

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday December 12, 2017
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 (arrived at 7:03)
David D'Amato	Patricia Burkard
Richard McNamara	Jonathan Hickey

Town Officials present:

Director of Community Development James Callahan
Deputy Town Attorney Steven Bengart
Councilman Paul Shear

Motion by Richard McNamara, seconded by David D'Amato, to **approve** the minutes of the meeting held on November 14, 2017, as written.

Jonathan Hickey	Aye	Richard McNamara	Aye
Patricia Burkard	Aye	David D'Amato	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Other interested parties present: Vincenzo Marano Bernard Kolber

The Zoning Board of Appeals Committee entered into executive session and Attorney/Client Privilege session at 7:02 p.m. The session ended at 7:17 p.m. and the Zoning Board of Appeals meeting opened.

New Business

Appeal No. 1

Bernard Kolber
Commercial

Requests the Board of Appeals approve and grant a use variance to allow for the construction of a self-storage facility at 9035 Sheridan Drive.

Appeal No. 1 is in variance to §229-84.

DISCUSSION:

Mr. McNamara has excused himself from Appeal No. 1.

Mr. Mills read into record the request. Mr. Kolber agrees that the information is correct. Mr. Kolber's attorney could not make it.

Mr. Kolber has contacted three neighbors. Dynabrade, which is property to the west, NYS DOT which is to the east and Town of Clarence property that is across the street are named. Also 9030 Main Street driving range. They all received certified letter with return receipt requests. No response from 9030 Main St. He has owned property since 2002. He bought with the intention to put an office park on it. He retained Susan Kane a Civil Engineer. There hasn't been much demand for such a park as of yet. He thinks self-storage will fit there as it's an industrial area. He would like to keep it inside the parcel. The buffer around the project would remain as the natural vegetative state. A picture has been submitted as Exhibit A. Mr. Kolber submits photos of what he does not want his facility to look like. They are marked as Exhibit B.

Patricia Burkard asks what the size of property is. Mr. Kolber replies 6.08 acres. A sign will be placed at the office by the road. She asks where parking area will be located. Mr. Kolber states 3-4 parking spots will be in the front.

Mr. Hickey asks about what his hardship is now. Mr. Kolber says he will defer these questions until his council is present. Mr. Kolber purchased property in 2002 for \$200,065.00. He pays over \$11,000.00 a year in taxes and the property is assessed around \$450,000.00

ACTION:

Motion by Jonathan Hickey, seconded by Ryan Mills to table this appeal until the January meeting.

David D'Amato	Aye	Patricia Burkard	Aye
Jonathan Hickey	Aye	Daniel McNamara	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 2

Vincenzo Marano
Commercial

Requests the Board of Appeals approve and grant a 1' variance to allow a 9' side yard setback for the construction of a detached accessory structure (generator) located at 6204 Goodrich Road.

Appeal No. 2 is in variance to §229-86(H).

DISCUSSION:

Mr. Mills reads into record the request. A neighbor notification from 6180 Goodrich Rd. has been submitted.

Mr. Marano would like to put in a generator to power equipment that he has purchased. He states he has been doing very well at this location for about 4 years now and is growing. He has invested a lot of money into his equipment and has good customer satisfaction. This generator is needed to help the company grow.

Patricia Burkard asks what kind of business he has. Mr. Marano answers a granite fabrication company. The size of the generator is 4' tall by 7' with a sound dampening enclosure around it. Marano shows a comparison chart relating to noise levels. This shows that the generator noise is between a vacuum cleaner

at 10 feet and normal speech at 3 feet. He has purchased extra sound barrier for it. He has looked into other alternatives such as concrete cinder block wall or a double reinforced fence. Sound panels could possibly be another option which would bring the level down 30 decibels. He spoke to the neighbor and will work with him continuously to satisfy him. Shrubbery will be planted around it as well to make it look nice.

Mr. D'Amato states the other operations explored instead of generator was electric. Marano says he had an electrician contact NYSEG, but wasn't getting anywhere. Now that it's cold out this generator is his only option to get to use his equipment. This isn't going to be a permanent solution, but temporary through the winter months. The electrician is working now with a permit to start running wire through the building so it is ready when they get approval from NYSEG. The generator will run from 7am until 4pm daily. When electric is installed it will remain as a backup.

Mr. Mills asks if Mr. Marano will be ok with doing the sound barrier and the panels. Marano said he would start with the cinder block wall or double sided fence and go from there. In addition to that he is willing right now to put a double sided privacy fence with the shrubbery around it. This is in addition to the special enclosure. The acoustic fence may not be needed.

This application was submitted to NYSEG in the spring. It didn't go far because of lack of communication. The electrician he has now is from Wafer Electrical. He has been having issues with communicating with NYSEG as well. They will not break ground now. He is unsure if the electric is above ground or underground. This project will cost him \$12,000.00.

The loudness comparison chart will be labeled Exhibit A in the folder. The neighbor has been contacted and is agreeable. Marano is asked if 18 months is enough time to use the generator and get electric in place and if it's needed to continue business. Marano says yes and states if it's not approved he will not be able to complete his contracts and get the work he has laid out done.

ACTION:

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal no. 2 subject to the following conditions:

1. Install the additional sound enclosure referenced as Exhibit A. The sound level at 23 feet with full load will be 71 decibels.
2. A double sided fence which is 6' in height, 4x4 post, 2x4 horizontal and 1x6 or 1x4 solid on both sides giving you an air gap of 4".
3. This variance for generator use is for 18 months. After that it can be only used as an alternate power source.
4. Landscaping such as Arborvitaes or similar will be planted around the fence. At least 6 feet in height.

ON THE QUESTION:

Mr. Marano understands the conditions and accepts them.

Patricia Burkard asks if after 18 months if the electric hasn't been installed what happens. Mr. Marano would have to come back again and could not use the generator.

Richard McNamara Aye
Ryan Mills Aye
Daniel Michnik Aye

Patricia Burkard Aye
David D'Amato Aye

MOTION CARRIED.

Janel Farolino
For Carolyn Delgato