

SS:

STATE OF NEW YORK  
ONONDAGA COUNTY  
ZONING BOARD OF APPEALS

MINUTES OF MEETING  
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: April 3, 2017  
PLACE: CICERO TOWN HALL  
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, April 3, 2017 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
	Gary Palladino	Board Member
	Terri Lockett	Board Member

Members Absent: None

Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Richard Hooper	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 March 6, 2017 meeting? Are there any corrections?

Board: No response.

**MOTION** by Mr. Stanton seconded by Mr. Palladino to approve the minutes from the March 6, 2017 meeting.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Mr. Palladino	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.

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

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Mr. Palladino	Yes to the Motion
Ms. Luckett	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*

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

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 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.

**RICHARD LANDERS & TIA GUIDETTI  
7473 THOMPSON ROAD**

**AN AREA VARIANCE WHERE THE APPLICANT IS SEEKING TO SUB-DIVIDE THIS LOT INTO TWO RESIDENTIAL USE LOTS. THE EXISTING LOT IS 9.2 ACRES (400,752 S.F.) AND CREATE TWO LOTS AT 8.8 ACRES (384,115 S.F.) WITH AN EXISTING RESIDENCE ON IT AND A SECOND ONE AT 16,637 S.F. TO CONSTRUCT A NEW HOME. THE NEW SMALLER LOT DOES NOT MEET THE REQUIRED 100 MINIMUM BUILDING LINE AT A PROPOSED 70.2 FEET. THE PROPOSED HOUSE WILL NOT MEET THE REQUIRED MINIMUM SIDE YARD SETBACK OF 10 FEET AT A PROPOSED 7.5 FEET AND THE MINIMUM REQUIRED TOTAL SIDE YARD SETBACK OF 30 FEET AT THE PROPOSED 15 FEET TOTAL.**

Mr. Natali: Please come forward. Representing them is...

Mr. Coyer: Tim Coyer, Ianuzzi and Romans Land Surveying, PC. Here is something I'd like to hand out to you. [Mr. Coyer approaches the board with the handout.] Mr. Natali: Is that something different than we already have?

Mr. Coyer: Yes. This highlights the area a little bit and gives you a better understanding of what they are trying to do with the property. This is a copy of the existing tax map, highlighting the existing area. The site is located at 7473 Thompson Road. The existing site is roughly 9.2 acres. What the applicants are looking to do is to carve off a piece of land for their daughter to build a new house on. The property itself that is going to be created is roughly 70' x 235'. The tax map I used here is just to highlight a couple of existing parcels that are around this site that smaller in width or about the same size as this parcel is going to be when it is said and done. I also gave you a variance map that my office created. We took the existing survey and used it to show what's going to happen once this parcel is created. The big issue they are running into that you see on this map is the back portion of this parcel is inundated with wetlands so you might ask why they are going to carve out this 70' x 235' strip when you could possibly use it as access to get into the back. However, as you can see it is all wetlands. You are not going to be able to do anything with it in the back. Even with the 100' buffer, you can't do anything with it other than what we are showing. So that's why they are cutting it off and selling it to their daughter so that she can put a house on it. Actually, Mark Custom Homes is here. They are the ones who will be building the house when, and if, this goes through. Obviously, this is only the first step. We have to get the variances that we are asking for then we'll go before the Planning Board and get the subdivision and so on. I'd just like to go through the variances that we are asking for. Minimal lot area, one acre is required, that's going to be about .38 acres of land that will be created. Minimum building line, 100' is required, we are asking for 70.2'. The setback restrictions from 10' and 30', we are asking for 7.5' and 15'. We are just showing a square frame of the building. We haven't gotten into any drawings of the actual building. They are going to have to adhere to the setback restrictions if they are approved and then they will get into actually drawing the details of what the building will look like. At this time, would you like me to go through the Five Factors?

Mr. Stanton: If I could just note...did you get a copy of the County Planning Board's decision?

Mr. Coyer: Yes.

Mr. Stanton: Okay, they had a number of modifications and we typically don't address those but I wanted to make sure you had those because they will come up with the Planning Board.

Mr. Coyer: Yes.

Mr. Stanton: Go ahead.

Mr. Coyer: Number 1, are the variances requested substantial? I think the answer is yes. We are asking for 30%, 50% and 70% on the variances that we are asking for but with the size of the parcel, you're not going to get away from that. Will and undesirable change be produced in the character of the neighborhood? We don't believe so. There are existing properties out there of a similar size with houses on them. Obviously the house that we propose on there will have to adhere to all the restrictions. Can the benefit sought be achieved by some other method feasible for the applicant to pursue other than an area variance? No due to the size of the property unless you go for something like a zone change. Even with a zone change, I don't believe this size parcel would fit into any zoning requirement. Number 4, was the alleged difficulty self-created? Yes. We are coming in asking for the variance and to have the property split up. Will the variance have an adverse effect on the physical or environmental conditions? We don't believe so. Again, similar size properties around the area have houses on them. They do this quite often.

Mr. Rabbia: I could almost get on board with the parcel and whether there's an alternative solution but why don't you change the size of the house to minimize the need for a variance on the side? Go longer and deeper if you will.

Mr. Coyer: Typically, a house is roughly that wide...

Mr. Rabbia: Which is how wide. I don't see that on this drawing.

Mr. Coyer: 55'. If we have to we can try to reduce...you have to also understand that we are asking for 55' here. I'm going to make sure that the house that actually gets built is less than 55' because we want some buffer area in the variance area so that we don't go any closer than 7.5'. Typically, with our office we ask for a minimum of one foot clearance from the setback restrictions. That way, no one gets into trouble.

Mr. Palladino: Just curious, you're subdividing this lot which is 9.9 or whatever acres?

Mr. Coyer: Yes.

Mr. Palladino: I guess my question to you is it backs up against wetland and a buffer, why don't you make this lot so that it complies with the one acre so we eliminate one of the variances.

Mr. Coyer: They are willing to do that. We just cut it this way because it's cleaner.

Mr. Palladino: Unless I'm wrong, that really is useless...

Mr. Coyer: Yes, and for simplicity, they just cut it off at the back to make it a little cleaner. If you asked them to make the lot bigger to adhere to the area requirement, they are willing to do that.

Mr. Palladino: Okay and while we are on that thought, could we move the house over to the north so that we gain...away from the house on the south side. If you moved it over 2.5' so that we get our 10' on one side for the minimum side.

Mr. Coyer: So, you'd like to hold the 10' minimum side on the south side specifically.

Mr. Palladino: You're going up against the neighbor on the north and at this point in time at least its undeveloped back there. That would eliminate two variances.

Mr. Coyer: We have no problem with that.

Mr. Rabbia: And making it narrower would eliminate almost all of them.

Mr. Palladino: Who owns this lot because there are different last names for Tia. You've got two different last names on this application.

Mr. Landers: (Richard Landers, Co-applicant) We're not married.

Mr. Palladino: Okay so who is here?

Mr. Landers: Rich Landers and Tia Guidetti.

Mr. Palladino: Okay, but if I look at the application I see Guidetti and then you have something that says [unintelligible]. Now who is that?

Ms. Guidetti: (Tia Guidetti, co-applicant) That was my married name. That is my daughter.

Mr. Palladino: Okay so who owns the land?

Mr. Landers: Richard Landers and Tia Guidetti.

Mr. Palladino: So the quit deed is over to [unintelligible]. I've got the quit deed right here from Richard to Tia and Bovalino.

Mr. Landers: It was originally my land. When I built our house, she had to be on the land for the mortgage so that went to her but since then, she went back to her maiden name, if that clears it up.

Mr. Rabbia: So the house is 55' wide by how much deep?

Mr. Coyer: We don't have a depth for the house only because we are more worried about the width than the depth right now because we didn't come up with any drawings and the only variance that we are asking for is side yard setbacks.

Mr. Rabbia: Since we have so much depth in the lot, just go through why we can't just make it a deeper house and narrower in the front to comply with the setbacks.

[Representative of the Builder]: It really comes down to the overall appearance of the house from the road. We want to put a two-car garage which is typically 24' wide but you only have a 40' wide house so it's all garage in the front. That's why we are trying to get it more of a standard sized house, go with the 52-55' wide which keeps the garage off to one side where you can still have a normal front entranceway, rather than going with a narrow lake-lot design which is usually garage directly in front of the house, a little side door and it's very deep and long and narrow. So, it's just trying to go with more of a typical-style house is all. Giving it curb appeal when you're going to build a new house.

Ms. Lockett: But you could live with narrowing it by three and a half feet or so?

[Representative of the Builder]: Oh, yes.

Mr. Stanton: I thought we were just shifting it over two and a half feet?

Ms. Lockett: [unintelligible]

Mr. Coyer: So we could adhere to 10' on one side and 7.5' on the other.

[Representative of the Builder]: If we went with 10' and 7.5', that's not a problem. It really gets tough when you are down into that 40' and 45' range to find a house that looks decent.

Mr. Rabbia: Are we going to recommend that they make an acre out of it or no? Yes? Okay.

Mr. Natali: Any other questions before we open up the public hearing?

Mr. Natali **opened the Public Hearing at 6:17 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: Do you want to speak for it or against it?

Mr. Bacon: [David Bacon, 104 Stephen Place] I own the land on the north side.

Mr. Natali: Where that garage sits back?

Mr. Bacon: Yes. Back when I bought my land, I think in '94, I was told that I needed 100' per lot so I needed 200' road frontage if I wanted to make two lots out of that. I only had 190' so I was not allowed to do it. So, now we have somebody coming in with 70' wanting to put a house in.

Mr. Stanton: Mr. Bacon, can I ask, did you follow a similar process to try and...

Mr. Bacon: No, I just took it for granted that that was the rules...I mean everything else around there is 100'.

Mr. Natali: Okay, that's what we are, we are here for appeals.

Mr. Bacon: I figured that's what we had to go by so I didn't even pursue trying to split my lot up.

Mr. Natali: Okay.

Mr. Bacon: But I figure 4' is kind of close to the line.

Mr. Natali: The option was there sir, I'm sorry.

Mr. Bacon: Oh, yeah I realize that but I'm just saying now where my line is to where they want to put their house is 4'. I mean it's kind of wet down through there now anyway so I'm more concerned with it making it wetter in there. So, I mean that's my concern.

Mr. Lockett: It's going to be 7.5' on that side, not 4.

Mr. Bacon: Okay, yeah 7.5' it's still...

Mr. Natali: Your comment will be part of the record sir. Thank you.

Mr. Bacon: Thank you.

Mr. Natali: Is there anyone else who would like to speak against this variance.

Mr. Colucci: [Michael Colucci, 7479 Thompson Rd.] My name is Michael Colucci and I've been living there about 38 years. I really think that there is really enough going on there next to all that wetland. It's really beautiful there.

Mr. Natali **closed the Public Hearing at 6:20 pm.**

Mr. Natali: Would someone like to make a motion and discuss the Five Factors.

Mr. Stanton: I will do that. Before I make a motion, I would like to talk about the five factors that we need to consider before granting or denying a 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.** This particular portion of Thompson Road is mixed use and the addition of a residential structure will not change the character of the neighborhood. It is of note that the substandard building line on the side yard will create two residences within close proximity to each other.

**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.** I do want to make a note that the applicant has shown that they are willing to give a little bit in this based on the fact that we have now increased the subdivided lot area to a minimum one acre and we have also shifted the house over from the southern property line by 2.5’ to 10’ and reduced the width of the house by 2.5’.

Mr. Rabbia: It’s a yes when it comes to the setback because you can change the aspect ratio of the home but I think what we’ve arrived at is a reasonable working option as far as I’m concerned.

**All agree.**

**Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes.** A 29.8% variance on the minimum building line that is required. In addition, we are also looking at a 5’ variance on the southerly side property line and a 2.5’ variance on the northerly property line. But, again, the applicant is going to increase the lot to a minimum of one acre so that actually removes one of the substantial variances that we had to look at.

**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.** My opinion on that is no. The proposed residential structure will be outside of the 100’ wetland buffer and as always the Town of Cicero will ensure that proper drainage is provided.

**All agree.**

**Factor 5 – Whether the difficulty was self-created? Answer: Yes.** The applicant is choosing to subdivide a lot in such a way that one non-conforming lot is created. In addition the applicant is choosing to construct a residential structure that does not comply with the bulk regulations for a residential use on an agriculturally-zoned lot. It should be noted that a “no” answer to this question does not necessarily result in a denial of the variances.

**All agreed.**

**MOTION** by Mr. Stanton seconded by Mr. Natali for the applicants Richard Landers and Tia Guidetti, 7473 Thompson Road, for an area variance where the applicant is seeking to subdivide Lot 24.1 into two agricultural residential use lots. The existing lot is 9.02 acres. Two lots will be created, one at 8.02 acres with an existing residence on it and a second one, at a minimum of one acre to construct a new home. The new minimum one-acre lot has a building line of 70.2’ which does not conform to the minimum required building line of 100’. The proposed residential structure has a southern side yard of 10’ and a northern side yard of 7.5’ where a minimum on one side of 10’ is required. The total side yard of 17.5’ where 30’ is required for this. All the bulk regulations

for a residential use of an agriculturally zoned lot will be met.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Mr. Palladino	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*

**ANTHONY CATSIMATIDES,  
7085 LAKESHORE ROAD,  
AN AREA VARIANCE WHERE THE EXISTING STRUCTURE IS EXISTING NON-  
CONFORMING TO THE FRONT AND SIDE YARD SETBACKS REQUIRED. APPLICANT  
IS PROPOSING A SECOND FLOOR ADDITION ON TOP OF THE EXISTING ONE STORY  
STRUCTURE. THE EXISTING FRONT YARD SETBACK IS 4.3' WHERE 30' IS  
REQUIRED. THE EXISTING SIDE YARD SETBACK IS 5.7' WHERE A MINIMUM 6' IS  
REQUIRED AND THE TOTAL EXISTING SIDE YARD SETBACK IS 13.5' WHERE 15' IS  
THE MINIMUM REQUIRED. THE PROPOSED ADDITION IS AN EXPANSION TO THIS  
NON-CONFORMITY.**

Mr. Natali:      Next on the agenda is Anthony Catsimatides.

Mr. Catsimatides:      [Anthony Catsimatides, Applicant] My name is Anthony Catsimatides, Open Atelier Architects, 751 S. Warren Street in Syracuse. My client Xao Huang is not available to be here this evening and so he has asked me to present for him. The project is pretty basic in terms of its expansion. The existing house is about 1,300 sq. ft. There's a two story house on the right side. On the left side there is a one-story garage and he is asking to basically raise the roof and put a two bedroom and bathroom suite upstairs over the garage. The reason that we were asked to appear before the board was because at some point the surveys have this very strange going on. The homes all up and down along Lakeshore Drive essentially have a front yard of about 25' between where the front house or porch is to where the street begins but for some reason, the right of way for the street goes all the way basically in some of the homes touches the actual front of the house and in some cases the porch. In this case it pretty much touches the porch. So, because it's being built in the right of way, there is a setback of 30' required from the front yard in that area and so we are not going out in any direction other than just going up over the garage. I take that back we are going out in a very small way on the back. He would like to have just a second story balcony about 4' deep off the bedrooms. In order to do that and be a little bit more sensitive to the conditions of the site which is up against the wetlands, rather than sinking foundations into the ground for that deck, I am proposing that we just do angle brackets back to the house. So, the existing house is about 1,300 sq. ft. The proposed addition above the garage is 670' sq. ft. for a total of about 1,970 sq. ft. The lot itself is 10, 525 sq. ft. so right now there's about a 12.3% floor area ratio to the lot and by adding that addition, we are increasing it 18.7%. Other than that just as sheet 2.3 shows, we'd like to put some windows around the side and windows and doors upstairs for the bathroom coming out of the bedrooms.

Mr. Natali:      Is the deck going to be covered?



Mr. Catsimatides: No, no it's just an open deck with an open railing. It'll probably match what's downstairs in terms of the railing. Just a 36' high rail with pickets.

Mr. Rabbia: I think you were talking about the existing deck that's there. It looks like it's half done maybe?

Mr. Catsimatides: The existing deck that is there, no. He is just repairing...he just bought the property last summer and as he said, it was a mess. I guess the railing was rotted or something so he's just replacing the railing.

Mr. Rabbia: Is that what you were asking Gary (Natali) or no? You asked if the deck was going to be covered. Is that the deck you were talking about? The one that's there?

Mr. Natali: Yes. The "four bys" were pretty high.

Mr. Catsimatides: Yeah that's kind of the way he works, he'll cut em down. [laughter]

Mr. Natali: I didn't know. I didn't see a building permit either.

Mr. Catsimatides: I don't know. I didn't ask him about that.

Mr. Natali: Okay.

Mr. Catsimatides: That deck was there.

Mr. Natali: He just put a new floor on the deck. Is that all he did?

Mr. Catsimatides: My understanding was that he was replacing the railing. I don't know. He didn't mention it. I was there back in December so I don't know what he's done between then and now. I can certainly ask him and get back to you.

Mr. Palladino: I didn't notice [unintelligible]. How high is it going to be from the second floor, top of the roof to the ground?

Mr. Catsimatides: The existing house to the peak is about 24' and we are going to match that. We are going to bring that straight on out. What's interesting about the house is it's a very old house. I think some of these were built back in the late 1800s and I believe this one as well. So, the second floor has a pretty low ceiling. What we tried to do was give him a little bit higher without going too high so to keep the roof at the same 24' height, inside we are going to reduce at the ends a little bit, otherwise we would have jumped up another two feet above that and I thought that would look kind of odd. The ceiling inside that room will be a little bit higher than what is up there now which is just barely 7.5', so this will make it closer to 8'.

Mr. Stanton: Just to note for the record, we did receive a resolution from the Onondaga County Planning Board. Are you aware of that? Okay. I won't get into the "whys and wherefores" of it but they did say that this referral would have no significant adverse intercommunity or county wide implications.

Mr. Catsimatides: I did get that letter, yes.

Mr. Natali: You're going to have two different roof lines.

Mr. Catsimatides: Yes, it's the existing roof is kind of raised up to meet the roof that's existing now over the house. What's going to be raised in the garage just meets right at the same height. I thought it would be kind of odd to kind of make it high and then you'd have that funky situation. If you look at the last page, for example elevation it says proposed northeast elevation and proposed southwest elevation, it will give you a good sense of how the roof over the garage meets the existing roof.

Ms. Luckett: We didn't get the elevations page.

Mr. Palladino: That's kind of why I asked you the question.

Mr. Catsimatides: I can hand you that.

Mr. Rabbia: That would be great. Just to be clear, there's going to be no outward expansion of the structure, everything is going to be done within the existing footprint of the structure.

Mr. Catsimatides: Except for that rear deck.

Mr. Rabbia: I understand. I got it.

Mr. Natali: What are the dimensions of the balcony?

Mr. Catsimatides: It comes out 4' and it's 22' long and it will have a 36' high railing.

Mr. Natali: So the peak of the new roof at the second floor is only going to be 24'.

Mr. Catsimatides: Yes. So what happens if you get the pitch coming from this direction and trying to meet in this direction, you're going to get that funky kind of a little triangle at the top and contractors curse you out and all that. So, I kind of opted to drop the walls at the sides, just over the window heads and that way it comes into the peak.

Mr. Natali: Any more questions board?

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

Mr. Natali: Would someone like to make a motion and discuss the Five Factors.

Mr. Rabbia: I would like to discuss the five factors for Mr. Catsimatides' 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.** I think if you look at the character of the neighborhood and what's happening along the area there. They are making the houses a little bit larger and I think this fits the bill of that. **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.**

Mr. Stanton: I would agree the existing lot is a non-conformity and there really isn't an opportunity to lessen the number of variances required and still construct the addition because they are all existing.

Mr. Rabbia: Correct.

**All agree.**

**Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes.** Given the front yard setback on its own, if the house wasn't there, it would certainly be something that would give us cause for concern but although the variance is substantial it is an existing house we are dealing with.

Mr. Stanton: I am going to say yes and just make a note that although the agenda says that we are increasing a non-conformity, the way we typically look at this is the non-conformity of the lot as well as the depth of the side yards and the front yard. Nothing being proposed here is actually increasing any one of those existing non-conformities.

**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.** Again, you can always argue that this was self-created since the owner purchased the property and now they want to make an addition. So, it is self-created but that in itself is not necessarily a reason to deny the variance.

**All agreed.**

**MOTION** by Mr. Rabbia seconded by Mr. Natali for the applicant Anthony Catsimatides representing property owner Xao Feng Huang of 7085 Lakeshore Road to construct a second floor addition. The existing front yard setback is 4.3' where 30' is required or a variance of 26.7', existing side yard setback of 5.7' where 6' is required for a small variance of .3'. A total yard setback of 13.5' where 15' is required in an R10 which is a variance of 11.5'. The existing building line of 50' where 75' is required.

Mr. Stanton: It's actually 60'.

Mr. Rabbia: An existing building line of 60' where 75' is required for a variance of 15'. A lot size of 6,925 sq. ft. where 10,000 sq. ft. is required or a variance of 3,075 sq. ft.

Mr. Stanton; I don't mean to keep interrupting. Can we talk about the actual lot area because when you look at the deed lines versus what they are looking at with the road boundary, the side lines on the property are actually 133' and 144' and that makes the property size actually 8,310 sq. ft. I believe.

Mr. Rabbia: A lot size of 8,310 sq. ft. where 10,000 sq. ft. is required.

Mr. Hooper: [Mr. Richard Hooper, Codes Office] Actually, that's been changed from 10,000 sq. ft. to 9,800 sq. ft. It was a zone change. R10s are now 70' building frontage, not 75' so the lot size is down to 9,800 sq. ft.

Mr. Stanton: Thank you, we'll need updated code books.

Mr. Hooper: That's a re-zoning on Lakeshore Road. Just wanted to make it clear.

Mr. Rabbia: A lot size of 8,310 sq. ft. where 9,800 sq. ft. is required.

Mr. Stanton: I'll second that motion.

Mr. Natali: Please call the roll.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Mr. Palladino	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*

**JEFFREY N. CORNISH,  
6160 MEADOW DRIVE,  
AN AREA VARIANCE WHERE THE HOMEOWNER IS LOOKING TO REPLACE AN  
EXISTING NON-CONFORMING WOOD STOCKADE FENCE WITH A NEW VINYL 6'  
TALL STOCKADE FENCE THAT ENCROACHES THE ENTIRE 30' FRONT YARD  
SETBACK ON THE VERNON ROAD S. SIDE OF THE PARCEL, WHERE 4' TALL 50%  
OPAQUE IS ALLOWED.**

Mr. Natali: Mr. Jeffrey Cornish please come forward.

Mr. Cornish: Ladies and gentlemen of the Board. Mr. Palladino, it's been a long time.

Mr. Palladino: Yes, it has. How have you been?

Mr. Cornish: Good. I am looking to replace an existing 8' high wood fence with a 6' high white vinyl fence, solid, along the Vernon Road South property line. Actually the road boundary line is where it is now and along the neighbor's line but inside my property line as it exists now. Apparently, since I bought this property, the code has changed since then. It's supposed to go 30' in.

Mr. Natali: Why do they say it's a new fence? I'm a little confused. The fence on your side front yard is in good shape.

Mr. Cornish: Yes.

Mr. Natali: So, it's the whole back side that you are replacing according to the footnote here.

Mr. Cornish: Yes. The whole 100' on the south fence.

Mr. Rabbia: Oh, I thought it was the Vernon Road side.

Mr. Cornish: The Vernon Road side and....both sides yes.

Mr. Rabbia: So the back of your lot and then along Vernon Road.

Mr. Cornish: That's correct.

Mr. Natali: So, you replacing everything.

Mr. Cornish: Yes.

Mr. Natali: Because there is a footnote here that says the proposed location of the new fence is the back which...my only question is, you've had the fence there for a while and your pool is pretty far away from that side. It's a pretty good distance because you are spending a lot of money going from 6' to 8'....

Mr. Cornish: I'm going from 8' to 6'.

Mr. Natali: Well, okay it looks pretty good but you want it to all match and you want to replace the back?

Mr. Cornish: Actually, the 8' wood fence is really starting to deteriorate and it's really falling down so I'd like to replace it.

Mr. Natali: Ok.

Mr. Cornish: And it will spruce up the neighborhood a little bit too.

Mr. Stanton: Even though this map doesn't show it, how far would you say that fence is from the edge of the road?

Mr. Cornish: It's right on the boundary. It's like 10' or 15', something like that.

Mr. Natali: Rich (Hooper, Codes Office) they now need a fence permit, right?

Mr. Hooper: Oh, yes.

Mr. Natali: Even though it's replacing and existing fence?

Mr. Cornish: I've submitted a fence permit and it has been denied because of the variance.

Mr. Natali: Okay. Because I walked down that and I thought it was...this is misleading, okay.

Mr. Rabbia: Are you going to thread the needle with the trees again or where are you going to put the fence relative to the trees.

Mr. Cornish: It will be right along that tree line.

Mr. Rabbia: Outside of them or inside, which?

Mr. Cornish: The fence will be on the inside of the trees.

Mr. Rabbia: Okay. So, closer to your home.

Mr. Cornish: Yes, on the Vernon Road side. On the neighbor's side, the south side, I want to bring them on the inside so that it's within my property line.

Mr. Rabbia: Okay. We're concerned with the Vernon Road side, I mean there's no issue on the back.

Mr. Cornish: Well, there is a concern on that 30' between the road and the compliance part of that right?

Mr. Palladino: That's on the Vernon Road side.

Mr. Stanton: The one thing we are talking about here is just clarifying the code. The four foot height and the 50% opaque is just required within that 30' offset from the side line.

Mr. Hooper: Correct.

Mr. Stanton: So, the variance also has to include 30' of that 100' fence on the south.

Mr. Cornish: That's my understanding as well.

Mr. Hooper: That's correct.

Mr. Stanton: Thank you.

Mr. Natali: Any other questions board?

Mr. Natali **opened the Public Hearing at 6:50 pm.**

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

Mr. Zinsmeyer: My name is Neal Zinsmeyer (7866 Vernon Road S.). I share that southerly property line with the applicant. I just wanted to say that I have no problem with his proposal. Thank you.

Mr. Natali: Is there anyone else 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 6:51 pm.**

Mr. Natali: Would anyone like to make a motion and discuss the Five Factors.

Mr. Palladino: I would like to discuss Mr. Cornish's request for an area variance and the five factors that we need to consider before granting or denying this 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.** This will actually improve the appearance of the area.  
**All agree.**

**Factor 2 – Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an Area Variance. Answer: No.** It wouldn't be feasible. If he tried to comply with the code a portion of the fence would be running through a portion of his house.

**All agree.**

**Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes.** A six foot high solid fence instead of a 4' high, 50% opaque is not that uncommon of a request on a corner lot; however, the approximate 29' variance from the road boundary is.

**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.** Not in my opinion.

Mr. Stanton: I would agree with that and I would just like to make the comment here that one of the things we typically look at is whether the fence would block site distance for people coming up on Meadow Drive from Vernon Road S. or vice versa. The fence sets so far back from the actual corner and there's other things going on with the trees and what not. However the intersection itself is stop controlled all ways so this fence doesn't have

any impact on that whatsoever.

Mr. Palladino: And on a personal note, I live in the neighborhood and have been there for about 30 years. I travel that intersection quite frequently and I have never had an issue with not having a line of site.

**All agree.**

**Factor 5 – Whether the difficulty was self-created? Answer: Yes.** The homeowner wants a fence in that location of that size.

Mr. Stanton: Yes, I agree but, again, that is not necessarily a reason to deny the variance.

**All agreed.**

**MOTION** by Mr. Palladino seconded by Mr. Stanton for the applicant Jeffrey N. Cornish, 6160 Meadow Drive, to approve the variances as discussed for this property and specifically that he is able to install a 6' high solid fence or a 4' high where a 50% opaque fence is permitted. I would also like to address the lot size of approximately 14,600 sq. ft. where 15,000 sq. ft. is required, a variance of 400'. A front yard setback on the Vernon Road side of one foot where 30' is required.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Mr. Palladino	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*

**YVES J. PIERRE-LOUIS (CARUBBA COLLISION),  
7313 NORTHERN BLVD.,  
AN AREA VARIANCE WHERE THE APPLICANT WISHES TO INCREASE THE  
ALLOWABLE SIGN SQUARE FOOTAGE FROM 100 SQUARE FEET TO 137 SQUARE  
FEET TOTAL FOR THE WHOLE SITE (INCLUDING FREE STANDING).**

Mr. Natali: I called Bob Smith [Planning Board Chairman] to ask if there was any kind of a site plan for the 7313 Northern Boulevard variance or commercial needs site plan. He said he would get back to me. He contacted the Code Office and said there wasn't one. He suggested that I tell the applicant to go through the site plan process and include the current signs and then come back to us for a variance because the small sign near the road was only 48' high and the sign on the building was over the lineal feet. Mr. Pierre-Louis (applicant) agreed and; therefore, asked that this be deferred. Unfortunately, after talking with Richard [Hooper, Code Office] who said a site plan is not necessary basically because it had been vacant for less than a year. That the existing sign on the road was basically with the property and that the applicant did not need a site plan. So, I was going on Mr. Smith's recommendation. We don't want to have the applicant work extra hard on this however we haven't discussed this with all of the board members, however, three of them Gary Palladino, Chuck Stanton and myself agree that there should be a survey so can tell how wide the building is. Looking at the total



proposal, the property sits very far back of the road so we will take into consideration what we can do to make this applicant happy. Richard (Hooper, Code Office) do you want to add any comment? I feel bad that I gave the applicant his option and he leaned toward getting it deferred but he didn't know that he didn't need a site plan. Had I known that, I'm sure he would have been here. So, whatever you want to do about the site plan. Maybe Bob will change his mind or if it's not necessary, then we'll reschedule it.

Mr. Hooper: I think at this point, I will speak with Bob Smith tomorrow. I have three other meetings with him in the morning and we can discuss this one. She said this applicant did not require a site plan because the building was vacant less than one year and met the zoning requirements. All that was required at that time was a building permit and sign permits were issued along with the building permits. So if he had the free-standing sign out front, he replaced the light sign [unintelligible] condition. He added the sign on the front of the building. The building front is 100 linear feet. Dave Ball went out and measured it. So, if we exceeded that, it is our privilege to do so.

Mr. Natali: I realize, the new sign's going to be 1,260' so...

Mr. Hooper: We don't look at each case and make it sq. ft. for every linear foot. If it's within reason, we allow it and I can site a lot of situations. We are business friendly here in Cicero so that's what we do.

Mr. Natali: I don't disagree with anything you said. At this point, I didn't know that you can make sign approvals without a site plan on commercial properties.

Mr. Hooper: Without a site plan?

Mr. Natali: Yes.

Mr. Hooper: We can.

Mr. Natali: Okay. Bob [Smith] should know that then.

Mr. Hooper: We have building elevations...we can.

Mr. Natali: All right, good.

Mr. Stanton: Okay, so they provided a plan, we have a physical measurement that someone from the Code's office took for us. The only thing I did want to mention, I was reading over the Onondaga Planning Board's resolution and I think they misquoted the sign area. They are saying 137 sq. ft. and I am only getting 105 sq. ft. out of the dimensions they gave us.

Mr. Hooper: Even better.

Mr. Stanton: Yes.

Mr. Rabbia: The sign is 30' long right?

Mr. Stanton: 42" high by 30' long right?

Ms. Luckett: I think they are saying 137 sq. ft. as a total of all five signs.

Mr. Stanton: I don't know where they would even get that information because none of that was given to us. For all intents and purposes, I don't even think it matters because we are going to approve or not approve depending on what the Codes Office does.

Mr. Rabbia: What are we waiting on in this case? Just the survey? Does the applicant know what he needs to do?

Mr. Natali: I think we should have a survey. Gary (Palladino) brought it up and so did Chuck (Stanton).

Mr. Rabbia: Okay.

Mr. Natali: If we know for sure it's 100 sq. ft. long the building. I saw on the sign...I was looking for measurements on it.

Mr. Rabbia: It's 42" by 30' or 105 sq. ft. I just want to make sure we know what we are doing so when he comes back.

Mr. Hooper: I'm not clear either.

Mr. Natali: Well, I'll be honest with you, I'm a little confused going forward because he really should have been here and had I known that...I was going on information from Bob Smith so I didn't want to waste the applicant's time and he appreciated that but it appears....

Mr. Stanton: Can I suggest maybe it's a deferment pending an outside resolution and it may be dismissed.

Mr. Rabbia: Yes, he might not even have to come, right?

Mr. Palladino: The only reason I was asking for a survey is that it says right in the code either plan or survey when coming for a variance so I was just trying to treat everything fair and across the board in an unbiased way.

Mr. Rabbia: If the Code Office has latitude on what they can grant, why are we even entertaining it?

Mr. Palladino: I'm just saying if it comes back here, I'd like to have one of them.

Mr. Hooper: I don't know what Bob's (Smith) approach is going to be now that Bob suggested bringing that back in for site plan application....that's....it puts a big burden on the applicant. It's been there for two years.

Mr. Natali: I agree with you. I will amend my motion that we will defer this until the Code Office decides how to proceed.

Mr. Hooper: Okay.

**MOTION** by Mr. Natali seconded by Mr. Stanton that we defer Mr. Pierre-Louis of Carubba Collision, 7313 Northern Blvd. until the Town of Cicero Code Office decides how to proceed.

Motion was put to a vote, resulting as follows:

Mr. Rabbia	Yes to the Motion
Mr. Palladino	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