

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday May 10, 2016
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
David D'Amato	Patricia Burkard
Gregory Thrun	Richard McNamara

Town Officials present:

Director of Community Development James Callahan
Deputy Town Attorney Steven Bengart
Councilman Paul Shear (arrived at 7:05pm)

Motion by David D'Amato, seconded by Patricia Burkard, to **approve** the minutes of the meeting held on April 12, 216, as written.

Gregory Thrun	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Other interested parties present: Paul Giordano Bryan Schaefer

New Business

Appeal No. 1

Paul Giordano
Industrial Business Park

Requests the Board of Appeals approve and grant a variance to allow a residential use at 8745 Roll Road.

Appeal No. is in variance to §229-100.

DISCUSSION:

Paul Giordano is present. He submitted two (2) certified mail receipts for the neighbor notification forms he mailed. Mr. Giordano said he purchased the property in 1997, it was at 2.4 acres. He was going to build a house on it but several months later he found a new home and bought that. He wants to sell this property. He found out recently that the property is zoned Industrial. The assessment and the taxes still say it is residential vacant. His realtor has had a number of inquiries about the property, but because of the industrial designation they have not been able to sell it. There is 150' of frontage on Roll Road and the property goes back 704'. It seems to Mr. Giordano that it would be difficult for him to sell this property as Industrial.

The property on the east border of his property is Industrial but all the property after that is residential. He was told the property designation was changed in 2005.

There is one (1) neighbor notification form on file.

Mr. Giordano referred to the property on the west side of his, which is owned by Mr. Marinaccio. Mr. Giordano said that if Mr. Marinaccio's property is zoned residential, there is a 40' frontage that is owned by Mr. Marinaccio that adjoins the larger piece. That would make that piece of property residential, Mr. Giordano's is industrial, then the next piece of property residential. Mr. Callahan clarified that the 40' piece is an old road and is zoned Industrial.

Mr. Thrun asked if the assessment shows the zoning designation. Mr. Giordano said yes he has a 2003 assessment that shows residential.

A tax collection receipt from 2016 and a tax bill from 2015 both indicate class 311, which is residential vacant. There is also documentation from 2010 showing the same. All documents are on file.

Mr. D'Amato asked the applicant how long ago he started the process to try and sell the property. Mr. Giordano said he started in about 2008. The realtor has had numerous inquiries for residential, but no buyers. He would like to get rid of the property, he is semi-retired.

Mr. Mills asked the applicant if he is confident he won't need to switch the zoning back to Industrial. Mr. Giordano said no he would not do that.

Chairman Michnik asked if the applicant is going to sell the property; not build on it himself. Mr. Giordano said that is correct.

Mr. Mills explained that the request for this use variance is going to require an action under the State Environmental Quality Review Act.

ACTION:

Motion by Ryan Mills, seconded by Daniel Michnik, pursuant to Article 8 of the Environmental Conservation Law to **issue** a Negative Declaration on the proposed use variance to allow for a residential single family home to be constructed in the Industrial Business Park zone. This Unlisted Action involves construction of a single family home on lands that are zoned to not allow such a use. After thorough review of the submitted site plan and Short Environmental Assessment Form it is determined that the proposed action will not have a significant negative impact upon the environment.

Gregory Thrun	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 1, as the applicant has provided evidence and testimony regarding the prior designation of this property being residential, providing evidence of various historical tax bills regarding the zoning classification being 311. The

applicant has also provided evidence and testimony that nearby parcels are residential. It appears that his property's new specification was changed during his long tenor of ownership.

Gregory Thrun	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 2

R2B Management/Bryan Schaefer
Industrial Business Park

Requests the Board of Appeals approve and grant a 21.21'+/- variance to allow a 58.79'+/- front yard setback for the construction of a new parking area to service an addition to 9580 County Road.

Appeal No. is in variance to §229-102(E).

DISCUSSION:

Bryan Schaefer is present. There are two (2) neighbor notification forms on file.

Mr. Schaefer said he wants to put an addition on to his building after 30 years. He will be moving the existing side entrance to the building to the front of the building. He has 16-17 full time employees and this change will provide enough access in the front of the building for those employees and customers. It will clear the side parking lot which is used for trucks, deliveries and shipments that they have on a regular basis. They will leave as much greenspace as they can.

Mrs. Burkard said this parking lot is set back further than the neighbor on the west side. She asked if the applicant considered putting the parking lot on the east side of the building. Mr. Schaefer said the septic system is on that side of the building.

Chairman Michnik referred to the aerial view of the property and asked for the location of the septic field. Mr. Schaefer pointed to the location of the septic system on the aerial view. Chairman Michnik said he would prefer the parking be on the side because all the other businesses, except for Drake which has been long-time established, have parking on the side. He said Mr. Schaefer has plenty of room on the east side of the building for a parking lot or he could also continue to take parking to the back of the building. Mr. Schaefer said it is harder for their customers to access the back, there are safety concerns with trucks coming and going on an hourly basis, it would be very inconvenient. They have about 6 walk-in customers a day, and 8-10 truckers a day. On the east side the drainage would not be as conducive, the parking lot would have to be bigger. Chairman Michnik asked if the applicant looked at expanding the back. Mr. Schaefer said yes they did that once already years ago. The front of the building will be offices and will be updated. Chairman Michnik suggested adding on to the back of the building and reconfiguring the inside of the building. Mr. Schaefer said they discussed that but it takes a lot of dollars to convert warehouse space to office space. There is also a block wall on the interior that would not be easy to remove.

Mr. Schaefer pointed out that he is one of only a few buildings in the area that are 58' back from the road. Chairman Michnik said even if those buildings aren't setback 58' they still have parking on the side.

Mr. Mills asked what the nature of the applicant's business is. Mr. Schaefer explained that they are manufacturer sales representatives for plumbing and heating equipment. There is no retail business at this location. Mr. Mills suggested decreasing the size of the front parking, keeping the employee parking off to the side. Mr. Schaefer said that is a possibility. He wants to do it right because he plans on having the business there for at least the next 30 years. He also needs to keep it cost effective. Currently, there is no front parking. He has a side entry to the building but he would like to get rid of that.

Chairman Michnik voiced his concern about setting a precedent if this request is granted.

Mr. Mills asked if the applicant can do without the extra 19'. Mr. Schaefer said yes, that will force him to put 10 people on the side of the property and 10 in front. He went on to explain that the new addition would be on grade with the back structure, they will build the floor up so that the front addition can, on one level, access the back. Mr. Mills referred to the foundation and roof framing plan A-2 dated August 7, 2015, this plan is not on file.

Mr. Schaefer said he has not submitted the plans showing all the renovations because he has to do it in phases due to cost. Mr. D'Amato suggested all information be submitted so the Board can make a better decision.

Mr. D'Amato asked if there are plans to add another warehouse in the future. Mr. Schaefer confirmed that there are no plans to develop the east side of the parcel any further. Mr. D'Amato prefers all the parking on the side of the property, which is the design that flows with the neighborhood and how the warehouses are set up. Most of the other warehouses in the area have parking on the side of their property, not the front. Drakes has parking in the front. The size of Mr. Schaefer's lot is 365' by 700'. There is enough room for parking on the side of the property however the cost of excavation will be an issue. It would cost \$62,000 for side parking, the cost is per square foot. Mr. D'Amato said the business plan could change 20 years down the road in which more retail is added and then more parking would be needed and the applicant would have to come back to this Board for more parking.

Mr. Callahan noted that this building is set way back compared to what is required now. The proposed addition still meets setback requirements in that zone. The variance is just for the parking area up front. The building itself has created an awkward situation because it is setback.

Chairman Michnik suggested having the employees park farther back on the property and have closer parking spots on the side of the property for the customers. Mr. Schaefer said they could do that, he would prefer to make the parking as easy as possible for both his employees and his customers. He looks up and down the street and sees beautiful parking lots, he is not putting stone down like some others have. He is putting in a nice parking lot, grading it and landscaping it to make it appeal to everyone.

Mr. Mills said the applicant is entitled to have the proposed spaces that are adjacent to the new building. He asked the applicant if he would be willing to do extensive landscaping or something to help deal with the front issue of the parking lot. Mr. Schaefer said there is landscaping between the building and the parking lot now. Drainage will have to go in the area and there is a lot of clay too. They have spent \$1,000's on trees and plantings that have not grown because of the soil and drainage. He would agree to a condition to try plantings again in that area. Mr. Mills suggested a stone wall in front of the parking area to tie into the stone that will be used on the front of the building. Mr. Schaefer said he does not know the cost of that but he will consider it. On second thought, Mr. Schaefer said he would rather not agree to a stone wall for various reasons, which include snow plowing and drainage. Chairman Michnik said the stone wall would

be on the outside of the parking so it would not affect snowplowing. Mr. Schaefer cannot think of anyone else who has a wall on County Road with parking near the road. He thinks it would stick out. The cost and maintenance of the wall could be an issue.

It is suggested the applicant consider two (2) entrances, one for trucks/deliveries and another for walk-in customers. Then a few parking spots could wrap around to the east.

Mr. Thrun noted the farther employees/customers have to walk in WNY winters the more chance there is for them to slip and fall. He understands the stone wall can be very costly at \$100 a foot.

Mrs. Burkard noted that there will only ever be industrial buildings across the street in that area.

Mr. Thrun said there are other complexes down the road a mile or so that have parking in the front and on the side of their buildings.

ACTION:

Motion by Patricia Burkard, seconded by Gregory Thrun, to **approve** Appeal No. 2, as written. To improve the parking lot on the east side of the building is very costly to the applicant. This is in an industrial area with similar buildings. The applicant is trying to expand his business in Clarence, he is concerned for the safety of his employees and his walk-in clients. This justifies the differentiations he is requesting.

Patricia Burkard	Aye	David D'Amato	Nay
Daniel Michnik	Nay	Ryan Mills	Nay
Gregory Thrun	Aye		

MOTION DENIED.

Meeting adjourned at 7:50 P.M.

Carolyn Delgato
Senior Clerk Typist