

Town of Clarence
Zoning Board of Appeals Minutes
Tuesday, June 10, 2008
7:00 p.m.

Chairman Raymond Skaine called the meeting to order at 7:00 p.m.

Board of Appeals members present were:

Chairman Raymond Skaine
Arthur Henning
Hans Mobius

Vice-Chairman Daniel Michnik
Ryan Mills
David D'Amato

Other Town officials present were:

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

Other Interested Parties Present:

Joseph R. Goris
Paul Gulde
Michael McFarlane
Sandra Shea
Darlene Clancey
Marilyn Heximer

Brian Goris
Robert Kelly
Tracy McFarlane
John Clancey
Douglas Klotzbach

New Business

Appeal No. 1

Joseph Goris
Residential Single-Family

Requests the Board of Appeals approve and grant a 120 square foot variance to allow for the construction of a 320 square foot storage shed at 8685 Clarence Center Road.

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

DISCUSSION:

Mr. Goris explains that he needs a place to store his lawn mower, snow blower, various lawn equipment and patio furniture as he is running out of room in his garage. He would like to have it completed as soon as possible. The materials will match the house.

Neighbor notification forms are on file. Mr. Goris spoke with the neighbors and they have not objections.

ACTION:

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

Raymond Skaine	Aye	Daniel Michnik	Aye
Arthur Henning	Aye	Ryan Mills	Aye
Hans Mobius	Aye		

MOTION CARRIED.

Appeal No. 2

Dave Richardson
Residential Single-Family

Requests the Board of Appeals approve and grant a 4' variance to allow a 2' setback from the home for the construction of a new shed at 6270 Goodrich Road.

Appeal No. 2 is in variance to Section 229-55 (E) (1) Accessory Structures.

DISCUSSION:

Paul Gulde, of 6279 Goodrich Road, is representing Dave Richardson as he is out of Town. He explains that the proposed location of the shed allows Mr. Richardson easy access to his snow blower and lawn mower. He will also store some tiling equipment that he owns.

Neighbor notification forms are on file.

The platform that is currently next to the house is what Mr. Richardson will build the shed on.

Mr. Henning voices his concern regarding fire safety and the shed being so close to the house. Mr. Gulde said the applicant is aware of the fire safety that needs to be considered when constructing this shed. Chairman Skaine said if the appeal was granted it would be subject to the Town Building Code and approval by the Building Inspector that a fire wall is not necessary on the south side of the shed.

Mr. Michnik agrees with Mr. Henning and Chairman Skaine and indicates that the Building Department needs to approve the plans to meet all the specifications. Mr. Gulde does know the height of the proposed building, but is aware that it must also meet specifications of the Town Code.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning, to **approve** Appeal No. 2 with the contingency that the Building Inspectors give a verdict on whether a fire wall is needed to be installed on the south side of the shed.

Raymond Skaine	Aye
Arthur Henning	Aye
Hans Mobius	Aye

Daniel Michnik	Aye
Ryan Mills	Nay

MOTION CARRIED.

Appeal No. 3

Gerard Kelly
Residential Single-Family

Appeal No. 3 is in variance to Section 101-3 Regulations.

Requests the Board of Appeals approve and grant a 2' variance to allow a 6' fence in the front yard at 8171 Greiner Road.

DISCUSSION:

Robert Kelly, brother of Gerald Kelly, is representing the applicant. Mr. Kelly explains that the request is for a privacy fence for one end of the pool, it will block some of the view from Greiner Road.

Mr. Henning does not think the proposal is truly in the front yard, Mr. Kelly said it runs parallel to the house. Mr. Callahan explains that anything in front of the face of the house is considered the front yard.

In response to Mr. Mills question regarding the material for the proposed fence, Mr. Kelly said it will be a wood fence. Mr. Mills asked if the elevation was the reason the pool could not have been situated to the back yard. Mr. Kelly said the pool has been in its current location for 25 years. The septic is in the back yard. Mr. Mills asked if a compromise of 5' would be acceptable to the applicant. Mr. Kelly does not see the need for a height compromise as the 6' request does no harm to anyone; it does not block a line of site. There was landscaping around the pool, but the October Storm of 2006 wiped out much of the landscaping.

The members of the Board refer to a photo that depicts the most northerly fence on the property as it exists today.

ACTION:

Motion by Daniel Michnik, seconded by Arthur Henning, to **approve** Appeal No. 3, as written.

Raymond Skaine	Aye
Arthur Henning	Aye
Hans Mobius	Aye

Daniel Michnik	Aye
Ryan Mills	Nay

MOTION CARRIED.

Appeal No. 4

Michael & Tracy McFarlane
Planned Unit Residential Development

Requests the Board of Appeals approve and grant:

- 1.) a 318 square foot variance to allow for the construction of a 1,248 square foot garage.
- 2.) A 5' variance to allow a 20' rear yard setback for the construction of a new garage.

Both requests apply to 5945 Killarney Manor.

Appeal No. 4 is in variance to Section 229-55 (D) Accessory Structures and the 25' minimum rear yard setback per the Waterford Development PURD.

DISCUSSION:

Chairman Skaine visited the site and did not see the property staked. He will not participate in the discussion.

Mr. McFarlane explains that he needs a garage for storage of yard furniture and his children's toys.

Neighbor notification forms are on file.

For the record, the first request has been changed to reflect the construction of a 1,278 square foot garage as opposed to a 1,248 square foot garage.

Mr. Mills asked if the applicant considered a smaller garage. Mr. McFarlane said he did not want the garage to look like a shed; he wanted it to look like part of the existing house, so he had the original architect of the house come up with the drawing and this is the result. Mr. McFarlane said the first garage bay is as deep as it is because of the way the lot is laid out. Due to the pie shape of his lot the proposed location of the garage was the best option.

Mr. Michnik said he drove through the neighborhood and this proposed garage is different from any others in the area. It seems like the applicant is crowding the area. Mr. Michnik is concerned with the location of the garage and setting a standard for the rest of the neighborhood.

The applicant currently has two (2) cars. There are four (4) backyards that abut to the applicant's backyard.

ACTION:

Motion by Hans Mobius, seconded by Arthur Henning, to **approve** Appeal No. 4, as written.

Raymond Skaine	Aye	Daniel Michnik	Nay
Arthur Henning	Aye	Ryan Mills	Aye
Hans Mobius	Aye		

MOTION CARRIED.

Appeal No. 5

Sandra Shea
Residential Single-Family

Requests the Board of Appeals approve and grant an 8’ variance to allow a 36’ 6” front yard setback for the construction of an 8’ x 28’ addition to the existing home at 4314 Shimerville Road.

Appeal No. 5 is in variance to Section 229-52 (A) (4) (a) Setbacks.

DISCUSSION:

Ms. Shea explains that she has a family of four (4) children and she would like to expand her kitchen which is in the front of her house.

Neighbor notification forms are in the file.

Rambo Construction will be doing the construction; they will use the same materials as the existing house.

Mr. Mills asked if there were other options for expanding the kitchen. Ms. Shea said the boiler and the hot water tank are both in the center of the house, the living room is an “L” shape around that; there was no way to expand the kitchen in any other direction.

Ms. Shea explains that the front door would stay were it is. She has received an estimate of approximately \$20,000 for the expansion.

ACTION:

Motion by Daniel Michnik, seconded by Ryan Mills, to **approve** Appeal No. 5, as written.

Raymond Skaine	Aye	Daniel Michnik	Aye
Arthur Henning	Aye	Ryan Mills	Aye
Hans Mobius	Aye		

MOTION CARRIED.

Appeal No. 6

John Clancy
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a variance to allow two residences on a single family lot during the construction of a new home to replace the existing at 10255 Clarence Center Road.

Appeal No. 6 is in variance to Section 229-39 Lot Provisions and 229-40 Lot Width.

DISCUSSION:

Neighbor notification forms are on file.

Mr. Clancy explains that his 83 year old father wants to build a new house for Mr. Clancy’s sister; it would be very convenient if his father could live in the house while the new house is being built.

In response to Mr. Mills question regarding the size of the proposed house, Mr. Clancy said it is 1200 square feet. The house would run almost parallel with Clarence Center Road. Mr. Clancy anticipates the start of the project in 4 to 6 weeks.

Town Attorney Bengart asked if there are side lot or setback issues. Mr. Callahan said no.

Mr. Clancy said no papers or contracts have been signed as of yet.

The demolition of the current house needs to go before the Town Board.

ACTION:

Motion by Ryan Mills, seconded by Arthur Henning, to **approve** Appeal No. 6, with the following condition:

-the demolition or removal of the current structure will begin within 6 months of the date of issuance of the Certificate of Occupancy of the new house.

Raymond Skaine	Aye
Arthur Henning	Aye
Hans Mobius	Aye

Daniel Michnik	Aye
Ryan Mills	Aye

MOTION CARRIED.

Appeal No. 7

K2 Architecture/Douglas Klotzbach
Residential Single-Family

Requests the Board of Appeals approve and grant a use variance to allow multiple single-family dwellings in a residential single-family zone at 8880 Main Street.

Appeal No. 7 is in variance to Section 229-47 (A) (1) Permitted Uses.

DISCUSSION:

Mr. Klotzbach explains that the front half of the property is zoned Traditional Neighborhood District, which is appropriate for what he has developed. There are four proposed units that have been before the Town Board and have been referred to the Planning Board for review. When the applicant bought the parcel the entire piece was zoned Commercial. The Code indicates that an unsewered lot must be a minimum of one acre in size. Mr. Klotzbach said in the Traditional Neighborhood he could have up to 24 units; he wants to match what is in the front and carry it to the back.

Mr. Klotzbach does not know if the owner of the property knew the zoning changed in 2005; however he confirms that the owner purchased the property well in advance of the zoning change in 2005. Mr. Mobius asked if the applicant objected when the zoning changed. Mr. Callahan said the owner did not object and he does not believe the Commercial zone was the full depth of the property beyond where the Traditional Neighborhood is now; it was somewhere in between in order to consider the protection of the residences to the east.

Mr. Henning asked for clarification on the number of units. Mr. Klotzbach said the total number of units being proposed is 6; if this is approved there will be no more extensions.

Mr. Klotzbach reaches the owner of the property via phone and asked what year he purchased the parcel, the reply is approximately 10 years ago. The applicant goes on to explain to Mr. Klotzbach that due to a five year payment process he acquired the back portion of the property 5 years ago. The applicant did not know about the zoning change in 2005; this does not mean the owner of the property was not notified, it just means that he did not know about the zoning change.

Mr. Mills asked if the client has another plan if this project is not approved. Mr. Klotzbach said the applicant may consider putting one large unit on the parcel.

Mr. Henning voices his concern with the chance of the back part of the parcel being developed. Mr. Klotzbach said there is no way that area would be developed because that is where the leach field is.

Mr. Michnik asked if the proposed units are pre-fabricated units, Mr. Klotzbach said they will be about 10' in height and stick-built. The applicant is looking to start the project in the spring of 2009. Mr. Klotzbach said the project will have to go through the Landscape Committee and gain their approval.

Mr. Michnik asked if reducing the number of units would be beneficial to the applicant.

ACTION:

Motion by Ryan Mills, seconded by Daniel Michnik, to **deny** Appeal No. 7, as the applicant did not meet the necessary hardship needed to grant a use variance and it will alter the character of the neighborhood.

Raymond Skaine	Nay	Daniel Michnik	Aye
Arthur Henning	Nay	Ryan Mills	Aye
Hans Mobius	Nay		

MOTION FAILED.

ACTION:

Motion by Hans Mobius, seconded by Arthur Henning, to **approve** Appeal No. 7, as written subject to the following conditions:

- Planning Board Review.
- Town Board Approval.
- Landscape Committee Approval.

Raymond Skaine	Aye	Daniel Michnik	Nay
Arthur Henning	Aye	Ryan Mills	Nay
Hans Mobius	Aye		

MOTION CARRIED.

Appeal No. 8

Christopher Heximer
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 20' (+/-) variance to allow for the construction of a new 140 square foot shed in the front yard space of a corner lot at 8654 Lapp Road.

Appeal No. 8 is in variance to Section 229-44 (E) Accessory Structures.

DISCUSSION:

Marilyn Heximer is present and explained that they were unaware that they needed a variance for the location of the shed until the night before they were going to have it installed. The installation was cancelled. Her back lot has standing water issues and they did not want to locate the shed in that area. Another reason for the proposed location of the shed is to have easier access to the items that will be stored in the garage.

Neighbor notification forms on in the file.

Mr. Henning thinks the shed is an eye-sore and asked if the applicant can landscape around the area. Ms. Heximer said they plan on landscaping the area, the siding and shutters will match the house. There will be trees on the berm. There will be flower boxes on the shed.

Mr. Mills asked if there is any other location the applicant considered for placement of the shed. Ms. Heximer said the back of her property is wet and the other side of the house is near her neighbor's house. The proposed location is away from the neighbors.

Mr. Michnik asked if the applicant would be able to put shrubbery on the west side of the shed as soon as it is finished if this variance is approved. Ms. Heximer agreed to do so.

ACTION:

Motion by Daniel Michnik, seconded by Arthur Henning, to **approve** Appeal No. 8, as written with the following condition:

-Foundation planting to be located on the west side of the shed.

ON THE QUESTION:

The applicant is in agreement of the condition set forth.

Raymond Skaine	Aye	Daniel Michnik	Aye
Arthur Henning	Aye	Ryan Mills	Aye
Hans Mobius	Aye		

MOTION CARRIED.

Motion by Arthur Henning, seconded by Hans Mobius, to **approve** the minutes of the meeting held on May 13, 2008, as written.

Raymond Skaine	Aye
Arthur Henning	Aye
Hans Mobius	Aye

Daniel Michnik	Aye
Ryan Mills	Aye

MOTION CARRIED.

Meeting adjourned at 8:41 p.m.

Carolyn Delgato
Senior Clerk Typist