

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
January 10, 2023

Chairman Ryan Mills called the meeting to order at 5:30 p.m.

Zoning Board of Appeals members present:

Raymond Skaine Chairman Ryan Mills Patrick Krey Richard McNamara

Town Officials present:

Director of Community Development Jonathan Bleuer
Councilman Paul Shear

APPROVAL OF MINUTES

Motion by Patrick Krey, seconded by Raymond Skaine to approve the minutes from the meeting on November 8, 2022.

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

OLD BUSINESS

Appeal No. 2 (from the 12-13-2022 meeting)

Samer Boulos
Residential Single-Family

Applicant requests a variance:

1. to allow a secondary detached garage; and
2. of 200 sq. ft. to allow a 400 sq. ft. detached garage; and
3. of 4 ft. to allow a 1 ft. side yard setback for a detached garage;

Town Code Reference:

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

located at 6371 Bridlewood Drive South.

Note: This request supersedes the December 2022 variance request for this property, which was tabled.

DISCUSSION:

Samer Boulos was present to represent his request, and added that he needs to expand his storage space.

Mr. Skaine asked how far Mr. Boulos is from his neighbor on his right.

Mr. Boulos responded that he is approximately 25 ft. or more. His neighbor is ok with this request, and signed a neighbor notification form.

Mr. Krey asked if Mr. Boulos's existing garage is a side-load garage.

Mr. Boulos responded yes.

Mr. Krey stated that he typically has an issue with additions to forward-facing garages, because it appears that there is more garage than house. The plans for this addition appear to encroach on his neighbor's property.

Mr. Boulos stated that he needs the 1 ft. variance in order to have a decent amount of access between the house and the new addition. It would be more appealing to have the extra space.

Mr. McNamara commented that he is not in favor of the 1 ft. side yard setback and the issues it could cause in the future if either property is ever sold. Between fire code, drainage, etc. Mr. McNamara asked why it can't be moved back then over, in order to still maintain the distance between the house and garage.

Mr. Boulos responded that aesthetically it is moved back in the backyard, approximately 25 ft. from the house.

Mr. McNamara suggested Mr. Boulos move the proposed garage back 20-25 ft. and still maintain the 7-10 ft. distance from the house.

Mr. Boulos responded that if he moves it back, it could potentially interrupt his neighbor's backyard view.

Mr. Boulos noted that there should not be a drainage issue, since it will be located on an existing driveway that doesn't have any issues currently.

Mr. McNamara reiterated his concern with the side yard setback, noting that there are rules placed for a reason.

Mr. Boulos responded that he is aware there are rules, and that is why he is here, requesting an exception to the rule.

Mr. McNamara stated that he has no issues with variance prongs 1 and 2, but is not in favor of number 3, is concerned about potential future issues because of the 1 ft. side yard setback.

Mr. Boulos stated that he supplied photos of other homes in his neighborhood that have a similar layout to what he is requesting.

Chairman Mills noted that the photo Mr. Boulos is referring to is of 6152 Bridlewood Drive South, labeled Exhibit A.

Mr. McNamara stated he'd like to see the survey with the property line.

Mr. Boulos stated that he would be right up to his fence, which is also on his property line.

Chairman Mills asked what the materials are for the proposed garage.

Mr. Boulos responded that it will be vinyl siding and will match the house.

Chairman Mills asked if there will be any brick, Mr. Boulos said it is still a consideration, but probably not due to cost. Also, aesthetically the white vinyl matching the house is better.

Referring to the side yard setback, Chairman Mills noted that Mr. Boulos has given the aesthetics as a reason for the placement, and asked if there are any other reasons to be that close to the neighbor's property line.

Mr. Boulos responded that it will give him space to enter the backyard from the side of the house with a walkway.

Chairman Mills asked Mr. Boulos would be willing to compromise on the side yard setback with a 3 ft. setback.

Mr. Boulos responded yes.

Chairman Mills asked if Mr. Boulos if he plans to run a business from the proposed structure.

Mr. Boulos responded no he does not.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

Regarding prong number 3 of the variance request, Mr. Krey asked Mr. Boulos if he would be in agreement of modifying his request to 2 ft. to allow a 3 ft. side yard setback.

Mr. Boulos responded yes.

ACTION:

Motion by Patrick Krey, seconded by Ryan Mills to **approve** Appeal No. 2 under Old Business with the following conditions:

1. prong number 3 amended to a 2 ft. variance to allow a 3 ft. side yard setback
2. vinyl siding to be white to match the house
3. no business to be operated out of the garage

ON THE QUESTION:

Chairman Mills stated that this particular application can be distinguished from some others due to the existing landscaping along the south side that provides a natural buffer. Additionally, due to the pond behind Mr. Boulos's home that contributes to the potential for the new structure to impede neighbor's views.

Mr. Krey stated that he doesn't believe it will have an undesirable change on the neighborhood or be a detriment to neighboring properties. The existing garage is a side-load, so from the street the addition will have limited visibility.

Mr. Krey also added that this addition is consistent with some neighboring properties as exhibited in the applicant’s paperwork with similar garages.

Raymond Skaine	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Richard McNamara	Nay

MOTION CARRIED

Appeal No. 4 (from the 12-13-2022 meeting)

Donn Geyer
Agricultural-Rural Residential

Applicant requests a variance of 15 ft. to allow a 10 ft. rear yard setback for a detached accessory structure (pole barn) located at 5635 Salt Road.

Town Code Reference:
§229-44 (F)

DISCUSSION:

Donn Geyer was present to further explain his request and answer any questions.

Mr. Geyer explained that his lot is smaller than the average Agricultural-Rural Residential lot, and he would like to make the most of his backyard by placing the proposed structure back further on his property.

Mr. McNamara noted that the size of the lot is closer to a residential size lot, and asked Mr. Bleuer what the set back is for a rear yard in a Residential zone.

Mr. Bleuer responded that in the Residential Single-Family zone, 200 sq. ft. or less structure can be 5 ft. from the lot line. Anything larger than that is not allowed and would need a variance.

Mr. McNamara asked about previous miscommunication with the Building Department.

Mr. Geyer confirmed, stating that he was originally told it was 5 ft., then he was told 10 ft. and 25 ft. after he put the pad down at 10 ft. and 10 ft. which requires him to need a variance for the rear yard setback.

Mr. Geyer stated that he has a quote for the cost of moving the pad as well as the original building permit allowing him to place it in the current location.

Mr. McNamara asked what the cost would be to relocate the pad.

Mr. Geyer responded that it would cost \$3,500.00. The quote was entered as Exhibit A.

Chairman Mills read the quote in to record.

Chairman Mills read a letter from Jessie Gilbert, Town of Clarence Code Enforcement Officer in to record as Exhibit B. This letter states that the plot line was approved, then it was brought to his attention that according to Schedule 2 reference guide in Local Zoning Chapter 229-25 which was used to approve the setbacks for the permit was not in line with the language in Local Zoning Chapter 229-44. This discrepancy was discovered during the beginning of construction when minor clearing and the stone fill

pad was being installed prior to construction. The homeowner was then informed that without a variance from the Zoning Board of Appeals, the location would need to be modified according to Local Zoning Code for setbacks of accessory structures over 200 sq. ft.

Mr. Gilbert continued on in his letter stating that the discrepancy has been corrected in their office and this is the only instance of a building permit with non-conforming setbacks.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

ACTION:

Motion by Raymond Skaine, seconded by Richard McNamara to **approve** Appeal No. 4 under Old Business as written.

ON THE QUESTION:

Mr. Krey stated that review of the variance request based on the criteria for area variances, and based on the testimony of the applicant and their review of the property, as well as there not being an undesirable change to the property or the character of the neighborhood based on the current location of the pad, is why he is voting to approve the variance request.

Chairman Mills noted that the size of this parcel is more the size of a residential parcel versus agricultural, which the setback is much less for.

Chairman Mills stated that the applicant has demonstrated a hardship by providing a quote as well as the letter from the Building Department providing further clarity.

Raymond Skaine	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Richard McNamara	Nay

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

Dario Manocchio
Residential Single-Family

Applicant requests a variance of 112 sq. ft. to allow a 312 sq. ft. detached accessory structure (carport) located at 4220 Clardon Drive.

Town Code Reference:
§229-55 (H)

DISCUSSION:

Andrew Manocchio of 4157 Susan Drive, representing the applicants, who are his parents.

Chairman Mills referred to Mr. Bleuer, who confirmed that he received an email from Mary Lou Manocchio on Monday, January 9, 2023 which gives Andrew Manocchio and Gary Gugino permission to speak and make decisions on their behalf.

This email correspondence has been placed in the file and marked Exhibit A.

Mr. Manocchio explained that the applicants built a carport on their property in front of the garage. The carport is being used to store the applicant's daughter's vehicle while she is deployed. The carport was installed to protect the applicant's vehicle that was moved out to get the other vehicle inside.

Mr. Krey asked if the structure would need to be smaller to be within code.

Mr. Bleuer responded yes, because it is considered a detached accessory structure, per town code the maximum allowable size is 200 sq. ft. Because the structure is 312 sq. ft., a 112 sq. ft. variance is required.

Mr. Krey asked if it is considered another detached garage even though it is basically a framed structure.

Mr. Bleuer responded that it is considered a shed. The Building Department considers it a structure.

Mr. Krey stated that he understands the reasoning for putting it up, but even if the appearance was enhanced, it would still need a variance based on size.

Mr. McNamara noted that the applicant applied for two other variances. The variances were filed in 2010 and 2011 for the garage which was approved, and a side yard variance that was denied.

Mr. Manocchio stated that they put this structure up, not thinking of or realizing that it would be considered a structure. They modeled it after other carports that they have seen in Town. Mr. Manocchio added that when they previously applied for a variance, they were told that no more structures are allowed on the property.

Mr. Manocchio added that knowing they were not able to put up a shed or another garage, and due to time constraints, they put this framed structure up to store the vehicle.

Mr. McNamara asked if the concrete pad was installed for this structure or was it already there.

Mr. Manocchio responded that it was preexisting.

Mr. McNamara asked how the structure is mounted to the ground.

Mr. Manocchio responded that it is anchor bolted in to the concrete.

Mr. McNamara noted that a structure that high needs to be bolted with heavy duty bolts, especially with high winds in the area.

Mr. Manocchio reiterated that the applicants did not realize they needed a variance because they didn't think the structure was considered an actual building.

Mr. McNamara stated that he does not feel the structure fits the character of the neighborhood.

Mr. Manocchio submitted an additional Neighbor Notification for 4230 Clardon Drive.

Mr. Krey asked if this was tabled so that the applicant could explore other options, would Mr. Manocchio agree to that.

Mr. Skaine agreed with Mr. Krey that he would be in favor of tabling the request so that the applicant can explore other options.

Chairman Mills stated that he shares the same thoughts as stated by the other board members, and he has concerns about the aesthetics of the neighborhood, as there are not any other carports in the neighborhood.

Applicant is requesting to have the request tabled.

ACTION:

Motion by Raymond Skaine, seconded by Patrick Krey to **table** Appeal No. 1.

ON THE QUESTION:

Some suggestions for when the applicant returns to the board:

- alternate ideas which aren't as large or cumbersome as the current structure
- evaluate what is financially feasible to modify the current structure so that it fits in better with the character of the neighborhood.
- better fit the aesthetic of the house and neighborhood
- have some plans and or drawings to submit by an architect if needed
- possibly attach it to the house

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

MOTION CARRIED

Appeal No. 2

David & Patricia Bittar
Agricultural Flood Zone

Applicant requests a variance to allow a detached accessory structure (pole barn) to be located within the front yard setback located at 8615 Wolcott Road.

Town Code Reference:
§229-34 (E)

DISCUSSION:

Patricia Bittar was present to represent her request and answer any questions.

Mrs. Bittar stated that they are hoping to build a 32 sq. ft. by 48 sq. ft. pole barn located 35 ft. away from the right of way on Kenfield Road. They are a corner lot with driveway access off of Kenfield Road for their home, and driveway access further south to utilize for access to the proposed pole barn.

Mrs. Bittar reviewed the process that they have taken to get to this point, which is when their builders applied for a building permit and were informed that they would need to apply for a variance for the proposed front yard setback.

Mr. Skaine asked about the driveway off of Kenfield Road.

Mrs. Bittar explained that their house faces Wolcott Road with main access to their house from the driveway on Kenfield Road.

Mr. Skaine asked if there wasn't a driveway off of Wolcott Road would this variance still be needed.

Mr. Bleuer explained that regardless of the driveway it would still be considered a front yard setback because of it being a corner lot.

Mr. McNamara asked how far the house is from the right-of-way.

Mrs. Bittar responded that on Kenfield Road it is 102 ft. from the right-of-way and their second garage that they have is 46 ft. from the right-of-way.

Mr. McNamara asked if the pole barn is facing in to the yard, with windows facing the street view.

Mrs. Bittar responded yes.

Mr. McNamara asked how much land they own.

Mrs. Bittar responded that it is just under 8 acres.

Mr. McNamara asked if there are any other similar structures on Kenfield Road.

Mrs. Bittar responded yes.

Mr. Krey asked Mr. Bleuer if they did not get a variance for this proposed structure, would they be able to place it on the west side of their property.

Mr. Bleuer responded yes, it would need to be at least 102 ft. off of Kenfield Road right of way to be considered in the rear yard.

Mr. Krey asked if it is possible for the proposed structure to be located on the other side of the property.

Mrs. Bittar responded that they have a pond that was excavated in the center of the parcel for fill, which was used for the house construction.

Mrs. Bittar explained the processes they took for the other structures they have built on their property. Mr. Krey asked if they could move the proposed structure in a bit.

Mrs. Bittar responded that it would be in the center of their property, basically in their backyard.

Chairman Mills asked what materials they will use to construct the pole barn.

Mrs. Bittar responded that it will be red metal with a black metal roof and 36” high wainscot around the perimeter. The trim will be white with white doors, and they have a cupola proposed as well.

Chairman Mills asked what the pole barn will be used for.

Mrs. Bittar responded that it will be for storage, no business will be conducted.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

Chairman Mills clarified if Kenfield Road didn’t exist, there would not be an issue.

Mr. Bleuer responded yes.

ACTION:

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

ON THE QUESTION:

Chairman Mills explained that this variance request can be distinguished from others in that the size of the parcel allows quite a bit of space, but due to it being a corner lot it has unique characteristics. Additionally, the pond limits the placement and Kenfield Road is not occupied by many homes or other structures.

Chairman Mills added that this will not impact the character or aesthetics of the neighborhood.

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

MOTION CARRIED

Meeting adjourned at 6:09 p.m. with a motion by Patrick Krey.

Amy Major
Senior Clerk Typist