

Town of Clarence  
One Town Place, Clarence, NY  
Zoning Board of Appeals Minutes  
Tuesday January 14, 2014  
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	

Town Officials present:

Director of Community Development James Callahan  
Junior Planner Jonathan Bleuer  
Deputy Town Attorney Steven Bengart  
Councilman Bernard Kolber (arrived late)

Other interested parties present:

David Hillery	David Sutton
Juman Aref	

Motion by David D’Amato, seconded by Ryan Mills, to **approve** the minutes of the meeting held on December 10, 2013, 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**

David M. Hillery  
Residential Single Family

Requests the Board of Appeals approve and grant:

- 1.) A variance to allow for a 528 square foot secondary detached garage.
- 2.) A variance of 7.5 feet to allow for a 5 foot side yard setback for proposed 528 square foot detached garage.

Both requests apply to 6152 Bridlewood Drive South.

Appeal No. 1 is in variance to §229-55 (H) and §229-52(B).

**DISCUSSION:**

Dave Sutton from Sutton Architecture is representing the applicant and explained that due to limited site conditions they are unable to get the required 12.5' side yard setback; they are requesting a 5' setback. The property has a taper to it, so the measurement would be 5' from the property line at the front of the proposed structure and approximately 7'10" from the property line at the back of the structure. The proposed structure is in line with the existing house. Mr. Sutton uses the five (5) criteria set forth by New York State, which the Zoning Board of Appeals uses when reviewing an appeal, as a guideline for his presentation. The presentation document is referred to as Exhibit A and is on file. The applicant feels that the request is not creating an undesirable change in the character of the neighborhood. This property has a unique orientation to the property to the south because it is a side yard setback abutting almost a rear yard setback, for this reason there is a reasonable amount of distance between the structure to the south and the structure that they are proposing. Mr. Sutton said they considered sliding the structure back further but that actually created more of an obstruction/imposition on the adjacent property. The closer the structure is to the existing driveway the better it is for the applicant and his neighbors. It is the applicant's opinion that the request is not substantial. The proposed structure will be setback so that it is not in-line with the primary structure, there will be an overhead garage door and the siding and other materials will be compatible with the house creating an acceptable curb appeal from the street, it will not create a negative impact on the neighborhood. The difficulty was not self-created; it is the uniqueness of the lot that is requiring the applicant to go before the Board of Appeals. Mr. Sutton referred to Exhibit B which is a street view of the property, this document is on file. It shows the vast amount of property between the proposed structure and the neighboring property. Mr. Hillery has had conversations with the neighbor directly adjacent to proposed structure and that neighbor has no opposition to the plan. Mr. Hillery and that neighbor are currently in negotiations relative to landscaping the area. Mr. Hillery is willing to work with that neighbor to put the landscaping in an acceptable manner because the neighbor will be the one to appreciate it. Mr. Sutton spoke with the neighbor at 8468 Springbrook who was concerned with the drainage. Mr. Sutton assured that neighbor that there will be two (2) gutters on each side of the gable ends, tied into roof leaders and tied in and connected to the existing drainage system on the property.

Two (2) neighbor notification forms are on file.

Mr. Mills asked why the structure can't be attached. Mr. Sutton said to attach the structure would double the cost of the project. It would basically look the same from the street, but NYS code requires a full footer be put in which adds a substantial amount of cost to the project. With the connecting elements and the foundation the cost would be close to double. Mr. Sutton noted the disconnect between the driveway, which his client uses a lot, and the connection to the backyard. They are willing to put a breezeway connector of some type to connect the two structures however that triggers NYS to require a full footer and Mr. Sutton said the breezeway would only bypass the criteria of it being attached or detached. Mr. Mills said it appears that there is no other way to reasonably place the structure on the existing sight without attaching it. Mr. Sutton said that is correct, the only way they could do it is to slide it back and over, but that would not only be a detriment to the property in question, it would also be a detriment to the two adjacent properties. Mr. Mills asked if the applicant can get away with any less size of the structure. Mr. Sutton said perhaps 2' could be taken off its length, but that doesn't benefit anyone. They feel they have the structure at the smallest size that makes reason for its intended use which is to put two cars in the garage and have storage in the back. They would rather landscape the area than reduce the size of the structure. Mr. Mills asked if Mr. Hillery is amenable to landscaping the south and east sides of the structure. Mr. Hillery said yes, he will work with the neighbor for the landscaping.

Mr. Thrun asked if the heating unit is going to be re-positioned. Mr. Sutton said there would be no violation for airflow around the unit, but if it is determined during the permit process that there is a setback requirement, they would move it to bring it into compliance.

Mrs. Burkard asked if the applicant considered bricking the garage. Mr. Sutton said the problem with bricking it is that there is not a full footer underneath the structure; the structure may be subject to shift.

Mr. Hillery has lived at the residence for 13 years. The purpose for the proposed garage is for vehicles and storage. Mr. D'Amato agreed with Mr. Mills' point about being attached. He asked if an attached garage would add to the value of the property versus a detached garage. Mr. Sutton said an attached garage would add value if you could enter the garage through the house, but that is not physically possible on this property. If the garage was attached to the existing garage it would be moved so far up on the property that the setback from the property line would be less than 5'.

Chairman Michnik said the applicant needs to consider making it an attached garage and make it a part of the total house, re-working the area to get better value out of it even if there is an additional cost. Chairman Michnik said he did not see another free standing garage in that neighborhood. He said half brick is available. He also said it is not going to cost \$5,000 to put a footer in. Mr. Sutton said they started this process on a larger scale, the number he is providing is a true number. They worked on many options; they are backed into this variance request because the other avenues were not practical or financially feasible. Chairman Michnik thinks this will look more like a shed than a garage no matter how much landscaping is put in. He voiced his concern regarding a setting a precedent for the neighborhood. He asked if the applicant was going to extend the driveway or do any additional landscaping. Mr. Sutton said yes the plan is to extend the driveway to the proposed structure. He also said they considered a connecting type breezeway; it would have an iron gate and a roof connection. Chairman Michnik asked if the applicant considered bringing the structure closer to the home. Mr. Sutton said yes but there is a NYS requirement of six (6) feet between the two (2) buildings. If the structure was attached it would be impossible to maneuver a car. Mr. Sutton noted that they are not before the Board to set a precedent for the neighborhood; they are before the Board because of the uniqueness of the property and its orientation to the neighboring property.

Mrs. Burkard asked if the applicant drove around the neighborhood to see what a detached garage would look like. Mr. Hillery said there is a detached garage on Cloverleaf Circle that has the same set-up as his proposal.

#### **ACTION:**

Motion by Gregory Thrun, seconded by Ryan Mills, to **approve** Appeal No.1, as determined, with the attachment/breezeway element and a gated entrance. Landscaping should be installed on the south and east side of the proposed structure. Landscaping is to consist of shrubbery ranging from 4'-8' in height. Season permitting, the landscaping is to be completed within 6 months of the issuance of the Certificate of Occupancy. Bricking should be used on the proposed structure that is consistent with the house; the bricking should be placed on the west elevation of the garage.

**ON THE QUESTION:**

Chairman Michnik suggested a landscaping condition be placed on the approval along with details on the bricking of the structure. These conditions are reflected in the motion.

Mr. Sutton clarified that the roof gable connecting element will not impact the chimney. There will also be a gate.

Mr. D'Amato said there have been many changes to the plan and suggested the appeal be tabled to allow time for the applicant to work out the details and come back to the Board with drawings. This will also allow the applicant to figure out the cost of the changes.

Mr. Hillery said any aesthetics would not be his call.

Mr. Sutton said based on the recommendations of the Board he would like to ask that the appeal be tabled; this will allow Mr. Sutton to put the discussion into a design.

Mr. Thrun withdrew his motion, Mr. Mills withdrew his second to the motion.

**ACTION:**

Motion by David D'Amato, seconded by Ryan Mills, to **table** Appeal No. 1, to allow the applicant to redesign the proposal per the discussion this evening.

**ON THE QUESTION:**

Mr. Sutton will provide photos of similar structures he has designed at the next meeting. He will be well prepared at the next meeting so the Zoning Board of Appeals members know exactly what they are approving.

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

**MOTION CARRIED.**

Meeting adjourned at 7:41 p.m.

Carolyn Delgato  
Senior Clerk Typist