

STATE OF NEW YORK
ONONDAGA COUNTY
ZONING BOARD OF APPEALS

MINUTES OF MEETING
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: SEPTEMBER 9, 2009
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Wednesday September 9, 2009 at 7 P.M. at the Cicero Town Hall, 8236 South Main Street, Cicero, New York 13039.

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| Members Present: | Gary Natali: | Board Chairman |
| | Charles Stanton | Board Member |
| | Gary Palladino: | Board Member |
| | Rita Wicks: | Board Member |
| Absent: | Robert Bach: | Board Member, AdHoc |
| | Mark Rabbia: | Board Member |
| Others Present: | Wayne Dean: | Dir. of Planning and Development |
| | Melissa Del Guercio: | Attorney |
| | Nancy G. Morgan: | Secretary |

In as much as there was a quorum present, the meeting opened at 7:00 P.M.

Mr. Natali pointed out the fire exits and requested that pagers and cell phones be turned off. He then read the following statement: The Cicero Town Board acknowledges the importance of full participation in public meetings, and therefore, urges all that wish to address those in attendance to utilize the microphones in the front of the room.

Motion was made by Mrs. Stanton, seconded by Mrs. Wicks, to approve the minutes of the August 10, 2009 Zoning Board of Appeals meeting. There were no corrections or additions.

Motion was put to a vote, resulting as follows:

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| Mrs. Wicks: | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton: | Yes |
| Mr. Natali: | Yes |

Motion duly carried.

Motion was made by Mr. Natali, seconded by Mrs. Wicks, that all actions taken tonight are Type II Unlisted Actions and have a negative impact on the environment, unless otherwise indicated.

Motion was put to a vote, resulting as follows:

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| Mrs. Wicks: | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton: | Yes |
| Mr. Natali: | Yes |

Motion duly carried.

We have Proof of Posting for all cases on tonight's agenda.

Mr. Natali made the following announcement: Any action taken tonight will not be official until the minutes are filed with the Town Clerk, which has a deadline, by law, of two calendar weeks.

AREA VARIANCE DEFERRED FROM 7/8/09 FOR MARY CHAIRVOLOTTI, 6065 BANNISTER DRIVE, TO CONSTRUCT A DECK AND FENCE WHICH EXTENDS INTO THE 30 FOOT SETBACK FROM A STREET. THIS IS A CORNER LOT WITH TWO 30 FOOT STREET SETBACKS.

Representative : Mary Chairvolotti, Owner

Ms. Chairvolotti gave new drawings to the Board Members that showed new dimensions and changes since the July meeting.

Mr. Natali: Who helped you lay this out, Mary? Was this laid out by your Surveyor?

Ms Chairvolotti: No. I talked to him on the phone. I laid this out myself with his assistance. I kind of went with Mr. Palladino's idea the last time I was here on how to cut the corners. I talked to the Surveyor on the phone today to make sure I understood everything correctly. It's in Chetwind Farms Sec. B and it states how far the street line has to come back so this is definitely the edge of the road to the far left.

Ms. Chairvolotti continued:

Then come in and that would be my property line even though there's 19 ft. 3 in. I don't own--then 10 ft. for the Utility Easement--then 21.1 ft. to the corner of my house. So, I did the same thing in the back. I came in from the 15 ft. that I don't own and the 10 ft., then about another 5 ft. to make it look correct when we laid out the corner. Then my neighbor to the right has a 6 ft. fence there that I would just tie into. When you come on to the stop sign at the corner of Bannister and Patchmark, including the fact you can see the traffic coming down Thompson. Not that you need to but you can see it. It sits way back in.

Mr. Palladino: The one measurement you have, running parallel to Thompson Rd., you have 84 ft. 6 in. --I think it should be 74 ft. 6 in.

Ms. Chairvolotti: From the right to the left ?

Mr. Palladino: Yes, I measured it.

Ms. Chairvolotti: You're right--it is 74 ft.

Mr. Natali: What is the footage from the lower deck to where the fence is going to be ?

Ms. Chairvolotti: 13 ft. 9 in., then the fence is going out 21 ft.---7 ft. 3 in. Enough for a swinging gate and to get a riding tractor through.

Mr. Stanton: What I'm observing here is that the 21 ft. that you said, I'm assuming means to the corner of the fence ?

Ms. Chairvolotti: Correct.

Mr. Stanton: That, coincidentally, is the dimension of the 10 ft. Utility Easement, so that pushes the fence out to the edge of the Utility Easement.

Ms. Chairvolotti: Yes, an inch prior to the Utility Easement. Including the Utility Easement, from the corner of the house, out to--including the Utility Easement--is 31.1 inches. So, I took the 10 ft. 1 in. off and just made it 21. On that side of the house, going out right next to the Utility Easement, is 29 ft. 4 in. of land.

Mr. Stanton: The 70 ft. dimension you're calling out--are you intending to hold the front fence line and then go 70 ft. back to your back yard or are you intending to hold the back line that you show there, going 70 ft. out to your front yard ? With the "hand" sketch , we're having a hard time figuring it out.

Ms Chairvolotti: O.K. Facing the house, you're looking to the right, correct ?

Mr. Stanton: Correct.

Ms. Chairvolotti: It's 31 ft. over to my neighbor's fence. Then the distance between there and the line along Thompson Rd. where I have marked for the fence, is 70 ft. The neighbor's fence is already there, I won't be putting a fence there.

Mr. Stanton: The intent is to keep the fence in front of your house at the same offset ? The 21 ft. and 31 ft., you want them on the same line?

Ms. Chairvolotti: No, they are slightly different. As you face the house on the left, where I put the fence right past the deck, on the other side of my house where the 20 ft. garage is, there's an entrance door there, so I want to go just behind the entrance door. What that does, because my property is on an angle, as you face my house, on the right, their fence is here, if you came up here it would be on an angle. By me going directly behind that door, the fence will be straight across to theirs, instead of an angle.

Mr. Stanton: As you've denoted it, that 70 ft. holding that front line, that's just on the other side of that 10 ft. Utility Easement.

Ms. Chairvolotti: You're right. So, it should be 67 1/2 ft, correct ?

Mr. Stanton: 67 1/2 ft. from where you've drawn it, will put you just on your side of the Utility Easement.

Ms. Chairvolotti: I'm not going to go over the Easement.

Mr. Natali: Mary, you're going to do this fence this year or next year. You've already built the deck. I don't have a copy of the meeting two months ago, but if I remember correctly, we asked that this be drawn by a Surveyor. Because when you look at the property where this fence is going near that lower deck, it should be a lot closer than the 7 feet you're recommending. It's still a substantial Variance you're asking for. To give you the benefit of the doubt, it's not going to hold you up using it any more the rest of the season. I'd like to make a recommendation that you do have this done by a Surveyor so we have everything covered here. It's hand drawn--we've found a couple of discrepancies.

Ms. Chairvolotti:
I've already got \$600 invested in this--\$400 for the survey and \$200 for the Variance. If you're asking me to bring the fence in a little closer, absolutely, I can do that. I'm willing to work with you. I have 10 grandchildren. As you know, Thompson Rd. has become quite the "freeway". So what I'm looking for is their safety. Coming in 29 ft.4 in., if you need me to come in farther, I can.

Mr. Natali: How close would you want to be ?

Ms. Chairvolotti: I'll come right up to the edge of the deck if I can get this passed so I can get the fence up. I'll come out 14 ft. from the house , then the fence will be like a wall on the deck. I can decorate that. I have no problem doing that.

Mrs. Wicks: Do you have a gate to go in ?

Ms. Chairvolotti: I'll just have to have the gate to the right , on the front.

Mr. Stanton and Mr. Natali agreed that that is what they wanted at the last meeting.

Mr. Natali opened the Public Hearing at 7:15 P.M.

FOR: NONE
AGAINST: NONE

The Hearing was closed at 7:16 P.M.

Motion was made by Mr. Palladino to approve the Area Variance for construction of a fence around Ms. Chairvolotti's house. The points of interest on the fence would be: the side of the deck to Patchmark Ln., the fence would run and touch the deck. From the beginning of the back of the house to beginning of the deck, the fence would be approximately 40 ft., running from parallel to Patchmark Ln. to Thompson Rd. From her neighbor's fence on the east side of the property, from Thompson Rd. south of the street line. From the street line, the fence would be approximately 7 ft. from the street line south. From that point, going towards Patchmark Ln. west, the fence would be 74 ft. 6 in. Once those 2 points are determined and placed, the fence would be connected at an angle of approximately 32 ft. It is our understanding that across the front of the house or property, there will be approximately 31 ft. of fence on the east side and approximately 15 ft. of fence on the west side. These measurements were taken off a drawing submitted to us--the drawing file number is 5198-L107 dated 06-03-09. With those measurements being taken into account , and if the fence is installed in those areas, we ask the questions for the 5 factors:

1- Whether an undesirable change would be produced in the neighborhood ? Answer: No, our main concern is visibility and line of site is not obscured or blocked when approaching an intersection and it will not be.

2- Whether the benefit sought by the applicant can be achieved by a feasible alternative? Answer: No. This particular piece of land is unique where it has technically 3 frontages, being on the corner. So, it falls into a unique situation. There have been some compromises made here and the end result is satisfactory.

3- Whether the requested Variance is substantial ? Answer: no, I don't believe so. You worked with the conditions you were faced with and I think a reasonable alternative has been determined.

4- Will the Variance have an adverse effect on the physical and environmental conditions of the neighborhood ? Answer: No. The fence will look nice. Actually, it will probably look better having your deck closed in than driving down Thompson Rd. and seeing the deck.

5- Whether the alleged difficulty was self-created ? Answer: Yes, to a large degree it was. But that doesn't hold a lot of weight.

Mr. Natali seconded the motion.

Motion was put to a vote, resulting as follows:

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| Mrs. Wicks: | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton: | Yes |
| Mr. Ntali: | Yes |

Motion duly carried.

AREA & USE VARIANCE FOR WAYNE E. CARROLL, 5419 BENNETT ST. FOR A USE VARIANCE TO ERECT AN ADDITION ONTO A RESIDENCE IN AN INDUSTRIAL ZONE AND AN AREA VARIANCE TO VIOLATE THE SETBACKS OF AN INDUSTRIAL PARCEL (FRONT WETBACK= 75 FT./63 FEET PROPOSED, REAR SETBACK=25 FT. /23 FEET PROPOSED, SIDE SETBACK= 30 FEET/ 4 FEET PROPOSED.)

Representative: Wayne Carroll, Owner.

Mr. Carroll: I'm requesting a Variance so we can put an addition on the west side of our house for a living room and dining room. We do own the property to the west of it where this Variance is requested.

Mr. Palladino: Is the Roger's property on the east for sale ?

Mr. Carroll: No, it isn't.

Mr. Palladino: Have you approached them and asked if it was for sale ?

Mr. Carroll: Yes, I have in the past and he said he would let us know when it did become available.

Mr. Palladino: If it was available, is that something you would pursue ?

Mr. Carroll: Yes.

Mrs. Wicks: Has this always been zoned Industrial as long as you've had it ?

Mr. Carroll: Yes, because of the railroad.

Mrs. Wicks: Was the house pre-existing as long as it was zoned Industrial ?

Mr. Carroll: I believe it's been Industrial from day one.

Mrs. Wicks: Did you construct the house when it was zoned ?

Mr. Carroll: No, the house was there before.

Mrs. Wicks: Has there been any modifications to the house since it's been in your possession, where you've come before the Board for a Variance before?

Mr. Carroll No. The only addition to it was a deck before anything was required--that was many years ago.

Mrs. Wicks: I just want to let you know that this is difficult for the Board because a Use Variance is very difficult to pass. There's certain factors that we have to look at. We have to be very specific when we grant a Use Variance. I want you to be well informed and what we're looking for and what we're getting at when we ask you questions. For Use Variances, proving unnecessary hardship is part of it. You must prove unnecessary hardship by demonstrating that you're unable to make a reasonable return from your property by competent financial evidence. The hardship is somewhat unique or at least not shared by a majority of parcels in the same zoning district. It's not self-created. The Variance will not alter the essential character of the neighborhood. You are, in fact, unique because you are surrounded by water on 2 sides and an elevated overhead rail on the side and the marina on the other side. Please understand, our questions will be based on the Use Variance, which is the hard part for the Board to grant.

Mr. Palladino: I have a question on your addition. Is that the size you want to go or would you go smaller ?

Mr. Carroll: I'd probably go a little smaller. I've approached an Architect on it but I haven't had any drawings done yet. I'm going to leave the design up to him as far as the design because we want to--the house is a unique design and I want to keep that "character".

Mr. Stanton: Could I make a suggestion because we have two Variances before the Board ? The Use Variance is before all this. Perhaps we would want to talk specifically about the Use Variance first before we start talking about the Area Variance.

Mr. Palladino: Another approach that I was thinking of is that, we have so many Area Variances, we have more than two. You also have lot coverage. If we can't achieve the Variance for Area , then there's no sense of getting a Use Variance.

Mr. Natalli: Let's get all the information. Let's ask him everything we want and then we'll talk about the Use Variance first. Let's get all our questions out so we understand the whole situation. This obviously is a very rough plan. When did you plan on starting this ?

Mr. Carroll: Once I get approval, I will go to the Architect and get the design work done, then submit the plans.

Mr. Natali: How long have you owned the property ?

Mr. Carroll: It's been in the family for about 30 years. I took ownership of it about four years ago.

Mr. Natali: Did you know at the time that it was zoned Industrial ?

Mr. Carroll: Yes, we did.

Stanton: Discussing the Area Variance, one thing we're charged with is approving the minimum Variance required for you to be able to construct your work. The back and forth about what can you give me shouldn't occur. So, we're going to ask you, what's the absolute minimum size you'd like this addition to be ?

Mr. Carroll: I guess that would be-- once I sit down with the Architect, we can narrow that down. Until that happens, I can't give you a definite size. That's why I was asking for that size in the beginning so I did have a little room to work with. I don't mind giving a little bit, but it's not going to be worth building it if it can't be close to what we want.

Mr. Natali: What would you say the distance is from the west property line to the addition ? After the addition is built. ?

Mr. Carroll: After the addition, it would be about 10 ft.

Mr. Stanton: Not to argue with, but it scales out to about 4 feet.

Mr. Carroll: Sorry-you're right. It's 4 ft.

Mr. Stanton: You do own the Marina ?

Mr. Carroll: Yes, that's why I approached you with it. I didn't feel there would be a real conflict there. I know you have rules and regulations.

Mr. Palladino: I figured the side setback and the front setback is not as important, being that he owns the property.

Mr. Natali: You're basically doubling the size of your house.

Mr. Stanton: He may not always own it.

Mr. Carroll: Not quite double, no.

Mr. Natali: OK--225 versus 203. Board Members: I'd like to see us, based on the uniqueness of this property, the fact that it's been in your family, I would like to make a motion to approve the Use Variance. That's based on criteria that isn't going to be held as strict because of the fact that it's been in your family for 30 years, which was prior to any Codeo it's something that makes this property unique. Obviously, you're not trying to get a return on it. You don't want to try to sell it. Rather than make you go through all of that effort to prove there's a hardship if you can't use the property, then you would be totally out of luck. The hardship is self-created. You bought the property from your family knowing that it was zoned Industrial there. It was probably Industrial since the Civil War, or whatever. By asking for a Use Variance, you're not asking for anything unusual because you have residential homes near there. Based on these statements I've just made, I recommend we approve the Use Variance.

The motion was seconded by Mr. Stanton.

Motion was put to a vote, resulting as follows:

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| Mrs. Wicks: | Yes, I would just like to re-enforce the fact that this property is unique in the fact that I do not believe there's another property within the Town of Cicero similar to this. |
| Mr. Palladino: | Yes |
| Mr. Stanton: | Yes |
| Mr. Natali: | Yes |

Motion duly carried.

Motion was made by Mr. Natali. to defer any type of discussion on the Area Variance until you have an Architect come up with your plans, maybe have a couple of alternative plans . I can see your point of not wanting to do that first if you never got the Use Variance. You will be first on the agenda next month. Motion was seconded by Mrs. Wicks.

Mr. Carroll: So you want to see the Architectural plans next month ?

Mr. Natali: We don't need to see the building shape, shingles, etc. We'd like to see it laid out on a brand new survey with all dimensions covered.

Mr. Carroll: That's been submitted to Mr. Dean.

Mr. Dean: He submitted it to me with the building permit. I denied it because of all the Variances that were requested. It was separate from the Variance so that's why you don't have it.

Mr. Natali: Would you rather do it now or wait ?

Mr. Dean: No.

Mr. Carroll: I had the survey redone and submitted that with a sketch drawing of what we wanted to do.

Mr. Natali: Why was there a discrepancy between 4 ft. and 10 ft. if you had it. That is a dimension that is important to us if we're going to have an additional Variance.

Mr. Carroll: The actual dimensions that I submitted for the addition was 18 ft. X 40 ft. That's what I submitted on the application.

Mr. Natali: Do you have a copy there ? We can pass it around.

Mr. Carroll: Yes.

Mr. Natali: I meant the new survey. Do you have the new survey ? The Board Members discussed the drawings given to them by Mr. Carroll.

Mr. Stanton: The way it's drawn on the drawing encompasses the whole 43 ft. depth of the house.

Mr. Natali: Wayne, is this what you're talking about ?

Mr. Dean: I don't recall. You say you want to see Architectural drawings--all you want to see is , like a preliminary slant.

Mr. Natali: Right, an updated survey with the existing plus the proposed.

Mr. Carroll: I'll get some extra copies.

Mr. Stanton: What we're asking for is something that was put together by a professional land surveyor. This was sketched by ?

Mr. Natali: This doesn't have the new addition on it.

Mr. Dean: Correct. I've gone over this before. A surveyor goes out, draws and depicts what is there, he doesn't show what's going to be built. We know we're going to add 12 ft. on here and we've got 22 ft.--that leaves 10 ft.

Mr. Stanton: We can say a lot of surveyors have done that for us in the past.

Mr. Carroll: So what do you need me to do now ?

Mr. Natali: Is there any chance, by the end of the evening, you could bring that back ?

Mr. Carroll: The only thing I have at home is what you've got right there.

Mr. Natali: What we're going to require is that your Surveyor put the proposed right next to the existing, with all dimensions covered from corner to corner so we know exactly what Variance you're asking for.

Mr. Stanton: The reason we're asking that is to protect you, Mr. Carroll. God forbid we give you a Variance of 5 ft. and all of a sudden you realize you need that extra foot to construct your house--all of a sudden you're back at the drawing board with plans for your house. We want to make sure we give you the proper envelope to build your addition.

Motion was put to a vote, resulting as follows:

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| Mrs. Wicks: | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton: | Yes |
| Mr. Natali: | Yes |

Zoning Board of Appeals

September 9, 2009

Motion duly carried.

AREA VARIANCE FOR RICHARD G. PARKER, 6148 MUSKRAT BAY ROAD, TO RECONSTRUCT A STORM DAMAGED HOUSE AND REPLACE IT WITH A MODULAR HOME ON A NON-CONFORMING LOT. THE LOT IS 45 FEET WIDE WHERE 75 FEET IS REQUIRED.

Representative: Richard Parker, Owner.

Mr. Parker: I have a house that was damaged by the storm in July 2006. I'd like to replace it with a modular, which would be a little bit wider than the existing and also build a new basement.

Mr. Stanton: What I see here, the side setbacks are basically within the range that the Code sets forth. The only question I have, and you've answered part of it, is you're going to reconstruct the basement on this, right ?

Mr. Parker: Right. As you see on the drawing, on the lakeside, there's a blacktop driveway. That's to be filled in and tapered--the land to be tapered with the rest of the neighbors.

Mr. Stanton: Are you going to reuse the original footings that the original house was put on or are you going to scrap it and go back to the drawing board with the reconstruction of the house ?

Mr. Parker: I'll be using one of the original footings on the east side. On the west side, they'll be new because it's pretty much virgin earth on the west side.

Mr. Stanton: It sounds like the north footing would be replaced--that fronts the driveway.

Mr. Parker: Right, there's a garage under the house now which is going to be sealed so I won't have to pay as much flood tax.

Mr. Stanton: Could we make that 29.8 ft. 30 ft., then we only have to give you the Variance on the 45 ft. lot width ?

Mr. Parker: I'm not sure I understand what you're talking about.

Mr. Palladino: On your drawing, your frontage setback is 29.9 ft. from the road. Falling under the R-10, we have to give you an Area Variance or you ask for one for something less than 30 ft. So, we're saying can we make this 30 ft. ?

Mr. Parker: Absolutely. When I measured from the road, I found it was more than that.

Mr. Stanton: The actual road line designates the R.O.W.

Mr. Parker: Right, we'd be right in line with the rest of the houses on the street.

Mr. Natali opened the Public Hearing at 7:46 P.M.

FOR: John Zwalak, 6156 Muskrat Bary Rd.: I'm in favor of the house being demolished and a new one put up.

AGAINST: NONE

The Hearing was closed at 7:47 P.M.

Mrs. Zwalak: How wide is the house ?

Mr. Stanton: 24 ft. wide, on drawing submitted to us.

Mrs. Zwalak: What was the 29 ft. you were saying ?

Mr. Stanton: 29 ft. is the offset from the road R.O.W. to the front of the house. But that's going to be 30 ft. actually.

Motion was made by Mrs. Wicks to approve the Area Variance for Richard G. Parker, 6148 Muskrat Bay Rd. , to reconstruct a storm damaged house and replace it with a modular home on a non-conforming lot. The lot is 45 feet where 75 feet is required. He will maintain all setbacks and has agreed to a 30 ft. setback in the front. Taking in to consideration, the 5 factors for an Area Variance:

1- Whether an undesirable change would be produced in the character of the neighborhood ? Answer: No, this would be an improvement.

2- Whether the benefit sought by the applicant can be achieved by a feasible alternative ? Answer: No, I don't see where any other options are. He's made accomodations to abide by any of our setbacks and is well within all Variances.

3- Whether the requested Variance is substantial ? Answer: No, it is not.

4- Would the Variance have an adverse impact on the physical or environmental conditions in the neighborhood ? Answer: No, it would not.

5- Was the alleged difficulty self-created ? Answer: I'd like to say no. That house would not have been demolished if not for the large tree, he would not have been here in front of us if "Mother Nature" had not dropped it on the back of his house. He has made every accomadation to put back on that foundation was should be there.

Motion was seconded by Mr. Palladino.

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| Mrs. Wicks: | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton: | Yes |
| Mr. Natali: | Yes |

Motion duly carried.

AREA VARIANCE FOR MATHEW MAURY, 7415 MAPLEVIEW ROAD, TO CONSTRUCT A DECK WHICH INTRUDES BEYOND THE FRONT SETBACK. THE DECK WOULD BE 12.6 FEET FROM THE FRONT PROPERTY LINE WHERE 30 FT. IS REQUIRED. THE EXISTING HOUSE IS ALSO NON-CONFORMING SINCE IT IS 2.4 FT. WHERE 6 FT. IS REQUIRED.

Representative: Mathew Maury, Owner.

Mr. Maury: Would the Board like a copy of my plans ? You should have a survey and a survey where I drew my proposed wrap around deck. What I'd like to do--I have a small home on Mapleview Rd. Mapleview Rd. is a unique road because it was actually designated as a 70 ft. wide road when the zoners were planning that area. They ended up putting a small road thru instead of a 2 lane road with a median. So, 30 ft. of my front yard is not actually my property. My house is only 22 ft. away from my official property line. I'm 53 ft. from the edge of the road. I have letters from the neighbors on each side of my house, saying they have no problem with me creating a porch. He gave the letters to the Board. I'd like to put a 10 ft. deck off the front of the home, with the stairs coming off the side of the deck so they don't protrude into the front yard and an 8 ft.--I drew 8 ft. on the drawing be it's probably going to be more like 6 ft. because of the driveway- along the length of the home to the back. I think we have 2 areas where we have an issue. One is the border with my neighbors yard. My house is about 2 1/2 feet, I think, to my neighbor's yard. I want to square up the deck on the corner of the house. Then also, have the 30 ft. from the property line that I have to take care of as well. 30 ft. of my front yard is just grass. I would think that wouldn't be too big of a problem. Does the Board have any questions after looking at my plans ?

Mr. Natali: Is that a working well in the front ?

Mr. Maury: It's not working right now.

Mr. Natali: So your 10 ft. will be just in front of that well, right ?

Mr. Maury: It will be quite a bit in front of the well.

Mr. Natali: I measured it-you might have 2 feet. I wanted to see if your new deck was going to stick out any farther than your neighbor's to the left. It doesn't --it doesn't come out as far as his deck.

Mr. Maury: It would be behind it Did you say it will be 2 feet ?

Mr. Natali: That's what it looked like to me--maybe 2 1/2 ft. Your dog scared me.

Mr. Maury: I might take that well out. Along the side I have a partial blacktop driveway then I have a garage in the bck. This deck would go all the way back to the edge corner of the garage. I just drew a 90 degree angle there where the garage and the fence are.

Mr. Stanton: Any future plans to enclose the deck or put a roof on it ?

Mr. Maury : No, we have excellent light with the sun coming up over the lake. If I enclosed the deck it would destroy that.

Mr. Stanton to the Board Members: I'm seeing that we'd have approximately 2 foot offset from the southerly property line. That would be side , then about a 12 ft. offset from the front of the deck to the roadway boundary. Then there would be a third one for a lot width of about 59.5 ft. where 75 ft. is required.

Mr. Wicks: I'm wondering if you're willing to come 6 ft. off of the property line just to shorten up or are you looking to put the deck across the whole front? Would you recess it in to meet the side Variance for the deck to come out your front entrance, then wrap it around ?

Mr. Maury: I was thinking about that. I'd be willing to compromise on that. I don't know if I want to offset it because it's going to look kind of strange. What I wouldn't mind doing--I could come off it with a curve or angle off the side of the house. If that would help out, I could definitely do that. I want to keep the "curb appeal" or increase it.

Mr. Natali: Are you putting the boards down on the bias like that ? That might work well for you.

Mr. Maury: I hadn't considered how to lay the planks yet.

Mr. Natali: You're probably going to use the side deck more, right, to watch your volleyball games ?

Mr. Maury: Actually, it's badminton. We'll be using the side deck quite a bit. The front deck is more like the area where I'd like to put tables and chairs. The side is only going to be 6 ft. wide so it will be more of a way to get in and out of the house. from the side yard, there will be more foot traffic there.

Mr. Stanton: I'm not exactly sold on cutting the corner because the majority of the house is still that 2 foot offset to the side line and I'm not sure what we gain by making him cut the corner and have the front corner of that deck be 6 ft. off the line.

Mrs. Wicks: I'm thinking we're already encroaching on that side and we're encroaching on the front and another 10 ft. of decking towards their neighbors. I hate to say it but you could have problems with your neighbors at any time. I would rather minimize any problems

Mr. Natali: You have to be within 1 foot from that property line by the time you come out 10 ft. aren't you ?

Mr. Maury: Due to the angle, it's going to be pretty close. From the front of the house to the back of the house, you're looking at .1 ft. delta, so the slope is pretty negligible, I still think you'd be above 2 ft. That frame building that you see there is actually my neighbor's home. The problem is, all these lots were set up as 40 ft. lots. Then some got divided into 1 1/2 --all kinds of different fractions of those lots. Most of these started off as fishing shacks which later got turned into homes.

Mrs. Wicks: You also show in your picture, that your steps are recessed into the deck, so they won't be extending out past the deck ?

Mr. Maury: Yes, that was on purpose because I've got that blacktop driveway there. I wanted to get my vehicle thru to the garage. Also, I wanted to keep them off the front because I knew I was going to be close to the property line there--I didn't want to bring the stairs even further out.

Mrs. Wicks: On a bad day, they could be taken off by a snow plow.

Mr. Maury: Actually, if you look at my drawing, right where Mapleview Parkway is written-the hand sketch of my deck- I measured in true scale, drew a line where the road edge actually is. The road edge is that line.

Mrs. Wicks: Like you said, it is 53 ft. away from the actual front of your property.

Mr. Maury: Yes, even with the deck there, I've got 43 ft. to the road. However, the property line is recessed 30 ft.

Mr. Dean: There's a reason for that.

Mrs. Wicks: Does anyone want to clue us in on what the reason for that is ?

Mr. Maury: The original reasoning is, because when they laid out this neighborhood, their intentions were to create a one-way street going in one direction and a one-way street going in the other direction, with a center median. I didn't bring the old drawing. What ended up there is about a 25 ft road and this huge amount of space on either side.

Mr. Stanton: That extra space usually gets filled by "people".

Mr. Dean: Sewer, water, electric, telephone.

Mr. Natali: Mr. Natali opened the Public Hearing at 8:02 P.M.

FOR: NONE
AGAINST: NONE

The Hearing was closed at 8:03 P.M.

Motion was made by Mrs. Wicks to approve the Area Variance for Mathew Maury, 7415 Mapleview Rd., to construct a deck which intrudes beyond to front setback. The deck would be 12.6 feet from the front property line where 30 ft. is required. The existing house is also non-conforming since it is 2.4 ft., where 6 ft. is required. Part of my motion , is that the front part of the deck is angled so that it does not intrude closer to the adjacent property.

Mr. Maury: Are you talking a full 45 degree angle from the corner ?

Mrs. Wicks: I would be willing to go 4 feet from the side. You're already 2 ft.--double it to 4 ft.

Mr. Stanton: Basically, what we're asking for is the normal 6 ft. offset on that.

Mr. Natali: So it complies. It's probably not 45 degrees.

Mr. Maury: Whatever the angle turns out to be--get to the 6 ft.by the deck.

Mr. Natali: Right, from the property line.

Mrs. Wicks: Where the very front of the deck is should hit the 6 ft. mark. Taking into consideration, the 5 factors:

1- Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby property ? Answer: No, this is an improvement on the property and would improve the esthetics of the neighborhood.

2- Whether the benefit sought by the applicant can be achieved by a feasible alternative to the Variance ? Answer: Yes, he's already made accomodations and is willing to do that as set forth in my motion.

3- 'Whether the requested Variance is substantial ? Answer: Yes, it is due to the front setback and the side setback.

4- Would the Variance have an adverse impact on the physical or environmental conditions of the neighborhood ? Answer: No, it would be an improvement.

5- Whether the alleged difficulty was self-created ? Yes, but it does not have enough weight to out weigh the remaining factors.

Motion was seconded by Mr. Palladino.

Motion was put to a vote, resulting as follows:

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|----------------|-----|
| Mrs. Wicks: | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton: | Yes |
| Mr. Natali: | Yes |

Motion duly carried.

Mr. Maury: Is there a particular time I can get my permit ? I'd like to get started.

Mr. Natali: Two weeks is required by Law, that we file the minutes with the Town Clerk. In the meantime, you can get your paperwork all ready and make an appointment with Wayne.

AREA VARIANCE FOR TERRY J. FISHER, 6415 LONG POINT ROAD, TO CONSTRUCT AN ADDITION WHERE THE MINIMUM BUILDING LINE REQUESTED IS 50 FT. AND 75 FT. IS REQUIRED. THE MINIMUM REQUIRED FOR THE SIDE YARD IS 6 FT. AND 3 FT. IS REQUESTED FOR THE EAVES AND 4 FT. IS REQUESTED FOR THE PROPOSED WOOD FRAME DECK.

Representatives: Hal Roman, Surveyor
Terry Fisher, Owner

Mr. Roman: I modified the drawing , making modifications to the deck, so I'm going to pass that out to the Board Members. We're here tonight seeking three Variances. One is the Area Variance because to block here, the zoning requires 75 ft. width. We have 50 ft. width. This is a residential lot on the north side of Long Point Rd., south side of Oneida Lake. All of the lots are pretty much built up. They're all relatively the same size and with lake frontage, nobody is willing to give up any extra, if they have any extra property to give up. The second two Variances we're seeking are for the side yard. That is because the minimum side yard for this zoning is 6 ft. If you look at sheet #1 of the 2 sheets--the existing survey--it shows that the existing house is 6.7 ft. off of the east property line--the eave is a 1 ft. of roof over, it's about 5.7 ft. What the applicant is proposing here is that existing deck would be removed and fully conditioned--would be added to the property on the north/lakeside of the property, shown on sheet #2. The previous plan showed a substantial 2 story deck that was going out pretty far to the north. The applicant and his neighbors to the east , the Valentie's, worked together to assure they'd still have a nice view from their property. He has decided to reduce the size of that deck to the point that all you see is an 8 ft. upper deck, where he would walk out of the second story bedroom. That goes down to a proposed landing that is 15 ft. out from the main part of the proposed addition. The balance of the area there is going to be like a stone or brick patio. The second two Variances we are looking for was 3 ft. for the roof eaves--we still need that on the east side of the property for the addition and that's because we divided architectural drawings showing how the roof eaves come out on the new addition. The reason we designed it that way is because, when you look at the elevations and everything for the house, it will match what's there as closely as possible. Unfortunately, with the way it's done now, you bring the eaves out farther than when they built the original house. So, we need a side line Variance for those down to 3 ft. We no longer need a Variance for the deck because we've taken the deck and made it conform. So, what we're asking for is the 2 Variances--#1- the Area Variance for the width of the lot and #2--would be 6 ft. down to 3 ft. for the eaves. Realistically, even if you weren't doing anything with this house other than matching the eaves that were already there. you'd still be required to get a side yard Variance. The property here is pretty much built up the same--everybody has a patio or deck on the lakeside of the property.

Mr. Roman continued:

This is a relatively small house that he's had for a number of years and it was time to do some upgrading, they wanted to do an addition. I think this change would not be an undesirable effect on the neighborhood. We looked at how to achieve it. The only way is to put an addition on the lake side. The whole idea was to enhance that part of the property. There's no way to buy additional property from the neighbor to the east. I look at it as the difficulty was self-created because the applicant obviously wants to build an addition and improve his property. Unfortunately, this is one of those properties, that no matter what you were going to do, any modification to the outline of the building, you're going to have to come in for a Variance, at least for the Area and anything for the side areas, too. Again, anything related to the deck, is no longer needed or asked for by the applicant. We've already taken some elevations, you can see them on the drawings. You can see, from his existing house down to his concrete seawall, the elevation only drops about 9/10 of a foot. It's 372.3 at the house and 371.7 at the concrete. This addition would have no adverse effect on the environment or physical characteristics of the neighborhood. The whole idea here is that the proposed addition would be put at the same first floor elevation as the existing house, which is above the flood plain by about 2 feet. We tried to reduce everything as much as we could. This was the smallest they thought they could live with and enjoy this house for years to come.

Mr. Stanton: So, the closest the addition is going to come--the building line, not the eaves, to the easterly property line, I see it's 6 1/2 feet.

Mr. Roman: That's correct. The walls and foundation will be no closer than 6 1/2 ft. The eaves are 3 1/2 feet.

Mr. Stanton: Usually, that's to cover something underneath but here you're saying it's more architectural treatment.

Mr. Roman: It is, to make it match with the existing house. Part of it is, the existing house is not a full basement--it's a crawl space. One of the things they're trying to do with the eaves, is to shed water a little farther away from the structure.

Mr. Stanton to Mr. Roman: The portion we're talking about is this (referring to the drawing). So, if we're saying it's to match up with the eaves-- what you're saying is-- you're maintaining the slope of the roof. It's a straight pitch from the crown right down thru. When the house was built originally, it hugged the east side of the property for some reason.

Mrs. Wicks: I have a question about the tall cedars. Are those before the addition? Will the snow that comes off the roof hit those cedars?

Mr. Roman: Yes, the addition is back of that.

Mrs. Wicks: You're trying to keep the run off away from the crawl space? That's not going to effect the neighbors?

Mr. Roman: No. I don't know if you know Terry Fisher. Fisher Construction does many large scale development projects. He's very aware of grading issues, what he has to do to make sure his run off water does not impact the neighbor. He'll do whatever he has to do to make sure that that does not become a problem. He has the ability and experience to know what he has to do.

Mr. Natali opened the Public Hearing at 8:16 P.M.

FOR: NONE
AGAINST: NONE

The Hearing was closed at 8:17 P.M.

Mr. Stanton: Do we really need to address the eaves for this ? Typically, we fo th the sides--the actual building line of the house. I understand 3 1/2 ft is somewhat extreme.

Mr. Natali: Let's address the eaves. As far as coverage, we don't use the eaves.

Mr. Stanton: I'm going to cover the 5 factors we need to consider:

- 1- Whether an undesitirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created ? Answer; No. As shown by the drawings and shown by mr. Roman's explanation, this is actually going to be a benefit to the neighborhood, in terms of view.
- 2- Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than a Area Variance ? Answer: No . As explained by Mr. Roman, the roof pitch is what it is and that brings the eaves out to where they're shown.
- 3- Whether the requested Area Variance is substantial ? Answer: No. While the eaves are 3 ft. off from the easterly property line, the house itself is going to be 6 1/2 ft. off the easterly line;
- 4- Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditins in the neighborhood or district ? Answer: No. I believe the applicant has taken due diligence to make sure the eaves are not going to be shedding water on adjacent properties.
- 5- Whether the alleged difficulty was self-created ? Answer: Yes, although this is not a mittigating factor in deciding. The lot is what it is and I'm assuming the applicant actually knew what the restrictions were on him before he decided to build.

Motion was made by Mr. Stanton, seconded by Mr. Natali, to approve the Area Variance for Terry Fisher, 6415 Long Point Rd., to construct an addition where the minimum building line requested is 50 ft. and 75 ft. is required. The side setback from the easterly property line would be 3 ft. where 6 ft. is required, to the edge of the eaves. There will be no change in the setback for the addition.

Motion was put to a vote, resulting as follows:

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|----------------|-----|
| Mrs. Wicks: | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton: | Yes |
| Mr. Natali: | Yes |

Motion duly carried.

AREA VARIANCE FOR J.T.PROPERTIES (COLONIAL LAUNDROMAT), 8007 ROUTE 31, TO CONSTRUCT A PROPOSED LAUNDROMAT WHERE THE REAR YARD SETBACK IS 16 FT. AND 25 FT. IS REQUIRED.

Representatives: Hal Roman, Surveyor
Jerry and Tim O'Connell of J.T. Properties

Mr. Roman: I'm here tonight with Jerry and Tim O'Connell of J.T. Properties and also, Peter Crissey, Architect. I'm sure the Board is familiar with the site- the old car wash. The old car wash has already been removed. Jerry and Tim have already bought this property, which is actually two tax parcels.. The car wash has been removed in anticipation of being able to develop this site. There was a lot line adjustment that was done by the previous owner and approved, but not filed, that would reconfigure the 2 tax parcels. These gentlemen are probably going to alter that reconfiguration to accommodate this development , if they're allowed to do it. They have been in contact with a Dollar General business that has expressed extreme interest in joining them at this site. What we see happening is that a site that has been an eyesore for a few years here , which has been going thru some major upgrades and new business, including the new drugstore on the south, Fastrac is going thru a major renovation. What this would do, if we're able to get the Variance and move on to site plan approval, we would develop the whole site there, which is approximately two acres. On the proposed plan, the proposed Colonial Laundromat and the pizza retail business, that usually joins up with them. That building will go in approximately where the old car wash was. That building was only 2.3 ft. off the east property line. What we're doing is accommodating that side line restriction of 16 ft. We're meeting that side line restriction of 16 ft. We need a Variance on the rear portion of this building. That's because that section of the property that jogs here, is 52 ft. , is considered a rear property line. It has a requirement of 25 ft. so we're asking for 9 ft. relief. The reason we're asking for that is because we've done this full layout to show you how the parking and everything would work and why we need that 9 ft. relief there. What we're trying to do is provide some green space from the edge of our parking to the road boundary. What's out there right now is solid asphalt. The north edge of Route 31 all the way to where the carwash was, what will happen here if we're able to do this development, we'll provide green space and an opportunity for landscaping. In that area that is approximately 13 ft. to the road boundary, it's probably 20 ft. from the actual pavement edge to our parking. That allows for parking that's at the conventional requirements by the Town of Cicero. Then when you look at the building we have here, the building that we show is typical of what Colonial Laundromat builds with their layout. Usually, the Pizza place that they do business with, will often co-locate with them at their facilities.

Mr. Roman continued:

This is a picture of one of their facilities. I'm sure everyone has seen a Colonial Laundromat. You can look at one of their sites that was built 15 years ago and they maintain the site immaculately. They know when people come to use their facility, they want to see it well lit, clean, landscaping and looks nice. You don't go to a place that's dirty or run down. The pizza retail area is typically either eat in or take out. A lot of it is the take out business. Then on the west side, is the Dollar General type store. That is their building requirement. They need 9,100 sq. ft. All of the square footages for the buildings works with the General Commercial District. We'll be able to realign the lot line between the 2 buildings to have two viable General Commercial lots. They would have a shared entrance on to Route 31. I've already talked to NYS DOT on a preliminary basis just to tell them what we're thinking of doing there. They said that would be great that you're taking that 224 ft. of solid asphalt out of there and bringing it down to approximately a 30 ft. with, probably a 3 lane entrance for 2 parcels of property. That is what we're asking for here. The reason we're asking for it, if you look at the way the existing old Kinney Drugstore, it's used for training or something, it's not open as a drugstore anymore. You can see how their parking was set up. It's similar to ours except their parking is a lot closer to the edge of the pavement of Rt. 31. What I tried to do here, was to try to make sure, working with the Planning Board of this Town, I know they like to see a certain amount of green space between the road and the parking. I worked with that and I showed what we would have to have would be a 9 ft. relief on that. Basically, 52 ft. of rear property line. The applicant was on site with Wayne and Jody, the head of Cicero Parks Dept. That's a Town of Cicero Park on the east side of the property. Early on in the project, we did approach the Town with possibly doing some kind of a land swap. Us giving up part of our property here to the Town, the Town giving us part of theirs so we could square up the property line. Unfortunately, because of the way the Park was set up, it would have to make its way back to the New York State Legislature. We're told we're probably talking many years out waiting for a decision. These gentlemen are here for real. If we get the Variance and get thru the Planning Board, we would like to be under construction this year. This development would work and enhance the area. They also own the property, that's a separate tax parcel, around the Fastrac gas station and eventually will do something with that, too. Mr. Roman showed pictures of typical Colonial Laundromats, white with brick, pizza shop next door. Also, the Dollar General but they have not been to the Planning Board yet with their drawings. We have met with the Planning Board at one of their work sessions and were told that if we wanted to proceed with this development, we would have to come in and get a Variance. One thing that came out of the discussions with the Town and Parks Dept. is that if this development proceeds and progresses, what the applicant would like to do is possibly donate some of his property on the north of the developed area to the Town. It's easy for a developer to donate property instead of a land swap. With this layout, I have planned for adequate parking for General Commercial development like this. The Dollar General has everything that's required for their operation. Colonial Laundromat and the pizzeria would have parking in front of their property and share the parking in back. There would be no cut thru access from this property to the Park property. There's an existing guard rail around the basketball area in the Park. Jody from Parks suggested we put some flowers in. I have a feeling, as this goes on, we'll do something like that or some landscaping.

Zoning Board of Appeals

September 9, 2009

Mr. Natali to Mr. Dean: Have We heard back from County Planning on this ?

Mr. Dean: No, not that I know of. It was submitted but I don't think we've heard back.

Mr. Stanton: To go back to the ownership of the parcels. It's my understanding that the parcel that Dollar General is going on--two separate owners. Have I got that right ?

Mr. Roman: What it is, is that both parcels are owned by my client. What happened was, the tax parcels were approved by the Town for the previous owner. She didn't file it, for financial reasons. What it did was split it into 2 lots (referring to the drawing). We may alter that to make sure we don't get a need for any variances on that, what would become the west side of the Colonial Laundromat lot and the east side of the Dollar General lot. The reason why it will still be 2 lots is because , in this day and age, with financing the way it is, Banks like to see different operations, even if they're owned by the same entity, they want to be able to close on one side. My adjustment will have built in to it , full cross easements for ingress and egress of parking.

Mr. Stanton: But as of today, there has been no lot line adjustment filed so there's nothing that legally shows that lot line is where we say it's going to be.

Mr. Roman: Wayne has a copy.

Mr. Stanton to Mrs. DelGuercio: It will be pending if it gets resubmitted or re-adjusted. We really need to do the Variance based on the conditions that are today not in the future. So that 16 ft. is really like 4 ft. from the back of the building to the property line that's there now.

Mr. Roman: This is a question. Could you make the Variance conditioned upon the lot line adjustment being completed and filed and the site plan approval to keep it at 16 ft. We need to know if this Board is willing to grant 16 ft. off what we see as becoming the property line?

Mr. Stanton: We could, but wouldn't that "ham string" you as far as if this split doesn't occur as quickly as you think is going to then you can't build the laundromat until that split occurs.

Mr. Roman: I picture that split happening a lot quicker--we could have that done in a week. With a lot line adjustment, it just goes in front of Wayne, not the Planning Board or anything.

Mr. Natali: Wayne, what do you anticipate the County saying about this ?

Mr. Dean: I don't believe they'll have a problem with this at all.

Mr. Natali to Mr. Roman: You want one ingress and one egress ? You're looking for 30 ft. ?

Mr. Roman: I've already told my client there's no sense in going for two. I think everybody is aware where this property is. I think one main access point serves this property very well. I talked to Mike Washburn and he said I've situated it about the best place that you could. We know we have to get a State DOT work permit for that. We were looking for something from the State ahead of time. You could go in and ask for access to one parcel, then go in for the second one. We'd rather do a cohesive development all together. My client would still want it laid out this way whether it was Dollar General or someone else there. We downsized the laundromat a little to make it work with this site. We tried to do something with the Town's Park Dept., but if it had to go thru the State Legislature, it could take 5 years.

Mr. Natali opened the Public Hearing at 8:40 P.M.

FOR: NONE
AGAINST: NONE

The Hearing was closed at 8:41 P.M.

Mr. Stanton: First I'll go over the 5 factors to be considered:

- 1- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created? Answer: No. Right now we have an empty lot with a concrete slab. Anything that would benefit the community like a laundromat and a pizza retail store would be a benefit to the community.
- 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. The size of the building has already been scaled back and the situation as such, the size of the parking lot has to be the size that it is. That places the building squarely where it is now.
- 3- Whether the requested Area Variance is substantial ? Answer: Yes, To get that close to a rear property line, however, this construction and the benefit to the community is such, that 's not an over-riding factor.
- 4- Whether this Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood ? Answer: No. Anything we can do to get some business out there is going to be a positive.
- 5- Whether the alleged difficulty was self-created? Answer: Yes, but again this is not a mitigating factor in situations like this.

Mr. Stanton: The Zoning Board of Appeals finds that the following condition is necessary in order to minimize the adverse effect upon the neighborhood or community for the following reason: Contingent upon a lot line adjustment being approved to increase the rear setback from the existing 4 ft. to 16 ft., the adverse impact being minimized would increase the rear setback to 16 ft. and would allow access to the rear of the building. With that, I make a motion to approve the Area Variance for J.T. Properties LLC (Colonial Laundromat) at 8007 Route 31.

Mr. Natali: I'd like to add, this will be conditinal upon there being no adverse recommendations from the Onondaga County Planning Board. I will second the motion.

Motion was put to a vote, resulting as follows:

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| Mrs. Wicks: | Yes |
| Mr. Palladino: | Yes |
| Mr. Stanton: | Yes |
| Mr. Natali: | Yes |

Motioon duly carried.

Motion was made and unanimously approved to adjourn the meeting at 8:45 P.M.

I, Nancy G. Morgan, stenographer for the Zoning Board of Appeals of the Town of Cicero, Onondaga County, State of New York, and the person who attended a meeting of said Board of Appeals held September 9, 2009 and took minutes of said meeting , do hereby certify that the foregoing is a true and correct transcript.

Nancy G. Morgan

September 23, 2009

