

Town of Clarence
Zoning Board of Appeals Minutes
Tuesday May 11, 2010
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	Ryan Mills
David D'Amato	Robert Geiger
Patricia Burkard	

Zoning Board of Appeals members absent:

Vice-Chairman Daniel Michnik

Town Officials present:

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

Other interested parties present:

James Sendker	Ray Valentine
Francis Haefner	Pam Skelton
Candace McCulloch	Donald Ehrenreich
Jad Maouad	Jon Zwiczynski
Ryan Den Haese	Diane Den Haese
Anthony J. Picone	Clayt Ertel
S. Belles	Jeff Blum
Annette M. Wargo	

Appeal No. 1

Ray Valentine
Residential Single-Family

Requests the Board of Appeals approve and grant:
1.) a 180 square foot variance to allow for the construction of a 900 square foot garage.
2.) a variance to allow for both an attached and detached garage.

Both requests apply to 4270 Shimerville Road.

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

DISCUSSION:

Chairman Henning explained that Mr. Valentine was before the Zoning Board of Appeals in September 2009, at that time the request was similar except the auxiliary structure has been reduced in size. That

request was denied. There are numerous letters on file from residents who are opposed to this variance request.

Mr. Valentine explained he has changed his request by decreasing the size by 100 square feet. He altered the proposed footprint to accommodate adjacent neighbors. He doubled the rear and side setbacks from 5' to 10'. He has a 19' north side setback from the road. He is willing to landscape with shrubs and other plantings to make it appealing to his neighbors. He is also proposing to put vinyl siding on the proposed structure along with asphalt roofing shingles to match the house; it won't look like an industrial building or a pole barn. He currently has an attached garage but it is marginal and will not be practical for automotive or general use or storage. He does not have a basement. He made efforts to pursue other options with the Building Department but it is extremely costly to do so. One option was to add on to his existing house but this would be across for Mr. Ehrenreich who would probably not approve. Mr. Valentine is willing to reduce the height to 16'. His home is 1100 square feet in size. The neighbor with the property behind Mr. Valentine's has a 1036 square foot home. The house across the street is just less than 1200 square feet.

Patricia Burkard pointed out that the proposed structure is almost as large as the primary residence on the property.

Ryan Mills asked Mr. Valentine what his plan is if he is denied. Mr. Valentine said it is possible he might go with an attached structure or something else.

Mr. Valentine said he will use the structure for storage of his boat, his car trailer and the firewood on his property that the neighbors are concerned about. He has not talked to the neighbors since the September 2009 meeting.

Mr. D'Amato asked how low Mr. Valentine is willing to go with the size of the structure. Mr. Valentine would decrease to 720' if he had to. He has owned the property for eleven (11) years.

Robert Geiger asked if there were any neighbor approvals. Mr. Valentine said the neighbor to the south does not have a problem with his request. His boat is 30' long and 8' tall. Mr. Geiger asked if the applicant has thought of outside storage somewhere off his property. Mr. Valentine has not. Mr. Geiger said if the boat was stored off the property, a smaller garage would take care of the firewood storage.

Mr. Valentine produced photos of similar sized garages that are in his neighborhood.

Candace McCulloch said that while the tree trunks and the unlicensed vehicles on Mr. Valentine's property are unpleasant to see, an oversized wall will be just as unpleasant. She said Mr. Valentine is building this garage for something other than his original intention and it is larger than the parameter of his house. This neighborhood consists of small residences. The vehicles and wood on Mr. Valentine's property are a menace and unsightly. There have been rodents of various sizes sited. The wood has been moved and the land has been cleared for the proposed building. Ms. McCulloch has a vehicle that she has no room for on her property so she stores it elsewhere. She was not notified by Mr. Valentine of his variance request.

Don Ehrenreich said he has not been contacted regarding this variance request since the first denial. He hopes that the guidelines he was told about will be taken to heart. He has lived in the area for more than 20 years and he cannot think of any existing structures that are similar in size to what Mr. Valentine is

asking for. If there are similar sized structures he would like verification. Mr. Ehrenreich said the major objection is the general clutter that is going to take place. If there was some kind of protection on either side of Mr. Valentine's property so it won't be viewed by everybody it might not be so troublesome. This seems very inappropriate and un-neighborly.

Francis Haefner, of 4201 Cameron Drive, is present on behalf of his sister Miriam Haefner who has voiced her objections in an e-mail that is on file. Mr. Haefner asked what would happen if the septic fails, given all that stuff on a small footprint of property. Would there be sufficient space to have an on-site system? The car and the trailer have been an eye-sore to the community for years; Mr. Valentine has done nothing to try and mitigate this. Mr. Haefner's other objection is the proposed structure will create a city-like view for anyone coming down that side street.

Mr. Valentine said the existing shed would be removed if the variance is granted. He is sure that the boat will fit in the proposed building. Chairman Henning clarified that if the square footage is decreased to 720', Mr. Valentine would only need a variance because it is an additional accessory structure. Chairman Henning asked if Mr. Valentine has an alternative plan if this proposal is denied. Mr. Valentine said he and the Building Department discussed the option of building on to the existing attached garage; however that would need a variance as well. It would be directly across from Mr. Ehrenreich's house and if there was any noise from home remodeling it would be right at Mr. Ehrenreich's bedroom window. Mr. Valentine thinks it is better to have the structure in the backyard. The neighbor behind Mr. Valentine has shrubs along the property line which will grow in two (2) years and shield the back of his garage. He is currently using the primary attached garage for laundry.

ACTION:

Motion by Ryan Mills, seconded by David D'Amato, to **approve** Appeal No. 1, component No. 2, which will allow for both an attached and detached garage on the property. The approval **does not** include the first component which asked for a 180 square foot variance to allow for a 900 square foot garage. The proposed structure is to be 720 square feet, maximum. The following conditions apply:

- The structure is to be vinyl sided with asphalt shingles.
- Landscaping is to be placed all around the unit with a shrub approximately 3' high.
- The existing shed is to be removed within three (3) months of construction.

ON THE QUESTION:

Mrs. Burkard asked how the neighbors felt about the reduction in size. One neighbor said it is only a 5' reduction, it still seems too large for the area but it is in compliance.

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

MOTION CARRIED.

Appeal No. 2

Jad Maouad
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a 2.5' variance to allow for a 10' side yard setback to a principal structure for the construction of an addition to an existing attached garage at 5434 Center Pine Lane.

Appeal No. 2 is in variance to § 229-52(4)(B).

DISCUSSION:

Jad Maouad, owner of property, and Jon Zwiczynski of JRZ Architecture are present. Mr. Maouad explained he needs to store his snow blower and his lawn mower. He currently has a two (2) car garage but there is not enough room for storage. His family is growing and he would like the children to be able to play in the garage. He also needs to store items for the pool he will be installing.

Neighbor notification forms are on file.

There is a drainage easement on the property but there is no right-of-way. Mr. Zwiczynski explained the existing side of the house is at 11', they are looking for an additional 2' to allow for the two (2) car garage.

Mrs. Burkard clarified that the applicant has a two (2) car garage and is asking for another two (2) car garage.

Mr. Zwiczynski said he wants to connect this garage with a small mudroom space that attaches into the existing laundry room. It will be the same construction materials as the house.

Mr. D'Amato asked when the applicant wants to start construction. Mr. Maouad said he wants to start as soon as he gets the approval. He has owned the house for three (3) years.

ACTION:

Motion by Ryan Mills, seconded by Robert Geiger, to **approve** Appeal No. 2, as written.

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

MOTION CARRIED.

Appeal No. 3

Ryan & Diane DenHaese
Residential Single Family Zone

Requests the Board of Appeals approve and grant a 2' 9" variance to allow a 9'8" side yard setback for the construction of an addition to an existing attached garage at 6415 Landstone Drive.

Appeal No. 3 is in variance to § 229-52.

DISCUSSION:

Ryan and Diane DenHaese are present. Mr. DenHaese explained that with his family growing he needs more storage for the children's toys; he also needs storage for lawn maintenance equipment. He stores items for the winter at a storage facility on Transit Road and would like be able to store it at his home.

Mr. Geiger asked if the cement pad that is at the proposed location of the addition will be removed. Mr. DenHaese intends to keep the cement pad and will put a footer around it.

Neighbor notification forms are on file. One of the adjacent properties is a speculation home that was never occupied. It was built by Natale Builders, Mr. DenHaese tried to get in touch with him but to no avail.

Mr. Mills asked for details on the second floor plans. Mr. DenHaese said he is trying to add a bedroom. The construction materials would be the same as the house. There is not a floor plan sketched out for the second floor just yet. The current square footage of the house is 4200. The addition would add about 400 square feet. The space above the current garage is unfinished but the intent is for potential storage.

The site plan being viewed and discussed shows the exterior of the house, front elevation and the upstairs. The plan is on file.

It is clarified that the applicant will have three (3) garages. One will be used for children's toys, bikes and lawn maintenance equipment.

ACTION:

Motion by Robert Geiger, seconded by Ryan Mills, to **approve** Appeal No. 3, as written.

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

MOTION CARRIED.

Appeal No. 4

Anthony J. Picone
Residential Single Family Zone

Requests the Board of Appeals approve and grant an area variance to allow the construction of three (3) large accessory buildings at the rear of the property at 10995 Main Street for use as storage/warehouse for construction operations.

Appeal No. 4 is in variance to § 229-55.

DISCUSSION:

Anthony Picone is present and explained that his business, Picone Construction Corporation, has outgrown the current facility and he is looking to move to something larger in Clarence. Clayt Ertel of Realty USA is also present; he is assisting the applicant in the purchase and appeal of the property.

One neighbor notification form is on file.

Mr. Picone explained that the present zoning of the parcel in question is Residential Single-Family. He needs the variance to be able to construct the accessory buildings that he will use to store construction equipment. It will be the same operation that he has at his current location. The purchase of the new building is dependent upon the approval of the variance request.

Mr. Ertel noted that the entire parcel has been used as a commercial site over the past 30 years by Kelly Schultz. Jim Callahan clarified that the parcel was commercial at the frontage and probably agricultural at the rear. Mr. Ertel said the proposed structures will be of similar construction materials and style as that of the existing structure. The buildings will be of considerable distance from Main Street making the drive-by look the same as it is now. The existing structure will have landscaping in front of it and will be the new corporate headquarters for Mr. Picone's business. The alternative was to buy property in Lancaster but Mr. Picone would like to stay in Clarence. Mr. Ertel feels this is an excellent opportunity for the Clarence Hollow area. This proposal is more passive and will buffer the rest of the area for Kelly Schultz' operation. The proposed buildings will not be visible to the neighbors.

Mrs. Burkard asked how far back from Main Street Building "B" will be. Mr. Picone said it is 160' from the front property line to the rear of that building.

Mr. Mills asked if the shape of Building "B" is necessary or could it just be added to Building "D". Mr. Picone explained that since Building "B" can be seen from the street he wanted to keep it small. He will use that building for parking cars and small pick-up trucks. The other buildings shown on the plan are odd shapes-but that is just a footprint; buildings "C" and "D" would fit inside the footprint. Mr. Mills asked if the applicant would be averse to making the front of Building "B" match the same stone façade that is on the front of the existing building. Mr. Picone said he will do that.

Mr. D'Amato asked if Building "B" could flow better into Buildings "C" and "D". Mr. Picone explained the reason he planned the buildings the way he did was so vehicles will be able to fit between Buildings "C" and "B". If he moved the buildings he would not have the overhead door access to Building "C". Mr. D'Amato asked if Building "B" can go behind Building "A". Mr. Picone said the area between Buildings "A" and "B" needs to be greater due to the slope of the property; it will be approximately 40'. This will reduce the size of Building "C". The 110' between Buildings "C" and "D" is the transition where it slopes from high to low, so nothing can be done in that area. On Buildings "C" and "D" the doors will be on the east and west sides. Mr. Picone would like to remodel the existing building so he can move his office in, then construct Buildings "B" and "D", "C" will be done at a later date. His current location on Main Street is for sale. A fence may be put up at the new site for safety reasons. Mr. Picone currently employs nine (9) people but may employ up to fifteen (15).

Town Attorney Steven Bengart asked if the applicant has the ability to determine the maximum size of each building at this point. Mr. Picone said the maximum size of the buildings would be governed by the code. His submitted footprint is the maximum size(s) planned. There will be no bathroom facilities in the proposed buildings, but could be installed in the future. This area is sewerred.

Mr. Mills said north side of Building "B" should be at least $\frac{3}{4}$ brick. Mr. Picone agrees.

ACTION:

Motion by Ryan Mills, seconded by Arthur Henning, to **approve** Appeal No. 4, as written, with the following conditions:

- The three (3) large accessory buildings are not to exceed 30’ x 160’, 160’ x 160’ and 180’ x 200’ as depicted on the entitled 10995 Main Street.
- The building depicted as “B” in the attachment entitled 10995 Main Street, the north side of Building “B” is to be at least ¾ brick, matching the front façade brick. All the other accessory structures are to be substantially similar in color and materials to the primary structure on the premises.

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

MOTION CARRIED.

Appeal No. 5

Sharon & Bill Belles/Jeff Blum
Agricultural Rural Residential Zone

Requests the Board of Appeals approve and grant a 400’ variance to allow a 600’ front yard setback for the construction of a new home at 5774 Salt Road.

Appeal No. 5 is in variance to § 229-41.

DISCUSSION:

Sharon Belles and Jeff Blum are present. Ms. Belles explained she needs the variance because of the street noise and the view is better in the back.

One neighbor notification is on file.

Ms. Belles currently owns the property and has an historic farm house on it which she leases to a farmer and will continue to do so. The property consists of 119 acres. She owns the 30 acres of wooded area behind the home.

Mr. Mills asked if the applicant would be satisfied with any less of a setback. Ms. Belles said the speed limit is 55 mph and it is quite noisy during the week. The proposed location is the best spot to mitigate the noise. Mr. Mills asked if another option had been thought of in the event this variance was denied. Ms. Belles said she had not thought of that as she didn’t think this was much of an issue.

ACTION:

Motion by Arthur Henning, seconded by Robert Geiger, to **approve** Appeal No. 5, as written.

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

MOTION CARRIED.

Motion by Arthur Henning, seconded by Robert Geiger, to **approve** the minutes of the meeting held on April 13, 2010, as written.

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

MOTION CARRIED.

Meeting adjourned 8:15 p.m.

Carolyn Delgato
Senior Clerk Typist