

Town of Clarence  
Zoning Board of Appeals Minutes  
Tuesday July 14, 2009  
7:00 p.m.

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

Board of Appeals members present:

Chairman Arthur Henning  
Ryan Mills  
Robert Geiger

Vice-Chairman Daniel Michnik  
David D'Amato

Other Town officials present:

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

Other interested parties present:

Bruce Waasdorp  
Henry Jurek Jr.  
Craig Small  
Jerry Shaffer

Vicki Waasdorp  
Henry Jurek Sr.  
Richard Paul

**Appeal No. 1**

Bruce Waasdorp  
Residential Single-Family

Requests the Board of Appeals approve and grant a 9.5' variance to allow a 3' side yard setback for the construction of an addition to an existing garage located at 8156 Miles Road.

Appeal No.1 is in variance to Section 229-52 (B) Setbacks.

**DISCUSSION:**

Mr. and Mrs. Waasdorp are present. Mr. Waasdorp explains he owns three registered vehicles and wants a three car garage to keep them in. Neighbor notification forms are on file. Mr. Waasdorp spoke with Leonard Deni, who owns the vacant land next to Mr. Waasdorp's, and Mr. Deni does not have an issue with the variance request. Mr. Waasdorp said there is a wooden fence on the property line that runs along the back of the property. So the addition would not be so offensive due to the existing fence. He would use the same physical lines of the current building and extend it over 7'.

Mr. D'Amato asked who will be doing the construction. Mr. Waasdorp said Steve Shaeffer and Mark Stover will be performing the work. The material will match the existing structure.

**ACTION:**

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 1, as written.

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

MOTION CARRIED.

It is clarified that the approved variance runs with the life of the land.

**Appeal No. 2**

Henry L. Jurek  
Residential Single-Family

Requests the Board of Appeals approve and grant:

- 1.) a 25' variance to allow a new buildable lot having 100' of public road frontage.
- 2.) a 2' variance to allow an existing building lot to have 123' of public road frontage.

Both requests apply to 8470 Clarence Center Road.

Appeal No.2 is in variance to Section 229-50 (A) Lot Width.

**DISCUSSION:**

Henry Jurek Sr. and Henry Jurek Jr. are present. Mr. Jurek Jr. explains that he was one of the developers for Meadowlakes Development and when the original development was set up he purchased the land from his dad. The lots were divided into 100' lots on Clarence Center Road and subsequently sold off the lots. There are lots to the west of the Meadowlakes entrance that are 100' as well. His brother is currently on the adjacent 100' lot and wants to purchase the 100' lot, if the variance is granted, that is next to him to build a new home. There is no contract of sale at this point.

Mr. Mills asked why Mr. Jurek's brother couldn't take 125' of frontage. Mr. Jurek explained that his dad lives in the existing farm house and will end up with 123' of frontage; there is an existing natural hedgerow at the 123' mark on the property. Mr. Jurek does not want to disturb the hedgerow. It is noted that without a variance the applicant could achieve 1 conforming lot and 1 non-conforming lot. The non-conforming lot already has a house on it; it makes more sense to split the lots as requested. Mr. Jurek's brother would probably build a house similar to the existing one, which is approximately 1400 square feet, and move into the new build. Mr. Mills asked what would be impacted if the lot line was at 125'. Mr. Jurek said the tree and the hedgerow would be impacted.

**ACTION:**

Motion by Arthur Henning, seconded by Robert Geiger, to **approve** Appeal No. 2, as written.

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

MOTION CARRIED.

**Appeal No. 3**

Craig Small  
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a 7' variance to allow a 3' side yard setback for the placement of a new shed at 8197 Oak Leaf Lane.

Appeal No.3 is in variance to Section 229-55 (E) (1) Accessory Structures.

**DISCUSSION:**

Craig Small is present and refers to photos that he displays through the computer screen. The proposed shed is to the west side of the house. It is an 8' x 16' shed and is 3' from the arborvitaes on the right side of the house and 8' or 9' from the house. It is fronted by a white pine, some day lilies and some climbing vines. The location of the shed is close to the garage and is convenient for storing the lawn mower and bicycles. The construction materials match the house. A benefit of the shed's location is it covers the pool equipment. It does not change the character of the neighborhood, nor is it a detriment to the nearby properties. There is no place within the pool area that the shed could be placed. There is a paved patio area in the back of the house; the shed could not be placed there either. It would be a hardship to move the swing set to accommodate the shed. Mr. Small does not think the variance is a significant request. Physically and environmentally it is a nice looking structure. He apologizes for not obtaining a variance prior to putting the shed up; it was on oversight on his part as he was unaware he needed to submit a request. The shed has been in place for approximately four (4) years and Mr. Small has no intention of upgrading it. There are no lights or heating units inside the shed.

A neighbor notification form is on file.

**ACTION:**

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

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

MOTION CARRIED.

**Appeal No. 4**

Richard Paul  
Residential Single-Family

Requests the Board of Appeals approve and grant a 218 square foot variance to allow a 1,178 square foot attached garage at 5995 Newhouse Road.

Appeal No.4 is in variance to Section 229-55 (D) Accessory Structures.

**DISCUSSION:**

Richard and Michelle Paul are present. Mr. Paul explains he needs extra garage space for acquired toys.

Mr. Paul had a difficult time finding out who owned the property immediately to the north of his, but he did obtain a neighbor notification form from the neighbor to his south. He will have to talk with Paul Gross about the window in the rear to see how much surface area he has. There will be a concrete area leading to the proposed structure. The proposed structure will match the brick and vinyl that is on the existing house and garage. Mrs. Paul said the reason for the setback is for aesthetics; it will look nicer. Motorcycles and vehicles will be stored in the proposed structure. There will be no business run out of the attached garage. Mr. & Mrs. Paul closed on the purchase of the house yesterday. The work of the addition will be contracted out. The roof lines on the proposed garage will be blended into the existing roof lines.

Mr. Mills asked if the applicant could get by with less than a 218 square foot variance. Mr. Paul said he really needs the space.

**ACTION:**

Motion by Robert Geiger, seconded by David D’Amato, to **approve** Appeal No. 4, as written.

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

MOTION CARRIED.

**Appeal No. 5**

Dean Tassy  
Residential Single-Family

Requests the Board of Appeals approve and grant:

- 1.) a 42’ variance to allow a 3’ front yard setback to an accessory structure.
- 2.) (a) a 180 square foot variance to allow a 900 square foot detached accessory structure and (b) a variance to allow a detached accessory structure in the front yard space of a principal structure.
- 3.) a variance to allow more than one (1) private garage, whether attached or detached, on any one lot where a principal building exists.
- 4.) a 1’ variance to allow an overhead door that is 10’ in height.

5.) a 1'6" variance to allow a 17'6" height for a detached accessory structure  
All requests apply to a new detached garage at 5045 Old Goodrich Road.

Appeal No. 5 is in variance to Sections 229-52 (A) (3) Setbacks, 229-55 (D), 229-55 (H), 229-55 (I) and 229-55 (E) (2) Accessory Structures.

**DISCUSSION:**

Jerry Shaffer, architect, explains that Mr. Tassy is a race driving instructor at Watkins Glen and was unable to attend the meeting tonight due to a seminar he was required to attend. Mr. Tassy owns a late model Corvette that is not street legal. The trailer used to haul this vehicle is 9'6" in height and 28' in length. The applicant would like to house the trailer at his residence so it will be more convenient to work on. Occasionally, the applicant may park his boat in the proposed garage. The proposed height was designed to clear the trailer and to match the 4/12 slope of the contemporary shed roof construction of the house. The request for the 10' door height is due to the height of the trailer. Mr. Shaffer said there are other houses close to the road on Old Goodrich Road. Mr. Tassy told Mr. Shaffer he will plant arborvitae along the road and plant some pines as well. Two (2) locust trees and a damaged apple tree would have to be removed.

The construction will match the existing house; there will be windows on the upper portion of the proposed garage to allow natural light to enter the structure.

Mr. Mills asked if there were any other elevations Mr. Shaffer could show. Mr. Shaffer apologizes for not submitting a north elevation. The north side will slope in the same manner as the east side.

Mr. Tassy's current garage is very tight at approximately 15'6" deep. The proposed garage would have a full footer and electricity.

There are four (4) neighbor notification forms on file.

If approved, construction will start this Fall. If not approved, Mr. Shaffer does not know what the applicant will do.

**ACTION:**

Motion by Daniel Michnik, seconded by Robert Geiger, to **approve** Appeal No. 5, as written.

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

**MOTION CARRIED.**

**MISCELLANEOUS:**

With regards to a variance request for Charles Kelkenberg at 7060 Salt Road, Chairman Henning reads a letter from the law office of Damon & Morey LLP, dated March 16, 2009: Please be advised that this office represents Charles Kelkenberg in connection with property located on Salt Road in the Town of Clarence. As you may recall, the Zoning Board of Appeals previously denied Mr. Kelkenberg's request for variances in connection with the parcel. At this time, I would respectfully request that the Zoning Board of Appeals consider granting Mr. Kelkenberg a rehearing in connection with this matter. Mr. Kelkenberg has conferred with the property owners on either side of his parcel who have confirmed their intention not to sell property to him which would obviate the need for a variance. Without the variance, Mr. Kelkenberg's lot is rendered unbuildable and, therefore, virtually valueless. Accordingly, I would respectfully request the Zoning Board of Appeals to grant a rehearing so that we may present additional evidence and documentation to the Board. I thank you in advance for your anticipated cooperation. Jeffery Palumbo.

Chairman Henning said if the appeal is to be re-opened it must be a unanimous decision by the Board.

Mr. Michnik asked if the houses that border the lot in question were built during the time the Town put in the 150' frontage requirement. Mr. Callahan said some transactions occurred just prior to the zoning changes, leaving this 100' lot. When the lots in the area were previously split, there was no Minor Subdivision Review in place. Mr. Kelkenberg was not the party in charge of making the previous splits; he has subsequently gained ownership of the lot. This property is not in a sewer system area; a septic system would be needed. In prior years the minimum requirement allowed a septic system on a 100' lot.

**ACTION:**

Motion by Robert Geiger to **re-open** the Appeal of Charles Kelkenberg asking for a 50' variance to allow a single-family home on a 100' wide lot at 7060 Salt Road.

There is no second.

MOTION FAILED.

**ACTION:**

Motion by David D'Amato, seconded by Arthur Henning, to **approve** the minutes of the meeting held on April 14, 2009, as written.

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

MOTION CARRIED.

**ACTION:**

Motion by Robert Geiger, seconded by Arthur Henning, to **approve** the minutes of the meeting held on May 12, 2009, as written.

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

MOTION CARRIED.

Meeting adjourned at 8:10 p.m.

Carolyn Delgato  
Senior Clerk Typist