

Town of Clarence  
 One Town Place, Clarence, NY  
**Zoning Board of Appeals Minutes**  
 Tuesday March 8, 2016  
 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	Richard McNamara

Zoning Board of Appeals members absent: Patricia Burkard Gregory Thrun

Town Officials present:

Director of Community Development James Callahan	
Deputy Town Attorney Steven Bengart	Councilman Paul Shear

Other interested parties present:

Randall Bolt	Deborah Bolt	John Grieco
Josh Best	Greg Fry	Jaime Lorenz
Theresa Fry		

Motion by David D'Amato, seconded by Ryan Mills, to **approve** the minutes of the meeting held on February 9, 2016, as written.

Richard McNamara	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye

MOTION CARRIED.

**New Business**

**Appeal No. 1**

Randall & Deborah Bolt  
 Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 5' variance to allow for a 5' side yard setback of a proposed detached accessory structure located at 9200 Martin Road.

Appeal No. 1 is in variance to §229-44(F)(2).

**DISCUSSION:**

Randall and Deborah Bolt are present. Mr. Bolt explained that their leach field is in the backyard on the left side of their property, they are trying to stay off of that as much as possible. The design of the structure will be two-tone. They take good care of their yard and they will have a higher end structure that will last. They own a boat and would like to store that inside the structure. Mr. Bolt does not like anything sitting outside.

Mr. McNamara asked if the applicant is planning on taking down the big pin oak that is on the back portion of the property. Mr. Bolt said they are thinking about removing it. Mr. McNamara asked if the applicant thought about bringing the structure forward 10' in order to save that tree. The applicant's thought about that. Mr. McNamara asked how the applicant determined 87' from the house for the location of the structure. Mr. Bolt said they looked at different options, he did not want it too close to the house. Mr. McNamara asked how far the west side of the building is off the leach field. Mr. Bolt said about 30'-40'. The sand filter of that bed would be where the pine trees end. The pool has been taken down but it was never on the leach field. Mr. McNamara does not have an issue with the 5' variance request.

Mr. Mills asked for an example of what the structure will look like. The applicant referred to a brochure from Lake Shore Metal LLC, and explained that his structure will be 24' x 48' in size with a single overhead door on the front and one (1) window on the east side and two (2) on the west side, no windows on the rear of the structure. A man-door would be on the side of the structure. Mr. Bolt said they went from a 30' structure to a 24' structure to try and stay away from the leach field. This will be a pole barn with a concrete slab foundation.

Chairman Michnik referred to the aerial photo of the property that is on file and asked where the leach field begins. Mr. Bolt pointed it out on the aerial photo. Chairman Michnik said if the proposed structure is moved off the lot line it will not affect the leach field. Mrs. Bolt said they are also doing it for aesthetic purposes, they have a lot of yard that they would like to be able to see rather than having the building right there. Chairman Michnik said this is a sizable variance request, he thinks the hardship is self-created because of where the septic field is. He does not see the reason the applicant is asking for the variance. Mr. Bolt said all his neighbors have large buildings in their yards. Chairman Michnik asked if they are all 5' off the property line. Mr. Bolt said one inspector told him the measurement is 5' from the overhang and another one told him it was 5' from the side of the building. It is clarified by the Board members that the measurement is from the foundation, which is the wall of the building, not the overhang. Mr. Callahan said the Zoning Law states that if the structure is wholly in the rear yard the side and back yard property line setbacks are 5'; however the Building Department has a different interpretation of that law.

The applicant has lived at this location for 18 years. Mr. Bolt said he did not want the structure on the side of the building because if they move he would not want that to become a storage facility on the side of the building. They are trying to keep looking as nice as possible for the neighbors, they have one of the nicest yards in the area; they are not looking to do something that is going to look shotty. There will be no repair business or any other business operated out of the structure.

Mr. Mills asked if there is landscaping planned for around the structure. Mr. Bolt said he is planning to landscape both sides of the structure and maybe window boxes in the front. At this point there is no driveway or paved pathway planned leading out to the structure.

#### **ACTION:**

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

Richard McNamara	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye

**MOTION CARRIED.**

**Appeal No. 2**

John Grieco  
Residential Single Family

Requests the Board of Appeals approve and grant a 95' variance to allow for a 140' front yard setback for a proposed single family home located at 10920 Stage Road.

Appeal No. 2 is in variance to §229-52(A)(2). Established front yard setback line of 45'.

**DISCUSSION:**

John Grieco is present. There are two (2) neighbor notification forms on file. Mr. Grieco said he is looking for more privacy than his original house had. His original house was hit by lightning a few years ago. He purchased the property behind him so he has an additional four (4) acres. He is looking to build a ranch house with a loft and a half walk-out basement. Josh Best is the architect and is present. Mr. Best said this would be a single-family ranch with more room than what they currently have, but on a smaller footprint.

Mr. Mills noted that with purchase of the additional 4 acres Mr. Grieco now has about 5.5 acres. Mr. Mills asked if there are any other plans the Board can review at this time. The anticipated square footage is 2500. Mr. Mills asked if the site has to be graded to achieve the walk-out. Mr. Best said there is a change in elevation of 10' over the entire property, he is working with the civil engineer to establish a drainage plan that will work better. There is a 5' grade change in the immediate area where they want to build the house. Mr. Best said yes the site would have to be graded. Mr. Mills asked if the applicant explored other locations. Mr. Grieco said he looked at putting it further back on the property but that would be a long driveway with a lot of plowing. Mr. Best said they feel the proposed location is the best especially with demoing the existing house, this provides more places to work and helps them regrade it properly. The foundation will be completely removed from the existing structure. Mr. Mills said his concern is keeping it in-line with the other homes in the area. He asked if the applicant can provide evidence that there are other homes that are setback on either Stage Road or nearby roads. Mr. Grieco said there are other homes setback on Stage Road, Mr. Best said there are several on Ransom Road. If Stage Road is ever widened it would be desirable to have the house further setback now.

Chairman Michnik asked if the additional property that Mr. Grieco purchased is in the floodplain. Mr. Grieco said no it is not. The property was marked with stakes. Chairman Michnik said when he walked the property it did not seem big enough for a 2500 square foot house. Mr. Best submitted a new survey and said this survey is accurate, they rotated the house with the same angle as the existing structure which provides more room as the land "pies" out towards the rear. Mr. Grieco would like to get started on the project ASAP. Mr. Best said they have had soil tests done. GPI is doing the civil engineering and the applicant is currently obtaining bids from contractors. The barn will remain.

Mr. D'Amato asked if the applicant would consider anything other than a 140' setback. Mr. Best said they are flexible but they felt that since the proposed house is a wider footprint than the existing home, if it were any closer to the road it would encroach on the neighbor's privacy. The neighbors were actually in support of pushing the house back as far as possible to obtain separation and privacy. The applicant plans on heavily planting and buffering the edges of the property. Mr. D'Amato voiced his concern with granting a setback which is way more than the neighborhood is currently supporting. Mr. Best said this is a unique opportunity where there is unusable property in the rear as far as access, thus this property can support this type of setback. Mr. Grieco said instead of being closer to the road he would want to be further back.

Mr. Mills asked if the applicant would allow a condition, if approved, which states no other principle residence structures can be put on either parcel. Mr. Best said yes, the applicant is looking to raise a family here, no open land development, just a single family residence.

**ACTION:**

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 2 as written with the condition that the applicant not construct any other residential or commercial residence on either the current parcel he owns or the additional 4-acre rear parcel to the north that he purchased.

Richard McNamara	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye

MOTION CARRIED.

**Appeal No. 3**

Greg and Theresa Fry  
Residential Single Family

Requests the Board of Appeals approve and grant a 460 square foot variance to allow for a 660 square foot detached accessory structure located at 10097 Greiner Road.

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

**DISCUSSION:**

Greg and Theresa Fry are present along with the architect on the project Jaime Lorenz. Two (2) neighbor notification forms are on file. Ms. Lorenz said the applicants are looking to build a pool house to enjoy the outside space at their home. She referred to the rendering of the proposed structure and explained that they would like a kitchenette, a bathroom and living space with a fireplace and a TV. With all these features the dimensions of the pool house grew and that is the reason for the variance. Ms. Lorenz then referred to drawings showing the design of the pool house. The structure is timber frame with a full foundation with a frost wall underneath. They want to tie into the existing architectural style of the home. The roof structure is unique; it has glazing in a couple components. The inside of the space shows a tongue and groove wood look consisting of a white and wood combination. The exterior materials will consist of a hardy board siding, they are still deciding on colors. There is an existing fence around the house and the pool, they will take down this fence and invest more money into a new fence. Mr. Fry said they have grandchildren and having a bathroom out there will make it more convenient for them. When designing the size of the structure, the applicants took the setting sun into consideration.

Mr. McNamara asked if the applicant plans on enclosing or screening in any side of the structure. The applicants said they have no intention of closing it in at this time. Ms. Lorenz said the materials used for the structure can be outside in the snow and the rain all year round, the structure does not need to be closed. The furniture will go in house.

Mr. Mills asked if the roof will be an asphalt shingle, Ms. Lorenz said yes. She went on to say that they are looking at rain handlers and other ways to deal with the run-off so there won't be any water/drainage issues.

Mr. Fry said they would like to start the project as soon as possible so they can enjoy it this Summer. They are in the process of choosing a contractor. Soil testing has been done, they are currently waiting for the report. The estimated cost for this project is \$100,000.00. They purchased the home two (2) years ago.

Mr. McNamara asked where the leach field and the sand filter are located on the property. Mr. Fry said they are in the front of the property.

**ACTION:**

Motion by Ryan Mills, seconded by Richard McNamara, to **approve** Appeal No. 3 as written.

Richard McNamara	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye

MOTION CARRIED.

Meeting adjourned 7:41 p.m.

Carolyn Delgato  
Senior Clerk Typist