

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday December 8, 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 Bernard Kolber

Other interested parties present:

William McGrath	Bracken Brainard
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Motion by David D'Amato, seconded by Gregory Thrun, to **approve** the minutes of the meeting held on November 11, 2015, 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

William McGrath
Residential Single-Family

Requests the Board of Appeals approve and grant a 4' variance to allow for a 6' side yard setback for an existing accessory structure, emergency generator, located in the side yard at 5891 Kamner Drive.

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

DISCUSSION:

William McGrath is present and explained that he has a chronic respiratory disorder that requires the use of oxygen on a 24 hour basis. Shortly after his diagnosis he looked into different systems that would be used with his type of condition and found the use of a backup generator would be a viable alternative. His family

provided the money to buy it and install it for him. The installation occurred quickly. The generator provides a level of comfort especially in the evening in case of a power outage. Mr. McGrath can withstand 20 to 30 minutes without oxygen. This type of generator provides recovery within 10 seconds from the time the power is lost. An electrical engineer friend installed the unit, he has installed other units in the past. The location is the prime and only location to install this type of device. The generator is pre-wired and the power from the generator goes to a transfer switch which automatically stops any generated power from going out over the line that might harm an electrical worker somewhere three blocks away. It's also in the proximity but not too close to gas lines, so a gas line can be run to it as long as National Fuel continues to push gas through. Mr. McGrath's neighbor, Jack Darlak was there at the time of installation. Mr. Darlak told Dave Metzger that he didn't have a problem with the generator. Mr. McGrath allowed Mr. Darlak to come close to the line when he put the garage on his house. Mr. Darlak uses a large portable generator when the power goes out. Mr. McGrath's generator is much quieter. Mr. McGrath said it did not occur to him that a permit was needed. His only concern was to get this installed because of the storms that have been occurring around the country. As far as he knows all the inspections have been made, it was installed right. In the Spring he plans to put shrubs around it to camouflage it from the street.

Chairman Michnik noted there are two (2) neighbor notification forms on file.

Mr. McGrath said the generator was installed about one month ago. He clarified that the building inspector has inspected the generator, which is how it was discovered that he needed this variance. Mr. McGrath went onto explain that his neighbor, Rita, had a CO2 alarm go off. The workers installing Mr. McGrath's generator were parked in the driveway. Rita came running out saying she might have a gas leak. She called National Fuel. Dave Metzger followed National Fuel out her house and they discovered there was no gas leak and the CO2 detector just needed to be reset. Dave Metzger then walked to Mr. McGrath's property and asked the workers what they were doing. That is how it came to the Town's attention.

ACTION:

Motion by David D'Amato, seconded by Gregory Thrun, to **approve** Appeal No. 1 as written.

ON THE QUESTION:

Mr. Thrun said Mr. McGrath is in a situation where this is a medical necessity.

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

MOTION CARRIED.

Appeal No. 2

Bracken Brainard
Residential Single-Family

Requests the Board of Appeals approve and grant a 136 square foot variance to allow for a 336 square foot detached accessory structure located at 5171 Glenwood Drive.

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

DISCUSSION:

Bracken Brainard is present. One (1) neighbor notification form is on file. Mr. Brainard's other neighbor is Fogelsonger Park. Mr. Brainard said he is looking to put an Amish shed on his property so he can store his snowmobiles, snow blowers and yard equipment, this will help keep the neighborhood looking nice and maintain the grounds. He would like to put the small barn shed to the back southwest side of the lot. His equipment would be kept secure and safe stored inside the shed.

Mr. Mills asked why the applicant needs the additional size. Mr. Brainard said instead of having two (2) sheds he would rather a bigger one. His fiancé has two (2) children so besides the lawn equipment there is also bicycles and sport utility vehicles. His fiancé would still be able to park in the garage if they had extra storage space with the proposed shed. Mr. Brainard said he can order the size shed he desires and the proposed size would be good for what he is looking to do, he would like to have a workshop in there as well to store his tools. It is clarified that the size being requested is 14' x 24' and the style is the Gambrel loft barn as depicted in the paperwork on file. There will be one (1) overhead front door, a double side door with T-111 type wood.

Mr. Thrun asked what the structure is beyond the applicant's property. Mr. Brainard said it is the Wesleyan Church. He clarified that there will be nothing commercial about his workshop, it is for his own tinkering, there will be no business operated from the property.

Mrs. Burkard asked if the metal storage shed near the house will be removed. Mr. Brainard said yes it will be removed.

Chairman Michnik asked what the size of his neighbor's shed is. Mr. Brainard said his direct neighbor does not have a shed. The neighbor two doors down has a shed that is maybe 12' x 12', Chairman Michnik thinks it is bigger than that. Mr. Brainard said that shed does not require a concrete slab, it is just on cinder blocks and is under the 200 square foot requirement for a slab. Chairman Michnik voiced his concern with the size of the proposed shed and asked what the height will be. Mr. Brainard said it is 15' high which is under the 16' maximum requirement. He will not have power to the shed at this point, perhaps eventually. He would have power just for lighting inside the structure and maybe a motion sensor on the outside for safety reasons. There will be no driveway going back to the proposed structure. There will be no repair work on automobiles at this property. The Heritage Collection is the company that will be building the shed. Mr. Brainard is hoping the concrete pad can be poured this weekend and within three (3) weeks the shed will be built and delivered.

ACTION:

Motion by Gregory Thrun, seconded by Patricia Burkard, to **approve** Appeal No. 2, as written.

ON THE QUESTION:

Mr. Thrun pointed out that the request does not disturb any of the neighbors. There is a barn two (2) doors down that is just as large if not larger than the proposed structure.

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

MOTION CARRIED.

Chairman Michnik reminded all members that they need to submit their Land Use Training hours to the Planning and Zoning Office.

Chairman Michnik thanked all the Zoning Board of Appeals members, Jim Callahan and Steve Bengart for the great job and the work everyone has put into the Board this past year.

Mr. Callahan noted that the notice of the environmental review went out for the coordinated review on the cell tower on Transit Road. The comment period ends next Friday, December 18, 2015, therefore it could be on the agenda for the January 2016 meeting.

Meeting adjourned 7:22 p.m.

Carolyn Delgato
Senior Clerk Typist