

Town of Clarence
Zoning Board of Appeals Minutes
Tuesday July 12, 2011
7:00 p.m.

Vice-Chairman Daniel Michnik called the meeting to order at 7:00 p.m.

Zoning Board of Appeals members present:

Vice Chairman Daniel Michnik	Ryan Mills (arrived at 7:40pm)
David D'Amato	Robert Geiger
Patricia Burkard	

Zoning Board of Appeals member(s) absent: Chairman Arthur Henning

Town Officials present:

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

Other interested parties present:

Jay Capozzi	Won Sam Yi
Robert Draper	Marilyn Kausner
Mark Jackson	Laura Wade
Mark Dean	Alan Giangreco
Frank Rivett	

Old Business

Appeal No. 4

Sam Yi
Residential Single Family

Requests the Board of Appeals approve and grant a 15.5' variance to allow for a 29.5' rear yard setback to a primary residence for the construction of an addition at 6425 Landstone Drive.

Appeal No. 4 is in variance to § 229-52 (C).

DISCUSSION:

Sam Yi was present and explained he is asking for the variance because he would like a larger music room for his children. Above the music room would be a master bedroom. Two (2) neighbor notification forms are on file.

ACTION:

Motion by David D'Amato, seconded by Daniel Michnik, to **approve** Appeal No. 4 under Old Business as written.

Patricia Burkard	Aye	David D'Amato	Aye
Robert Geiger	Aye	Daniel Michnik	Aye

MOTION CARRIED.

New Business**Appeal No. 1**

Jay Capozzi
Planned Unit Residential

Requests the Board of Appeals approve and grant a 24" variance to allow for the top of foundation wall to be 6' above the mean elevation of the frontage street for the construction of a new residence at 5142 Rockledge Drive.

Appeal No. 1 is in variance to § 229-23.

DISCUSSION:

Jay Capozzi is present and submitted two (2) neighbor notification forms, they are on file.

Mr. Callahan explained that discussions were had with the Building Department and they identified that the lot is of sufficient size, length and width; there is plenty of room to do this.

Mr. Geiger asked if this would be a comparable height with surrounding houses. Mr. Capozzi said several houses on this street have been granted similar variances. The house next door is higher than Code. Mr. Capozzi met with Paul Gross of the Building Department who was in full agreement of the grading plan that Mr. Capozzi provided him with.

Ms. Burkard questioned the drainage. Mr. Capozzi said there are so many seams in the rock that the area drains well.

The size of the house is almost 5900 square feet, two (2) floors.

ACTION:

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

Patricia Burkard	Aye	David D'Amato	Aye
Robert Geiger	Aye	Daniel Michnik	Aye

MOTION CARRIED.

Appeal No. 2

Uncle Bob's Self Storage
Commercial

Requests the Board of Appeals approve and grant a 5' variance to allow for the construction of a sign 17' in height at 8161 Main Street.

Appeal No. 2 is in variance to § 181-3 (B)(3)

DISCUSSION:

Neighbor notification forms are on file.

Mark Jackson, of US Signs, is representing the applicant. He explained that along this stretch of Main Street there are some things that are interfering with the height of their sign. For instance, other signs and some landscaping are impeding the visibility of the sign.

The current sign is 12' high. The proposed sign is a back-lit sign, not an LED sign.

Mr. D'Amato noted that the company truck is parked near the entrance of the property, it was confirmed that it is always parked there unless it is in use; the vehicle is marked on both sides and is highly visible. There is also a sign on the front of the building. Mr. D'Amato pointed out that if this variance is granted the trees that are interfering now, will continue to grow and certainly cover the sign again.

Mr. Jackson explained that if this variance is granted it would not make their sign bigger than the surrounding signs, he pointed out the sign for the shopping center across the street and the Mercedes sign. Ms. Burkard wondered if the applicant could accomplish the same with a 15' sign. Mr. Jackson said they would prefer 17'.

It is clarified that Plan A is a proposal for a 15' sign and Plan B is a proposal for a 17' sign. Mr. Michnik explained that the larger signs that were mentioned have been grandfathered in for a long time. The Town has worked very hard on the Sign Law. Mr. Michnik cannot find a reason to vote for approval of this variance; he does not see that a hardship has been created nor does he see that they are losing business. He can see the sign amidst all the others in that area and through the landscaping, the colors of the sign help with the visual.

Mr. Geiger said the current sign is attractive, he does not think the present height is unreasonable.

A representative of Uncle Bob's Self Storage said the speed limit sign blocks their sign the most. Mr. Geiger asked if the representative tried calling the State of NY to see if they would move the speed limit sign. She has not.

Ms. Burkard voiced her concern with setting a precedent if this height variance is granted; she does not want to do that.

ACTION:

Motion by David D'Amato, seconded by Robert Geiger, to **deny** Appeal No. 2 as written for reasons stated in the discussion. The sign is adequate as it stands. There is no hardship; there is other signage for the business.

Patricia Burkard	Aye	David D'Amato	Aye
Robert Geiger	Aye	Daniel Michnik	Aye

MOTION CARRIED.

Appeal No. 3

Dr. Laura L. Wade and Eric M. Chenevert
Traditional Neighborhood District

Requests the Board of Appeals approve and grant a variance to allow for parking within the front yard setback of a primary building at 10882 Main Street.

Appeal No. 3 is in variance to § 229-67 (B)(1)

DISCUSSION:

Dr. Wade explained she would like to have the clients come in with easy access to their building. She is concerned that people may drive onto the property and go around the loop that is there making it difficult to find the correct entrance to the building.

Neighbor notification forms are on file.

Mark Dean of Dean Sutton Architects is present. He explained that Dr. Wade is an expert in avian and exotic pets; the facility is very unique in that it is the only of its kind in WNY that will care for birds and exotic animals. The entire site is approximately 3-1/2 acres and is owner occupied. It includes the applicant's home in which they currently reside in, 2 garages and a swimming pool area. The existing structure is 50' wide and 24' deep, the proposal is to add 4 feet to the depth and add a second story to the building. They are upgrading the façade, adding some stone and a new entrance that will face Main Street. There is a full-time staff of 5-6 employees; Dr. Wade is developing an existing clientele base of about 2,000 clients. She hopes to double this figure over the next few years. The challenge of this site was how to separate the family area from the business and how to limit the amount of traffic that would come to the back portion of the property. The parking would only be for clientele, not employees. There are a number of parcels along Main Street that have front yard parking.

Eric Chenevert, husband of Dr. Laura Wade, bought the property about five (5) years ago. Mr. Chenevert believes that Mr. Dean has designed a building that will stay in character with the Hollow. Dr. Wade said she drove Main Street from Thompson Road to Davison Road and out of the 133+/- businesses on Main Street 50% of them have front parking.

Ryan Mills has arrived at the meeting.

The building is on a slab with a foundation, there will be a new foundation for the addition. Mr. Geiger explained that the proposed parking is for five (5) spots plus a handicapped spot.

Mr. D'Amato asked if there will be any additions made to the house. Mr. Dean said not at this time. Dr. Wade is currently leasing space in Lancaster. This facility would not be an emergency facility. There will be dormers on the building to match the dormers on the residence.

Mr. Callahan explained that the Town Board and the Clarence Hollow Community Protection Board have approved the architectural style.

Mr. Mills asked for details on the landscaping between the parking and the street. Mr. Dean explained that part of that area is the proposed sign location. There is an opportunity for some landscaping there but they do not want to screen the building; they want people to be able to see the building. Nor do they want to screen the parking for safety reasons. A stone wall is suggested. The applicant would consider this as a condition if the Board approves the variance.

Mr. Michnik likes the proposed parking set up and brick work on the front of the building.

ACTION:

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 3 with the condition that there be a stacked stone wall 18", minimum, in height, be constructed along the southern border of the property to screen the parking lot from the street. There can be a break in the stone wall where the sign is, the approximate width of the sign.

Patricia Burkard	Aye	Ryan Mills	Aye
David D'Amato	Aye	Robert Geiger	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 4

Alan Giangreco
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 25' variance to allow for a 125' front yard setback for the construction of a new residence at 10180 Shamus Lane.

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

DISCUSSION:

Alan Giangreco is present. Frank Rivett, developer, is also present. Mr. Rivett explained that most of the properties on the north side of Shamus Lane are in the 500' plus depth. He thinks that this request will keep everything in proportion for the lot versus where the house sits.

The proposed home is approximately 3200 square feet. There is one other lot that is sold; the house on that lot will be set at approximately 100' front yard setback. There are deed restrictions which include a size limit of 3200 square feet for a ranch or one and a half story house, no above ground pools and no fences.

Mr. Callahan said the setback in the underlying zoning district is 45'-200', the property is zoned Agricultural Rural Residential. This property was mapcovered at 100', thus the reason for the variance request. Back at the time it was mapcovered, the standard setback was 100', the standard has since changed.

Mr. Rivett noted that the average lot price is in the \$150,000 range. There will not be anyone backing up to these properties because there is a conservation area there, a wetlands mitigation area is back there. All the lots are septic systems; they are sand filter systems.

Mr. Michnik is concerned that the Board will have to approve everybody else who comes in with the same setup. 100' felt comfortable to him when he walked the property, there was plenty of room in the front and in the back.

Mr. Rivett said he went into this project with green space in mind.

Mr. Callahan noted that if 100' was not indicated on the mapcover, the applicant could have a 125' front yard setback per the new law; the 125' would be approved without incident.

ACTION:

Motion by Robert Geiger, seconded by Patricia Burkard, to **approve** Appeal No. 4 as written.

Patricia Burkard	Aye	Ryan Mills	Aye
David D'Amato	Nay	Robert Geiger	Aye
Daniel Michnik	Nay		

MOTION CARRIED.

Meeting adjourned at 8:10 p.m.

Carolyn Delgato
Senior Clerk Typist