

SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: September 7, 2016
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Wednesday, September 7, 2016 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

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

Members Absent:	Charles Stanton	Deputy Chairman
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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 August 1, 2016 meeting? Are there any corrections?

Board: No response.

MOTION by Ms. Wicks seconded by Ms. Lockett to approve the minutes from the August 1, 2016 meeting.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion
Mr. Palladino	Yes to the Motion
Ms. Lockett	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. Palladino that all actions taken tonight are Type 2 and have a negative impact, that is, no impact, on the environment unless otherwise indicated.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion
Mr. Palladino	Yes to the Motion
Ms. Lockett	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. Tim Coyer (Surveyor, Ianuzi & Romans): I think everyone's familiar with this project. Before you is a lot of documentation to show what has happened at this site. Mr. Giordano was here with another surveyor's survey and variances were granted were based on that survey. We have since performed our own survey and have determined that the road boundary is in a different location and the lot is slightly smaller than what the previous surveyor had come up with. It's unfortunate for Mr. Giordano that the original surveyor will not stake the property nor continue with doing the survey work. As the current surveyor, I cannot put my name on it and stake the building where the previous surveyor proposed it since it would be in violation to the granted variances. If you will look at our survey before you, what has happened is a 10' strip of property that was shown on the previous survey, we don't believe is there. We think the road boundary is 10' further back. What we show on our survey is exactly the same house placement, exactly the same house size, everything that was previously approved; however, in relation to what we are showing as the property line and road boundaries. On the top right-hand side of the survey I am showing you. I went right down through what was granted, what we are

asking as far as the new variances we are seeking. I wanted to point out that we are still showing the house 20' back from the previous road boundary as agreed upon and granted; however, according to what we came up with for the road boundary, it comes out to be about 9.9' off that road boundary. We are still showing that we agree that the existing house is about 35' off the road boundary per the previous survey. It's just the simple fact that the road boundary is not 10' forward, its 10' back. I gave you the existing tax maps that show the jog in the road boundary. I have given you the existing tract maps that show the jog in the road boundary. I've given you a deed to show why there is a jog in the road boundary. I tried to document everything to show you why we have something different from the previous survey. It's unfortunate for Mr. Giordano that we got involved and that the previous surveyor will not do the rest of it. As the new surveyor, I have to make sure that it's correct and we want to come in here and correct everything.

Mr. Natali: So it's 10' off?

Mr. Coyer: Basically, yes. He lost about 10' of land. Let's just put it that way. Ten foot by thirty-seven feet.

Mr. Rabbia: So, there's a jog right? If you were to go north, it would come back out closer to the road?

Mr. Coyer: Correct. [Mr. Coyer went to the desk to point out the jog in the road.] There are iron pipes out in the road boundary as it shows on our survey that could be construed as where the road boundary is and was used by the previous surveyor to establish property lines and boundaries. We actually did a survey of Lot 43 that shows the house 1.3' off the road boundary. We also did surveys to the north of this site and to the west side of the site. We have done significant amount of work here to determine with due diligence that we are correct. I think we are correct here and I think we are correcting a mistake.

Mr. Natali: It's weird; why do you think they did that? Do you think it was for an easement or something?

Mr. Coyer: You have the original subdivision map that was filed in 1911 does NOT have the jog. So, in 1911 the road was straight. I have the deed that was filed here and in that deed for some reason there was a 10' part of the roadway that was granted to that user for Lots 46 & 47 and that's where the jog came into play. The subdivision map thereafter in 1941 then comes out and shows the road boundary as it is today.

Mr. Natali: So, if Mr. Giordano did not hire you and we went with the approval that we granted last month, it would be exactly where it is, although you've asked for a couple of more changes in the variances. I see a few tenths here.

Mr. Coyer: A few tenths because I think when the previous survey was looked at you were looking at 37' wide and I think it was assumed that it was a 37' perpendicular distance where the lot is not a 90 degree lot so the 37' is there but it's measured along the road boundary. Therefore, in reality it's a skewed lot so the perpendicular line is truly not 37'. Its 37' along the road boundary but no 37' from property line to property line. So when you put the house between those two lines and make it parallel and you hold at least one of the required setback, the other one moves.

Ms. Lockett: This shows that they both moved.

Mr. Coyer: Yes, what we are trying to do is to give ourselves a little bit of play so that there's no error. We centered it and then gave ourselves about a tenth on each side so that we have a 10' play in case there is any type of error when it is built. You don't want us to come back asking for yet another variance. We always ask for at least an extra tenth at least whenever we do these variances. We will pin the footers for him so when he builds he

puts the footers into the ground and we tack the footers so that it goes right in the correct locations.

Ms. Lockett: I didn't understand why you were saying 37', the lot is 33' wide.

Mr. Coyer: Did I say 37'? I'm sorry I meant to say 33' wide. I apologize.

Ms. Lockett: So, you're saying its 33' wide in the front but it's not 33' wide...

Mr. Coyer: If it was a perfect rectangular 90 degree box but since it's skewed a little bit so it's actually 29.8' or something like that.

Ms. Lockett: Was Mr. DelVecchio notified that the house was coming closer? He was here and didn't want the house to be closer to his home so we agreed to 2.3' to slide the house towards...

Mr. Coyer: I can go 2.3' instead of the 2.2'. That's completely fine with us to keep the one side at 2.3'

Mr. Giordano: I think you've got the wrong side there. Her's (Mr. Giordano's sister's camp) is the 2.2' and DelVecchio's is the 3.8'.

Ms. Lockett: No, DelVecchio's is the 2.3' that's what was agreed.

Mr. Rabbia: I think you might have this switched with DelVecchio to the north on your survey and I think DelVecchio's are to the south of you right?

Mr. Giordano: Yeah towards Aero Marina.

Mr. Rabbia: I think if my recollection is right from last month, you've got the properties wrong on your survey.

Mr. Rabbia: So what is right....the names are right and the dimensions are switched?

Mr. Coyer: Correct. The problem with the minutes was a misconception on north, west, east and south when we read through them so I swapped them and I apologize.

Ms. Lockett: So, on the DelVecchio side that's supposed to be 3.73'?

Mr. Coyer: That's what was granted and we will go back to the 3.73' on that side.

Ms. Lockett: He was here and that's what we agreed to.

Mr. Coyer: If I hold the 3.73' then the other side will go down to 2' and we'll be around 29' off the pavement which I show on our survey.

Ms. Lockett: The north side is 3.73'. The south side is 1.97'.

Mr. Coyer: By chance can we go to 1.9' instead of 1.97'? I only ask that so I don't have to come back.

Mr. Natali: Ask for what you want.

Mr. Coyer: I would appreciate it if we go 1.9' there on the south. I have seen so many buildings get twisted just a little bit and have to come back and get another variance when we can clear it right now with the 1.9'.

Mr. Natali: Any other questions?

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

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

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

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

Mr. Natali: Any other questions? Would someone like to discuss the factors?

Ms. Wicks: Gary (Palladino) was asking how many times we've done the five factors on this variance.

Mr. Natali: I'll ask counsel, since we went through the factors previously and made a motion and are now adjusting that motion.

Mr. Kirwan: You'd like to adopt those factors as previously discussed? Nothing's changed?

Mr. Rabbia: I think we should go through them. I think the dimensions change.

Mr. Natali: Well, yes, we will do the motion but just the five factors?

Mr. Kirwan: I think Mark (Rabbia) is saying he wants to go through the five factors.

Mr. Rabbia: I'll do it, I mean let's just go through it again to be sure.

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. 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 than are required by the correct code.

All agree.

Mr. Kirwan: May I interject. Since this is a modification, can you articulate the modification before we go through the five factors so we know what we are addressing?

Mr. Rabbia: Why don't I do the proposed motion and then we'll go through the factors.

Mr. Kirwan: Yea, that would be good.

MOTION by Mr. Rabbia, amending previous variance approved on August 1, 2016 seconded by Mr. Palladino, on behalf of Mr. Peter Giordano at 9012 Beach Road, to construct a one-family dwelling in an R-10 zone where the proposed front yard setback is 9.9' where 30' is required. The minimum side yard setback to the south side will be 1.9' where 6' is required. The minimum side yard setback to the north side will be 3.73' where 6' is

required for a total of approximately 5.7' where a 15' total is required and a total lot area coverage of 37.7% where 25% is required and a lot area of 3,699.2 sq. ft. where 10,000 sq. ft. is required.

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: I'm going to answer yes in this case because the actual location of the house in relation to the street line can change. With regard to the side yards, again those lots are only 33' wide, 3.73' on one side and 1.7' on the other side. I don't see this as uncharacteristic compared to the lots in this area but to answer the question, 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 20' which would be 67% of the required 30'. The side yards are all about 50% of what is required. The total side yard is about 60%. The coverage we are looking at about 12 or 13 off so again it is substantial.

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: 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 was put to a vote, resulting as follows:

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

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

Mr. Kirwan: For the record we need to send this back to the County with the modification because essentially it's in the same location [unintelligible] based on the revelation by Ianuzi and Romans. Is that accurate?

Mr. Natali: Yes, add that to the motion. Good luck Mr. Giordano. You did a lot of work on this.

**KEITH CELLANA
MAPLE DRIVE (TAX MAP #085.-02-27.2)**

AN AREA VARIANCE WHERE THE LOT AREA AND PROPOSED GARAGE SETBACKS DO NOT COMPLY WITH THE MINIMUM AREA AND YARD REQUIREMENTS. THE LOT AREA IS 0.066 ACRES WHERE 2.0 ACRES IS REQUIRED. THE FRONT YARD SETBACK IS 16.75 FEET WHERE 30.0 FEET IS REQUIRED. THE REAR YARD SETBACK IS 6.0 FEET WHERE 40.0 FEET IS REQUIRED AND THE SIDE YARD SETBACK IS 6.0 FEET WHERE 40.0 FEET IS REQUIRED AND THE SIDE SETBACKS ARE 6.0 FEET AND 10.24 FEET WHERE 30.0 FEET IS REQUIRED.

Mr. Cellana: (Applicant) Good evening, I am here applying for a variance to put up a post frame construction garage on a vacant lot across the street from the house that I live at on Maple Drive. The proposed building is 29' x 24'. It's kind of an odd size but I tried to stay under the 700 square feet, which I did. I provided these surveys which shows that I stayed 6' from the property line all the way around. The lot size is small and the garage is taking up roughly 23% of the lot.

Mr. Palladino: Do you know what that lot is zoned?

Mr. Cellana: It's zoned for residential.

Mr. Palladino: Do you know Dick (Hooper – Code Office) is it an R-15 or an R-10?

Mr. Natali: It's an R-10.

Mr. Palladino: The R-15 falls under the same criteria, except for the coverage.

Mr. Natali: its two separate lots.

Mr. Palladino: Right and I couldn't find anywhere where this Lot #16 is an R-10, Lot 17...I couldn't find anything. It didn't tell me what it was and the only reason I ask that is R-15 has I think a 20% coverage, maximum and an R-10 has 30% max coverage.

Mr. Rabbia: Well, and there's also a minimum lot size, 2 acres vs 10,000 square feet.

Mr. Palladino: Yes, and this is .06 of an acre. R-10 is exactly the same as R-15 with the exception of coverage. So, I didn't know how to address this. Dick (Hooper) do you know what it is?

Mr. Hooper: It's R-10.

Ms. Luckett: Yeah, they wouldn't stick an R-15 in the middle of an R-10.

Mr. Palladino: Anything is possible, it's on the other side of the road. It's a different lot. You've got commercial, you've got residential, and you've got agricultural...

Mr. Cellana: What makes you think it's not an R-10.

Mr. Palladino: I don't know. I just wondered where we got the idea that...I just wanted to know what it was because I couldn't find it on anything and as I said, the coverage is really the only difference.

Ms. Wicks: I would think the “girls” would have to have found the R-10 somewhere when they put it down on the application.

Mr. Palladino: No, no, no, Lot 16 is R-10 but there’s nothing that tells me what Lot 17 is.

Ms. Wicks: Right but we are not looking at Lot 16, we are looking at Lot 17 so why would the “girls”... unless it’s because they are going...did you ever merge those two properties? Did you ever have them on one tax map?

Mr. Cellana: No.

Ms. Wicks: No. You pay two separate taxes.

Mr. Cellana: From what I was told...well the house was just purchased last summer. Knowing that the lot was across the street that was my intention because the other houses on that street all have garages across the street.

Ms. Wicks: Because I know there are properties that are split like that and some of them a merged into one tax...

Mr. Cellana: Well originally at one point it was all on one tax map and then it got separated in the past few years and I don’t know why.

Ms. Wicks: I guess Gary (Palladino) is trying to do his due diligence in making sure that what we give you, if we all agree, is going to be appropriate for that lot so you don’t have to come back again.

Mr. Palladino: If we look at an R-10 it has 30’ each side and 30% max coverage and an R-10 calls for 2 acres which we know we don’t have. The R-15 non-residential, basically the same thing except it’s got the 20% max coverage.

Mr. Rabbia: [unintelligible] If it was a residential R-10 lot, in a residential neighborhood, what would the setbacks be and how would it look, well from the side setback not bad. You got 15, you got 10 and 6, and you got a total of 16 right. It’s not a horrible way. What I’m saying is to compare is bad...well not bad but unfair to non-residential requirements. I get the lot but you know, he doesn’t have two acres.

Mr. Natali: No, nobody does on that side of the road. Okay so for the character of the neighborhood, I like your approach, we look at it like it is a residential.

Mr. Palladino: But what we have to work with and what he’s requesting is....

Mr. Rabbia: I get it.

Mr. Palladino: If you want to treat it as residential R-10...

Mr. Rabbia: We have to consider non-residential but I think the way we look at whenever someone does the factors...

Mr. Palladino: We can look at it any way but I just wanted to make sure we get it down so that it’s correct.

Mr. Rabbia: Your issue is you're trying to figure out where we are starting from.

Mr. Palladino: Right, that's correct. Exactly. Dick (Hooper) did you find anything?

Mr. Hooper: We show R-10.

Mr. Palladino: R-10 for Lot 17 too?

Mr. Hooper: Yes.

Ms. Wicks: There yak go, it's an R-10.

Mr. Palladino: We are going with R-10 non-residential, is that was we've decided?

Mr. Rabbia: That's my interpretation...now....I could be totally wrong but that's how I looked at it.

Mr. Palladino: That's fine.

Mr. Hooper: How are you looking at it?

Mr. Rabbia: The lot is R-10 non-residential.

Mr. Hooper: Yes.

Ms. Wicks: So in the future, no one would be able to live on that unless they got a variance because it's non-residential, correct?

Ms. Lockett: No, non-residential is just a use, the whole zone is still...

Ms. Wicks: Well wouldn't we want it consistent with the zone.

Ms. Lockett: The zone is R-10 isn't it?

Ms. Wicks: I was looking at it as R-10 for the whole thing because maybe they want to take down all those garages or build a...

Mr. Rabbia: The lots are too small to put a house on it right?

Ms. Wicks: Well I've seen them on Muskrat Bay Road, so... [laughter] Mr. Chairman, I defer to your expertise on how to interpret and proceed.

Mr. Natali: We are going to go forward as a non-residential R-10. As far as the character of the neighborhood, we can look at it from the standpoint of the setbacks of what they would be. I was just spending some time on the coverage. That's got to be awful close but I don't see it as a recommended variance. The coverage has to be kind of close.

Ms. Lockett: 24%

Mr. Natali: 24%? Did you have a surveyor put this together for you Mr. Cellana?

Mr. Cellana: Yes, sir.

Mr. Rabbia: He didn't do percentages.

Mr. Natali: Well, he might have done it just too...because it says in here that it was over 25 and you'd have 30 if it were non-residential. How did you pick that size? You already have a two car garage.

Mr. Cellana: Two car garage which is tight, first of all. You can barely get two vehicles in and then living on the lake, I have toys, jet skis and things like that and to me it's better to have everything in the winter in a garage rather than just sitting on the lot. It doesn't look appealing and I think a garage would look better for the neighborhood and go along with some other lots along there with garages as well.

Mr. Natali: How big is your boat?

Mr. Cellana: 22'

Ms. Wicks: I think it would add to the appeal of the street having the contents that are sitting off to the side of the road...and for his protection instead of leaving them there in the lot, to have them inside a building would also be a benefit not only to him but I think aesthetically it would look nicer as well.

Mr. Rabbia: Don't we have a bunch of other things to consider? I know on the application it has lot area, front setback, side setback, rear setback but you know in the spirit of what we do we've got lot area, building lines, you've got depth. I think we have the full Monty.

Ms. Lockett: The minimum building line is 200 is that what you are saying?

Mr. Natali: Yes.

Ms. Lockett: And what are we at?

Mr. Rabbia: 49.

Ms. Lockett: How do you get that?

Ms. Lockett: Oh you just measured from the width of the property line.

Mr. Palladino: It's 49, well actually 48.6.

Mr. Rabbia: Is that what you have, 48.6?

Mr. Palladino: I got 48.678 or we could go 49.

Ms. Lockett: And the minimum lot depth is 125?

Mr. Palladino: Yes, and he's got 60.

Mr. Natali: Let's just take a few minutes to do our math here because he needs a variance in every category...except maybe coverage.

Mr. Rabbia: No, he needs it in coverage too.

Mr. Natali: You're probably right.

Ms. Luckett: For coverage I got 24 where 30.

Mr. Rabbia: Oh, ok.

Mr. Palladino: That's what I said because R-15 is 25 and... right, right and that's why I was trying to clear up whether it was R-15 or R-10 non-residential because he would be over if it was an R-15 and he's going for so much, I didn't want him to have to go for any more than necessary.

Mr. Natali: Mark (Rabbia) did you figure out the lot area? I'm surprised your surveyor didn't put that on here in the footnotes.

Mr. Rabbia: I am going by what the application says 2,874, does that sound right.

Mr. Natali: Okay.

Mr. Palladino: I got 2,920 but...

Mr. Natali: Well at least the total square footage isn't too big. Okay we're going to have to add a couple of variances to this.

Mr. Palladino: And you're going 12 foot high, right?

Mr. Cellana: Yes, I was hoping for 12' walls with added trusses as well. Just for the storage. The whole purpose of the building is storage.

Mr. Natali **opened the Public Hearing at 6:47 pm.**

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

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

Mr. Natali **closed the Public Hearing at 6:47 pm**

Mr. Natali: I will go over 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: There are several garages on that side of the road and I think it would be an improvement.
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.** You could make it a little smaller but we are already considering variances all the way around so I would say no.

Reasons: All agree.

Factor 3 – Whether the requested Area Variances are substantial? Answer: Yes.

Reasons: Absolutely, it's based on the size of the lot. Unfortunately without a dwelling, it's non-residential and therefore you have to go with a lot high setbacks.

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 see any major change of terrain or anything of that nature and of course, you've got to have drainage according to what the Code Office requires.

All agree.

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

Reasons: You probably knew it when you bought it that you'd need variances for this construction.

Factor 5 -All agreed.

MOTION by Ms. Lockett, seconded by Mr. Palladino, on behalf of Keith Cellana, Maple Drive, Tax Map #085.-02-27.2 to approve an area variance to allow the construction a 24' x 29' or 696 sq. ft. garage on a non-conforming lot at 8888 Maple Drive where the lot area is .066 acres where 2 acres is required. The front yard setback is 16.75' where 30' is required. The rear yard setback is 6' where 40' is required. The side yard setbacks are 6' and 10.24' where 30' is required. A minimum building line of 48.6' where 200' is required and a minimum lot depth of 60' where 125' is required.

Mr. Natali: The County indicated no adverse effects were resulting from this project. You have a copy of the letter Mr. Cellana?

Mr. Cellana: Yes, I did.

Mr. Natali: Okay, good luck.

Motion was put to a vote, resulting as follows:

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

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

**WENDELLYNN & KIRK ROTHNUM
5797 ALBERT DRIVE
AN AREA VARIANCE WHERE THE PROPOSED ADDITIONS ARE AN EXPANSION OF A NON-
CONFORMING BUILDING STRUCTURE. THE EXISTING STRUCTURE HAS A SIDE YARD
SETBACK OF 2.8 FEET WHERE 6.0 FEET IS REQUIRED AND A FRONT YARD SETBACK OF
12.4' WHERE 30.0' IS REQUIRED.**

Mr. Rothrum: [Applicant] We are requesting a variance to build a room on the back of the garage which is non-conforming to stay in line with the garage. Many of the neighborhood garages are non-conforming because much of the neighborhood was lakefront camps on Oneida Lake and the room that we are interested in building would be right in line with the garage so that our house, as our architect described, wouldn't look like a "frankinhouse" with peculiar juts in and out. The garage is non-conforming because it is too close to the road like many of the garages but it is also close to the property line as well. To accommodate for that, we've had our architect include the use of flame retardant materials in that wall that's close to the property line.

Mr. Rabbia: You're putting the second story on at the same time, right?

Mr. Rothrum: Yes.

Mrs. Rothrum: That portion of the addition doesn't require a variance.

Mr. Rothrum: That is the same footprint of the house and just going up above.

Mr. Palladino: Can you tell me how high because that could come into play.

Mr. Rothrum: It's all within code. I'm not exactly sure how high but according to Mr. Procopio it was well under what it needs to be.

Mrs. Rothrum: [unintelligible]

Mr. Palladino: These drawings have been reduced so many times that you can't put a scale on them and the 4s look like 9s and the 3s look like 5s so it was kind of hard to figure out.

Mrs. Rothrum: We are not requesting any variance for to go up.

Mr. Natali: What are you using the proposed addition for?

Mr. Rothrum: An office for my small business and some storage for my business. I own a mobile DJ company and my equipment would be loaded out into my van straight through that addition and also use it for an office space.

Mr. Rabbia: It won't be any closer to the property line, it's a pre-existing condition of the house.

Mr. Rothrum: Exactly, it would just be in line with that garage.

Mr. Rabbia: Which goes further away from the property line as you go back.

Mr. Rothrum: That's correct.

Mrs. Rothrum: My family has owned this property for years and I love the neighborhood and am very concerned to keep it looking good but with that in mind, there was a structure there on this footprint where we are looking to rebuild, to finish.

Mr. Rothrum: Yes, there used to be a shed in this same place...I'm sorry to interrupt...and it's still on the tax records currently. It used to be a shed but...

Mrs. Rothrum: Yes, if you notice, it'll say it's a garage that is 34' something back and obviously the structure that is there now isn't that large. It's just showing that there was another structure that used to be there.

Mr. Rothrum: This will be more attractive than the shed that was there for sure. That was just a storage shed.

Mr. Natali: With all the land you have on the west, you could have come in without needing a variance.

Mrs. Rothrum: Ya know...

Mr. Rothrum: It's such a difficult to use space in the yard behind that garage and uh...

Mrs. Rothrum: Additionally, I'm a real estate agent, I love the neighborhood, I love all my neighbors, I grew up there and if my neighbors were to decide would they like us to block the one lot that provides them a lake view? I think every neighbor would want us to put this in the back.

Mr. Natali: I am not suggesting in front but you have almost...a double lot.

Mrs. Rothrum: You're exactly right. I guess the character of that opened lot has been much loved by many of the neighbors and myself included so I prefer not to use it.

Mr. Rabbia: Is that your primary residence?

Mrs. Rothrum: This will be our primary residence. We just need a little more elbow room.

Ms. Lockett: Have you ever thought about taking up the blacktop in the front yard?

Mr. Rothrum: Well, that's the way it's always been...initially it was just stone but my mother in law had that paved. That's the driveway now so directly in front of the home is...I think that's the same actually for all the four or five homes to the left of us. It really isn't large enough to be yard. I think its 10' back. All of them to the right if you're facing the house are exactly the same.

Ms. Lockett: How nice if it was a nice lawn.

Mrs. Rothrum: It's an interesting idea though.

Mr. Natali: Well that's out of our jurisdiction but she was inquiring.

Mr. Natali **opened the Public Hearing at 7:00 pm.**

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

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

Mr. Natali **closed the Public Hearing at 7:00 pm**

Mr. Palladino: I will go over 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: We are talking about the addition to the back of the garage.

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.** They could build the office elsewhere on the lot but they'd still need a variance. **Reasons: All agree.**

Factor 3 – Whether the requested Area Variances are substantial? **Answer: No.**

All agree.

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

All agree.

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

Reasons: You are trying to make a change to a non-conforming lot.

Factor 5 -All agreed.

MOTION by Mr. Palladino, seconded by Mr. Natali, on behalf of Kirk and Wendy Rothrum's application for an area variance specifically for a side yard setback of 2.8' where 6' is required and a front yard of 12.4' where 30' is required.

Mr. Rothrum: I would also add that because the garage is a non-conforming structure, do I need an additional variance because I am attaching to a non-conforming structure or no?

Mr. Natali: You are expanding. You've also received the County's letter?

Mr. Rothrum: Yes.

Mr. Natali: Okay there were no significant issues with that.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Ms. Wicks	Yes to the Motion
Mr. Palladino	Yes to the Motion
Ms. Lockett	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