

Town of Clarence
 One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
 Tuesday January 13, 2015
 7:00 p.m.

Chairman Daniel Michnik called the meeting to order at 7:00 p.m.

Zoning Board of Appeals members present:

Chairman Daniel Michnik	Vice-Chairman Ryan Mills
David D'Amato	Patricia Burkard
Gregory Thrun	Richard McNamara

Town Officials present:

Director of Community Development James Callahan
 Deputy Town Attorney Steven Bengart
 Councilman Peter DiCostanzo
 Councilman Bernie Kolber

Other interested parties present:

Christine Kluczynski	Shane Pinkerton
Kimberly Felber	James Felber
John J. Bruckman	

Motion by Gregory Thrun, seconded by Daniel Michnik, to **approve** the minutes of the meeting held on November 11, 2014, as written.

Gregory Thrun	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Motion by Ryan Mills, seconded by Gregory Thrun, to **approve** the minutes of the meeting held on December 9, 2014, as written.

Gregory Thrun	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

New Business

Appeal No. 1

James and Kimberly Felber
Residential Single Family

Requests the Board of Appeals approve and grant:

- 1.) A 23.85' variance and a 25' variance to allow for a lot split resulting in two (2) lots having frontage of 101.15' and 100' at 8187 Stahley Road.
- 2.) A variance to allow for a 100' setback for the construction of a single family structure on the newly created parcel which would match the current setback of the existing single family structure located at 8187 Stahley Road.

Appeal No. 1 is in variance to §229-50 (A) and §229-52 (3).

DISCUSSION:

James and Kimberly Felber are present. Neighbor notification forms are on file. Mrs. Felber said they both grew up in Clarence, then moved away for a short while. When they were married and had their daughter they lived in Lockport but wanted to get back to Clarence. The property on Stahley Road, which lies between both James' parents property and Kimberly's parents property, went up for sale and they bought it with the thought of remodeling the farm house, which they did. They eventually built the house next to the farm house. The intention was always to build a final home on this property. There was a barn on the property that they removed, they put up another barn for storage and placed it in the back corner of the property because they knew their final home would be on the property. When their existing home was built Mr. Felber paid for an extension of the sewer to be put in so that it would be there when they were ready to build their final home, which cost \$7,000. Mr. Felber explained that they had no idea that the minimum requirement for the size of the lots changed. He pointed out that each lot gets wider as it goes back from the road, they will build the house at about the 140' wide mark. The lot is 2.25 acres and they will not even be using 10% of the property. The people who are buying the house that the Felber's reside in now need to move in as soon as possible because the woman is pregnant, she is due in March and would like to be in the house by then. If he would have known the law changed he would have separated it years ago. They are not changing the environment of the street with this request. There are 100' lots in both directions along this road, there are lots across the street that are only 75' wide. They are not trying to squeeze a huge house on a small lot or put anything behind another house. The square footage of the lots, if split, will still be larger than most of the lots on the street.

Mr. Mills reads correspondence dated January 5, 2015 from Town Engineer Joseph Lancellotti to Jonathan Bleuer of the Planning Department, "Regarding this appeal, the lot split is partially located in the flood zone. If/when the owner decides to build his house, he needs to come in and apply for a floodplain development permit. A LOMR-F may also be required if the location of the home is found to be below the base flood elevation (BFE). This is to be determined by conducting a boundary/topo survey before construction begins. If the entire house plan is found to be above the BFE, a LOMR-F will not be required." The correspondence is on file. Mr. Felber said he is aware of this and clarified that his property is in the 500-year floodplain, so it should effect it at all. They have owned the property for 22 years, when they bought the property the frontage requirement was 100'.

Mrs. Burkard asked what the square footage is for the proposed home, Mr. Felber said a little over 2500 square foot. The existing home is bigger than the proposed home.

It is clarified that a 100' setback would put the proposed home in line with the adjacent homes. Mr. Mills asked what the issue would be if the proposed house was brought closer to the road. Mr. Felber said they would be in front of the house that is next to them. As proposed, his porch now lines up with his neighbors; they would be looking at the side or the back of the Mr. Felber's house. If they pulled the house forward it would block the neighbor's view from their front porch looking down the road. Mrs. Felber said if she were her neighbor she would not want a house blocking her view.

Mr. Felber said if this request is approved he would look to start construction in March or April of this year. They will move into an apartment while the new home is being built.

ACTION:

Motion by Patricia Burkard, seconded by Gregory Thrun, to **approve** Appeal No. 1, as written.

ON THE QUESTION:

Mr. Thrun noted that the 100' setback keeps the frontage of the three houses in line. He reminds the applicants that they need to look at the floodplain. It is not a large variance, it keeps with the character of the neighborhood.

Mr. Mills referred to the first prong of the variance and said there is evidence and testimony in the record that these lots were purchased before the frontage changed and because of that there appears to be a hardship to distinguish this variance from others.

Gregory Thrun	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Old Business

Appeal No. 2 (from December 2014 meeting)

Judith Husband
Residential Single Family

Requests the Board of Appeals approve and grant:

- 1.) An 8' variance to allow for the construction of up to a 24' tall detached garage.
- 2.) A variance of 112 square feet to allow for the construction of an 832 square foot detached garage.

Both requests apply to the construction of a detached garage located at 8060 Clarence Center Road.

Appeal No. 2 is in variance to §229-55 (E) (2) and §229-55 (D).

DISCUSSION:

John Bruckman is representing Judith Husband, he is the contractor. Ms. Husband is an elderly lady who takes care of an elderly lady and it is difficult for her to get out of the house, which is the reason Mr. Bruckman is representing her. Two neighbor notification forms are on file. Mr. Bruckman said there is an existing garage that needs to be removed, Ms. Husband wants to make it more presentable for her neighborhood. The proposed garage is 832 square foot and will only be 8 inches higher than the existing garage, but according to the Building Inspector an 8' variance is required.

Mrs. Burkard asked if there is a second floor planned for the proposed structure. Mr. Bruckman said there will be a loft for storage, nothing to accommodate an apartment.

Mr. D'Amato asked if the size of the structure could be decreased. Mr. Bruckman said it could be if the roof line was restructured, but that won't do much. Currently there is a 12-12 pitch. She only uses it for storage of items such as Christmas decorations. If the size was reduced, Mr. Bruckman said she might as well just leave what is there and rebuild it. Ms. Husband said she wants a larger structure. The garage is 18' wide, she has a caravan that she uses to drive her elderly friend around. There is not enough room for two cars to fit in the garage plus wheelchair access.

Mr. Bruckman explained that the height variance is for the look of the structure on the outside. Mr. Mills said 8' is a substantial height variance. Mr. Bruckman said if they left the existing garage it would not fulfill the new build, once they take that down they have to start from scratch which would be the same height that is there now. It is clarified that if Mr. Bruckman does work on the existing garage it must be brought into compliance, however it would probably not need a variance. It will be vinyl siding.

Mr. Bruckman explained there will either be one (1) sixteen foot (16') door or two (2) eight foot (8') doors. There is no plumbing going in; this structure will not be used as a living space. There will be electricity for lights downstairs and upstairs. Deputy Town Attorney Steven Bengart asked if there was a condition set forth on the approval that this space will never be used as living space, would that be acceptable. Mr. Bruckman said yes, he would sign-off on that because he knows that is not what it is for.

ACTION:

Motion by Gregory Thrun, seconded by Patricia Burkard, to **approve** Appeal No. 2, under Old Business, as written, with the condition that the structure will not be used as a living space. There will be no plumbing or heat source installed so that it will never be converted to a living space.

Gregory Thrun	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 1 (from October 2014 meeting)
CEC-Energy/Ryan Storke
Residential Single Family Zone

Requests the Board of Appeals approve and grant a 73.5' variance to allow for the construction of a 133.5' wind turbine located at 8850 Clarence Center Road.

Appeal No. 1 is in variance to §173-4(C).

DISCUSSION:

The item remains tabled. No action taken.

The Zoning Board of Appeals Members and Deputy Town Attorney Steve Bengart entered into Executive Session to discuss an Attorney-Client matter. The meeting resumed at 7:43pm.

Meeting adjourned at 7:44 p.m.

Carolyn Delgato
Senior Clerk Typist