

STATE OF NEW YORK  
ONONDAGA COUNTY  
ZONING BOARD OF APPEALS

MINUTES OF MEETING  
TOWN OF CICERO ZONING BOARD OF APPEALS

DATE: MARCH 1, 2010  
PLACE: CICERO TOWN HALL

TIME: 7:00 P.M.

The Regular meeting of the Zoning Board of Appeals was held Monday March 1, 2010 at 7 P.M. at the Cicero Town Hall, 8236 South Main Street, Cicero, New York 13039.

Members Present:	Gary Natali:	Board Chairman
	Charles Stanton:	Board Member
	Gary Palladino:	Board Member
	John Winters:	Board Member
	Mark Rabbia:	Board Member
Absent:	Robert Bach:	Board Member, AdHoc
Others Present:	Wayne Dean:	Dir. of Planning and Development
	Terry Kirwan Jr:	Attorney
	Nancy G. Morgan:	Secretary
	Vernon Conway:	Town Board Liaison
	Jessica Zambrano:	Town Board Member

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 Mr. Stanton, seconded by Mr.Rabbia, to approve the minutes of the February 1, 2010 Zoning Board of Appeals meeting. There were no corrections or additions.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Winters:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

Motion was made by Mr. Natali, seconded by Mr. Palladino, 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:

Mr. Rabbia:	Yes
Mr. Winters:	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 2/1/10 FOR TERRY & RITA WICKS, 6256 MUSKRAT BAY RD., TO OBTAIN A SETBACK OF 3.3 FEET WHERE 6.0 FT. IS REQUIRED FOR A PREVIOUSLY CONSTRUCTED GARAGE.

Representatives: Terry and Rita Wicks, Owners.

Mrs. Wicks: My husband and I are here again to respectfully request an Area Variance for our existing garage at 6256 Muskrat Bay Rd. I would like to make note--I didn't mention it last month but this month I'm going to--that due to that skew in the degree for that property line, it did bring Mr. Hilts property outside the bulk regulations where he, in fact, also needs to get a Variance for his house. I want that on record.

Mr. Natali: So, that is what you want to add to what you testified last month ?

Mrs. Wicks: That's correct.

Mr. Natali to Mrs. Wicks: Since Mr. Hilts asked that he could prepare for this meeting instead of addressing this situation last month, I'll give you an opportunity to rebut after he brings up anything he has prepared. I want to remind everyone that the Public Hearing is still OPEN.

Mr. Hilts: Since last month, I'd like to know if the Board has had the opportunity to gather the facts they feel necessary to make an unbiased opinion on this matter.

Mr. Natali: I believe we are. I think we covered that subject, in depth, at the last meeting.

Mr. Hilts: I have a number of questions on the paperwork I pulled thru the Freedom of Information Act. One being the application for the initial building permit regarding this structure. As part of that application, there were drawings that were submitted and a survey showing the position of the building that was to be built on the property, as it was supposed to sit. I will follow that by saying, the papers I have in my hand are nothing like what was actually built. I find it hard to find anything that applies to the application as it was submitted. I'll give you some examples: The position on the lot is the most important thing--that's why we're here. If you look at the survey they submitted with their application for the Building Permit, it shows 17.9 ft. off the front corner of the building and 13.6 ft. off the back corner of the garage, with the front corner of the garage lining up either at or just inside the rear corner of the residence. The building was built--if you look down the side of the residence, you see over half the garage protruding toward my property line. By Mrs. Wicks own statement last month, she said that they moved it for the convenience of being able to access the right side of the garage door. To my knowledge, in any of the paperwork I've seen, I don't see an application for a change to the paperwork that was submitted for the permit. Furthermore, the permit states they were building a 960 sq. ft. one story garage. Has anybody been out to look at the garage that was built? It is a 2 story 1920 sq. ft. garage that was built. The entry door--I'm not sure if these are architectural drawings or not that they submitted for the application process but the entry door shows a 3 car garage, or more, to be entered on the east side of the building, on the long end of the garage, which would be on my property side. The building was actually built as a 2 car garage but because they moved the garage so close to the property line, they can't access it from the east side, as it was submitted for application. I see a Certificate of Compliance signed by the Town Codes Officer. I'd like to ask the Codes Officer, when he did his final inspection, did it occur to him that the application was for a one story garage? A 2 story was built--double the square footage--and he still issued the Compliance Certificate. I find that incredible.

Mr. Dean: When the final inspection was done, it was a 2 story structure but the upper floor wasn't built at that time--it was just braced. It wasn't being utilized. It was still a one story structure.

Mr. Hilts: So, if there had been such modifications to include a whole second story, that would be outside that application for a Permit, that should have been submitted--I'm assuming?

Mr. Dean: Well, it was a change of structure, so yes.

Mr. Hilts: If there were any changes to the structure, as it was being built, i.e.: the location on the lot that was submitted for the permit, should there not have been a request for a change, in that respect also?

Mr. Dean: There should have, yes.

Mr. Hilts: Either Mrs. or Mr. Wicks brought up--there was a one degree discrepancy in the property line, they were stating. I've spoken to the Surveyor who placed my stakes on the property line, for my fence. The one degree they're talking about and using to say the garage was off by that many feet-- the one degree was the placing of my stakes. It had nothing to do with the original property line. When he placed my stakes, he went back and entered in the data according to what the actual survey was and found he had placed my stakes one degree off. It had nothing to do with the property line. He came back and made that correction--that came directly from the Surveyor, who happens to be in Florida, or he would be here tonight.

Mr. Rabbia: Say that one more time. I was under the impression that the Surveyor made a mistake and basically laid out the side lot line incorrectly. Is that true?

Mr. Hilts: That was not the original property line when this garage was built. This was late last year, when I put my fence up. Those are the stakes that were one degree off, not the original property line stakes.

Mr. Rabbia: Having that side line corrected now, it makes the garage closer to the property line?

Mr. Hilts: Yes, My understanding from the Surveyor was that the one degree was taken with the pivotal point being in the middle of the lot--which it is-- is what he used for the pivotal point, would make a difference of less than a foot, which is what he moved the stakes on the lake end. He didn't move the ones to the back. I would like to ask the Board now, to go on record and answer a question.. Is it the Board's policy or practice to approve a Variance for a building that was built not in accordance with the Permit that was submitted and then actually approved?

Mr. Natali asked Mr. Hilts to repeat the question and then he replied: We do not have a set policy when it comes to a situation like that. We take each case individually.

Mr. Stanton: Perhaps this might help clear some of this up. If what I'm looking at is the survey for the original submittal, this proposed garage was within all the bulk regulations. Based on that, as long as, relative to this survey--Wayne correct me if I'm wrong-- that garage was moved around within the existing bulk regulations and would not require any application for a Variance.

Mr. Dean: It should have been noted on there or a request at least.

Mr. Hilts: The fact that the garage was moved closer than the required 6 ft. line takes it outside the required scope, I believe.

Mr. Stanton: That's where the Board may be getting confused here. The statements prior to this seem to indicate that because of --I'll read it right out of the minutes-- "Mr. Wicks: It was off a degree and a half which gave us 6ft. on the lake side but it shorted us 2 1/2 ft. on the back side of the lot." We all went thru and took a look at this and that seemed to make sense with the dimensions we were getting. I think one of the things we'll have to do tonight is to reconcile where that is and if the original application was in conformance with the survey we had at the time.

Mr. Hilts: If I can make things rather simple, Mr. Stanton, by her own admission, they moved the garage for a convenience matter. Had they not moved the garage, we wouldn't be here tonight. If it had been built like what they submitted, we wouldn't be here, regardless whether or not there was a one degree, 6 in or a foot off the property line. We're not talking inches here, we're talking half the allowable distance from there.

Mr. Natali to Mr. Hilts: Do you have a survey you'd like to share with us ?

Mr. Hilts: Just the ones they submitted

Mr. Natali: Do you agree that that survey is accurate ?

Mr. Hilts: No, I do not. I didn't have the survey done. There's no stamp or date on it. It's the copy I got from the Town. It's rather vague, it doesn't tell me when it was done. I know it isn't accurate because there's a deck on the front of the house and the deck has been moved to the back of the house. There's an addition on the back of this garage that isn't on this survey.

Mr. Natali: Do you have this survey ?

Mr. Hilts: No, I just have a copy of what was submitted for the Permit.

Mr. Stanton: You have one of the things, I believe, which is probably what was used to apply for the original Permit. Come up front and we'll check to see what we're talking about. You have a portion of the submittal.

Mr. Natali: Would you recognize these figures ? Are they in agreement with you, as to what is actually there now? This was done in September 2009. Would you be satisfied if we made a decision based on these numbers ?

Mr. Hilts: I'm not sure if we're looking at the same copy of the survey. I would say those numbers reflect the building as it's built now.

Mr. Natali: Would you like to enter your own survey ? Either contradict or agree with them ?

Mr. Hilts: I don't think that's necessary. The numbers here are outside the scope of the application and what the Code was at the time the building was built.

Mr. Natali: One thing we have in our favor is time. If you want to take the time to have a Surveyor spend more time studying this, we'll allow it.

Mr. Hilts: Maybe that would be the best thing to do. The Surveyor who did both, is unavailable at this time because he's in Florida.

Mr. Rabbia: What I want to get at is, was the mistake worth 2.7 ft. ? Because if they're 6 ft. off the sideline that puts them within the bulk regulations. I know you made reference to a foot. I don't know what it is. I'm not a Surveyor by trade. If that mistake or confusion is worth 2.7 ft.--moving that line one way or the other, that to me , tells me where we are.

Mr. Stanton: I would personally like to hear from the Surveyor about the differences between the 2 surveys and if we could, get him to comment on the actual shift in the garage placement and how that would have been reflected on both.

Mr. Natali: If it's OK with you and the Wicks'--you're saying "no". We'll give you an opportunity to come up. At this point, it would be in your best interest to take your time and study this because this is what we're going to make our decision on. If you're in agreement or if you want time to have the Surveyor come back, we're not going to make a decision. We've got all the time in the world. By Code, we should make a decision in 62 days unless both parties agree. So, we'll give the Wicks an opportunity to rebut or comment. Would you agree that's the way we should go ?

Mr. Hilts: I would say so. I think all the facts need to be entered in so you can make an educated decision.

Mr. Palladino: Is the garage causing problems as it stands now ?

Mr. Hilts: Yes. I have a legally constructed fence that sits several inches off the property line. Their eave/overhang allows snow to come off the roof and stacks the snow up against my fence. The grade--due to the proximity to the other property line and the garage that goes up to it causes that area of my lot to flood whenever it rains hard. The grade up to the garage puts water directly onto my property.

Mr. Palladino: Is this because of the fence or has it been there for 5 years or something ?

Mr. Hilts: Since the construction of the garage.

Mr. Winters: Was the garage not there when you purchased your home ?

Mr. Hilts: Yes, it was there when I purchased my home.

Mr. Winters: Do you have pictures of the snow against the fence ?

Mr. Hilts: Sorry--I take that back. I purchased the home in 2004. The garage was not there then.

Mr. Winters: I'm trying to understand why the garage is a problem at this point in time.

Mr. Hilts: Because during the surveying for me to place my fence, it was discovered that it's not 6 ft. off the line. It's significantly less.

Mr. Winters: Those are the only problems--the snow against the fence and the water ? No other problems ?

Mr. Hilts: The run off in the driveway whenever the vehicles are washed or when something like that comes into my yard.

Mr. Palladino: If that garage could be physically moved 2 1/2 feet, would that solve all your problems ?

Mr. Hilts: I don't see a problem.

Mr. Stanton: I think I would counsel you to provide some substantiation of the claims that there's snow building up--any pictures or evidence you could provide. Right now we're dealing with a "he said-she said" --it gets very hard to tell.

Mr. Rabbia: Are the gutters working properly on the garage that move the water ? You mentioned water going on your property from the garage.

Mr. Hilts: I don't know. I couldn't tell you.

Mr. Rabbia: You mentioned water on your property from the garage. Where's it coming from ?

Mr. Hilts: It's my opinion that it's due to the elevated grade there. It's running off their property.

Mr. Rabbia: I'm confused--OK.

Mr. Wicks: I'd like to answer a couple of questions about the building. The garage was constructed with an attic. It's an attic truss. It's 8 ft. wide by 5 ft. high. I put plywood down . We use it to store Christmas decorations, boxes, etc. There's technically no second floor. The garage is guttered down both sides. The downspouts lead to the back yard where I have a 6 in. French Drain, put in across the back yard to the swamp where all my water runs off. My lot is graded--everything runs thru that drain to the swamp.

Mr. Rabbia: Is the downspout from the gutter on that corner discharging into the French Drain ? I see it in one of your photos here.

Mr. Wicks: It runs off the south side--the back of the garage thru the downspout.

Mr. Rabbia: It looks like it's right off the corner of the garage. Could it be extended or not?

Mr. Wicks It can be but about 12 ft. from there is where the French Drain runs east-west across the back yard.

Mr. Rabbia: There's no reason that downspout couldn't be extended into that French Drain ?

Mr. Natali: Is the French Drain along the side along the fence or just the back ?

Mr. Wicks: Just the back. East and west along the back of the garage.

Mr. Natali: Would you consider putting a French Drain in there ?

Mr. Wicks: Yes I could.

Mrs. Wicks: If we're going to do that, I'd like to have Mr. Hilts provide evidence that his back yard doesn't flood at all.

Mr. Natali: I'm just looking for some options here.

Mr. Wicks: I can--it's going to be kind of tight there seeing Mr. Hilts decided to put his fence right on the line, which is his right. We could have compromised and put a French Drain right down the line. We've been there for 12 years.

Mrs. Wicks: I apologize. This Board has been brought into a childish situation. We're trying to comply with the Variance we have been requested to get. Mr. Hilts has had since August 2009 to prepare his case against us for this Variance. He has had ample time to prepare anything he would like to present to this Board , against us being granted this Variance, 3.3 ft. off the line when the garage originally fell in the bulk regulations for R-10. I'm asking this Board today to comment if you're going to grant us a Variance for the garage--is there something I'm missing--that's fine--but I think we have truly presented our case and I would like a decision.

Mr. Natali: I'm sorry we can't proceed in that direction. We're going to give him an opportunity--there's no immediate rule to make a decision. We've got plenty of time. He's not sure of his numbers. We're going to base our decision on this--regardless of what each of you say. This is what our duty is. Our due diligence to give him an opportunity to grieve , is what we will make our decision on. One last question--how much snow is between this garage and your fence ?

Mr. Wicks: About that much of a pile (no measurements given). It's right where the entrance door is--there's about a 3 inch gap between the pile and his fence.

Mr. Natali: And when it melts ?

Mr. Wicks: It will probably run off into the lower half of his yard in the back.

Mrs. Wicks: Which it has for years.

Mr. Natali: Mr. Hilts, Do you have anything new to add before I close the Hearing ?

Mr. Hilts: She said I've had since August 2009 to prepare for this. I don't believe they filed for this Variance in August. I only received it 2 weeks prior to last month's meeting.

Mr. Stanton: I apologize--I didn't write down the square footage of the garage that you quoted--plus the addition on the back of the garage. What was that ?

Mr. Hilts: That wasn't including the addition on the back of the garage. That was for the garage as built prior to the addition on the back. It was 1920 sq. ft.

Mr. Stanton: The plan area (without the addition) is 995 sq. ft.--with the addition it is 1250 sq. ft.

Mr. Natali: Is there anyone speaking FOR this ?

FOR: NONE  
AGAINST: Mr. Hilts has already presented his information.

Mr. Natali closed the Public Hearing at 7:29 P.M.

Mr. Rabbia: How do we get the Surveyor here ?

Mr. Natali: I'm going to leave that up to Mr. Hilts. I make a motion to defer this case until the April 5, 2010 meeting at which time Mr. Hilts will agree or disagree with the survey that we're going to be making our decision on. He will bring the Surveyor in, at his own expense--nobody else will be sharing in that --neither the Town nor the Wicks'. Do you agree with that Mr. Hilts ?

Mr. Hilts: Yes.

Motion was seconded by Mr. Palladino.

Motion was put to a vote, resulting as follows:

Mr. Rabbia: Yes  
Mr. Winters: Yes  
Mr. Palladino: Yes  
Mr. Stanton: Yes  
Mr. Natali: Yes

Motion duly carried.

AREA VARIANCE FOR ELLEN & KENNETH CICCARELLI, 7523 TOTMAN ROAD, TO CONSTRUCT A DECK AND A BREEZEWAY (CONNECTION TO THE GARAGE) ON A NON-CONFORMING LOT. THE LOT IS 68 FEET WIDE WHERE 80 FEET IS REQUIRED AND IS 127 FT. DEEP WHERE 130 FT. IS REQUIRED AND THE SIDE SETBACK IS 6 FT. (+/-) WHERE 10 FT. IS REQUIRED.

Representatives: Ken and Ellen Ciccarelli, Owners.

Mrs. Ciccarelli: We applied for a Variance because we wanted a deck off the back of the house. We bought the house almost 2 years ago. The stairs are not very safe--they're sloping--we want a deck. I came down to get a Permit and there's a 4 ft. gap between the fence and the property line. But my property is not--the edge of my house and the fence is--there's not 10 feet there. We just want the deck to go off the back of the house. I've been down to the Codes office a few times. Steve is really nice--he offered to come down and confide with us the way they wanted us to move it in and move it over. For \$7000, it didn't make us happy. It didn't look like a deck, it looked like a dock, because the way the back of the house is. So, we applied for the Variance. Seeing we were applying for the Variance, we thought someday down the line, we'd like to attach our garage. If you need more plans for the garage, that's fine. I'm really here for the deck.

Mr. Palladino: Do you have the original survey ?

Mr. Stanton: Do you have a legible survey ?

Mr. Palladino: This has been reduced so many times that it's hard to read and actually we can't even go off the scale. This is dated March 2008.

Mr. Rabbia: The problem is the house is at an angle and we have no idea how close the deck is going to be to the property line. I can't read any of the numbers.

Mr. Palladino: I think we have another side issue. That's on the corner isn't it ?

Mrs. Ciccarelli: Yes, we have a corner lot.

Mr. Stanton: There's a lot of area she wants.

Mrs. Ciccarelli: This is the only survey we got when we closed on the house.

Mr. Palladino: Is it a copy? Is it what we have ? Or is it something else ?

Mr. Stanton: Usually these are an 8 1/2 X 14 size piece of paper.

Mrs. Ciccarelli: Is it this ?

Mr. Palladino: No, that's your Abstract. That's the legal description but that won't help.

Mrs. Ciccarelli: I know when we were buying the house, the hold-up was the survey but that survey was done March 28th.

Mr. Palladino: This was reduced from a survey and we'd like to see that survey so at least we could pull the numbers off it and I'll explain why. There's several Variances I think you may need and we want to make sure we cover them one time and not have you before us to come back again, when you want to connect your breezeway or whatever you're going to do. We'd like to address what we believe could be out of Code now--just get it all done at one time.

Mr. Rabbia: There's a lot area Variance , too.

NO NAME: The only thing that changed is when she added the garage.

Mr. Rabbia: The survey's been reduced though--we can't scale it.

Mr. Stanton: One of the many things we're trying to avoid here is getting into a situation where we give you a Variance based on an erroneous number, which then turns out to be a foot into you back porch or anything. Because if we do that then all of a sudden you're unintentionally out of Code. You wind up having to come back in here. Say we give you a Variance for 4 ft. and it turns out your deck is actually 3 ft. away from the property line. That turns into an issue between you and the Town, where you end up having to come back or change your deck, which we don't want you put in that position.

Mr. Ciccarelli: I do not understand why it would change. I can read off this one. You just need the original to read off of it ?

Attorney Kirwan explained the survey matter to Mrs. Ciccarelli. His remarks were inaudible on the tape.

Mrs. Ciccarelli: So what happens now if the Board doesn't approve it ? Do I have to come back next month and bring the original ?

Mr. Stanton: That's basically what we are requesting is that this March 28, 2008 survey be produced in a fashion that is to scale and legible to us so we can provide the proper Variances for you.

Mrs. Ciccarelli: Did anybody come and look at the property ?

The Board members replied that they had looked at the property. Mr. Natali said it was mandatory for them to do so.

Mr. Palladino: We're not questioning what you want to do. We just have to do it within the Code.

Mrs. Ciccarelli: Based on the numbers ?

Mr. Palladino: Correct. And we really can't tell and like Chuck said. Actually, you have a unique situation. You have a corner lot so you're faced with 2 front setbacks. I don't know if your garage is 30 ft. from the road. It doesn't appear to be. We have to address that Variance as well. What we're saying, it's not monumental but let's do them all at one time so that you can go on. Otherwise Wayne will be knocking at your door because something will be non-compliant.

Mr. Natali: If we don't do it right, you could be back here paying another \$200 for another Variance. We'd like to clear them all up now because it's non-conforming property right now. We want to get everything into conformance. In the long run, it's going to save you money. Like the Councilor said, it might be in your paperwork. He showed Mrs. Ciccarelli what it might look like.

Mrs. Ciccarelli: I don't remember it. We copied what they gave us. Where are we going to get another survey from ?

Mr. Stanton: You can contact the original Surveyor, R. Lighton, Sr. You should just be able to call him up and he can re-issue another survey for you.

Mr. Kirwan: He might have an extra copy on file.

Mrs. Ciccarelli: I have a question. We're buying the lot next door. Does that have anything to do with the deck or breezeway ? We're almost closing on the lot next door.

Mr. Stanton: Combine the two lots together.

Mrs. Ciccarelli: But that still wouldn't have anything to do with the width, right?

Mr. Stanton: We'd have to look if you were to combine the 2 lots.

Mr. Dean: It doesn't have any bearing on the property line that's in question here. Doesn't make any difference.

Mr. Rabbia: But if she waited--which property is it ? The one on Harrington Dr. ?

Mr. Dean: The one on Harrington. If I can say just one other thing. I don't want this to be misinterpreted but next time they come in, if they just get another survey, it's not going to show the skew of that building in relationship to the house and you won't be able to calculate where the back point of that deck is. They're going to need some additional work done there so you can determine that. I just don't want to bring it in next month then you don't have it.

Mr. Natali: We'll build that into the motion.

Mr. Ciccarelli: They're talking about corner of the house--they're thinking the deck is closer to the property line. We can build the deck and make that\_\_deck 6 ft. I don't see a problem.

Mr. Stanton: I think that's what we'd want to see.

Mrs. Ciccarelli: We understand the lot is crooked but we didn't put it there.

Mr. Ciccarelli: The survey shows 5.9 ft. between the fence and the house. That will be maintained all the way thru. I've got to make it look crooked on the other side or do whatever to make it work. We're not going to go 3 ft.

Mrs. Ciccarelli: No, we don't want the deck to look crooked.

Mr. Ciccarelli: We're going to go straight out from the house. It will be straight. If we start it 4 ft. in, there'll be 2 small sections that are basically unusable. If you put a table and chairs there, you'd be right in the middle of the doorway. What we're asking for , if we start at the corner we'll have enough room there for a table and chairs--a walk around the house--a clear path--nothing in the way--that's what I'm looking for. I'll maintain 4 ft. from the fence and 4 ft. from the garage. It wouldn't make a whole lot of sense to slide the whole thing down.

Mr. Winters: I think if you take some time and draw out what you want to do to scale. Then you'll see just how far away from the fence you'll be and whether it makes sense to go straight out. Then come back and we'll take a look at it.

Mr. Ciccarelli: I measured it--I put in stakes--I maintained the line 6 ft. from the fence. They were going to approve the Permit in the first place. I have a 4 place table that won't fit there. It would be in front of the doorway--it would be unusable. It wouldn't be safe if I had to get out of the house in a hurry.

Mrs. Ciccarelli: The stairs , at this point , are not safe. Something has to be done. Both the dog and I have fallen on the stairs. The deck is what we want. It doesn't have to be high. Buying the lot next door, we're going to have enough room.

Mr. Stanton: We understand that. We need to be shown that. We can't make a decision based on what somebody tells us. We need something in front of us to show us what we have.

Mrs. Ciccarelli: Like measurements ? Or what it's going to look like ?

Mr. Stanton: We're looking for the legible 2008 survey with what they're proposing sketched out to scale on the survey. That's really all we're asking for.

Mr. Natali: You need it done to scale. Ask your Surveyor to do it to scale.

Mrs. Ciccarelli: OK, we've got to have the Surveyor do it ? Or the Builder? We're hiring a Builder.

Mr. Palladino: It would probably be better to get the survey and have the Builder draw it on there to scale.

Mr. Dean: Mark or somebody requested the distance from the property line to the garage. That isn't on here either.

Mr. Rabbia: The survey I'm looking at here, I don't see a dimension from the south west corner of the house to that property line--correct me if I'm wrong. I get that you're going to follow the straight line back--I did that--I just don't know the dimensions of that south west corner of the house to the side property line. We don't have a starting point. That's why we need the survey.

Mr. Natali: When you call your Surveyor, you let him know that you have to go before the Zoning Board. The survey should indicate all dimensions so when we don't see a line from point A--the corner of the house to the property line, he needs to put a dimension in there. Tell him what you're going to do and those dimensions should be to scale. We will accept the Builder's scale. The Builder needs to look at that survey, too. Ideally, if it was better weather, and have the Surveyor do everything, stake it out, but we realize we're limited.

Mr. Rabbia: We'll accept the Builder's sketch of the proposed work. Just have your Surveyor put the dimensions on the corner of the house.

Mr. Natali: If you have any last minute questions, you can always call the Code Office.

Mrs. Ciccarelli: Does this have to be the depth and the dimensions ?

Mr. Natali: If you're going to scrap the breezeway for now, the breezeway does not appear that it's going to need a Variance in the future.

Mr. Stanton: To avoid having to pay another application fee, I would say do everything you want to do now.

Mr. Dean: The reason for the Variance is because they're expanding on a non-conforming lot. The setback issue is secondary to it.

Mr. Rabbia : There's an area issue and a setback issue.

Mr. Dean: If they're contemplating the breezeway, they should do it all at once.

Mrs. Ciccarelli: If we postpone it until April, when we come back, will we need a new survey -- one that is dated April ?

Mr. Rabbia: It should be Revised anyway. Put a dimension from the back corner to the side line. If you get with him and say you want to put on a 14 X 18 deck, he might even sketch that on and be done with it.

Mr. Stanton: I was out to your house yesterday and I'm reviewing some photos I took. It doesn't look like your property has changed since the time that survey was taken.

Mrs. Ciccarelli: I don't think it has. The fact that it's a non-conforming lot kind of freaked me out because I didn't do it. I think the Board is being fair.

Mr. Winters: I just want to make sure we're perfectly clear here. I think these folks are going away with the impression they have to hire an Architect to put the lines on paper.

Mr. Rabbia: You mean a Surveyor ?

Mr. Winters: Yes, a Surveyor. What we're asking for I believe, is simply a legible drawing to scale of your existing property. Who puts those lines on for the deck-- Wayne, correct me if I'm wrong--it doesn't have to be an Architect or a Builder. It just has to be what you would like to accomplish drawn to scale so that we can work with it and determine what Variances you need. Is that accurate, Gentlemen ?

Mr. Kirwan: You want the distance from the garage to the property line.

Mr. Rabbia: And one other one--the southwest corner of the house to the sideline.

Mr. Stanton: My preference would be to have the Surveyor or Builder draw the lines to scale because one of the issues we have is that a lot of the free-hand--.

Mr. Winters: That is a preference. I've seen nothing but free- hand since I've been on this Board. I don't want these people feeling they have to go spend money that they don't necessarily have to.

Mrs. Ciccarelli: But they will charge us , right ?

Mr. Palladino: They will charge you for a copy of the survey. It won't be much but as long as he ---.

Mrs. Ciccarelli: I want to apologize if I copied the wrong survey.

Mr. Rabbia: It was the right survey if that's what you got when you closed on your house. That's the dimension we're missing. I don't think it's changed substantially.

Mrs. Ciccarelli: I knew there was a survey issue when we bought the house.

Mr. Natali: If you have any questions you can contact the Code Officer.

Motion was made by Mr. Natali, seconded by Mr. Stanton, to defer this case until the April 5, 2010 meeting.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Winters:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Yes

Motion duly carried.

AREA VARIANCE FOR JOHN CARR , 6865 DELUXE PARKWAY, TO EXPAND A NON-CONFORMING STRUCTURE ON A LOT THAT IS 36 FEET WIDE WHERE 75 FEET IS REQUIRED AND HAS A SIDE SETBACK OF 2.13 FT. WHERE A MINIMUM OF 6 FT. IS REQUIRED AND A TOTAL SIDE SETBACK OF 14.13 FT. WHERE 15 FT. IS REQUIRED.

Representative: Mrs. Danielle Carr, Owner representing John Carr, Owner.

Mrs. Carr: The application is for an Area Variance for 6865 Deluxe Parkway. The existing lot is non-conforming and the structure on it does not conform to the bulk area regulations for R-10. The lot size should be 10,000 sq. ft. and the lot is approximately 5200 sq. ft. The minimum width requirement is also not met. In any case , the existing structure on the site does not meet the setback requirements. What John is proposing to do is to tear down all the existing portions of the structure except for the concrete masonry part and construct a new structure 18 ft. wide by 30 ft. long and maintain a minimum 6 ft. setback on the west side. Since the lot is approximately 36 ft. wide, that leaves a 12 ft.setback on the other side--the east side of the property. The rear setback--from the back of the property line--which is up on the survey--that's north--that would be 32 ft. where the back portion of the structure to be removed and from the front property line to the front of the new structure (Deluxe Pkwy.) that front setback would be about 55 ft. She then pointed out some other information to the Board members.

Mr. Rabbia: Your application made reference to a side setback of 2.3 ft. I don't see that.

Mrs. Carr: The existing structure--the part that's to remain--will remain non-conforming and the lot continues to be non-conforming.

Mr. Rabbia: It's a little closer than 2.3 ft, right ? Because that structure is at an angle.

Mr. Stanton: If you look towards before the new house rendering, the sheet before that there's a survey dated 2/1/10. It shows a 2.13 foot off set from the westerly property line to the CMU portion of the structure now. I scaled that off where it's actually closer towards the northern portion. It's about 1 1/2 ft. (existing structure).

Mr. Rabbia: Chuck, that 1 1/2 ft is right at the end of the structure that is going to remain, right ?

Mr. Stanton: In my estimation , yes. The house appears to be abandoned. Is that correct ?

Mrs. Carr: Yes, it's in pretty rough shape.

Mr. Winters: Now , the drawing of the new house shows the porch in the front, the storage area in the back and the extension for a fireplace on the one side. Are you planning to have those as well ?

Mrs. Carr: No. His intention is to build either the storage room on the back or the porch on the front and not to include a fireplace.

Mr. Winters: It certainly would be an improvement over what's there.

Mrs. Carr: It's pretty ugly. I think the neighbors would be pleased to have something different there.

Mr. Rabbia: Is the structure that's remaining structurally sound ?

Mrs. Carr: As far as I'm aware of, but I think the Codes Office needs to determine that.

Mr. Dean: I haven't been out there personally. Steve has and we've got some issues with how this is being constructed so we will assure that during the building.

Mr. Rabbia: If they have to remove the building, it may change my opinion in terms of how much I grant to the side property line. That's just my opinion.

Mr. Stanton: I would think we could make, if we go that way, we can make it specific enough just to relate to the existing portion.

Mr. Palladino: Are you going to be using the existing portion as part of the living space ?

Mrs. Carr: No. It's not intended for living space, it's intended for storage only. It's not big enough to serve as a garage. You couldn't drive a car into it. It's about 14 ft. by 20 ft. It's not big enough to use for anything but storage.

Mr. Palladino: I looked at the blocks and I was trying to figure out if you were going to use it as a bedroom. Then I tried to match it up to the drawing of the house that you'd like to put there. I don't see how this fits.

Mrs. Carr: It would be offset and the intent is to have access to it from outside--not thru the house.

Mr. Palladino: From the back of the proposed house?

Mrs. Carr: Yes.

Mr. Palladino: I was just wondering why you were even thinking of keeping it.

Mrs. Carr: I'm just here representing John. I'm sure he'd just like to save the money and try to salvage something of the existing structure.

Mr. Stanton: You realize that's contingent on Wayne's office taking a look at it and making sure everything is sound?

Mrs. Carr: Yes.

Mr. Palladino: Was that used as living space before when the house was occupied? The masonry part? Is it insulated?

Mrs. Carr: I don't know. He's had the property for a number of years and this is a recent survey. I think the state of the existing structure is only growing worse. We've owned the property for quite a while.

Mr. Natali opened the Public Hearing at 8:00 P.M.

FOR: Mary Fortino, 6810 Deluxe Parkway: Our property is the one that is 2 1/2 ft on the other side and I'm just curious as to what would remain--the cement part and the front porch as it exists and the side porch as it exists?

Mr. Stanton: Are you to the west of this property?

Mrs. Fortino: We're immediately west of this property. As far as when it was last occupied, it was before Mr. Carr bought it.

Mr... Palladino invited Mrs. Fortino to come up and showed her what will be taken down.

Mr. Natali: So, you are for it at this point?

Mrs. Fortino: Yes.

AGAINST:           NONE

The Hearing was closed at 8:04 P.M.

Mr. Rabbia: We've got a host of Variances here.

Mr. Stanton: It's reconstructing a non-conforming structure on a lot-36 ft. where 75 ft. is required. There's a side setback from the westerly side property line of approximately 1 1/2 ft. to the existing structure that's to remain, where we need a minimum of 6 ft. Total side setback of approximately 13.5 ft where 15 ft. is required. The lot area is approximately 5200 sq. ft. where 10,000 sq. ft. is required. The proposed new structure will maintain a minimum 6 ft. setback from the westerly side property line. All other setbacks are to meet the requirements for an R-10 lot. With that I'd like to make a motion to approve the Area Variance for John and Danielle Carr, 6865 Deluxe Pkwy. I'd like to go thru the 5 factors we need to discuss before the motion is granted.

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, the house currently appears to be abandoned.

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 current structure is non-conforming and cannot be modified or rebuilt without a Variance.

3- Whether the requested Area Variance is substantial? Answer: Yes, the existing structure setback of 1.5 ft. is substantial in nature; however, it is a pre-existing condition and is outweighed by the fact that a new house will be built on this lot.

4-Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions present in the neighborhood or district? Answer: No. The new house will be a dramatic improvement over the existing conditions present on the lot, which is currently run down and presents an eyesore to the neighborhood.

5- Whether the alleged difficulty was self-created? Answer: Yes, however, it is not a deciding factor. The lot was apparently purchased knowing that non-conformance was an issue.

I'd like to make a motion for an Area Variance to re-construct a non-conforming structure on a lot that is 36 ft. wide where 75 ft. is required, has a side setback from the westerly side property line of approximately 1 1/2 ft. to the existing structure to remain, where a minimum of 6 ft. is required and a total side setback of approximately 13.5 ft. where 15 ft. is required. The lot area is approximately 5200 sq. ft where 10,000 sq. ft. is required. The proposed new structure will maintain a minimum 6 ft. setback from the westerly side property line. All other setbacks are to meet the requirements for an R-10 lot.

Motion was seconded by Mr. Palladino.

Motion was put to a vote, resulting as follows:

Mr. Rabbia:	Yes
Mr. Winters:	Yes
Mr. Palladino:	Yes
Mr. Stanton:	Yes
Mr. Natali:	Abstain

Mrs. Fortino and I are on a Church Board together.

Motion duly carried.

Motion was made and unanimously approved to adjourn the meeting at 8:09 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 March 1, 2010 and took minutes of said meeting , do hereby certify that the foregoing is a true and correct transcript.

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Nancy G. Morgan

March 15, 2010