

BOARD OF APPEALS MINUTES

September 10, 2002

On Tuesday September 10, 2002, at 7 p.m. the Clarence Board of Appeals heard the following requests for variances

APPEAL NO I
Dominic Piestrak
Residential A

Requests the Board of Appeals approve and grant a ten foot (10') variance creating a thirty five foot (35') front yard setback line for construction of single family homes at 9083 & 9093 Winding Creek Lane in Stone Creek Subdivision.

APPEAL NO I is in variance to Article II, section 30-12 A, size of yards

APPEAL NO II
Brian & Michele Bakowski
Agricultural

Requests the Board of Appeals approve and grant two variances:

- 1. A twenty foot (20') variance creating a one hundred foot (100') front yard setback for construction of a new home at 10175 Martin Road.**
- 2. A three foot (36") variance creating a seventy six inch (76") maximum grade height above the center of the abutting roadway (Martin Road) for the construction of a new single family home with a walkout basement at 10175 Martin Road.**

APPEAL NO II is in variance to Article V, section 30-27 B, size of yards & Article XI, section 30-57 C, Grade.

APPEAL NO III
James Liolos
Restricted Business

Requests the Board of Appeals approve and grant a ten foot (10') variance creating a zero (0') foot lot line setback for the construction of a new sign at 8463 Sheridan Drive.

APPEAL NO III is in variance to L.L. 181-3 C (1) location of signs

APPEAL NO IV
CMK Builders
Agricultural

Requests the Board of Appeals approve and grant a seventy five foot (75') variance creating a one hundred seventy five foot (175') front yard setback for construction of a new single family home at 6880 Heise Road.

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

APPEAL NO V

Requests the Board of Appeals approve and grant a two

**Ann Marie Kramer
Agricultural**

hundred foot (200') variance creating a three hundred foot (300') front yard setback for construction of a new home at 8915 Sesh Road.

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

**APPEAL NO VI
David Gilbert
Residential A**

Requests the Board of Appeals approve and grant a six foot (6') variance creating a four foot (4') side yard setback for construction of an addition to the garage at 4048 Foxwood Lane. (Country Meadows Subdivision)

APPEAL NO VI is in variance to Article II, section 30-12 D, size of yards.

**APPEAL NO VII
Kevin Campbell
Major Arterial**

**Requests the Board of Appeals approve and grant two variances:
1. A fourteen square foot (14 sq.ft.) variance allowing a seventy four+/- square foot (74 + - sq. ft.) pole sign at 5205 Transit Road. (Former Swiss Chalet location)
2. A five foot (5') height variance creating a twenty five foot (25') pole height for new sign at 5205 Transit Rd.**

APPEAL NO VII is in variance to L.L. 181-4A (1) & (3) sign district specifications.

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

**INTERESTED
PERSONS: Dominic Piestrak
Brian Bakowski
Chris McCaffrey
Jim Liolos
Ken Stoldt
Melissa Sciolino
Ann Marie Kramer
David Gilbert
Kevin Campbell**

MINUTES

APPEAL NO I
Dominic Piestrak
Residential A
9083

Requests the board of Appeals approve and grant a ten foot (10') variance creating a thirty five foot (35') front yard setback line for construction of single family homes at

& 9093 Winding Creek Lane in Stone Creek Subdivision.

DISCUSSION:

Dominic said the house across the street is at 35 and 35. The Engineer for the project had 35 foot setbacks on one side of the street and 45 on the other side of the street. No one on the board - it will not have a negative impact on the neighborhood.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No I as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO II
Brian & Michele Bakowski
Agricultural

Requests the Board of Appeals approve and grant two variances:

1. A twenty foot (20') variance creating a one hundred foot (100') front yard setback for the construction of a new home at 10175 Martin Road.
2. A three foot (36") variance creating a seventy six inch (76") maximum grade height above the center of the abutting roadway (Martin Road) for the construction of a new single family home with a walkout basement at 10175 Martin Road.

DISCUSSION:

Mr Bakowski said the setback is correct, but they are not that high above the road. The exact figure above the road is 56 inches, 76 inches is way off. The actual grade of the front yard one hundred feet back is 38 inches above the center of the road. Jim Hartz said the building inspector took it out of the grading code and you can only go a maximum of 40 inches above the center elevation of the road. An employee of Patrick Development said the natural grade of the land is uphill. He personally shot the grades, and he came up with 38 inches from the crown of the road one hundred feet back. He didn't realize that a variance would be needed to be 56 inches above the road until he went to the building department. The inspector asked for a couple of additional grades which he also shot. They were going to be about 2 feet higher than the house next door. Ray Skaine said there are too many issues here, we can't

move on this tonight. You are going to have to meet with Joe Latona the Town Engineer and resolve this with him. We should table this and get more information from the Town Engineer. He had serious questions about the drainage impact on the neighbor.

ACTION: Motion by John Gatti, seconded by Raymond Skaine to table this item until the meeting on October 8, 2002.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO III
James Liolos
Restricted Business

Requests the Board of Appeals approve and grant a ten foot (10') variance creating a zero foot (0') lot line setback for the construction of a new sign at 8463 Sheridan Drive.

DISCUSSION:

Mr. Liolos said his sign is a two sided L.E.D. sign that can be viewed from either side. If they place it according to the ordinance it would be directly behind a trees, which is very old and very large. Chris McCaffrey from Ullrich signs said they would prefer not to be behind a tree. Traffic moves quickly there, and it would be more visible if it was placed where they are requesting it. Arthur Henning asked Mr. Liolos if they had much walk in business. Mr. Liolos said no they really don't, most customers have an appointment. Arthur said there is a sign next to him, would his sign take away from the existing sign next door? Mr. McCaffrey said they would be in line with that sign. Mr. Henning asked if Country Park Day Care had received a variance for their sign. Jim Hartz said that sign was installed incorrectly. The survey showed a ten foot setback, but it is actually at zero lot line. The sign is in violation and it should be moved regardless of the survey given to the Town. Ron Newton pointed out that according to the stakes he saw, there is a little leeway to move the sign back. Mr. McCaffrey said if they are not granted a variance the leading edge would be right about where the tree is. Ron Newton said if you move that sign to the west, that tree doesn't affect the sign quite as much as where the stake was. Mr. Liolos said they pushed it as far west as they could, but there is an ordinance requiring the sign to be ten feet off the side lot line. Ray Skaine said he feels the board has to be consistent. If we approve this variance it will not be fair to the people we have turned down, or the people

who had to move their signs. There is a possibility for you to apply for a side lot variance. Ray said he feels it will be changing the character of the neighborhood. John Gatti agreed with Ray Skaine. There are two signs that had to be changed, and I suggest that you apply for a side lot line setback. Debbie Michnik of 8281 Sheridan said she did not understand about this side lot variance. Debbie said that she had to move her sign and also remove trees to relocate the sign. When Jim Liolos went before the Town Board for approval for the building, the last thing Supervisor Herberger said to him was to make sure his sign was properly placed. That is in the Town Board minutes. The Board of Appeals has to be consistent, no one even mentioned the side lot line variance as an option to her. There are still signs on Sheridan Drive that do not comply with the sign ordinance. Mr. McCaffrey of Ullrich Sign said he feels that every variance should be considered as a separate case. He feels it is a safety issue, the traffic is going very fast. Setting the sign closer to a residence seems undesirable to him. Cutting down a 100 year old tree is undesirable to him. Mr. Liolos said he assumed the sign for Country Park Day Care was in compliance, and he assumed he could line up with that sign. That is how he picked out this sign, to go under the tree.

ACTION:

Motion by Ronald Newton, seconded by Raymond Skaine to DENY Appeal No III based on the fact that it will have a definite effect on the character of the neighborhood that we are trying to maintain. There is also a safety factor, a sign placed at zero lot line, may cause a traffic problem from the visibility of people entering or exiting either driveway. Also, the applicant has created his own problem because he didn't try to adhere to the ten foot setback originally.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO IV
CMK Builders
Agricultural

Requests the Board of Appeals approve and grant a seventy five foot (75') variance creating a one hundred seventy five foot (175') front yard setback for construction of a new single family home at 6880 Heise Road.

DISCUSSION:

The builder Mr. Stoltz, said his clients want to line up with the neighbor at 6890 Heise Road who is also at 175 feet. No one on the board had any problems with the request.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No IV as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO V
Ann Marie Kramer
Agricultural

Requests the Board of Appeals approve and grant a two hundred foot (200') variance creating a three hundred foot (300') front yard setback for construction of a new home at 8915 Sesh Road.

DISCUSSION:

At the present time, the setback allowed on this property is 200 feet. The first home is presently being built at a setback of 200 feet. The neighbors to the west do not have a problem with them building behind them, they are farther down the road. There is an older farmhouse to the east with a mature tree line for a barrier. It goes all the way around the property so they won't be in their backyard. They plan on adding trees after they move in. Ron Newton said he would like to see more trees planted, and would like to make it part of the variance if it is granted.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No V as written with the addition that they will plant more trees to buffer the east side of the property.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO VI
David Gilbert
Residential A

Requests the Board of Appeals approve and grant a six foot foot (6') variance creating a four foot (4') side yard setback for construction of an addition to the garage at 4048 Foxwood Lane.

DISCUSSION:

Mr. Gilbert would like to add a third bay to the garage. He would like to expand his storage capacity. There will be an 8' x 8' garage door. Ray Skaine said he didn't have a problem with the request, there is still plenty of room. Ron Newton said he had a problem with the absentee homeowner not knowing about the variance. Mr. Gilbert said he talked to Jim Beilmeier the builder of the home, and he didn't have any objections. Several members of the board believe that the home is a speculation home. Ron Newton said he thought it was the only three garage in the neighborhood. The garage will be constructed of the same materials as the house.

ACTION:

Motion by John Gatti seconded by Raymond Skaine to approve Appeal No VI as written.

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

MOTION CARRIED

APPEAL NO VII
Kevin Campbell
Major Arterial

Requests the Board of Appeals approve and grant two variances:
1. A fourteen square foot (14 sq.ft.) variance allowing a seventy four +- square foot (74+- sq.ft.) pole sign at 5205 Transit Road.
2. A five foot (5') height variance creating a twenty five foot (25') pole height for new sign at 5205 Transit Road.

DISCUSSION:

Mr. Campbell said he needs the sign for the used car lot, they are set up to use the GM Certified signs, and this is the size they have offered to him. Members of the board had a hard time with the fact that GM is dictating to them with a sign bigger than the ordinance allows. This sign is larger than the neighbors to the south and north of him. It is too tall. Mr. Campbell said he thought he could adjust the height of the sign, but not the size of the sign.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to DENY Appeal No VII. It is out of character with the neighborhood. GM has created a hardship for the applicant by not looking in to what the Town of Clarence requires.

ALL VOTING AYE. MOTION CARRIED.

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