

SS:

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: May 2, 2016
PLACE: CICERO TOWN HALL
TIME: 6:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday, May 2, 2016 at 6:00 P.M., at Cicero Town Hall, 8236 Brewerton Road, Cicero, New York 13039

Members Present:	Gary Natali	Chairman
	Charles Stanton	Deputy Chairman
	Mark Rabbia	Board Member
	Gary Palladino	Board Member
	Rita Wicks	Board Member

Others Present:	Terry Kirwan, Esq.	Attorney, Kirwan Law firm
	Richard Hooper	Director Code Enforcement
	Steve Procopio	Code Enforcement
	Terri Luckett	Ad hoc Board Member
	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 April 4, 2016 meeting? Are there any corrections?

Board: No response.

MOTION by Mr. Rabbia seconded by Mr. Stanton to approve the minutes from the April 4, 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
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

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

Mr. Natali: The Cicero Town Board acknowledges the importance of full public participation at all public meetings and, therefore, we urge all who wish to address those in attendance to please come to the microphone located in the front of the room.

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

MOTION by Mr. Natali seconded by 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
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

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

Mr. Natali: For those that are here for the first time, 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.

**MANISHABEN PATEL
8019 STATE ROUTE 31**

**AN AREA VARIANCE WHERE THE NEWLY PROPOSED SIGNS WILL BE A
DISTANCE OF 1.0 FEET AND 16.5 FEET FROM THE STREET LINE WHERE A MINIMUM
DISTANCE OF 20.0 FEET IS REQUIRED.**

Mr. Coyer: [Tim Coyer, Land Surveyor, Ianuzi & Romans, Surveyor for the Applicant] Does the Board have copies of the survey?

Mr. Natali: We do.

Mr. Stanton: Mr. Patel chose not to attend?

Mr. Coyer: Correct. The property in question is located at 8019 NYS Rte. 31, right at the corner in Bridgeport on the north side of Route 31. It's the gas station located right at the bend of Route 31. It is an existing gas station and has pretty much always been an existing gas station. It is zoned general commercial. It is about .42 acres. The applicant is seeking a reduction for additional signs that he would like to place on the site. He has submitted an application for site plan which this is the first step for the site plan. As part of the site plan, he would like to add these signs with the site plan. He is also going to be adding a new underground storage tank with kerosene and that's all part of the site plan but before we get to that point, the signs that he would specifically like to add have to go through the variance process. What we are looking for is two additional signs on the site. One is located in the southeast corner of the property. He'd like to move an existing light pole. The existing light pole is sitting in the state right of way as of today. He'd like to move that on to the site and use it with a sign with the light and he'd also like to utilize the existing structures for the overhead canopy and put another sign in that location. The reason he is asking for two additional signs is because of the location of the site with the curve, the existing sign which is partially in the right of way as it sits today, people coming from the east going to the site, do not see that sign until you are almost in front of the building and people coming from the west from basically Cicero, they don't see it until you get up close to the building...they see the existing sign, I'm sorry, but people coming from Route 298, coming straight at the building, they don't see any of the signage on that existing sign so they don't see any of the advertisements.

Mr. Natali: That sign is right there at eye level.

Ms. Wicks: You couldn't miss it.

Mr. Coyer: Oh really? The way it's facing.

Ms. Wicks: Yeah, he had a red sign. I mean you couldn't miss it.

Mr. Rabbia: Coming from the east going west.

Ms. Wicks: Coming down 298 towards Route 31.

Mr. Rabbia: Oh I see, you're saying coming down 298?

Ms. Wicks: Yes, right there. You can't miss it. I was looking at the light. You can't miss it. It's right there

in front of you. It was actually perfect placement. I didn't mean to interrupt. Go ahead.

Mr. Coyer: Not a problem. The reduction would be from a 20' required minimum setback for any sign to the one-foot for the sign on the southeast corner of the property and 16.5' that would be placed basically right above the existing gas pumps as they sit today.

Mr. Rabbia: Where is the sign...I see where you have it located on the survey here. Can you point that out where it is right now? [Mr. Coyer approaches the bench and indicates the location.]

Mr. Coyer: It's not an existing sign. It is just a light standard. There is no sign on that light standard right now.

Mr. Rabbia: Oh, there's a sign.

Mr. Coyer: Is there?

Mr. Rabbia: Oh yeah. I drove by it Sunday.

Mr. Coyer: A structured sign?

Mr. Rabbia: I didn't look at the way the sign was built but it looks like they took the gas price sign and moved it to the pole.

Mr. Coyer: Would you like me to go through the standards of proof.

Mr. Natali: Before we get into the factors, I'm not sure we are not on the same wavelength of where the signs are now and which ones are going to change. So, can we take these one at a time please. Let's go this way. We are now coming into Bridgeport, so we are going east. You've got the one sign that has two other signs attached to it. Once is five cents off for having Sunoco card and the other is propane. The very first sign. Is that the sign that is going to get a bigger light or bigger sign?

Mr. Rabbia: Which sign is that on the survey Gary [Natali] is that the one that says "sign + or -" or is that the proposed sign on existing column + or -?

Mr. Palladino: The first one you see going east.

Mr. Rabbia: So, sign + or - on the building line, if you will.

Mr. Stanton: Yes, the one that if you want to do anything with it, you have to move it off the right of way.

Mr. Coyer: That sign, he is not moving that sign.

Mr. Natali: He's not moving that sign?

Mr. Coyer: Correct. He would like to keep the existing large sign. He would like to keep the structural steel sign where it is.

Mr. Natali: So, then right behind it, he wants to add another sign?

Mr. Coyer: Right behind it above the gas pumps under the canopy he would like a sign that reads, basically east/west, so he can pick up Route 298 traffic.

Mr. Natali: You already have a sign there with the price of your gas.

Mr. Coyer: Okay

Mr. Natali: Which is perfectly at eye level when sitting in your car and you want to illuminate that.

Mr. Coyer: He would like to add a scrolling marquise sign there.

Ms. Wicks: Oh that might be a problem, that's right underneath where the traffic light is when you are coming that way. You are looking at the light changing and then to have that as a distraction right underneath it, I'm not sure I'm comfortable with that.

Mr. Stanton: I want to get back to that existing sign that's kind of straddling the right of way. I'm looking at a street view right now and it may be a little out of date but there's basically three signs stacked on top of one another. One is the Sunoco sign, the other one is a Sure-Trak sign and then the next one is prices, gas prices. Then there are various other sundry signs attached to that and sticking off. That doesn't change at all. There is no proposal to put an additional...

Mr. Coyer: He's not proposing to change location. I believe he wants to add a scroll sign to that. I will double check.

Mr. Stanton: Now would that take the place of, conceptually, if there were going to be a scroll sign on this. That would take the place of the prices?

Mr. Coyer: Yes, he would be removing some of the existing signage that is on there and replacing it with the marquise sign.

Mr. Stanton: Do we know if there's a net increase in sign face area?

Mr. Coyer: On that one sign?

Mr. Stanton: Yes.

Mr. Coyer: No I do not believe there will be a net increase on that one sign. Obviously, for the overall signage on the site there's going to be a net increase of square footage because of the two additional signs but on that one sign, no.

Mr. Stanton: Do we have a handle on what that is going to be?

Mr. Coyer: Yes, I have a ...

Mr. Stanton: You're typically allowed a square foot for every foot of building line that you have.

Mr. Coyer: Correct but I believe if I'm not mistaken, I will just double check with zoning. [speaking to Mr. Hooper and Mr. Procopio] Does the Planning Board approve the signage square footage that's over code?

Mr. Procopio: Yes, they can.

Mr. Hooper: Yes.

Mr. Coyer: That's the only reason I didn't add that to this and I can but that's the reason I did not. I was under that impression that the sign plan would be a site plan issue with the Planning Board.

Mr. Natali: Help me here. There's a description of the project. The client is looking to install three new signs. That's besides that one or is that going to be improved. Is that going to be the 5' x 10' there? Where's the 5' x 10' going? Is that going to be facing 298?

Mr. Coyer: Correct.

Mr. Natali: So that's where you want the electronic message board.

Mr. Coyer: [Approaches the bench] This one I believe is a 3' x 4'.

Mr. Natali: And that's staying right or you say it's being relocated.

Mr. Coyer: Yes.

Mr. Natali: Where's that going?

Mr. Coyer: Right where we show it, one foot from the line. The existing light pole as it sits today is in the street. We are going to move it on to the property. Then, this is the proposed 5' x 10'.

Mr. Natali: That's the 5' x 10' there, wow. What's the purpose of going with an electronic message because that corner is...first of all there is no red light? It has a blinking yellow light and a 20 mile an hour speed limit that nobody even comes close to on that corner. So, the idea of a message board seems as though it would lose its effect.

Mr. Coyer: I...

Mr. Natali: I understand you represent the client and I wish he was here to answer these questions.

Mr. Coyer: What I can tell you is that basically he got the whole idea of the messaging signs because, I believe, the site across the street has a marquee scroll sign and he would like to do the same thing.

Ms. Wicks: Dunkin' Donuts?

Mr. Coyer: I think it's Dunkin' Donuts.

Mr. Natali: But that's a different operation than a gas station. We are only interested in the price and you're the same price as Speed Way. It's another attraction at that crazy corner. I mean it's dangerous and there looks like there were two vehicle counters across from the laundromat so they must be thinking about putting a stop light in there.

Ms. Wicks: In the past, we have had people come in and they actually had pictures of what they wanted to put up. Sometimes it's helpful to visualize what I'm going to be looking at. How bright is the sign, is it a

scrolling sign, is it lots of light, is it not a lot of light, is it more of just a poster board, scrolling board. There's just so many different types of signs you could put up. It's very hard to just listen and then go on my gut and say "it's okay put those signs up" and then having a monstrosity of signs. That would really help.

Mr. Stanton: We are trying to get a sense of what the content is too. I'm assuming...I have to say this kind of "tongue in cheek" every time we have one of these come up, I ask the applicant what is going to be on the sign and invariably it is completely different from what they tell me; but I'm assuming at this point that it's going to be prices?

Mr. Coyer: Yes.

Mr. Stanton: Although you keep referring to it as scrolling so I don't think it's going to be static. At least that's what I hear from scrolling.

Mr. Coyer: When I try to describe it, like a marquee, possibly it changes what the message is.

Mr. Palladino: There's two different ways, there's a scrolling and then there's the...blinking.

Mr. Coyer: Blinking...

Mr. Palladino: So, which or all three do you propose...scrolling or blinking or...don't we know?

Mr. Coyer: It can do all that. A lot of time when you get something like that approved at the Planning Board, you have adhere to their zone regulations as far as what's allowed and the amount of...

Mr. Procopio: Typically, they are not allowing scrolling signs. They allow static signs if the message doesn't more than every 13 seconds.

Mr. Coyer: Right, maybe I am using the wrong word by saying scrolling.

Mr. Stanton: Doesn't the DOT have a say in this also? I know, and we'll get to the County Planning Board letter but isn't there a formal application process with DOT when you have a sign that's fronting one of their highways?

Mr. Procopio: I believe on an interstate there's a sign program concerning their right of way.

Mr. Rabbia: I am looking at the proposed sign as well. The proposed sign on existing column. Where is that going to go? There's a canopy.

Mr. Kirwan: [Board Attorney] Can I interject here because there's a lot of uneasiness here. Would it make sense to ask the applicant to come back with a little bit better packet here so that you can better understand what he is proposing?

Mr. Natali: I would like to go through a few more things but that's a good idea. I drove in probably five or six different applications of that whole corner and I don't know how you could possibly read anything because you have to pay close attention to that section of the road there at the corner. I thought that the signs you had were good. Now we are not here to criticize the existing signs all over the building. Those are basically in violation but we do not have any power to make changes. As you go back to your client, I would certainly stress the point...I'm sure they have other gas stations, right?

Mr. Coyer: I believe they do, yes.

Mr. Natali: Okay. You don't see a message board on Exxon, Sunoco...all of those difference gigantic operations and they have the resources and the talent to test the effectiveness of signs. It is all about the price and quite honestly, you've got more signs on the signs that you know have to be changed. I would be willing to see you relocate the one sign to get it out of the easement and the one foot is pretty generous but you would need that but as far as the whole package...quite honestly, I wouldn't want any bigger signs. I mean you're going to go to a 3' x 4' and you already have 2.25' x 3.5' why spend the money, it's a nice looking sign and when you are going west, it's right there in front of you the way the road curves because at the bridge you have a 20 mile an hour speed limit sign and right there is your sign. Going the other way on the sign that is to the far west, that isn't even six feet off the ground which it should be and you've got signs next to it. I would like to see you go back to your client and ask him to come here. These minutes will be available. I don't know how the rest of the board feels about electronic messages but I do want to state, the Town of Clay doesn't have them. They are not allowed at all. Dewitt is taking a look at it and Manlius doesn't have them. So, these are not something that are generating a lot of interest from a safety standpoint and especially a gas station. I could see a strip mall where people have a boutique of some kind where they want to get attention but I'm not so sure they are going to get the bang for their buck. Any other comments?

Mr. Stanton: I just had two things I wanted to cover. To Mr. Rabbia's question about the 5' x 10' message board. The proposed sign on existing column. Right now the plan is showing that the 5' x 10' message board is going to be cantilevered off of the left-most column for that canopy. I would just suggest you ask your client whether that is what he really intends to do there.

Mr. Rabbia: Cantilevered underneath the canopy right?

Mr. Stanton: Yes, that's my thinking. I see some infeasibilities there as far as a fire protection system and some other things that he really should take into account before this goes. I would really hate for us to approve something and then all of a sudden this 5' x 10' message board is in a different location from where we approved it. The only other thing I'll bring out and the more I'm hearing about this and the more I read the actual resolution from the County Planning Board, I'm feeling rather sympathetic toward what they are saying here. They have a couple resolutions and one of them is that they recommend that we follow the NYS DOT criteria for commercial electronic variable message signs. It's a three page document that's pretty easy to digest. They have four different things they talk about and I won't get into the details but one of the things that really strikes me here is aside from the eight-second message duration which seems like a good idea, they also advise against having multiple variable message signs in a row and I can see that as being a potential large distraction for the traveling public so that's something I would definitely take back to your client.

Mr. Natali: Any other recommendations to try and help as the applicant moves forward?

MOTION by Mr. Natali seconded by Mr. Rabbia to defer this variance request to the June 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
Mr. Stanton	Yes to the Motion
Mr. Natali	Yes to the Motion

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

Mr. Natali: You may want to make an appointment with our Code Office and maybe they can help you out. Thank you.

Mr. Kirwan: Before the next meeting, have one and two been complied with on the County's proposed modifications? Do we know that?

Mr. Stanton: That's a good point Terry. Alright can we still talk about this even though we've finished with it?

Mr. Kirwan: As long as the applicant's representative is okay with it.

Mr. Coyer: I'm okay with it.

Mr. Stanton: The first one is per the NYS DOT no existing or proposed signs are permitted within the state right of way. The plans for any proposed signs should be submitted to the department to ensure they do not obstruct site distance. The plan must be modified to reflect any state requirements. You could read into that the existing signage that is there that's crossing the right of way if you're client decides to go in and change things on the site, then that may need to get modified also.

Mr. Coyer: I understand that and maybe I could send the proposed and existing sign locations and everything to Betsy Parmalee to verify that she is okay with anything we are doing at the site. May I just add that the existing sign is only in the right of way because there was a state taking along through there.

Mr. Stanton: Yes, and that's the unfortunate thing with that. Also the applicant must submit a lighting plan to be approved by the NYS DOT to ensure there is no glare or spillover in the state right of way. So I think those were the two non-negotiables as far as the County Planning Board was concerned and the rest of it is encouraging us to stick to the DOT guidance for signage.

Mr. Coyer: Very good. I appreciate it. Thank you very much.

Mr. Natali: The other thing, sir, is if we are going to overturn, we are going to need a supermajority so it would be better if you can fit your plans into what the Onondaga County Planning Board is suggesting.

Mr. Coyer: Absolutely. I will get comments from Betsy Parmalee, I will have the client here so he can hear the comments from the Board and not just from me and we'll move forward one way or the other. Thank you.

Mr. Natali: Thank you.

PETER N. TALEV
8033 BREWERTON ROAD
AN AREA VARIANCE WHERE THE PARKING SPACES LOCATED AT THE FRONT
OF THE BUILDING ARE ACCESSED DIRECTLY FROM THE PUBLIC HIGHWAY AND
ACCESS FROM AN INTERIOR DRIVEWAY IS REQUIRED.

Mr. Coyer: [Tim Coyer, Land Surveyor, Ianuzi & Romans, Surveyor for the Applicant] The project is located at 8033 NYS Route 11, zoned commercial, .24 acres of an existing office building. The applicant is attempting to improve the site with a site plan but in the process we found he was in violation of a code that requires anyone who enters or exits the site, that the vehicle has to be fully on the site prior to entering any existing or proposed parking spaces. Specifically there are existing parking spaces along Route 11 in front of the site and they've been there a long time and due to their having been right of way taking in that area, you cannot fully enter the site in a vehicle prior to parking in one of those spaces so in theory you need about 20' of driving area prior to entering the parking space itself. They are looking to add some driveway along the south side of the site and an exit egress lane to the northerly parcel. Basically, Mr. Talev is trying to improve the site circulation for this property. As it sits today, it is very dangerous to try and back out of an existing parking space on to Route 11 so what he is hoping to do is allowing cars to go up the north side of the site and then exit through the south side of the site. However, during the site plan process, it was brought up that there was not enough room for the parking up front so we had to stop the site plan process to address that situation.

Mr. Stanton: I have to ask. It looks like we are going from six front loading parking spots in front of the building to it looks like four now. Why the choice to put the handicapped spot in the one place with the least amount of ability to back up without going out into a traffic lane?

Mr. Talev: I don't think it makes a difference where we put it. If you prefer that it would be more north, we could shift the handicapped parking in either direction.

Mr. Rabbia: You pick up more space to back up to the north. Maybe twice as much.

Mr. Stanton: The other thing I wanted to address head on was we have a resolution from the Onondaga County Planning Board and I won't go through all the "whereas" but they are recommending the following modification which is the applicant must continue coordinating with the NYS DOT regarding access to sidewalks on site and the town must not act on the proposed variance until the appropriate mitigation measures to ensure safe access to Route 11 has been determined. Stop me if I'm wrong, if NYS DOT has purview over this and they can almost force whatever they want in this, whether we grant a variance or not tonight has no bearing on that. We can say you can have the parking spaces and the DOT can come back and say no.

Mr. Natali: This is the first step. If we don't give them the variance, why would he go to the DOT?

Mr. Coyer: In regard to that, before we did any application, we actually specifically met with Betsy Parmalee on site – myself, Peter and Betsy – to go over this situation. She was fully on board with what we were doing. She said anything that we were doing was trying to improve the situation. As it sits today it is dangerous. What we are trying to do is improve it and she was on board with what we were trying to do.

Mr. Natali: Okay that's good but does not affect our decision tonight on whether to give you the variance.

Mr. Coyer: I understand.

Mr. Stanton: I was more saying that if we wanted to act tonight, we could do that and if the DOT says no, I don't see us stopping or starting anything based on what we do tonight.

Mr. Natali: Do you agree Terry [Kirwan]

Mr. Kirwan: Yes.

Mr. Natali: Thank you.

Mr. Talev: I made an application to the Planning Board about a year ago and at that time, the chairman and the co-chairman, Bob Smith and Pat Conners, were very accommodating and came to the site and they made the recommendation of the roadway or driveway from the north going around the back and curling around to the south side and having it cross access easement to the Auto Zone side on the north side to mitigate parking and traffic. At the same time that Bob Smith and Pat Conners were there, I had my prospective tenant, it was Subway, who has a spot just south of the existing 8303 as well as the Subway at Walmart. His patience ran out. Subsequently I had a few other people but apparently every time they would call the town, the town said really until the traffic situation is resolved, we are going to be very reluctant to grant any kind of approval for prospective tenants to come. Fortunately, I was able to procure a prospective tenant who is a State Farm Insurance agent who I think would be an ideal candidate for that location and I would hope I could move on the process in order to not lose a really fine candidate who will upgrade the location. They have a good plan in place and prior to this it was an Allstate Insurance agency so I think the use is very accommodating to the site. It's not a heavy traffic type of tenant. Ideally, I would love to be able to move on with this in order to not lose another prospective tenant.

Ms. Wicks: I have a few questions if you guys would help me out with these. One question, is it is my understanding that you have a relationship with Auto Zone?

Mr. Talev: I was always very friendly. I try to be friendly to my neighbors. They had a problem with going to close to my property and when I found out, I sort of reached out and spoke to the contractor in Florida that owns the development and told him I would try to accommodate them and give them one foot if need be so they could avoid the debacle that they found themselves in. Ianuzi and Romans was very instrumental in deciphering the debacle with the survey. I mean they spent months unraveling the mistakes of the prior measurements. They had a very good relationship, I think.

Mr. Wicks: I was just wondering. They have a beautiful entrance there. You actually enter with the light. Is there any possibility of getting an entrance to your back property, not totally disregarding your idea here, but coming in from the back from Auto Zone as well? I didn't know if that was even possible, maybe it's not feasible.

[Unintelligible response from Code Office staff]

Ms. Wicks: Okay next question then [laughter]. There is a capped sewer vent to the left of your gravel and then it looks like there is, where your gravel is to the left side of the building, there's two capped and I don't know if they are sewer or water lines?

Mr. Talev: I think they are sewer lines.

Ms. Wicks: So where there is gravel along that side, that would end up being paved?

Mr. Talev: Yes.

Ms. Wicks: And how would you accommodate for those two vents. Are they active?

Mr. Talev: I think they are probably a foot or two beyond...can I show you?

Ms. Wicks: Absolutely.

Mr. Stanton: I think the asphalt stops about two feet before them.

Ms. Wicks: Oh, no, I was just there.

Mr. Talev: It's right in the driveway?

Ms. Wicks: There's a vent that's outside of where the gravel is and then inside the gravel, there's actually two vents and they are both capped. Those you can just pave around correct? So it's not instrumental that we need to navigate away from that. Those can be part the paving? Okay. Now my other question and I need my partners, for the driveway does it need to be 22' wide, 12' wide, is that what we are asking for is a variance on each side of the building regarding the paving going into the back lot?

Mr. Natali: The variance is only the accessibility from a public highway. That's the only thing that we are dealing with.

Ms. Wicks: So there's no need to address either side of the building?

Mr. Natali: No.

Ms. Wicks: That's it. Thank you very much.

Mr. Palladino: Would you address whose idea it was to have the proposed egress into Auto Zone. Was that your suggestion, was it the DOT's?

Mr. Talev: When the Subway individual was there, Bob Smith, Pat Honors was there. Bob Smith said listen, here's the way I would like to see it happen, ideally. I drive by all the time, I see it and I had no idea that the potential cross access easement from my premises to the Auto Zone on the north. Bob said everyone has a **cross over** on Route 11. It's a shame not to utilize it. I responded to his idea and I took it to heart.

Mr. Palladino: I don't like it but...

Mr. Rabbia: It might be an easier way to get going north though.

Mr. Palladino: I think that's an accident waiting to happen. I love the idea of having the idea of having the driveway going down the north and coming around the back. That's excellent. However, I look at this proposed egress that if someone was going to go from your property up to Auto Zone and that car is broadsided. You're about 20' off the road. Someone coming down the road, you could be right in the middle of hitting them broadside.

Mr. Rabbia: I'm not sure I follow you.

Ms. Wicks: Auto Zone sits way back here.

Mr. Palladino: You've got the parking lot here. If this is used as an egress and a car is here going up that ramp and you pull in here, you're going to hit it. You're going to hit that car. Do you understand? If you're coming south and you turn in here and you're going up to Auto Zone. This is an egress from this property to there – from here to there. If it was from Auto Zone to here you'd have other issues making this turn. If you are coming from the existing property up to here, your car is here because you're going up here. You are coming south. You turn in here because you want to go to State Farm Insurance and here is less than 30' from here to where this entry is, you have 20 something feet and a car...

Mr. Rabbia: Delay of waiting from someone to clear the egress into the parking lot...and somehow rear ending someone.

Mr. Palladino: Exactly.

Mr. Natali: This was a suggestion by Bob Smith when a potential client, Subway, with a lot of traffic. These are basically two office facilities so you won't have the Subway type of traffic. Quite honestly, to access Auto Zone is going to be fairly expensive but if you don't like it Mr. Palladino, you make the recommendation if it's necessary or not necessary.

Mr. Stanton: Just to weigh in, I am starting to see what Mr. Palladino was saying that that egress could possibly serve one or two of those parking spaces that are adjacent to it without having someone pull out on to Route 11 and then cross two or three parking spaces to get to that egress. I guess I'm not seeing the reason for that.

Mr. Rabbia: The only issue is how do you get north out of here. The egress gave you the opportunity to get back to the traffic light to go north, right.

Mr. Stanton: There is the shared turning lane. When you look at what they are doing with the ring. When you look at the southern one that they are adding on, you don't have the benefit of the Google Maps but there is actually the shared turning lane there that you can pull out into.

Mr. Rabbia: Okay.

Mr. Natali: You can back up and turn around without driving on Route 11.

Ms. Wicks: As long as those other parking spots are not filled.

Mr. Natali: Okay but you could go into the driveway. You have two driveways on each side so you could back into those and then go out. If you use the Auto Zone, you have to go south. Oh no, yeah you could go to the light that's true.

Mr. Palladino: Is this what we should be addressing right now this egress or should we be addressing the parking spots.

Mr. Natali: It's all part of the big picture. I wouldn't dwell on it. We brought it up and the client went to extra expense because it was suggested by the Planning Board Chair but with a different occupancy. Yes, we should be dealing with whether to let the parking spaces go directly from a public highway. That's what we are

up against.

Ms. Wicks: Are we going to address the handicapped space? Even though I agree.

Mr. Natali: That would really be a Planning Board issue and quite honestly it's something that can be changed.

Mr. Stanton: There's a lot of things that I say because I hope the Planning Board reads what we do here.

Mr. Natali: If there's no more questions, I would like to open up the public hearing.

Mr. Natali opened the Public Hearing at 6:47 P.M.

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

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

Mr. Natali closed the Public Hearing at 6:47 P.M.

Mr. Natali: Any other questions? Before we make a motion, we 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. If you look from Bear Road to Route 31, it's almost 100% commercial business. In fact across the street on the west side of Route 11, only two properties north is White's Auto and has the same situation. Also, the strip mall south of this building where Affordable Carpet is located has the same situation and quite honestly might even be closer to Route 11 to parking in front of the building. So this is something that exists in our town but only in the older buildings. All the new buildings, all the big boxes, they've all been designed with public safety in mind. So that's basically the purpose of 210-17. Do you agree that this is not going to change the character of the neighborhood?

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. We are limited to one of the smallest commercial properties in the town. We are limited by the space we have, it is what it is.

Ms. Wicks: I just wanted to add that I believe we did our due diligence in trying to find another feasible alternative to the egress for that building site. I agree with you.

All agree.

Factor 3 – Whether the requested Area Variance is substantial? Answer: Yes. I think it is because to do something else and put up a very limited access would require tremendous modifications. So, I will consider it substantial.

Mr. Stanton: I would just add that there is somewhat of a mitigating factor here in that the applicant is reducing the front loading spaces from six to four which is a reduction of two and I would think that this does show some attempt to compromise with the current situation.

Mr. Rabbia: Yes, I agree and the Planning Board can deal with where the parking spaces are.

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.** There's plenty of drainage there. In fact, Auto Zone has a huge drainage basin in back of the building. That property actually ends half way down the side of the Auto Zone so that whole area back there has been designated as a water runoff basin.

All agree.

Factor 5 – Whether the difficulty was self-created? **Answer: Yes.** How do we handle this question in this situation? I mean the property was limited when Walmart expanded their property, they took approximately 12-15' off that west side of the road and of course Mr. Talev couldn't possibly predict that when he put in a driveway, he would have to change what his existing operation of the building. I will say that it is self-created however that does not, in and of itself, give us an opportunity to decline that portion of the variance.

Factor 5 -All agreed.

Mr. Stanton: I would recommend that the motion include the number of parking spaces that are being provided which is four. The second, that we place a condition on it that the Town of Cicero shall not issue a building permit or approval of the proposed parking configuration until such configuration is approved by NYS DOT which I believe follows what the County Planning Board was asking.

MOTION by Mr. Natali, seconded by Mr. Palladino, on behalf of Peter N. Talev, 8033 Brewerton Road, for approval of the current accessibility which will allow parking directly from a public highway being Route 11. In addition there are several other areas that we need to address that are non-conforming. Minimum building line is 80.22' where 100' is required; the lot depth is 118.4'8 where 200' is required; the front yard setback is 19.52' where 50' is required; the side yard is 8.42' where 15' is required.

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

Mr. Stanton Yes to the Motion and noting the following:

(1) Under Requirement for which Variance is Requested: An area variance where four proposed parking spaces located at the front of the building are accessed directly from the public highway and access from an interior driveway is required.

(2) Under Conditions: Condition No. 1: The Town of Cicero shall not issue a building permit or approval of the proposed parking configuration until such configuration is approved by NYS DOT.

Mr. Natali Yes to the Motion

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

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