

BOARD OF APPEALS MINUTES

On Tuesday, December 9, 2003 at 7 p.m. the Town of Clarence Zoning Board of Appeals heard the following requests for variances:

APPEAL NO I  
Thomas Simpson  
Agricultural  
Requests the Board of Appeals approve and grant a nine foot (9') variance creating a one foot (1') side lot line setback for placement of a storage shed at 5910 Salt Road.

APPEAL NO I is in variance to Article V, section 30-27 C, size of yards.

APPEAL NO II  
Tom Zehler  
Agricultural  
Requests the Board of Appeals approve and grant a three hundred fifty foot (350') variance creating a four hundred fifty foot (450') front lot line setback for the construction of a new home at 8889 Sesh Road.

APPEAL NO II is in variance to Article V, section 30-27 B, size of yards.

APPEAL NO III  
Daniel Herberger  
Agricultural  
Requests the Board of Appeals interpretation that subject property is above the base flood elevation and not subject to limitations of conveyance area as identified in the flood damage prevention law. (Property is located on the southwest corner of Salt Road and Tonawanda Creek Road.)

MINUTES  
Motion by Raymond Skaine, seconded by Arthur Henning to approve the minutes of the meeting held on November 11, 2003 as written.

ALL VOTING AYE. MOTION CARRIED.

ATTENDING: John P. Brady  
John A. Gatti  
Arthur Henning  
Ronald Newton  
Raymond Skaine

INTERESTED PERSONS: Thomas Simpson Joseph David  
Tom Zehler Daniel Herberger

APPEAL NO I  
Thomas Simpson  
Agricultural

Requests the Board of Appeals approve and grant a nine foot (9') variance creating a one foot (1') side lot line setback for placement of a storage shed at 5910 Salt Road.

DISCUSSION:

Mr. Simpson said he and his wife would like to place the shed directly behind their garage. They had a very large Box Elder tree that was there, that they have removed. It was the perfect location for the shed. He talked to the neighbor behind him who is moving. There is a fence between them, so it should not be noticeable. He would like to put the shed into the landscaping so it is concealed. The shed will be ten feet by twelve feet. Because of the septic field he is limited as to the choice of location. No one had any further questions of the applicant.

ACTION:

Motion by John Gatti, seconded by Arthur Henning to approve Appeal No I as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO II  
Tom Zehler  
Agricultural

Requests the Board of Appeals approve and grant a three hundred fifty foot (350') variance creating a four hundred fifty foot (450') front lot line setback for the construction of a new home at 8889 Sesh Road.

DISCUSSION:

Mr. Zehler explained that he presently resides at 8885 Sesh Road. He received a variance for a setback of 200 feet. He is currently selling that home, and looking to purchase the property right next to him. The property has 102 feet of frontage until you go back to 500 feet, and then it opens up. The house being built to the east is at 300 feet, and is owned by the Cramer's. There is about 300 feet between that home and the applicants proposed home. Mr. Hall owns the land between the two lots, and Mr. Joseph David of Realty USA is here to represent his interests. Mr. David said that they can divide the 272 feet of frontage into two lots of 136 feet. He also has an offer on the table for a lot of 212 feet and the Cramer's are interested in purchasing the remainder of 60 feet to extend the width of their property. Mr. David had an agreement that is attached to the minutes, which was signed by Mr. Zehler. John Gatti, and Ron Newton were not in favor of

Mr. Zehlers request to build behind two existing homes and a third lot with an offer on the table.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No II as written based upon the agreement from the party to the east, and the fact that the applicant owns the property to the west. Also to include Joseph David’s agreement presented this evening to be part of this approval, providing it is factual and correct.

John Gatti	NAY
Raymond Skaine	AYE
Ronald Newton	NAY
Arthur Henning	AYE
John Brady	AYE

MOTION CARRIED.

APPEAL NO III  
Daniel Herberger  
Agricultural

Requests the Board of Appeals interpretation that subject property is above the base flood elevation and not subject to limitations of conveyance area as identified in the flood damage prevention law. (Property is located on the southwest corner of Salt Road and Tonawanda Creek Road.)

DISCUSSION:

Jim Callahan said he had talked to Tim Lavocat regarding this property. Basically, this property was included in the initial flood zone study on the assumption that it was below the base flood elevation, and it would convey flood waters through that area. Upon submittal of the actual topographic survey of the property, it has been determined that the property is in fact elevated above the base flood elevation and is not a conveyance area. It now has to be identified as being out, and the simplest mechanism to identify it as being outside of the conveyance area is to go through the Board of Appeals to interpret that in fact it is not located in a conveyance area, and therefore not subject to the limitations identified in the Flood Zone Law. Daniel Herberger said “Basically the base flood elevation is 592, and the frontage and the road is above that. They had me in the density flood way, and I am not. There is a portion of the property in the flood way. The house would have to be spotted out of the flood plain area, or I would have to apply for a fill permit for the flood plain, which I could do.”

When you are in the density flood way, you can only fill 30% of the lot. I am not in the density flood way, so I could fill more than that, if I got a fill permit. I have proof from Engineer Wes Stone that I am above the BFE of 592. I am allowed three lots in the flood way, but I am only going to do two lots.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No III as written with the documentation Town Engineer Timothy Lavocat which will be attached to the recommendation.

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 8:30 p.m.  
John P. Brady, Chairman