

**Town of Clarence**  
One Town Place, Clarence, NY  
**Zoning Board of Appeals Minutes**  
**Tuesday, July 13, 2021**

Chairman Daniel Michnik called the meeting to order at 5:00 p.m.

Zoning Board of Appeals members present:

Chairman Daniel Michnik	Vice-Chairman Ryan Mills
Patricia Burkard	Richard McNamara
Raymond Skaine	Patrick Krey

Zoning Board of Appeals members absent: Patricia Burkard

Town Officials present:

Director of Community Development Jonathan Bleuer  
Deputy Town Attorney Steven Bengart

Other interested parties present:

David Stasiak	Regina Stasiak	Ashley & Greg DePasquale
Baran Alpsan	Lauren Mirabella	Domenic Surianello
Cathy Surianello		

Motion by Patrick Krey, seconded by Ryan Mills, to **approve** the minutes of the meeting held on June 15, 2021.

Richard McNamara	Aye	Ryan Mills	Aye	Raymond Skaine	Aye
Patrick Krey	Aye	Daniel Michnik	Aye		

**MOTION CARRIED**

**Appeal No. 3** (from May & June, 2021 meetings)

David Stasiak  
Residential Single-Family

Applicant requests a variance:

Appeal No. 3 is in variance to:

- 1) § 229-55 (H)
- 2) § 229-55 (H)
- 3) § 229-55 (E) (2)

- 1) To allow a secondary detached garage; and
- 2) Of 990 sq. ft. to allow a 1,190 sq. ft. secondary detached garage; and
- 3) Of 6' to allow a 22' tall secondary detached garage located at 5450 Shadyside Drive.

\*Amended from the May, 2021 and the June, 2021 request.

**DISCUSSION:**

Mr. Michnik reminded the applicant that the board has the ability to approve, deny, or table the request.

Mr. Stasiak was present, explaining that he has taken the board's recommendations from the two previous meetings, as well as Paul Gross of the Building Department's input back to the architect who then drew up new plans based on all of the input.

Mr. McNamara noted that the plans look good, everything will fit in nicely.

Mr. Skaine also stated that the updated plans look good, and that Mr. Stasiak has been able to do everything that the board has suggested and asked him to do in regards to amending the project.

Mr. Mills asked Mr. Stasiak if he plans to do the brick front façade, which Mr. Stasiak responded that it will look exactly like the house.

Mr. Mills stated that his concern is what the neighbors will see from the street, Mr. Stasiak responded that they will mostly see the front façade. Mr. Mills responded that Mr. Stasiak did a great job dressing the front.

Mr. Mills asked whether there was the possibility of making the structure any smaller, Mr. Stasiak responded that he has already reduced the size significantly from the original plans, making it a challenge to get everything in that he would like to.

Mr. Michnik asked whether Mr. Stasiak would be opposed to bricking the northwest side of the building which is exposed to the neighborhood. Mr. Stasiak explained that the way the building will be angled, it will only face the backyard pool area of his neighbor, and that he would prefer to stay consistent with the house.

Mr. Michnik commented that he is concerned with the view which will be exposed to the neighborhood, Mr. Stasiak responded that if you look at the property, there is a line of pine trees that creates a natural fencing. Additionally, the siding will be green which will blend well with the trees.

Mr. Michnik asked if Mr. Stasiak would be opposed to doing half of the side walls in brick, Mr. Stasiak responded that he is not sure what that would accomplish, Mr. Michnik replied that it could ease the look of the building for the neighborhood and make it more eye appealing. Mr. Michnik stated that Mr. Stasiak is requesting a very large variance and he feels that Mr. Stasiak should be able to work with them to accomplish his goals.

Mr. McNamara asked Mr. Stasiak how much land he has, Mr. Stasiak responded that he has approximately 1.5 acres. Mr. McNamara noted that Mr. Stasiak has a very large lot, and also he is against putting brick on the back of the building, as very few others in the neighborhood have brick on any other sides other than the front.

Mr. Krey asked about the existing garage, noting that it is a side load garage not visible from the street, which Mr. Stasiak confirmed.

Mr. Mills asked about additional landscaping, targeting the two sides of the structure. Mr. Stasiak stated that he would definitely plant some evergreens to obscure the sides of the structure.

Regina Stasiak noted that the material is not vinyl siding, it is Hardie board.

Discussion continued regarding landscaping the sides of the proposed structure.

Mr. Krey asked what the square footage of the existing home is, Mr. Stasiak responded that it is 3,650 sq. ft.

Mr. Michnik reminded the applicant that the board can approve, deny, or table the request.

Regarding Public Participation, no one spoke.

### **ACTION:**

Motion by Ryan Mills, seconded by Raymond Skaine to **approve** Appeal No. 3 under Old Business with the following conditions:

1. the front façade facing Shadyside Dr. is all brick, as depicted in the elevation blueprint.
2. the front façade facing Shadyside Dr. has at least 2 window dormers as depicted in the submitted architectural drawing.
3. the two front corners of the structure facing Shadyside Dr. have 1 Spruce in each corner.
4. both the north and south sides have arborvitae or similar, at least 6 on each side, 2 ft. tall minimum.
5. no business is operated out of the structure.

### **ON THE QUESTION:**

Mr. Krey stated that both the home and the lot are larger in size, and although the variance request is of a substantial size, it fits with the home and the lot. Also, it is a side load garage,

therefore the street view and curb appeal will not create an undesirable change to the neighborhood.

Also, the conditions specifically regarding landscaping will help to mitigate any concerns for the views for neighboring properties.

The applicant understands and agrees to all of the conditions.

Raymond Skaine	Aye	Patrick Krey	Aye	Ryan Mills	Aye
Richard McNamara	Aye	Daniel Michnik	Aye		

**MOTION CARRIED**

**Appeal No. 4** (from May 2021 meeting)

Robyn Alpsan  
Residential Single-Family

Applicant requests a variance of 218 sq. ft. to allow a 660 sq. ft. attached garage as part of a proposed addition located at 4604 Brentwood Drive.

Appeal No. 4 is in variance to:  
§ 229-55 (D)

Note: Proposed breezeway and second story not included within garage sq. ft. calculation.

\*Amended from May, 2021 request of 268 sq. ft. to allow a 700 sq. ft. attached garage.

**DISCUSSION:**

Baran Alpsan was present to speak on behalf of the applicant, adding that per the recommendations of the board from the May meeting, they did have the architect draw the breezeway in to the plans. Additionally they reduced the depth by 2 ft. to shorten the garage and make it equal with the house, and have included a current photo rather than a Google photo.

They will put pines down each side of the property for landscaping, placing them approximately 5-6 ft. apart.

They have also obtained a letter from their neighbor that would be most affected by the proposed garage, stating that he has no issues with the proposed addition.

Mr. Krey confirmed that Mr. Alpsan’s existing garage is a side load garage, which Mr. Alpsan confirmed.

Mr. Skaine asked about the several feet beyond the house that the garage was originally planned to extend, and whether that has been amended. Mr. Alpsan responded that yes it has.

Mr. Skaine noted that Mr. Alpsan’s neighbor to the south is not able to see the proposed garage, which Mr. Alpsan responded only if she was as far back on her property that she was able to go, then facing his property.

Mr. Mills asked if Mr. Alpsan could achieve his desired outcome with something a little smaller. Mr. Alpsan responded that he has already reduced the size by 2 ft., and considering the vehicles and equipment that he wants to store inside of it, he doesn't believe it would be beneficial to reduce the size any more.

Mr. Mills asked if the front elevation will match as it is depicted in the drawing that has been submitted labeled "updated front elevation". Mr. Alpsan responded yes, there will be brick roughly three feet up from the ground, the siding and roof shingles will match that which is on the house.

Mr. Michnik asked about potentially shrinking it down some more, and whether what Mr. Alpsan is requesting is all he will be asking for. Mr. Michnik also asked whether Mr. Alpsan will agree to any terms that may be put forth with any potential motion. Mr. Alpsan stated yes, if it gets to that point, he would.

Mr. Mills read in to the record an email correspondence received by the Planning and Zoning Office from Meghan Reid of 4598 Brentwood Drive, which will be placed in the file and on the record as Exhibit A.

In regards to Public Participation, no one spoke.

The applicant did not have any comment regarding the correspondence.

Mr. Michnik reminded the board and applicant that they can either approve, deny, or table the request.

Mr. Alpsan stated that he has a letter from his neighbor in support of his request, Mr. Bleuer noted that the letter is in the file. Mr. Mills clarified that this letter is from Bruce Carter of 4614 Brentwood Dr., hereby marked Exhibit B which states he has no concerns regarding the proposed project, and he has spoken with Mr. Alpsan, has reviewed the plans and photos, and Mr. Alpsan has their complete support.

## **ACTION**

Motion by Patrick Krey, seconded by Raymond Skaine to approve Appeal No. 4 under Old Business of a variance of 218 sq. ft. to allow a 660 sq. ft. attached garage as part of a proposed addition located at 4604 Brentwood Drive with the following condition;

- Siding and brick to match the house

## **ON THE QUESTION**

Mr. Bengart stated that the motion was made referencing the updated plans, which Mr. Krey confirmed and Mr. Mills noted is hereby filed as updated front elevation Exhibit C.

The applicant understands and agrees to the conditions.

Richard McNamara	Aye	Ryan Mills	Aye	Raymond Skaine	Aye
Patrick Krey	Aye	Daniel Michnik	Aye		

MOTION CARRIED

### New Business

#### Appeal No. 1

Catherine Surianello  
Commercial

Applicant requests a use variance to allow a residence to be located within the existing principle structure located at 9060 Main Street.

Appeal No. 1 is in variance to:  
§229-84 (A)

Note: A residence is not an enumerated allowable use in the Commercial zone.

#### **DISCUSSION:**

Mrs. Surianello was present, and further explained that she would like to turn the front building back to its original use of a house, making it more usable.

Mr. Skaine asked when they purchased the property, Mrs. Surianello responded that she purchased it approximately 15 years ago, and at that time it was not being used for anything, it was a vacant building. Mr. Skaine noted that the application states Mrs. Surianello would like to file for an Air BNB (short term residential rental), which Mrs. Surianello responded that eventually that may transpire, but basically they do not want to see the building sitting vacant and not used, so she is trying to make it as multi-purposed as possible.

Mrs. Surianello stated that recently the building was a bookstore for many years, and she would now use it for an office, and continue to utilize the buildings in the back as well.

Discussion continued regarding the intended uses for the property.

Mr. Bleuer stated that the intent is to convert the property back to a residential use that may be used for commercial uses as well, but have the ability to be used as a residence. Mr. Bleuer explained that by our definition for the Zoning Code, it would be a residential use, because it could be used as a residence as it would have all of the features of a residence, but it can be used for commercial purposes.

Mr. Skaine asked for further clarification, because while it is requested residential, Mrs. Surianello also stated that she'd like to have her office in there. Mrs. Surianello responded that she wants to be sure it is not zoned only for residential, as she intends to use it for both residential and commercial.

Mr. Krey asked for clarification regarding mixed use development that allows for both residential and commercial use versus residential zoning, which in this case also allows for both residential and commercial development.

Mr. Bleuer confirmed that mixed-use would be a residential as well as a commercial use, however in a commercial zone single-family residential is not allowed, only multi-family, which is 3 or more units, that requires a Special Exception Use permit. The intended use with this project is a single-use residence that may be used as commercial, but would not classify as multi-family.

Mr. Michnik asked Mrs. Surianello what kind of business she is in, Mrs. Surianello responded that she does real estate as well as design. She stated that her original intention for the house is to have her office located inside a staged house, so that clients that she meets with can see an example of a designed house as well.

Mr. Michnik asked Mrs. Surianello if she owns a company, and what the name of it is, Mrs. Surianello responded that they do own their own company, which is called Sornell Development / Design.

Discussion continued regarding the zoning and requirements.

Mrs. Surianello stated that both of the houses on either side of this property are single family homes, so she didn't realize that the area is zoned commercial.

Mr. Bleuer explained that it was a change made recently, due in large part to the Town of Clarence looking to improve the Main Street – Sheridan Drive corridor to more Mixed Use and Commercial uses, they have removed residential single family as an allowable use.

Mr. Mills clarified that when Mrs. Surianello purchased the property, it was allowed to be a single family residence, Mrs. Surianello confirmed yes.

Mr. Mills asked if there is a way that the board can allocate a certain percentage for commercial vs. residential use if they approve the variance request.

Mr. Bleuer spoke on the existing code, stating that in the Traditional Neighborhood District to consider Mixed Use you have to allocate 25% of the floor plan to a commercial use.

Mr. Mills asked Mrs. Surianello if she will have 25% of the floor plan as commercial use, Mrs. Surianello explained that including the back building, there will definitely be more than 25% commercial use.

In regards to Public Participation, no one spoke.

Mr. Michnik reminded the applicant that the board can approve, deny, or table the request.

**ACTION:**

Motion by Ryan Mills, seconded by Daniel Michnik to **approve** appeal No. 1 with the following condition:

- at least 25% of the sq. footage on the property which is including the rear building is used for commercial purposes

### **ON THE QUESTION:**

Mr. Mills stated that when the applicant purchased the property it was zoned to allow completely residential use, which a factor is taken in to account here.

Additionally, the percentage of use being allocated towards commercial, it will conform to the intent of the existing code.

Richard McNamara	Aye	Ryan Mills	Aye	Patrick Krey	Aye
Raymond Skaine	Aye	Daniel Michnik	Aye		

### **MOTION CARRIED**

#### **Appeal No. 2**

Lauren Mirabella  
Residential Single Family

Applicant requests a variance of 24 sq. ft. to allow a 224 sq. ft. detached accessory structure (shed) located at 8971 Marcos Hideaway.

Appeal No. 2 is in variance to:  
§229-55 (H)

### **DISCUSSION:**

Mrs. Mirabella was present and further explained that she would like to put up a shed which is being built by an Amish company and will be delivered to the site.

They have no trees to provide any shade on their property yet, so they would like to add an overhang on the shed which will provide an area to have some shade for entertaining or sitting outside in the summer. The shed will also consist of an 'L' shaped bar along the outside, and they are planning on having a pool installed eventually, they would like the shed to blend with the aesthetics of the house.

Mr. Skaine stated that while he was visiting the site, Mrs. Mirabella showed him a photo of the shed that they would like, which has been entered as Exhibit A. Mrs. Mirabella explained that what they are going to have built is basically a combination of the two photos that she has presented.

Mrs. Mirabella stated that due to the selection of vinyl that was available, they are not able to match the house perfectly, so they reversed the colors of their home so that they still complement each other. The windows on the shed will match the windows that are on their home.



Mr. Mills asked Mrs. Mirabella about the size of the open bar area that is planned for their shed in comparison to the one shown in the photos. Mrs. Mirabella explained that she would like a smaller bar area to leave space for an opening to allow people to get in and out.

The overhang is what brings the size of the shed over code, and the reason for the variance.

Mr. Michnik asked how long the project will take from start to finish, Mrs. Mirabella responded that it depends on the concrete company, they are pretty backlogged. Mrs. Mirabella stated that she is hopeful that by the end of fall it will be completed.

In regards to Public Participation, no one spoke.

The town is still sending out neighbor notifications due to Covid, and both of the neighbors also signed off on the neighbor notification forms that are included within the application.

**ACTION:**

Motion by Raymond Skaine, seconded by Richard McNamara to **approve** Appeal No. 2 as written.

Raymond Skaine	Aye	Patrick Krey	Aye	Richard McNamara	Aye
Ryan Mills	Aye	Daniel Michnik	Aye		

**MOTION CARRIED**

**Appeal No. 3**

Ashley DiPasquale  
Residential Single-Family

Applicant requests a variance of 2’ to allow a 6’ fence to be located in the front yard setback located at 8633 Howard Drive.

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

Note: A corner lot shall be considered to have two front yards from the public road right-of-way to the closest point of the principal structure.

**DISCUSSION:**

Ashley and Greg DiPasquale were present, further explaining that they tore down a pre-existing fence, and are following the same fence line as what is there.

Referring to a property survey dated august 15, 2015, on record as Exhibit A, Mrs. DiPasquale noted where they plan to place the fence, and also explained that the reason they need a 6 ft. fence is because they have 3 small children.

It wasn’t until after applying for the fence permit that they found out the height requirement for a corner lot is limited to 4 ft. because it is considered to have two front yards.

Mrs. DiPasquale stated that she never thought of it being an issue, because there are several corner properties that have 6 ft. fences.

Mr. Mills asked if the fence will be wooden, Mrs. DiPasquale confirmed that it will be a wooden privacy fence.

Mr. McNamara asked if they will be putting up the same style fence as what they have in their backyard, Mrs. DiPasquale responded yes. A chain link fence was put up for the interim until after this meeting once a decision had been made.

The stakes on the property indicate where the fence will be installed. The old fence was off of their property line, whereas the new fence will be on their property line.

Mr. McNamara advised Mrs. DiPasquale to be sure they contact the utilities to confirm that they aren't going to dig in to any of them.

Photos and addresses of the other properties with the 6 ft. fences were placed in to the file.

In regards to Public Participation, no one spoke.

**ACTION:**

Motion by Patrick Krey, seconded by Ryan Mills to **approve** Appeal No. 3 as written.

**ON THE QUESTION:**

Mr. Bengart stated that this request is being approved due in part of the other properties that also have 6 ft. fences in the neighborhood, as well as the other pertinent reasons that Mrs. DiPasquale stated.

Richard McNamara	Aye	Ryan Mills	Aye	Patrick Krey	Aye
Raymond Skaine	Aye	Daniel Michnik	Aye		

**MOTION CARRIED**

Mr. Michnik reminded the board to get their required training in and hours submitted to the Planning office.

Motion by Raymond Skaine seconded by Ryan Mills to adjourn the meeting.

**MOTION CARRIED**

Meeting adjourned at 5:57 p.m.

Amy Major  
Senior Clerk Typist