

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

Chairman Arthur Henning called the meeting to order at 7:00 p.m.

Zoning Board of Appeals members present:

Chairman Arthur Henning	Vice-Chairman Daniel Michnik (arrived late)
Ryan Mills	David D'Amato
Robert Geiger	Patricia Burkard

Town Officials present:

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

Other interested parties present:

MaryLou Manocchio	Raymond Bialkowski
Dale Korte	Josephine Tronconi
Paul Nesper	Douglas Klotzbach
Dave Sutton	

**Old Business**

**Appeal No. 1**

Vincent C. Paulsen  
Residential Single-Family

Requests the Board of Appeals approve and grant:

- 1.) a 28' variance to allow for a front yard setback to a principal structure of 18'.
- 2.) a 304 square foot variance to allow for a total attached garage space equaling 1,360 square feet (52% of the total building area).

Both requests are for the construction of an addition to an existing attached garage on a corner lot at 5645 Martha's Vineyard.

Appeal No. 1 is in variance to § 229-52 (A) (1) and § 229-55 (D).

**DISCUSSION:**

The applicant is not present.

**ACTION:**

Motion by Robert Geiger, seconded by Arthur Henning, to **table** Appeal No. 1 under Old Business until the end of the meeting to allow the applicant time to arrive.

Robert Geiger	Aye	David D'Amato	Aye
Ryan Mills	Aye	Patricia Burkard	Aye
Arthur Henning	Aye		

MOTION CARRIED.

### New Business

#### Appeal No. 1

Dario Manocchio  
Residential Single Family

Requests the Board of Appeals approve and grant:

- 1.) a 2.5' variance to allow for a 2.5' side yard setback to an accessory structure.
- 2.) a 2.5' variance to allow for a 2.5' rear yard setback to an accessory structure.

Both requests apply to an accessory structure wholly within the rear yard space of a principal residence at 4220 Clardon Drive.

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

#### **DISCUSSION:**

Chairman Henning noted that the applicant was before the Zoning Board of Appeals on April 13, 2010 requesting a variance for an accessory structure with the stipulation that the structure that was there will be removed. As of this date, the new structure is up and the old structure is still there.

MaryLou Manocchio and Andrew Manocchio are present. Andrew is Dario's son and is representing him as Dario was unable to attend this evening.

Mr. Manocchio said the old structure was set to come down but the neighbors expressed an interest in keeping it up due to privacy reasons. Without the old structure the lights from vehicles would shine onto the neighbor's property. The power company forbade the applicant from putting any shrubs in that area due to the power lines. There are signed affidavits on file indicating the neighbors would like to see the old structure remain. The reason for building the new structure was to store Mr. Manocchio's sister's belongings as she will soon be deployed. Mr. Manocchio's father was also going to store his equipment he uses in maintaining the apartments he owns, but they had to decrease the size of the structure so it will not hold all it was intended for. The existing shed is a 9' x 9' structure and houses gardening equipment. If approved, the old structure would be sided to match the new structure.

Mr. Michnik has arrived.

There are two (2) neighbor notification forms on file.

Mr. Geiger asked if repair work can be done on the old structure, Mr. Manocchio said yes. Mr. Geiger asked if the structure could be moved forward or to the side. Mr. Manocchio said it is posted into the ground, there is no concrete slab; in moving it, it would most likely be destroyed. Mr. Geiger asked what the cement blocks in front of the structure are for. Mr. Manocchio thinks his father uses the blocks to change the oil on vehicles; the intention is to redo the entire driveway.

Mr. D'Amato noted that originally the second structure was to replace the old one; all these issues with the equipment and his sister's belongings would have been taken care of. Mr. Manocchio said his sister has more things than initially anticipated. Since the applicant was last before the Zoning Board of Appeals the items to be stored has grown, Mr. D'Amato said the applicant has created the hardship. He is not sure the neighbors really want the old structure to remain, it looks terrible. Mr. Manocchio said that is why they are willing to side it to match the new structure. Mr. D'Amato voiced his concern with the fact that the applicant came to the Board a year ago and a structure was approved to accommodate their needs and now they are asking to keep the structure that was to be removed. Mr. Manocchio said originally they conceded on the size of the new structure. Mr. D'Amato thinks the neighbor's privacy can be accomplished through planting shrubbery and bushes, not be keeping the shed.

Mr. Mills shares Mr. D'Amato's concerns. Mr. Mills is also concerned with the lot size and the amount of the accessory structures on it and the size of the neighborhood. He asked if the request is more for the neighbors concern of privacy or the applicants concern for storage. Mr. Manocchio believes it is a mix of both. He said the law allows two (2) accessory structures. Mrs. Manocchio prepared the statements that the neighbors signed. The Jason's house is directly behind the Manocchio's property and they have a lot of items that the children play within their yard.

Per the Town Attorney's advice, Mr. Michnik will not participate in this discussion.

The applicant has not been granted occupancy yet so there is nothing in the new structure. The occupancy is pending this appeal. The structure was completed in November 2010. Mrs. Manocchio's daughter needs to store her vehicle and furniture as she is currently living in an apartment in Hawaii. Chairman Henning asked what kind of a hardship would be caused if the request was denied. Mrs. Manocchio said she does not really have room in their regular garage, they do have a basement. Chairman Henning asked if they could get around this. Mr. Manocchio said technically they do not have anything in place to recover from this. Possibly a storage place would have to be rented.

Mr. Geiger asked if the applicant can take the shed down and then apply for a permit for a new shed. Mr. Callahan said he is allowed two (2) accessory structures at 200' each. He would be allowed to put a second structure in but must meet the required setbacks. Mr. Manocchio said he is not sure he could meet the setback requirements due to the power lines located there. The structure has been in place for 20 years.

Chairman Henning asked if it is possible to tear down the old shed and put up a new one on the other side of the accessory structure so it will be out of the way of where the other shed is now. Mr. Manocchio said that is a possibility. Mrs. Manocchio said the septic system is on the back on that side of the shed.

#### **ACTION:**

Motion by Arthur Henning, seconded by Robert Geiger, to **approve** Appeal No. 1 under New Business with the stipulation that the building remain as is but it is to be completely re-sided to match the existing structure.

Patricia Burkard	Nay	Robert Geiger	Aye
David D'Amato	Nay	Ryan Mills	Nay
Arthur Henning	Aye		

MOTION FAILED.

**Appeal No. 2**

Raymond Bialkowski  
Major Arterial

Requests the Board of Appeals approve and grant:

- 1.) a 10' variance to allow for a 15' side yard setback to a principal structure.
- 2.) a 10' variance to allow for a 15' rear yard setback to a principal structure.

Both requests are for the construction of an addition to a commercial facility at 5363 Transit Road (Kittinger Furniture).

Appeal No. 2 is in variance to § 229-94 (E) & (F).

**DISCUSSION:**

Dave Sutton, from Dean Sutton Architects, is representing the applicant. Raymond Bialkowski, owner of Kittinger Furniture, is present.

Mr. Sutton explained that Mr. Bialkowski has been at his current location for five (5) years. He sells modest to high-end furniture, this store is his showroom. The addition being requested will allow the showroom to be expanded. The product that is sold requires a fair amount of showroom to be displayed properly. The expansion would be on the south and across the back; this will allow Mr. Bialkowski to further his retail portion of the store. He is also looking to introduce an upper level over a portion of the proposed addition for his office space. The project has been in front of the Planning Board, it is a low volume business. The applicant does not feel this addition will have a negative impact on the adjacent neighbors. There will be greenspace around both south and east sides of the building, this will allow for no traffic in those areas.

Mr. Sutton does not feel they are changing the character of the neighborhood; they are being very compatible with Transit Road in terms of the business. Both adjacent property owners are commercial businesses. They acknowledge and respect the fact that there are some adjacent residential properties on the southeast corner. They are going to introduce greenspace and reduce any traffic that happens back there. There will be no drainage problems as it is already a hard surface. The applicant has limited options; there is no interest in going forward because of the appearance of the building. Although they are asking for a 15' setback as opposed to a 25' setback, they are introducing greenspace and they feel the 15' is a good buffer between commercial businesses. There will be no substantial increase in vehicle traffic. Mr. Sutton said this is not a self-created hardship as there are limited opportunities with this property and there are no opportunities to gain any properties to assist in the expansion.

Mr. Michnik asked about neighbor notifications. Mr. Sutton explained that this project was before the Planning Board and was approved. At the Planning Board meeting there was one neighbor who was inquiring about the nature of the project, she did not have any concerns. The applicant has agreed to sit down with this neighbor during the design process to make sure her and her neighbor's interests are being respected. There will be no lighting spilling onto her property.

Mr. Callahan noted that when the project was at the Planning Board level neighbors within 500' of the project were notified.

Mr. Sutton explained that they are limited by New York State Code to have a maximum of 3,000 square feet on the second floor; this will be achieved on the south portion of the addition. Although elevations are at a conceptual stage, they have been submitted to the Planning Board and the Planning Office. Mr. Mills has some concerns with the garage door elevation. He said the first level stone and the second level stucco does not seem to blend well, he would like to see more stone. The applicant has agreed to put an architectural barn-style door or just double doors on the building side that faces Transit Road. They are willing to put a side door on the building instead of the front door as seen on the plan. He would be amenable if this was made a condition of the approval. With regards to the stone on the second story, Mr. Sutton's fear is it will throw off the balance of the addition and put the focal point on the stone as opposed to the front door and the imagery they have already created. Mr. Sutton said perhaps they could use a stone ledge and/or put stone just up to the windows on the second floor. He would be amenable if this was made a condition of the approval.

Mr. D'Amato asked if there will be additional signage. Mr. Sutton said no. Mr. D'Amato asked where the two (2) existing dumpsters will be placed. Mr. Sutton said they are contemplating eliminating the dumpsters because the cardboard that is discarded can just be sent back to the warehouse to be disposed of. Mr. D'Amato voiced his concern in the architectural style and making the building like nicer than just a warehouse structure on Transit Road. Mr. Sutton said a lot of time has not yet been spent on the design development; it will be a balance between making it look good on Transit Road but not taking away from the main focal point of the front entrance. They will adhere to any design mandates the Board implements.

Mr. Bialkowski said the manufacturing end of this business has been around since 1866; that building is located on Main Street and Jewett Avenue in Buffalo, New York.

Mr. Michnik thinks it is easier to pull in and unload furniture rather than pull to the side and unload. If the applicant puts the right door on the front it will tie into the rest of the building and give it a finished look.

#### **ACTION:**

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 2 under New Business with the following conditions:

1. A decorative architectural barn or similar style door be used if the door remains on the front side of the building. Or the garage door will be moved to the south side of the building.
2. A stone ledge is to be 2' in height and run along the front façade of the addition facing Transit Road.
3. The final design be approved by the Planning Board.

Robert Geiger	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

**MOTION CARRIED.**

**Appeal No. 3**

Dale Korte  
Residential Single Family

Requests the Board of Appeals approve and grant an 8’ variance to allow for a front yard setback of 37’ to a corner lot at 10980 Stage Road.

Appeal No. 3 is in variance to § 229-52 (A) (1).

**DISCUSSION:**

Dale and Mary Louise Korte are present. Mr. Korte explained that he is adding a garage to his existing garage. He shows the Board plans for the addition. He is keeping the existing carport. He needs more storage space; he owns an ATV and a trailer.

Neighbor notification forms are on file.

Mr. D’Amato asked what the reason is for not directly attaching the garage. Mr. Korte said there is a meter channel in that area and it would be costly to move that. It would also be costly to tear off the old garage roof. There will be a car parked in the garage he is proposing. The door will be 16’ high.

All building materials for the proposed garage will match the house. The garage doors will match. Mr. Korte and his son will do the construction, he will contact out the concrete work.

Mr. Michnik said he is concerned with the submitted design and suggested removing the existing carport and putting the new garage next to the old garage, and move the meter to the back (north) side of the house. He doesn’t feel the plan will fit in with the character of the neighborhood. He is concerned with the total look. Mrs. Korte said the dryer and kitchen hood range vents are in that area as well. The only basement window is in that area too. Mr. Korte explained they looked at many options and this is the one that suites them best. They have five (5) cars; two (2) are under cover currently.

**ACTION:**

Motion by Arthur Henning, seconded by Robert Geiger, to **approve** Appeal No. 3 under New Business as presented.

Robert Geiger	Aye	David D’Amato	Nay
Ryan Mills	Aye	Daniel Michnik	Nay
Arthur Henning	Aye		

MOTION CARRIED.

**Appeal No. 4**

Patrick and Josephine Tronconi  
Residential Single Family

Requests the Board of Appeals approve and grant:  
1.) a 4.1’ variance to allow for a front yard setback of 33.5’ (current front yard setback: 37.6’).  
2.) a 1.5’ variance to allow for a front yard setback less than 35’.

Both requests are for the construction of an addition to an existing home on a corner lot at 5690 Martha’s Vineyard.

Appeal No. 4 is in variance to § 229-52 (A) (1).

**DISCUSSION:**

Josephine Tronconi is present. Attorney Paul Nesper is also present and representing the Tronconi's. Mr. Nesper explained that the house is in a court and on a corner. Originally, a variance was needed (and obtained) to build the garage. The Tronconi's would like to expand their kitchen and put in a mud room. It is in the area behind the garage and adjacent to the home. All neighbors were approached and said they were in the support of the addition.

Neighbor notification forms are on file.

Mr. Nesper said the variance is minor and is in line with the variance that was granted years ago. The impact on the area is minimal. There is no other feasible solution to accomplish what they are trying to do. There is a man door that will become a window and the man door that currently goes from the garage to the house will be moved. The building materials will match the house. The house was built in 1997.

**ACTION:**

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 4 as written.

Robert Geiger	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

**Appeal No. 5**

Douglas Klotzbach  
Commercial

Requests the Board of Appeals approve and grant:

- 1.) a 72 square foot variance to allow for a plaza sign board 120 square feet in area.
- 2.) a 9' variance to allow for a freestanding sign 21' in height.

Both requests are to allow for the re-facing of an existing sign at 9992 Main Street.

Appeal No. 5 is in variance to § 181-3 (B) (6) and § 181-3 (B) (3).

**DISCUSSION:**

Douglas Klotzbach of K2 Architecture is present. He is working with GC Supply who is looking to move their facility into Clarence. GC Supply has a ten (10) year lease with Mr. Frey (owner of 9992 Main Street) with a five (5) year extension. GC Supply is a distributor, repair service and is now getting into retail of golf carts and utility vehicles. The vehicles are not road worthy; they are gas and electric powered.

Mr. Geiger asked if there will be additional signs on the building. Mr. Klotzbach pointed to a plan and explained the location of the building sign. Mr. Geiger asked if the canopy on the existing sign is coming off. Mr. Klotzbach said it will remain; they are just changing the face of the sign. When they obtain another tenant their sign would have to go before the Sign Review Board. GC Supply representatives

could not be present this evening because they are in Pennsylvania. They are looking to take occupancy on Main Street May 1, 2011.

Jim Callahan explained that the Planning Board approved the Change In Use Permit to allow this business, any outside display approval is a function of the Town Board and the applicant is on the April 13, 2011 Town Board Agenda for this permit.

Mr. Mills said GC Supply can accomplish what they need without a variance, then asked why the applicant is asking for a variance that includes the future tenant sign. Mr. Klotzbach explained that if he designed GC Supply's sign only, there would be exposed pipe on the top of the sign because that is where the future tenant sign would be. There is a steel structure underneath the Frey's sign. Mr. Mills said if this request is denied the applicant would not be able to use the existing structure for signage. He asked what the applicant will do if the variance is denied. Mr. Klotzbach said he would have to look at what the Board would allow them to do.

Mr. Michnik said the existing sign was placed over another sign; he wondered at what point Mr. Frey obtained authorization to make that sign larger. Mr. Michnik said he thinks the sign needs to come into compliance with the Clarence Town Code. A nine foot (9') variance is a substantial request. Mr. Michnik said this is the largest sign on Main Street and he has concerns with the applicant asking for approval for this largest sign to remain this way. Mr. Michnik sees no reason to approve this variance. He suggested GC Supply representatives meet with the Zoning Board of Appeals or the sign come into compliance with the Code.

Mr. D'Amato suggested the request be tabled to allow Mr. Klotzbach to discuss the current Sign Law with his client, then come back before the Zoning Board of Appeals.

Mr. Mills said if the applicant is going to come back to the Board with a proposal for a larger sign than the code allows, he would like to see it aesthetically pleasing maybe add some stone to the base, the metal poles are not going to work.

Mr. Klotzbach agreed to have the appeal tabled.

#### **ACTION:**

Motion by Ryan Mills, seconded by Robert Geiger, to **table** Appeal No. 5 under New Business.

Robert Geiger	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

#### **ACTION:**

Motion by David D'Amato, seconded by Arthur Henning, to **approve** the minutes of the meeting held on March 8, 2011, as written with the following change:

Patricia Burkard was not in attendance at the meeting.

Robert Geiger	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

**ACTION:**

Motion by Robert Geiger, seconded by Daniel Michnik, to **table** Appeal No. 1 under Old Business.

Robert Geiger	Aye	David D'Amato	Aye
Ryan Mills	Aye	Patricia Burkard	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Meeting adjourned at 8:36 p.m.

Carolyn Delgato  
Senior Clerk Typist