

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday March 11, 2014

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	Gregory Thrun

Town Officials present:

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

Other interested parties present: Phillipe Jaoude

Motion by David D'Amato, seconded by Gregory Thrun, to **approve** the minutes of the meeting held on February 11, 2014, as written.

Gregory Thrun	Aye	David D'Amato	Aye
Ryan Mills	Abstain	Daniel Michnik	Aye

MOTION CARRIED.

New Business

Appeal No. 1

Philippe and Aline Jaoude
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a 2.3' variance to allow for a 7.7' side yard setback to a detached accessory structure (generator) at 5315 Mallard Roost.

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

DISCUSSION:

Philippe Jaoude is present and explained that the generator is required to be 10' from the property line, but with the width of the generator and the requirement that it needs to be 18" from the wall he will be short by 2.3'. There is really enough space from the property line to the next house, the neighbor himself doesn't mind, Mr. Jaoude spoke with him. The other option would be to put the generator in the back of the house but that would be an inconvenience, it would be much more work and would be near the window of the office.

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

Mr. Thrun asked if the generator will be encased in a structure. Mr. Jaoude said no, it is a built-in generator and has its own self-contained unit. In the spring or summer he will plant some trees at the property line between the generator and the next lot. He is looking at installing arborvitaes. Mr. Jaoude said he just moved to this house in the summer, it was a very hot summer and there were a few outages for a few hours so he decided he needs a generator.

There is a letter on file with information from Building Inspector David Metzger dated February 27, 2014, noting that, "It is feasible for a generator to be placed 18" away from a principle structure without being in violation of the Building Code; making this setback variance request feasible."

Mr. D'Amato asked who will be installing the generator. Mr. Jaoude said a local electrician will be installing the generator. Mr. Jaoude, the electrician and the guy who will be making the bed chose the location. Mr. D'Amato asked why it would be an inconvenience to go in the back of the house. Mr. Jaoude said they would have to dig and install pipes for the gas line, whereas the proposed location is right next to the gas line. It would be much more of an expense to put the generator in the back of the house; probably another \$1,000-\$2,000.

Chairman Michnik noted that the letter that is on file noted a condition if this variance is approved. That condition is: "...any proposed variance condition relating to landscaping of a generator should specify that all landscaping maintain at least a five (5) foot distance from the generator." Chairman Michnik provided a copy of the letter to Mr. Jaoude. Mr. Jaoude said he accepts this condition. He noted that Exhibit 1 shows the trees close to the generator, he will move them closer to the property line to meet 5' requirement. Chairman Michnik asked if the applicant will put landscaping around the front of the generator as well as the side. Mr. Jaoude said no because the generator is not close to the corner of the house, but if the Board thinks it would be better he will put landscaping in the front, too. Chairman Michnik suggested some type of landscaping from the street view be installed. Mr. Jaoude said he can do that.

Mr. D'Amato asked where the 5' requirement with regards to the distance between the landscaping and the generator came from, he doesn't remember this requirement in the past. Deputy Town Attorney Steve Bengart said State Codes change and if the building inspector is recommending it, it should be done. It is noted that some manufacturers have firewalls built into the generators so the distance between it and the primary structure can vary; the manufacturer provides the specs in this case. A letter from the Building Inspector would be indication of this situation. Mr. Bleuer said the Mr. Metzger told him that almost all residential generators now have that 18" spec, it is very rare that there would be something longer.

ACTION:

Motion by Gregory Thrun, seconded by Ryan Mills, to **approve** Appeal No. 1 as written with the amendment that the shrubbery be place 5' from the generator on the side and the front in order to block the view from the neighbors and from the road. The plants are to be at least a height of 4' or more. There are to be four (4) plantings on the south side of the generator and three (3) plantings on the west side, for a total of seven (7) plantings.

ON THE QUESTION:

The applicant said the motion is acceptable to him.

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

MOTION CARRIED.

Meeting adjourned at 7:15 p.m.

Carolyn Delgato
Senior Clerk Typist