

Town of Clarence  
Zoning Board of Appeals Minutes  
Tuesday June 8, 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	Vice-Chairman Daniel Michnik
Ryan Mills	David D'Amato
Robert Geiger	Patricia Burkard

Town Officials present:

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

Other interested parties present:

John Semanski	Ron Grimm
Joe Voehkl	Scott Stroze
Jody Lomeo	Mary Lomeo
Donna Hazen	Peter Hazen
Gregory R. Carballada	Norman Castine

**Appeal No. 1**

John Semanski  
Major Arterial

Requests the Board of Appeals approve and grant a 5' variance to allow a 20' rear yard setback for the construction of an addition to an existing accessory structure at 8365 Transit Road.

Appeal No. 1 is in variance to §229-95 Accessory Buildings.

**DISCUSSION:**

John and Diane Semanski are present. Mr. Semanski explained the addition will be for parking and storage of items for his business. He owns a countertop business and uses the existing accessory structure for fabrication. He also sells cabinets and needs room for their storage as well. Parking and loading his trucks inside a structure during the winter is critical to his business.

There are three (3) neighbor notification forms on file. There are no problems or concerns from the neighbors.

Mr. Semanski said the existing shed will be dismantled; the containers on the property will be moved and placed next to each other. He would like to paint the containers to match the building and eventually discard them altogether. Mr. Semanski would like to start construction on the proposed addition as soon as possible.

In response to Mr. Mills question regarding the addition, Mr. Semanski said it will be continuous with the existing structure, not a separate building. Mr. Mills asked if the applicant tried to purchase the 5 extra feet from the neighbor so a variance would not be needed. Mrs. Semanski said they did not try that. The building materials will match the existing structure. There is not an automotive repair business on the property. The vehicle that is parked on the property belongs to Mrs. Semanski's son. Her father-in-law restores old cars and he stores a commercial lift on the property.

Mr. Semanski explained that one of the containers has Cutlass parts in it; the Cutlass belongs to his father. The other container has overflow from Mr. Semanski's business.

Mr. Mills would like to see the storage containers and shed removed from the premises as they adversely affect the aesthetics and the character of the community. Mr. Mills would rather see an increase in the size of the addition and have the containers removed. Mr. D'Amato agreed.

The shed is used for storage of gardening equipment. The storage containers are 8' wide and 40 long, Mr. Semanski paid \$3500 each for them.

Mr. Michnik suggests granting an additional 15' to the variance and giving the applicant until the end of 2010 to remove the containers from his property. Mr. Semanski would like a year to remove the containers. Chairman Henning asked if the applicant will have room to store the contents of both containers in the proposed addition. Mr. Geiger said there is more square footage being added with the proposed structure than there is in the square footage of the containers.

#### **ACTION:**

Motion by Ryan Mills, seconded by Robert Geiger, to **grant** a 20' variance, not a 5' variance for Appeal No. 1, to allow for a 5' rear yard setback for the construction of an addition to an existing accessory structure at 8365 Transit Road with the following conditions:

- the shed is to be removed within three (3) months of the date of this approval.
- the two (2) containers are to be removed within one (1) year of the date of this approval.

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

MOTION CARRIED.

#### **Appeal No. 2**

Ronald Grimm Jr  
Traditional Neighborhood District

Requests the Board of Appeals approve and grant an LED (electrical reader board) sign at 8855 Main Street for Passport Wine & Spirits.

Appeal No. 2 is in variance to § 181-3(D)(5) Signs.

**DISCUSSION:**

Ronald Grimm, owner of Passport Wine & Spirits, is present. Mr. Grimm said he opened the store 18 months ago and he is slowly growing. When he had an LED sign, back when it was allowed, he had an increase in foot traffic, once people came through the door they commented on the beautiful store and have become his customers. He has advertised through the local Bee newspaper, he has used coupons however his industry is in a difficult time. If the variance is granted it will help identify his store and bring long-term customers in.

Mr. Michnik asked for details on the design of the proposed sign. Mr. Grimm explained he has a standard rectangle sign box and the proposed sign will be 10% smaller in size. There will be two (2) lines for advertising with a black background and LED lighting. Block letters will be used. It will fit within the confines of his existing sign. He will use the dialogue lines to list the name of his store, address specific holidays or sporting events and advertise weekly specials.

Mr. Grimm said his proposed sign is similar to that of Goodrich Coffee & Tea's sign. He intends to use 4-5 colors in his sign. He is undecided on who will install the sign at this point.

Mr. Mills noted that an LED sign is prohibited in the area in which Mr. Grimm's business is located. Mr. Grimm said the owner of Dash's Market, Paul Steffan and Bozanna's Pizzeria are in full support of this sign request. Mr. Grimm thinks the sign will help the whole area. Mr. Mills asked the applicant what his alternative marketing plan is if this request is denied. Mr. Grimm said he would try something new tomorrow.

Mr. D'Amato said he would be more comfortable if the applicant had already contracted with a sign company. Mr. Grimm said it will cost approximately \$17,000 for the sign. Mr. D'Amato asked what the odds are for the owner of Dash's Market coming to the Zoning Board of Appeals to ask for a similar sign. Mr. Grimm does not know the odds, however, Mr. Dash did tell Mr. Grimm that he is not interested in such a sign. Mr. D'Amato asked what type of consideration the applicant gave to a sign when he opened his business in 2008. Mr. Grimm said the Town limited Joe Dash on the amount of signage he could have, originally Mr. Dash asked for something significantly more. Mr. D'Amato asked if the applicant has looked into updating his current sign with something other than LED. Mr. Grimm has and explained he can't put anything more than what he already has on there.

Mr. Grimm has had no neighbor opposition. There are two (2) neighbor notification forms on file.

Mr. Mills asked if one color on the LED sign would be acceptable to the applicant. Mr. Grimm would respectfully ask for three (3) or four (4) basic colors.

Mr. Michnik asked if the applicant can provide renderings of how the LED would look on the current sign and have it done in the colors he is requesting. Mr. Grimm agreed to have the appeal tabled and submit the information requested.

**ACTION:**

Motion by Daniel Michnik, seconded by Ryan Mills, to **table** Appeal No. 2, to allow time for the applicant to provide the requested information which includes the intensity, the size, the colors and the actual image placed on the sign in the rendering.

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

MOTION CARRIED.

**Appeal No. 3**

David Sutton/Buffalo Pharmacies  
Commercial

Requests the Board of Appeals approve and grant a 10' variance to allow a 15' side yard setback for the construction of a new retail pharmacy location at 6051 Transit Road (proposed address: 6035 Transit Road).

Appeal No. 3 is in variance to § 229-87(C)(2) Development and Design Provisions.

**DISCUSSION:**

Joe Voehkl, president of Buffalo Pharmacies, is present along with Dave Sutton from DeanSutton Architects. Mr. Sutton explained that the applicant was in the process of securing 110' of adjacent property when the owner of that property had difficulty in splitting the lot. Mr. Voehkl's building design was based on the additional 110', but now there is a limit to how much property can be acquired. He would like to keep the size of the proposed building at approximately 6500 square feet which would leave a 15' side yard setback. They are looking to rehab this property and are introducing a substantial amount of greenspace. The improvements to this property would far outweigh the detriment the 15' setback would create. The current property owner to the south is in favor of the proposal. Mr. Voehkl would close his other location. This location would be a combination of home health care, a compounding pharmacy and a regular pharmacy. The proposed building is larger to act as a showroom to display large scale items that the applicant will supply. Mr. Voehkl is currently leasing his present building; he will own the proposed building. They would like to put in one private road that leads to the back of the building and will eliminate curb cuts. The parking lot lights that are currently on the property will be removed and lights will be incorporated into the new design of parking. The front 5,000 square feet of the proposed building will be occupied by Buffalo Pharmacy, the back 1500 square feet will be occupied by a related business, this tenant is not locked in yet.

Mr. Mills noted that this variance allows an additional 960 square feet for the building, he asked if it is possible to moved forward without that 960'. Mr. Sutton said if the variance is granted it is actually creating a 700 square foot surplus of space. The property will be landscaped; a plan will be submitted by a landscape architect for review and approval by the Town. The building materials will be a combination of brick and Dryvit. Mr. Voehkl said it is a possibility that Buffalo Pharmacy could occupy the entire building. It is anticipated that 50% of the business would be retail, 20% would be compound and 30% would be home health care. The applicant would like to start construction as soon as possible and anticipates closing on the property in July 2010. Landscaping approval will be needed for this project.

**ACTION:**

Motion by Daniel Michnik, seconded by Ryan Mills, to **approve** Appeal No. 3, as written.

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

MOTION CARRIED.

**Appeal No. 4**

Scott Stroze  
Residential Single Family

Requests the Board of Appeals approve and grant a 40 square foot variance to allow for the construction of a 240 square foot shed at 5524 Oakfield Lane.

Appeal No. 4 is in variance to § 229-55(H) Accessory Structures.

**DISCUSSION:**

Scott Stroze is present and explained he currently has a two-car attached garage but with the patio furniture, grill, lawnmower, tools, and yard equipment there is no room in the garage to park two vehicles. He also has a newborn at home and would like to be able to park the vehicles in the garage to help protect the child from the cold weather during winter months. The shed would be a standard "A" from structure with a window on each side. The building materials would consist of a brown shingle roof with dark brown vinyl siding. There will be one door, no service door. To prepare for the foundation, the ground will be dug out 6 inches deep. There will be some low lying shrubbery around the shed.

Two neighbor notification forms are on file.

Town Attorney Steven Bengart referred to the survey and noted there is a 15' wide drainage easement along the rear of the premises and wants to make sure the applicant understands there may be certain rights and responsibilities that go with putting any structure within the easement; if something is built on the easement it can be forced to be removed at a later date by the easement owner. He suggests looking into this issue. Mr. Stroze is aware of this and will look into it. The shed can be moved as it will not be on a permanent foundation.

**ACTION:**

Motion by Ryan Mills, seconded by Arthur Henning, 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**

Jody and Mary Lomeo  
Residential Single Family

Requests the Board of Appeals approve and grant a 6'9" variance to allow for a 5'9" side yard setback to a principal structure for the construction of an addition to an existing garage at 6150 Walnut Creek Court.

Appeal No. 5 is in variance to §229-52 (B) Setbacks.

**DISCUSSION:**

Jody and Mary Lomeo are present. Mary Lomeo explained they have a family of five children and would like a mud room for their home. The mud room would help with storage of footwear and sports equipment. With an addition to the garage they could store additional vehicles the family may acquire as the children reach driving age.

Two neighbor notification forms are on file.

It is clarified that the existing garage would become a one and a half garage. The addition would have a brick façade with stone work, shingles and vinyl siding to match the existing house. Aveno Builders will do the work.

There is a tree that would have to be removed if this variance is granted.

**ACTION:**

Motion by Robert Geiger, seconded by Ryan Mills, to **approve** Appeal No. 5, as written.

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

MOTION CARRIED.

**Appeal No. 6**

Peter Hazen  
Residential Single Family

Requests the Board of Appeals approve and grant an 8'6" variance to allow for a 4' side yard setback to a principal structure for the construction of an addition to an existing garage at 5660 Goodrich Road

Appeal No. 6 is in variance to §229-52(B) Setbacks.

**DISCUSSION:**

Peter and Donna Hazen are present along with architect Gregory Carballada. Mr. Hazen explained they would like to build the addition for more storage of property maintenance equipment. They are hopeful that only one of the evergreen trees will have to be removed.

Mr. Michnik asked if more trees have to be removed is the applicant planning on replacing them with other landscaping. Mrs. Hazen said they will probably put some type of landscaping around the addition.

Two neighbor notification forms are on file.

Mr. Mills asked if additional vehicles will be stored in the addition, Mr. Hazen said the addition is not big enough to store another vehicle; the largest piece of equipment that will be stored in the addition is a John Deere lawn tractor. Mr. Mills asked if the applicant explored the option of an accessory structure. Mrs. Hazen explained an accessory structure would be hard to access in the winter.

The Hazen's have lived in their house for 30 years.

### **ACTION:**

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 6, as written.

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

MOTION CARRIED.

### **Appeal No. 7**

Norman Castine  
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a 60 square foot variance to allow for the construction of a 120 square foot addition to an existing shed at 8195 Roll Road. Total combined square footage would equal 260 square feet.

Appeal No. 7 is in variance to §229-55(H) Accessory Structures

### **DISCUSSION:**

Norman Castine is present and explained he needs the addition in order to store his two (2) grass cutters. Currently, the shed holds one (1) grass cutter, a couple of saws and other equipment. There is no water line in the existing shed.

Three (3) neighbor notification forms are on file.

The building materials of the addition will be identical to the existing shed. Mr. Castine will obtain a building permit as required.

Mr. Mills noted that Mr. Castine owns two (2) parcels with frontage on Roll Road, one has 100' of frontage and the other has 230' of frontage. Mr. Mills asked for an explanation on the computer sales and service sign that is on the property. Mr. Castine explained that his grandson lives on the next street and fixes computers. No one drives down this street so Mr. Castine put up the sign to help him with his business. The addition to the shed will not be used for this computer business or any other type of business. Mr. Castine said he will remove the computer sign from his property.

Mr. Michnik asked the height of the addition. Mr. Castine said it is 8', the same as the existing structure. Mr. Michnik said it looked like the new part of the shed is higher than the existing part. Mr. Castine said it is not, it is the same height. A new roof will be installed on both the old part of the garage and the

addition. The addition will have a flat roof, so it will not be seen from Roll Road. Mr. Castine plans to complete the addition prior to winter.

**ACTION:**

Motion by Arthur Henning, seconded by Robert Geiger, to **approve** Appeal No. 7, as written.

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

MOTION CARRIED.

Motion by David D'Amato, seconded by Robert Geiger, to **approve** the minutes of the meeting held on May 11, 2010, as written.

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

MOTION CARRIED.

Meeting adjourned at 8:30 pm.

Senior Clerk Typist  
Carolyn Delgato