

BOARD OF APPEALS MINUTES

February 11, 2003

On Tuesday February 11, 2003 at 7 p.m. the Clarence Board of Appeals will hear the following requests for variances:

OLD BUSINESS

I Dominic Piestrak

5621 Woodruff Drive - Hidden Pond Subdivision - Phase 2

II Jay Birnbaum

4715 Transit Road - Carmine's Restaurant

APPEAL NO I

Chris & Lauren Kausner

Agricultural

Requests the Board of Appeals approve and grant two variances:

1. A three hundred foot (300') variance creating a four hundred foot (400') front lot line setback for the construction of a new home at 9989 Brauer Road.
2. A two foot (2') variance creating a one hundred two foot (102') front yard width for a new single family home in the Black Creek Density Flood way at 9989 Brauer Road.

APPEAL NO I is in variance to Article V, section 30-27 B, size of yards and Chapter 107-5 3 a, minimum building lot size, construction standards Flood Damage Prevention Law.

APPEAL NO II

Michael Dupre

Agricultural

Requests the Board of Appeals approve and grant a one foot (1') height variance to allow construction of a new garage at the established Base Flood Elevation (BFE) at 9855 Brauer Road.

APPEAL NO II is in variance to Chapter 107 section 5 D (1 a) of the Flood Damage Prevention Law.

APPEAL NO III
Alan Nigro
Residential A

Requests the Board of Appeals approve and grant a thirty foot (30') variance creating a seventy five foot (75') front lot line setback for the construction of a new single family home at 9111 Greiner Road.

APPEAL NO III is in variance to Article II, section 30B12 B, size of yards.

APPEAL NO IV
Antonino & Lisa Campione
Agricultural

Requests the Board of Appeals approve and grant three variances:

1. A fifty foot (50') variance creating a one hundred fifty foot (150') lot width for a two family home at 10930 Howe Road.
2. A five foot (5') variance creating a five foot (5') side lot line on the west side of the property.
3. A fifty foot (50') variance creating a one hundred fifty foot (150') front lot line setback .

APPEAL NO IV is in variance to Article V, section 30-25 size of lots, section 30-27 B, section 30-27 C, size of yards.

ATTENDING: John Brady
 John Gatti
 Arthur Henning
 Ron Newton
 Ray Skaine
 Eric Heuser

INTERESTED
PERSONS: Lauren Kausner
 Chris Kausner
 Michael Dupre
 Mark Stover
 Alan Nigro
 Lisa Campione
 Dominic Piestrak
 Steve Castilone

OLD BUSINESS

Carmines - Jay Birnbaum

Motion by Raymond Skaine, seconded by Arthur Henning to table this item until the three parties meet.

Arthur Henning	AYE
Ron Newton	NAY
Raymond Skaine	AYE
John Gatti	AYE
John Brady	AYE.

Ron Newton said this board requested an Attorney to review the case, the case was reviewed, the recommendation is after 10 years it is moot, and this board should have ruled to dismiss the case.

To send it around round robin is a waste of a lot of peoples time and effort, and I don't think it is necessary. Councilwoman Barbara Guida, liaison to the Board of Appeals said she also is against the motion. It is a moot point, and should not have been gone for.

Dominic Piestrak

After a lengthy discussion with Dominic Piestrak (the seller of the property) and Steve Castilone (the buyer of the property) the board made a motion to table this item to give the buyer a chance to meet with the Town Engineer.

Motion by Raymond Skaine, seconded by John Gatti to table this for a month to give Mr. Castilone a chance to meet with the Town Engineering Department.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO I

Chris & Lauren Kausner
Agricultural

Requests the Board of Appeals approve and grant two variances:

1. A three hundred foot (300') variance creating a four hundred foot (400') front lot line setback for the construction of a new home at 9989 Brauer Road.
2. A two foot (2') variance creating a one hundred two foot (102') front yard width for a new single family home in the Black Creek Density Flood Way at 9989 Brauer Rd.

DISCUSSION:

Mr. Kausner said there is a natural clearing where they would like to build their home. There is a very large ditch in the front yard that he would like to keep his children as far away from as possible. The people who owned the land before he did had already put in a driveway 250 feet long. The actual setback will be 320 feet, he applied for 400 feet because he wasn't sure what it was going to be. The

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neighbor next door said their house sits at 185 feet, and

they want to keep the houses in line. They received a variance for the 185 foot setback for their home. Arthur Henning didn't feel there was a hardship here. Mr. Kausner said he wanted to save as many trees as he could, that is why he wanted to build in the area that is clear. Ron Newton said you are going to have to clear for the septic system or clear for the house. Ray Skaine said he would like to see the house at around 200 feet, that would be a compromise. The neighbors said they could agree to that.

ACTION:

Motion by Ray Skaine, seconded by Ron Newton to approve Appeal No I provided the petitioner agrees not to exceed a maximum of 200 feet deep on the lot, and approval of the second part of the variance requesting a two foot width variance based on the recommendation of the Town Engineer that it would not be a problem.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO II
Michael Dupre
Agricultural

Requests the Board of Appeals approve and grant a one foot (1') height variance to allow construction of a new garage at the established Flood Base Elevation (BFE) at 9855 Brauer Road.

DISCUSSION:

Mark Stover is going to do the addition for the Dupre-s. There is a letter from the Engineering Department written by Tim Lavocat, where he stated his recommendations and requirements:

Due to the difficulties involved in constructing the transition between the pre-existing structure (house) and proposed attached garage if the elevation requirements for the proposed garage were strictly enforced, we recommend approval of the variance to construct the garage finished floor elevation at the base flood elevation of 591.6 with the following conditions:

Property owner to submit a letter of understanding to the Engineering Department accepting the increased flood risk associated with constructing the garage floor elevation one foot lower than the requirements set forth in Local Law 03-2000.

All other proposed construction and/or filling operations on the subject property must be in conformance with all requirements set forth in Local Law 03-2000 - Flood Damage Prevention and will be reviewed for compliance by the Engineering Department prior to issuance of a building permit.

Property owner submit a certified as-built elevation survey of the structure showing the finished floor elevation. This will be required prior to issuance of a Certificate of Compliance.

The board did not have a problem, as long as the requirements by the Engineering Department are adhered to.

ACTION:

Motion by Ronald Newton, seconded by Raymond Skaine to approve Appeal No II with the provision that the applicant abides by the requirements set down by the Town Engineering Department.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO III
Alan Nigro
Residential A

Requests the Board of Appeals approve and grant a thirty foot (30') variance creating a seventy five foot (75') front lot line setback for the construction of a new single family home at 9111 Greiner Road.

DISCUSSION:

Mr. Nigro said he needed the variance for the septic system. The system that Erie County Health Department designed is tight on the current setback, and the other reason to set it back another thirty feet is the traffic on Greiner Road. He would like to push the house back farther. There are homes on either side. John Brady asked what the setback of those homes are. Mr. Nigro said they were about one hundred eighty or two hundred feet back. This house would be in front of those houses. Arthur Henning said you will be in front of those houses? You said you wanted to get away from Greiner because of the traffic? But you are going closer to Greiner. Jim Callahan said he did not understand why it was written this way. The established setback is 200

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feet, not 45 feet. Mr. Nigro said he thought the setback was for 35 or 45 feet, and he wanted to set back at 75 feet. Mr

Nigro said he didn't want to setback at 200 feet. For one thing those people will lose their driveway there that encroaches on the property, and just the extra cost of adding 100 feet of driveway, the clearing, the fill, and everything else. This is a speculation house, and he would like to start in a month or a month and a half.

ACTION:

Motion by Raymond Skaine, seconded by Ronald Newton to table this appeal due to the confusion of the wording. It will have to be re-advertised with the correct measurements.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO IV
Antonino & Lisa Campione
Agricultural

Requests the Board of Appeals approve and grant three variances:

1. A fifty foot (50') variance creating a one hundred fifty foot (150') lot width for a two family home at 10930 Howe Road.
2. A five foot (5') variance creating a five foot (5') side lot line on the west side of the property.
3. A fifty foot (50') variance creating a one hundred fifty foot (150') front lot line setback.

DISCUSSION:

Mrs. Campione said they need one hundred fifty feet in width to build a two family home, and they only have one hundred feet in width. They would like to build an in law setup for her parents off the back of the garage. They would need a five foot side lot variance for a four car side load garage. They would like to setback one hundred fifty feet from the road. Ray Skaine said this board has never granted a fifty foot variance for a two family home. It should have been considered when the lots were being split up. Her Father divided the lots. Mr. Campione said his mother in law has a heart ailment. Ray Skaine said they hear a lot of stories like this, but it does not meet the requirements. Ron Newton said he is in agreement with Mr. Skaine, you are trying to squeeze too much on a substandard lot. Unless you can purchase some additional footage from an adjacent neighbor.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to DENY Appeal No Iv as written because it goes completely against the Town Ordinance and its one

hundred fifty foot width requirement for a two family home.

ALL VOTING AYE. MOTION CARRIED.

MINUTES

Motion by Raymond Skaine, seconded by John Gatti to approve the minutes of the meeting held on January 14, 2003 as written.

ALL VOTING AYE. MOTION CARRIED.