

Town of Clarence  
Zoning Board of Appeals Minutes  
Tuesday November 10, 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	Vice-Chairman Daniel Michnik
Ryan Mills	Robert Geiger
Patricia Burkard (arrived at 7:15pm)	

Board of Appeals members absent:

David D'Amato

Other Town officials present:

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

Other interested parties present:

Heidi Wieczorek	Joe Langan
Jim Popiela	Curtis Mohr
Paul Biddle	Laura Biddle
Angelo Natale	Dee Folger
Kris Bartoszek	Keith Bartoszek
Michael Norman	Daniel Vecchio Jr.

**Old Business**

**Appeal No. 1**

Heidi and Pawel Wieczorek  
Residential Single-Family

Requests the Board of Appeals approve and grant a 5' variance to allow a 7'6" side yard setback to a principal structure to allow for the construction of an addition to an existing garage at 6233 Creekhaven Drive.

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

**DISCUSSION:**

Heidi Wieczorek is present and explains they are planning a possible addition on to their home. The addition would be a 22'x 24' garage with a sun room. She plans to start construction in the spring.

In response to Mr. Geiger's question, it is clarified that the door will be outside the addition. There will be storage space on the second story of the garage, windows in the back of the garage and the materials on the front of the garage will match the front of the house. There will be stairs from the garage to the second floor and a door going into the sun room from the garage. The sun room will be where the existing deck is.

Joe Langan, neighbor to the south of the property in question, is present and voices his concern regarding the environmental impact on drainage; currently water pools in his yard. He is concerned that additional water may pool in his yard if the proposed addition is built. Mr. Langan provides elevations and photos for the Zoning Board of Appeals members to view. Mrs. Wieczorek said her neighbor's property, as well as her own, has had drainage issues; they have all spent a lot of money to correct the issues. She does not believe this addition will add to the existing problems.

Mr. Mills asked if the Engineering Department would come out to look at the property and make a recommendation to have some type of water mitigation designed. Mr. Callahan said generally on a building permit they will look at the grading plan, this can be added as a condition so the Engineering Department will be specifically notified of the issue. Mrs. Wieczorek said there are drainage ditches along the properties that drain into the lake.

**ACTION:**

Motion by Ryan Mills, seconded by Robert Geiger, to **approve** Appeal No. 1 under Old Business as written with the condition that the Engineering Department looks at the property and makes a recommendation as to what system can be put into place to mitigate any additional water that would impact the neighbor's parcel as a result of the proposed addition. The applicant must comply with Engineering's recommendations.

Robert Geiger	Aye	Ryan Mills	Aye
Daniel Michnik	Aye	Arthur Henning	Aye

MOTION CARRIED.

**New Business****Appeal No. 1**

Arthur Fuerst  
Commercial

Requests the Board of Appeals approve and grant a variance to allow for a 44 square foot plaza sign at 9450 Main Street.

Appeal No.1 is in variance to Section 181-3 (B) (6).

**DISCUSSION:**

Jim Popiela of Santoro Signs is present and explains the applicant would like to put up an LED sign below the existing sign at the entrance to the property. The LED sign would be used for advertising of the coffee shop and the cleaners. Mr. Popiela said this would look much better than the portable electronic signs that Mr. Fuerst has been using. There would be a 2' increase in height to the sign if this variance is granted.

Mr. Mills asked if the client would be satisfied with a smaller LED sign, perhaps 1' in height. Mr. Popiela said the smallest sign the manufacturers make is 13". This size limits the capabilities of the sign. This sign would be one color; red only.

Mr. Michnik asked about the timing of the message on the sign. Mr. Callahan said, per the code, the message has to hold for 30 seconds. Mr. Popiela said the applicant will comply with the code.

**ACTION:**

Motion by Daniel Michnik, seconded by Robert Geiger, to **approve** Appeal No. 2, as written.

Patricia Burkard	Aye	Robert Geiger	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

**Appeal No. 2**

Airtite Building Materials (Stockmohr)  
Industrial Business Park

Requests the Board of Appeals approve and grant an 8 square foot variance to allow for an 18 square foot LED display at 8645 Roll Road.

Appeal No. 2 is in variance to Section 181-3 (B) (4).

**DISCUSSION:**

Curtis Mohr, owner of Stockmohr and Airtite Wholesale Materials, is present. He explains that the sign is the salesperson that he cannot afford at this point in time. Airtite Wholesale Materials is an expansion of his business from retail into wholesale. He would like to put the sign up immediately. The sign will be in the same location as the existing sign. Mr. Mohr thinks the sign allows 3 lines of wording. He is not looking to have the message flash.

Mr. Mills voices his concern regarding the size of the sign and asked if the applicant would consider a lesser size. Mr. Mohr said no, to go smaller he would have to have a custom sized sign built which increases the cost. He also feels if the lettering is too small it makes it more difficult for a driver to read it and safety issues arise. Mr. Mills suggested the lettering size staying the same but just one (1) line of lettering on the sign. Mr. Mohr said the message can only change every 30 seconds, per code, and with larger letters on a smaller sign, the message would become limited. Mr. Mills' secondary concern is the nature of the area as there are no other LED signs in the vicinity. The color combination is what is depicted in the drawing; it will be red lettering with black background. The drawing is on file.

**ACTION:**

Motion by Robert Geiger, seconded by Arthur Henning, to **approve** Appeal No. 2, as written, with the condition that the lettering is red and the background is black.

Patricia Burkard	Aye	Robert Geiger	Aye
Ryan Mills	Nay	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

**Appeal No. 3**

Paul and Laura Biddle  
Residential Single-Family

Requests the Board of Appeals approve and grant a 2' variance to allow for a 6' fence within the front yard space of a corner lot at 5254 Thompson Road.

Appeal No. 3 is in variance to Section 101-3 (C) (2).

**DISCUSSION:**

Paul and Laura Biddle are present and Mrs. Biddle explains that Greiner Road is a busy street and since their house is on a corner lot the Town considers the Greiner Road side as the front of their house; it would actually be their back yard. They have four (4) small dogs and small children that they would like to keep away from the busy road; they would also like the privacy that a 6' fence would provide. They will close on the house on January 8, 2010 but they were hoping to have approval for the fence before that. They have permission from the current owners to ask for the variance on their behalf. It is clarified that the fence would only be 6' along the Greiner Road side of the house and the back of the house; it would be 4' between this property and the adjoining neighbor. Capital Fence will construct a wooden pressure treated stockade fence. They would like to start building the fence the Monday after they close. The home purchase is not contingent on this variance being granted.

Mr. Mills voices his concern with the site lines as a driver approaches the intersection at Thompson and Greiner Roads; the fence may obstruct the view. He asked if the applicant would consider bringing the fence in. Mr. Biddle said absolutely. Mr. Geiger suggests bringing the fence back 15', this would put the fence at 29' off the house. Mr. Biddle agrees with this.

Mr. Biddle explained that the neighbor behind the property has no problem with the fence or the dimensions of it. The neighbor on Thompson Road asked that Mr. Biddle keep the height of the fence at 4' between their properties, Mr. Biddle agreed.

Neighbor notification forms are on file.

It is clarified that, due to the standard dimensions of the fence sections, it is acceptable to be 30' or 32' from the house.

**ACTION:**

Motion by Ryan Mills, seconded by Robert Geiger, to **approve** Appeal No. 3, as written, with the condition that the distance between the house and the fence on Greiner Road be 30' or 32' depending on the dimension of the fence purchased by the home owner.

Patricia Burkard	Aye	Robert Geiger	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

**Appeal No. 4**

Natale Home Builders  
Residential Single-Family

Requests the Board of Appeals approve and grant a 7' 6" variance to allow for a 5' side yard setback for the construction of a new principal residence on Meadowbrook Road.

Appeal No. 4 is in variance to Section 229-52 (A) (4) (b).

**DISCUSSION:**

Angelo Natale, owner of property on Meadowbrook Road, is working with a customer to build a new home at the site. The house would be a 1900 square foot ranch with three (3) bedrooms. There would be a daylight basement in the rear of the home. The house is 57' wide; the lot is 75' in width. Mr. Natale said he plans to maintain the side yard setback on the north side of the property at 12.6', but requests a 7.6' side yard setback on the south side of the property; this creates a 5' side yard setback.

Mrs. Burkard asked about the trees along the south side of the property. Mr. Natale said he will work with the neighbor, Dee Folger, in determining whether to keep the trees or not.

Both neighbors are in attendance at the meeting.

Mr. Mills asked if there is any other way to expand the house in the easterly or westerly direction that would not require a variance. Mr. Natale said it could be accomplished but it would change the whole layout of the house, his goal was to meet one of the minimum restrictions on the side. Mr. Mills voices his concern regarding the space differential from one side of the house to the other. Mr. Natale would like to split the difference to balance the space on either side of the house.

Kris Bartoszek, of 4955 Meadowbrook, said she moved into the neighborhood 25 years ago; at that time she was told, by the previous owner, that nothing could be built on the lot in question because it was too small. She and her husband made improvements and built additions on to their home.

Mr. Mills asked if the homeowner would be amenable to some type of landscaping along the southern portion of the property to act as a buffer. Mr. Natale said, as the builder, he is amenable to the landscaping suggestion and will do that on his own dollar. He would like to start construction as soon as possible. The value of the house would be at or exceed some of those that are currently in the neighborhood. Mr. Natale said if there is any damage to others property while they are constructing the home he will repair it.

**ACTION:**

Motion by Robert Geiger, seconded by Arthur Henning, to **approve** Appeal No. 4, as written.

Patricia Burkard	Aye	Robert Geiger	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

**Appeal No. 5**

Daniel and Mindy Vecchio  
Residential Single-Family

Requests the Board of Appeals approve and grant a 164 square foot variance for the construction of a 364 square foot shed at 6270 Herr Road.

Appeal No. 5 is in variance to Section 229-55 (H).

**DISCUSSION:**

Daniel Vecchio is present. He purchased a shed to store bikes, toys and furniture. He is advised that the shed cannot exceed 16' in height. The exterior construction materials of the shed would be wood with vinyl around the windows. There would be a garage door in the front of the structure and a walk-in side door.

**ACTION:**

Motion by Daniel Michnik, seconded by Patricia Burkard, to **approve** Appeal No. 5, as written.

Patricia Burkard	Aye	Robert Geiger	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Motion by Robert Geiger, seconded by Arthur Henning, to **approve** the minutes of the meeting held on October 13, 2009, as written.

Patricia Burkard	Abstain	Robert Geiger	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.