SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: September 14, 2015
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, September 14, 2015 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali	Board Chairman
	Charles Stanton	Deputy Chairman
	Donald Snyder	Board Member
Absent:	Mark Rabbia	Board Member
	Gary Palladino	Board Member
Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Steve Procopio	Code Enforcement (6:00-6:30 pm)
	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 August 3, 2015 meeting?

Board: Yes.

Mr. Natali: Are there any corrections or additions?

Mr. Stanton: Yes I have a few. I'll hand these in afterwards. Page 10 of 23, my first comment in the second sentence, instead of generally, it should read *general*. My third comment, "…does the town have a side-format printer…" should read "does the town have a *wide*-format printer?" Page 17, my second comment in between "It's a shed" should read "It's *still* a shed."

Mr. Natali: I'll make a motion to approve the August 3, 2015 meeting minutes, seconded by Mr. Stanton.

Motion was put to a vote, resulting as follows:

Mr. Snyder Abstained (not at last meeting)

Mr. Stanton Yes to the Motion
Mr. Natali Yes to the Motion

Motion cannot pass with two votes and will be readdressed at the October 5, 2014 ZBA meeting.

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 speak up today and speak clearly since we usually have a microphone in the other room and we do not tonight.

Motion was made by Mr. Natali, seconded by Mr. Stanton, that all actions taken tonight are Type 2 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. Snyder Yes to the Motion
Mr. Stanton Yes to the Motion
Mr. Natali Yes to the Motion

Motion duly carried.

Mr. Natali: We have proof that all items on tonight's agenda have been advertised as directed by law.

Mr. Natali: I will briefly review the process for tonight's meeting for the benefit of those present that have never been before the Zoning Board of Appeals. (1) Each applicant will have an opportunity to describe their project. (2) The Board will then ask questions about the project. (3) I will open a public hearing where people will be able to speak for or against the variance. (4) The applicant will then be given the opportunity to rebuff what is stated. (5) Board members will again have the opportunity to question the applicant. (6) The Board will openly discuss among themselves the Five Factors that determine the final decision. We have not had a pre-agenda meeting so this is the first time we get a sense of how each of us feels about the variance. (7) A motion will be made, seconded, and voted upon.

RYAN J. BECKLEY
SNOWSHOE TRAIL (TAX MAP #809.-10-40.0)
AN AREA VARIANCE FOR A PORPOSED NON-RESIDENTIAL STRUCTURE IN AN AGRICULTURAL ZONE. THE LOT AREA IS 1.81 ACRES WHERE A MINIMUM OF 2.0 ACRES IS REQUIRED.

Mr. Natali: Our first case tonight is Ryan Beckley. Would you please come up Mr. Beckley.

Mr. Beckley: I'm looking to get a variance to build a 40' x 60' garage or pole barn on a lot that is 1.81 acres where the minimum is 2 acres. The building will be used for personal use and storage only.

Mr. Natali: Would you give us an example of what you are actually going to put in there?

Mr. Beckley: I have a 41' fifth wheel currently in my 50' long driveway and I would like to not pay someone for storage and I would also like to get it out of my driveway.

Mr. Natali: Okay, I noticed a lot of firewood there. Are you going to be in the firewood business?

Mr. Beckley: Well, I didn't want to throw it away so it's going to take me a couple of years to get through it but I don't plan on selling it, no.

Mr. Natali: There should also be another variance on this for the square footage of the building.

Mr. Beckley: Well, it's zoned agricultural.

Mr. Stanton: I did want to note that we have a resolution from the Onondaga County Planning Board. They indicate they have no…that this referral has no significant adverse inter community or county wide implications. There are a few issues that I saw when reviewing this. Our code allows private garages but only when used as an accessory use to the principal residential use of the property. That somewhat implies that you have to have a principal residence on that property. This is one, at least as far as I can tell, you have one piece of property here is your house actually located on that same property?

Mr. Beckley: No, it's directly across the street.

Mr. Stanton: So, I see that as being an issue that this Board needs to address.

Mr. Beckley: I believe that it is zoned agricultural, so…

Mr. Stanton: That's correct but if that's the case then you need a Planning Board approval of a site plan in order to have that as storage use.

Mr. Beckley: Which I am doing, I'm going right after this meeting.

Mr. Snyder: I know from attending Planning Board meetings…Williams farm got approval from the Board for a large storage building much like what this gentleman wants to provide storage in agricultural. So, I just know that that was an approval situation but I didn't really see that the 700 sq. ft. issue was an issue for him.

Mr. Stanton: We are talking about another case and we don't use precedent but one concern I have is this is located inside a residential neighborhood regardless of what we are zoned here. You are boxed in on three sides by houses and I think we'd like to hear from the people, hopefully, if there are any attendees here who want to speak for or against it.

Mr. Beckley: The fact is that it is zoned agricultural.

Mr. Stanton: That is correct. The lot size is also 1.81 acres where you need 2 acres to be able to actually build on it.

Mr. Beckley: I do have the site plan. It's already been turned into the Town and changes have been made. There was a list of things they wanted added, changed or updated on the site plan and they have that as of last Friday morning.

Mr. Stanton: As far as utilities, water? Sewer?

Mr. Beckley: All utilities will actually go there. Not a sewer connection but water, gas and electric, yes.

Mr. Natali: Steve (Procopio – Code Office) do you have anything to add?

Mr. Procopio: No, Mr. Stanton, he is correct that the 700 sq. ft. does not apply. It is not accessory to a residential so a site plan is required. Mr. Beckley is on the Planning Board's agenda this evening and he has been before the Planning Board prior to this evening as well.

Mr. Snyder: Do you plan…because you've obviously got to remove trees and shrubs to put this in. Do you plan on having a barrier be left along…other than your driveway back to your barn so that the neighbors really won't see what's back there?

Mr. Beckley: The trees and vegetation that is between the building and my neighbor's lot line will not be disturbed, I believe it is 50' and it's pretty dense in there.

Mr. Snyder: So you'll have 50' of coverage before…

Mr. Beckley: That's right. My goal is to remove as few trees as possible.

Mr. Stanton: Is that dense enough to prevent neighborhood children from wandering onto the property?

Mr. Beckley: There's no fence there, no.

Mr. Natali: Will you have any kind of a gate. I know you have your camper unit there now. Do you plan on having any kind of a gate or…

Mr. Beckley: There will be overhead doors on the building.

Mr. Natali: No I meant into your property.

Mr. Beckley: I didn't intend to.

Mr. Natali: Okay, I was just asking that's not one of our…

Mr. Snyder: So, it will look like a driveway going to a residence. You might at times not even see that there's a building back there.

Mr. Beckley: I would say that right now you would probably have a difficult time seeing that there's a building.

Mr. Natali: Any other questions? I am now going to open up the public hearing.

Mr. Natali **opened the Public Hearing at 6:10 P.M.**

Mr. Natali: Is there anyone here who would speak for this variance? [no response]

Mr. Natali: Is there anyone here who would speak against this variance? Please step forward and give us your name, sir.

Mr. Hall: My name is Peter Hall (8450 Rollercoaster). I live in one of the houses that accesses the woods I

guess. This has seemed to create a drainage problem in the neighborhood with some of the houses and I received a letter from the Town that my shed was on the easement. It's been there for 20 years and my fence was along the property line. I had to remove both or move one. There's never been a flooding problem there until he decided he would put a road in. He put a gravel road down with nothing going under it for drainage. All that property is undeveloped and is a lot higher than everyone else's property and they seem to be having ponding in two residences. One where the house is parallel to the driveway and the house next to it and I have the catch basin on my property and I only actually have about that much of my property line to where the line is of the people next to me but they all seem to be having problems with drainage, ponding in their yard and in the woods. It has never been like that until that road was put in for the driveway and the clearing of the woods. The trees used to catch all the rain and now you have an opening and the rain just comes down and has no place to go and it settles there. The lots are actually where I had my fence on the property line is higher than the woods so it has no place to go but I had to move my shed and fence that have been there well over 20 years because I was getting the blame for the drainage problem and there has never been a problem. Further up there's another house that has their fence and shed on the easement also and I don't know…I moved my stuff and everything but there is a drainage problem there. I moved the shed and it was dry as a bone underneath. There was no mud, no nothing. My neighbors that are not next to me but on the corner going the opposite on Snowshoe, they never had a problem either. They also were clearing some trees because they were planning on making a place for their son to ride a dirt bike in there so their property is undeveloped, there's highs and lows but they say they have about a foot difference between the next section of woods and where their property is.

Mr. Natali: What was your address again?

Mr. Hall: Mine is 8450 Rollercoaster Drive.

Mr. Snyder: Well, I used to be on the drainage committee and we do live in a swamp and we have drainage easements in the Town to make it easy for the Town to be able to get in and do cleaning and also for the water to flow. I am sure that the code office and the planning board will make sure that no drainage issues will be aggravated by the building.

Mr. Ball: I am David Ball, Code Officer, I do all the drainage complaints. We were back there with the drainage committee, town board member, town engineer, and the director of our office. There is a drainage easement both on your property and the property on the corner of Snowshoe and a drainage easement directed to the catch basin in your back yard. Both your shed and your fence are blocking the flow of water that should be going to that catch basin. Both your shed and your fence were never permissible to be in a drainage easement. Your shed should have had a permit and we now require fence permits so this situation does not happen in the future.

Mr. Hall: But sir…in twenty years, I've lived there since we built the house, there has never been a problem back there.

Mr. Ball: Last year we had a heavier rain than normal, we had heavier snow than normal and we've had extreme rain situation this year and we are also looking at the neighbor on corner to see whether he did any filling that may have caused some flooding back there. We were back there looking at this.

Mr. Snyder: In regard to this piece of property, have you guys looked at it, has the engineer looked at it as far as if we put a driveway in and didn't put a culvert in, is that one of the requirements that's going to be coming out of the Planning Board.

Mr. Ball: I cannot answer that question. We were looking at it merely as the existing condition with the easements that come down Rollercoaster and the one that comes across the back here from Snowshoe to that catch basin. We were not looking at it as a future change on this property.

Mr. Natali: You don't see any problem then Dave (Ball). I mean he already has the driveway in. There were not big swales on either side of the driveway but there is plenty of vegetation.

Mr. Ball: I am sure that the Planning Board Engineer will look at the situation to make sure that he doesn't do anything in his future development to compound any situation that may or may not be there.

Mr. Natali: Thank you for your input. Yes ma'am.

Ms. Davis: [Beverly Davis – 8488 Snowshoe] We moved here last year from the hills of Pompeii where we had no drainage problem at all and when we moved in, it was January and we looked out in the backyard and it was all water. It was all water until probably the end of March or May so this is not the first time that this problem has existed and Ryan (Beckley - Applicant) hadn't started doing anything at that time at all. No driveway, no nothing. The back yard was all flooded and there were tricycles and baby carriages and dolls all over the yard next door. So, this is not a new problem and it's not like it has never happened before. The people we bought the house from told us that the back yard flooded so we were prepared for that.

Mr. Natali: How far are you from his driveway?

Mr. Beckley: They are just south of my driveway.

Mr. Natali: So, any questions for Mr. Ball, he is the drainage person.

Mr. Ball: I actually spoke with her out in the field.

Mr. Natali: So noted. Anyone else want to speak against this?

Ms. Davis: I am not speaking against this. I am saying the problem was there going back twenty years.

Mr. Natali: Does anyone else have any comments? [no response] We will now discuss the five factors.

Mr. Natali **closed the Public Hearing at 6:17 P.M.**

Mr. Natali:

Factor 1 – <u>Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created?</u> **Answer: No.** Actually, you're not even going to be able to see it in line with any of the other houses.

Mr. Stanton: I would respectfully disagree with that. Regardless of the fact that you can't see it. I have seen a number of neighborhoods where these pole barns have gone up in not only agricultural areas but next to residential areas. The existence of it does tend to change the nature of that neighborhood and I can't believe that when this tract was laid out that someone anticipated having a pole barn smack, dab in the middle of it.

Mr. Snyder: I guess what I'd say there is that his traffic is not going to increase in the neighborhood. He is

just taking his RV and stuff and putting it across the street really instead of in his driveway. It's not like the guy is going to do a business out of that property and therefore there will be more vehicular traffic. So, I think Gary [Natali] and I are on the same target for that one.
Mr. Natali – Agree
Mr. Snyder – Agree
Mr. Stanton - Disagree

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.** Well, would you consider making it any smaller?
Mr. Beckley: No. It's a 41' trailer.
Mr. Snyder: The building is how big again?
Mr. Beckley: 40' x 60'
Mr. Snyder: Well, you have to be able to get around it. Actually, the size is not our problem. The size is the Planning Board's problem.
Mr. Natali: It does meet the setbacks.
All agree.

Factor 3 – Whether the requested Area Variance is substantial? **Answer: No.** He almost has the total two acres.
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.** According to the Code Office, they do not feel it will be a problem. It is not our enforcement to make sure that happens, the Code Office will do that.

Factor 5 – Whether the difficulty was self-created? **Answer: Yes.** I'm sure you didn't anticipated needing…or did you have your eye on the property form the beginning?
Mr. Beckley: I've lived on the property going on 15 years and I was not looking at this.
Mr. Natali: So, it was self-created because you knew you would need a variance and you already own the property?
Mr. Beckley: I do.
Mr. Natali: Okay.
All agree.

Mr. Snyder: I don't see any problem with what the gentleman wants to do. The 1.8 acres versus 2 acres. It's in the back and there's no way to get two acres out of this unless he goes and talks to the neighbors and take a chunk here and there. If you look at the amount that he is going to develop compared to what's there. There will still be an awful lot of woods there when he's done. I guess I would make a motion that we would approve Ryan Beckley's request to construct a pole barn on 1.81 acres where a minimum of 2 acres is required.

Mr. Natali: Do I have a second? I'll second the motion.

Mr. Snyder: Let's review this. We have a unique situation here because there are three of us. Am I correct that if one of us voted "no" it would be a no vote?

Mr. Stanton: It's worth discussing that, yes.

Mr. Snyder: Because if that's the case then if there is one of us voting no. I would want to postpone this until we have a full board.

Mr. Natali: Mr. Beckley, do you agree with that or do you want an up or down vote right now?

Mr. Beckley: Do I have a choice?

Mr. Snyder: Yes, you have a choice.

Mr. Natali: You are the customer and we want to do what we can to help you.

Mr. Beckley: It seems like if I want an answer tonight, it's going to be a "no." So, I really don't have a choice, if I'm understanding you correctly.

Mr. Stanton: I am not telegraphing my intentions but I am saying that if there was one "no" vote here tonight out of the three that were here. It would be an automatic denial and you would have to come back with a completely different application.

Mr. Natali: So, you'd be looking at another month, another fee.

Mr. Snyder: It would be another month but no fee if we postpone.

Mr. Natali: Oh, yes, I'm sorry but if you went for a vote.

Mr. Beckley: We are getting tragically short on the building season right now.

Mr. Natali: There are no two properties the same. These are very unique circumstances. We have turned these down in different circumstances and also smaller.

Mr. Beckley: Can I ask what the issue is that we would defer this to and come up with another answer?

Mr. Stanton: It's not necessarily that there's another answer. I will say that I still have significant concerns with constructing a pole barn in a residential neighborhood regardless of how screened in it is. Again, I have seen the effects of that. Regardless of what the original intentions are, in the future should you sell your land or something else happened that could turn into a place where there is higher traffic, children running around the site, things like that.

Mr. Snyder: The Planning Board could put restrictions on that facility to ensure that doesn't happen.

Mr. Beckley: It's on the site plan.

Mr. Snyder: What does it say on the site plan?

Mr. Beckley: Actually, I have an updated copy right here. I can tell you what it is. "Site to be used for private use only."

Mr. Snyder: It would have to come back to the Planning Board and maybe to us if someone wanted to make it commercial.

Mr. Beckley: There is a possibility that we may end up building a house back there in the future and move

over there but one bridge at a time.

Mr. Natali: We can't entertain that possibility. You wouldn't want a pole barn right in the middle of your house. Okay, what would you like us to do postpone or go for a vote?

Mr. Beckley: I don't think a vote is a very good idea right now. Although I don't know what is going to change if we defer this meeting.

Mr. Natali: Well, if we defer the meeting, you will have two other opinions. They will get the background information based on the minutes. We won't go through this again. They will have opportunity to ask questions.

Mr. Stanton: Then a simple majority vote will occur.

Mr. Beckley: That's another month from now.

Mr. Natali: I can give you the date is October 5th.

Mr. Beckley: Two weeks?

Mr. Snyder: Chuck (Stanton), I know that you are our technician. You're the guy who keeps us on target. I appreciate that. Is there a possibility that you can in fact in this case, based on what you've heard from the neighbors and what you've heard from the drainage people, could you have a positive vote on this thing because I may be reading Gary (Natali) wrong but I don't think so. I think Gary and I at this point think this is an okay project, a good project and if we can give this gentleman a month earlier start on construction that would also help him.

Mr. Natali: This is an area of the code that will probably be changed in the future so it is affecting my decision as well. Because there is…if you only had an acre back there, forget it. The fact that you have 1.8 acres and you've cleared quite a bit. My suggestion is to postpone it. You are only talking about two weeks. You'll be first on the agenda.

Mr. Beckley: It's not like I haven't spent enough time here already…what's another meeting.

Mr. Natali: What do you suggest counselor (speaking to Terry Kirwan, Esq.)? Are we on the right track here?

Mr. Kirwan: Sure.

MOTION made by Mr. Natali, seconded by Mr. Stanton, on behalf of Ryan J. Beckley, for an area variance for a proposed non-residential structure in an Agricultural zone. The lot area is 1.81 acres were a minimum of 2.0 acres is required for non-residential use be deferred to the October 5, 2015 meeting when we will have a full board.

Motion was put to a vote, resulting as follows:

Mr. Snyder	Yes to the Motion
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

Approved unanimously.

FRANK CHIDO
7511 W. MURRAY DRIVE
AN AREA VARIANCE WHERE THE PROPOSED ADDITION TO THE EXISTING ATTACHED GARAGE IS A DISTANCE OF 16'2" FROM THE STREET LINE WHERE A MINIMUM OF 30'0" IS REQUIRED

Mr. Natali: So you want to put an 18' x 30' on top of your three-car garage now.

Mr. Chido: Yes, sir. I'd like to add on to it. Originally, I was going to sell the house and move but I had a change of heart and I'd like to add on to it to put the trailer in there. I don't have a basement either for storage. The garage is pretty filled up as it is.

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

Mr. Chido: Heating and air conditioning.

Mr. Natali: So, you need storage for equipment, heating equipment?

Mr. Chido: No, it has nothing to do with equipment.

Mr. Snyder: How many boys do you have?

Mr. Chido: Two boys.

Mr. Snyder: That's why he needs the garage.

Mr. Natali: I saw the toys.

Mr. Chido: Well, when you get a kid to actually be interested in working on something…it's what we do in the garage basically. So, that's the thought process there and most of the time kids are stuck on video games and other things so the thought of adding the garage and putting things in the garage and being together as a family.

Mr. Natali: The neighbors to the west of you have a sun porch. You are going to pretty much block that aren't you?

Mr. Chido: Yes.

Mr. Natali: You have beautiful landscaping there, you're going to tear all that up?

Mr. Chido: The trees are dead behind them. The back of them are all coming apart. We were going to try to replant them but I don't know if that's going to happen because they are pretty dead. The blocking the porch though. I did talk to him and he said he had no problems whatsoever. The guy next store.

Mr. Stanton: He has almost a full acre so coverage isn't a problem.

Mr. Natali: Okay. It's going to blend in with what you have.

Mr. Chido: Yes. That's the thought that it's going to blend right in with what I have. It is self-created, originally I did not understand the question. The architect that I was working with told me afterwards that he should have helped me with the paperwork, Mr. Chrissy, because I wanted to build a 40' x 20' off the side and he said absolutely not, Frank, it would not look good and it isn't feasible. So, that was when we went to the drawing board and showed a 30' x 18'.

Mr. Stanton: We did reach out to the Onondaga County Planning Board and whereas in most cases they don't have a history on what is being proposed, they did have a resolution that this application be disapproved for the following reason. "The Board does not endorse the granting of area variances to expand structures within the 100 flood plain." Terry [Kirwan, Esq.] I think what you are getting at is that the three of us here cannot override the Planning Board without a super majority. Assuming we all voted yes, we would need all five members here to approve the override.

Mr. Natali: Mr. Chido, what he is saying is when we apply to the Onondaga County Board, if we go against what they say…they are telling us to deny it…if we go against that we need a majority which is three out of five, plus one. Even if the three of us wanted to approve it, we couldn't grant it.

Mr. Snyder: The reason the County is saying that is because we are within 500' of a border or on a county road and obviously the lake is required.

Mr. Stanton: And that's not your fault that there are only three of us are here and I apologize for that but that's the reality of the situation.

Mr. Chido: So, what does that mean? I mean I can come back, obviously I have to come back. I'm just curious what that means if you're in the flood zone. You have a structure that we are not living in. We are not living in it.

Mr. Natali: You can't expand it. You can't expand what you already have.

Mr. Stanton: What they are talking about is not a safety issue but it's the impact on the overall flow of water within the area.

Mr. Snyder: We don't always go against the county but generally because we live in a swamp, we probably, at least 50% of the time tell the County that we are sorry but this individual should be able to do this project. So it's not an automatic "no" because the County said this to us. I am not telling you it would be approved by five board members but we have in the past looked at individual situations and have said to the County we understand, however.

Mr. Chido: Okay, I'm set. I'll wait.

Mr. Natali **opened the Public Hearing at 6:35 PM**

Mr. Natali: Is there anyone here who would speak for this variance? [no response]

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

Ms. Fogarty: [Rita Fogarty, 7519 W. Murray Drive] I am a next door neighbor of Mr. Chido.

Mr. Snyder: East or West?

Ms. Fogarty: West.

Mr. Fogarty: I will be burying my sister in the morning so Rita speaks for me as well.

Mr. Snyder: We are sorry for your loss.

Mr. Natali: Okay.

Ms. Fogarty: I am responding to each item in the application and I have it on paper here. Regarding item 2. I feel there most certainly will be a change in the neighborhood as there was when Mr. Chido's house was built or for that matter any house added to the existing neighborhood. In this case, especially the addition of a fourth garage would obviously affect the neighborhood since the view up and down the road will be greatly impacted. Regarding item 3. We are questioning the need for a fourth garage since three garages already exist and are concerned that Mr. Chido is considering this need for his business purposes as we have seen his business vehicles parked in his driveway from time to time. Also, that the purchased property near his house for a garage raises that question. Item 4. Regarding residences on Murray Drive that are not 30' from the road, I was informed this requirement was initiated some time in 1970. Therefore, these homes were not affected by this ruling and they were grandfathered by the existing requirements at the time they were constructed. Item 5. A variance will definitely affect physical conditions as I previously stated as a fourth garage will cause a commercial appearance to this structure. In addition, the view up and down the road will be severely impacted so that our view when backing out of our driveway would be partially obstructed which is already impeded by a curve in the road. Finally, we feel that such an addition reasonably affect the value of our property and the future sale of our home. Furthermore and as a footnote we are dubious of Mr. Chido's intentions for usage since in the past he had constructed a large shed which he said would be a gazebo and for which there is no known permit. He is now asking for a variance to construct a garage or addition and again the usage is questionable as previously stated.

Mr. Natali: Okay, thank you. Does anyone else wish to speak?

Mr. Snyder: Does Mr. Chido want to respond to any of Ms. Fogarty's concerns?

Mr. Natali: Certainly. Mr. Chido any response on the commercial use, the view?

Mr. Chido: There is no commercial use at my house at all, ever at my house.

Mr. Natali: What is the longest time the trucks are there for?

Mr. Snyder: Do you drive a company truck?

Mr. Chido: If I drive a company truck, it goes in the garage. If there's a truck there overnight, it's because I brought it home. I would never use my house for commercial use. I have kids and family there and so it's not going to happen. As far as backing out of the driveway, it's coming 18' off the house. You'd have to look right at my house to have an impact if you're backing out of their driveway. So, I don't believe there would be an

impact.

Mr. Snyder: One of the things is I think that if a stake were in the ground and your neighbors looked at where that was. Put their car where it normally sits and looked at those two stakes that would make up the building, you may in fact change your mind. My first reaction would be, you add 18' to his house I'm going to have trouble backing out of my driveway. That may be true but if I was your neighbor I would want to prove to you, or try to prove to you, that it's not a problem. So, one of the things you could do between now and the next meeting is have that staked out and look at that to see if that is an issue or it's something that you think but because you cannot see the building, it may not be an issue.

Mr. Natali: What was that yellow stake there?

Mr. Chido: That's where the garage is coming out to.

Mr. Natali: I could tell but I think if you did the other corner, that might be helpful.

Mr. Natali **closed the Public Hearing at 7:40 P.M.**

MOTION made by Mr. Natali, seconded by Mr. Stanton, on behalf of Frank Chido, 7511 W. Murray Drive, for an area variance where the proposed addition to the existing attached garage is a distance of 16'2" from the street line where a minimum of 30'0" is required be deferred to the next meeting on October 5, 2015, when the full board will be present.

Motion was put to a vote, resulting as follows:

Mr. Snyder	Yes to the Motion
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

MARIE KELLY
7918 EISENHOWER BLVD.
AN AREA VARIANCE FOR A SHED WHERE THE SHED IS LOCATED A DISTANCE OF 1.5+/- FEET TO THE SIDE PROPERTY LINE WHERE A MINIMUM OF 6.0 FEET IS REQUIRED.

Mr. Snyder: I read the minutes three time. I did go and visit with them and looked in the shed and I also looked the yard. I also empathize with them because I also built a deck, replaced a deck, without a permit and got a stop work order. Mine happened to be in a place where it did not blow away or did not disappear and their stop work order, I can tell from talking to this couple, that they never saw it so they didn't know there was a stop work order but I understand it. I was replacing a deck and you were replacing a shed so I can understand how those mistakes take place. I always tell any of my friends who are contemplating doing any kind of construction to please call the town office and make sure that you don't need a permit. I also looked at the back yard. My neighbor and I had to move a shed. We only had to move it sideways. I sat and made another copy of your area and I said how would I do this. What I did was because I didn't know what the board would accept, I moved the shed into the back corner and left it 5' off the back line and 5' off the side line. It means you have to move the darn thing about 25'. I have done that before but if I was the only vote, I would probably say leave it where it is.

I am not the only vote and in reading the minutes, I think it is very clear that the majority of the Board would not agree with leaving it where it is. I know that there was a conversation relative to the fire codes. I did talk with Steve [Procopio] this morning and he did say you are in discussions with him on a product that would meet the NYS Fire Code if we were to leave the building there. That is something that was not settled in the last meeting.

Mr. Wilcox: They gave us three choices: move it, tear it down, or fire code it.

Mr. Snyder: I'm not so sure, at least in my reading of the minutes, I didn't see where the Board said we'll never make you move it, if you fire proof it. Did I read those wrong? I mean I thought it sounded like you…

Mr. Stanton: Again, in keeping with the fact that we try not to telegraph what our decision is going to be before we make it, I saw two things that really need to be clarified before we move on. The first thing is that our purpose is not to tell you what to do. The way this usually works, and tell me if I'm wrong Mr. Chairman, but it's more of a negotiation. What are you willing to do versus what are we willing to accept and there's usually some back and forth on that. The second is that, and I think this has gotten across, we can't grant you a variance from NYS Fire Code so that's non-negotiable. No matter what we do here.

Mr. Wilcox: Steve told me that I had to do that originally. He said they had no control, it's the Town of Cicero.

Mr. Stanton: Right, they cannot, it's the Town's job to enforce the fire code and I will not and cannot in good conscience make an exemption from the fire code because I can't do that.

Mr. Wilcox: Well if I fireproof it.

Mr. Stanton: Again, I was just clarifying because some of the discussion centered around getting a variance from the fire code last time and that's not…

Mr. Wilcox: But you told me if I fire proofed it, it would be acceptable.

Mr. Natali: We never said that. You violated a stop work order. You've admitted you are wrong and we are trying to find a solution.

Mr. Wilcox: So what do we do?

Mr. Natali: We came up with a possibility.

Mr. Snyder: The first question I have and I couldn't tell it from reading the minutes, it appears that there was some discussion that if the fire code could be met, then some consideration might be given to leaving it where it was. If the fire code could not be met, it was very clear in the minutes that it was not going to stay there.

Mr. Wilcox: That's why I'm looking into the fire code.

Mr. Snyder: So, if we can meet the fire code and Steve [Procopio] said he's working on that and I guess there is a product that I guess will do that, then we can set that aside so the next question that comes up for us is looking at the neighborhood would we allow that shed to be there the way it's currently laid out. I rode the neighborhood, I saw all kinds of situation and I don't want to get into who did what when. We can't go there. I saw a few that were as bad as your situation but I also found a lot of them that met the distances.

Mr. Wilcox: Do you want to see the fire code information. I made five copies for you.

Mr. Snyder: Actually, as long as you and Steve are happy with that.

Mr. Wilcox: I haven't heard from Steve [Procopio] yet.

Mr. Natali: Dave [Ball – Code Office] do you want to comment here?

Mr. Ball: I can't comment on that until we look through it and see if it met everything. I can't look at that and answer that question right now without going through the codes. The problem I see is you're so close to the fence, how are you going to put siding on that without moving it.

Mr. Wilcox: Take the fence down, put the siding on it, paint it and put it back up.

Mr. Natali: This is your fence?

Mr. Wilcox: Yes.

Mr. Natali: Do you remember meeting with these people?

Mr. Ball: Me? I spoke to them on the phone.

Mr. Natali: Oh okay. He said he never go the stop work order.

Mr. Ball: Well how did he call me if he never got the stop work order? I guess that a question.

Mr. Wilcox: We got denied. We got nailed for the permit and came in.

Mr. Ball: How did you come in to get the permit if you didn't get the stop work order?

Mr. Wilcox: We got violated for no permit.

Mr. Ball: On the fence? On the shed?

Ms. Kelly: On the fence.

Mr. Wilcox: We came in for that.

Mr. Ball: And that was included…

Mr. Wilcox: No that was not in there. I came in to file for the permit. He charged me double.

Mr. Ball: That's how it happened because there was a stop work order.

Mr. Wilcox: That came in afterward and we never got it.

Mr. Ball: It should have been in the packet that got mailed to you with the violations.

Mr. Wilcox: No because we came in to do the permit and then he violated us.

Mr. Ball: I have the original violation file and I pulled it off, that was the one I scanned and put into the system that was when I had signed the scanned back on when it was done.

Mr. Snyder: So, what alerted you? Was it the fence?

Mr. Ball: I was actually in the neighborhood for something else and I don't remember what that was. Saw the fence and saw the shed that had Tyvek on it at the time. I said oh I wonder if that house has a permit because the shed looks too close to the property line. I either called the office or went back to the office and researched the property and said there's no fence permit and there's no shed permit in here. And then I put it there or I brought it there. Sometimes I drop it or go back and put it there or sometimes even both. I don't have in front of me telling me what I did but I just pulled that off the computer today that I had the signed stop work order and the violation notice.

Mr. Wilcox: You put the violation notice in the mailbox, you didn't mail it.

Mr. Natali: Okay.

Mr. Wilcox: I'm getting tired of being told that we're not….I admitted we did things wrong. We did not get this. We are here now.

Mr. Natali: Don (Snyder) you've read the minutes. Do you have any other questions or comments?

Mr. Snyder: Do you have a feel for whether, because I was not there with the other members, do you have a feel for whether if the shed were moved and we were 5' off the back line and 5' off the side line would that be something that would stand an approval.

Mr. Natali: It has a better chance.

Mr. Stanton: I believe that was a specific suggestion that myself and Mr. Rabbia made.

Mr. Snyder: Would that mean we would or would not have to fire proof it if it was in that back corner.

Mr. Stanton: I am going to hazard a guess that if it's the back corner of the property it doesn't need to be.

Mr. Snyder: By structures you don't mean the fence or do you mean the fence.

Mr. Ball: No, not the fence.

Mr. Snyder: But he'd be within a foot or two feet of the deck. I don't know if the deck was wood or patio. I don't remember.

Mr. Stanton: This is from last week and this is what we sketched out as far as…

Mr. Wilcox: If you look at that picture, they are side by side, the neighbor's shed and ours. Steve told me last month, if we moved it to the back corner and we were 6' or 10' away from the fence, he was going to "ding" us.

Mr. Natali: He was going to what?

Mr. Wilcox: He was going to tell us no.

Mr. Stanton: He'll tell you no because it doesn't fit within the offsets prescribed by code; however, that's what we are here for.

Mr. Snyder: We can change that and that's why I'm saying if the Board would generally agree or be more agreeable to have this shed 5' from the side and 5' from the back, then what it means…I know, I also had to move a shed with a buddy of mine.

Mr. Wilcox: Why can't I look into the fire code?

Mr. Snyder: Well I guess because…

Mr. Wilcox: They told us we could leave it there if we fire coded it. He said two layers of 5" sheetrock inside and out.

Mr. Natali: Nobody on this Board said that and it's not in the minutes.

Mr. Wilcox: I'll have to bring a tape recorder.

Mr. Natali: We have a tape recorder. If you want to subpoena them, you can.

Mr. Wilcox: Well then table it until next month. Then I'll be here with Steve and we'll go from there.

Mr. Natali: You're misinformed. We're going to vote on this tonight.

Mr. Wilcox: You do what you want; I'll do what I want.

Mr. Natali: I'm sorry?

Mr. Wilcox: You do what you want; I'll do what I want.

Mr. Natali: You're not willing to consider moving it. You're telling us you're not going to move it.

Mr. Wilcox: You told me to look into fire proofing it.

Mr. Natali: We did not. We had the code officer there. You're misinformed sir, you're misinformed.

Mr. Snyder: The only thing we have…is because…the three other people that were at the last meeting are not here so I propose that we table it until…even if it meant that I sit out so you would have Rita [Wicks – ad hoc member present at the last meeting on August 3, 2015] and the others so you would have the same five members go over that.

Mr. Natali: That's a different issue. Make a motion.

MOTION made by Mr. Snyder, seconded by Mr. Natali, on behalf of Marie Kelly, 7918 Eisenhower Blvd., for an area variance for a shed where the shed is located a distance of 1.5+/- feet to the side property line where a minimum of 6.0 feet is required, be deferred to the October 5, 2015 meeting to have a full board present to make a final decision on this variance.

Mr. Snyder	Yes to the motion
Mr. Stanton	Yes to the motion
Mr. Natali	Yes to the 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