

SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: September 3, 2014
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, August 4, 2014 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali	Board Chairman
	Charles Stanton:	Board Member
	Gary Palladino	Board Member
	Donald Snyder	Board Member
	Mark Rabbia:	Board Member

Absent: None

Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Steve Procopio	Code Enforcement
	Ann Marie August	Recording Clerk

Inasmuch as there was a quorum present, the **meeting opened at 6:00 P.M.**

Chairman Natali called the meeting to order and asked for a roll call of Board Members present. He pointed out the fire exits and requested that pagers and cell phones be silenced. He then asked everyone to stand for the Pledge of Allegiance.

Motion by Mr. Rabbia to approve the minutes of August 4, 2014.

Mr. Palladino: Second

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

Mr. Natali: The Cicero Town Board acknowledges the importance of full participation in all public meetings and, therefore, urges all who wish to address those in attendance to utilize the microphone located in the front of the room.

Motion was made by Mr. Natali, seconded by Mr. Palladino, that all actions taken tonight are Type 2 Unlisted and have a negative impact, that is no impact, on the environment unless otherwise indicated.

Motion was put to a vote, resulting as follows:

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

Motion duly carried.

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

HENRY A. MALLINGER
6295 ISLAND ROAD

AN AREA VARIANCE WHERE THE PROPOSED ACCESSORY STORAGE BUILDING IS 1,728 SQUARE FEET IN AREA WHERE A MAXIMUM OF 700 SQUARE FEET IS ALLOWED.

Mr. Natali: Good evening Mr. Mallinger. Okay we did the public hearing and the five factors at the last meeting and we were waiting for the information from the county. So I will make a motion.

Motion by Mr. Natali to approve the area variance where the proposed accessory storage building is 1,728 square feet in area where a maximum of 700 square feet is allowed. The County determined that no significant adverse inter county or county-wide implications existed. They did have three comments which do not apply to this Board. You should get a copy or you already have a copy of the letter, correct?

Mr. Mallinger: No sir I didn't receive any copy of a letter from the county.

Mr. Natali: Okay, we will make sure you leave with one, please see Steve (Procopio) before you leave because they do tell you that there are certain things you have to do with the DOT and other areas that are out of our realm of authority.

Mr. Mallinger: Yes, sir.

Mr. Natali: Is there a second to the motion?

Mr. Rabbia: I second the motion.

Motion was put to a vote, resulting as follows:

Mr. Rabbia: Yes
Mr. Snyder: Yes
Mr. Palladino: Yes
Mr. Stanton: Yes, and I just wanted to add a note, again, based on our discussion at the last meeting that the reason why we are approving this is because it's for an agricultural use.
Mr. Natali: Yes

Motion duly carried.

Mr. Snyder: Gary, you want to give him my copy? We aim to please.
Mr. Natali: Thank you very much, good luck.
Mr. Mallinger: Do I pick up the permit tomorrow?
Mr. Natali: That might be pushing it a little bit.
Mr. Procopio: Later on this week, maybe Friday?
Mr. Stanton: We have to file the ruling.
Mr. Natali: By law, we have two weeks to file it with the clerk. But, I think... How much time do you need Steve?
Mr. Procopio: You need to file the decision.
Mr. Natali: We'll file it in the morning.
Mr. Procopio: Okay, so I would say Friday.
Mr. Mallinger: Very good. Thank you.

LINDA ESSIG
7321-7325 THOMPSON ROAD AND 6083 EAST TAFT ROAD

AN AREA VARIANCE TO SUBDIVIDE TWO EXISTING PARCELS CREATING A THIRD PARCEL WHERE THE MINIMUM LOT DEPTH REQUIRED IS 200 FEET AND 123.1 FEET IS REQUESTED AND THE SIDE YARD SETBACK REQUIRED IS 15 FEET AND 13.5 FEET IS REQUESTED.

Representatives: Hal Romans, Ianuzi & Romans, Surveyors

Mr. Romans: Good evening, Hal Romans, Planner for the Applicant. The only change I have on the map is that we added a note that that one house would be commercial use only. I talked to Linda Essig and she talked to the potential owner and they had no problem putting that as commercial use only. That is what they intended to use it for, for storage for now and they will eventually file a site plan if they want to do any commercial use in there. I think that was really the only outstanding issue we had.

Mr. Stanton: So to just stay on this one frame house that is for commercial use only. This map is sufficient to carry that in perpetuity that use or does that actually have to be written into the lot description?

Mr. Kirwan: You comment to it as a condition of the variance if you grant it, is that what you're saying?

Mr. Stanton: Yes.

Mr. Romans: We have no problem with that.

Mr. Rabbia: Didn't we have a side yard setback on Lot 101 or did we address that last time?

Mr. Romans: We addressed that Lot 101, there was that enclosed porch.

Mr. Rabbia: And?

Mr. Romans: And actually on the older map. Do you have the older map? [Mr. Romans went up to the front to talk to Mr. Rabbia.]

Mr. Rabbia: I was just looking at the summary of the several variances we had. We have it solved down to the one now.

Mr. Romans: Yes, actually, this one [*unintelligible due to rustling of paper*]...13.5 there. You still need that one because that is an enclosed porch. Since we are going to use the old map, we can just do the variance conditions on the deed being conveyed with a covenant as far as the commercial use of the house.

Mr. Rabbia: That would be perfect.

Mr. Palladino: Hal (Romans), the house on Lot 102, is that residential or is that commercial?

Mr. Romans: It's zoned commercial and it's been rented for years by someone and is still being rented by that person.

Mr. Palladino: So it's zoned commercial but being used as residential.

Mr. Romans: Yes, once that tenant leaves, which the person is older and didn't want to buy the place, and was going to stay there. The person is really older. What would happen is they would come back in with a site plan for commercial use.

Mr. Palladino: I went by several weeks ago and there was a sign "The Pool Man" out near the front yard. There was a car with a stenciled sign on it painted "The Pool Man" parked in the driveway in front of the garage. So, I just wanted to make sure that is a residential house? It would be better if it were commercial.

Mr. Romans: And it probably will be someday. It's just that what predicated that was that somebody wanted... the tenants in 100 and 101 wanted to buy theirs and that person didn't want to and that really sat on it's own tax parcel. We are just taking part of that for part of Lot 101. She didn't want to evict the person because they are older and they just don't want to move and I can't blame them, they've been there a long time.

Mr. Stanton: I just want to make sure that Lot 100 doesn't change, that's the same way it's always been, correct? We haven't changed any of the lines on that. It's Lot 102 that's not noted on the new map, a portion of that is being given to 101.

Mr. Romans: Yes. So the old map can be used. Really what I am saying here is that if you do a positive granting of the variances, and make it subject to a covenant. You can even do a covenant, if you're worried about that being a residential use, we can put on that one that when it's sold make it subject to commercial use.

Mr. Palladino: Lot 102?

Mr. Romans: Yes.

Mr. Palladino: We almost have to because the way I'm looking at this right now is that if this goes through, we've actually created a separate lot, Lot 102, which goes against our code. It's a commercial lot and we have a residential building on it.

Mr. Romans: Right, a separate tax parcel in itself.

Mr. Palladino: Before it was cut away, it was part of a bigger piece. Now we are actually saying it's going to be an individual pieces and....it goes against the use.

Mr. Romans: But that happens sometimes when you have older commercial use like this, that are zoned commercial, and are in effect houses that were rented for a long time. So it happens where you have someone that stays there for their life use of it and then when they leave, obviously, it would be turned into commercial.

Mr. Palladino: Okay.

Mr. Rabbia: I just wanted to make sure I understand what was said earlier. You were talking about 102 and changes to the lot. We still need a lot depth variance on 102, correct?

Mr. Romans: Yes, it's covered by the fact that we are asking for one that covers all of the lots, that's 122.56.

Mr. Rabbia: That's 101, right.

Mr. Romans: Yes.

Mr. Rabbia: And then you've got a 149.9 on 102 right.

Mr. Romans: Yes.

Mr. Rabbia: Okay, fine, then that hasn't change. One of you said that something changed on 102 and I just wanted to make sure that I'm caught up with you.

Mr. Stanton: A portion of 102 was given to 101.

Mr. Rabbia: Got it okay, I see it, right. So that eliminates the lot depth variance on 102 then right?

Mr. Romans: That creates the lot depth variance. [Mr. Romans goes forward to talk to the Board.]

Mr. Stanton: I have to retract what I said originally, because you just brought it to my attention. There were originally two lots, two tax parcels, and they have been, well, basically we killed all of them and established three new lots, all taking a portion of the others.

Mr. Romans: Basically, it's because you had two parcels that had three or four principal structures on them, that have been used to store things over the years.

Mr. Rabbia: Are we good? There's still a 100, there's still a 101 and there's still a 102.

Mr. Stanton: Now, the only thing I want to do because we were waiting for a resolution from the Onondaga County Planning Board and after you get through all the whys and wherefores, they've resolved that. It reads, *the*

Onondaga County Planning Board recommends the following modifications on this action prior to local board approval in the proposed action: (1) Per the Onondaga County Department of Transportation, no additional access to East Taft or Thompson Road will be permitted. (1) Per the Onondaga County Department of Transportation, no parking, loading or backing of vehicles into the county right of way will be permitted. We may want to take a quick look at that. Then there's a typo here that was never corrected. It says "the Town also offers the following comments" and I believe it should be "the following comments are also offered to the town." The first one is the town and applicant are advised to ensure appropriate access agreements are in place for any driveways, internal access points and parking lots that are shared between parcels. I believe the way you are addressing that there will be no sharing, everyone has their own driveways so there will be no internal agreement as to who gets to drive across different tract lot lines. Number two reads, every municipal review provides the opportunity to improve community appears and the applicant and the municipality are encouraged to incorporate elements such as shared parking amongst the neighboring businesses, landscaping along the road frontage, around the parking lots and more vegetative buffering for residential parcel. That's great but this Board does not have the authority to impose, especially vegetative buffering for residential parcel.

Mr. Romans: I think the Planning Board got the same recommendations.

Mr. Rabbia: Won't there be backing and loading in the right of way on Lot 100 or ...

Mr. Stanton: That's what I wanted to address because you have to make a distinction between the building line and what the actual right of way is. If you look at the asphalt area, you have maybe a foot between the existing island that's on East Taft Road and the road boundary. I'm honestly not sure if that's going to [rustling of papers] in this situation. Thompson Road might be a different story because there's probably about 10-12' of distance between the curb and the road boundary, so that could theoretically happen.

Mr. Rabbia: I'm not sure, as you were reading it, how we would prevent something like that.

Mr. Natali: What do you say about that Hal?

Mr. Romans: Typically, that is something that the Planning Board would look at and actually when I talked to County DOT, when Taft was redone with the curb islands as they are shown on our map here, that was done to limit the access points that they wanted to see. They don't have a problem with someone using that area between the curb and the right of way if it's asphalt and it's been used in the past. They don't want anything newly proposed to rely on that. If something were to happen these go back in for site plan or they are looking for expansion or something like that, then they'd be subject to having to reconfigure their parking and everything like that and like 101, they would have the room to do it. On 100 you could reconfigure it so that the parking is such that it gives you room for backing up like that. So, it's something that can be done with the parcels. The Planning Board may still require or ask us to do a cross easement with 102 just as something that 100 could still use. The businesses that are there are not high volume traffic businesses. They really aren't. It's not like you have five cars showing up at the same time to visit these folks.

Mr. Natali: Okay.

Mr. Stanton: If no one else has any comments, I will make a motion.

Mr. Rabbia: We did a public hearing on this.

Mr. Natali: We did and we did the five factors. So we basically have to address the two conditions and the

County's reply.

Mr. Stanton: So Mr. Chairman with that, and we did have a discussion of the factors?

Mr. Natali: Yes, we did discuss the factors.

Mr. Stanton: Terry (Kirwan) that's sufficient to carry us through?

Mr. Kirwan: Yes.

Mr. Stanton: Okay, just wanted to make sure.

Mr. Stanton: With that Mr. Chairman I would like to make a motion on behalf of Linda Essig.

Motion by Mr. Stanton on behalf of Linda Essig for the properties located at 7321, 7323 and 7025 Thompson Road to subdivide two existing parcels and combine the subdivide portions into a third lot. The subdivided Lot 100 has a lot depth of 123' where 200' is required, a front yard of no less than 26.5' to 7323 and no less than 43.4' from Thompson Road and no less than 8' feet from East Taft Road to 7321 where 50' is required. Divided Lot 102 has a building line of 64.8' where 100' is required and a lot depth of 154.9' where 200' is required. A front yard no less than 39' where 50' is required. A side yard of no less than 4.1' where 15' is required and a side yard setback to a shed of no less than 9' where 15' is required. New combined Lot 101 has a building line of 88.71' where 100' is required. A lot depth of 123.1' where 200' is required. A side yard of 13.5' where 15' is required and a rear yard of no less than 13.8' where 25' is required. With that I would like to place the following two conditions and I am going to propose a third one based on something I just saw. The first condition is with Lot 100. The frame house noted as number 7323 will be for commercial use only. The second one would be with Lot 102. The frame house 6083 will be residential only for the occupancy of the current tenant and once that tenant leaves, it will revert to commercial use. The third condition I would like to propose is that the chain-link fence that currently spans Lots 101 and 102 needs to be altered such that it complies with the lot lines so that there is no implication that Lot 101 has rights to Lot 102's property.

Mr. Natali: Do you see that as a problem, changing that?

Mr. Romans: I don't think so...I mean it shouldn't be.

Mr. Natali: I second the motion.

Motion was put to a vote, resulting as follows:

Mr. Rabbia: Yes

Mr. Snyder: Yes

Mr. Palladino: Yes

Mr. Stanton: Yes

Mr. Natali: Yes

Motion duly carried.

Mr. Natali: Thank you.

MICHAEL J. WHALEN
7465 W. MURRAY DRIVE

AN AREA VARIANCE WHERE THE PROPOSED CONSTRUCTION IS AN EXPANSION OF A NONCONFORMING STRUCTURE. THE EXISTING STRUCTURE DOES NOT CONFORM TO THE MINIMUM DISTANCE REQUIRED FOR FRONT AND SIDE YARD SETBACK IN AN R10 ZONE. THE PROPOSED PORCH HAS A FRONT YARD SETBACK OF 11.1 FEET WHERE A MINIMUM DISTANCE OF 30 FEET IS REQUIRED.

Mr. Natali: Next we have Michael Whalen. Please come up and tell us what you'd like to do.

Mr. Whalen: I believe you should have the drawings. I am proposing to put a front porch on my existing home. It does not conform to the existing requirements, so I am asking for a variance, proposing that the front porch, with the roof, extend 25' in width and 8' in depth. The main reason we're asking for this is that what I currently have is about a 3.5-4' entrance way and because of the metal roof, when the snow and ice fall, I couldn't get into the house in the winter last year. It also represents a significant threat for injury with the snow and ice falling off the roof. I was almost hit several times and the roof would help to prevent that and in addition to that it is going to dress up the front of the house. That's it.

Mr. Natali: Do you need all 8'? That's not going to leave much room for your car is it in the front of that?

Mr. Whalen: It's actually only going to go to the driveway. It's not going to go across the garage. In addition to that, the neighbor to the right of me, on the front of his house exists one that extends beyond the 8' that I am requesting. The neighbor to the left of me, it would just about equal what he currently has so it wouldn't be an eyesore to the neighborhood. In fact, it really dresses the neighborhood up because the houses that surround me are very nice looking and I've had this property for about a year. If you saw the property when I bought it and you saw it now you would say that I've made a significant effort towards improving the neighborhood's appearance which I intend to continue to do.

Mr. Natali: Any questions (addressing the Board).

Mr. Rabbia: Yes, do you live in the house full time?

Mr. Whalen: I don't, not yet. I currently live in Binghamton or just outside of Binghamton. I retired last summer and I currently work part time and until my mother in law who is 89 years old and lives home alone and my wife being the only caretaker for her. Until she is no longer around, we are committed to the Binghamton area and after that we are going to move up here.

Mr. Rabbia: Why does it have to be 25' wide?

Mr. Whalen: That's the width of the house.

Mr. Rabbia: I understand but why does the porch have to be 25' wide?

Mr. Whalen: I thought it would look better.

Mr. Rabbia: Okay

Mr. Whalen: It would give it the full width and just for appearances, it would look a lot nicer and then the intention would be to, once that's in, I would like to landscape around it and, once again, dress it up. I have made significant efforts as Steve (Procopio) will attest to that I've really put a lot of money and time and effort into making this much nicer than what it was.

Mr. Stanton: I'm sorry if you addressed this before but where are the steps, where is the access to the porch going to be from?

Mr. Whalen: I believe it's going to be right in the front. It'll be right in the middle of the....

Mr. Stanton: So you'll have steps extending off the porch. Past the 8' and down towards the road.

Mr. Whalen: It would be currently at that level because I think it's 3' up – I think I have three steps and then what I probably will do is have a curved walkway to the driveway and landscape around it.

Mr. Snyder: What's the roof going to be made of on the porch? Is it going to be metal?

Mr. Whalen: Yes, it's going to match the existing roof which is green metal.

Mr. Snyder: So, won't I have the same problem when I step off the porch, down those steps, with the snow coming off the roof and crushing me – just maybe not in the same volume?

Mr. Whalen: I would think certainly not in as large a volume and certainly not as startling...ya know the way it can fall from two stories.

Mr. Snyder: But the steps were part of the 8' dimension. It would be a little easier in my mind to consider this as opposed to in addition to the 8' where the variance you are asking for now is getting to the point where we're talking about a lot of distance as well as the fact that you're saying you are building the porch and the roof to protect you from the snow and yet you're telling me you are going to step off the front to get to your driveway and you're going to have a metal roof so you're going to end up with the same snow problem so I just go back and say why don't you put brackets on the roof that we normally put on a metal roof to hold the snow so that it comes off slowly.

Mr. Whalen: Ummmm, well, if I put the steps to the side then there's not going to be a roof above the garage portion and it does not solve that problem of the snow coming down so....

Mr. Stanton: But the steps could be reset into the porch.

Mr. Snyder: If the steps were on the end of the porch, near your garage and came in under the roof, you'd have the protection because the snow load would be going towards the street.

Mr. Palladino: Basically what he is saying is rather than having 25' going across the front, you could do 20' across the front, with five feet of that 20 feet being stairs. Now you are still covering the width of the house. It still looks nice, you've picked up 20 feet vs 25 feet but that five feet is now going to be steps because I think right now you've got about a five foot landing coming out the front.

Mr. Stanton: Would this roof line be above the first story window line?

Mr. Whalen: Above the first floor window line yes.

Mr. Snyder: You don't want your risers to be any more than 7-1/2 inches so looking at the distance, if you put that out in front of your porch, you are getting very close to the road as opposed to coming off the end and you will still be covered but you'd be reducing obviously the main floor you can use on the porch by maybe five or six feet.

Mr. Whalen: That would be acceptable to me too. That would solve the problem and as you said if the stairs are inset, then it is still under the roof and you wouldn't get hit.

Mr. Stanton: We've jumped around a number of times with structures like this but the way I'm reading this, it is a nonconforming structure and one of the non-conformities is the front yard and we are expanding that non-conformity if we allow a porch on the front of the house.

Mr. Natali: Would there be a possibility that you would enclose this at some point?

Mr. Whalen: No, no.

Mr. Natali: I mean the lake is on the back of the house. It's a nice looking house. I'm not so sure the need is there when you're violating several setbacks besides the width of your house to start with. With your house being built so close to Murray Drive, it kind of limits you really.

Mr. Whalen: I think I would point out that I have neighbors already extended beyond me which sort of sets a precedent and I would also refer back to the idea that we can't get in the front door in the winter. Also, as I said, at times it is kinds of dangerous out there. You get a lot of snow up here, more than I get at home and, yet, I still want to move here.

Mr. Natali: Any other questions?

Mr. Snyder: The setback from the west line, right now is 7.3' at the house, so at the front of the porch, we're still not going to be "legal"? So we're going to have to have a variance for side lot as well as front.

Mr. Rabbia: We're going to have front as well as two sides.

Mr. Natali: Mark (Rabbia) did you get him to agree to 20' and maybe center it?

Mr. Rabbia: No, I'm still on the fact that part of our charter is to propose the minimum amount and if you want protection, there's ways to give you protection coming out of your home with something less than 25' in width, okay. That's what we are trying to figure out now is why 25' if you want to have some sort of protection from the snow there's ways to do it as has been suggested. It doesn't have to be 25' it could be 10'. I haven't scaled it out but I'm sure it could be 10', maybe 12', if you covered the stairs like we were talking about, coming in from the side.

Mr. Snyder: You can almost make the porch look symmetrical to the front of the house from the garage to the property line by putting a much smaller than a 25' porch. You still have the protection over the entrance to the house and the steps going down.

Mr. Whalen: So you mentioned that there would be a need for a variance when your talking the west side do

you mean the left side as you face the house? And what is that amount of footage.

Mr. Procopio: In this case, you got 6.6' on the right side of the house you'd need 8.6' at least on the other. You need a total of 15'.

Mr. Whalen: I'm sorry, I'm not following you.

Mr. Snyder: You need a total of 15', with a minimum of 6'. You've already got 6.6' on one side and 6.6' from 15' is what you would need in order to be code compliant on the west side of your porch. So if you brought your porch in...

Mr. Stanton: I know we are all throwing measurements out at you but...

[Board discussion]

Mr. Whalen: What we are talking about is on that left side where it currently measures 7.3', I would need to be at 8.4', so I don't have a problem with coming in a foot to make that meet the code. I mean it doesn't have to go all the way to the edge, I just thought that would look nicer if it went edge to edge. It would look more tailored, neater.

Mr. Snyder: Maybe this is a crazy question but do you really plan on sitting on this porch?

Mr. Whalen: At times, if you talk to my wife, she'll say let's sit out front and I say I got a million dollar view in the back, what do you want to sit out front for?

Mr. Snyder: See that's what I'm thinking, I would only sit out back....and with that in mind, I would build from an expense standpoint, I would build the minimum thing that I needed out front to protect in my wife, my spouse, whatever and so I would build in the middle of that front elevation.

Mr. Whalen: Are you married?

Mr. Snyder: Very much so.

Mr. Whalen: So is there a way to explain what they want?

Mr. Snyder: Luckily, I take care of the outside and she takes care of the inside.

Mr. Whalen: God bless you.

Mr. Natali: Mr. Whalen, you agree that on the west side you would make the porch smaller to conform to the 8.4' needed.

Mr. Whalen: Absolutely.

Mr. Natali: Another issue, the porch, if it comes off the front, in the middle, because you are going to try to line it up with the door, obviously. That has to be taken in account so would you consider putting the stairs right off the driveway?

Mr. Whalen: Let me ask you this and make a counter proposal. I've asked for 8', if I went 6' and put the stairs in the front, would that be acceptable? Only because again, something can be said about symmetry.

Mr. Snyder: But if they are in the front, you won't be protected so I don't think you want to do that. I think you want to protect the stairs and therefore I think you have to have the stairs heading for the driveway under the roof. And we are saying, how little of a porch, you know physically you probably need 5' by 10'. Five feet forward and ten so the question is would 5' x 10' be acceptable to you for a front porch.

Mr. Whalen: Okay then let's scratch that idea and let's go with the stairs that are inset that would be underneath the roof and actually it would be at this angle and so it would be completely protected as you walked out.

Mr. Snyder: Yes, absolutely.

Mr. Whalen: Then I can certainly live with that. Where would the porch have to end to the east end. Can it go all the way to the end of the driveway...or the end of the garage? Is that still legal?

Mr. Natali: See now with your windows and your doors and your shutters...have you done a mockup of this?

Mr. Whalen: Yes, I think I gave you...it didn't have the roof on it because the software didn't have that.

Mr. Natali: No, we don't have that.

Mr. Procopio: It might be with the building permit.

Mr. Natali: We've all been out to your house; we've seen it. I'm not so sure that by the time we shrink it so we are comfortable with setbacks that you're going to like what the end result is. Because now we are looking at a porch that is probably going to be under 20' wide, probably 18' wide.

Mr. Whalen: May I approach?

Mr. Natali: Yes, sure.

Mr. Whalen: What exactly are you....so you're saying I have to come in.... [discussion with Mr. Natali.]

Mr. Snyder: If you want it to look for symmetry, I think whatever you're going to come in on the west side, you'd come in on the east side. Can I see the picture. Yes, there's a cut there. There's the front of the house and then the garage is setback so...

Mr. Whalen: Actually, you may be even more correct because the driveway, the asphalt driveway extends to the west about a foot or so beyond the edge of the garage so I may have to come in that far to drill holes, dig holes anyway. But if I do it that way, it should be....still symmetrical.

Mr. Snyder: I'll tell you my feeling because, number one, the house is nonconforming right off the bat. In other words the house should be back twenty feet, no thirty. So, I have no problem in saying the man needs a way to get out of the house and needs to be safe so I would say whatever the minimal amount of porch, deck, whatever you want to call it and covered area that will allow you to do that, that is what I'd be willing to say. So, if the door is in the center of the house and you want to make it somewhat, obviously, symmetrical. Whatever

that dimension is, I would have no problem because it's not your fault that the house is sitting that close to the road and yes you want to protect you and your family when coming out of the house and I believe a roof is okay but at the same time, saying okay let's build a 25' long porch, I have a problem with that.

Mr. Whalen: So what would you be satisfied with as far as, number one, symmetry?

Mr. Snyder: Again, I don't have the numbers in front of me but treads are only 10" and you're talking about the 7-1/2" riser so whatever your footage is that you have to make up to get the number of treads that's times 10 and then your deck ought to be at least 5' square when you come out the door so I'm saying it's somewhere around 10' or 15' for the total steps and the deck to be safe. Now how you place that in the building with the door in the center, maybe the dimension's a little bit bigger in order to make that look symmetrical.

Mr. Whalen: So you're saying 10' or 15' and Mr. Natali said 18' right?

Mr. Natali: I was just rounding off.

Mr. Whalen: But I mean

Mr. Natali: But you're okay with six wide, rather than eight to start with?

Mr. Whalen: Uh well I was asking for that if we could have the front stairs but if we are going to put the stairs on the side, I would prefer the extra room out there. So, we have to go in...if we were to go in say three feet to the left and three feet to the right, that would decrease it by six feet and make it 19' and then the stairs would probably take another feet and that would be approximately 14' of actual deck. Would that be satisfactory?

Mr. Snyder: Well, number one, I'm only one vote and number two I think you're within reason. Can you get a little bit smaller? The answer is yes but you have to live in the house.

Mr. Natali: So we'll give the dimensions. How you place it is fine as long as you're no closer so we have the 9 feet, well 8.4'.

Mr. Whalen: Right, right...and again I can come in 2 to 3 feet...

Mr. Natali: So is that 14' x 6'?

Mr. Whalen: No, you keep trying to whittle that down to six feet.

Mr. Snyder: And, again, we are trying to do the least, the minimal. We are saying that we have to get you out of the house safely and the minimum to do that is somewhere between what Gary (Natali) and I are saying. Not 25' x 8'.

Mr. Whalen: Let me ask you this, if I went to, and again just a thought. If I went down to 6' in depth and went to two feet from the left which would cover that 8.4' and two feet from the right so that would make it 4' less, so now we are down 21' so now it would be 16' of actual deck by 6' of deck.

Mr. Natali: I'm counting six variances. Because you already have a couple that were existing so we have to grant those to you.

Mr. Whalen: But I would assume that because I own the house already that they were existing so that...

Mr. Stanton: As the Chairman says this is an existing nonconforming house. Probably four or five of the six are beyond your control. What we are trying to do is just address those here, again, they are out of your control so they have nothing to do with the actual granting of this variance but gives the property...it grants you everything from now until the end of time to have this house where it is and with no issues with the setbacks so they don't have to be addressed again.

Mr. Natali: So if you came to us with something in the back yard, you wouldn't have to go through all the different variances.

Mr. Whalen: Okay. I guess I will go back and ask you again, what would be acceptable to the Board?

Mr. Natali: We haven't decided. We are kicking it around. We have to go through the factors but it would be nice if we had your consensus on what we are looking for.

Mr. Whalen: Okay, my last offer was I believe we said 2' in on each side which would make it 21' ...

Mr. Natali: Let's go with the 14' actual. Where you place it is okay.

Mr. Whalen: Well, okay.

Mr. Natali: Fourteen feet of deck.

Mr. Whalen: Fourteen feet plus how much for the stairs.

Mr. Natali: Whatever you want to build.

Mr. Whalen: that will actually extend the stairs out if we are covering those so we are talking now 19' – say five foot for the stairs...

Mr. Stanton: Can we just talk based on total structure right now instead of trying to parse these stairs because that can get really confusing. So what I've been hearing is possibly coming in 2' on each side, possibly coming in 3' on each side.

Mr. Palladino: Three feet on each side was the last dimension.

Mr. Stanton: ... which would give a total porch width of 19.1' and that would include whatever recessed stairs you want to put in there.

Mr. Snyder: Are we still at the 8' depth.

Mr. Stanton: Well, that's what I was getting to, the only other thing I have heard going back and forth is the depth being either 6' or 8'.

Mr. Snyder: [Tape ended and new tape put in at this point] ...so you're going to have between forty inches and four feet, 48" is gonna be taken up for your steps so whatever we agree on for the total length, subtract say four feet from it for the steps, if three feet is your rise, and that's what you got left.

Mr. Whalen: Yeah I was saying five feet, four feet, width wise.

Mr. Stanton: But we are talking about the projection off the house.

Mr. Rabbia: You were thinking maybe the standard protection for a doorway is five right? I think I heard you say that, maybe I didn't hear you right.

Mr. Snyder: Yes, well four is usually the minimum because you've got to be able to stand.....so five...

Mr. Rabbia: Alright.

Mr. Procopio: Code requirement's three feet.

Mr. Rabbia: So six feet would certainly be more than enough and eight feet would probably be more than what is needed.

Mr. Stanton: And we are still talking about steps up from the driveway.

Mr. Rabbia: Correct.

Mr. Snyder: I mean six feet would allow you to open the door and go around the door towards the west if that's the way you open the door. Four feet wouldn't let you do that, at four feet you'd have to close the door to...

Mr. Rabbia: Correct

Mr. Natali: So, okay, let me open up the public hearing.

Mr. Natali opened the Public Hearing at 6:58 pm

FOR: NONE

AGAINST: NONE

Mr. Natali closed the Public Hearing at 6:58 pm

Mr. Natali: We are going to discuss the six factors. Who would like to take the lead on this?

Mr. Rabbia: I would just like to hear the six variances are.

Mr. Palladino: We are going with the six foot correct? Then it makes it a variance of the front yard variance would now be 20.9'. Am I correct? Okay so my math was wrong it's 16.9' for the front yard variance. The north west side of the existing structure would be 4' side yard variance. Then we would have a combined yard variance of 6.4'. Then we take the northwest and add it to the southeast and to get our 15' combined, we are 6.4' shy. Then we have the building line variance which is a 25' variance and then there's coverage.

Mr. Natali: He's okay on coverage.

Mr. Palladino: Okay. Now lot size. I got 6,750 square feet where we are supposed to have 10,000 square feet.

Mr. Stanton: Correct.

Mr. Palladino: So we are looking at a square footage lot variance of 3,621'. That's five are there anymore?

Mr. Stanton: You have to address the porch. Because now we have to place the porch. You already did the front yard and now the side yard setback to the proposed structure will be no closer than 10'.

Mr. Palladino: But that's not really a variance.

Mr. Stanton: It probably should be in the motion though. And now we just have to size the structure.

Mr. Palladino: The total length of the porch is going to be no greater than 19' with a width of 6' with the stairway access on the east side to the driveway and as part of the 19' of the porch, the stairwell will be included and the porch not to be any closer than 10' of the west property line. We good?

Mr. Rabbia: Let's do the factors now.

Mr. Palladino: Shall we go over the five factors now?

Mr. Natali: Yes.

Mr. Palladino: The five factors:

Factor 1 – Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created? Answer: No. Mr. Stanton: Because the existing construction in this neighborhood varies with respect to the size of the front yards.
All agree.

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.
All agree.

Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes.
All agree. Mr. Palladino: I mean we have three new variances and two existing variances and the front yard variance by itself is substantial.

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.
All agree.

Factor 5 – Whether the difficulty was self created? Answer: Yes.
All agree.

Mr. Natali: Okay, we have three no and two yes and we are going to vote on the information but we are going to summarize the dimensions that we talked about.

Mr. Palladino: What Mr. Whalen is requesting is an area variance to construct a porch on the front of his house

at 7465 West Murray Drive in Cicero. The size of the porch will not exceed 19' in length and not exceed six feet in width. The porch will be placed no closer than 10' to the west property line and as part of the 19' in length will be the stairs that will be on the eastern side of the porch off the driveway.

Mr. Natali: Okay, do you want to define the other variances that existed so that we can approve them for the future?

Mr. Palladino: The other variances were the building line which we are looking at a variance of 25' where 75' is required. The lot area should be 10,000 square feet and the lot has 6,379 square feet so that is a variance of 3,621 square feet. The new variances requested for the porch are a variance of 4' on the northwest side yard. A combined yard side variance of 6.4'. A new front yard variance of 16.9'

Mr. Natali: You have the southwest that is 7.3' and should be 8.4'.

Motion by Mr. Palladino, seconded by Mr. Natali, to accept the area variances as stated.

Motion was put to a vote as follows:

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

Motion duly carried.

Mr. Natali: Good luck.

Mr. Whalen: Can I just ask a question. If we ever wanted to put something in the back yard or something like a shed or something would we have to get all these variances approved again?

Mr. Natali: No, that's why we took the time now to go through them.

Mr. Rabbia: As long as it conforms to the regulations. If you want to put it close to the property line you're going to have to come back but as long as its within code, you're okay.

Mr. Snyder: Don't worry when you come in to the code office, they let you know.

Mr. Whalen: I don't doubt that. [laughter]

NOTE: Onondaga County had no negative comments on this case. No significant adverse implications.

Mr. Natali: Okay, what's next.

KENNETH LEWKE
LINDA AVENUE (TAX MAP #111.-04-17.1)

AREA VARIANCE WHERE THE PROPOSED CONSTRUCTION IS AN EXPANSION OF A NONCONFORMING STRUCTURE. THE EXISTING STRUCTURE HAS A SIDE YARD SETBACK DISTANCE OF 10 FEET WHERE 15 FEET IS REQUIRED. THE PROPOSED GARAGE ADDITION HAS A SIDE YARD SETBACK OF 10 FEET WHERE A MINIMUM DISTANCE OF 15 FEET IS REQUIRED.

Mr. Lewke: I am here to ask for a 60' addition to a building I have on the property. It's a hundred feet off the road, back in a wooded area. The problem we have is the existing structure is 10' instead of 15' from the line.

Mr. Rabbia: What is the existing building used for?

Mr. Lewke: It's my personal storage.

Mr. Natali: Is that your building in front?

Mr. Lewke: Yes it is. I have three parcels there and we are in the process right now of trying to combine all them. It's in the works.

Mr. Natali: I'm curious, why Linda Avenue, why not Washington Street because on Linda I could barely see your building.

Mr. Lewke: Right. It's all railroad right of way, it's 70 something feet wide and it just goes all the way back. so the one picture I've got is actually the back of my existing building, the building on Washington Street looking back that far at that building that I have there and I want to add sixty feet on the back of it.

Mr. Rabbia: What are you going to do with the extra sixty feet.

Mr. Lewke: Retire. I'm living above the office building that's on Washington Street and that's my getaway.

Mr. Rabbia: Okay.

Mr. Stanton: This is general commercial, right?

Mr. Procopio: Yes, sir.

Mr. Stanton: And it's still going to be general commercial, correct?

Mr. Procopio: Correct.

Mr. Stanton: The Code doesn't allow for personal storage on general commercial property.

Mr. Procopio: I anticipated that question. There's a little history, Mr. Lewke can explain it to you, but briefly, I can tell you that when the original garage was constructed, the former Director of Plan Development, Mr. Sites, brought Mr. Lewke's application before the Planning Board with those very concerns. He wanted to a personal and private storage building in a general commercial district and implications for commercial use. The Planning Board decided that it would be referred it back to the Planning Office for administrative approval for the

construction of the garage. However you feel about that, he was given a permit and constructed the building based on that planning board determination. This building is a little wider than the actual permit granted. Although Mr. Lewke said the modifications made were approved, I don't find that information in our office so my recommendation to Mr. Lewke was well one, you're going to need a variance because the structure is nonconforming and the proposed addition doesn't meet the 15' setback in a general commercial district. I also recommended that he combine the properties because it is essentially landlocked and there is frontage on Linda Avenue but it's not open and is not constructed. That coupled with the fact that there is an existing residence that he's going to occupy soon above the beauty salon. Right? That's what is in there now, a beauty salon.

Mr. Lewke: Yes.

Mr. Procopio: And that is an allowed use. An attached dwelling is allowed in a general commercial district. My interpretation of that is if you had an allowed residential usage of a commercial dwelling, why wouldn't there be an accessory use allowed to that residential use? Any future plans that he may have for the building on Washington is going to go before the Planning Board anyway and any additions to that. So all three parcels will be combined through subdivision application.

Mr. Stanton: Now do we still need site plan approval for even this build out.

Mr. Procopio: And again, combining it with the other parcel and considering it an accessory to that other parcel that allows residential use, I don't believe so, that again, coupled with the fact that it did go before the Planning Board to get site plan approval, they determined at that time and the zoning office gave him a permit.

Mr. Lewke: It's on a commercial setting but it's mostly residential around me. It's kind of an odd piece because it's off the beaten path. It has no frontage on Route 11.

Mr. Natali: It's all residential.

Mr. Lewke: Around me, yes.

Mr. Rabbia: That's an awful lot of structure.

Mr. Stanton: But nobody can see it.

Mr. Natali: Are you going to have to go through the existing building to get in to it? No other driveway.

Mr. Lewke: No, just exactly the same. There are no changes to the front other than the sides would be expanded out.

Mr. Natali: So the back of the existing will be the front. You'll just make a doorway?

Mr. Lewke: Yes, there's going to be a doorway through into the additional part.

Mr. Rabbia: Are you going to be running any type of business through this or not?

Mr. Lewke: I have a hobby.

Mr. Snyder: So, you have a hobby and that's why you want this building?

Mr. Natali: Do you want to share it?

Mr. Palladino: It's a 5,000 square foot hobby.

Mr. Lewke: I have a couple of antique campers right now that I need to tear apart and work on. A '57 Cadillac motor home that I picked up and a "tiny home" two-drop camper that I need a lot of room to spread this stuff out. It's all personal use.

Mr. Stanton: We do have a resolution from the Onondaga County Planning Board and I'd like to make sure it's addressed because there are some conditions in here. After you get through all the "whereas's" it reads, Now, therefore, be it resolved that the Onondaga County Planning Board has determined that said referral will have no significant adverse inter-community or county-wide implications. The Board has offered the following comments in regards to the above referral. *(1) For the NYSDEC Environmental Conservation – The proposed project is in an area containing threatened or endangered species and/or associated habitats and the project required review under the State Environmental Quality Review Act (SEQRA). Request for project screening should be submitted to New York Natural Heritage Program or to the Regional New York State DEC Division of Environmental Permits Office. (2) Town and Applicant are advised to ensure permanent access agreements are in place for the subject parcel to utilize the adjacent parcels for access to Washington Street.*

Mr. Snyder: What does that first one mean?

Mr. Stanton: When you go through the EAF Mapper a number of databases are searched and one of those is possible threatened or endangered species.

Mr. Snyder: And this piece of property came up on that database.

Mr. Stanton: This area may come off it as having endangered species.

Mr. Natali **opened the Public Hearing at 7:20 pm**

Is there anyone that would speak AGAINST this project?

Mr. Natali: Yes, please step forward, state your name and your address and please speak right into the microphone.

Ms. Nelson: I'm Mary Nelson and I live on Linda Avenue. I've been there for 38 years. I'm just really concerned about the noise. I mean the noise now is...he gets to doing some project out there and the noise is deafening. I don't know what he's doing. He's got the doors down so I don't know what he's doing but it makes an awful lot of noise. Now if he's going to be there full time, then that's my concern.

Mr. Natali: Okay.

Ms. Nelson: Do you have any questions for me?

Mr. Stanton: Now you're about half-way between the existing business that's out on Washington and the existing business, is that correct? That's where your property is?

Ms. Nelson: Yes.

Mr. Stanton: So you are maintaining that you can hear the activity from the metal building?

Ms. Nelson: Yes and it's going to be twice that size?

Mr. Natali: We appreciate your comments. Thank you. Anyone else that would speak against this. Yes, come on up sir. Your name sir?

Mr. Wilbert: My name is Allen Wilbert. I also live on Linda. I'm Mary Nelson's husband. I have a concern over the fact that a number of years ago I brought up the fact that the number on his lot actually belongs to a Lavin and I brought this up to your tax assessor and got nowhere with them.....

Mr. Natali: Sir, I don't want to sound rude but this is not an issue for this Board, okay. You can bring that up with the Assessor's office and the Tax Receiver so I appreciate your comments but we can't address that here. Thank you. Is there anyone else who would like to speak against this? Please come up.

Ms. Boucher: I'm not speaking for or against. My name is Deb Boucher, I'm at 9643 Linda Avenue. I just want to make sure that my lots are not affected by the paper road that is not there, that is not opened.

Mr. Natali: Can you be more specific ma'am?

Ms. Boucher: I have with the Landers, we bought Lots 10 and 11 and the paper road would go right through my yard. I just want to make sure that the paper road doesn't ... I mean I have some pictures of the properties.

Mr. Natali: Sure. [Ms. Boucher went up to the Board for discussion.]

Ms. Boucher: This is the Lander's house right there and this is where the road ends.

Mr. Natali: Okay, it's a dead end circle there.

Ms. Boucher: There's a paper road there but as of right now, it's not opened, it's not paved, it's not maintained.

Mr. Stanton: It is a road so we can't inhibit...

Mr. Natali: It's a legal road.

Mr. Procopio: If you look at the tax map it shows a road, although it hasn't been constructed to the property line. So, to me, it was a promise at one time to construct a road which hasn't been constructed or dedicated or even built or used or that anyone relies on to any extent or _____ Mr. Lewke's property.

Mr. Natali: So, where would that road go, right down through there?

Ms. Boucher: It goes from the edge of my driveway between these two trees.

Mr. Stanton: I'm still assuming we can't interfere with that because it's probably written up somewhere in the deed.

Mr. Procopio: I think the town would have to abandon that right.

Mr. Stanton: However, I think we would be within our means to impose a condition that there would be no access to this property from Linda Avenue.

Mr. Natali: Yes, we can make that a condition.

Mr. Procopio: I think she's concerned about a driveway maybe.

Mr. Snyder: He doesn't own the paper road anyway, so he can't construct a paper road.

Mr. Natali: Yes but they don't even want him using it.

Ms. Boucher: I have grand kids come out and they play. I don't want them....

Mr. Snyder: It's your property, you got grass...I mean it looks like one big piece of property right now.

Mr. Natali: Yeah, who's cutting it?

Mr. Boucher: Don't cut it. [laughter]

Mr. Natali: Okay is there anyone else who wants to speak against it? Okay, is there anyone that would speak FOR this project? Sir, did you want to speak?

Mr. Landers: No. We're the Landers.

Mr. Natali: Okay, does anyone want to speak FOR this? [NONE] I will now close the public hearing.

Mr. Natali closed the Public Hearing at 7:27 pm

Mr. Snyder: Can we have a response about the noise?

Mr. Lewke: I really don't know where the noise factor is. Basically since I put it up it's been cold storage. I haven't really been over there but maybe halfway through the summer, we finally got the thing organized enough to get into it. I was selling our house and putting everything in there. I don't think the noise is going to be a factor. I mean it's going to be my hobby shop and the main building in the back is going to be even further back from where the main shop is going to be, where I will work on the stuff.

Mr. Natali: And if there's a lot of noise, Steve (Procopio), they can address it through the Code Office. If there is excessive noise, correct?

Mr. Procopio: There is a noise ordinance at specified times for acceptable noise levels.

Mr. Snyder: Can we ask this resident when and what kind of noise because maybe he did something for a two hour period or something which he won't do again. I don't want you to start off being negative to each other right now.

Mr. Wilbert: Would you like to hear negatives. My position with him right now is I step on his property, I get

arrested for trespassing.

Mr. Lewke: Oh, come on.

Mr. Natali: Okay, we're going to change the tone of this right now. You say you don't have noise (to Mr. Lewke) and she (referring to Ms. Nelson) says you do. If she's not happy with it, we have a noise ordinance and she can take that up with them. Okay?

Mr. Lewke: Absolutely and if she does have a problem, just say something; and, as far as the road, I've never used it. I don't plan on using it.

Mr. Natali: Well, we are going to make it a condition that you can't use it.

Mr. Lewke: And with incorporating these three properties, now the frontage will be Washington Street. It won't even be Linda Avenue. The only reason that was an issue was that it was my only legal access to that acre and a half or almost two acres and that was the only legal access. I've never used it and I've owned the property since 1984 and I've never used it. I always come in to my property off Washington Street. I'll pretty much be addressing that by combining all the properties into one parcel and I'll have a couple hundred feet on Washington Street then.

Mr. Natali: Okay, thank you. Let's go through the factors, you may be seated sir. Go ahead Chuck (Stanton).

Mr. Stanton: I will make the motion but before we do that I will go through the factors that we need to consider.

Factor 1 – Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created? Answer: No.

Mr. Stanton: The parcel that the proposed expansion would occur on is currently land locked and behind other structures but will be combined.

All agree.

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: Yes.

Mr. Stanton: I could answer yes to that. Obviously, the expansion could be constructed to meet the 15' side yard but there is a desire on the applicant's part to maintain the line of the existing structure.

All agree.

Factor 3 – Whether the requested Area Variance is substantial? Answer: No.

My opinion on that is no. The requested variance does expand an existing nonconformity but it represents a five foot encroachment or 33% on the required side yard of 15 feet.

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.

Barring any other information my answer to that is going to be no. As stated in factor one the surrounding neighborhood hides the proposed construction. Obviously there is going to be more revealed based on whatever study needs to be done by the county which the Planning Board has asked for.

All agree.

Factor 5 – Whether the difficulty was self created? Answer: Yes.

Mr. Stanton: As with most of these, I am going to answer yes because they are choosing to expand an existing nonconforming structure. It should be noted however that this is not solely a reason to deny the variance.

All agreed.

Mr. Rabbia: My only issue here is that this is a residential area and we are building a mega garage. I get that it's general commercial but at the end of the day it's a 5,000 square foot garage amongst houses. And, again, I know it's not a residential district but it's an awfully big structure.

Mr. Snyder: I think if there wasn't trees and shrubs and what have you separating this from others, I would have a problem with it; but in this particular location, I mean we had to look for it, let alone anyone to be concerned.

Mr. Rabbia: I just wanted to say it.

Motion was made by Mr. Stanton: I will start with the variance first. I'd like to make a motion on behalf of Mr. Lewke to allow the expansion of a nonconforming structure as shown on map of building location and plot plan Lewke, _____, dated 3/25/14. The existing structure has a side yard of 10 feet where 15 feet is required. The proposed structure will have a side yard of no less than 10 feet where 15 feet is required. The first condition that our proposed place on this is that be no future access from Linda Avenue allowed on this property and, based on what Mr. Rabbia has said, I would like to propose a second condition and see what the Board thinks about it. It is that the existing vegetative barrier between the property and Linda Avenue and those contiguous properties be maintained. [All agreed.]

Mr. Rabbia: I second the motion.

Motion was put to a vote resulting as follows:

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

Motion duly carried.

Mr. Natali: Good luck sir, keep the noise down.

JAMES M. AIELLO
6284 WRIGHTS HOTEL COURSE

AN AREA VARIANCE TO ALLOW AN ACCESSORY STRUCTURE THAT HAS A FRONT YARD SETBACK OF 20 FEET WHERE 30 FEET IS REQUIRED.

Mr. Natali: Is Mr. Aiello here? What have you built?

Mr. Aiello: What have I built? As part of a back yard project, I have a 12' x 12' gazebo that is over my build

line and I did not get a permit for it?

Mr. Natali: Why was that?

Mr. Aiello: Why was that? It was my mistake. Stupidity I guess was a reason. I just thought that it was part of the concrete person who subcontracted out the gazebo piece. I was under the impression that when I submitted the pool piece and then he didn't know that I didn't do that and he started to work on the gazebo so it was miscommunication between the two parties. He thought I did it and I honestly thought I did but I didn't so...

Mr. Snyder: So the contractor did, before he started to put the posts in the ground, say to you "wait a minute, did you get a permit because you are outside the building line".

Mr. Aiello: No, so that's where he assumed, we both assumed that the other had done it.

Mr. Natali: So where do you want to put it?

Mr. Aiello: I want to put it where it is.

Mr. Natali: Ah, so that's why you're here today.

Mr. Aiello: That's why I'm here today.

Mr. Natali: What concessions are you willing to make?

Mr. Aiello: As far as.....

Mr. Natali: That's why happens when you are last, we cut right to the chase.

Mr. Aiello: The reason why...this was our initial plan when we drew this out with the contractor. So that's where I would have wanted to put it, if it was constructed or not. The reason for that is, if you look at where my house is located, it's on the corner of White's Hotel and Joss Farm. Joss Farm is the access road from Island Road. Traffic on that road is not slow for a residential community. I have three kids and a dog and if you look at how my house is constructed, the back yard is to give my children a play area and that's why we have the gazebo on the right side of the property. So that's the reason why it is the way it is. That was our plan. Our plan was never to evade....it was from the perspective of providing a play area for the play set and the dog and the kids to play.

Mr. Rabbia: You could have sited the pool well to the west.

Mr. Aiello: But again, to put the pool over the left, I still invade into that area where the kids....where that's a grass area right there.

Mr. Rabbia: No, what I'm saying is you could have flipped the play area, moved the pool to the west and make the play area on the east, right?

Mr. Aiello: Yes, exactly, I could have.

Mr. Stanton: So what we are basically doing is we are being asked to approve permanent structure in

compensation for what may not seem temporary but what is actually a temporary condition by creating a play area for the children because eventually the kids are going to get older and they are not going to want to play back there anymore.

Mr. Aiello: Yes, exactly, but I mean it also too allows me to have a back yard. You know what I mean, a grass area. If you look at it it's all concrete with the way my lot is set, the way the house is set, I lose a substantial amount of area in my back yard.

Mr. Rabbia: So why can't you move the gazebo to the other side.

Mr. Stanton: Yes, that was going to be the question I asked because you have a little spur out for a concrete patio that's behind....

Mr. Aiello: That's our....that's a fire pit area right there....that's already....

Mr. Snyder: So the concrete patio that you show from the edge of the pool to the edge of the concrete is what size?

Mr. Aiello: What do you want to know?

Mr. Snyder: How wide the concrete slab is on the side of the pool? [board discussion] If it's 19' and the gazebo is 12' x 13', I don't see why it can't go on the other side of the pool and still not interfere with the grass or the play scape.

Mr. Aiello: Just from an aesthetics perspective, that is...when you walk off the deck and you walk there, we have furniture being placed there and the gazebo was going to be on the other side of the pool. That reduces our ability of where we would be able to sit. Just from an aesthetics perspective, this is the way we wanted it to look.

Mr. Snyder: Well, but you could have, you could put the patio where the gazebo is now and put chairs there...

Mr. Aiello: Sure.

Mr. Snyder: ...and you could put the gazebo where the concrete patio is and we don't have a problem with a structure being built outside the building line. If the gazebo wasn't there but that slab was there, that's okay, right?

Mr. Procopio: That's fine.

Mr. Snyder: So, he just takes the gazebo and puts it on the other side. If he makes any grass area, that's up to him but he still gets the same square footage of pool, patio, etc., but we don't have a building that is built outside the building line.

Mr. Procopio: Yeah, the patio is not on the building setback because it's at grade.

Mr. Rabbia: You said you had a fire pit on the....

Mr. Aiello: Yes, where those boulders are.

Mr. Rabbia: I see it but like Don (Snyder) was saying, you've got area south of that fire pit is....

Mr. Aiello: To be honest with you, I question the drawing that you have there, to be honest with you...if you look at (Mr. Aiello goes up to the board)...if you look at that last boulder, right here are stairs, the patio line actually comes in much closer to that. It actually is the same width so if I were to do that, I question if that is even 15' from the pool edge to my grass. So, that's where, if I have to move it to that side, it has to be in the grass.

Mr. Snyder: Well, only a very small portion of it.

Mr. Aiello: Correct, exactly, it would be....I would have to exactly....like 50/50.

Mr. Snyder: Then you wouldn't be here talking with us.

Mr. Stanton: If this were done procedurally and I understand it's not but if this were done the way we typically handle it, we would tell you that we are charged with granting the minimum variance required and based on the, it is my opinion, based on the free area within your property lines, I don't really see your reason why the gazebo needs to be there. Not speaking for the other members of the Board but I believe that's where a lot of them are coming from. We can't look at it like it's here, now, and we are trying to correct a mistake. We have to look at this as if there's nothing built there.

Mr. Natali: So, just to summarize. We are looking at this as if you are just presenting...

Mr. Aiello: Yep, understood....understood completely. I obviously knew that moving it was something that was gonna be a possibility. Listen this is self created on my part as far as any costs related to having to move that so...I fall on that sword and that's my responsibility. I look at it as....my hope would be that you would take into consideration...you know, the effect that it really has. It is minimal, a 12' x 12' structure, nine feet over the building line. I understand that I CAN move it, that's never really been a question....but a little compassion is what I guess I'm asking for in that perspective. Is this really adversely affecting...if you look at the pictures, from both of the stop signs, I have kids, I'm concerned about what you can see from both stop signs. It's not an issue or a factor, you can see all the way clear down the road. I don't think it negatively impacts the neighborhood. Can I move it over to the other side, absolutely. My hope would be that there would be an understanding regarding what I'm really asking for and the way my yard is...conformed...from that perspective. If you put the patio on the other side, it does minimize the space you have there. It does constrict a lot of stuff, right behind on that side of the house. My hope would be that you'd give me the latitude to utilize my whole yard. I'm still a good 30' from the road

Mr. Stanton: Are those posts, those posts are poured right into the...

Mr. Aiello: They are. So I'd have to just cut it off and move it.

Mr. Rabbia: Does it have to be 13' deep?

Mr. Aiello: Well, yeah, it's already....

Mr. Rabbia: No, I understand but if we're talking about moving it from one side to the other, I'm trying to look at other options.

Mr. Aiello: Yeah, yeah....I mean the reason I think we were doing that is to put, you know, maybe a small bar area underneath, to get shade for the kids. We're a corner lot with an in ground pool, we have quite a bit of traffic so it's nice to give people a place in the summertime. I get sun all day.

Mr. Snyder: See, that's why I don't understand why you don't want it on the other side near your fire pit and then near the front door or the back door of the house, where you come out with the food and drinks and people are going in and out to the bathroom....and the fire pits there.

Mr. Aiello: I have a table, I have a deck there with a table. You walk out there. It's more of a seating area for people going in and out of the pool. The fire pit is used mostly at night, not really with the pool. That area was supposed to be kind of another area set aside to kind of congregate over there, to break it up.

Mr. Natali: Steve (Procopio) was there a permit for the deck?

Mr. Aiello: Yes.

Mr. Procopio: I didn't check that.

Mr. Aiello: Permit for the deck, permit for the fence, permit for the pool...yes.

Mr. Stanton: As far as future plans, there's no....it's not going to be a pool house.

Mr. Aiello: It's not going to be a pool house, absolutely not. I would be more than happy to sign off to say, it can never be enclosed, it can never have water going to it...I mean I have electrical run to that for a light.

Mr. Rabbia: So the vision was to just leave it as is or were you...what else were you going to do with it?

Mr. Aiello: I was going to finish the roof, wrap the columns, and then I was going to next spring put a seating area, and "L" shaped bar there.

Mr. Rabbia: So you weren't going to wrap walls around this thing, because I thought maybe I missed that.

Mr. Aiello: No, absolutely not. I think I put that in the write up this is not a structure, it's a gazebo, four posts and a roof.

Mr. Rabbia: It's still a structure.

Mr. Aiello: It's a structure, it's got a roof, I was explained that from the code people and I understand that completely. I don't know if you've been out to the house. I know it makes sense to move it to that side of the property but it does impact what we are able to do there. I understand the kids are going to grow up and not need the swing set but also from the perspective of playing...that side yard....Joss Farm is not a place where you want your kids to play ball and stuff like that.

Mr. Snyder: The kids were there when I was there the other day out in the street playing on their scooters and stuff so they...you're not going to stop that....boys will be boys.

Mr. Rabbia: It's built as you have it here on your sketches?

Mr. Aiello: Correct yes so I mean as far as code would be concerned....I guess, what would I...if I chopped it off at....my concern to be very honest with you about moving it is...am I going to have to tear up the concrete I just had poured. Do I have to pull those posts out of the ground to move it to the other side?

Mr. Snyder: No, you cut em off even, you drill em out with, you know, whippets and put concrete in the hole.

Mr. Aiello: No, I'm saying now to move it to the other side.

Mr. Rabbia: You'd have to cut holes in the concrete....not impossible.

Mr. Snyder: Yeah you'd have to drill holes in the concrete and put forms in the concrete.

Mr. Stanton: A patio is a patio, it doesn't matter if that goes over the property line. Whatever we say, it doesn't matter to that.

Mr. Aiello: Understood.

Mr. Stanton: That would be totally your choice.

Mr. Aiello: No what I'm saying is to move it.

Mr. Procopio: Are you asking if you can attach this to the other concrete on the other side, without putting footings in?

Mr. Stanton: No, he's asking how he would do it.

Mr. Procopio: That's what I thought I was hearing. You said you have to cut holes in the concrete and put new footings in and I'm saying potentially you don't have to but there may be other things you have to do to the structure for lateral stability but if you want to construct it as is, that's how this is constructed now so if you want the same then you'd be doing that, yes.

Mr. Aiello: From a cost perspective, if I just cut it

Mr. Procopio: You could attach brackets to the concrete and attach the posts to some brackets.

Mr. Snyder: That might require some diagonal bracing but it's now on a slab...

Mr. Procopio: You got it...I haven't seen this structure, he's been dealing the another officer so, I would look at it and tell you what you would need to do to the structure.

Mr. Stanton: My only other, well out of many concerns, one of the big ones that's popping up in my mind is that theoretically approving this and the slew of people in the neighborhood coming through and saying okay you granted this and we'd like to do this, and if you're not going to grant it to us, we're just going to start building it and you'll have to grant it to us because that's the way you do things.

Mr. Snyder: And there's a lot of corner lots in this development.

Mr. Aiello: I won't tell anyone I promise. [laughter]

Mr. Natali: I would like us to go through the factors.

Mr. Stanton: Then we'll do the public hearing after?

Mr. Natali: No, I'm sorry. Let's do the public hearing.

Mr. Natali opened the Public Hearing at 7:55 P.M.

Mr. Natali: Sir, would you like to speak for this or against it?

Gentleman: No, no comments.

Mr. Natali: Okay. Is there anyone who would like to speak for this? Come on up sir and state your name.

Mr. Rinaldo: My name is Christopher Rinaldo and I live directly across the street. When I come out my front door, I see the structure. I live at 7956 Joss and based on what's there, I can't see any issue with this being over the build line as far as impacting negatively... you know....traffic, visual, anything negative number one and, number two, as far as asking can you do this, can you move it here, yeah there's all those spots but you have a lot of other issues to when it comes to structurally. You know what I'm saying, you can move it fairly easily but realistically, you know, I guess you have to tear the whole thing down if that was what you were going to do, so it's not a matter of just moving it. Anyhow, from my point of view....I look at the structure, I see it, I don't see where it's impacting anything that has to do with traffic, people, visual anything like that so...I guess that's my point of view.

Mr. Natali: Anyone who would like to speak against? NONE

Mr. Natali closed the Public Hearing at 7:56 P.M.

Mr. Rabbia: **Factor 1 – Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created? Answer: No.**

Mr. Rabbia: In my thinking and as the other person just spoke, I don't think there's a problem from a safety perspective, from an impact perspective in my opinion.

Mr. Natali: I think that could be a question. We've never had a structure on a corner lot outside the building area. We've allowed fences, but we've never to my knowledge, Steve (Procopio), in my 17 years, we've never allowed a structure on a corner lot. We usually reserve that for fences.

Mr. Rabbia: The only kicker for me is that, it's not going to be enclosed versus a fence that might be a six foot tall fence.

Mr. Natali: Well, he's going to put seats on it. What are they going to lean up against?

Mr. Rabbia: Well it's going to be open, right, he's just going to have just the four posts. That's all you'll see is the four posts.

Mr. Snyder: The only thing he showed on here is a whole bunch of planned landscape...I mean that's outside the gazebo line so that may be an issue for traffic or site lines or something later.

Mr. Rabbia: Okay, yes...I don't...I mean I don't know about the landscaping.

Mr. Aiello: But even if the gazebo was on the other side, I still planned to put those trees there...I mean the trees are not indicative of the gazebo, it's to create some privacy.

Mr. Stanton: What I believe was mentioned was seats in the bar, inside, okay.

Mr. Natali: You're going to connect the posts to the seats.

Mr. Aiello: No.
Mr. Natali: Then how are you going to connect the seats?
Mr. Aiello: It's going to be a bar area with stools. If there's going to be anything inside there, it's going to be a bar area with stools.
Mr. Snyder: You're not fixing anything, nothing built.
Mr. Aiello: What you see in the picture of the gazebo is it. The posts are going to get wrapped and a roof is going to be put on. That's it.
Mr. Snyder: You're going to put what decorative stone or something to tie it in....
Mr. Aiello: Wrapped meaning composite wood. We were thinking of doing the blocked cedar thing.
Mr. Natali: So what's the purpose to stay out of the sun.
Mr. Aiello: Correct.
Mr. Rabbia: So, based on that, once I understood that this was not going to be enclosed, I kind of flipped in my thinking.
Mr. Procopio: I think the confusion is that it's being called a gazebo but it's really a canopy.
Mr. Rabbia: So what do you think?
Mr. Palladino: I don't think it's a detriment.
All agree.

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: Yes.
All agree.

Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes.
All agree.

Factor 4 – Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? Answer: No.

Mr. Rabbia: Again, my opinion as I drove past it multiple times. First I looked at it for safety, as he mentioned stop signs, I don't think it's an issue, we've seen worse with fences, quite frankly.
Mr. Palladino: Well actually, the existing shrubs, trees and planters of the existing house attached to his comes out further for blockage, the neighbor's....
Mr. Rabbia: That's why I said, I think the answer to this one is no.
All agree.

Factor 5 – Whether the difficulty was self created? Answer: Yes.
Factor 5 -All agreed.

Mr. Rabbia: Is there anything else you'd like to talk about?

Motion made by Mr. Rabbia on behalf of Mr. James Aiello, 6284 Wrights Hotel Course for an area variance to allow an accessory structure, more like a canopy, that has a front yard set back of 20' where 30' is required. I'd like to note that this structure is a canopy, it is not going to be enclosed on any sides, and the proposal is to leave it in the place it is currently located on the survey dated November 13, 2008, received in the zoning office on August 26, 2014.

Mr. Stanton: That's a condition that it's never going to be enclosed.

Mr. Rabbia: I believe that is what the applicant told us so yes.

Mr. Procopio: I believe that survey was recertified.

Mr. Rabbia: Did I miss it, I'm sorry, original date November 13, 2008 and recertified August 21, 2014. I looked right past that.

Mr. Natali: The motion has been made, is there a second?

Mr. Palladino: I'll second it.

Motion was put to a vote, resulting as follows:

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

Mr. Rabbia: I'd just like to give my comments before I give my answer. The fact that...

Mr. Natali: Is this a comment or a sales pitch?

Mr. Rabbia: It's not a sales pitch at all, I'm just telling you my thoughts and what swung me was that it is open...

Mr. Natali: I think it's your impression though...

Mr. Rabbia: Yes to the motion.

Mr. Snyder: No to the motion.

Mr. Palladino: Yes to the motion based on...

Mr. Natali: No comments.

Mr. Palladino: Yes, there's a comment.

Mr. Natali: These are straight up and down votes. If anybody could make a....if anybody should make a comment or could, it would be a negative vote. This is an up or down vote.

Mr. Palladino: Yes to the motion.

Mr. Stanton: I'm going to have to vote No to the motion...and I do get to qualify that. If I was looking at this as if the canopy were not built, I would have severe reservations about placing it within a front yard. As the Chairman said, we have not done that in the past, at least as far as any of us can remember and even though we are not wholly concerned with precedent here, it does set a precedent within the neighborhood that people can go ahead and do this for better or worse, so again with that, I am voting No to the motion.

Mr. Natali: No to the motion. I think our deputy chairman made the same comments I would.

Motion was denied.

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

Motion and vote was unanimously approved to adjourn the meeting at 8:05 P.M., as there was no further business before the Board.

Respectfully submitted,
Ann Marie August, ZBA Recording Clerk