

SS:

STATE OF NEW YORK  
ONONDAGA COUNTY  
ZONING BOARD OF APPEALS

MINUTES OF MEETING  
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: October 3, 2016  
PLACE: CICERO TOWN HALL  
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, October 3, 2016 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Charles Stanton	Deputy Chairman
	Mark Rabbia	Board Member
	Terri Luckett	Ad hoc Board Member

Members Absent:	Gary Natali	Chairman
	Gary Palladino	Board Member
	Rita Wicks	Board Member

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.**

Deputy Chairman Stanton 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. Stanton: Has everyone read the minutes from the September 7, 2016 meeting? Are there any corrections?

Board: No response.

**MOTION** by Mr. Rabbia seconded by Ms. Luckett to approve the minutes from the September 7, 2016 meeting.

Motion was put to a vote, resulting as follows:

Mr. Stanton	Yes to the Motion
Mr. Rabbia	Yes to the Motion
Ms. Luckett	Yes to the Motion

*In favor: 3      Opposed: 0      Abstained: 0      Motion approved*

Mr. Stanton: 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.

MOTION by Mr. Stanton seconded by Ms. Luckett 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. Stanton	Yes to the Motion
Mr. Rabbia	Yes to the Motion
Ms. Luckett	Yes to the Motion

*In favor: 3      Opposed: 0      Abstained: 0      Motion approved*

We have proof of posting of all items on tonight's agenda that have been advertised as directed by law.

Mr. Stanton: 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 then 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 prior discussion of the cases outside of this meeting. (7) Finally, a motion will be made either approving or denying the variance, seconded, and voted upon.

Mr. Stanton: I just wanted to note for everyone in attendance tonight we are typically a five-member board. Right now we have three members. As such all votes to approve variances have to be voted on as "yes" by all three of our members. A single "no" vote results in denial of the requested variance with no means of recourse for the applicant other than to reapply. If we get to a point where individual applicants feel that they may have a greater benefit to be in front of a five-member board, we will allow a deferment until next month's meeting. Please request that before we get to the vote.

**CHARLES H. SKIPWORTH JR.  
6562 STATE ROUTE 31,**

**AN AREA VARIANCE WHERE THE PROPOSED GARAGE ADDITION IS AN  
EXPANSION OF A NON-CONFORMING STRUCTURE. THE EXISTING GARAGE IS 1,920 SQ. FT.  
IN AREA WHERE 700 SQ. FT. IS ALLOWED. THE TOTAL PROPOSED GARAGE AREA IS 3,456  
SQ. FT. WHERE ACCESSORY GARAGES NOT EXCEEDING 700 SQ. FT. IN AREA ARE ALLOWED.**

Mr. Skipworth: [Applicant, Charles H. Skipworth, Jr.] My name is Charles H. Skipworth, Jr.

Mr. Stanton: Would you please describe your project for us.

Mr. Skipworth: I am requesting a variance for an addition on to an existing pole barn that is on the property of 48' x 32'.

Mr. Stanton: Just for the record I would like to note that we have a resolution from the Onondaga County

Planning Board and they have resolved that there are no significant adverse intercommunity or county-wide implications and allow us to act on this without referring to them.

Mr. Stanton: Could I ask generally...is that garage heated.

Mr. Skipworth: It is not heated, the only thing it has is electric and an alarm system.

Ms. Lockett: That's a pretty substantial increase. What will you use that for?

Mr. Skipworth: I have vehicles that I've had to keep outside and some of my lawn equipment and I've had some of my equipment vandalized and I have a boat that's been vandalized because it's outside so I'm kind of protecting what I have.

Ms. Lockett: It's all personal equipment, it's not for a business?

Mr. Skipworth: Yes, no it's personal.

Mr. Rabbia: How are you going to get into your new garage? Are you going to have doors from the back side, the side or...

Mr. Skipworth: There will be a front overhead door and there will be a side man door on the west side.

Mr. Rabbia: Okay then you're going to connect it to the existing garage?

Mr. Skipworth: Yes.

Ms. Lockett: I can't get over how big that is, that could fit by my calculations about 15 cars.

Mr. Skipworth: Well I've got a motorhome, I've got a 44' trailer that would take up that addition.

Mr. Rabbia: Is that enclosed trailer yours...that race car trailer?

Mr. Skipworth: Yes.

Mr. Rabbia: Are you going to be working on your racecars in the garage or no, is that the plan?

Mr. Skipworth: No, that would be up at the front. I have a garage that is where I work on my cars, underneath the house. This is more of storage.

Mr. Stanton: Back to Ms. Lockett's comment, the storage in your proposed garage is going to be greater than the floor area of your house at this point. Just so the other board members know, what I was looking at when I reviewed this, we don't have just the bulk requirements to work with here, the 700 sq. ft. maximum, because the existing garage is over the 700 sq. ft. maximum, this is also an existing non-conforming structure and the code's very explicit about not enlarging the non-conforming features.

Mr. Lockett: What section is that in?

Mr. Stanton: That's 210-25b, no non-conforming building or structure or use shall be enlarged, expanded or increased.

Ms. Lockett: So, are we allowed to do it?

Mr. Rabbia: I'm guessing that the garage has been there well in advance of this code.

Mr. Stanton: Yes this was before the code and I guess that's a question for Terry (Kirwan, Esq., Zoning Board Attorney) as to whether we can override that 210-25.

Mr. Kirwan: Yes, that's the purpose of the variance.

Mr. Stanton: Okay. I guess looking at this the main point of view looking at this would be from the recreational field adjacent to it. I could see it a little bit from the street.

Mr. Rabbia: Barely, right.

Ms. Lockett: And the guy on the other side has one about as large as this one would end up being.

Mr. Rabbia: Is that still Brian Murphy?

Mr. Skipworth: Yes.

Mr. Stanton: This will match the existing garage color?

Mr. Skipworth: It will look like it's been there.

Mr. Stanton: Okay. Any other questions?

Mr. Rabbia: I don't think we have any other questions...at least not from me.

**Mr. Stanton opened the Public Hearing at 6:10 pm.**

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

Mr. Stanton: Is there anyone who would speak against this variance?

**Mr. Stanton closed the Public Hearing at 6:10 pm**

Mr. Rabbia: You know I think this is an Ag district, it's a pretty big piece of property. My opinion given the layout of the property, I think this is...while big....I think it works within the size of the property. Just my opinion. The way he's going to attach it to the existing building, it won't look like a hodge-podge of buildings on the property but will be a continuous looking structure in my opinion.

Mr. Rabbia: Before I make a motion, let me review the five factors for an area variance.

**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: [none specified] See variance form.**

**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:** Adding on to the non-conforming structure, I think the answer is no. Making a smaller structure...I think the answer to that is probably, yes but given the fact that his garage is already 19' x 20', it's hard to not ask for a variance in this case. **All agree.**

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

**Reasons:** By any math measure you use, it is a substantial variance but again when you look at how it lays out on the piece of property and district it's in, while substantial, I think that factor is a bit diminished in my mind. **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:** [none specified] **See variance form.**  
**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. Rabbia seconded by Ms. Lockett on behalf of Charles H. Skipworth Jr., 6562 State Route 31, for an area variance where the proposed garage addition is an expansion of a non-conforming structure. The existing garage is 1,920 sq. ft. in area where 700 sq. ft. is allowed. The total proposed garage area is 3,456 sq. ft. at the completion of the project.

Motion was put to a vote, resulting as follows:

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

*In favor: 3      Opposed: 0      Abstained: 0      Motion approved*

CHERYL WALKER,  
8632 DEENA COURSE,  
AN AREA VARIANCE FOR A 96" HIGH REAR PROPERTY LINE FENCE, 116' IN LENGTH,  
IN LIEU OF CODE SPECIFIED 72" HIGH FENCE.

Ms. Walker: [Applicant Cheryl Walker] Hello.

Mr. Stanton: Would you describe your project for us.

Ms. Walker: My husband and I have lived in Cicero for the last fifteen years and we have decided to put in a pool this year and in the process I realized that we have some unfavorable conditions in our back yard requiring a company to come in and use some fill and do some leveling and there's an easement on the back of about 20' so to put up a typical 72" fence would not, we decided we would need more privacy for our two young daughters as well as really heavy traffic on Lakeshore Road which is what backs up to us. We are looking for an 8' fence just on that back wall to help alleviate some of the annoyance from Lakeshore Road and to offer privacy to our family.

Mr. Rabbia: Does the grade drop off a little bit in the back as well?

Ms. Walker: Yes.

Mr. Rabbia: So, does the 8' in the back get you to like a 6' level in the front near your house?

Mr. Walker: Yes, so what we are doing is initially it was about an 18" drop going out to the easement but as they graded and five foot off the edge of the pool we are already starting to slip down pretty far and we are losing at least two feet if not potentially more. The other component to this is that Lakeshore Road is a little bit higher than our street and where you would stand. Even the kids being on the diving board probably with an 8' fence people can probably see and you can hear traffic and things of that nature off of Lakeshore Road.

Mr. Stanton: Yes, I was going to mention when I drove by yesterday on Lakeshore, I could see right into your back yard and most of your house too, so...

Mr. Walker: And one of the components is the new neighbors that are there now, good folks, he's actually a Monroe County codes enforcement and Oswego Police Officers. They've only been there a couple of years. Prior to them there was an older couple and they had big trees and they had ten feet of their branches removed. I think it was because of deterioration or that they were dying and that really exposed Lakeshore to the traffic, the riding bikes, the walking much more so than we had originally and then to combine that with the grading and that's why we are here.

Mr. Stanton: I just want to note that we have an Onondaga County Planning Board resolution for this case also and they have also said that this will have no significant adverse inter-community or county-wide implications.

Mr. Rabbia: Is it Lisa Dolan, is she the one that is immediately to your....

Mr. Stanton: She has an 8' tall fence also? Who's the other...?

Mrs. Walker: [unintelligible] they said they completely support us getting a fence there. That's the property

we back right up to.

Mr. Stanton: Okay, I thought that letter mentioned that some of your other neighbors might have an 8' tall fence as well.

Mr. Rabbia: I read that someplace. It wasn't in this one.

Ms. Lockett: No, I don't remember reading that.

Mr. Rabbia: Must have been some other letter that we received.

Mr. Stanton: One question about this plan that we got, it looks like, it's not only the back but maybe the first panel in on each side on the side lines are going to be 8' tall also? What I would ask is if it would be possible for you to consider going from 8' down to 6' in say a four or six foot distance? That's the typical panel length. So, basically just taper it down from the 8' to the 6'. If you might be willing...yes on those first side panels. Just to make it a little more esthetic so it's not like a box. Any other questions?

Mr. Stanton **opened the Public Hearing at 6:17 pm.**

Mr. Stanton: Is there anyone here who would speak for this variance? Come on up.

Mr. & Mrs. Fiorini: Mark & Michelle Fiorini, direct neighbors of the Walkers at 8634 Deena and we support the fence and the variance, we have no problems with that.

Mr. Stanton: Thank you very much.

Mr. Stanton: Is there anyone who would speak against this variance?

Mr. Stanton **closed the Public Hearing at 6:18 pm**

Mr. Stanton: If you don't mind, I'll take this one. The first thing I'd like to do is 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:** While a 96" high fence would cast a longer shadow than a 72" fence, they were essentially set back from the property line where any effects of that would be contained within the property. I would also note that with the view from Lakeshore Road, a 96" high fence will provide additional screening for that back yard.

**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:** A fence cannot be constructed to 96" without violating the code.

**All agree.**

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

**Reasons:** This is really subjective. My answer to that is yes. The requested 24" variance is 133% of the allowed maximum of the fence height of 72" but that's not necessarily a reason to deny the variance.

**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 would just reference the statements I made regarding the character of the neighborhood and restate that the fence will be substantially back from the rear property line to avoid impacts to a drainage easement. This in and of itself provides some mitigation on the shading impacts.

**All agree.**

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

**Reasons:** The applicant is choosing to construct a fence that exceeds the code’s maximum height. 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 Ms. Lockett on behalf of Cheryl Walker, 8632 Deena Course, to allow the construction of a 96’ high fence along the rear property line fence, 116’ in length, where the maximum height allowed by code is 72”. I am also going to amend a condition to it that the applicant will provide an esthetically pleasing transition between the fence heights of 72” and 96” along each side yard tapering from 96” to 72” over a length of 4’ – 6’.

Motion was put to a vote, resulting as follows:

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

*In favor: 3      Opposed: 0      Abstained: 0      Motion approved*

**CHRISTOPHER RHOADES,  
5918 MCKINLEY ROAD (TAX MAP #093.-01-17.0) & MCKINLEY ROAD (TAX MAP #093.-01-20.1)  
AN AREA VARIANCE WHERE A PRIVATE GARAGE CANNOT EXCEED 700 SQUARE  
FEET AND THE APPLICANT IS REQUESTING A 1,600 SQUARE FOOT PRIVATE GARAGE.**

- Mr. Rhoades: [Applicant Christopher Rhoades] I'm applying for a variance to build a pole barn.
- Mr. Stanton: I was out at your property yesterday. You've got kind of a wooded access to it right now with maybe a dirt road running back into...was that you walking out with a bow?
- Mr. Rhoades: No a neighbor. [laughter]
- Mr. Stanton: In general if you would describe this, I think a lot of this is going to be hidden from McKinley Road.
- Mr. Rhoades: I don't think you'll be able to see it even in the middle of winter from McKinley Road.
- Ms. Lockett: These are personal vehicles?
- Mr. Rhoades: There's a couple of pieces of work equipment that I keep there. I have a very small contracting company.
- Mr. Stanton: The only thing is that I will warn you that the Town does not allow you to run your business out of there. So please be careful with your descriptions. Will there be electricity to it?
- Mr. Rhoades: I hope to add power to it.
- Mr. Stanton: No office? No plans for an office or anything like that?
- Mr. Rhoades: No.
- Mr. Rabbia: Yes, I agree. I don't think you'll see this at all from the road.
- Mr. Stanton: How's the access going to be for this?
- Mr. Rhoades: What you probably drove down is going to be our primary driveway to our residence.
- Mr. Stanton: Okay.
- Mr. Rabbia: You've got the barn in front of the house. Is that by design or is that just the sketch...
- Mr. Rhoades: Yeah, so that when I come home from work and can drop my pickup truck off and just walk across instead of parking in the driveway and blocking [unintelligible].
- Mr. Stanton: Is this esthetically going to match the house?
- Mr. Rhoades: The pole barn's going to be your standard pole barn with steel walls and steel roof. Color-wise it will match the house mostly by the wife's design but the house will be vinyl sided.

Mr. Rabbia: You're not going to have an issue siting the house or the garage within the regulations right with all the setbacks. You've got plenty of room.

Mr. Rhoades: No we did it on the survey [unintelligible].

Mr. Stanton: Any other questions?

Mr. Stanton **opened the Public Hearing at 6:25 pm.**

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

Mr. Stanton: Is there anyone who would speak against this variance?

Mr. Stanton **closed the Public Hearing at 6:25 pm**

Mr. Stanton: Would anyone like to cover the five factors and make the motion?

Ms. Lockett: I can do this one.

**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:** The garage is going to be located on a very large lot. It is tucked in behind its neighbors. I don't believe any of your neighbors are going to be able to see the barn at all.

Mr. Stanton: I would agree and I would just say that typically we try to work with the applicants a little bit more but given that this lot is over 13 acres in size and well set back from the road, I'm not seeing a lot of impacts or changes in the neighborhood here.

**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:** The applicant indicates that a 40' x 40' is the required square footage to store his work and personal vehicles and he needs an area variance to go above the 700 sq. ft. allowed by code.

**All agree.**

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

**Reasons:** 1,600 sq. ft. where 700 sq. ft. is the maximum. It's 100% variance and that's substantial but not necessarily to deny.

**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 would say no for the same reasons I gave before. It's a large lot and no one will be able to see it.

Mr. Stanton: I would agree and just add that the Codes Enforcement Office is going to keep you to maintaining drainage on site and what not as well so that's going to be a note also.

**All agree.**

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

**Reasons:** The applicant is choosing to construct a garage that doesn't conform but it should be noted that this is not necessarily a reason to deny the variance.

**Factor 5 -All agreed.**

**MOTION** by Ms. Lockett seconded by Mr. Stanton on behalf of Christopher Rhoades, 5918 McKinley Road (Tax Map #093.-01-17.0) & McKinley Road (Tax Map #093.-01-20.1) to approve an area variance to allow the construction of the proposed garage on a 13.72 acre lot in an AG-R zone. The garage will be 1,600 square feet where 700 square feet is the maximum footage allowed.

Motion was put to a vote, resulting as follows:

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

*In favor: 3      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