

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday May 9 , 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
David D'Amato	Patricia Burkard
Richard McNamara	

Zoning Board of Appeals members absent: Jonathan Hickey

Town Officials present:

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

Motion by David D'Amato, seconded by Richard McNamara, to **approve** the minutes of the meeting held on April 11, 2017, as written.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	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 7:00 p.m. The session ended at 7:12 p.m. and the Zoning Board of Appeals meeting opened.

Other interested parties present:

Gary Clunie Alan Eichberg Steve Kamats Keith Pace Kathleen Pace

Old Business

Appeal No. 1 (from January 2017 meetings)
Gary Clunie
Residential Single Family

Requests the Board of Appeals approve and grant:
1.) A 328 square foot variance to allow a 528 square foot detached secondary garage.
2.) A 4' variance to allow for a 6' side yard setback for the detached secondary garage.
Both requests relate to 10505 Royal Oak Drive.

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

DISCUSSION:

Mr. Mills read an e-mail regarding this request from Joseph Lancellotti to James Callahan and Jonathan Bluer dated May 4, 2017 stating that Mr. Lancellotti is looking at two (2) requests for the next Zoning Board of Appeals meeting at 7310 Salt Road and 10505 Royal Oak Drive. Both applicants are looking to build detached structures within wetlands. Both will need permitting from the Department of Environmental Conservation and/or the Army Corp of Engineers in order to proceed. In response, Mr. Mills read an e-mail from Jonathan Bleuer to Joseph Lancellotti and James Callahan dated May 4, 2017 advising that Jonathan "will call 7310 Salt Road and let them know. For 10505 Royal Oak Drive he previously provided the attached, will it suffice?" Joseph Lancellotti responded "Yes, that will work. The contractor came in early last week to discuss the Salt Road property so they should be aware that a Wetland Permit will be required. The e-mail correspondence was entered into the record. Just wanted to give you a heads up as well." A copy of the e-mail is on file.

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

Mr. Mills read an e-mail from Mary S. Gober to Carolyn Delgato dated January 10, 2017. Mary Gober resides at 4650 Oakwood Lane which is across from the subject property. "I now understand the hearing regarding Mr. Clunie's application to build an additional 2+car garage, stand-alone structure, in addition to the attached 2 car garage that he plans to build onto his new home, has been cancelled for tonight, January 10, 2017. I have been able to talk to Mr. Clunie today and have indicated I will need to see the actual proposed building site plans for the lot development before I can offer my agreement or express specific concerns or opposition. He is currently in Florida. We agreed we would talk on the telephone next week to decide what would be the best way for me to see the actual plans, so I can fully understand what he is proposing, and how it will impact my property. I will stay in touch with you, if that is acceptable." A copy of the e-mail is on file. Mary Gober was mailed a copy of the agenda for this evening's meeting on April 28, 2017.

Mr. Clunie said he spoke to Ms. Gober extensively regarding his request, but he is not sure she fully understood what he is asking for. He said he would like a stand-alone garage, he already has a DEC permit for it. The Town owns the property which backs up to Federal and State Wetlands. He would like to push the garage over towards the lot line because of previous problems he had with his home permit. The house he is building on the lot will have a garage attached to it. This would be a separate, personal garage. It will not be used for any type of business.

Ms. Burkard asked for details on what the garage will look like and what materials will be used. Mr. Clunie said the garage door will be in the front and the materials will match the house which will be vinyl or hardie board. There will be a second story but it will not be turned into a secondary living unit. The garage will have a gable. The house will be one-story and just under 2100 square feet.

Mr. D'Amato said he did not see any stakes when he visited the property. Mr. Clunie said there were no stakes because that the land is low and wet and if it was staked, it would not be visible. Mr. D'Amato said the property is supposed to be staked so the board members know what they are looking at, he does not like to review projects unless they are staked.

Mr. Mills said that since he is building a house can he attach the garage by way of a breezeway or make the attached garage a bit bigger, so that it will blend in with the character of the neighborhood. Mr. Clunie said it will blend in with the neighborhood, he is building on a dead end street, he only has half a street in

front of his house. He had to put his driveway to the far left to make it work. He does not want to add to the attached garage. He would rather store combustibles in the garage away from the house to keep the fire hazard away from the house. Mr. Mills asked if it is possible for the attached garage to be a little bigger and the detached to be a little smaller. Mr. Clunie said no, there would not be enough room with the limits of having to keep the house close to the lot line. He does not want to have an attached 2-car garage. He will have to bring in fill and will go with a 9' basement. Mr. Clunie has been building homes for 40 years.

Mrs. Burkard asked what Mr. Clunie will build first, the home or the garage. Mr. Clunie said the home. Mrs. Burkard said she would like to see what the garage will look like. He explained it's a regular 2-car garage with a gable, material will match the house, and the roof will have architectural shingles. The pitch in the gable will match that of the house. The architectural drawings for the home are complete. The garage height will be 18'. Mr. Callahan said 16' is the maximum height allowed. Mr. Clunie said then he will do 16'.

ACTION:

Motion by Daniel Michnik, seconded by Ryan Mills, to **approve** Appeal No. 1 under Old Business, as written with the following conditions:

-the secondary garage can be no higher than 16'.

ON THE QUESTION:

Mr. Clunie has presented evidence that his lot borders property that is owned by the Town of Clarence. His lot is situated at the end of Royal Oak Drive with no neighbors, other than the Town of Clarence parcel, adjacent to where the additional accessory structure will be located. He has presented evidence that it will fit in with the character of the neighborhood. For these reasons this request can be distinguished from other situations in terms of side yard setback.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Nay	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

New Business

Appeal No. 1

Alan W. Eichberg
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 10' variance to allow for a 15' rear yard setback for the construction of a detached accessory structure located at 7310 Salt Road.

Appeal No. 1 is in variance to §229-44 (F)(3).

DISCUSSION:

Mr. Mills read an e-mail correspondence from the Town Engineer Joseph Lancellotti, to James Callahan dated May 4, 2017, noting that Mr. Lancellotti is looking at two (2) requests for the next Zoning Board of

Appeals meeting at 7310 Salt Road and 10505 Royal Oak Drive. Both applicants are looking to build detached structures within wetlands. Both will need permitting from the Department of Environmental Conservation and/or the Army Corp of Engineers in order to proceed. In response, Mr. Mills read an e-mail from Jonathan Bleuer to Joseph Lancellotti and James Callahan dated May 4, 2017 advising that Jonathan "...will call 7310 Salt Road and let them know..." Joseph Lancellotti responded "Yes, that will work. The contractor came in early last week to discuss the Salt Road property so they should be aware that a Wetland Permit will be required. The e-mail correspondence was entered into the record. Just wanted to give you a heads up as well." A copy of the e-mail is on file.

Mr. Eichberg explained that he wants to build a dry storage building off the back of an existing garage.

Mr. D'Amato asked what will be stored in the proposed building. Mr. Eichberg said he will store some personal items, possibly farm equipment and future storage of hay. He does not operate a business out of his property.

Mrs. Burkard asked if the proposed structure is attached or detached. Mr. Eichberg said it abuts up to the existing garage, it is not physically being attached to the existing garage. As soon as this is approved he will send the application to the DEC, he has the paperwork filled out and ready to go. Mrs. Burkard asked if the Board needs to see DEC approval prior to granting the variance request. Deputy Town Attorney Steve Bengart said no.

Mr. Mills asked if the applicant uses this address for the AWE Concrete business. Mr. Eichberg said it is used as the mailing address and for parking his trucks only. He does not store anything other than the trucks for his business at this location. He stores personal cars and personal equipment but there is no corporate office at this location.

Chairman Michnik asked if the house next to the applicant was before the board for a variance a few years ago. Mr. Eichberg said that is his property as well. The house where the business address is, is not a rental, that house is empty except for his sister who is living there for the summer. Mr. Mills asked who owns the parcel that is directly behind the project location. It is clarified that directly behind Mr. Eichberg's property is a parcel owned by the Town of Clarence.

ACTION:

Motion by Ryan Mills, seconded by Patricia Burkard, to **approve** Appeal No. 1 as written.

ON THE QUESTION:

The applicant has presented evidence and testimony as to the location of the structure and the fact that the parcel most adversely impacted is Town property, there appears to be dense foliage in that area. This is different than other applicants with similar variances in that it is adversely impacting Town property versus a resident.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 2

Svetlana Strut
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a variance to allow an accessory structure without a principle structure on a vacant property located at Conner Road SBL #43.12-3-16.12.

Appeal No. 1 is in variance to §229-44 (F)(3).

DISCUSSION:

A representative explained that the applicants have an employee to take care of the land at 8880 Lake Glen Court and they are looking to keep a lawnmower and other yard equipment in a shed. If the shed is put in front of the mounds it will be visible to the neighborhood, if it is placed behind the mounds the applicant will see it. The structure will be to hold equipment only, it will not be used for a business.

Mr. D'Amato asked what is currently done at the property. The representative explained the applicants currently have a service that was from the previous owners of the house, but this will change.

Steve Kamats is the representative and stated that he has authority from Svetlana Strut to speak on her behalf. Mr. Mills asked if there is any other location on the property where the proposed structure could be situated. Mr. Kamats said not at 8880 Lake Glen Court. Mr. Mills asked if the Connor Road parcel was purchased as part of the Lake Glen Court transaction. Mr. Kamats said yes, both parcels were purchased at the same time. Mr. Mills asked what materials will be used for the accessory structure. It is confirmed that vinyl siding will be used and the roof will be asphalt shingles. There is a photo on file showing what the shed will look like.

Mr. McNamara asked if electric will be run to the shed, Mr. Kamats said no.

Mrs. Burkard asked if the Connor Road parcel in the back is one piece of property. Mr. Kamats said yes.

There is an existing shed on the property, Chairman Michnik asked if the applicant is willing to remove that existing shed if this variance is granted. Mr. Kamats assumes it will be taken down, he will discuss it with the applicant. Chairman Michnik recommended the applicant remove the existing shed. Mr. McNamara asked what will be done with the concrete pad once the existing shed is removed. Chairman Michnik suggested planting something in front of the concrete pad.

In response to Mr. McNamara's question regarding the size of the structure, Mr. Callahan said the parcel is 6 acres so the accessory structure can be as large as the applicant wants.

Mr. Mills asked if there are plans to put a principle structure on the property. Mr. Kamats said not at this time because of the way the access is.

Keith and Kathleen Pace are present, they live at 6451 Connor Road and own the parcel that is next to the applicant's Connor Road access. Mr. Pace said they have no objection to the location of the shed, it is not out of character with the neighborhood. It is approximately 400' away from his house and he is present to support the applicant.

ACTION:

Motion by Patricia Burkard, seconded by Ryan Mills, to **approve** Appeal No. 2, as written.

ON THE QUESTION:

The applicant has provided testimony that the new structure will be blocked from most of the neighborhood due to pine trees and other trees that obstruct the view shed from the south. The neighbors at 6451 Connor Road testified that their site lines will not be adversely impacted because of the size of their parcels.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Nay		

MOTION CARRIED.

Meeting adjourned at 7:52pm.

Carolyn Delgato
Senior Clerk Typist