

SS:

STATE OF NEW YORK  
ONONDAGA COUNTY  
ZONING BOARD OF APPEALS

MINUTES OF MEETING  
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: August 1, 2016  
PLACE: CICERO TOWN HALL  
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, August 1, 2016 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali	Chairman
	Charles Stanton	Deputy Chairman
	Mark Rabbia	Board Member
	Rita Wicks	Board Member
	Terri Lockett	Ad hoc Board Member

Members Absent:	Gary Palladino	Board Member
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Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Richard Hooper	Director 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 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 July 6, 2016 meeting? Are there any corrections?

Board: No response.

**MOTION** by Mr. Rabbia seconded by Ms. Wicks to approve the minutes from the July 6, 2016 meeting.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion
Ms. Lockett	Yes to the Motion
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

*In favor: 5      Opposed: 0      Abstained: 0      Motion approved*

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 please come to the microphone located in the front of the room.

We have proof of posting of all items on tonight's agenda.

MOTION by Mr. Natali seconded by Mr. Stanton that all actions taken tonight are Type 2 and have a negative impact, that is, no impact, on the environment unless otherwise indicated.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion
Ms. Lockett	Yes to the Motion
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

*In favor: 5      Opposed: 0      Abstained: 0      Motion approved*

Mr. Natali: For those that are here that have never been to a Zoning Board Meeting, I will briefly review the process for tonight's meeting: (1) Each applicant will have an opportunity to come forward and describe their project. (2) The Board will then ask questions about the project. (3) I will then open a public hearing where people will be able to speak for or against the proposed variance. (4) The applicant will be given the opportunity to respond to the public input and provide additional information. (5) Board members will again have the opportunity to question the applicant. (6) The Board will openly discuss amongst ourselves the Five Factors that contribute to our final decision. Please note that this Board does not have a pre-agenda meeting so there is no discussion of the cases outside of this meeting. (7) A motion will be made either approving or denying the requested variance, seconded, and voted upon.

**PETER GIORDANO  
9012 BEACH ROAD,**

**APPLICANT IS REQUESTING A NEW VARIANCE TO AMEND A PREVIOUSLY GRANTED VARIANCE TO ALLOW CONSTRUCTION OF A ONE-FAMILY RESIDENCE 18.0 FEET FROM THE STREET LINE WHERE A MINIMUM DISTANCE OF 30.0 FEET IS REQUIRED.**

Mr. Giordano (Applicant): I'm coming here to clear up a little confusion at least in my mind of what I was granted or thought I was granted last time. I've had multiple people in the Code Department look at this and they are a little confused too and they said although it is confusing I have to go on the last seconds of the variance which said a 24' setback. Because it said that, I'm coming back because I thought I was granted 24' setback from the road, from the pavement and when I went to pull the building permit, apparently, I was granted 24' from the setback which is approximately 8' or 9' more which, now I am 33' from the road. So, I just came to try to clear up...as it was when I tried to pull the permit, I wasn't going to build at 24' anyway, I said that looks a little close to me now, maybe I'll go 26'. So that's what I am here for is can I build 24' or 26' from the road, the pavement, or do I have to go a certain number of feet from a setback? That's it.

Mr. Stanton: Okay, two things I wanted to note is that we do have a follow up resolution from the Onondaga

County Planning Board as opposed to last time. They have noted that this will have no significant adverse intercommunity or county-wide implications. There are some conditions there that they state but we won't go into those. Now, I went back and I took a look at the meeting minutes from that meeting. I also looked at your letter and refreshed myself with the survey. What I can tell you is that my intent was to grant you 24' from the street line. Now, unfortunately, that does not line up with the road. The street line is actually the right of way line for the road which is set back further from the street line. Unfortunately that is not shown on survey so we didn't have it as a point of reference. The one thing that I went back to in reviewing this was that I also had concerns about bringing your house forward more because starting with your house, the rest of the houses on Beach are set back further from the street than the one leading up to it. Unfortunately, at least in my mind the 24' to me is from the street line, not the edge of the road. If you are here, reapplying, it's up to the other board members to parse my comments there but I can tell you that my intent was the 24' from the street line.

Ms. Lockett: Can I ask the Codes Office, how far is 24' from the road, the pavement?

Mr. Giordano: I can tell you that it's impossible to tell because the setback changes dramatically as you go down the street. For example my house next door is built right on the street line. I got the survey, it's 1.3' from the line. Back 2011 you guys approved an individual down the street from me to build 22' from the pavement, not from the street line, so I went back to that and pulled the notes from that showing that you do grant whatever from the pavement versus the street line.

Mr. Stanton: You also have to look at what his survey said because in some cases, the street line is actually the edge of pavement and that changes as you go down Beach Road.

Mr. Giordano: Right, right. In my case, I believe, the way I figured out where the setback was is that I took the survey that we have there and it says that the corner of my house is 35' feet from what they call the road but what I now know is the setback and I marked that and I measured from there to the physical pavement and it varies on both sides of the house but it goes between 8' to 9' additional, correct. So, what I am asking is...I tried to get a new survey showing all that. I went to Ianuzi, I paid him money. He said he was very busy. He tried to do it but I called him today and he didn't get to it. I was told I needed something so I went to Dean Johnson who put that plot plan together but it really doesn't show the line...the pavement line either. So, that's where we are. I can tell you I know where the pavement is so if I was granted 26' from the pavement, I could easily measure that out. Other than that, I have put some other facts that I was told to put in there. The fact that I own across the street and it's totally paved and I have parking for a number of cars. Also, I show my car in there at 26' and I can actually put a car behind me. I would never do that but at 26' I would be the furthest house from the road going at least one way for at least six camps. Going the other way, of course you have DelVecchio's which is way further but then you have Bob's which about the same, I would say 24' to 26' and then you have Tom (unintelligible) who has that big house, the white one, with the driveway there, which is at 24'. So, I'm asking for 26' which would probably be more than 26' but this way...I say would probably be more because when I talked to Ianuzi he said he wanted to mark it at twenty-six six and one half so that I knew I wouldn't get in trouble.

Ms. Lockett: Can I just make a statement and people just bear with me. Is 26' from the pavement, 18' from the street line? Is that a true statement?

Mr. Giordano: That is an estimate on my part.

Ms. Lockett: Your estimate.

Mr. Giordano: My estimate because, like I said, I used the 35' figure that they had there on the survey from one

side, 36' from the other. I measured it out, I put a yellow line there and then I measured from there to the street and I know it's between 8' and 9'. It varies because it's on a weird curve sort of thing.

Ms. Luckett: Typically the street line is the pavement?

Mr. Stanton: Well no, that's not true, it varies throughout the entire town depending on how the road was assumed by either the town, county or the state.

Mr. Giordano: I can tell you I have the survey from next door that shows my other camp, right next door, right on the line and I believe that there it's almost 14' because my camp is not closer than 14' from the road so just next door, it's 14'.

Mr. Stanton: Is there a driveway there?

Mr. Giordano: No. I do not have a driveway there. I'm just saying that's how dramatic the change in umm.....

Mr. Natali: It's up and down Beach Road. Question, did you actually find the pin, the iron rod?

Mr. Giordano: No I couldn't find it.

Mr. Natali: Okay, because it's on the map, that's why I asked.

Mr. Giordano: I looked, I couldn't find it but...like I said, I'm 100% sure that it's between 8' and 9' depending on which side you use.

Mr. Rabbia: In the picture with your vehicle is the nose of the car or the rear of the car at 26' from the road?

Mr. Giordano: The nose is the yellow line which I had made at 26' and you can see my camp next door and I would image that's at about 14' and that sits pretty much 1.3' from the roadway.

Ms. Luckett: So you are saying where the nose of that car is that's where your garage is going to be.

Mr. Giordano: Yes, not the whole house, just the garage. The house goes in four feet. My wife didn't want a box.

Mr. Natali: That's where you want to move it to?

Mr. Giordano: Yes.

Mr. Natali: I mean the new house.

Mr. Giordano: Yes and then 4' behind that would be the rest of the house. Just a little indent.

Mr. Stanton: We started off with the February variance which asked for a 20' offset from the street line right? And now if I'm reading this correctly, because of the location of the road or the edge of pavement, we are actually addressing a request to change that and move that forward by two feet to reduce that to approximately 18'.

Mr. Giordano: The reason being is because I thought the street line, when you see the survey right there where

it says road. So I was originally looking at 20' from the road which in my mind, not being part of the town or anything, to me the road is the road. I don't know anything about setbacks. So, originally when I wrote that I was asking 20' from what I thought was the road and apparently it wasn't.

Mr. Rabbia: Would you take through the reasons why this is an issue for you?

Mr. Giordano: Well I don't have much in front of the camp. I think the plot plan shows even at 26', I only have 40'. If I have to pull it back another 8', now I'm almost to the point where I have to get a variance if I want to build something.

Mr. Rabbia: Are we talking 8' though or is it 2' we are talking about. I'm trying to get all the numbers square in my mind.

Mr. Stanton: That's where I'm getting confused. My feeling is based on what is presented. The house is being requested to be placed 2' further toward the road than it was in February.

Mr. Rabbia: Right.

Mr. Giordano: Well that would be 18' plus the 8'. Yes in that case, yes, you are 100% correct.

Mr. Stanton: He is contending there is 8' from the edge of pavement to the street line.

Mr. Kirwan: Mr. Chairman. Just so we are all on the same page here. Our definition of street line as you probably already know is the right of way line of a street as dedicated by a deed of record which we would have to look at the survey, or where the width of the street is not established, the street line shall be considered to be 30' from the center line of the street pavement.

Mr. Stanton: Right. We have an established right of way on the survey which is the legal street line.

Mr. Kirwan: On the survey....we are talking about 9' or roughly 9'.

Mr. Stanton: That is correct. We have a defined road here, yes.

Mr. Rabbia: I'm just trying to do the numbers from the existing street line on the survey.

Mr. Stanton: That's the only way we can do it.

Mr. Rabbia: Right, forget about the 8' or 9' or 10' whatever he measured. I'm just trying to come up with a number from the street line to what the new request is and it looks like it's...

Mr. Kirwan: The street line or the edge of the pavement?

Mr. Rabbia: The street line on the survey here. I believe that's the only thing we know for certain, right, is the street line on the survey.

Mr. Kirwan: The only thing that makes that confusing is we tried to get a new one from Hal Romans and I don't know what that would have shown other than what we are seeing here. I don't know, maybe it would have made it easier.

Mr. Giordano: I would have shown where the actual pavement is on this. We don't actually see where the pavement is.

Mr. Rabbia: Maybe we should wait.

Mr. Stanton: That was one thing I was going to suggest. The one issue I have with the majority of these surveys is that whether it is what is being asked for or the minimum that is being provided. Pavement lines are usually omitted where they should be included. Even though we are charged with actually determining from the street line, it does help to know where the pavement is sometimes.

Mr. Giordano: Because of that is why I was asking 26' from the pavement as this last gentlemen here, the last one I have here was asking 22' from the pavement and he was granted 22' from the pavement and so that was the last house just built down the street from me and he's got 50' to the water. I can show you what I'm talking about.

Mr. Stanton: Now, the other thing we have to take into consideration here, similar to what happened in our Route 31 case, the gas station, because there is a right of way here, there is the potential for that road to be widened or other things to be done in the future which would move that pavement line closer to the house. That's one of the purposes of having setbacks from the street line rather than to base them on the pavement when you actually have a defined right of way line to work off of. That's just something I wanted to throw out there for consideration.

Mr. Rabbia: I think you made another comment that what's drawn on this survey dated June 28, 2016, is not an accurate representation of what you are looking to do? You said your wife doesn't want a "box"? I wasn't sure I picked up on that correctly.

Mr. Giordano: Right, right, the actual representation of what we wanted to do was Dean Johnson's lot plan that I was told I needed to go forward.

Mr. Rabbia: Okay.

Mr. Giordano: and that's it right there.

Mr. Rabbia: What's different on Dean Johnson's plan versus what was on the other one?

Mr. Giordano: Ummm that house is a little smaller and....

Mr. Rabbia: You made reference to the garage being set in 4' and I don't see that here.

Mr. Giordano: Yeah, I don't know why it shows straight across because there's probably a porch that he's showing that's there.

Mr. Rabbia: So, what Dean Johnson drew is not necessarily representative of what you are looking for to where the garage is going to be?

Mr. Giordano: What I'm trying to say is there's a 13' garage in the front and then there's 4' to the front door but it's probably covered so that it shows that it's straight. In other words, there's a porch in front of it, if you will that's probably even with the garage or was supposed to be.

Mr. Rabbia: So there's a porch projecting deeper into this area that we are talking about? That's what's showing on the survey the way he drew it.

Mr. Giordano: Oh, no no no no. It's shown equal, equal with the garage.

Ms. Lockett: There can't be a porch in front of the garage.

Mr. Rabbia: It's a single car, I think.

Mr. Giordano: Yes, it's a single car garage. There is no porch in front of the garage.

Mr. Rabbia: What's that thing that's sticking out of...

Mr. Giordano: I think that's his idea of steps.

Mr. Rabbia: Okay. I'm a little confused. I just kind of want to reset everything and understand what's being asked for.

Mr. Kirwan: Okay Chuck (Stanton) you started down this road, if you know or if you have the papers there if you would articulate for the record here what was granted before so we are all on the same page.

Mr. Stanton: We granted 24' from the street line. That's what I said when we started this off. That's what is in the variance. That was my intent.

Mr. Kirwan: Was that the only thing approved then?

Mr. Stanton: No, we had some side yard setbacks too which at this point, I'm kind of...well no we are not past it because there's...I'm not sure what was submitted by one surveyor versus what was submitted by the other. I do know what the original motion was which was done by Mr. Rabbia "to approve an area variance to construct a one-family dwelling in an R-10 zone where the proposed front yard setback is 24' where 30' is required." It also goes into the side yard setbacks. "The minimum side yard setback to the east side will be 2.3' where 6' is required."

Mr. Kirwan: Okay if we are all going of the R.J. Lighton survey updated 12/16/2015 in you packet?

Mr. Stanton: I think the problem is I have two that are dated the same dated. I have two that are dated 12/16 that show two different things.

Mr. Kirwan: I have one with a stamp on it dated 12/23.

Mr. Stanton: They both have the received stamp.

Ms. Wicks: One says 27' and the other has 26.9' and 27' looks like it's written in. It's right underneath where it says Beach Road. The first red area. It looks like it's written in 27' and on the other we have it's 26.9' in font.

Ms. Lockett: One of them is 18' from the road, from the setback and the other is 20'.

Mr. Stanton: To me it feels like there is a mixing of these things because if you read on with this. So you have the 2.3' where 6' is required for the east side then it goes on: "The minimum side yard setback to the west side will be 3.73' where 6' is required for a total of 6' where 15' is required and a total lot area coverage of 33%." Then we talk about roof and gutters but I'm seeing a mixture of the one with the hand written in plans seems to somewhat follow the motion on the 3.7' but then does not match the front yard setback.

Mr. Giordano: I can tell you what happened there. Mine doesn't have that and that was a mistake. What happened was I went to the town and I said look he's telling me I only have a week to do this and I'm already a couple of months behind so to be able to file can I just edit the existing survey, so I tried to edit the existing survey and he said no, so that's why I put the old survey in there. The one that says 20'. That's the original survey and the other one was my attempt to edit so you can throw that away. The bottom line is that the survey marked December 23, 2015 is the survey and it shows it...originally I asked for 20' from what I thought was the pavement but I now realize is the setback.

Mr. Rabbia: So where did the 2.3' come from in the motion?

Ms. Lockett: We didn't want to take...(unintelligible)

Mr. Rabbia: Okay, got it.

Mr. Giordano: What happened was Mr. Delvecchio came in asking to leave the 3.7' and I said fine, we'll leave it at 3.7' that just gives me 2.3' on the other side.

Mr. Rabbia: Okay.

Ms. Wicks: So if I were to drive down the road and I'm looking at where you want to put your house, where does it compare with where, I believe it's the Delvecchio's in the white house, and your house that is already towards the road. Where am I looking at the front of your garage?

Mr. Giordano: My house is from the pavement probably 16'.

Ms. Wicks: I don't care about that. I am trying to visualize because I can't see it from the picture and I am a visual person. So I'm looking at your house, the cottage that you have on the right that's near the road. I am looking at your mom's cottage that is going to be torn down and your house is going to be put in there; and then I'm looking at the white Delvecchio's house that is on the left that is set back with the fence and all the shrubbery. So if I am looking at that picture, what am I seeing when I am looking at you and that center piece? Am I looking at you being mirrored identical to the one that's next to you? Are you staggered? What are you...?

Mr. Giordano: We would be in front of the Delvecchio's but even with the rest of the houses like Bob's and Mr. Tom (unintelligible). We would be behind all the people to the right, myself, Boils, ummmm and the rest of the crew.

Ms. Wicks: Just looking at those three houses, Mr. Giordano, those three houses, are you staggered?

Mr. Giordano: Yes, we would be staggered.

Ms. Wicks: Front, middle and back?

Mr. Giordano: The one that's shown in the picture would be the closest to the road, mine would be next and Tony's would be a little bit further back.

Ms. Wicks: So, they would be staggered going back. Not you in front of...okay thank you.

Mr. Giordano: They would be staggered. The house here would be in front, my mother's house, or my sister's house. Mine would be about 8' further toward the lake and Delvecchios would be another 8' further towards the lake.

Mr. Natali: So you wouldn't mind going closer to the lake.

Mr. Giordano: Well, no...I would like to be at least as this picture shows 40 to 50 feet away from the lake because the ice comes in and almost touches the camp as it is now and it's going to be that much closer so the further away from the water I can get, the better off we are so that's why when they told me that I would have to do 24' which is really 24' plus the setback. I said well I would have never gave in for the four feet if I knew I was going to have to give the 8.5' afterward but this pretty much shows that I mean if you tell me 28' off the road, I would do that. If you tell me I have to live with 20' off the setback, I will do that. That was my original thing. I just didn't want to live with 24' off the setback because that's way too close.

Mr. Natali: You're asking for 18' right?

Mr. Giordano: I'm asking for 18' yes.

Mr. Natali: But you're willing to go to 20'.

Mr. Giordano: I'm willing to go to 20'. It hurts but I'll go. The only problem is Mr. Natali. The only problem is I don't know what I'm agreeing to and that's why I am trying to go off the pavement of the road because, like I said, I know where I am off the road pavement. I know where this is off the pavement of the road but if somebody comes in and says okay, your mother's camp is 14' to setback and now you just agreed to 18' and 14' and now I'm totally pushed up against the lake.

Mr. Natali: Mr. Hooper have you been out there and looked at that?

Mr. Hooper: I have not. Has Steve been out there?

Mr. Giordano: Yes. He's been out there a few times.

Mr. Natali: I just cannot tell...it may sound like a stupid question but can you tell where the edge of pavement is?

Mr. Hooper: See I think it would be helpful if you had it marked on the survey.

Ms. Wicks: Or if it were staked out or something where we could actually have a visual...

Mr. Natali: But if we approve this based on a new survey and use the street line, then you've got approval from here and it's up to you to get...

Mr. Giordano: I'll do that.

Mr. Natali: You're going to need that to get a building permit. He's going to need the new survey so why can't we make it 20' off the street line but you don't know where that is.

Mr. Giordano: Right.

Mr. Natali: But with a new survey, you'll know where that is.

Mr. Giordano: The only problem is I'm still going to hope that my measurements were right and I'm really only 8' to 9' off that street line but I really can't afford another two month's delay so whatever you guys can compromise and tell me it's based on and Ianuzi gives me the final survey, that will be fine. The only problem is I'd rather 18' off the setback.

Mr. Natali: When you say set back, you're talking about...

Mr. Giordano: The street line.

Mr. Natali: Okay.

Mr. Giordano: Because that I guess is the nomenclature.

Mr. Natali: That's the proper...okay.

Ms. Wicks: Mr. Natali, would it be possible for him to shoot for the moon, get the survey for the 18', stake it so that we can visualize what he's trying to say and then if doesn't get 18' at least we would know where 20' would be?

Mr. Natali: Well, he wants to get going with this project. I'm trying to give him enough leeway...but you know where the edge of pavement. Now what's that number, is that number still okay at 20' or 18'?

Mr. Giordano: If you tell me I can go from edge of pavement like these other gentlemen and you go back 26', I would be fine.

Mr. Stanton: We cannot go from edge of pavement. We have to go off the street line.

Mr. Giordano: But you've done it before.

Mr. Stanton: Like I said if the applicant's survey showed the edge of pavement being the street line, that's the only reason why we would give it from the edge of pavement.

Mr. Giordano: Okay. Okay then can we go 19' from the set back.

Ms. Luckett: Why can't you find the iron rod? It's on the survey.

Mr. Stanton: You need a metal detector and what not, sometimes they are buried.

Mr. Kirwan: So if we go off the survey that Rita (Wicks) said says 26.9' okay, which in the part that we are talking about says 20 +/- feet, right and we agree that what was approved, that number was 24 feet, right and if we also agree that he is asking for that number to be 6' less or 18', is that correct?

Mr. Stanton: Yes.

Mr. Kirwan: Then, that's it.

Mr. Natali: But he's willing to go to 20'. Now he's trying to squeeze us for another foot.

Mr. Giordano: What, okay, 20. I'll take 20, it's better than...I can get it started.

Mr. Stanton: Again, just for perspective, we are asking for a new structure that is if you go with the 20' from the street line, is approximately 15' closer to the street line or to the road than the previous structure.

Mr. Giordano: The little garage that I'm going to knock down. It used to be a garage.

Ms. Lockett: How about the septic vent that you see there. Can you see that?

Mr. Giordano: Yes.

Ms. Lockett: You ought to be able to measure where the street line if from the septic vent. You know to scale. You would be able to visually see when you got out there where that street line is so you could visually see whether 20' was okay.

Mr. Giordano: Yeah, I basically did that though by finding the setback in my mind by measuring 35.12' from the cottage in the survey. I went out and found 35.12' and put a line in the driveway and then I said from there to the street is about 8.5' so that's why I'm saying the setback is approximately 8.5' but I you gave me 20' tonight and that's the best I could do, I can get the project started.

Roof gutters will be implemented so that the water runoff is drained toward the lake and away from neighboring properties."

He's willing to go 20' from street line based on a new survey that he will need when he goes to get a building permit.

Mr. Rabbia: We are doing it based on this survey though, right? It doesn't matter, we're going to say 20' from the street line right? Okay.

Mr. Kirwan: So your five factors are going to be based on 18' or 20'?

Mr. Natali: 20'

Ms. Wicks: Mr. Chairman, I can tell you that I am not comfortable because I cannot see it in my head.

Mr. Natali: Were you there?

Ms. Wicks: I know that property probably better than anybody here [laughter].

Mr. Natali: You live on that road.

Ms. Wicks: I do and I can't see it and I am having trouble understanding where we are at with the street line,

pavement line...18', 20', 24' ...I am having trouble visually. I am not comfortable making the motion.

Mr. Natali: Mr. Giordano would you like to add to that?

Mr. Giordano: I can also say that when Mr. Ianuzi gives me my survey, the only difference will be a line that says street line.

Mr. Rabbia: Pavement.

Mr. Giordano: That's not going to clear up any of your discomfort, I don't think because all you're going to do is have a survey that shows the 20' from the setback and 8' later, it's a paved road.

Ms. Wicks: Isn't that your estimation, not anything that's hard fast, that's written, this is your measurement?

Mr. Giordano: It's my measurement based on this survey.

Ms. Wicks: Exactly and that's why I'm having a problem. This is not a surveyor saying this, this is you...and you have already admitted, being fair about this...you had already admitted you are not a surveyor. So, please understand I am trying to follow the rules. I drive by that road every single day. I know exactly where your property is. I do believe that the house is too close to the road, the other one and I do not want to see you that close and I'm having trouble visualizing. I like the fact that it's staggered but I'm having trouble visualizing how far you are back.

Mr. Natali: Okay, at this point that's one opinion. That's one opinion and we have no pre-agenda so we don't discuss this ahead of time or try to influence anybody. The plus to me is that it is not interfering with any of the neighbors on either side. This is a small comparison and we have also...[Mr. Giordano speaks from seats]. I have given you an opportunity Mr. Giordano, if it's something new, come on up.

Mr. Giordano: It's something new.

Mr. Natali: Alright come on up.

Mr. Giordano: I just wanted to say one thing about my neighbors. Last time I came for the variance, they came to try to shut it down. This time they said no, we are happy with 26' and we are not going to show up.

Mr. Natali: Okay so now we are at 26' from edge of pavement?

Mr. Giordano: From edge of pavement but we've changed that to 20' from the street line but my point is my neighbors did come over and say we are not going to show up, we are okay with it.

Mr. Natali: Do you have a letter from them?

Mr. Giordano: No.

Mr. Natali: Okay, we'll take your word for it.

Mr. Rabbia: Maybe I'm missing something here but if I scale out the drawing that Dean Johnson did, I get a touch under 60' for the overall length of the structure, right? I think this is to scale, I could be wrong but when I bring it over to the survey, the one we are talking about with 26.9' on it, I get a 45' and change for the overall

structure. Maybe we can ask Mr. Giordano to come up, is the length of the house in the Dean Johnson survey longer than what you have proposed on the survey?

Mr. Giordano: Yes, yes. It's smaller...it's no longer 50' long, it's smaller, it's 26ish but there is a three-season porch on one side of it so that it's a little closer to the lake on that side.

Mr. Rabbia: So the part without the three-season porch is the 46 and change and then when you go to the side with the three-season porch, it becomes 57ish or so?

Mr. Giordano: It has a 12' deck but after talking to Steve, he made me cut it down to 12'.

Mr. Rabbia: So that's the difference we have from when we last talked about this survey.

Mr. Kirwan: To address Ms. Wicks' question, requiring a new survey is reasonable. I have no problem with that but if you want to move tonight, we can condition this saying to satisfy you with your uncertainty by saying it cannot be any closer to the street line than the property next door, if that's your concern. Then you can act on it tonight and not wait for a survey if that's what you'd like to do.

Ms. Wicks: Understood, thank you counselor.

Mr. Natali: Does someone want to discuss the factors?

Mr. Stanton: Is the revised house in plan area smaller or larger than...

Mr. Giordano: You're talking square footage?

Mr. Stanton: Yes.

Mr. Giordano: Okay, it's the same size.

Mr. Stanton: That's the other potential downfall here because we gave you a coverage of 33% so if this structure happens to be over that, codes will have an issue with what you are doing.

Mr. Giordano: I've already talked to Steve (Procopio) and that's why I'm shortened and eliminated a few things on the house.

Mr. Natali: Okay.

Mr. Rabbia: What did you eliminate on the house? Just out of curiosity.

Mr. Giordano: The three-season porch was supposed to be larger. I also eliminated the deck that's on the side of the three-season porch.

Mr. Rabbia: Okay. Chuck (Stanton), I don't have the benefit of my previous motion.

Mr. Stanton: Do you want it?

Mr. Rabbia: No, you can do it if you want to.

Mr. Natali: Quick question. If we are looking at 26' to the edge of pavement or 20' to the property line, they should be the same.

Mr. Giordano: No.

Mr. Natali: Why not?

Mr. Giordano: That would actually be 20' from the property line and another 8' to 9' from the property line to the road, so we are talking about 28' or 29'.

Mr. Natali: But the house should be in the same place with either measurement.

Mr. Giordano: No, 26' from the pavement is physically 26' from the pavement and 20' from the setback is 8.5' setback and then 28' so that's 28.5' so the house would move further back 3'.

Mr. Natali: Closer to the lake.

Mr. Giordano: Closer to the lake, yes.

Mr. Rabbia: I think we have to do everything from the street line and take a leap of faith that the dimension from the street line to the edge of pavement is 8'-9' and if it's less, it's less.

Mr. Giordano: If you want to stipulate in there that if it's less, I still have to build 8'...

Mr. Natali: No we don't want to make it too complicated. We are going to go with the condition that you have a survey and it's going to be 20' from the property line...street line.

Mr. Stanton: Let's discuss 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.**

**Reasons:** Based on the assumed location being somewhere in between a distance from the street line, their neighbor to the west and the neighbor to the east, I would say no. My reasoning for that and this is reasoning I thought about last time, back in February. Beach Road is consistently non-consistent in character. It is in a transition from seasonal to year around dwellings and is predominantly characterized by lots that are smaller in area then are required by the correct code.

**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.**

**Reasons:** There's a couple difference shades of this. I'm going to answer yes in this case because the actual location of the house in relation to the street line can change. We originally approved 24' and we are looking right now at 20'. The applicant suggested 18' at one point and that tells me there's multiple options there for the front yard. With regard to the side yards, again those lots are only 33' wide [unintelligible] 3.73' on the west as included in the original motion [unintelligible] to the street line without being a real detriment to the minimum back yard setback, that the answer to that is yes.

**All agree.**

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

**Reasons:** The front yard variance would be 10' which would be 33% of the required 30'. The side yards are all relatively sitting around 50% with the total side yard being around 60% of the required. The coverage we are looking at about 8%...8% or 9% which gives you 132 to 133% of the maximum coverage and then the lot width of 33' where we should have 75' and the lot area of 5,965' and change where that should be 10,000 in an R-10 zone.

Mr. Rabbia: I agree, yes, but I am going to say that this is all typical Beach Road stuff but the front actually we are going to end up with more than some of the places up and down Beach Road as far as what the driveway is going to look like. In the front of the home we are going to end up with a 20 to 30' driveway when all is said and done which is more than some of them so that...yes but I think there is a qualifying point for me.

**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.**

**Reasons:** I am just going to refer back to the previous ones. The construction will be held to the current codes and drainage will be reviewed by the Town of Cicero so there will be no adverse effect or impact.

**All agree.**

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

**Reasons:** Applicant is choosing to construct a new, nonconforming structure on an existing nonconforming lot. It should be noted that this is not necessarily a reason to deny the variance.

**Factor 5 -All agreed.**

**MOTION** by Mr. Stanton, seconded by Mr. Natali, on behalf of Mr. Peter Giordano at 9012 Beach Road, to approve an area variance to construct a one-family dwelling in an R-10 zone where the proposed front yard setback is 20' where 30' is required. The minimum side yard setback to the east side will be 2.3' where 6' is required. The minimum side yard setback to the west side will be 3.73' where 6' is required for a total of 6.03' where a 15' total is required and a total lot area coverage of 33% and a lot area of 4,034.7 sq. ft. where 10,000 sq. ft. is required.

Mr. Stanton: As a clarification, the front yard setbacks are from the street line, the right of way as the Town defines it. I also would note that the motion that Mr. Rabbia made in February, 2016, also included that roof gutters will be implemented so that the water runoff is drained toward the lake and away from neighboring properties. Lastly, thanks to Mr. Natali, the front building line is 33' where 75' is required.

Mr. Natali: Do we need your condition on there? [speaking to Atty. Kirwan, Attorney for the Zoning Board of Appeals] The condition that the motion is based on the fact that a new survey depicting this...

Mr. Kirwan: That's what you want right?

Mr. Natali: Yep.

Mr. Kirwan: So, just for clarity include that he can't act until he gets that survey.

Mr. Stanton: So the condition would be that the applicant needs to provide a correct survey incorporating all of the comments from tonight and that needs to be presented to the Codes Office prior to the issuance of the building permit.

Ms. Wicks: Am I able to add the condition that the front of the garage cannot breach the plain in which the other house...so it's not even, it's...

Mr. Natali: It won't come close. With the 20' it won't...there's plenty of room there.

Mr. Stanton: If we were going to do that I think we would need a specific address because otherwise it's too vague.

Ms. Lockett: Isn't it to the front of the garage? Isn't that what we are measuring to? The front of the garage?

Ms. Wicks: I'm just trying to see where on here is he going to be, even with this? Is he going to be back here?

Ms. Lockett: It's going to be here. This is touching the front of his garage.

Ms. Wicks: Okay, thanks.

Ms. Lockett: Should that new survey have a corrected footprint as well?

Mr. Stanton: Well, you know what they say when you assume but I had assumed that including all the comments meant that that would be included also but point taken. It should include the revised footprint.

Mr. Kirwan: As well as...do you want pavement?

Mr. Stanton: As well as the pavement location and the correct side setbacks.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion
Ms. Lockett	Yes to the Motion
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

*In favor: 5      Opposed: 0      Abstained: 0      Motion approved*

**MICHAEL JORDAN**  
**7778 BREWERTON ROAD & 900 N. MAIN STREET**  
**AN AREA VARIANCE WHERE THE PROPOSED DRIVEWAY IS A DISTANCE OF 108 FEET FROM**  
**THE STREET LINE INTERSECTION OF KOPP AVENUE AND BREWERTON ROAD WHERE A**  
**MINIMUM OF 150 FEET IS REQUIRED.**

Mr. Romans: [Hal Romans of Ianuzi & Romans, Surveyor and Planner for the Applicant] We are here tonight because Michael Jordan wants to repurpose this old building which was the old veterinary clinic into a combination thrift shop and church. He would have services one day a week on either Saturday night or Sunday morning and then he would have hours where he would have a thrift shop operating out of the building. The existing driveways to this property are one existing driveway on US Route 11 or Brewerton Road and then there's a large pavement area with curb cuts on the north side of Kopp Avenue. As part of submitting this for site plan approval, the County referral and feedback from the Planning Board is that the driveway that's on Brewerton Road has to disappear, or be removed, and then on Kopp Avenue they'd like us to make a proper driveway access because it's all over pavement right now. We tried to get it as far to the rear of the property as possible. Unfortunately, the code says that if it's a non-residential driveway, the Town would like to see 150' there and we only have 108' because that's all we can get. So, in looking at the County referral for the site plan, the only modification that the County stated was that the driveway on Route 11 should be removed and the Kopp Avenue driveway should be reconfigured so it's as far from the intersection as possible which is what we are showing here. The proposed parking lot and access point would be on Kopp Avenue, 108' from the road or highway's boundary. Whereas it is supposed to be 150'. I think that in looking at the five standards, we are looking at requesting about 28% or 42' and it is substantial but it is also as far as we can push it to the east or away from the intersection and still provide a landscape strip between our property and the property to the east. I don't think it changes the character of the neighborhood because if you look at the aerial photo that I provided to you, you'll see that the property across the street had two curb cuts on Kopp Avenue, one near the intersection which is probably opposite our building itself and then one that is opposite where we are showing our proposed driveway. We would be taking out those existing driveways on our property and then just having the one driveway. There is no other way for us to achieve this. This property is only 157' feet in depth from Brewerton Road to the east and if you want to have the driveway in there and still have what we consider to be adequate parking for this site, which when you look at this, the amount of parking that we are showing is basically one space for every 200 or 185, I think, square feet of building and that's right around the commercial number of parking spaces you want per square footage.

Mr. Rabbia: Hal (Romans), when they do a church service, is 19 spaces enough for a church service? Where are they going to park?

Mr. Romans: I think it is, I mean one thing, I am not sure how many people will show up for this church service but there is...I was talking to Tim Coyer in my office...and there is a way to gain some additional parking spaces here and what I suggested to him and we may change this is...do you see the area between the parking spaces there? I told him we could pick up four or five there if we double park there. One thing I think the Planning Board will be very careful about is to make sure of is that we do not impede parking on the...

Mr. Rabbia: It was just a curiosity question in terms of, you know, if they have a church service, how many spots will they need? I just don't want to see everybody parking in Dunkin' Donuts.

Mr. Stanton: We could get into a discussion of maximum occupancy versus how many spots you need but I have a feeling the Planning Board will address that.

Mr. Natali: That's a one way street, is on-street parking allowed there, I didn't really look.

Mr. Romans: I don't know if it is.

Mr. Rabbia: It's a two-way street.

Mr. Natali: Yes, it's a two-way but it's a dead end. I'm sorry I meant to say dead end.

Mr. Rabbia: The Cicero Code doesn't provide hard numbers for required parking spaces for commercial businesses. It is left up to the Planning Board and in my experience with the Town of Cicero Planning Board is they are very careful to make sure places like this exploding into the neighborhood. So, I'm sure that as they go through the site plan process, the Planning Board is going to ask us to try and maximize by making a few more spaces on site but the location of the driveway is stuck where it is. Even if we add those four or five spaces in the back of the building, the driveway location is as far to the east as we can get without literally having a driveway five feet off the property line which would reduce the parking spaces even more.

Ms. Luckett: Does the Planning Board discuss extending that curb along Kopp Avenue. I'm concerned about parking that's likely going to happen right along Kopp Avenue.

Mr. Romans: They've been in for sketch plan and the first thing they recognized is that the driveway needed a variance so they said go get that first. I already talked to Tim (Coyer) in my office and said that we should tell the client that we are probably going to have to show that being removed because all of the pavement has to come out anyway. So we would be removing all the pavement along Kopp Avenue to create a defined edge.

Ms. Luckett: And put in a curb there?

Mr. Romans: We might not put curb but we would put grass in to provide green space. So, if the Town Planning Board requires curbing...I do notice they only required the building across the street to do a small amount of curbing at the entranceway. They don't have it for the full length, you can see where it peters out on the east side there. But, you know, if the Planning Board ends up requiring curbing, we'll tell our client he has to put in concrete curbing.

Mr. Stanton: Just for clarity, whatever we decide here tonight, will not result in the issuance of a building permit, it still has to go through a town process with the Planning Board so we are just looking at the driveway.

Mr. Romans: To continue on, it is self-created that we request this variance. My client wants to repurpose a building that had existing inadequate parking and had parking that it looked to me was done along Kopp Avenue. It was something that just came to be over the years. This would define a parking area on the site so that this use and any other future uses would have a defined parking lot with one entrance and exit as far away from the intersection as possible. I don't think it will have an adverse effect on adjoining properties in the neighborhood because granting of this variance simply means we can continue the process with the Planning Board where they will look at drainage to ensure that we are not draining water onto adjacent properties and when you look at the commercial property across the street, they have two access points, we will have one defined one and we will be removing the excess pavement.

Ms. Wicks: To dovetail off of that and this may be more Planning Board then zoning but I'm curious. Have you talked about putting a fence up between the residents and the parking lot similar to the one across the street?

Mr. Romans: It has not been brought up as something requested of us. If the Planning Board wants to see

something besides the proposed land that we have there, then I am sure my client would do it. Typically...one thing to remember is that even if we do a fence like that, it's probably only going to be allowed to be done in the northerly half of the property because once you get near the front setback, you have to reduce the height of the fence I think down to like four feet. So, it doesn't really do anything and the landscaping is a better protection against headlights.

Ms. Wicks: Okay, understood. Thanks.

Mr. Stanton: For the record, as Hal (Romans) mentioned, we do have the resolution from the Onondaga County Planning Board. They have said that there will be no significant adverse intercommunity or county-wide implications.

Mr. Natali: Okay, if there's no more questions, I will open the public hearing.

**Mr. Natali opened the Public Hearing at 7:06 pm.**

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

Mr. Natali: Is there anyone who would speak against it? Would any of you folks like to say anything tonight? Okay, come on up sir.

Mr. Jordan: [Michael Jordan, Applicant] I can clear up some of the concerns about the church service there. It has been designed as a small church service, we are not looking to start something like they have across the street here, some huge thing. It will be more of a bible-study type thing so there won't be a lot of people there necessarily.

Mr. Natali: What about the thrift shop? Is that going to draw extra traffic and parking?

Mr. Jordan: Off and on, right now it's open three days a week and we'll probably extend those hours but not...I mean it's in and out people, it's not...we'll never get that many people.

Mr. Rabbia: Your thrift shop today is in the basement of your church?

Mr. Jordan: Yes at 106 Church Street.

Mr. Rabbia: Okay.

Mr. Natali: Would you folks like to say something else? Anything new you might add to it?

Mr. Knoop: [Robert Knoop in attendance with the applicant] Just as far as the amount of traffic that comes in...it's very...like one or two come in, they do their shopping and leave and then maybe four or five at the most that would be there...it's usually just in and out.

**Mr. Natali closed the Public Hearing at 7:08 pm**

Mr. Natali: Would someone like to go over the five factors and make a motion?

Mr. Kirwan: [Attorney for the Zoning Board of Appeals] Before we do that, can I ask a question Mr.

Chairman?

Mr. Natali: Go ahead.

Mr. Kirwan: As Mr. Stanton said, the County made a resolution but they do have a suggestion in this that the town should either require a [unintelligible] or consider combining. Did you already address that by chance?

Mr. Romans: We have not. If the Planning Board requires that, it's something we would do. Our layout does show the ability to do that so if the Planning Board requests that, we would do it. We have our driveway going in a north direction and the turnaround ending about five feet from the property line. It would be very easy to do that. I did see that under the comment portion of the referral so, I'm sure they will delve into this once we get back in front of the Planning Board.

Mr. Kirwan: Thank you sir.

Mr. Stanton: Mr. Chairman, I will cover the five factors.

Mr. Rabbia: Chuck (Stanton) I'll do it.

Mr. Stanton: You sure?

Mr. Rabbia: Yeah.

Mr. Stanton: Okay, go ahead.

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.**

**Reasons:** I don't think an undesirable change will be created. In fact, I think this will be a benefit to the area once they get the property fixed up.

Mr. Natali: I agree. It's an allowed use in commercial general.

Mr. Stanton: I would agree and the fact that the driveway will be better defined and possibly a little further back is going to be a betterment.

**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.**

**Reasons:** I think the answer to that one is "no" in terms of trying to get this laid out as far away from Route 11 as possible, this is about it. I think you have to do it this way.

**All agree.**

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

**Reasons:** As Hal (Romans) mentioned it's 20% or 42', so it is substantial but, again, I think they have a real solid plan laid out to get to where they want to go with this.

**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.**

**Reasons:** I don't believe there will be any impact at all with the proposed use.

**All agree.**

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

**Reasons:** Yes, by definition all of them are self-created. During this construction and buildout, all the bulk regulations shall be met.

**Factor 5 -All agreed.**

**MOTION** by Mr. Rabbia, seconded by Mr. Stanton, on behalf of Mr. Michael Jordan at 7778 Brewerton Road & 900 N. Main Street, for an area variance where the proposed driveway is a distance of 108 feet from the street line intersection of Kopp Avenue and Brewerton Road where a minimum of 150 feet is required.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion
Ms. Lockett	Yes to the Motion
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

*In favor: 5      Opposed: 0      Abstained: 0      Motion approved*

**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