

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday April 9, 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
Richard McNamara Jonathan Hickey
Patrick Krey

Zoning Board of Appeals member(s) absent: Patricia Burkard

Town Officials present:

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

Motion by Jonathan Hickey, seconded by Ryan Mills, to **approve** the minutes of the meeting held on Tuesday March 12, 2019, as written.

Patrick Krey Aye Jonathan Hickey Aye
Richard McNamara Aye Ryan Mills Aye
Daniel Michnik Aye

MOTION CARRIED.

The Zoning Board of Appeals Committee entered into executive session and Attorney/Client Privilege session at 7:01 p.m. The session ended at 7:04 p.m. and the Zoning Board of Appeals meeting opened.

Other interested parties present:

Justin Phipps Alan & Deborah Kuerzdoerfer Paul Bliss
Ryan French Sara Neiman Joe Neiman

Old Business

Appeal No. 1 (from March 2019 Meeting)

Scott W. Baehre
Residential Single Family

Requests the Board of Appeals approve and grant:

- 1.) A 1,392 square foot variance to allow a 2,112 square foot detached accessory structure.
- 2.) A 12' variance to allow up to a 28' tall detached accessory structure.

Both requests apply to 5015 Salt Road.

Appeal No. 1 is in variance to §229-55(D) and §229-55(E)(2).

DISCUSSION:

Appeal No. 1 under Old Business will be tabled until next month at the request of the applicant, a copy of the request is on file.

New Business

Appeal No. 1

Justin Phipps
Agricultural Floodzone

Requests the Board of Appeals approve and grant a variance to allow a front yard setback of up to 325' for the construction of a single family home located at 8300 Lapp Road.

Appeal No. 1 is in variance to §229-31 *established front yard setback line of 170'.

DISCUSSION:

Mr. Phipps is present and said he property is approximately 400' wide. He wants to build a house further back, perhaps 325' back from the right-of-way. He has two (2) small children and wants to build the house back for safety and privacy issues. He also wants to be away from the noise of large trucks that drive down the street. He spoke with the neighbors on either side and to the back of the property and they are all good with his request. He said on the west side there is no neighbor, on the east side there is a neighbor but there is a huge thick wooded area between them. Mr. Phipps said he will add trees to the east side as well. The fire hydrant is across the street.

There are three (3) neighbor notification forms on file.

Mr. Krey asked if the applicant would agree to plant the pine trees as a condition of the approval, if the request is approved. Mr. Phipps said yes he would agree to that. The house would be approximately 3600 square feet, a rendering of the house was submitted as Exhibit 1 and is on file.

Mr. Hickey asked if Mr. Phipps knows Ryan French. Mr. Phipps does not. Mr. Hickey clarified that the applicant is asking for a variance of 155' +/- . Mr. Phipps purchased the property in November 2018. The property is approximately 18 acres in size. Mr. Hickey asked if the applicant gave any consideration to placing the home closer to the road than what he is proposing. He would rather not due to the safety of the children, he actually wanted to go further but he knows that would be extreme.

Mr. Mills asked for the addresses of the houses in the area that have a similar setback to what Mr. Phipps is asking for. Mr. Phipps explained that the house at 8346 Lapp Road is 170' from the road, the houses at 8345 Lapp Road and 8255 Lapp Road also have similar setbacks. He went on to say that the whole road has houses that are generally setback but because of the fuel line in the area some houses have to be a bit closer to the road.

Mr. McNamara asked how the drainage is on the lot. Mr. Phipps said the drainage is pretty good. He plans on installing a pool. He does not know who will be building the house yet but the septic system will go wherever the builder deems appropriate.

Chairman Michnik asked how much the property cost, Mr. Phipps said approximately \$110,000. Chairman Michnik asked how much it will cost to build the house, Mr. Phipps estimated between \$500,000 and \$700,000.

ACTION:

Motion by Jonathan Hickey, seconded by Richard McNamara, to **approve** Appeal No. 1 as written with the following conditions:

-the placement of not less than 8' tall pine trees, 15' apart are to be planted on the east side of the property up to the house as noted on the submitted paperwork. The trees are to be planted no later than final Certificate of Occupancy.

ON THE QUESTION:

Mr. McNamara advised that 10'-15' pine trees would be too large and would not last long before they perish. He suggested planting 8'-10' tall pine trees. Exhibit 3 indicates the location of the trees to be planted by the applicant. Exhibit 3 is on file.

Patrick Krey	Aye	Jonathan Hickey	Aye
Richard McNamara	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 2

Deborah and Alan Kuerzdoerfer
Residential Single Family

Requests the Board of Appeals approve and grant a 416 square foot variance to allow a 616 square foot secondary detached garage located at 10775 Boyd Drive.

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

DISCUSSION:

Deborah and Alan Kuerzdoerfer are present. There are four (4) neighbor notification forms on file. Mrs. Kuerzdoerfer said they want to add a 2-car garage. They currently have a 2-car garage attached to the house but they have a Mustang and an antique pick-up truck that is in the garage now so their vehicles are sitting outside during the winter. They also have a boat so they want additional storage for their vehicles. They have lived at this address for eight (8) years. The primary residence is 1850 square feet.

Mr. Hickey asked if the applicants looked into building anything smaller than 616 square feet. Mr. Kuerzdoerfer said no, they did not look at anything smaller because they want to fit both cars in the garage or one car and the boat. Mr. Hickey asked what the structure will look like. Mr. Kuerzdoerfer said it will be Dutch slab siding, double Dutch white which is the same as the house, the roof will be black. The dimensions are 22' x 28' with a man-door on the side. If it was any smaller he could only get one car in the structure. He has owned the boat since 1999 and has owned the antique car for 4 years. No one else lives at the house with them.

Mr. Mills asked the applicant if he explored attaching the structure. Mr. Kuerzdoerfer said no because of how the landscaping is set up and the curbing. Mr. Mills suggested a breezeway which would allow the landscaping to remain intact.

Mr. McNamara asked how tall the garage will be. Mr. Kuerzdoerfer said 12' to 14' high. There will be electric but only for the opener, not to do anything in there. The door will match the door that is on the house.

Chairman Michnik said a breezeway finishes off the look and makes it look like it has been there forever. He would like the applicant to explore attaching the structure to the house. Mr. Kuerzdoerfer said he does not want to go that much further into the back yard. Chairman Michnik said he would not have to go back further, just attach it with the breezeway.

Mr. Callahan said if the structure is attached it would not need a variance for the size.

The applicants like the idea of a breezeway and ask for their request to be tabled at this point to allow them to explore other options.

ACTION:

Motion by Ryan Mills, seconded Daniel Michnik, to **table** Appeal No. 2.

Patrick Krey	Aye	Jonathan Hickey	Aye
Richard McNamara	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 3

Ryan French
Agricultural Floodzone

Requests the Board of Appeals approve and grant a variance to allow a front yard setback of up to 150' for the construction of a single family home located at Lapp Road SBL #29.00-1-21.111.

Appeal No. 3 is in variance to §229-31 *established front yard setback line of 62'.

DISCUSSION:

There are three (3) neighbor notification forms on file. Mr. French is present and said he is requesting a 150' setback for a new build on a wooded lot, he would clear about an acre and a half to build the house. He wants to keep woods around the house. Mr. French submitted Exhibits 1 and 2 showing other houses in the area with similar setbacks.

Mr. McNamara asked why the applicant wants to set the house back 150'. Mr. French said he is concerned with safety as he has an eight (8) month old child and will probably have another one soon. They are looking for a rural look and feel for their home. The house will be approximately 2500-2800 square feet.

Mr. Krey asked if the applicant would agree to maintain the 40' of brush/trees at the front of the property if this was approved. Mr. French said yes he would.

Mr. Hickey asked if Mr. French knows Justin Phipps. Mr. French said no, however he just met him out in the lobby. The property is currently under contract. Mr. Hickey asked if the applicant considered any distances closer to the road. Mr. French said not really, originally he wanted to go to 200' but to save on some costs he brought it in to 150'.

Mr. Mills asked the applicant if he has anything in writing that gives the current owners consent for Mr. French to go before the Board. The current owner, Robert Nuccerino, signed the Access Consent form and a neighbor notification form.

The applicant purchased just over 16 acres of land. He will start building as soon as possible. They are looking to close on the property within the next 60 days. The property has to be raised about two and a half (2½) feet where the house will be and then it will be pitched forward and back. There would be a drainage plan that will be approved by the Building Department. They will apply for a LOMAR once they build up the property.

ACTION:

Motion by Jonathan Hickey, seconded by Richard McNamara, to **approve** Appeal No. 3, as written contingent on receiving written consent from the current owner. The applicant is to maintain 40' of brush at the east property line, 20' back from the street.

ON THE QUESTION:

Mr. Hickey noted that this is not a substantial variance nor would it be an adverse impact due to where the property is located.

Deputy Town Attorney Steve Bengart confirmed that he received a text message from the current owner, Robert Nuccerino, giving his consent to Ryan French to go before the Board with his request tonight. A copy of the text is on file.

Patrick Krey	Aye	Jonathan Hickey	Aye
Richard McNamara	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 4

Joseph Neiman
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a 1,352 square foot variance to allow a 1,552 square foot secondary detached garage and pool house combination located at 5397 Center Pine Lane.

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

DISCUSSION:

There are seven (7) neighbor notification forms on file. Joe Neiman is present and explained that they are looking to add a three (3) car garage at the end of their driveway. Off the back of the garage they want to do a 20' x 20' covered patio, which will coincide with the pool they are going to build. The garage is for a small collection of cars Mr. Neiman owns that he wants to keep inside.

Mr. Mills asked if the applicant contemplated attaching the garage vs. detaching the garage. Mr. Neiman said if the garage was detached it could be closer to the edge of the property. The total construction cost would be less if it were detached vs. tying it into the house, but they are flexible. All the materials will match the house and it will look like it is part of the house. The rear of the structure will be just a covered porch, no walls on that portion. Mr. Mills clarified that the proposal is really for 1,152 square feet of structure and 400 square feet of covered patio. Mr. Neiman confirmed. They have lived in the house for one (1) year. They have done a lot of renovations on the inside of the house.

Mr. McNamara likes the garage attached and feels it could be parallel to the property line. Mr. Neiman said he would want enough height so he could do a stacker lift, however the structure would not be a functional service shop, it is a hobby. There will be power, water and heat in the structure. There may be a bathroom put in the breezeway or in the garage.

Mr. Krey asked if there will be plumbing for a kitchen and a bathroom. Mr. Neiman said most likely, but if they build an attached structure there would not be a kitchen in the structure, just a bathroom.

Chairman Michnik asked if the applicant has cost estimates for the project. Mr. Neiman said yes but it is dependent on how they finish it off.

ACTION:

Motion by Daniel Michnik, seconded by Ryan Mills, to **approve** Appeal No. 4 as written with the option of attaching or detaching the structure. If it is attached the applicant can meet the existing roof lines so he has the ability to have a stacker lift.

Patrick Krey	Aye	Jonathan Hickey	Aye
Richard McNamara	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Meeting adjourned at 7:57pm.

Carolyn Delgato
Senior Clerk Typist