

Town of Clarence  
One Town Place, Clarence, NY  
Zoning Board of Appeals Minutes  
Tuesday December 10, 2019  
7:00 p.m.

Chairman Daniel Michnik called the meeting to order at 7:00 p.m.

Zoning Board of Appeals members present:

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

Town Officials present:

Assistant Director of Community Development Jonathan Bleuer  
Deputy Town Attorney Steven Bengart  
Councilman Paul Shear

Motion by Richard McNamara, seconded by Patrick Krey, to **approve** the minutes of the meeting held on, November 12, 2019 as written.

Daniel Michnik              Aye                      Richard McNamara      Aye              Patrick Krey      Aye  
Patricia Burkard              Aye                      Ryan Mills                      Aye

**MOTION CARRIED.**

Other interested parties present:

Barry Small                      Robert Thoman                      Meredith Chamberlain  
Roy Schneiderman              Joni Thoman

**Old Business**

**Appeal No. 1** (from October 2019 meeting)  
Patrick and Susan Casilio  
Residential Single Family

Requests the Board of Appeals approve and grant a 9' variance to allow a 3.5' side yard setback for the construction of an attached accessory structure (garage) located at 4434 Westwood Road.

Appeal No. 1 is in variance to 1.) §229-52 (B) \*ZBA previously granted a variance of 7' on October 8, 2019

**DISCUSSION:**

Tom Driscoll is present and is speaking for the applicant. Mr. Casilio originally wanted to expand his garage and it was determined that with the original plan presented to the Town that it wasn't enough room. His truck wouldn't fit correctly. Mr. Driscoll is employed by Mr. Casilio. The last time this was discussed, it was right next to a tree and Mr. Dricoll says it still remains that way. They are trying to

make sure that the tree does not get damaged. It was confirmed that Mr. Casilio owns the next door lot. There is a neighbor notification on file.

Mr. Mills asks how the dimensions of the garage have changed. Mr. Driscoll states that two (2) more feet are needed to the north side. Everything else will remain the same. Any damaged landscaping will be fully restored. Mr. Casilio’s plan is to save all the trees, but they may have to limb up some branches.

**ACTION:**

Motion by Patrick Krey, seconded by Richard MacMamara, to **approve** Appeal No. 1, as written under Old Business.

**ON THE QUESTION:**

Mr. Mills states that this project is mitigated by the fact that Mr. Casilio owns the lot next store and will have a minimal impact on the surrounding areas.

Daniel Michnik	Abstain	Richard McNamara	Aye	Patrick Krey	Aye
Patricia Burkard	Aye	Ryan Mills	Aye		

MOTION CARRIED.

**Appeal No. 1** (from November 2019 meeting)  
 Frederick Tripi  
 Agricultural Rural Residential

Requests the Board of Appeals approve and grant a variance to allow a detached accessory structure within the front yard setback located at 10361 Tillman Road.

Appeal No. 1 is in variance to 1.) §229-44 (E)

**DISCUSSION:**

There are neighbor notifications on file from 10365 Tillman and 10357 Tillman. Mr. Tripi of 10361 Tillman Road introduces himself and states that he would like to build a Pole Barn. He needs to move it up about 10’ so he needs a variance. It will be 30’ x 40’. He chose the location so he will have a shorter driveway and it is blocked from people driving by. He plans to store tools, his motorcycle and his 4 wheeler. The driveway will be accessed from the private drive, about 100’ off the road. There will be about 20 trees coming down to make room. There will be electric, coming off the house. No plumbing and no business will be run out of it. Mr. Tripi owns 7.5 acres.

**ACTION:**

Motion by Richard McNamara, seconded by Daniel Michnik, to **approve** Appeal No. 1, as written under Old Business with the condition that there will be no business run out of it.

**ON THE QUESTION:**

Mr. Mills states that this is a unique parcel in that it is a private road off of Tillman Road and not Tillman Road itself and that it is a larger parcel of land.

Daniel Michnik	Aye	Richard McNamara	Aye	Patrick Krey	Aye
Patricia Burkard	Aye	Ryan Mills	Aye		

MOTION CARRIED.

### New Business

#### Appeal No. 1

Scott Roetzer  
Residential Single Family

Requests the Board of Appeals approve and grant a 1,000 square foot variance to allow a 1,200 square foot detached accessory structure located at 5745 Rolling Creek Lane.

#### **DISCUSSION:**

There are neighbor notifications on file from 5482, 5462, and 5522 Rolling Creek Lane. Mr. Mills read into the record the request of the applicant. Scott Roetzer wants to put a storage barn up to store Agricultural equipment: his truck, a tractor, grass cutting equipment and fishing equipment. The barn will be 30' x 40' and will match the finishes of the house. He will have power out there and probably a water line. No business will be conducted from the barn. The driveway to the Pole Barn will connect to the driveway of the house.

Mr. Mills asks if the structure can be smaller and the applicant replies that, yes, it can be. The structure next door is way bigger than his. It will be completely landscaped with tall Arborvitaes and Blue Spruce. Mr. Mills asks Assistant Director of Community Development Jonathan Bleuer if the adjacent parcels require neighbor notifications and the answer is no, they don't touch due to the common area. The barn will not be seen from Roll Road. It will be built in conjunction with the house. The position of the barn will be adjacent to the house as referenced in Exhibit "A". There is an easement with the neighbor.

#### **ACTION:**

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 1 under New Business with the conditions that no business be operated out of the structure and the second condition being that the south and the west side of the structure be landscaped with Arborvitaes, or Spruce or some similar type foliage at the initial height of 6' or larger, 15 or more of them.

#### **ON THE QUESTION:**

This is a unique sub development with approximately 6 lots, very well buffered on the north and east sides. The applicant agrees to fully landscape on the south and west sides of the structure to mitigate any views of the structure from surrounding parcels to meet the character of the neighborhood.

Daniel Michnik	Aye	Richard McNamara	Aye	Patrick Krey	Aye
Patricia Burkard	Aye	Ryan Mills	Aye		

MOTION CARRIED.

**Appeal No. 2**

Chris Lavocat  
Agricultural Flood Zone

Requests the Board of Appeals approve and grant a 100' variance to allow a 200' front yard setback for the construction of a single family home located at 8150 Westphalinger Road.

Appeal No. 2 is in variance to §229-31 (A)(4)

**DISCUSSION:**

Mr. Mills read into the record the request of the applicant. Neighbor notifications are on file for 8145, 8150, 8160 and 8130 Westphalinger Road. Chris Lavocat introduces himself to the Board and states that he would like to move out to an area that is more country and quiet and set his house back a little bit from the road. He would like to set the house back because it is on an S curve and street headlights would shine right into the windows if he doesn't. He owns a nursery and would like to put in more trees and Arborvitaes. The house will be approximately a 3,000 square foot Ranch. It is set on a Flood zone. The property is just under 5 acres. There are no surveys or architectural drawing yet. Mr. Lavocat is asked to site any 200' setbacks nearby and he states that 8230 Westphalinger was approved a few years ago, and 8280 Westphalinger. There are a lot of shallow lots off the road. Mr. Mills voices his concern for the lack of setbacks in the area. The project would not begin for another 3 to 4 years, but he would plant trees right away to establish a buffer. The front of the lot is 253'. Roy Schneiderman of 8160 Westphalinger Road, north and next to the lot, speaks to the Board and states that he is concerned with the way his house is angled towards Mr. Lavocat's proposed property and he would be looking right at the house. He objects to the distance of the house. But if it is to be approved, Mr. Schneiderman would like something in writing stating that Mr. Lavocat would put up a tree line or something to divide the two properties. Robert Thoman of 8130 Westphalinger, to the south of the proposed property, addresses the Board and says that it is a little too far back for them also as they spend a lot of time on their back porch and the house would be directly in their view. It is explained to Mr. Thoman that a setback is determined by any house within 500' of the property, the average of the home to the north and to the south. Mr. Thoman is also concerned with the 500' of firearm discharge rule that would interfere with his hunting and target practice. Mr. Mills asks the objectors if they ever looked into purchasing the land themselves to avoid their concerns. The answer is no by both parties. Mr. Lavocat is asked if he considered going back even farther and he said he would prefer not to because he would like a backyard and he likes the trees back there, but would consider another 50'.

Meredith Chamberlain speaks to the Board and states that they (her and Chris Lavocat) respect the neighbors' concerns, but they also do not want to see their neighbor's house. Since they own a nursery, they have unlimited resources to accomplish that. Mr. Lavocat says that if he removes anything like brush he will replace it with evergreens or the like.

Mr. Mills reads into the record Exhibit "B", a letter dated December 10, 2019 sent from Mr. Thoman's sister that says: To Whom It May Concern, I, Joanne Thoman, reside at 8205 Transit Road am unable to attend tonight's meeting due to work scheduling conflict. I was not notified about the variance for the new house being built on Westphalinger Road. My property butts up to this property. I am glad to have a new neighbor, however, I do have one concern. My concern is that I have hunted my property all of my life. I just wanted to make sure that when the house is built, I won't be restricted in hunting the back of my property. Thank you for considering my concern in this matter.

**ACTION:**

Motion by Ryan Mills, seconded by Richard McNamara, to **approve** Appeal No. 2 under New Business with the following conditions:

1. That the applicant agrees to plant along the north side of the property for 50' from the house in the east direction, a tree line of Green Giant Arborvitaes initially 4' in height spaced 4 to 5' apart.
2. The applicant agrees to plant along the south side of the property from his garage to the point of the residence at 8130 Westphalinger Road , White Pine, 6 to 7' in height spaced approximately 8' apart heading east from the new structure's garage to the starting point of the house at 8130.

Daniel Michnik	Aye	Richard McNamara	Aye	Patrick Krey	Aye
Patricia Burkard	Aye	Ryan Mills	Aye		

MOTION CARRIED.

Meeting adjourned at 8:10 p.m.

Diane Nardolillo for Carolyn Delgato  
Senior Clerk Typist