

Town of Clarence
Zoning Board of Appeals
Minutes
Tuesday April 8, 2008
7:00 p.m.

Vice-Chairman Daniel Michnik called the meeting to order at 7:01 p.m.

Zoning Board of Appeals members present:

Vice-Chairman Daniel Michnik	Arthur Henning
Hans Mobius	Ryan Mills
David D'Amato	

Zoning Board of Appeals member(s) absent:

Chairman Raymond Skaine

Other Town officials present:

Director of Community Development James Callahan
Planner Brad Packard
Town Attorney Steven Bengart
Planning Board Liaison Richard Bigler

Other Interested Parties Present:

Gary Buczkowski	Bill Samson
JoAnn Samson	Benjamin Gould
James Kelleher	Barbara Perry
Clayt Ertel	

New Business

Appeal No. 1

Gary Buczkowski
Residential Single-Family

Requests the Board of Appeals approve and grant

- 1.) A 3'.5" variance to allow the placement of a generator 2'.5" from the side of the house.
- 2.) A 3'.5" variance to allow the placement of a generator 6'.5" from the side property line.

Both requests apply to 6335 Conner Road.

Appeal No. 1 is in variance to Section 229-55 (E) (1) Accessory Structures.

DISCUSSION:

Neighbor notifications are on file.

Mr. Buczkowski said originally the request was to place the generator on the side of his house; the house is 11’ from the side lot line and he was advised by the Planning and Zoning office to place the generator in the front, 5’ off the front corner of the house. However, moving the generator to the front of the house still requires this variance. Mr. Buczkowski said all of his utilities are at the corner and in order to put the generator in the back of the house he would have had to put it behind two existing trees. There are windows at a corner of the house and if the generator was located near these windows it would cause ventilation issues, so the generator would have had to be moved even further back. Mr. Buczkowski points out that there is a generator in the front yard at the property across the street from his. The generator will be 7 or 10 kilowatts, depending on what his house needs.

Mr. Packard explains that there is a significant slope on the side of the house and a significant amount of fill would have to be brought in to level the generator if it was placed at this location. The generator must be a minimum of 5’ from the home.

Mr. Michnik voices his displeasure with placing the generator in the front yard and asked what the applicant will do to hide the structure if it is approved for the front yard. Mr. Buczkowski said the garden will be expanded and additional bushes will be put in around the generator.

It is Mr. Buczkowski’s preference to have the generator on the side of his house.

ACTION:

Motion by Hans Mobius, seconded by Arthur Henning, to **approve** Appeal No. 1, as written.

ON THE QUESTION:

Mr. Mills said he would be in favor of the side yard setback variance; it appears that the applicant would prefer to locate the generator in the side yard.

ACTION:

Motion amended by Hans Mobius, second amended by Arthur Henning, to **approve** Appeal No. 1 allowing the generator to be placed in the side yard, behind the front face of the house, setback established as approved by the Town of Clarence Building Department.

Daniel Michnik	Aye	Arthur Henning	Aye
Hans Mobius	Aye	Ryan Mills	Aye
David D’Amato	Aye		

MOTION CARRIED.

Appeal No. 2

Bill Samson Jr.
Residential Single-Family

Requests the Board of Appeals approve and grant

- 1.) A 184 square foot variance to allow construction of a 384 square foot accessory structure.
- 2.) A 1'.5" height variance to allow a 17'.5" tall accessory structure.

Both requests apply to 9300 Greiner Road.

Appeal No. 2 is in variance to Section 229-55 (E) (2) and (H) Accessory Structures.

DISCUSSION:

Neighbor notifications are on file.

Mr. Samson said in order to put the door that he wants on the structure he needs a 9' wall. He will be using the structure for storage of items such as lawn furniture, a tractor for lawn maintenance and a sports car. The existing barn is 10' high and the property drops off about 4'-5' where the barn is located; the barn drops off another 18" from the edge of the driveway.

Mr. Mobius asked if there were other structures in the neighborhood that are as high. Mr. Samson thinks there is one across the lake with a peak of 17'.

In response to Mr. Mills' question regarding the design of the garage doors, Mr. Samson said he will have a garage door and a regular entry door in the front. The structure will be painted the same color as the house. Pavement will be extended from the structure. There will not be a business operated out of the accessory structure.

Mr. D'Amato asked what the applicant's plan is if the Board denies the request. Mr. Samson has no other plan at this point. He said that depending what issues concerned the Board, he might modify the structure to meet the criteria, but he would not be happy with that. He wants the height so he and his wife can walk into the accessory structure and stand up straight. There is a grade drop of about 2'.5" from Greiner Road. The existing shed will be removed.

ACTION:

Motion by David D'Amato, seconded by Hans Mobius, to **approve** Appeal No. 2, as written with the following conditions:

- the existing accessory structure is to be removed at the time the proposed accessory structure is completed.
- as noted on the neighbor notification form, the barn will be painted the same color as the house with green shutters. Two crimson maples will be planted along the Greiner Road side of barn and one in back of barn.

ON THE QUESTION:

Town Attorney Steven Bengart suggests conditioning the motion with the removal of the existing accessory structure, the applicant agrees. Mr. Mills suggests conditioning the motion with the information that was added to the neighbor notifications.

Daniel Michnik Aye
 Hans Mobius Aye
 David D'Amato Aye

Arthur Henning Aye
 Ryan Mills Aye

MOTION CARRIED.

Appeal No. 3

Benjamin and Kathleen Gould
 Residential Single-Family

Requests the Board of Appeals approve and grant a 2' variance to allow for the construction of a 6' tall fence in the front portion of a corner lot at 4915 Schurr Road.

Appeal No. 3 is in variance to Section 101-3 (C) Fence Regulations.

DISCUSSION:

One neighbor notification is on file.

Mr. Michnik reads a letter from James Dussing: "Benjamin and Kathleen Gould are buying my house (4915 Schurr Rd.). Closing is expected to take place on April 1, 2008. I give my approval and permission for the Goulds to make planning and zoning request(s) prior to the actual closing." The letter is on file. The neighbor notification form was given to the tenants who live at adjacent property on Bodine, but a signed copy was not returned to the applicant. The tenants told Mr. Gould that the owner signed the notification but has returned it yet. Mr. Gould has made several attempts to retrieve the notification but to no avail.

Mr. Gould said his wife has always wanted a pool and this is their first house. He discussed the pool with the Building Department and they suggested moving the fence to allow enough room on all sides of the pool to comply with the code. The existing fence is 6 feet high.

Mr. Gould made the adjacent neighbors aware of the exact location of the fence.

ACTION:

Motion by Arthur Henning, seconded by David D'Amato, to **approve** Appeal No. 3, as written.

Daniel Michnik Aye
 Hans Mobius Aye
 David D'Amato Aye

Arthur Henning Aye
 Ryan Mills Aye

MOTION CARRIED.

Appeal No. 4

Aurora Sewing Center
 Traditional Neighborhood District

Requests the Board of Appeals approve and grant non-conforming use status to allow for the use of an existing building for Aurora Sewing Center at 8575 Main Street.

Appeal No. 4 is in variance to Section 229-162 Non-conforming uses.

DISCUSSION:

James Kelleher explains that he wants to transform the building into the mainstay for the business. He wants to get closer to the Main Street, Transit commercial zone; it fits their business needs. The hours will be normal business hours. It is a quiet business with clientele consisting of women between the ages of 40 and 65.

There are no neighbor notification forms on file.

Mr. Kelleher said the proposed addition is going to be classroom space, they hold classes about 4 times a month along with "how to" classes. In response to Mr. Mills' question asking for details of the addition, Mr. Kelleher said the addition will tie into the existing structure through an opening. Clayt Ertel, real estate broker, said the addition will be on the end of the building and will follow the same configuration as the existing building. The applicants also want to clear out much of the dead trees and brush from the property, as the maintenance of the property has been neglected for years. The majority of the existing structure will be used for the business; the upstairs may possibly be used as living quarters. The average daily parking would accommodate approximately ten (10) cars. Mr. Kelleher said there will be four (4) times a month that there will be an influx of cars. Mr. Ertel said there are approximately ten (10) parking spaces currently on the property. Mr. Kelleher wants to accommodate handicap parking and open up the back of the property for parking as well. Barbara Perry, store owner, said there are, on average, 5-10 cars in the parking lot. With running larger classes throughout the season there will be 25-30 cars; she would like keep the parking in front of the building where it is zoned commercial.

There is a contract of sale for the property contingent on the decision this evening.

Mr. Henning asked for clarification on non-conforming use status. Mr. Callahan said the issue is that the site is a former doctor's office so it was used commercially, it needs to be established that the commercial use can be continued in the building. Mr. Ertel said it has been a doctor's office for four (4) years. Mr. Callahan explains that the parcel is a split zone: Traditional Neighborhood District along the Main Street frontage and Residential Single-Family on the Nottingham frontage.

Mr. Mobius said there will be approximately 26 parking spaces and asked if the applicant thinks that will be enough. Mr. Kelleher believes it will be enough.

Mr. Michnik questions the allowance of parking in the front of the building in this zone. Mr. Callahan explains that there is a front yard setback established by the plaza and Hyatt's, anything behind the front face of those is considered side yard, so this is actually creating parking in a side yard setback.

Mr. Michnik asked what the applicant plans with the driveway that exits on Nottingham Terrace. Mr. Kelleher said it will be strictly for employee use or, if the apartment is occupied, it would be for that tenant. The proposed apartment exists as living quarters today and has a separate entrance. Mr. Michnik would like to see the back driveway blocked off so no traffic can come from Nottingham into the business. Mr. Ertel said there would be an issue for fire access if the back driveway was blocked off; he suggests limiting the access, not blocking it. Mr. Michnik wonders if limiting the access by putting a sign up will really limit people from using the driveway anyway. The fire company is right across Main Street and they would have access to the building through the Main Street entrance. Mr. Ertel said there may be an emergency and a vehicle might be blocking the Main Street entrance, then the fire company has no access. Mr. Michnik voices his concern with keeping traffic off the Nottingham Terrace access. Mr.

Ertel said he thinks it would be fine if there was some kind of barrier that can be removed by the fire company. Ms. Perry does not want it to look sloppy.

Mr. Michnik asked if the applicant plans to landscape along Nottingham so the residents don't see the cars in the parking lot, Mr. Kelleher said he plans to put shrubs in. Mr. Kelleher will take down the 4-5 pine trees that are in the front of the property and they will clear the clutter. It will be opened up and landscape. They will keep the stone wall that is currently on one side. The applicant will control the ingress and egress per the Zoning Board of Appeals suggestion; a fence is also suggested. Ms. Perry is concerned with the expense of shrubbery.

ACTION:

Motion by Hans Mobius, seconded by Daniel Michnik, to **approve** Appeal No. 4, as written with the following conditions:

- A Landscape Committee approval creating a physical barrier.
- Engineering approval.
- Access control on the back driveway that comes from Nottingham Terrace into the property.

Daniel Michnik	Aye	Arthur Henning	Aye
Hans Mobius	Aye	Ryan Mills	Aye
David D'Amato	Aye		

MOTION CARRIED.

Motion by Arthur Henning, seconded by David D'Amato, to **approve** the minutes of the meeting held on March 11, 2008, as written.

Daniel Michnik	Aye	Arthur Henning	Aye
Hans Mobius	Aye	Ryan Mills	Aye
David D'Amato	Aye		

MOTION CARRIED.

Meeting adjourned at 8:04 p.m.

Carolyn Delgato
Senior Clerk Typist