCE TO EXTEND 17' INTO THE REQUIRED FRONT YARD AREA WHERE FENCES NO HIGHER THAN 4' FROM GRADE AND NO MORE THAN 50% OPAQUE ARE REQUIRED.

Representative: Emily DeMarche
Bill Rock

Mrs. DeMarche: I just have one correction. It says that we are requesting 17' into the required front yard area. It is actually the side yard. We had a pool put in and were not aware of what was needed for fencing. When we put the pool in we knew that a fence was required but we did not realize that the fence had to be within the build line. When we requested to go out the 17' we would still be 35' from the road. It is within the trees that are in the yard. It will not be obstructing anyone's view. We are a corner lot but it is in the back side yard with a fence.

Mr. Snyder: I believe that we asked your husband to go back and to look at seeing what might be acceptable that is less than 17'. There's no leeway? The 17 feet is what you are asking for? You don't want to ask for something a little less than that?

Mrs. DeMarche: The only thing is right now where the build line is would be between the pool pump and the heater. And, it would back up to where the concrete is. We are requesting a little area on the side where the concrete runs. And the side yard gives us a little privacy for the kids.

Mr. Stanton: I do want to make one note. I appreciate the fact that it is the side of your house. But, because you have two corners of your property fronting the road it is technically a front yard.

Mrs. DeMarche: Oh, okay. I didn't realize that. I know that our neighbors approve of this. They have no problems with us putting in the fence.

Mr. Stanton: Mr. Snyder did you ask for additional stakes to be placed out there?

Mr. Snyder: As I remember, we left it that he was going to go back and look at that. I had a real concern with what you might have known and what you might not have known from the Code Office. I could not imagine the Code Office not indicating to you concerns about the fence. I found out why they did not necessarily say anything to you directly about the fence because the drawing that you submitted with the permit shows 71.6 feet from the pool to the lot line. They certainly would not think that there was going to be a fence problem. That is why we are here looking at forgiveness rather than permission. That concerns me because we have a lot of cases lately that are fences where people are saying I did not know therefore can I do this instead. So I thought your husband was going to go home and look at it. We looked at it after we got this drawing and after looking at your pictures and said if we took I think it was one fence section down, which I think is about 8 feet, because it sure looked like the fence was at the point where you wanted it to turn and go back towards your house. So if we reduce it by 8 feet, from 17 you drop down to 9, it would still give you space beyond the end of your pool.

Mrs. DeMarche: I do apologize for the panels going up. We were out of town when the fence company put the fence in. They knew that they were not to put up the side fence because of the Town. I don't remember the drawing. The only thing I remember about the original drawing is I think that I had to hand draw it on there. I am not sure that it was accurate. For the original survey I think that I had to hand draw where the pool was going to go. It wasn't with dimensions.

Mr. Snyder: The one that we have that was filed has dimensions on it from the side line.

Mrs. DeMarche: I don't really know except for maybe we thought that we were going from the middle

of the road or where ever.

Mr. Snyder: Do you think that if you were asked to have one panel less and then you go back towards the house, would that be acceptable?

Mrs. DeMarche: My husband is not here so I am not sure. I know that he really wanted to handle this. Is there anything where we might be able to put in a temporary whatever? It is not going to technically be a permanent structure because it can come down at some point.

Mr. Snyder: I don't know what you mean.

Mrs. DeMarche: It's like a conditional. So, if you ever needed access to that area you could come in. Or we could take the fence down. If we ever moved out we could take the fence down and move it back a panel. I think that it is called conditional.

Chairman Natali: So at this point you are not in a position to make a decision without your husband right?

Mrs. DeMarche: I mean I could make decision. He said that he would come back like two feet. But I do believe that there is something called conditional since it is not technically a permanent structure and it can come down.

Chairman Natali: Are you aware of that?

Mr. Procopio: I'm not sure what you are referring to. Fences that are in a required front yard can be there. They can be no higher than 4 feet and no more than 50% opaque. You are asking for a solid completely opaque 6 foot high fence. I'm not aware of a conditional variance.

Chairman Natali: Is there a reason why your husband is not here tonight?

Mrs. DeMarche: He is in Wisconsin for work.

Chairman Natali: We could have saved you some time and postponed this until next month.

Mrs. DeMarche: Oh, I don't know if he was aware of that. He just knew that someone was supposed to come in and represent us.

Chairman Natali: So you are talking about two feet right now. That's all you are wiling to bend.

Mrs. DeMarche: Right now two feet. If you could consider it a conditional and allow us to put the fence up with the capability that at any point you need access to that area, that the Town needs access to that area, we would be more than willing to take it down. We wanted to have the fence go out far enough past the pump and the heater. And right now our bill bind is it would have to run between where the pump and the heater are. That doesn't work. We would have to re-plumb and everything like that. We wanted to have a 5' gate for access to that side yard area. That is why we are requesting what we wanted there.

Chairman Natali: This Board has no kind of authority to grant any kind of a temporary or a conditional. That would be Steve's office?

Mr. Procopio: I would not be able to grant a temporary.

Chairman Natali: So the decision before this Board is that you are willing to move two feet. We discussed a whole panel with your husband.

Mr. Rabbia: I just want to make sure that I understand the comment regarding the pool heater. Basically you could come 7 feet over your building line today; come straight north and clear the pool pump and heater. So you don't have to come 17' over your building line and then down. You could have enough room. I think that was the one panel discussion the Board was having right?

Mr. Snyder: So 17 goes down to 9, the line goes straight across and you would still have your pool heater and pump inside the fence line. The fence would not dead end at the corner of your house. You would still be going out 7-9 feet at the corner of your house.

Mr. Procopio: Do you see the second to last fence post that shows on the survey now? Do you see where all of the fence posts are marked on the survey? I think what they are saying is here.

Mr. Palladino: There is a difference between a little variance and a 17' variance.

Mrs. DeMarche: Does it fit with a gate?

Bill Rock: You won't have any gate there. It comes right to this line here. You are talking about this post?

Mr. Procopio: No, this post and then parallel and back.

Mr. Rock: Do you know roughly how much that is?

Mr. Rabbia: To scale it looks like it is about 10-11 feet from the corner of the house.

Mr. Stanton: I guess the intent is to have the permanent stairs off the deck going in that direction too, as far as the 17 feet.

Mrs. DeMarche: Yes, the stairs would go off that side as well.

Mr. Rabbia: The edge of concrete, where that line would drop down…

Mr. Rock: At the concrete you have 5 feet.

Mr. Rabbia: Concrete, you have 5.5-6'. It looks like then you have another 8 to the proposed fence from that one post that we are talking about. So over all, for all intensive purposes, we will call it 14' from edge of pool to the fence.

Chairman Natali: Mr. Rock are you in a position to help her make a decision on this?

Mr. Rock: Yes

Mr. Natali: Okay, is that something you can live with?

Mr. Rabbia: We are talking about that one post dropping straight down. From edge of concrete to that line would be call it 8. From edge of pool to that line would be roughly 14.

Mr. Procopio asked that the Board refer to the building line.

Mr. Rabbia: If I understand Mr. Procopio correctly, you want to know how far the fence is from the building line. Let's call that 7.

Mr. Natali: Do you like that? Can you live with it or would you still like to talk with your husband?

Mrs. DeMarche: I would rather have him. The thing is he also wanted to have a swing set over there too.

Mr. Rock: Yes because we are really trying to maximize a lot of it. Do you see where the fence line comes off of the back? That drainage easement is actually quite deep.

Mr. Stanton: We understand but this is one of the larger easements that would be granted if we did. At least in my mind we are obligated to try and reduce that. Especially considering the pool seems to have shifted closer to the side line than expected. That causes this problem.

Mr. Rock: So you would be okay with another meeting? Then I can talk with Eric to see what we can do about getting that grid on the line that you guys are talking about.

Mr. Natali: We would still have to discuss it among ourselves and in an open forum. We would have to allow a public hearing. Have you seen the original?

Mr. Rock: No I have not seen that.

Mr. Stanton: Honestly at the last meeting that is why we encouraged Mr. DeMarche to come back.

Mrs. DeMarche: Was he aware that was part of the problem though?

Mr. Natali: Let me read you his statement. He says I guess I will probably have to go back and measure and talk to my wife about it.

Mrs. DeMarche: No, I'm saying was he aware of that drawing from last time?

Mr. Snyder: Not this one. This was done at the meeting.

Mrs. DeMarche: Okay, that's what I'm saying. I don't think that he is aware necessarily either that the pool shifted. Honestly we are not pool builders, we are not fence installers. We weren't there when they started digging the pool and we were not there when they started putting in the fence. The only thing that we were able to instruct the fence people to do was to not put up that wall, until it is approved by the Town. It's a nice fence. We are not trying to diminish the value of the neighborhood. We are not trying to obstruct any views. The neighbors like the fence that is up right now. They would like the last panel up.

Mr. Rock: The unfortunate part is they weren't there. That is where the mix up is.

Mr. Natali: She wants to talk to her husband. You know what we would consider. Are there any neighbors here? (There was no response.) I'm not going to open the pubic hearing until we really see what you are going to go for.

Mrs. DeMarche: Would I have better luck if the neighbors were to sign something or should I have the

neighbors come in?

Mr. Natali: That is your prerogative. We are not going to make a recommendation either way. But we would like to see it re-done and exactly where it is in relation to the building line because we are going to say not closer than x feet to the building line. So, **I make a motion** that we defer this until our November meeting. **Mr. Snyder seconded the motion.**

Mrs. DeMarche: I am really concerned at this point with us approaching another winter. I would take it down----the safety fence for another winter. I just don't find it safer for any body.

Mr. Natali: I'm sorry but we made it very clear. We made it very clear what we were looking for.

Mrs. DeMarche: I know that you were looking for some sort of give and take. I thought with the temporary conditional maybe.

Mr. Natali: It doesn't exist. We don't have any such thing, either in front of the Zoning Board or as far as Mr. Procopio has said, before the Code Office. The minutes are very clear. We even told him one panel. Mr. Snyder states maybe a couple of stakes and a couple more pictures. We thought that we laid it out very well. We don't like to waste your time either.

Mr. Rock: You said November 17th?

Mr. Rabbia: No, the first Monday of the month.

Mr. Procopio: I believe that would be November 4th. November 5th is election day.

Mr. Rock: We will go over this with Eric and prepare for the meeting on November 4th.

Mrs. DeMarche: How far is the second panel? From my pictures it looks like it backs up to the concrete. If I took two panels off it looks like it just about touches the concrete.

The Board clarified just one panel.

Mr. Stanton: When you talk about give and take I think you are seeing indications from some of the Board members that we are willing to possibly give a little bit in terms of one panel. Not 17 feet, but maybe something less than that.

Mr. Rock: That's very good. I think that we are in good shape here. Thank you for your time.

Mr. Natali: Without spelling it out we are looking for no closer than 9 feet to the building line. Mrs. DeMarche, to help you understand if this variance is substantial it could result in a denial. It is still a pretty good variance. I know that the concept of a corner lot and having two front yards is hard to understand. That is what makes this unique. Okay so we will see you next month.

The Chairman continued the motion by asking for a roll call vote.

Mr. Rabbia:	Yes
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 carried

AREA VARIANCE, DEFERRED FROM SEPTEMBER 16, 2013, MICHAEL SCUDERI (APPLICANT)
TEGAN HOMES/DONOVAN PIETERESE (PROPERTY OWNER/PROPERTY MANAGER)
7655 GLENVIEW DRIVE
REQUESTS AN AREA VARIANCE TO CONSTRUCT A 12' X 16' STORAGE SHED IN AN R-15 ZONING DISTRICT. THE PROPOSED FRONT YARD SETBACK IS 16' WHERE A MINIMUM OF 30' IS REQUIRED.

Representative: Michael Scuderi, Applicant

Mr. Scuderi: I did the best I could with the short notice from my surveyor. I'm hoping this is the correct survey. I made copies at Rite Aid just so everyone could get one.

Mr. Procopio: Just so that the Board knows, Mr. Scuderi dropped off a survey earlier than this, but the building line was shown incorrectly on it. So, he called today and he quickly tried to get his land surveyor to put it in the correct location. He picked it up this evening before he came here.

Mr. Rabbia: It's to scale at least.

Mr. Palladino: Are you sure about that? It can't be.

Mr. Rabbia: The house is 24 I got that. Oh, the shed is not to scale.

Mr. Procopio: Is the building line to scale?

Mr. Palladino: No, it can't be. You have 30 feet.

Mr. Procopio: You have 30 on Pineview. That looks about right.

More discussion occurred. Chairman Natali suggested that the Board do the best that they can with the survey.

Mr. Scuderi: I can try again.

Various Board members responded that would not be necessary.

Mr. Natali: We don't want any more paper. We will help you out. My feeling is let's do no closer than…?

Mr. Snyder: No closer than the distance of the house to the road, whatever that is now. It is marked as 16 but we don't know what it is.

Mr. Natali: That is what he wants.

Mr. Scuderi: That was exactly what I was looking for; keeping it even with the frontage of the house.

Mr. Palladino: It could be the south end of the house.

Mr. Snyder: As long as Mr. Procopio can come and stand here and look down the line and see that the shed wall aligned with the house that would make you happy?

Mr. Procopio: It depends on what would make you guys happy.

Mr. Scuderi: I tried to update the survey. He was the fastest I could find. His father did it originally, so I went with him. And now, I think that this is the third update that he as done.

Mr. Rabbia: Some things are to scale and some are not. The house is right.

Mr. Natali: Would someone like to make a motion please? But first we will open up the public hearing. *(The public hearing opened at 7:30 p.m.)* Is there any one here who would speak for this? (There was no response.) Is there any one who would speak against this? (There was no response.) We will close the public hearing. *(The public hearing closed at 7:30 p.m.)*

Mr. Rabbia: **I'll make a motion** for Michael Scuderi of 7655 Glenview Drive for an area variance to construct a 12' x 16' storage shed in and R-15 zoning district where the proposed front yard setback for the shed is 16' where a minimum of 30' is required. However, before we vote on it I just want to review the five factors for an area variance.

1. Would an undesirable change be produced in the character of the neighborhood as a result of the shed or a detriment to nearby properties be created? The answer to that is no. Where the shed is positioned there is no sight line issue at all. What has been talked about, at least tonight will not. Any comments?

Other Board members agreed.

Mr. Rabbia:

2. Can the applicant achieve his goal via a reasonable alternative which does not involve the necessity of an area variance? I will admit this is one of the oddest layouts of a house on a property that I have ever seen. But, without placing a building randomly in the middle of his backyard, I don't know if they can do this any other way. Literally, the shed would have to be in the back corner of his lot which would be fully unusable because he is going to load and unload stuff into it. So, I'm going to say that while he could do it another way, I think that this is the best way for the use of the property.
3. Is the variance substantial? I think that you could argue that the 14' over the line is substantial, but again this is an odd shaped layout. And I think that what we have arrived at works for the Town and the applicant. Any comments?

Mr. Palladino: I think you should note that this variance as requested falls in line with the existing house.

Mr. Rabbia: I was going to get to that when I wrapped this up.

4. Will the variance have an adverse impact on the physical or environmental conditions in the neighborhood or district? No
5. Whether there has been a self-created difficulty? Yes, but again that in itself is not a reason to deny the variance. As Mr. Palladino mentioned, we are going to place the shed inline with the existing house that faces the driveway today, approximately 16' from the building line today. The survey is not exact but if Mr. Procopio was to look down at the shed it should be aligned with the house that faces the driveway.

Mr. Palladino: Do we need to talk about the minimum lot area? Do we address that with other variances that are outside of the building lines?

Chairman Natali: Yes

Mr. Rabbia continued with the motion: Okay, then I will add on in addition to the front yard setback for the garage, the existing building line is 70' where 85' is required for an R-15 zoning district. The setback from Sunset Place for the house is 16' where 30' is required. The lot area is approximately 9100 square

feet where 15,000 square feet is required in an R-15 zoning district. **Mr. Natali seconded the motion** and called for a roll call vote:

Mr. Rabbia:	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 carried

AREA VARIANCE, JAMES & SUSAN CROWELL, 6042 SMITH ROAD
REQUESTS AN AREA VARIANCE TO CONSTRUCT A 12' X 24' STORAGE SHED IN AN AGRICULTUAL ZONING DISTRICT. THE PROPOSED REAR YARD SETBACK IS 10' WHERE 35' IS REQUIRED.

Representative: Susan Crowell

Mrs. Crowell: Good evening. I don't know what the protocol is for something like this.

Mr. Natali: Just give us a short synopsis of what you want to do.

Mrs. Crowell: My husband and I are looking to increase the size of the shed from an 8 x 14 to a 12 x 24. We would like to keep it at the same distance as the 8 x 14 is from the property line in the back which is 10 feet instead of the 35' that is required. The 35' would also put the shed on top of our pool. We would not be able to access the shed in front of it. I need the storage shed for personal storage. We have a lot of furniture, maybe too much. We need to do this instead of always stacking our stuff up and covering it with a tarp all winter. We are asking for a variance to put the shed in the same place as the old shed is. The extra four feet would come towards our property, towards our home.

Mr. Natali: Has everyone been out to see it?

Board members responded yes.

Mr. Rabbia: The width will go kind of in?

Mr. Palladino: Towards the center like that.

Mrs. Crowell: I have the lady who owns the property behind us and to the right of us with me and a signed letter from her husband stating that they don't disagree with what we want to do.

Mr. Stanton: Mr. Chairman just one note. Because this is within 500 feet of a County road we do have a resolution from the Onondaga County Planning Board. There are two therefores attached to it. The first is that State and/or Federally designated wetlands on site and the 100' State wetland buffer must be delineated and wetland locations must be confirmed by the DEC and the US Army CORPS of Engineers. Confirmed wetlands and delineations must be shown on the plans for this site. The second one is that the standard Municipality is encouraged to minimize this motion and damage from natural hazards and continues with things that they usually say. Have you received the County Planning Board's resolution?

Mrs. Crowell responded negatively.

Mr. Stanton: What they are asking for is that the survey be updated to show the 100' offset from the wetlands. In my opinion until that is done, we really can't take a look at this.

Mrs. Crowell: We had a survey done.

Mr. Stanton: Yes you had a survey done, but because there are wetlands present there is a regulation that states that you have to plot where the 100' offset is from those wetlands. That is what the Onondaga County Planning Board is asking for.

Mr. Procopio: They definitely made that recommendation. I did speak with the land surveyor. He noted that there was some wetland on the adjacent property. He believes that they are an adequate distance away from this structure. But that being said, if it is a concern of this Board's, I offer the review of applications that do not need variances. I have to work with that applicant to make sure that they are in compliance with DEC and Army CORPS regulations. I would just say that.

Mr. Stanton: We would need a super majority to over-ride their recommendation because they are asking for the plot of this.

Chairman Natali: If we go through the factors and we want to eliminate the need or the requirement/recommendation from the County, we have to have a super majority which is a majority plus one. So we need four out of five of us in favor of it.

We have all been there. It is not a swamp. It is not a fill in. Yes it was wet, but it also rained a lot today. Each of you have to discuss that but let's ask them the questions they need before we make a motion. We will get the neighbors to say what they want to. Then we will go through the factors. Then we will vote up or down on whether we approve this.

Are there any other questions for these folks? We all saw all of the equipment that they need to put away there.

Mr. Stanton: You did a very good job at writing the reasons why it needs to be where it is. The one thing that I saw was that your whole argument is based on shifting that shed directly towards the road. At least from the pictures I am looking at, that would place it directly behind your pool. I understand that is not a desirable thing.

But, if I look at the bulk requirements for this type of lot, there is room towards the easterly property line to install a structure with no variances required that would still be out of the way of the pool and would not encroach on the patio.

Mr. Snyder: But then the shed is in the middle of the back yard, of the grassed area.

Mr. Stanton: Understood, but it is not really a shed anymore. It is an accessory structure.

Mr. Snyder: That is because she is trying to save her husband from taking this stuff up into the attic.

Mr. Stanton: This would also be closer to the brick patio and the above ground pool.

Mr. Palladino: What is the difference between an accessory structure and/or an ancillary structure and a shed?

Mr. Procopio: Per Town ordinance a 192 square foot or less structure, 12 x 16, is allowed a reduction to the rear yard setback. Once you exceed that square footage then you must comply with the rear yard setback as dictated by the zoning district.

Mr. Snyder: I don't know. I personally have no problem with them putting in a bigger shed and putting it where they would like it. As I stand under that today and look out at the neighbors I don't see where there is any negative impact on the whole thing.

Mr. Palladino: Is the new shed going to be up on cinder blocks as well? Or will it be sitting directly on the ground or on stone?

Mrs. Crowell: It will be on cinder block just like it is today. It will not be on a cement pad or a cement foundation.

Mr. Palladino: So does that still fall under this wetland thing? We are talking about probably six cinder blocks. Does that fall into being a structure on the wetlands?

Mr. Procopio: If it is within the 100' buffer to the DEC wetlands then you are required to have a

permit from the DEC to have a structure in the buffer.

Mr. Palladino: I understand the structure. I understand the foundation. I understand the slab. But, if you are talking about six to eight cinder blocks, is that a structure?

Mr. Procopio: In my opinion it would not make any difference. It is a structure by definition of the Town ordinance.

Mr. Stanton: If you are talking about flood capacity, which I think this is, the cinder blocks and that little space between them don't mean much. It is the structure itself.

Chairman Natali: But, we have a vehicle to overcome that. Also, you are going to have grass or no grass under there. We can understand not wanting to move it. And you have already applied for a variance. So if you were looking for a way out Mr. Procopio might have recommended where you could put it without a variance. Are there any other questions?

Mr. Snyder: So we are saying if we were to approve this with a super majority, Steve (Procopio) would in fact intercede with the applicants to make sure that whatever needs to be done with the DEC, from their standpoint will be done?

Mr. Procopio: That they comply, yes. Typically I wouldn't issue our permit until I knew that the DEC had no jurisdiction or that the applicant has a valid DEC permit.

Mr. Snyder: Have you had cases similar to this where, they are not in the wetlands but they are within the 100' buffer and the DEC had been difficult to deal with?

Mr. Procopio: No. The ZBA has approved buildings before on Muskrat Bay Road or Beach Road where those applicants had to get permits from the DEC or the Army CORPS. They work with you.

Chairman Natali: If there are no other comments I will open up the public hearing. *(The public hearing opened at 7:45 p.m.)* Is there any body who would speak for this? Please step forward and give us your names.

Monika Loerzel of 6038 Smith Road: We own the property behind and beside the Crowell's.

Mr. Natali: And you are for the project?

Mrs. Loerzel responded yes: My husband signed the letter so that they could continue.

Chairman Natali: Is there anyone else who would like to speak for the project?

Robert and Brenda Jonick, 7515 Thompson Road spoke in favor of the project.

Chairman Natali: Is there anyone who would like to speak against it? (There was no response.) Then I will close the public hearing. *(The public hearing closed at 7:46 p.m.)* Would someone like to make a motion?

Mr. Snyder made a motion to approve the area variance to construct a 12' x 24' storage shed in an Agricultural zoning district where the proposed setback should be 35' and it will only be 10'. This will be an approval based on the Zoning Office working with the DEC to get any approvals that need to be done next to adjacent wetlands. But, before we actually do that let's look at the five factors.

1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties? In my opinion the answer is absolutely not. I have stood on the deck. I have looked at the other areas. I don't see where this would be a negative. In a way it is very positive because, from my understanding, all of this furniture is going to go in this new shed. It currently sits out on the patio with tarps. So I think that it will improve the neighborhood situation by having the stuff put in a shed, secured and not covered with tarps. Would anyone like to agree or disagree?

Mr. Natali: I just want to add in addition the two plastic sheds or cupboards or closets that are attached to the back will be removed.

Mr. Snyder continued with the motion: Yes. I believe that they said that in their writing too.

2. Can the benefit sought by the applicant be achieved by some other method which would be feasible for the applicant to pursue? To me that is a grey area. The answer is yes. They could put it right in the middle of their backyard and totally destroy their greenspace. But, I don't think that in itself should be a reason for denying the request.
3. Whether it is substantial? It could be considered substantial because of the area that we are in and the size of the shed. But again I think because of how we relate to #1 it is not that big a deal. Are there any comments from the Board? (There were no comments.)
4. Whether the proposed variance will have an adverse effect/impact on the physical or environmental conditions in the neighborhood? There would not be any negative effects. Mr. Procopio will make sure that the DEC is happy with the placement of the shed.
5. Whether the alleged difficultly is self-created. Yes it was self-created by the age that we are now getting to be. This resident of our Town is paralleling me, therefore I can relate to the fact that crawling up a set of stairs to put your furniture away, or to tarp them, is not something that I would like to do. Even though he has self-created this by aging out from a young man to a very wise gentleman that in itself should not cause us to deny his variance.

Mr. Natali added we do have the County's response. They requested that the map be re-done and we will try to over-ride that with a majority plus one vote.

Mr. Snyder continued with the motion: As a part of #4 the County has asked us to re-do the survey and talk about the 100' buffer from the wetlands. We feel that can be handled through the Zoning Office and therefore we should not delay our approval of this variance request. **Chairman Natali seconded the motion** and asked for a roll call vote:

Mr. Rabbia:	Yes to the motion
Mr. Snyder:	Yes to the motion
Mr. Palladino:	Yes to the motion
Mr. Stanton:	I'm going to reservedly vote no to the motion based on the fact that I do believe that there is a reasonable alternative to build this structure on the property that does not require a variance from this Board.
Mr. Natali:	Yes to the motion

The motion was approved.

Mr. Natali: Thank you folks. I am sure that you will do a good job.

Mr. Snyder: So, you and Steve (Procopio) have a relationship that was just set up.

Mr. Natali made a motion to adjourn. **Mr. Snyder seconded the motion.** The motion carried unanimously.

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING ADJOURNED 7:57 P.M.

Submitted by:
Tonia Mosley, ZBA Clerk