

The regular meeting of the Zoning Board of Appeals (ZBA) of the Town of Cicero was held **Monday, September 16, 2013 at 7:00 p.m.** in the Town Hall at 8236 Brewerton Road, Cicero, New York 13039.

Board Members Present: Gary Natali (Chairman), Rita Wicks (Ad Hoc Member), Donald Snyder, and Charles Stanton

Absent: Gary Palladino and Mark Rabbia

Others Present: Terry Kirwan (Esquire, ZBA Attorney), Steve Procopio (Code Enforcement Officer), Jessica Zambrano (Town Board Member) and Tonia Mosley (ZBA Clerk)

Chairman Natali called the meeting to order and asked for a roll call. He pointed out the exits in the room and asked those present to stand for the Pledge of Allegiance.

APPROVAL OF THE ZBA MINUTES FROM THE AUGUST 5, 2013 MEETING

Mr. Snyder asked for clarification on page 12 in paragraph 2. **He then made a motion** to approve the Zoning Board of Appeals minutes from August 5, 2013. **Mr. Stanton seconded the motion.** Chairman Natali asked for a roll call vote:

Mrs. Wicks:	Yes to the motion.
Mr. Snyder:	Yes to the motion.
Mr. Stanton:	Yes to the motion.
Mr. Natali:	Yes to the motion.

Motion carried.

NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) MOTION

Chairman Natali: The Cicero Town Board acknowledges the importance of full public participation in all public meetings and therefore urges all who wish to address those in attendance to utilize the microphone located at the front of the building. **I make a motion** that all actions taken tonight are Type II Unlisted and have a negative impact on the environment unless otherwise indicated. **Mr. Stanton seconded the motion.** Mr. Natali asked for a roll call vote:

Mrs. Wicks:	Yes to the motion.
Mr. Snyder:	Yes to the motion.
Mr. Stanton:	Yes to the motion.
Mr. Natali:	Yes to the motion.

Motion carried.

Mr. Natali: We have proof that all of the cases on the agenda tonight have been advertised.

**AREA VARIANCE FOR BRIAN J. NIEZABYTOWSKI
DEFERRED FROM AUGUST 5, 2013, PUBLIC HEARING CLOSED
6115 OWLWOOD DRIVE**

**AN AREA VARIANCE TO CONSTRUCT A 6 FOOT HIGH COMPLETELY OPAQUE FENCE 15 FEET INTO THE
REQUIRED FRONT YARD AREA WHERE A FENCE NO HIGHER THAN 4 FEET FROM GRADE AND NO MORE
THAN 50% OPAQUE IS ALLOWED**

Representative: Brian J. Niezabytowski

Mr. Natali: We have your new proposal. Are you pleased with it?

Mr. Niezabytowski: Yes I am.

Mr. Natali: Any questions? This is pretty much what we came to agreement on.

Mr. Snyder: What is the new proposal?

Mr. Stanton: For the record, there is a new survey with revised lines on it which was dated as received September 5, 2013. What we were talking about last time is the adjacent property owner, the Hilts, had a complaint about sight lines there. The comment was made that perhaps the corner could be cut at 45 degrees and the fence could be brought in a little bit more.

Mr. Snyder: Has this been shown to your neighbors?

Mr. Niezabytowski: I put stakes out. I talked to her verbally. She agreed that she would be happier with that.

Mr. Snyder: So you moved it back from 8 feet to 4 feet off?

Mr. Niezabytowski: Correct, also instead of a 90 degree turn in the corner, a 45.

Mr. Snyder: But the tree is still there.

Mr. Niezabytowski: That's true.

Mr. Natali: Are any of Mr. Niezabytowski's neighbors here tonight? (There was no response.)

Mr. Snyder: So you came to the same conclusion in the back corner situation that I did when I walked it. It really isn't easily done?

Mr. Niezabytowski: Yes, technically it can be done but we got an estimate and it was not cost effective. We would have had to put a retaining wall up. That would cost twice as much.

Mr. Stanton: I have some slight reservations about this in that the Town has already granted one variance for this property to construct a fence. Now they are coming back to ask for another one. We typically ask for the variance to encompass anything that could possibly happen. My biggest concern is that we now somewhat open the flood gates for other people to come in and say, okay I asked for my fence to be here but I need it to be a couple of more feet over to accommodate things. I don't want to open the Board up for that kind of discussion every month. I guess Terry (Kirwan) I'm asking you if this is something that we would be setting a precedent for here.

Mr. Kirwan: No because you will go through the five factors and make your determination.

Mr. Stanton: The agenda is still showing that it is 19 feet into the required front yard.

Mr. Procopio: That is correct; it has not been adjusted on the application. That description would have to be amended.

Mr. Snyder: The fence is like this now, is that correct?

Mr. Niezabytowski: Correct.

Mr. Snyder: Straight across to the deck. It can't get in there. Then he would not need to do a fence at all.

Mr. Stanton: That's the corner.

Mr. Snyder: The tree?

Mr. Stanton: Yes.

Mr. Snyder: Yes, so if the tree were not there the swing set would fit in there by straightening the fence out.

Mr. Stanton: Are you going to enclose this tree?

Mr. Niezabytowski: Yes. There would not be enough room putting it in that corner. There needs to be about 4-6 feet around the play set to safely stay away from the fence, the concrete, the patio.

Mr. Snyder: I am not convinced that it won't fit.

Mr. Stanton: Yeah, that is what we talked about last time.

Mr. Snyder: I'm not convinced that it won't fit if the current fence was straightened out and the tree was gone there. And I'm not convinced that it won't fit in the corner adjacent to your neighbor that has a concern relative to the fence. If I look at the shed as 8 x 8, and you are looking for 14 x 12 or 16 x 16, I can certainly get a 16 x 16 square in that corner.

Mr. Niezabytowski: But if the play set that measures 16 feet wide say where the slide is, that would be but-up against the fence and then you would land on the concrete patio—like two feet away from it.

Mr. Snyder: Well, when you have limited space you change what you are trying to put in there. So maybe the play set isn't that big.

Mr. Niezabytowski: I have looked at the smallest ones out there. At a minimum the slide is about 16 feet and that is with the play set up against the back of the fence. You would still need 4-5 feet between the back of the fence and for example, the ladder in case the child falls off. You need to be a safe distance away from the fence.

I had a play set company come out to survey the yard with me and this was the best location. And, we reduced what we originally requested in half. This seems to be the most feasible option. After discussing this with Mrs. Hilt, it was acceptable to her.

Mr. Snyder: Would we feel any better if the four feet only went from the corner to the edge of the fence where it goes around the tree and the tree still stays outside of the yard?

Mr. Kirwan: Why don't you go through the five factors and maybe that will guide you.

Mr. Stanton: So what is on the table for Brian Niezabytowski of 6115 Owlwood Drive, Cicero would be a variance to construct a 6 foot high completely opaque fence no more than 15 feet into the required front yard where a fence no higher than 4 feet from grade and no more than 50% opaque are required. The 15 feet was arrived at literally just by taking the 4 feet increase in setback and subtracting that from the original 19 feet. The factors to consider are:

1. The first factor to consider is whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created. I do have to note here that Mr. Niezabytowski did go to some extents to try and accommodate comments from the previous Board meeting. He reduced the proposed area by about half. So the proposed fence would be located approximately 15 feet from the street line at the northeast corner of the lot. I don't think that this will have a negative detriment on nearby properties. And, as you said, you have talked to the Hilts. Unfortunately, they are not here to corroborate that, but you are saying that they are amiable to the proposal.
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the area variance. Based on the description given by Mr. Niezabytowski my answer to that would be no. You can refer back to the meeting minutes regarding the size of the play set and the location. There was some discussion about that. There is an option that provides a little less privacy but obviously there can be a fence no greater than 4 feet high from grade, no more than 50% opaque but I believe that does not meet your criteria for privacy. Correct?

Mr. Niezabytowski: Correct.

Mr. Stanton: So my answer to that would be no as far as alternatives. No alternatives.

Mr. Snyder: Well, no alternatives that are acceptable to him. I still think that he has a couple of alternatives.

Mr. Kirwan: Feasible is the key word. Like that back corner is not feasible.

Mr. Snyder: Yes, that one we know is not feasible.

Mr. Stanton:

3. Whether the requested variance is substantial. I do have to note at this point that we do have one existing variance to get this fence out to where it is now. My answer to this question is going to be yes. The required variance would be an encroachment of 15 feet under the required 30 foot building line. This in and of itself may not necessitate the denial of the variance though.

Other Board members agreed.

Mr. Stanton:

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Before I answer that I do want to

note again the fence will be no closer than 15 feet from the street line and the building line. And, I really do have to note that the main complaint was from your neighbors the Hiltz and they have a rather substantial pine tree blocking their view anyways. So considering that and also the location of the fence and the fact that I don't believe that it is going to be a hindrance to sight distance I would have to answer no---as far as impacts.

Other Board members agreed.

Mr. Stanton:

5. Whether the alleged difficulty was self-created. This is always a tough one but unfortunately in this situation I'm going to have to yes. The applicant is choosing to expand an existing non-conforming condition. It should be noted that this is also not solely a reason for denial of a variance.

Mr. Snyder agreed stating the applicant has children and this is what he wants.

Mr. Stanton: In summery **I would like to make a motion** for Mr. Brian Niezabytowski of 6115 Owlwood Drive for a variance to construct a 6 foot high completely opaque fence no more than 15 feet into the required front yard where a fence no higher than 4 feet from grade and no more than 50% opaque is required. **Mr. Snyder seconded the motion.** Chairman Natali asked for a roll call vote.

Mrs. Wicks: I'm going to go yes to the motion.

Mr. Snyder: Yes to the motion.

Mr. Stanton: I'm going to say yes to the motion but it's a reserved yes and I do want to note for the record that it's based on the individual circumstances of this case.

Mr. Natali: Yes to the motion.

Mr. Niezabytowski thanked the Board.

**AREA VARIANCE, ERIC & EMILY DEMARCHE, 6302 HARDWOOD DRIVE
AN AREA VARIANCE TO CONSTRUCT A 6 FOOT HIGH COMPLETELY OPAQUE FENCE TO EXTEND 17 FEET
INTO THE REQUIRED FRONT YARD AREA WHERE FENCES NO HIGHER THAN 4 FEET FROM GRADE AND
NO MORE THAN 50% OPAQUE ARE REQUIRED**

Representative: Eric DeMarche

Mr. DeMarche: I had a pool put in at the end of last year and the fence companies that I had come told me that because the ground was raised so high that I need to wait for it to settle and to put it in this year. I got something put in and I was looking to go an extra 17 feet on the side. I had put an addition on the house not realizing that I was as close to the building line as I am. I would like to gain 10 inches in the front of it to have a little room. At the end of the pool the fence is pretty close. I am on a corner lot. It will still be 35 feet to the street line and it is inside a grove of trees already so I don't really feel like it obstructs anything. It is away from the stop sign.

Mr. Snyder: When you were putting the pool in—you came in and got a permit for the pool? And we made no comment here reminding you about fences?

Mr. DeMarche: I was told that it had to have a fence around it. I don't know. I don't think that anyone ever told me where to put it.

Mr. Snyder: When you came in for your permit did you have this drawing where the pool was drawn on the survey?

Mr. DeMarche: I did. The pool is not into that area.

Mr. Snyder: But it very clearly shows that it is adjacent to the building line which is the concern that we have. Steve (Procopio) when they normally come in would we remind them that we have a concern here?

Mr. Procopio: Yes. I don't have the application with me to see if that is the exact location but typically we tell them that there is a fence requirement and where it can be placed on their property. I can't be specific to the actual case.

Mr. Snyder: It concerns me that we are getting a number of asking for forgiveness as opposed to asking for permission to do something. I'm starting to get a little hyper about that and a little paranoid every time someone comes in saying oh I didn't know or I can't do that or I have to have the space because of. I'm feeling quite sure that if this was where the pool was shown on the original survey, when you came

in for your permit I'd almost bet that it was recommend or you were reminded that the fence was going to be an issue.

Mr. DeMarche: I don't recall ever being told that it was going to be an issue. I mean I could have moved the pool the other way a little bit.

Mr. Snyder: You are asking for 17 feet. Why can't it be 5 feet? Why does it need to be 17?

Mr. DeMarche: I'm just trying to get some room on the end of the pool there. So that if you want to play a yard game or something there is room over there. I thought about putting my swing set over there too but I did not want you...

Mr. Snyder: But you show a concrete pad right? The dotted line is the concrete around the pool?

Mr. DeMarche: I assume so.

Mr. Snyder: At least that is what we have. So it looks like we are a foot or two feet from what would be the building line and now you want to add another 17 feet to that. What we try to do is give the least variance that will make it right. And I don't really understand why we need to go 17 feet in order to make it right, why it couldn't be five feet or six feet.

Mr. DeMarche: Is there a reason why not on that side of the house?

Mr. Snyder: The why not is that we have a Code that says you stay 30 feet off of the line---unless there is a particular circumstance that would require it to be less then the 30 feet? And then you would come in and ask us about it. But you are coming in and asking us about it after the pool was built.

Mr. DeMarche: I would have asked ahead of time if I had known. But I really didn't. I just don't want it to look foolish back there with the fence going right behind the back of the pool. I'd like a little bit of room over there. Like I said it is still 35 feet in from the street.

Mr. Snyder: I understand that. But the Code says 30 feet, building line.

Mr. DeMarche: What do you mean 30 feet?

Mr. Snyder: You are not supposed to build outside of the building line. You are supposed to be 30 feet back from the property line.

Mr. DeMarche: 30 feet back from the property line? How's that? I'm five feet from the property line now with the house, from the build line.

Mr. Stanton: The building line is 30 feet from the road boundary, which may or may not be the gutter.

Mr. DeMarche: No, not from the road line. The road line would be 35 feet plus, on top of what I am putting there.

Mr. Procopio: I think that you are referring to the edge of the pavement, the gutter.

Mr. DeMarche: Right

Mr. Procopio: That is different from the road boundary or street line. The street line would be your property line. The road boundary or the right-of-way goes beyond the actual pavement. So this line signifies your property line not the gutter.

Mr. Snyder: You are in this particular situation because you are on a corner lot. You really don't have a back lot that we would have you be 30 feet off or what not. You have two side lots that cause you to be 30 feet off that line.

Mr. DeMarche: Correct

Mr. Natali: We have to work something out here because one of the elements to consider is if there is a feasible alternative. There clearly is here. What in your mind would be something that you could live with?

Mr. DeMarche: I guess I would probably have to go back and measure and talk with my wife about it.

Mr. Natali: Okay, maybe that is the way to go. Maybe you should have a Plan B and a Plan C.

Mr. Snyder: I think that plotting the trees would also help. Maybe a picture taken down that line would help us determine...

Mr. DeMarche: I have pictures if you want to see them.

Mr. DeMarche then proceeded to show and explain his pictures to the Board.

Mr. Natali: I think that it is a good idea that you and your wife discuss the possible alternatives and then come back in October.

Mr. Stanton: Possibly something that works off of the existing configuration, the fence panels that you have, so that you don't have to do too much.

Mr. Snyder: And maybe a couple of stakes and couple more pictures? Or if you want us to come back out and look at it we can do that too.

Mr. Natali made a motion that Mr. and Mrs. DeMarche come in at October's meeting with a couple of proposals. October 7th is the date. **Mrs. Wicks seconded the motion.** The Chairman asked for a roll call vote.

Mrs. Wicks: Yes to the motion.

Mr. Snyder: Yes to the motion.

Mr. Stanton: Yes to the motion.

Mr. Natali: Yes to the motion.

Motion carried

**AREA VARIANCE, CARL & MARY ELLEN REISTROM, 9170 BEACH ROAD
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 FEET WHERE A MINIMUM OF
30 FEET IS REQUIRED**

Representative: Carl Reistrom

Mr. Natali: Is this going to be in a basic foot print that you have currently? The new house will be a little larger isn't it?

Mr. Reistrom: The new place will be approximately 1200 square feet. The old one is approximately 900.

Mr. Stanton: Right, just based upon the description that you submitted, you're replacing a family camp approximately 50 years old that is approximately 900 square feet in area with a modular home of approximately 1200 square feet of floor space. One question I have is do we really go over what was proposed to be done? Would you mind explaining in your own words what you want to do here?

Mr. Reistrom: I want to move the new building back 8 feet. That puts us five feet over that 30 foot mark on one corner of the building.

Mr. Snyder: When you say back, do you mean back from the water and therefore a little bit closer to the road?

Mr. Reistrom: No back from the road. I confuse those two. I call the lake side the front side. It is just the opposite for most of you. So we are dealing with one corner of the building. As you look at the picture of the building it would be on your left side. If you are looking at these pictures those red marks on the ground can be feet backwards towards the road.

Mr. Snyder: So the current location of the cottage versus your new house will be a little closer to the road?

Mr. Reistrom: Yes

Mr. Natali: So Steve (Procopio) except for these five feet it would meet the setbacks?

Mr. Procopio: Yes

Mr. Natali: It meets the width. That's all we are talking about, five feet to that corner.

Mr. Snyder: It meets the 25% or less.

Mr. Procopio: There is a letter from Scott Whittaker that figures that.

Mr. Kirwan: Before we do anything, have we notified the County of Oswego?

Mr. Stanton: I have a resolution from the Onondaga County Planning Board. I would like to note for the record that we do have a resolution from them. There are two resolutions on this. First is says the Onondaga County Department of Water and Environmental Protection recommends that the municipality and/or applicant contact the Department early in the planning process to determine sewer availability and capacity. This Board has no authority or comment on that. Second is the Municipality is encouraged to minimize exposure to damage from natural hazards and uphold local flood ordinance requirements as required for good standing in the National Flood Insurance Program by insuring that any proposed development would not negatively effect drainage patterns in or near the floodplain. I believe from the survey there is a pretty substantial listing of what the flood elevations are.

Mr. Natali: We don't have anything back from Oswego County.

Mr. Kirwan: We just have to send notification. We need proof that we did that. We don't need to wait for anything. We just have to have proof that we sent it to them.

Mr. Natali: Are we going to do that?

Mr. Procopio: We can do that.

Mr. Snyder: Does that mean we can make a decision or do we have to wait for that notification?

Mr. Kirwan: If somebody brought an Article 78 it would be nullified and returned to you because you followed through the procedures.

Mr. Stanton: Obviously this is a 50 foot lot width and we need 75. That's fine. We take care of that all the time. For the proposed house, it does look like there is enough room if we wanted to maintain the 30 foot setback from the road line. We could do that and not violate your back yard requirements either. At that point this Board would not even have a say in what was going on.

Mr. Reistrom: I don't understand something. You are talking about setbacks in the front and the roadside?

Mr. Stanton: When I think of front it is the roadside. I know that you guys all think of the front as being the lake side, but it really is the roadside. I know that you don't agree with me, but it is. You are proposing a 25 foot offset right now from the road line which requires a variance of 5 feet on our 30 foot front yard. If you were to slide the house back another 5 feet--you get that 30 feet--you would still have a nominal 30 foot rear yard because I'm seeing a 35 foot measurement here from your deck. You would still have a 30' nominal rear yard that I don't believe that this Board would have any jurisdiction over---basically you would not need a variance.

Mr. Reistrom: The only problem with that cross is the lot is not huge. It is relatively small. We would like to maintain the amount of space that we have on the lake side. If we move it up, that cuts that down. This is a family gathering place. We are used to the space that we have. We would rather not cut into that. Incidentally, on some of the other pictures there are some new houses which were built the last couple of years. What I'm looking at is labeled C1. The space between the road and the house isn't even 25 feet.

Mr. Snyder: I personally don't have a problem with what it is that you want to do. What I hear us saying is if you are not going to start construction of this thing until spring, if approval is granted, then we would wait and notify Oswego County. And then next month we would wrap this up. If you are trying to start construction this fall, then I think what Charles (Stanton) is heading for is that if you moved it a little bit closer to the lake, then you don't need us. Steve (Procopio) can give you a building permit and you are off and running. I know that your building will still be further back from the road than almost any of your neighbors.

Mr. Stanton: I am merely offering an option because I think as you have heard from the last couple of cases, we are really charged with approving the minimum variance required. If there is a feasible alternative we really do have to discuss that. I know that it is not your feasible alternative but, from a Code standpoint, it is very feasible alternative.

Mr. Snyder: This house that is just up the street that is 6 feet from the road or whatever, must have come before this Board. You would think that it did. If we let them do that---at least Mr. Reistrom is not looking for 10 feet from the road. He is looking for 25 feet from the road rather than 30.

Mr. Stanton: I'm not making a judgment. It was merely an observation.

Mr. Reistrom: And it is only a corner of the building, not the entire building. Another question that I have is how is Oswego County involved in this?

Mr. Snyder: Once you get to the water that's them.

Mrs. Wicks: You border on Oswego County because Oneida Lake is in Oswego County.

Mr. Stanton: When you are within 500 feet of another Municipality we are bound by law to notify that Municipality of what is going on next to their borders.

Mr. Snyder: Luckily, our attorney says that we only have to notify them and if they don't get back to us, too bad. With Onondaga County we can't do anything until we get noticed back. We have their response so Onondaga County is covered.

Mr. Natali: Were you planning on building this fall?

Mr. Reistrom: We were hoping to, yes. It is usually a better time in the fall. It is usually drier out there.

Mr. Kirwan: I'm looking to see if it is 30 days that you have to give them before the next meeting. That is what I thought it was. I'm trying to look it up right now.

Mr. Procopio: I have not conferred with Mr. Kirwan but I don't think that it is Oswego County Planning that has to be notified. I think that it might be the Town of Constantia.

Mr. Kirwan: In the one that we litigated it was Oswego County that had to be notified and it was also lake property. I am pretty sure that it is the County and not the Town.

Mr. Reistrom: So anybody that builds out there along the lake has to?

Mr. Kirwan: Anybody that requests a variance or site plan.

Mr. Natali: So you could be back to Mr. Stanton's suggestion. You could start building tomorrow without a variance.

Mr. Snyder: Is that 5 feet critical to you? If it is then you need to wait.

Mr. Reistrom: The other problem with that is we could be encroaching on our neighbor's view of the lake.

Mr. Stanton: That makes you a very nice person but you are not obligated to uphold any of that.

Mr. Snyder: You need to be 30 feet back from the lake, and you are or would be.

Mr. Reistrom: I might as well wait for Oswego then.

Mr. Snyder: Our attorney is still working. Do you think that there is a 30 day requirement? If so, then Mr. Reistrom would have to return in November.

Mr. Kirwan: I am at the statue right now. I'll have an answer for you in about five minutes.

Mr. Natali: In the mean time why don't we open up the public hearing? **(The public hearing opened up at 7:46 p.m.)** Is there anybody here who would speak for this? (There was no response.) Is there anybody who would speak against this? Are any of the neighbors here? (There was no response.) Okay, let's close the public hearing. **(The public hearing was closed at 7:46 p.m.)**

Mr. Snyder: Mr. Chairman would it serve any purpose if we discussed this among ourselves to see how we as a Board feel about what this gentleman would like to do?

Mr. Natali: If you want to go through the factors, sure.

Mr. Snyder:

1. The first factor we look at is whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of this variance. My answer has to be absolutely not. An undesirable change will not be made, in fact it will be a very favorable change to the neighborhood and it might get some other activity going

in the neighborhood because of this request for the new facility.

2. Whether the benefit sought by the applicant can be achieved by some other method which will be feasible. Yes, but that should not be the determination of whether or not the variance is granted. I understand that lake people love their lake property. They love the part from their door to the lake, not the part from the door to the road. So, they like to maximize the amount of property that they have to play and enjoy their family.

Mr. Stanton: I agree with the new construction being a benefit.

Mr. Snyder:

3. Whether the requested area variance is substantial. I certainly don't consider it substantial. It is 5 feet on one corner of the property, somewhat less than that on the other and only in the area between the building and the road. There are many other occasions on that same road, even new properties, that seem to have been approved with a lot less space than the 25 feet that he is asking for.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. I don't believe so. We are going to have a nice facility with a proper foundation, walkway and parking areas. So, I don't see that as causing any adverse effects.
5. Whether the alleged difficulty is self-created. Again, you might say yes because this gentleman would love to have more lake property and less road property, but again I certainly would not have that be a determining factor in whether we would approve or reject this request.

Mr. Natali: I assume that you already own the property.

Mr. Reistrom: Yes, we have had it for 41 years.

Mr. Natali: So obviously when you bought it, it was sufficient at that time. So self-created is minor in this instance.

Mr. Kirwan: I can tell you what I was referring to. General Municipal Law #239-NN requires this Board to provide notice to adjoining municipalities or adjacent municipalities at least ten days prior to any such hearing.

Mr. Snyder: Thank you. So that would say Mr. Chairman, that we could have this on the agenda for the next meeting which is only a couple of weeks away.

Mr. Natali: At this point we are going to defer it. We will fulfill the obligation of having it 10 days prior to the other meeting. And we will put you on the agenda. **I make a motion** to defer this until the October 7th meeting. **Mrs. Wicks seconded the motion.** Mr. Natali asked for a roll call vote:

Mrs. Wicks: Yes to the motion.
Mr. Snyder: Yes to the motion.
Mr. Stanton: Yes to the motion.
Mr. Natali: Yes to the motion.

**AREA VARIANCE, MICHAEL SCUDERI (APPLICANT), TEGAN HOMES/DONOVAN PIETRESE (PROPERTY OWNER/PROPERTY MANAGER) 7655 GLENVIEW DRIVE
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

Mr. Scuderi: I am trying to put in a shed that is 12' x 16'. Obviously to fulfill the 30 feet from the road frontage that would require that the shed be placed 16 feet back inside the existing lines of my house. I'm trying to keep the shed even with the existing building.

Mr. Natali: So, if there is a future driveway there, how many feet is that going to give you? This is a unique survey. I have never seen one quite like this.

Mr. Scuderi: The gentleman who did the survey said that his father did it originally. He took over the business for his father. He is an older gentleman himself. When he handed me this paperwork I was not sure if it would be okay.

Mr. Stanton: It's stamped. Generally it is signed across the seal. Is there some other reason for having this right next to the future driveway? Do you plan on using this to off load things from a vehicle?

Mr. Scuderi: Yes from a trailer. The purpose isn't necessarily to make it a garage. But it will look like a garage. It has a 9' wide overhead door so that when I do widen the driveway it will look like it is part of a driveway/garage scenario. I am trying to clean out my existing two car garage into the shed so that I can get the vehicle that is parked on that pad in the existing garage. But, I didn't want to leave the car sitting in the grass, killing another spot of grass, so I put it on the stone that is there for now.

Mr. Snyder: I noticed the tires in the back yard there to.

Mr. Scuderi: Yeah, those have to go in to the shed. The fence needs to go back up so I can get rid of the

dog cage that is outside of my French doors.

Mr. Snyder: So when you are done the driveway will be 24 feet plus another 22 feet, almost 50 feet?

Mr. Scuderi: Correct.

Mr. Stanton: In response to a query that the Chairman made, I do want to note that we do have a resolution from the Onondaga County Planning Board. They are the only ones that we have to notify for this case. The resolution says that the Onondaga County Planning Board has determined that said referral will have no significant adverse intercommunity or county wide implications and may consequently be acted on solely by the referring Board.

Granted you do have a semi-unique situation here in that you are on a corner lot and you are stuck with two front yards. Just by my rough calculation for the sake of argument you have about 1200 square feet worth of build-able area still in your back yard if you take all of the required setbacks into account. Could you address why that does not work for you?

Mr. Scuderi: I did not want to place the shed in the far back of the yard because then there is not really any access to it to back up the trailer. If I did put it back there and tried to use it as access I would have the fence open in the back area but there is really no driveway down in there either. It would just look like a floating building in the middle of the back yard.

That is why I want to keep it up close to the house. With the driveway being as short as it is you can really only fit maybe one car long. So, if I expanded it the 22 feet, I could actually get 3.5 to almost 4 cars in that space.

There really isn't any parking when company comes over. Any time you are parked on the corner the neighbors always complain that they can't see around.

Mr. Natali: Mr. Scuderi are you a builder?

Mr. Scuderi: I'm an electrician.

Mr. Natali: Do you have any other place to store your equipment and material?

Mr. Scuderi: In my existing garage but this isn't necessarily for a business that I run. I don't own a business or anything like that.

Mr. Snyder: Do you live in the residence?

Mr. Scuderi: Yes

Mr. Natali: I can appreciate your situation with the survey. But, these corner lots have two fronts. Your lot really makes it challenging. This is the first survey I have ever seen like this in my 17 years. I have seen them on napkins a little more accurate. But, would you mind getting us a better survey showing us the building lines? I'm sure that it is readily available. It would really make our job a lot easier. Is there a real hurry to get this done? Our next meeting is in three weeks.

Mr. Scuderi: The issue I had was when I called around to the other survey companies they all told me that they were close to a month out. When I called and left a message for the gentleman that I thought originally did it, and had not heard back from him; I called around to four different survey companies. The closest I could get was four weeks out before they could come out and issue a new survey. Then, the following day, this gentleman called me and said his father originally did it and that he would just update it. He did it for me within a week.

The shed is already built. It is just waiting for delivery.

Mr. Natali: There are a lot of good surveyors around. I'm sure that you can find somebody. **I would like to make a motion** that we defer this until we can get a survey that is updated with the building lines.

Mrs. Wicks seconded the motion. Mr. Natali asked for a roll call vote:

Mrs. Wicks: Yes to the motion.

Mr. Snyder: No to the motion.

Mr. Stanton: Yes to the motion.

Mr. Natali: Yes to the motion.

Motion carried

Mr. Scuderi: So just get a better survey with building lines. Okay.

**AREA VARIANCE, THOMAS WOZNICA, TRUSTEE, 7029 ISLAND ROAD
AN AREA VARIANCE WHERE THE PROPOSED AGRICULTURALLY ZONED RESIDENTIAL USE PARCEL IS 0.92
ACRES WHERE A MINIMUM 1.0 ACRE IS REQUIRED. THE MINIMUM LOT DEPTH IS 161.9 FEET WHERE
200 FEET IS REQUIRED**

Representative: Hal Romans, Surveyor, Ianuzi & Romans

Mr. Romans introduced himself and Mr. Woznica. We are here tonight seeking two variances. This parcel is all one tax parcel. It has two houses and one out building. When Mr. Woznica's father passed away the will was read. The house that is up near the corner of Cicero Center and Island Road is to go to Chris Woznica. The balance of the property is to go to other family members to be divided up between them.

So, what we wanted to do is do a two lot subdivision, which would help out the fact that there are two residences on one lot--something that is not allowed anymore. We show the proposed lot for the house in the corner at the bottom. It is numbered for Island Road. That will become the front.

On the Cicero Center Road side you have 161.9 feet and the 200 feet of depth. The property behind it is a separate parcel already. The lot area that we are asking for is 40,400 square feet, about 7% less than the required one acre. If I try to pick up that acre by moving the lot line between the house and the out building to the east, I would have to seek a side yard variance on that out building.

You see a driveway, a 20 foot egress/ingress easement. That is an existing driveway. It is used for access by Chris Woznica for a building on that property. They have used it for years. They would like to have that easement and driveway on the property that they are picking up.

The variances are not substantial: 7% on the area variance, about 19% on the lot depth—about 39 feet short. There is really no way to pick that up without infringing on the Woznica lot that is not a part of this subdivision application.

Everything is all existing, the houses, the driveways that access Center and Island Roads. So there is not going to be any changes in the characteristics of the neighborhood. As far as any physical or environmental issues, again everything is existing. Is it self-created? In the grand scheme of things, yes, but who ever owns this property would have to come in to do something about the two residents on one parcel. It is not an effective way to have it but the zoning does not allow it.

The driveway easement is in effect right now. Everything else matches. There is no problem with the front building line on the houses. The side yard setbacks work.

Mr. Stanton: I did want to note for the record that we do have the resolution from the Onondaga County Planning Board. Again, this is the only authority that we need to contact. They state that the applicant must receive a permit from the Onondaga County Department of Transportation for the 20 foot ingress/egress easement accessing Island Road. I believe that I saw a note here that it is being applied for.

Mr. Romans: That is an existing driveway. It has been there for years. We will call Terry Morgan at the County DOT and explain.

Mr. Stanton: That frame building is accessory to a residential use so that you would have a minimum 10 foot side offset. I was just playing around to see if you could get the one acre. I still can't get the acre if you do a 10 foot offset. So, it is not a question of trying to hit it or not. You can't hit it.

Mr. Romans: I figured the same thing. I figured that you would have to take it down to like eight feet, which I thought was just crazy to put a property line eight feet off a building line if you don't have to.

Mr. Natali: I would like to open up the public hearing. ***(The public hearing opened at 8:10 p.m.)*** Is there anybody that would speak for this? (There was no response.) Is there anybody that would speak against it? (There was no response.) I will now close the public hearing. ***(The public hearing closed at 8:10 p.m.)*** I'm going to make a motion after we discuss the five factors.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created. No, it has been here for many moons. It is a combination of residential and agricultural throughout that area.
2. Is there an alternative. We have tried to take a look at the alternative of changing the size of the lot. But it is not feasible without making a variance required on the utility building.
3. Whether it is substantial. I don't think so. You are talking less than 7% on the acre size and for the variance on the length of the building it is only 19%.
4. Will there be any physical or environmental conditions that would change the neighborhood. No, it is not going to increase traffic. There is no substantial changes to ground level of any kind.
5. Whether it was self-created. It is rare that we say no. I can't imagine this being something that was thought of back when the property was first possessed. But, we don't weigh that very strongly in these cases.

Based upon that I am going to make a motion to approve the area variance for the proposed residential use and agriculturally zoned parcel that is .92 acres where 1 acre is required. The minimum lot depth is 161.19 feet where 200 feet is required. **Mr. Snyder seconded the motion.** Chairman Natali asked for a roll call vote:

Mrs. Wicks: Yes to the motion.
Mr. Snyder: Yes to the motion.
Mr. Stanton: Yes to the motion.
Mr. Natali: Yes to the motion.

Motion carried.

Mr. Natali: If there is no further business **I make a motion** that we adjourn the meeting. The motion **passed** unanimously.

IN AS MUCH AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 8:15 P.M.

Submitted by,
Tonia Mosley, ZBA Clerk