

Town of Clarence
Zoning Board of Appeals Minutes
Tuesday December 11, 2012
7:00 p.m.

Chairman Arthur Henning called the meeting to order at 7:00 p.m.

Zoning Board of Appeals members present:

Chairman Arthur Henning	Vice-Chairman Daniel Michnik
Ryan Mills	David D'Amato
Patricia Burkard	Jonathan Hickey

Town Officials present:

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

Other interested parties present:

Don Lavocat Jr	Chris Lavocat
Don Lavocat	Jeffery Marquart
Lori Baranyl	Lynn Honsberger
Ronald Mohr	Daniel Zegarelli
Gary Kajtoch	Annette Kajtoch
David Sutton	John Lehner
Margaret Jusko	Daniel J. Dierigl
Vincent Hanley	Mary Dirrise
Larry Stolzenburg	Robert Pidanick
Joseph Zimolong	Anjali Sharma

Appeal No. 1

Don Lavocat
Agricultural Rural Residential

Requests the Board of Appeals approve and grant 2 variances to allow for the construction of an accessory structure (parking field) in association with a customary agricultural use at 8441 County Road:

- 1.) A variance to allow for an accessory structure in the front yard space of a primary structure.
- 2.) A 40' variance to allow for a 5' setback to an accessory structure in the front yard space of a primary structure.

Appeal No. 1 is in variance to §229-44 (E) and 229-41 (A).

DISCUSSION:

Don Lavocat is present. Chris Lavocat explained the need for the variance. Clayt Ertel, the real estate broker for the property, spoke about the reasons for the need for the variance. Patricia Burkard spoke about concerns about having parking in the front of the building and that the neighbors may be looking at that parking area. Don Lavocat added that landscaping could be used as a buffer, and that a house on the property would be rented out. There is 550' frontage on the property and it will be used for the parking area. A picture of the proposed building and parking area was shown by Don Lavocat. A suggestion was made by Mr. Mills to mitigate the look of the parking area to add landscaping around the front of the parking area and around the property. Mr. Michnik asked if it was possible to have four instead of five greenhouses and put the parking area on the side.

ACTION:

Motion by Arthur Henning, seconded by Patricia Burkard, to **deny** Appeal No. 1 as written.

Patricia Burkard	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Nay
Arthur Henning	Aye		

MOTION CARRIED.

Appeal No. 2

Dan Zegarelli/Brownstone Homes
Residential Single Family

Requests the Board of Appeals approve and grant an 8" variance to allow for a top of foundation wall to be 48" above the centerline grade of the public right of way for sublots #3-#10 of Garden Walk within the Spaulding Green Subdivision Phase 2A (Map Cover #3498). (Note: top of foundation wall is not to exceed 48" as per the grading plan dated April 27th, 2012).

Appeal No. 2 is in variance to §229-23 (A).

DISCUSSION:

Dan Zegarelli, Brownstone Homes was present. They are requesting additional 8" (code 40") to help with the drainage. Mr. Michnik asked if when the property was developed, why it wasn't prepared for proper drainage. Mr. Zegarelli submitted the developer proposed on 8' basement walls and the builder proposes 9' basement walls.

The pitch would provide a better drain to the house. The 9' basement walls provide for better resale and allow finished basements (dropped ceiling). The living space would be increased by the basement height and a patio would have a step with a better grade. With no variance, the pitch would be less in the yard and create a puddle or possibly cause a water problem in the basement without the step. The builder prefers a better pitch and a walk out basement with a step as an option. Mrs. Burkhart questioned the builder on the other homes in this development. The builder provided printouts of their lots and specified of the two lots needing 8" variance and proposed construction and top of wall for each lot. Two (2) houses will need 8", the rest 2".

ACTION:

Motion by Daniel Michnik, seconded by Arthur Henning, to **approve** Appeal No. 2 as written.

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

Motion by Jonathan Hickey, seconded by Daniel Michnik, to **approve** Appeal No. 2 as written (amend to allowing 2" on all the lots).

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

MOTION CARRIED.

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:

Gary and Annette Kajtoch were present. They requested an additional detached garage to add storage (for 2 generators) and keep a 20' boat inside and possibly house vehicles in the future. They presented a proposal and drawings which includes an attic. The owners recently moved in October to this residence and hope to build by Spring. Mrs. Burkhart questioned their ideas when purchasing the home. The architect presented a very well designed structure to enhance the appearance of the house and neighborhood. Concerns (Mr. Michnik) asked if the structure was closer to the existing house and they plant some spruce to block the neighbors from seeing the building, would it work out better for both owners and neighbors and asked the owner live with something smaller rather than the large size of the building as there is an existing garage already on the lot. Four owners of seven in that area oppose the application due to various reasons mostly because it would be the only home with an additional large garage so close to other neighbors (narrow lots) and the present existing house already has an in-law apartment. The additional large structure could possibly hold another in-law apartment in the future changing the character of the neighborhood.

ACTION:

Motion by David D'Amato, seconded by Daniel Michnik, to **table** Appeal No. 3 as written.

Patricia Burkard Aye
 Ryan Mills Aye
 Arthur Henning Aye

David D’Amato Aye
 Daniel Michnik Aye

MOTION CARRIED.

Appeal No. 4

Larry Stolzenburg
 Residential Single Family

Requests the Board of Appeals approve and grant a 196 square foot variance to allow for a 396 square foot detached accessory structure (shed) at 10041 Pineledge Drive West.

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

DISCUSSION:

Larry and Sherry Stolzenburg are present. The architect is presenting the request to propose a woodworking shop for hobby only, detached from the house. It would be one structure located in a respectful place to neighboring properties and under 400 sf. One letter from a neighbor who lives across the street was presented approving the structure. Another letter was presented from a neighbor who lives west of the property who lives in Florida disapproving. Mr. Michnik asked if the existing shed on the property was being removed, however it was not in the plan.

ACTION:

Motion by Ryan Mills seconded by Daniel Michnik, to **approve** Appeal No. 4 as written.

Patricia Burkard Aye
 Ryan Mills Aye
 Arthur Henning Aye

David D’Amato Aye
 Daniel Michnik Aye

MOTION CARRIED.

Appeal No. 5

MASH Urgent Care
 Major Arterial

Requests the Board of Appeals approve and grant 2 variances to allow for the construction of a detached accessory structure (generator) at 5965 Transit Road:

- 1.) A 15’ variance to allow for a 10’ side yard setback to a detached accessory structure (generator).
- 2.) A variance to allow for an accessory structure in the front yard space of a principal structure.

Appeal No. 5 is in variance to §229-95 (B).

DISCUSSION:

Robert Pidanick, representing BRD Construction, is presenting the request. The variance is requested to allow a structure in the front yard to build a generator. The natural gas generator would be on a concrete pad and tested once a week and then shuts off and only used for an emergency. Two locations were considered and it was decided to place it in the front yard space. The neighbor nearest was in agreement with the placement and familiar with generator testing. The generator would be screened with landscape as per Town recommendations and concrete bollards on the pad.

ACTION:

Motion by Daniel Michnik, seconded by Arthur Henning, to **approve** Appeal No. 5 with landscape and concrete bollards conditions to hide the generator.

Patricia Burkard	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Appeal No. 6

Joe Zimolong and Anjali Sharma
Planned Unit Residential Development (PURD)

Requests the Board of Appeals approve and grant a 4.5' variance to allow for an 8' side yard setback to a primary residence for the construction of an addition to the existing residence at 5508 Oak Field Lane.

Appeal No. 6 is in variance to §229-52 (B).

DISCUSSION:

Joe Zimolong and Anjali Sharma were present. They are requesting an addition for a master bedroom suite for Mr. Zimolong's father, handicapped, to move in with the residents. They have given letters to the neighbors but have no replies. The home was purchased in September 2012.

ACTION:

Motion by Ryan Mills, seconded by Arthur Henning, to **approve** Appeal No. 6 as written.

Patricia Burkard	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Motion by Arthur Henning, seconded by Patricia Burkhart, to **approve** the minutes of the meeting held on December 11, 2012, as written.

Patricia Burkard	Aye
Ryan Mills	Aye
Arthur Henning	Aye

David D'Amato	Aye
Daniel Michnik	Aye

MOTION CARRIED.

Meeting adjourned at 9:24 p.m.

Joan Gloss Snyder for
Carolyn Delgato
Senior Clerk Typist