

SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

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

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

Members Present:	Gary Natali	Board Chairman
	Mark Rabbia	Board Member
	Gary Palladino	Board Member
	Donald Snyder	Board Member
Absent:	Charles Stanton	Deputy Chairman
	Richard Hooper	Director, Code Enforcement
Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Ann Marie August	Recording Clerk

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

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

Mr. Natali: Has everyone read the minutes from the June 1, 2015 meeting?

Board: Yes.

Mr. Natali: Are there any corrections or additions?

Board: [no response]

Mr. Snyder: I'll make a motion to approve the June 1, 2015 meeting minutes, seconded by Mr. Palladino.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Mr. Snyder	Yes to the Motion
Mr. Palladino	Yes to the Motion
Mr. Natali:	Yes to the Motion

Motion duly carried.

Mr. Natali: The Cicero Town Board acknowledges the importance of full public participation at all public meetings and, therefore, we urge all who wish to address those in attendance to 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 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 to the Motion
Mr. Snyder	Yes to the Motion
Mr. Palladino	Yes to the Motion
Mr. Natali:	Yes to the Motion

Motion duly carried.

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

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

MARY JANE (GRATZER) RAYMOND and
JAMES A. RAYMOND (APPLICANTS)
7471 W. MURRAY DRIVE

AN AREA VARIANCE WHERE THE PROPOSED CONSTRUCTION IS AN EXPANSION OF A
NONCONFORMING STRUCTURE. THE PROPOSED MINIMUM SIDE YARD SETBACK IS 3.7
FEET WHERE 6 FEET IS REQUIRED. THE TOTAL SIDE YARD SETBACK IS 11.8 FEET
WHERE A MINIMUM OF 15 FEET IS REQUIRED.

Mr. James Raymond (Applicant): I have never done this before but I want to put an addition extending my garage and putting on a 10' roof but it will be open for storage and I want to use it for lawn furniture and my lawn mower.

Mr. Rabbia: You're putting this in a straight line with the house with 3.8' being the closest you'll be to the property line?

Mr. Raymond: Yes

Mr. Snyder: Will the side toward the lake be open?

Mr. Raymond: Yes

Mr. Rabbia: This is for storage, that's all? One wall and a roof on the east side?

Mr. Raymond: Correct.

Mr. Natali: Is this currently on a slab?

Mr. Raymond? Yes

Mr. Natali: Are you putting anything on the lake side?

Mr. Raymond: No, that will be all open.

Mr. Palladino: When did the deck go on?

Mr. Raymond: About three weeks ago.

Mr. Snyder: Code office did not say you needed a deck variance?

Mr. Raymond: No.

Mr. Natali **opened the Public Hearing at 6:07 P.M.**

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

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

Mr. Natali **closed the Public Hearing at 6:07 P.M.**

Mr. Rabbia: 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.**

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: No.**

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.**

All agree.

Factor 5 – Whether the difficulty was self-created? Answer: Yes. But that in itself is not enough to deny the variance.

All agree.

Mr. Natali: Any other questions?

Mr. Rabbia: The variance is 4' on the drawing and 3.8' on the survey.

Mr. Kirwan: On the survey I have, it is listed as 3.7'

[Board discussion regarding the correct distance and Board agreed to go with the 3.7' as noted on most current copy of the survey.]

Mr. Natali: We will go with the 3.7' as shown on the most current survey. Also, for the record, Onondaga County had no significant comments regarding this variance request. Please make a motion.

MOTION made by Mr. Rabbia, seconded by Mr. Natali on behalf of Mary Jane Raymond at 7471 W. Murray Drive, to approve an area variance where the proposed construction is an expansion of a nonconforming structure. The proposed minimum side yard setback is 3.7 feet where 6 feet is required. The total side yard setback is 11.8 feet where a minimum of 15 feet is required.

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

Mr. Natali: Thank you, good luck.

**DAN CASEY (APPLICANT)
8325 MOYER CARRIAGE**

AN AREA VARIANCE WHERE THE PROPOSED 6 FOOT HIGH COMPLETELY OPAQUE FENCE EXTENDS 16 FEET INTO THE REQUIRED FRONT YARD, WHERE NO HIGHER THAN 4 FEET FROM GRADE AND NO MORE THAN 50% OPAQUE IS ALLOWED.

Mr. Dan Casey (Applicant): I am proposing to put in a private fence 31' 9" in length and will come off that 16' and go back toward the easement.

Mr. Natali: Are you planning on putting in a pool?

Mr. Casey: Yes, at some point, I am being pressured into it by my family. There's a lot of room to do it and the easement runs between the houses there. I will probably put it in on the left of the yard.

Mr. Rabbia: Is 31' 9" the real dimension? It looks like more.

Mr. Casey: We had a survey done in April. The tree is 27' from the house there.

Mr. Kirwan: The 31' 9" is from the street line rather than the asphalt.

Mr. Snyder: In reviewing the area, I saw one maybe two situations where fences came out maybe 8' but I saw no one that was 16' outside the building line.

Mr. Casey: There are a couple maybe 12' or 16' out and another that's about 20' out but it's at a different angle.

Mr. Natali: I would have like to see where the proposed pool would be located. Would you be willing to cut that 16' in half?

Mr. Casey: I guess I could go 12' but that's really the minimum I would need.

Mr. Natali: Well, it's our job to approve a variance on the minimum possible footage required to provide you the ability to accomplish your needs while still maintaining our standards.

Mr. Snyder: If we grant a variance on the fence, you will need to come back for a variance on the pool, if you decide to put one in.

Mr. Casey: The pool would not be on the outside of that building line.

[Discussion ensued between Mr. Palladino and Mr. Snyder concerning the building line.]

Mr. Kirwan: 10.1 feet would be the correct measurement.

Mr. Natali: We will define is as no closer than 10.1 feet if the variance is approved.

Mr. Casey: There may not be lots in this neighborhood that go out 16' but in driving around Cicero, looking at other neighborhoods, they go out at least that far and further.

Mr. Natali: It would be no further than 12 feet from the corner of the house.

Mr. Natali: Mr. Natali **opened the Public Hearing at 6:21 P.M.**

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

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

Mr. Natali **closed the Public Hearing at 6:21 P.M.**

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.** There appear to be no line-of-sight concerns.
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.** He could place the fence closer to the house.
All agree.

Factor 3 – Whether the requested Area Variance is substantial? **Answer: No.** It would be approximately 30%.
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.** The lot is good sized and level, so there should be no drainage issues.
All agree.

Factor 5 – Whether the difficulty was self-created? **Answer: Yes.** But that in itself is not enough to deny the variance.
All agree.

Mr. Natali: Any other questions?

MOTION made by Mr. Palladino, seconded by Mr. Snyder on behalf of Dan Casey, 8325 Moyer Carriage, for an area variance where the proposed 6 foot high completely opaque fence extends no more than 10.1 feet into the required front yard setback, where no higher than 4 feet from grade and no more than 50% opaque is allowed.

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

DAVID WELLNER
6136 LESLIEANNE PATH
AN AREA VARIANCE WHERE THE PROPOSED SIDE YARD FENCE IS 8 FEET TALL WHERE
NO MORE THAN 6 FEET TALL IS ALLOWED.

Mr. David Wellner (Applicant): Well, our neighbors are really nice people but it is an eyesore next door and our yard slopes down so if we put in a 6' fence we can see over it. That's why we need the 8' fence and as the diagram shows, the fence would be 15' to the rear and 56' long.

Mr. Natali: In visiting the site, it appears that the condition of the property right now is average. Has it been picked up recently?

Mr. Wellner: Yes, since they told him he needed to clean it up, it has been better than usual.

Mr. Natali: This is a very unusual request to put up an 8' fence.

Mr. Wellner: Well, it's taken years to come to this decision but it's like a landmark and when you even mention where you live, people know what's there.

Mr. Rabbia: Have you discussed this with the land owner.

Mr. Wellner: He knows we are planning to put up a fence.

Mr. Snyder: Are you sure you need an 8' fence there to block the view of the neighbor's yard?

Mr. Wellner: Well 6' is too low, 7' might be okay but it has to be between 7' and 8' and we really can't judge how high it needs to be but over 7'.

Mr. Snyder: As I mentioned when I visited the property, using the 2' x 4's and judging the height that way, it seems as though you wouldn't need the full 8'.

Mr. Wellner: The ground slopes down and that makes us higher when we sit in our yard.

Mr. Natali: Yes, the ground slopes down considerably.

Mr. Snyder: I understand your concern and if it were me, I probably would be asking for the same thing.

Mr. Palladino: You want to be sure you are not blocking anyone's view. Another concern might be the garden, will it get enough sun after this fence is up. Personally, I don't have a problem with it but have you talked to your neighbor about any concerns he might have?

Mr. Wellner: They do know we plan on putting up a fence.

Mr. Rabbia: Any plans on going further down the side of the lot the 200 and some feet?

Mr. Wellner: No, it's really very expensive to do this. I did consider putting in bushes but it would take three to five years to make any difference.

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

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

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

Mr. Natali **closed the Public Hearing at 6:35 P.M.**

Mr. Snyder: 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.** It's the side yard and would have no impact.

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.** The benefit cannot be met any other way.

All agree.

Mr. Rabbia: You are not connecting this 8' fence to the house?

Mr. Wellner: No.

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

**Factor 5 – Whether the difficulty was self-created? Answer: Yes. But that in itself is not enough to deny the variance.
All agree.**

Mr. Natali: Any other questions?

MOTION made by Mr. Snyder, seconded by Mr. Natali on behalf of David Wellner, 6136 Leslieanne Path, for an area variance where the proposed side yard fence is a solid wooden fence, 8 feet tall on the east lot line, 56' long where no more than 6 feet tall is allowed.

Mr. Natali: One condition would be that you build at least one foot from the lot line.

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

Mr. Natali: Thank you Mr. Wellner.

ANDREW LEO (APPLICANT),
EDWARD J. WIONCEK (PROPERTY OWNER),
5845 SOUTH BAY ROAD,
AN AREA VARIANCE WHERE THE PROPOSED ACCESSORY GARAGE IS 1200 SQUARE
FEET IN AREA WHERE A MAXIMUM OF 700 SQUARE FEET IS ALLOWED.

Mr. Natali: Mr. Leo, would you like to come up and speak into the microphone please.

Mr. Andrew Leo (Applicant): Well, I spoke with the permit office and they suggested I move the building back to where you see it now.

Mr. Rabbia: Have you spoken to the neighbors?

Mr. Leo: I did not. I don't know the neighbors and I don't even own the property yet.

Mr. Snyder: I spoke to the neighbors and they would like it if the building were further back but they are

willing to leave it where you currently have it. They were also concerned about the road. Hopefully, you can all work together with regard to the easement to the road. With the amount of land you have, over three acres, a 1,200 sq. ft. garage should be no problem where it is located now. Initially, it was not on the paperwork that you are a landscaper and need a larger building in order to accommodate your vehicles. What we are trying to do is to curb ancillary buildings of this size cropping up all over the town. So, we look carefully at them when requesting a variance.

Mr. Palladino: The new proposed location is near the brush and trees?

Mr. Snyder: Closer but still about 100' off.

[Discussion between Mr. Palladino and Mr. Snyder regarding the distance away from the brush and trees at the back of the property.]

Mr. Leo: There is still some space there. It is not right in the woods but there's a slope back there so I am as close as possible.

Mr. Kirwan: I was not present at the last meeting where this was discussed but how do you intend to access this garage?

Mr. Leo: From the dirt road there on the property.

Mr. Kirwan: Who owns that road?

Mr. Leo: Well, apparently I would if I purchase the property.

Mr. Kirwan: You're buying the whole parcel and the other people on that road would have rights of way to the road?

Mr. Leo: Yes.

Mr. Snyder: Would you have a gravel area behind the building for your equipment. As far as drainage, the Planning office can help you with any drainage issues that might arise.

Mr. Leo: It's very wet back there so, yes, I will need to bring in a lot of runacrush stone to put in that area.

Mr. Natali: I am still trying to understand why you need a 1,200 sq. ft. building.

Mr. Leo: As I said, I have two full-sized pickup trucks, Harley Davidson motorcycles which take up a lot of space by themselves, almost as much as a small car. The small existing garage has no floor left in it and is so small, it's almost not usable for anything.

Mr. Snyder: You mentioned at the last meeting that you might even take the garage and make it into a family room.

Mr. Leo: Yes, the house is very small so I might try to link the garage into the house and make it a family room.

Mr. Natali: So, you plan to live here?

Mr. Leo: Yes, I sold my home and am in the process of purchasing that property.

Mr. Natali: Are you comfortable that you own that side road? You mentioned you were not sure at the last meeting.

Mr. Leo: Yes, if I purchase this property, I would own the road and I do own a snow plow and plan on plowing the road the best I can.

Mr. Palladino: You would not have any pesticides on the property and no odors from chemicals or anything?

Mr. Leo: No chemicals, no, they are not good for our health and as far as fuel, I would put fuel in the equipment to be used that day, not stored. I don't deal with pesticides.

Mr. Palladino: The equipment would be contained in an area behind the building and not be scattered around the property?

Mr. Leo: No, it would not be scattered around the property. I would like to get along with the neighbors and I will try to do that.

Mr. Natali: You are aware that you have no additional access on South Bay Road, correct:

Mr. Leo: Yes, that's fine.

Mr. Natali opened the Public Hearing at 6:50 P.M.

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

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

Mr. Ron Sariano (contiguous property owner at 5863 South Bay Road) I just wanted to read a statement from Mark Damanski who could not be here tonight. [Read a statement by Mark Damanski regarding the current location of the building on the property at 5845 South Bay Road and reiterating concerns stated at last meeting.]

Mr. Sariano: I reviewed the map dated July 2, 2015 and I feel it doesn't restrict my view where it's currently located so I agree with prejudice with the placement of the building. I would prefer it was moved further down Harold Place. [Mr. Sariano provided some reasons why he would like it even further down Harold Place and asked that the equipment be kept from view.] Although I don't object to where it is, I am concerned about the drainage.

Mr. Natali: Thank you Mr. Sariano.

Mr. Natali closed the Public Hearing at 6:55 P.M.

Mr. Leo: I am just trying to work with everyone and I will try to plow the road. It's very wet there because it's rained all month.

Mr. Snyder: You were asking to locate the building in a drainage swale where you had it previously. Where it is now seems better as far as drainage and please ask the Planning office to help you so as not to add to the problem of drainage in this area.

Mr. Leo: The water seems to run into the road and also downhill towards Rt. 81.

Mr. Natali: One positive thing is that you do have over three acres here so the size of the building isn't as much of a concern.

Mr. Rabbia: I agree with you a 1,200 sq. ft. building on this sized lot is not necessarily an issue.

Mr. Natali: 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. Snyder: There's a similar big blue building located right in that area.
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. The building could be smaller but would then not accomplish the storage purposes required by the applicant.

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. If it's well planned out, this building should not impact the neighborhood conditions.

All agree.

Factor 5 – Whether the difficulty was self-created? Answer: Yes. But that in itself is not enough to deny the variance.

All agree.

Mr. Natali: Please note that Onondaga County finds no significant inner community concerns with this proposed building. Mr. Kirwan do you see any other significant impact by the County?

Mr. Kirwan: No.

Mr. Natali: Any other questions or comments?

MOTION made by Mr. Natali, seconded by Mr. Rabbia on behalf of Andrew Leo (Applicant) and Edward J. Wioncek (Property Owner), 5845 South Bay Road, to approve an area variance where the proposed accessory garage is 1,200 square feet in area where a maximum of 700 square feet is allowed.

Mr. Rabbia Yes to the motion

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Mr. Snyder	Yes to the motion
Ms. Palladino	Yes to the motion
Mr. Natali:	Yes to the motion

MOTION AND VOTE WERE UNANIMOUSLY APPROVED TO ADJOURN THE MEETING AS THERE WAS NO FURTHER BUSINESS BEFORE THE BOARD.

Respectfully submitted,
Ann Marie August, ZBA Recording Clerk