

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: OCTOBER 6, 2008
PLACE: CICERO TOWN HALL
TIME: 7:00 P.M.

The regular meeting of the Zoning Board of Appeals was held Monday, October 6, 2008 at 7 P.M. at the Cicero Town Hall, 8236 South Main St., Cicero, New York 13039.

Members Present:	Mark Rabbia:	Acting Chairman
	Charles Stanton:	Board Member
	Michael Stassi:	Board Member
	Robert Wilcox:	Board Member, AdHoc
Others Present:	Steven Procopio:	Codes Enforcement Ofc.
	Melissa DelGuercio:	Attorney
	Nancy G. Morgan:	Secretary
Absent:	Gary Natali:	Chairman
	Wayne Dean	Dir. of Planning & Development

In as much as there was a quorum present, the meeting opened at 7:00 P.M.

Mr. Rabbia pointed out the fire exits and requested that pagers and cell phones be turned off. He then read the following statement. The Cicero Town Board acknowledges the importance of full participation in public meetings, and therefore, urges all that wish to address those in attendance to utilize the microphones in the front of the room.

Motion was made by Mr. Stassi, seconded by Mr. Wilcox, to approve the minutes of the September 6, 2008 Zoning Board of Appeals meeting.

Motion was put to a vote, resulting as follows:

Mr. Wilcox:	Yes
Mr. Stassi:	Yes
Mr. Stanton:	Yes
Mr. Rabbia:	Yes

Motion duly carried.

Motion was made by Mr. Rabbia, seconded by Mr. Stanton, that all actions taken tonight are Type II Unlisted Actions and have a negative impact on the environment unless otherwise indicated.

Motion was put to a vote, resulting as follows:

Mr. Wilcox:	Yes
Mr. Stassi:	Yes
Mr. Stanton:	Yes
Mr. Rabbia:	Yes

Motion duly carried.

This Board has received Proof of Posting for all of this evening's agenda items.

AREA VARIANCE FOR WILLIAM HOWLAND, 7237 LAKESHORE ROAD, TO REQUEST PERMISSION TO CONSTRUCT A NEW GARAGE WITH A SET-BACK OF 4 FEET FROM THE WESTERLY LINE, WHERE 6 FEET IS REQUIRED.

Representative: William Howland, Owner

Mr. Howland: Seeing that my lot is only 50 ft. wide, I'd like to construct a garage closer than what the "specs" call for to the westerly property line. The existing garage is 3 ft. off, not counting the overhang. Last month I attended the meeting for a 3 ft. variance and was turned down. I've adjusted the variance to see if I could get it to within 4 ft. I shortened up the garage by 2 ft.—made it 22 ft. instead of 24 ft.. I hope I've shown thru the pictures, the exact reason I'm looking for the variance, which is the turning radius into the common driveway that I share with my neighbor. The Board reviewed the photos.

Mr. Rabbia: I appreciate the fact that you have adjusted your plans. This is what we were looking for last month.

Mr. Howland: I was hoping maybe the Board could give me another foot. That way , I could back out without backing into my neighbor's driveway .

Mr. Rabbia: The hand written survey in you application, that was received on October 15th, you're showing the nwew garage 22 ft. by 40 ft. So, what you're saying is, you've adjusted it from 24 ft. to 22 ft. and you've also adjusted the setback from the westerly line to the 4 ft. we suggested last month.

Mr. Howland: That's correct. It's not drawn to scale.

Mr. Stanton: Just a point--last month we were talking about a 5 ft. offset. I believe the 4 ft. offset is a good compromise between the original 3 ft. and the 5 ft. we were talking about..

Mr. Howland: I'd appreciate it if the Board could approve that 4 ft. Variance.

Mr. Stanton: You do have the option, at an added expense, of making a driveway between your garage and the street or additional parking area, in case you had to come to terms with a new neighbor.

Mr. Howland: Do you mean reorient the garage?

Mr. Stanton: No, I'm talking about an additional driveway on the south of the garage. I'm just saying you have options.

The Public Hearing was opened at 7:09 P.M.

FOR:	NONE
AGAINST:	NONE

The Hearing was closed at 7:10 P.M.

Motion was made by Mr. Stassi, seconded by Mr. Wilcox , to approve the Area Variance for William Howland, 7237 Lakeshore Rd. for permission to construct a new garage with a setback of 4 ft. from the westerly line, where 6 ft. is required, on a 50 ft. lot where 75 ft. is required, a non-conforming lot.

Mrs. DelGuercio: The motion is proper because Proof of Posting was published.

Mr. Stassi reviewed the 5 factors considered for the Area Variance Findings and Decision. There being no objections, the motion was put to a vote, resulting as follows:

Mr. Wilcox:	Yes
Mr. Stassi:	Yes
Mr. Stanton:	Yes
Mr. Rabbia:	Yes

Motion duly carried.

AREA VARIANCE FOR TIMOTHY OLES, 6390 LONG POINT ROAD, TO ALLOW CONSTRUCTION ON A NON-CONFORMING LOT AND TO DECREASE THE REQUIRED SETBACKS. THE LOT WIDTH IS 50 FT. WHERE 75 FT. IS REQUIRED. THE TOTAL SIDE SETBACK IS 12 FT. WHERE 15 FT. IS REQUIRED.

Representative: Timothy Oles

Mr. Oles: I'd like to build a 2 story single family residence on property that belongs to my wife's family. I would like a side setback of 12 feet.

Mr. Rabbia: Your survey is dated 9/12. Does that show your most current proposal?

Mr. Oles: Yes.

Mr. Rabbia: What you're looking at for a side setback is roughly 13 1/3 ft. ?

Mr. Oles: Yes

Mr. Stanton: Why would you request a 12 ft. setback when it is 13 1/3 ft. ?

Mr. Oles: When the Attorney and I were looking at it and trying to place where it was. When I handed the application in, he said to ask to 12 ft., not to ask for more than needed.

Mr. Rabbia: Are you proposing a garage or pole barn?

Mr. Oles: A 2 car garage is included with the house.

Mr. Rabbia: How long have you owned the property ?

Mr. Oles. It's family land. I don't own it yet.

Mr. Rabbia: It doesn't look like there's been a structure there for quite some time? Has there ever been one?

Mr. Oles: There never has been one.

Mr. Rabbia: I assume you've talked with your future neighbors.

Mr. Oles: I've spoken with them a few times.

Mr. Rabbia: Did you talk with them about where you were going to place your house or about the view ?

Mr. Oles: no.

Mr. Wilcox: I'm concerned about the drainage. How do you plan to drain it ?

Mr. Oles: Will probably drain both sides out to the lake. We plan to bring fill in later to build it up higher because it will be built on a slab.

Mr. Rabbia: All under the guidance of the Codes Enforcement Office for permits, etc.

Mr. Wilcox: Will it be 2 story?

Mr. Oles: Yes.

Mr. Rabbia: So you were 12 ft. , now you're 13 1/3 ft. The closer you get to the road, the wider the property gets.

Mr. Wilcox: Is this correct? The total side setback is 12 ft. where 13 ft. is required?

Mr. Rabbia: No, 15 ft. is required. He's done some work with his Architect to figure out a way to free up another foot and a 1/3.

Mr. Oles: We tried to position the house in the most advantageous way for everyone. We wanted a front lawn and back lawn.

Mr. Stanton: I know we discussed pole barns but are there plans for a shed?

Mr. Oles: Right now, I have no plans for a shed. I planned to make the garage long so I could have storage above it.

Public Hearing was opened at 7:20 P.M.

AGAINST: Joseph Soukup, 6388 Long Point Rd.: We have lived at this address for 51 years. When my father went to build the house in 1958 , The Town told him he could only build a 24 ft. house because of the size of the lot. My sister lives at 6394 Long Point Rd. When she went to build her house 10 years later, the Town told them the same thing. Our lot is the same size as the one in question. Nothing has changed . Lots are the same size. Why can they build a bigger house now than we could 50 years ago ? Now it's called a non-conforming lot.

Mr. Stassi: Can you tell me the size of your house, sir ?

Mr. Soukup: My house is 24 ft. wide by 45 ft. long., with a 9 ft. sunroom on the lake side.

Mr. Stanton: I can't remember your house number. Which side are you on ?

Mr. Soukup: We're to the west, directly adjoining his lot. Mr. Soukup showed the Board some pictures he took. He staked out about where the house will be sitting and it will end up being 12 ft. from our house, suppose to be 29 ft. high at the ridge line. Looking out our windows on our side, all we will see is this huge house, which the specs say 65 ft. not 60 ft.

Mr. Rabbia: How wide is the house next to you? The tan colored house.

Mr. Soukup: That's 36 ft. wide but he's also on a 75 ft. lot.

Mr. Stassi: So, you have approximately 1080 sq. ft. in your house?

Mr. Soukup: Yes. It's quite a bit narrower than they propose. When they build up that lot, it's going to be higher than my lot. There will be a major drainage problem.

Mr. Stassi: Are you against anyone building there?

Mr. Soukup: No. A house about the same size as ours would fit. We think we have plenty of room. It's a little less than 2000 sq. ft.

Mr. Rabbia: I think what the applicant is proposing is smaller than your house, about 1700 sq. ft.

Mr. Soukup: That's the living space but it doesn't include the garage, which is 20 some feet long. The house they propose is 65 ft. long by 30 ft. wide and it narrows down to about 25 ft. by the garage.

Mr. Rabbia: What if he made it 100 ft. long by 24 ft. wide?

Mr. Soukup: It would be different.

Mr. Rabbia: Different good or different bad ?

Mr. Soukup: If it was on one floor , it would be better.

Mr. Rabbia: What if it was two floors ?

Mr. Soukup: Two floors would block our view.

Mr. Stanton: How about if he removed the attached garage and built a pole barn?

Mr. Soukup: He could have a detached garage. We have one but it's on the other side of the power lines. Still, 30 ft. wide would be too wide.

Bill Muldoon, 6392 Long Point Road:

We are strongly opposed to the request for side setback variances on the lot at 6390 Long Point Rd. Our biggest concerns are the drainage problems that will be created and the size of the house on a narrow lot. The lot is only 43 feet wide where the house will be built. It is a big house 30 ft. wide by 65 ft. long. With the new elevations required, the lot will be higher than the neighbors, and as the houses nearby are close, drainage will be an issue. Joe and Margaret have lived in their home for many years, and should be able to continue to live there and not have to face the prospect of their home flooding. Therefore, we strongly oppose any variances that will increase the drainage problems in this area. We ask the Town to carefully consider the impact that building such a large house on a narrow lot will have on the homes around it.

Bill & Mary Muldoon
6392 Long Point Rd.

Mr. Muldoon: I have a question. With the information given to me by Wayne Dean on this house--they say they are going to put swales in. Well, I don't believe they you can build on swales. I didn't see anything in the prints that showed how much of an overhang there'll be. If you have a 2 ft. overhang on each side--there's 4 ft.--that will narrow it down. Plus, the drainage--if you have 2 ft swales--you can't build on swales. I don't know how all of this is going to encompass this.

Mr. Stassi: Could you tell me the square footage of your house?

Mr. Muldoon: 1835 sq. ft.--2 stories--75 ft. lot--lot narrows in the middle. I'm high and dry. But with the new elevations that I had to meet 5 years ago when I built in 2005, I built higher because of the flooding. If a house is built there, it's going to cause a lot of drainage problems.

Mr. Stassi: Are you more concerned about the drainage or the size of his proposed house?

Mr. Muldoon: Both the drainage and the size of the house. Long Point Rd. seems to drain to the right of the road. We've had issues out there before with drainage. If you go up and down the road now, you'll notice a lot of water in driveways and on the road.

Mr. Wilcox: Did you have to fill your lot when you built your house?

Mr. Muldoon: Yes, I filled it. I raised it about 28 in. I made swales on one side.

Mr. Wilcox: Are you higher than Mr. Oles' lot ?

Mr. Muldoon: Yes. There was never an issue with my neighbor about drainage. My neighbor's house is on a pad and it's down lower. There's definitely an elevation problem.

Mr. Rabbia: How wide of a house would you be agreeable to ?

Mr. Muldoon: I think like my neighbors--24 ft. I haven't seen any of their approved plans.

Mr. Rabbia: They haven't gotten that far yet. Right now we're just trying to locate the house on the property.

Mr. Muldoon: My concern is, the bigger the house, the more water problems you're going to have.

Mr. Rabbia: Hypothetically, he could go 24 ft. wide and really long and be within the Town Code. Which may be less of use of the land from a drainage perspective than what he's proposing now, right ?

Mr. Muldoon: I would say the main concern is the drainage. If he wants to go with a 24 ft. house, I don't have a problem with that. That lot is very narrow and it goes down towards the lake.

Mr. Stanton: So you would be agreeable with that even though the first floor elevation would be higher? 24 ft. --he's still be bringing in the same amount of fill. Then you'd be open to him going as deep as he wants to on the lot, staying within the coverage requirement ?

Mr. Muldoon: As long as he puts it where he's got it now. I don't see a problem. He'll definitely have to put swales in. Nothing has ever been built on that lot as far as I know.

Mr. Stassi to Mr. Procopio: Does the Codes Office interject with things such as swales ?

Mr. Procopio: You can build a swale on your property.

Mr. Stassi: Is it a mandatory thing?

Mr. Procopio: No.

Mr. Stanton: Would you have comments on drainage if there were problems, before building was started?

Mr. Procopio: Yes, the problem would be addressed before building was started.

Mr. Rabbia: But we (ZBA) don't dictate swales and where they get put in. What we're looking for is where the house is located on the property and how far from the property lines it is.

Mr. Procopio: There are other properties on the lake, in particular, Beach Rd., where there's water problems on the road. The answer has been to create a swale or a drain tile between the properties, from the road to the lake.

Mr. Rabbia: That's something you cover when you do permits, correct ?

Mr. Procopio: Yes.

Mr. Muldoon: One more thing. The power lines come across the middle of the lot, about equal distance between the road and the lake.

Mr. Rabbia to Mr. Oles: The house as it's laid out on your plan--do you know how the surveyor put that on ? Is that the overhang or the foundation?

Mr. Oles: That's the foundation> We're going to do a 16 in. overhang. One of the reasons we're wider is because we're making a concentrated effort to make a "green built" house. That's why it will be built out of concrete forms. With those, you have 12 in. width versus 6 in. exterior wall. That's why it's a little wider than usual. We're trying to build "green" and do the right thing.

Margaret Soukup, 6388 Long Point Rd.: A few years ago, we had our sunroom put on. I enjoy it in the morning sun. With this house there, I will no longer get the morning sun. We'll see a 30 ft. wall all along that side of our house. We have 9 windows and doors on that side of our house, which will be totally eliminated because of no sun. This house that they're proposing encompasses the whole length of our house, higher than our house and all the rooms on that side of our house will be dark. We prepared our home to enjoy our retirement there. This was not part of our plan. Our family members are planning to keep this home in the family forever and not have to be concerned about flooding, which is our prime concern.

Mr. Rabbia: Which side did you put the sunroom on ?

Mrs. Soukup: All across on the lake side.

Mr. Rabbia: Were there any drainage issues because you put the sun room there?

Mrs. Soukup: No. This house is going to be built up high because of the flood plain. All the houses along there and ours can not be raised because they're all on slabs.

Mr. Rabbia: You mentioned your views being blocked, what would your proposal be for this person to use their land?

Mrs. Soukup: Absolutely, not that close.

Mr. Rabbia: So, if he builds a 24 ft. wide house, he'd be roughly 3 ft. more away from you.

Mrs. Soukup: 3 ft. is 3 ft. If the law says this is a non-conforming lot and you need 75 ft. to build and this is only a 50 ft. lot, and they want to squeeze in this size structure, I wonder why we're here. The law is the law for everyone.

Jerry Cannino, 6387 Lonog Point Rd.: My house is directly across from the lot in question. Mr. Wilcox hit on the point of drainage immediately when Mr. Oles came forward. I've lived in my house since 1992 and we never had a problem other than the '92-'93 floods until 3 years ago. 3 years ago, there was a house being built and it's continually being built, 2 doors away from me on the same side, at 6391 Long Point Rd. When that house started to be built, I did start having flood problems. I have a 3 car detached garage and since that house was built, every time we get a moderate rain, it floods. The gentleman that owns that house did put a drain in. He's tried to fix it several times. What I noticed last year was when the ice and snow settle on the sides of the road, the drain becomes worthless.. There's a pitch running down toward my garage. All the water running off settles in a pool and runs into my driveway, then my garage. I'm afraid with this new proposed, that it will take away more land that would have absorbed the water. Then I'll get even more flooding.

Mr. Rabbia: How would propose he use his land?

Mr. Cannino: Truthfully, I would say don't put any house there, leave it as a lot the way it is. We moved here because there were open spaces. They're building houses, tracts, gas stations, stores. It's not going to get any better. Land is at a premium.

Mr. Rabbia: Did you build or buy your house?

Mr. Cannino: We bought our house a year before the flood. I've never met Mr. Oles. I've been dealing with the problem for 3 years and I think it's going to get worse.

Mr. Rabbia: You do realize he can come in to the Zoning Office for a 24 ft. wide house, however long, and get a building permit without having to get a variance.

Mr. Cannino: How far is it from the lake to the road?

Mr. Rabbia: 225 feet.

Mr. Cannino: I don't see how he can pitch that. Everything drains toward the road.

Mr. Rabbia: Right now the elevation is about 15 inches higher at the road than it is at the water. It's pitching from road to lake right now.

James Coleman, 6427 Loong Point Road: I'm on the other side of the street down about 6 or 7 houses. We have a narrow lot--50 ft. We have a 25 ft. house on it--1700 sq. ft. We had no problems putting that house on a 50 ft.

lot. I don't think anyone is trying to stop Mr. Oles from building on this lot. I think the Architect he has should come up with a better plan and be a little more innovative. There will be a problem with drainage. The Town is doing all sorts of culvert work and putting new drain boxes in. I'm going to have them come over the next time it rains because I have 2 or 3 ft. of water in my swale

Mr. Rabbia: Where are they doing the culvert work right now ?

Mr. Coleman: Several places on Long Point Rd. and Beach Rd.

Mr. Rabbia: Is it draining to a storm sewer underground?

Mr. Coleman: It drains water into the lake. The Town requires you to bring the elevation up above flood level, then you bring fill in, then it makes a bigger swale.

Mr. Stanton: The Town does have a Complaint Form for drainage, Has anyone brought this up?

Mr. Cannino: Where do I get one?

Mr. Stanton: At the Zoning Office or on the website.

Susan Ensminger, 6400 Long Point Rd.: We've had flooding and drainage issues since the house was built next door to us. I have an Attorney calling Wayne Dean's office now. Wayne Dean is not responding to our calls, It was passed off from the Zoning Board for him to respond to us. We have flooding the whole length of our driveway, which is about 200 ft. long. which is going into our lawn. We can't even get into our cars without getting our feet wet. Passing off the flooding and grading issues to the Zoning Office does no good.

Mr. Stassi: Have you made a complaint with the Town Supervisor or anyone else ?

Ms. Ensminger: Our Attorney is going to the Town Supervisor next. We are very upset about this. As far as the 50 ft. wide lot, it's not 50 ft. wide, it's pie shaped, it's 43 ft. wide where they want to build their home. There's no way they're not going to have drainage issues. He's going to build up his land as Hastings did and there will be drainage off his property on to Soukups. Their house is on a slab, they don't have a crawl space. We have a crawl space. We have flooding in our driveway, we don't have flooding in our house. I wish you would not approve the width of this house.

Mr. Rabbia: Tell me what ended up happening at your house. Last time we were there , we walked the property, we were told there were some things done to the grading and it didn't work.

Ms. Ensminger: It did no good. The water flows over the gutters on to the grass , under the boulders, on to our land. We have video tapes of it.

Mr. Rabbia: You mentioned the driveway. How about up near your house, what's happening there ?

Ms. Ensminger: We have flooding on our lawn right next to our house. He has drainage off the side of his house so it flows right into our driveway.

Mr. Stassi: Does he have gutters ?

Ms. Ensminger: He has gutters. The water flows off of them into our driveway.

Mr. Rabbia: That house has been sold ?

Ms. Ensminger: It's sold but no one has moved in . No one has responded to our calls.

Mr. Stassi: All of you that have this type of issue, you can contact the Town Board at their monthly meetings.

Mr. Slivinski: Ditto on what my wife just said. This is like a "drain to nowhere". We took video and photos of the Hastings property. The Town Board advised Wayne Dean to stay on top of it. The concern is that it's not being addressed. We don't want anyone else to have the problems we've had. We just want to be heard and have the issue addressed.

Mr. Stassi: I think you should take our recommendation. If you're not getting anywhere, go to the Town Board meeting. If you don't get anywhere there, you can always go higher than that.

Mr. Soukup: We don't want the same drainage problems that they have had with the Hastings property. They're probably going to go build this up another 2 ft. They'll be three ft. higher than our house and the water will run downhill right into our house. Drainage will be a disaster unless something major is done about it.

Milt Brill, 6409 Long Point Road: I'm speaking against this for reason, because it's a variance. If they want to build a 24 ft. by 100 ft. home, I think they should build it. If we keep it within the Code, it's going to give them more room for drainage issues later. Now we're cutting that down. We know what it's like to live on the lake--we've got water on the driveway, water in the backyard, we've got water everywhere. If we keep it within the Code, we're going to give the neighbor's and the owner a better chance to drain that property. I don't think anybody here is against building, I'm not. If there's a place to put it on that property, I say put it on the property. It's going to take the view away during the morning cup of coffee because that house will block the lake. They'll only be looking straight out instead of all directions. It drains from east to west there. A spot for that home could be on the north side of the power line. That power line kind of messes things up over there. 24 ft. would leave more room for drainage and would give the neighbor's more room.

Mr. Stanton: If we gave him 24 ft. , he could meet the 6 ft. side setbacks, so he wouldn't have to move the house to the east to get any more room. He could put that all on the 7.35 side on the east.

Mr. Brill: It would give him more footage on each side of the house for drainage.

Ruth Willis, 6406 Long Point Rd.: I feel sorry for this young couple. We don't want any problems with building, we just want to make sure what's happened to our neighbors doesn't happen to the Soukups. If Mr. Oles builds up his property, the Soukups will definitely have problems because they're so much lower. I would encourage Mr. & Mrs. Oles to look at your plans again and take them back to your Architect and try to work with the neighbors because that's a wonderful street and a great neighborhood. We'd like to have you part of it.

FOR:

Pat Rizzo, 8856 Beach Rd.: Most of the drainage complaints they have right now is a Town problem. We also have an Ordinance that says that you're not allowed to flood out a neighbor. I don't have 45 ft. on the lake, I go to 22 ft. on the lake. You just keep changing the non-conforming lot size because not even 10 years ago, it was 60 ft. and before that, it less than that. The lots are not going to get any bigger, that's the way they were laid out. The gentleman next door to me just put up an enormous house. It's less than 10 ft. on my side and I was low. When we had the flood in 1972, we were given a \$5000.00 grant to get our houses up off the ground but unfortunately because of the flood insurance being approved, every home that was built had to be above the flood level.

I talked to Jay Seitz and told him you have to do something so people will be responsible. My neighbor had drains put in right from the gutters right in to the drain tile. The DEC gave him permission for it to go into the lake. I haven't had any drainage problems. If there's a drainage problem happening, it's because it's not being addressed.

Mr. Cannino: Back in 1992 when we had the first flood, our first thought was to raise our property because we did get flooded out. We had 2 pumps going day and night. We did contact somebody to find out how much it would cost to raise our property. The figure I remember was \$87,000. The flood plain level keeps getting raised.

Jeff Martusewitz, Estimating Contractor for Mr. Oles: I will be doing the site work on this project. This project is a "happy medium" of trying to keep the neighborhood happy and trying to keep the drainage from draining on to other people's property. We'll collect all the water off the eaves. It will either go in a swale or into a French drain.

Mr. Rabbia: Do you have some sort of detail on that work that you want to accomplish at this point?

Mr. Martusewicz: We've got to get a approval for the lot first before we go that route. Just for your own information, this property has been in the family for 60 years. We're going to have to address some drainage issues that the neighbors have created on our property. And we'll fix that. The way we'll fix that is we're going to collect all the water and put the house on a slab versus a crawl space.

Mr. Rabbia: One thing that might be beneficial would be to bring in some plans of what you want to do for drainage so everybody can see it.

Mr. Martusewicz: You " hit it on the head" though. We could say we'll go 24 ft. wide and 85 ft. long. That is our alternative. A lot of the neighbors have used the property for the last 20 years.

Mr. Rabbia: That's what I was getting at when I asked the question. Maybe I heard one person say "I wish nothing was there " but many of them said make it 24 ft. but do something about the drainage also.

Mr. Martusewicz: We're not going to obstruct the Soukup's view. We're setting the house back so it doesn't take all of their view away.

Mr. Rabbia: When I saw the way you had it laid out, I thought you had a "happy medium" as far as distance from the lake.

Mr. martusewicz: By putting eaves on the whole house and being able to collect, that eliminates any waster coming off the house.

Mr. Rabbia: Having gone thru this the last 5 or 6 months in terms of drainage, I think one of the things we may want to do is take a look at your proposal to handle the water and what you want to do with the drainage.

Mr. Martusewicz: Being a Town Councilman myself, I think you might be overstepping your guidelines a little. You said drainage is the Town's problem.

Mr. Rabbia: What I said was, generally we deal with property lines and setbacks. However, when we take public input, we listen and make our recommendations in terms of what is best for the neighborhood. There's a ton of factors that go into that.

Mr. Martusewicz: One other thing, there's going to be some shoreline improvement. The improvement to the shoreline will actually relieve a lot of this water intake that they've been seeing all along.

Mr. Rabbia: The neighbors next door would probably like to see things like that. You're going to go higher than them because you have to. The question is what do we do with the water. We just had a situation 5 houses down where we had a feeling the water was going to come into their property. We were told that they dealt with it but it turns out they didn't deal with it properly.

Mr. Stanton: If I'm reading this right, the existing ground level out there is 373 ft. Your first floor elevation has to be 375ft. Your statement seemed to imply that you were going to be able to accomplish that with no net increase in fill.

Mr. Martusewicz: We'll do very little fill because it's going to be on a slab, not a crawl space. When it's on a crawl space, you have to pitch everything away. This is a complete concrete house, so it can withstand water.

Mr. Stanton: So, all the grade increase will be taken up inside the footprint of the house.

Mr. Martusewicz: Exactly. The way this house sets in, very little has to be done. We'll improve the grade up the whole property to keep the water moving.

Mr. Rabbia: You've heard the arguments against this. I think people want to work with you and understand the things you want to do. We're trying to figure out how you're going to handle the drainage on the lot, knowing that you're not going to bring a lot of fill in. We normally don't get into this situation, but I think it's an appropriate factor for us to try to make a decision. We're going to look for information from you and your father-in-law, about how you're going to handle drainage on the site and if you could bring some details on the house construction that shows how it's going to look in terms of wall construction, etc.

Public Hearing was not closed.

Motion was made by Mr. Rabbia to to adjourn and defer decision on Timothy Oles, 6390 Long Point Rd., until the November 3, 2008 meeting. Mr. Stassi seconded the motion.

Motion was put to a vote, resulting as follows:

Mr. Wilcox:	Yes
Mr. Stassi:	Yes
Mr. Stanton:	Yes
Mr. Rabbia:	Yes

AREA VARIANCE FOR WILLIAM EKLUND, 8836 BEACH ROAD, TO CONSTRUCT A SECOND STORY ADDITION TO AN EXISTING RESIDENCE ON A NON-CONFORMING LOT. THE LOT WIDTH IS 33 FT. WHERE 75 FT. IS REQUIRED; SIDE SETBACK IS 1.2 FT. WHERE 6 FT. IS REQUIRED; THE FRONT SETBACK IS 1.9 FT. WHERE 30 FT. IS REQUIRED; THE TOTAL SETBACK IS 9.4 FT. WHERE 15 FT. IS REQUIRED AND THE REAR SETBACK IS 14 FT. WHERE 30 FT. IS REQUIRED.

Representative: William Eklund, Owner

Mr. Eklund: This house was built in 1962. I want to put a second story addition on to the existing residence.

Mr. Rabbia: Are you going to build on top of the existing house?

Motion duly carried.

AREA VARIANCE FOR TERRY PHINNEY, 6337 MUD MILL RD. TO CONSTRUCT A RESIDENTIAL ADDITION TO A NON-CONFORMING HOUSE. THE HOUSE HAS A 45 (+/-)FOOT FRONT SETBACK WHERE 50 FT. IS REQUIRED AND THE LOT IS .5 ACRES WHERE 1 ACRE IS REQUIRED.

Representative: Terry Phinney, Owner.

Mr. Phinney: I'd like to put a 16 ft. by 20 ft. addition on the end of the house to add a couple of bedrooms and about 3 t. more of living room. I just bought the house.

Mr. Rabbia: Which end of the house are you proposing to do this?

Mr. Phinney: The west end.

Mr. Stanton: When I was on the County website looking at the ownership of the property, it looked like the owner was Mary Jo Kohl. Is that right?

Mr. Phinney: That's a previous owner. I just bought the house.

Mr. Stanton: Also, it looks like the property drops off from the house quickly. So, it will be pretty much the same construction, the exposed basement?

Mr. Phinney: Yes.

Mr. Wilcox: Are you doing work on the inside?

Mr. Phinney: Yes, some new trusses, remove some walls to open it up a little bit. There will be a whole basement under the addition.

Mr. Rabbia: Your house has a 45 ft. setback from your deed line. The addition will be further away because of the way it's angled, so nothing will change there. So, he's 45 ft. where 50 ft. is required, his lot is a 1/2 acre where 1 acre is required.

The Public Hearing was opened at 8:31 P.M.

FOR: NONE
AGAINST: NONE

Jacqueline Przytula, 6339 Mud Mill Rd. (nextdoor neighbor) asked Mr. Phinney exactly where would the addition be.

Mr. Stanton invited her to come forward to look at the drawings. Her questions were answered.

Public Hearing closed at 8:32 P.M.

After reviewing the 5 factors considered for the Area Variance Findings and Decision and there being no objections, Mr. Rabbia made a motion to approve the area variance for Terry Phinney, 6337 Mud Mill Rd. , to construct a 16 ft. by 21 ft. addition to his house, on a half acre lot where 1 acre is required. Motion was seconded by Mr. Wilcox.

Motion was put to a vote, resulting as follows:

Mr. Wilcox:	Yes
Mr. Stassi:	Yes
Mr. Stanton:	Yes
Mr. Rabbia:	Yes

Motion duly carried.

AREA VARIANCE DEFERRED FROM 9/10/08 MEETING FOR ROBERT COLIN, 5942 LAKESHORE RD., TO CONSTRUCT A SHED ON A NON-CONFORMING LOT WITH A SIDE SET-BACK OF 1 FT. WHERE 15 FT. IS REEQUIRED.

Representative: Robert Colin, Owner.

Mr. Colin: I think you deferred because the Board wanted to check on the dimensions of my house. One of the Board members thought the shed was beyond the house. When I entered the paperwork, I gave the pictorials and a 3 dimensional picture of the house. I don't know why it wasn't entered with the paperwork.

Mr. Rabbia: The most recent paperwork?

Mr. Colin: No, with the first paperwork I entered. It had all the dimensions showing how far I was from the house and how far it extended beyond the house. I guess that wasn't entered with the paperwork. There was a question, so the Board wanted to go look at that .

Mr. Rabbia: You're right. We had a chance to go back out and look at it. It's real close to that fence. I know we talked about a number of things last month. I'm O.K. with where it's located. When I first saw it in September, I thought it was closer to the road. I would like to see the shed off the fence at least 3 feet.

Mr. Colin: I actually left some dimensions on the front of the shed to show you I could pull it out 3 ft. I'll have to elevate it about 8 in. because of the contour of the land. I can slide it 3 ft.

Mr. Rabbia to Mr. Procopio: Do you have an issue with 3 ft. from the fence?

Mr. Procopio: No, I don't think the neighbor will have a problem with it. I believe the shed is behind the 30 ft. setback.

Mr. Stanton: This is a Commercial lot, right?

Mr. Rabbia: Yes, General Commercial.

Mr. Stanton: It's still forward of the house. I'm trying to convince myself I don't have a problem with that. The only thing I see here is that the shed was up before we started this process.. I would probably stick to a 6 ft. offset like we do for a residential offset and I'd probably try to locate it in line with the house. I understand you've got storage in that trailer between the fence and the house. What would be involved in moving it?

Mr. Colin: To pull it straight so I'll be 3 ft. away from the fence, from east to west, won't be a problem. I'll have to reinforce it and make some skids. I don't want to twist the shed. To move it north to south would be difficult--there's too many obstructions. That's why I chose that area. I didn't know I needed a permit to build a shed to protect my possessions.

Mr. Rabbia: Could you pull it 4 ft. to the west?

Mr. Colin: Yes, if I pull it to the front, I'll have to excavate some dirt out of there to set the shed on the dirt. I didn't want it on the dirt, because even though it's treated wood, it would have a tendency to rot.

Mr. Rabbia : You said you had it on piers so you could make some more piers, right?

Mr. Colin: Yes. If I pulled it 5 ft., I'd be into the tarvia.

Mr. Wilcox: The more I look at it, the more he moves it to the west, the more it's going to look like it's in front of the house. Right now, when you're passing, it looks like it's on the side.

The Public Hearing was opened at 8:45 P.M.

FOR: NONE
AGAINST: NONE

Hearing was closed at 8:46 P.M.

Motion was made by Mr. Wilcox, seconded by Mr. Stassi, to approve the Area Variance, deferred from the 9/10/08 meeting for Robert Colin, 5942 Lakeshore Rd., to construct a shed on a non-conforming lot with a side set back of 3 feet where 15 feet is required.

Motion was put to a vote, resulting as follows:

Mr. Wilcox: Yes
Mr. Stassi: Yes
Mr. Stanton: No, If we ere looking at this as though there was no structure there to begin with, we would have different criteria.
Mr. Rabbia: Yes

Motion DENIED.

Mrs. DelGurecio: You would have needed 4 Yes votes for this to pass. You can make a new motion and amend or change the conditions or adjourn for a new hearing or all agree to deny it.

Mr. Stanton: Is Mr. Colin being assessed any penalties because of this?

Mr. Colin: I paid \$200.00 non -refundable.

Mr. Procopio: He didn't have a permit. I think the most we could do is charge him double for the permit.

Mr. Stanton: I just wanted to make sure that if this goes until next month, he wouldn't be assessed any penalties.

Mr. Colin: I responded immediately when I saw my fault.

Mrs. DelGuercio: We have some time constraints. The Board of Appeals should decide on appeal within 62 days after the conduct of Hearing.

Mr. Colin: Would you take into consideration that what borders my property is a maintenance building. I do have photos. That's an unusual area--I have a maintenance building--I'm not hurting the integrity of the area. I'm putting no one in danger. I don't have an adjoining neighbor to complain.

Mr. Rabbia: We can make another motion or defer until the next meeting.

Mrs. DelGuercio: If you adjourn this, you four Board members would have to be here to vote again .

The Board and Mr. Colin discussed the possibility of moving the shed 6 feet.

Mr. Stanton made a motion, seconded by Mr. Wilcox, to approve the Area Variance , deferred from the 9/10/08 meeting , for Robert Colin, 5942 Lakeshore Rd. to construct a shed on a non-conforming lot with a side setback of 4 feet where 15 ft. is required.

Motion was put to a vote, resulting as follows:

Mr. Wilcox:	Yes
Mr. Stassi:	Yes
Mr. Stanton:	Yes
Mr. Rabbia:	Yes

Motion duly carried.

Motion was made and unanimously approved to adjourn at 8: 59 P.M.

Zoning Board of Appeals
Subject to Board Approval

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I, Nancy G. Morgan, stenographer for the Zoning Board of Appeals of the Town of Cicero, Onondaga County, State of New York, and the person who attended the meeting of the said Board of Appeals, held October 6, 2008 and took minutes of said meeting, do hereby certify that the foregoing is a true and correct transcript.

Nancy G. Morgan

October 24, 2008