

Town of Clarence
Zoning Board of Appeals Minutes
Tuesday January 8, 2013
7:00 p.m.

Chairman Daniel Michnik called the meeting to order at 7:03 p.m.

Zoning Board of Appeals members present:

Chairman Daniel Michnik
David D'Amato
Jonathan Hickey

Vice-Chairman Ryan Mills
Patricia Burkard

Town Officials present:

Director of Community Development James Callahan
Deputy Town Attorney Steven Bengart
Councilman Bernard Kolber

Other interested parties present:

John Thomann
David A. Webster II
Steve Fisher
Shelagh Thomas

Mark Ziegler
Amy Webster
Bob Denning

Chairman Michnik thanked Arthur Henning for his years of service on the Clarence Zoning Board of Appeals.

Old Business

Appeal No. 3

Gary and Annette Kajtoch
Residential Single Family

Requests the Board of Appeals approve and grant 2 variances to allow for the construction of a new accessory structure (detached garage) at 8960 Hillview Drive:

- 1.) A variance to allow for both an attached and detached garage.
- 2.) A 250 square foot variance to allow for a detached accessory structure 450 square feet in size.

Appeal No. 3 is in variance to §229-55 (H).

DISCUSSION:

Appeal No. 3 under Old Business has been removed from the agenda at the request of the applicant. The request is on file. The applicant has asked to be placed on the February 2013 agenda.

New Business

Appeal No. 1

John Thomann
Residential Single Family

Requests the Board of Appeals approve and grant a 23' variance to allow for a 12' front yard setback to a primary residence for the construction of a new attached garage at 4290 Fireside Drive.

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

DISCUSSION:

Robert Kasperzak of K1 Architects is present and explained that he is proposing a 24' x 30' garage addition to an existing single family home. The addition will run perpendicular to the existing house and will accommodate one full size Ford 150 truck and one vehicle, there will be a small work bench in the addition. The elevation will blend the roof, a stone base will be used and there will be two (2) separate garage doors.

Neighbor notification forms are on file.

The applicant was before the Zoning Board of Appeals on November 13, 2012 and noted that the comments of the Board from that meeting were taken into consideration. The garage has been pushed back and made parallel to the existing house. If the intersection that the applicant lives at was squared off like the others in his subdivision he would not have to ask for a variance. There are other garages that stick out in the neighborhood, one is on Nottingham and that structure is closer to the road than the applicant is now. Photos of examples of large garages in the neighborhood are on file. The applicant does not know specific measurements or if variances were granted for the large garages he has provided photos of.

Chairman Michnik noted that there are two (2) e-mails in the file that have been received from the neighbors that are in opposition to the request. Mr. Hickey read one e-mail into the record: "I reside at 4250 Fireside Drive. I am writing to oppose issuing the variance for 4290 Fireside. The proposed garage is HUGE and totally out of character with the neighborhood. Furthermore, I think it would be extremely dangerous to have any obstruction on this corner lot. The idea of having a permanent garage that would go any closer to the street than the legal setback would just create an accident waiting to happen or a child waiting to be hit by a car coming around a 'blind' corner. Also, last summer there were cars and construction vehicles parked at that house all the time. (I get the impression that this homeowner is in the construction business). The idea of cars and trucks parked possibly all year round in a driveway there would be just another obstruction to that corner and a safety concern. Please register my and my husband's strong objection to this request. Thank you for your time, Mary Ann Bliznik and Chris Crowner, 4250 Fireside Drive."

Mr. Hickey voiced his concern with safety issues of the vehicles driving by the applicant's property if the request was granted. He does not know if the safety issue that the applicant's house presents is also presented in any of the other locations Mr. Thomann is showing as examples. The safety issue is the sight-line with respect to cars driving around Mr. Thomann's property. Mr. Hickey asked what other options the architect offered Mr. Thomann. Mr. Kasperzak said this is the most logical place on the property for the structure without tearing down the house or having a variance. Mr. Thomann asked for

clarification on the safety issue, is there a safety issue? His intersection is the only intersection with a curb that ends at his property.

Mr. Kasperzak said the proposed addition will not cause a line-of-sight issue because there are trees on the property that are forward of the proposed structure. There is no sight line obstruction. The garage will not be built out in the right-of-way which would be the only way it would obstruct the sight line.

Mrs. Burkard voiced her concern with the obstruction of the line-of-sight as well. The applicant said the proposed structure will not be seen at all; it will be behind the trees.

Mr. Thomann said there is no construction business being run out of his home. The construction vehicles that were parked at his home were his sons and they no longer live at that address.

Mr. D'Amato asked if the applicant would consider a smaller size structure. Mr. Thomann said he does not have a shed. There is a very small basement that is only half the size of the house; he hits his head on the heat vents every time he goes down there. He has owned this property for two (2) years. Mr. Kasperzak said if the size of the addition was decreased they would still need a setback variance because of the angle of the lot. Mr. Thomann has not considered a smaller size addition.

Mr. Mills asked for details on the construction materials. Mr. Kasperzak said they would look for something that harmonizes with the existing elevation. Mr. Mills said if the addition matches the front of the house it will blend in better.

Chairman Michnik said he visited the property and the vehicles that passed by did not come close to the applicant's property.

ACTION:

Motion by Daniel Michnik, seconded by Ryan Mills, to **approve** Appeal No. 1, as written.

ON THE QUESTION:

It is clarified that the existing garage will become a family room. The size of the existing garage is 17.5' by 17.5'. Mr. Hickey said he thinks this is a substantial variance.

Jonathan Hickey	Nay	Patricia Burkard	Nay
David D'Amato	Nay	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION FAILED.

ACTION:

Motion by Jonathan Hickey, seconded by Ryan Mills, to **re-open** Appeal No. 1.

Jonathan Hickey	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

ACTION:

Motion by Jonathan Hickey, seconded by David D'Amato, to **table** Appeal No. 1 to allow the applicant to come back before the Board with reconfigurations of the plan.

Jonathan Hickey	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 2

Marc Ziegler
Residential Single Family

Requests the Board of Appeals approve and grant a 5.6' variance to allow for a 4.4' side yard setback to a detached accessory structure (generator) at 8811 Stonebriar Drive.

Appeal No. 2 is in variance to § 229-55(E)(1).

DISCUSSION:

One neighbor notification form is on file.

Mr. Ziegler is present and explained that the variance request is based on where the gas meter and the air conditioning unit are located on his property. Twin City Electric will be installing the generator. Mr. Ziegler has lived in the residence for 10 years. He plans on landscaping around the generator. He has not explored other options for the location; he did not want to put it in his backyard.

Mr. Hickey asked the applicant if he could find a way to meet code and have a 10' setback. Mr. Ziegler said the only other option is behind the house and he would prefer it was not put there. Other neighbors in his development have their generators located on the side of their homes.

Chairman Michnik voiced his concern with the neighbor's side loading garage and snowplowing, he is concerned with the snow being plowed too close or on top of the generator or even being damaged by the plow itself. Mr. Ziegler said he thinks the generator is far enough away that the snowplowing would not damage it in any way.

ACTION:

Motion by Ryan Mills, seconded by David D'Amato, to **approve** Appeal No. 2 as written.

ON THE QUESTION:

Patricia Burkard asked how far away from the neighbors driveway is the generator. Mr. Ziegler guessed at about 4 feet.

Jonathan Hickey	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 3

David Christopher
Agricultural Flood Zone

Requests the Board of Appeals approve and grant a 465' variance to allow for a 525' front yard setback to a primary residence for the construction of a new single family residence at 7615 Goodrich Road.

Appeal No. 3 is in variance to § 229-31(A)(4).

DISCUSSION:

Chairman Michnik noted that this Appeal has been removed from the agenda because it was previously approved.

Appeal No. 4

Dave Webster
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 7' variance to allow for an 8' side yard setback to a primary residence for the construction of a new attached garage addition at 5935 Strickler Road.

Appeal No. 4 is in variance to § 229-41(B)(2).

DISCUSSION:

David and Amy Webster are present. Mr. Webster explained he is asking for the variance because he is encroaching on his neighbor's yard. He cannot build in the back because the septic system is there.

Neighbor notification forms are on file.

Chairman Michnik noted that this applicant previously received a variance for a fence and his neighbor received a variance for a garage.

Mr. Webster will do the work himself.

Mr. Mills asked if the applicant can achieve what he is looking for with any less square feet; it is a large structure. Mr. Webster said he thinks the addition will be more like 22' wide by 30' long, but he still needs the variance. He could not do anything less than 22' by 30'. Mr. Webster referred to a plan entitled A-1 which lays out the foundation and garage, there will be an offset on the peak of the roof and there will be natural light in the back. All the building materials will match the existing structure.

Mr. Hickey asked what the garage will be used for. Mr. Webster said there will be a work area in the back and the rest of the garage will be used to park one vehicle in. There will be no business operating out of the garage.

ACTION:

Motion by Daniel Michnik, seconded by Patricia Burkard, to **approve** Appeal No. 4 with the change in the size of the structure from 30' by 30' to 22' by 30'. The size change is acceptable to the applicant.

Jonathan Hickey	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 5

Steve Fisher
Residential Single Family

Requests the Board of Appeals approve and grant a 1' variance to allow for a 4' side yard setback to a detached accessory structure (generator) wholly within the rear yard space of the primary residence at 8373 Black Walnut Drive.

Appeal No. 4 is in variance to § 229-55(E)(1).

DISCUSSION:

Steve Fisher is present. He submitted one signed neighbor notification form. The other neighbor just moved in and that signature was not obtained, but Mr. Fisher spoke with that neighbor and he does not think there will be a problem with his request.

Mr. Fisher explained that the generator would be in a fenced in area in the back of his property and will not be seen from the road. If the Board has recommendation for a slightly different location, Mr. Fisher is not opposed to that but the proposed area is about the only area he can locate the generator. It is very low in the back of his property. The other option would be to put it near his shed, but that would be a longer run for his utilities. The pool in his backyard also limits his options.

Mr. Fisher has lived in the home for 10 years.

Mr. Hickey asked if the natural vegetation will provide a buffer for the generator or would he have to install some plantings. Mr. Fisher said if he did some landscaping around the generator it would be more for his line of sight when he is sitting on his deck. There are some miscellaneous trees and shrubbery on the west side of his property to help but buffer that neighbor's view of the proposed generator. The generator will be of standard size and will power the minimum number of circuits for the home.

ACTION:

Motion by Jonathan Hickey, seconded by David D'Amato, to **approve** Appeal No. 5, as written.

ON THE QUESTION:

Mr. Fisher asked what happens if the contractor comes up with a different location than what is proposed. It is clarified that Mr. Fisher would need to come back to the Board with a different request. Mr. Fisher said he would rather have this request tabled until he can obtain a contractor and a definite location for the generator.

Mr. Hickey withdrew his motion; Mr. D'Amato withdrew his second to the motion.

ACTION:

Motion by Jonathan Hickey, seconded by David D'Amato, to **table** Appeal No. 5, as written, to allow Mr. Fisher the opportunity to discuss an exact location for the generator with a contractor.

Jonathan Hickey	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 6

Robert and Gayle Denning
Residential Single Family

Requests the Board of Appeals approve and grant three (3) variances to allow for the construction of a new detached accessory structure (garage) at 9069 Winding Creek Lane:

- 1.) A variance to allow for both an attached and detached garage on one (1) lot where a principal building exists.
- 2.) A 160 square foot variance to allow for the construction of an 880 square foot detached accessory structure (garage).
- 3.) A 10' variance to allow for a detached accessory structure 26' in height.

Appeal No. 6 is in variance to § 229-55(H), § 229-55 (D) and §229-55(E)(2).

DISCUSSION:

Bob Denning is present and explained that the second request should be amended to read 803 square feet as opposed to 880. Shelagh Thomas, contractor, is present as well. Mr. Denning explained that he wants to store his two (2) classic cars in the proposed garage. He met with the neighbors to the west, east and across the street, he said they were very enthusiastic wanting to know when he will begin construction. Ms. Thomas said the garage will duplicate the home itself, matching the existing garage and the existing peak, which is 26'. She made the proposed garage smaller in order to fit in with the confines of the property. Originally, the requested garage was part of the initial plan when the house was being built, but at the time it wasn't in the budget so the prints that were submitted to the Town never had the garage on it. Ms. Thomas explained that with the depth of what the garage has to be it would be only 4' away from the pool, it would not be worth it to rip up the concrete and limestone that is there now.

Mr. Mills asked why this cannot be an attached garage. Ms. Thomas said if it were attached it would be 5' or 6' into the surrounding concrete of the pool. It would also take away the kitchen and eating area windows. Mr. Mills asked about a breezeway or something to integrate this fairly large structure to the

existing house. Ms. Thomas said this idea was explored but it was cost prohibitive and it would put the garage back even further. Mr. Mills said the garage could be brought in closer to the house. Ms. Thomas said not if they want to be able to back out of the driveway. Mr. Mills asked if the applicant could deal with less height. Ms. Thomas said architecturally it wouldn't look like it was part of the plan; it would make it look like an addition. If the pitch is different it will look funny from the road. Mr. Mills asked if the applicant is aware of any similar detached garages in the neighborhood. Ms. Thomas said there is a large structure at 6345 Lakestone Court, that owner purchased a piece of property north of that parcel, merged it with the existing property to get around the variance issue, Ms. Thomas said it does not look good; it looks ridiculous. Ms. Thomas said there is an outbuilding that the Town of Clarence does not know about at 8947 Stonebriar, the outbuilding has been under construction for over a year and there is no building permit; she confirmed this with the Building Department. This outbuilding does not look good either. It is clarified that Mr. Denning bought 2 lots and combined them to build his house on one large lot.

Mr. D'Amato asked if the garage could be attached to the back of the house. Ms. Thomas said you'd have to drive through the other garage to get to the new one; normally that's not how she would suggest building it; she does not know how aesthetically pleasing that would be. Mr. D'Amato asked if the proposed location could be angled any different. Mr. Denning said it just fits in the space now, it couldn't really be angled. Mr. D'Amato asked if there is a second floor and what it will be used for. Mr. Denning said it would be a storage space used for pool equipment that he now keeps in his basement. He would like to finish the basement. Mr. D'Amato noted that the proposed garage is a substantial size. Mr. Denning has lived in the neighborhood for seven (7) years.

Mrs. Burkard is also concerned with the size of the proposed addition. She drove around the neighborhood and did not see any secondary structures similar in size. The exact measurement of the proposed garage is 26'2" by 30' 8". Ms. Thomas said most people don't have two lots in that area so there probably won't be a lot of detached structures seen.

Mr. Hickey asked how long the neighbors have lived in the area. Mr. Denning said the one neighbor has lived there three years and the other has lived there six years. The neighbor across the street has been there eight (8) or nine (9) years. Mr. Denning's cars are stored at his sister-in-laws property, but she is selling her property. Mr. Denning has four (4) children ages 9-16 who will be driving and he would like their cars off the street and off the driveway. There has already been an accident where a vehicle was backed into a friend's car in their existing turn around area. Mr. Denning plans on living in this house until he has grandchildren. Mr. Hickey said this is a substantial request. He asked for an explanation on how cost prohibitive it would be to do something in Code. Ms. Thomas thinks if they built within the code for the garage, they would be causing other issues with the Code. She said they would certainly decrease the value of the home by sticking the garage next to the house. She guessed at the cost of \$12,000-\$14,000 to put it next to the house. Mr. Hickey is concerned with people buying homes in the future next to this property. It is clarified that if there is a breezeway the structure is no longer considered detached. This would eliminate the need for the first variance. Mr. Hickey's biggest concern is the request to allow both an attached and detached garage on one lot.

Chairman Michnik said his biggest concern is the request for a 26' high structure; this is substantial. He drove around the entire neighborhood and said the applicant is really asking for a lot. A 10' variance is huge. Ms. Thomas said people in this neighborhood have put up single-car garages and it looks horrible. Chairman Michnik does not want to set a precedent for the neighborhood. He suggested the applicant ask to be tabled and re-work the plan. Mr. Denning agreed.

ACTION:

Motion by David D'Amato, seconded by Jonathan Hickey, to **table** Appeal No. 6 to allow the applicant to re-work the plan.

Jonathan Hickey	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Motion by Patricia Burkard, seconded by David D'Amato, to **approve** the minutes of the meeting held on December 11, 2012, as written.

Jonathan Hickey	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Meeting adjourned at 8:38pm.

Carolyn Delgato
Senior Clerk Typist