

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
September 13, 2022

Chairman Ryan Mills called the meeting to order at 5:30 p.m.

Zoning Board of Appeals members present:

| | | |
|---------------------|-----------------|------------------|
| Chairman Ryan Mills | Patrick Krey | Raymond Skaine |
| Richard McNamara | Gerald Drinkard | Patricia Burkard |

Town Officials present:

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

Motion by Patrick Krey, seconded by Raymond Skaine, to **approve** the minutes of the meeting held on August 9, 2022.

ON THE QUESTION:

Mr. Drinkard had recused himself on Appeal No. 1 from the August 9, 2022 meeting. The vote should reflect Mr. Drinkard’s recusal and no vote.

| | | | | | |
|------------------|-----|-----------------|-----|------------------|-----|
| Ryan Mills | Aye | Raymond Skaine | Aye | Patrick Krey | Aye |
| Richard McNamara | Aye | Gerald Drinkard | Aye | Patricia Burkard | Aye |

MOTION CARRIED

Appeal No. 1

Doug Curella
Agricultural Rural Residential

Applicant requests a variance of ~~7~~ 5’ to allow a ~~3~~ 5’ side yard setback for the construction of a detached accessory structure (pole barn) located at 5655 Strickler Road.

Town Code Reference;
§229-44 (F) (2)

Chairman Mills recused himself from Appeal No. 1.

DISCUSSION:

Mr. Curella was present to further discuss his request and respond to any questions.

Mr. Curella stated that he would like to make a change to his request based on information received on the fire code. He would like to request a 5’ variance for a 5’ side yard setback.

Mr. McNamara reviewed the fire code with Mr. Curella, reiterating that all parts of the proposed structure need to be within 5 ft. from the property line. Mr. Curella stated he understands.

Mr. Curella explained that due to the way that the house is set up, he would have preferred to move it an additional 10' more to the north, because he thought that variance was 20' but determined that it would be too close to his side entrance. Mr. Curella added that rather than the side entrance being the main entrance to his house, it now allows for parking, and a grassy, functional area.

Mr. Krey asked who owns the property along the south side where Mr. Curella is proposing to build the pole barn. Mr. Curella responded that it is non-buildable wetlands, he has spoken with the owner of the property and stated that he has no issues with Mr. Curella's plans. Mr. Curella stated that he will maintain the property, install a drainage line and egress which will benefit not only him, but the neighboring properties as well.

Mr. Krey noted that per Mr. Curella's application, he indicated that there will be excessive foliage protection along the north and south, his location is tucked in an area that is surrounded by foliage and secluded.

Mr. Krey asked Mr. Bleuer if the area Mr. Curella is referring to is wetlands.

Mr. Bleuer stated that it is the Town of Clarence's understanding that it is a significant state wetland, under jurisdictional control of the Department of Environmental Conservation (DEC) therefore the Town does not have ultimate control of the wetland.

Mrs. Burkard asked what size the potential barn will be. Mr. Curella responded that it will be 50' x 50'.

Mrs. Burkard asked for clarification as to why the proposed barn needs to be as close to the property line as requested. Mr. Curella responded that it is his side entrance for his house.

Mrs. Burkard asked if it will be a typical pole barn with a metal roof. Mr. Curella responded that he plans to have it mimic the design of his house.

Mr. Krey asked if the location of the pole barn is also due to the septic system. Mr. Curella said yes, he has had issues with the power lines also.

Mr. McNamara asked what the total acreage of the lot is. Mr. Curella responded that it is 200' x 400', 1.8 acres.

Mr. McNamara asked if there will be any business run from out of the barn. Mr. Curella responded no.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

ACTION:

Motion by Raymond Skaine, seconded by Gerald Drinkard to **approve** Appeal No. 1

ON THE QUESTION:

Mr. Krey noted that as stated in Mr. Curella's application, the properties surrounding the proposed structure will not be affected, and there will not be any detrimental impact on the neighborhood.

| | | | | | |
|------------------|-----|------------------|-----|--------------|-----|
| Gerald Drinkard | Aye | Raymond Skaine | Aye | Patrick Krey | Aye |
| Richard McNamara | Aye | Patricia Burkard | Aye | | |

MOTION CARRIED**Appeal No. 2**

Bradley Wright
Residential Single-Family

Town Code Reference;

1. §229-55 (H)
2. §229-55 (H)
3. §229-55 (E) (2)
4. §229-55 (I)

Applicant requests a variance:

1. to allow a secondary detached garage; and
2. of 1,312 sq. ft. to allow a 1,512 sq. ft. detached accessory structure; and
3. of 5' to allow a 21' tall detached accessory structure; and
4. to allow 3 overhead doors to be over 9' tall;

located at 5410 Old Goodrich Road.

Chairman Mills returned to the dais.

Patricia Burkard recused herself from this item.

DISCUSSION:

Brad and Kate Wright were present to further explain their request and answer any questions. Mr. Wright added that they would like to build this barn to store their items in, such as their camper, boat, tractor, as well as other assorted equipment and items.

Mr. Wright noted that it is not a traditional pole barn, they are planning on something with more aesthetic appeal.

Mr. Wright added that he is a shop teacher, and would like to add some space in the proposed structure to have his own at-home shop space.

Mr. Drinkard noted that there is a large open field next to his property, that he believes to be owned by the Town of Clarence. Mr. Wright responded yes.

Mr. Drinkard stated that the property is very flat, with no surrounding homes or buildings, and it is shielded now with trees and other vegetation, though it will not be in the winter. The structure that Mr. Wright is requesting to build is higher than what is allowed in the single-family residential zone, plus the variance for oversized doors. Mr. Drinkard stated that is too much for that lot.

Mr. Wright noted that the doors will not be visible from the road.

Mr. Drinkard noted that the lot is very busy with a lot of items. Mr. Wright pointed out that is why he would like to build the pole barn, to store everything in.

Mr. Skaine asked what the perimeter of the Wright's house is, Mr. Wright responded 1,800 sq. ft. Mr. Skaine asked what size the proposed pole barn will be, Mr. Wright responded 1,500 sq. ft.

Mr. Skaine stated that he is not comfortable with the size of it, and the possibility that someday there may be residents on the property to the north that would find a structure of that size to be an eye sore.

Chairman Mills stated his concern regarding the size of the proposed structure as well, especially considering the ratio between the principal structure and the proposed accessory structure, which is almost as large as the principal structure.

Chairman Mills asked Mr. Wright if there is any way he'd be able to reduce the size of the proposed structure. Mr. Wright responded no, considering everything that they plan to keep inside the structure. Mr. Wright referred to the photo of his plans that show the inside with the second-floor area. Chairman Mills marked this Exhibit A.

Mrs. Wright added that they don't want the structure or their property to be an eyesore, regardless of what the adjacent property turns in to. They have taken great pride in making their property look nice, and they will do the same with the pole barn.

Chairman Mills asked if they plan to put stone along the front of the proposed structure. Mr. Wright responded that it will be a darker metal.

Mr. Krey asked Mr. Wright if there are any other similar structures in the area that he saw. Mr. Wright responded yes, and submitted a list to review with the board. Chairman Mills marked these pages Exhibit B.

Mr. Krey noted that Mr. Wright's property is unique in the sense that although it is zoned Residential Single Family, in many aspects it is more rural than residential. Mr. Krey pointed out that because the roof of the proposed structure will be lower than the roof of the house, in all probability, it will not be seen from the street. Mr. Wright stated that the roof line of the proposed barn will be 8 ft. lower than the roof line of his house.

Mr. Krey asked if the board imposed a condition that landscaping along the north side to mitigate the view was to be done, would that be agreeable. Mr. and Mrs. Wright responded yes.

Mr. McNamara has no issues with the size, he lives in the area and confirmed that it is not clearly visible from the surrounding area. It is a nice design and will look great.

Mr. Skaine asked if it would be a problem to have a stipulation that additional trees need to be planted along the west side. Mr. Wright said no, he loves growing trees and Mrs. Wright said they would be happy to do that.

Chairman Mills asked Mr. Wright what they would prefer to plant along the north side. Mr. Wright responded that he would like to plant Blue Spruces, 6 ft. tall and approximately 10-12 ft. apart, the entire length of the barn.

Chairman Mills confirmed that the front façade will have stone at least 3 ft. high. Mr. Wright responded yes, watercourse.

Chairman Mills asked if there will be anything along the front façade that will be more decorative. Mr. Wright responded that they plan to dress it up and make it look very nice with lighting, the doors will have decorative hardware, and additional ideas that they have to dress it up.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Richard McNamara, seconded by Patrick Krey to **approve** Appeal No. 2 as written, with the following conditions:

1. 6 ft. high Blue Spruce or similar, staggered 12 ft. apart along the north elevation of the structure.
2. No business to be conducted out of the structure.

ON THE QUESTION:

Mr. Drinkard asked Mr. Wright if he has any intentions of running a business from the structure. Mr. Wright responded no, they do not.

Mr. Krey stated that due to the unique nature of the lot and the fact that the property declines in the rear yard, the barn will mostly not be visible from the street, and will not cause any detrimental effect on the neighborhood. The conditions imposed with the planting of trees to help mitigate the view along the north side of the property, and also the number of pole barns there are in the surrounding area.

Chairman Mills added that the unique nature of the lot sets it apart from other requests with similar ratios between primary structure, accessory structure, and the lot.

Aside from the dense foliage already existing on the lot, the applicant has agreed to plant additional foliage along the only side where there could be a possible view from the northern parcel.

| | | | | | |
|-----------------|-----|------------------|-----|------------|-----|
| Gerald Drinkard | Aye | Raymond Skaine | Aye | Ryan Mills | Aye |
| Patrick Krey | Aye | Richard McNamara | Aye | | |

MOTION CARRIED

Appeal No. 3

Mikhail Yuzbashov & Angelina Melkumyan
Residential Single-Family

Applicant requests a variance:

1. of 10' to allow a 30' rear yard setback; and
 2. of 3'9" to allow for an 8'9" side yard setback;
- to allow an addition to the principal structure located at 9813 Willowleaf Court.

Town Code Reference;

1. §229-52 *Map Cover rear yard setback of 40'
2. §229-52 *Map Cover side yard setback of 12'6"

Mrs. Burkard returned to the dais.

DISCUSSION:

Mikhail Yuzbashov & Angelina Melkumyan were present to further explain their request as well as Tom Kelkenberg.

Mr. Yuzbashov explained that they would like to build a new storage area for the rear yard, with access through the back of the lot on the side.

The rear variance is to get the size that they need to get both the entertainment and storage area in one building.

Mrs. Burkard asked if the porch will be enclosed, Mr. Yuzbashov responded that it will be enclosed, but open on one side. Mrs. Burkard confirmed that it will be used strictly for entertainment and storage purposes. Mr. Yuzbashov responded yes, and that there will not be any living space inside.

Referring to the Evergreen trees along the side, Mr. McNamara asked what the plans are for them. Mr. Yuzbashov responded that aside from one tree that may need to be either moved or trimmed, they will all remain as is. Mr. Yuzbashov stated that if they don't need the full 5 ft., they won't use it.

Mr. McNamara asked how high the proposed structure is. Mr. Yuzbashov responded that the majority of the structure is 20' high, then slightly higher at the end.

Mr. Krey asked why the trees were there. Mr. Yuzbashov responded that they were installed for privacy purposes, not on request of the neighbor. Mr. Krey remarked that there are many trees there, close together

Mr. Yuzbashov stated that the layout of the property is pie-shaped, which makes it difficult to build on. If he had known when he built the house that he was going to eventually build on to it, he would have positioned it differently on the lot, to allow for the additional space.

Chairman Mills asked in terms of aesthetics of this structure, what are the plans. Mr. Yuzbashov responded that the side of the house will have siding, and the front will have Stucco and stone to match the house. Everything on the side will be the same, to match the existing house.

Chairman Mills asked what the inside will be. Mr. Yuzbashov responded that it will be a partially stone, partially wood frame with a concrete floor.

Chairman Mills asked if there will be an outdoor kitchen. Mr. Yuzbashov responded no, they are not planning a kitchen, only a fireplace.

Chairman Mills asked if there will be any enclosures or motorized streams. Mr. Yuzbashov said towards the end of the porch where it is a bit wider than the porch, eventually when they have a pool installed, that part will be enclosed and be used for storage.

Chairman Mills asked if they have explored other options for the outdoor patio and if so, why they didn't make sense. Mr. Yuzbashov responded that the first variance will allow them to include a gate and walkway. If they have 5' they would be able to have the gate positioned to walk in normally, but if they only have 2', then the gate needs to be on an angle and would be too close to the existing gate. They chose to combine the two gates and have just one gate. Mr. Yuzbashov stated that it would be approximately 25' for the roof, they are asking to go a bit longer to have it include the storage area that they intend to build eventually.

Referring to the two map covers that were included in the applicant's packet, Mr. Drinkard asked about the one specifically for this lot that shows an easement for drainage.

Mr. Drinkard continued discussion regarding Homeowner's Associations and setbacks per the map covers. Mr. Yuzbashov stated that before he got fully involved in this project, he learned the setbacks so as to better understand the process.

Mr. Bleuer asked Mr. Yuzbashov if they have condo status. Mr. Yuzbashov responded no. Mr. Bleuer stated that since the applicant is not part of a condominium prospectus, there will be an overall Homeowner's Association subdivision wide associated with all of the common area, but they will not be part of the restrictive covenant of prospectus for some of the condo areas. That may be the distinction. Mr. Yuzbashov confirmed that they follow the same rules as a single-family residence. Mr. Bleuer stated yes.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

Mr. Krey asked Mr. Yuzbashov if he knows who owns the property located behind his lot, and what the status is of it. My Yuzbashov responded that part of it is an open space preservation area and part is protected wetlands.

Mr. Drinkard explained that the area Mr. Krey is questioning is the easement area that the Homeowner's Association would be taking care of.

Chairman Mills confirmed with Mr. Drinkard that the two pages of map covers he was referring to previously are marked Exhibits A and B.

ACTION:

Motion by Raymond Skaine, seconded by Ryan Mills to **approve** Appeal No. 3 as written.

| | | | | | |
|------------------|-----|-----------------|-----|------------|-----|
| Richard McNamara | Aye | Patrick Krey | Aye | Ryan Mills | Aye |
| Raymond Skaine | Aye | Gerald Drinkard | Aye | | |

MOTION CARRIED

Appeal No. 4

Arthur Romanowski
Residential Single-Family

Town Code Reference;

1. §229-55 (H)
2. §229-55 (D)
3. §229-55 (H)

Applicant requests a variance:

1. to allow a secondary detached garage; and
2. to allow a detached accessory structure (garage) to be located in the front yard; and
3. of 568 sq. ft. to allow a 768 sq. ft. detached accessory structure (garage);
located at 10415 Greiner Road.

DISCUSSION:

Arthur Romanowski was present to further explain his request, and answer any questions. Mr. Romanowski explained that he would like to replace an existing shed with a 24'x32'x10' metal pole barn for storage of his truck, tractor, and additional equipment and seasonal items.

Mr. McNamara noted that because the property is well covered, the proposed structure will not be easily seen from the surrounding properties.

Mr. McNamara asked Mr. Romanowski if he intends to remove the shed that is currently located on the property. Mr. Romanowski responded yes; it will be removed.

Mr. McNamara asked if there will be blacktop or concrete run to the shed. Mr. Romanowski responded that they have not decided yet, they may not do either. There will be a concrete floor for the pole barn.

Mr. McNamara asked if they intend to run power to the proposed structure. Mr. Romanowski responded yes, there is power out there now and they do plan to add it to the new structure as well. There will not be any heat, only lights.

Mr. McNamara asked if they plan to run a business from the proposed pole barn. Mr. Romanowski responded no.

Mrs. Burkard asked how much of the proposed structure will be seen from the road. Mr. Romanowski responded that only half of the garage and pole barn will be visible. There may be a driveway, but it would be an approach from an existing driveway, not from the road.

Mr. Krey asked Mr. Bleuer whether running the driveway from the existing driveway in the back would be subject to a variance request. Mr. Bleuer responded no, that as long as it's at least 3ft. from a property line, it would be allowed.

Mr. Drinkard asked Mr. Romanowski if that is his property which extends towards Hillcrest. Mr. Romanowski responded yes.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

In regards to the front of the proposed structure matches the house, Mr. Krey asked what parts will match. Mr. Romanowski responded that it will be a complete metal structure with tan siding and a bit darker on the roof. The colors will match that of the house, not the materials.

Chairman Mills asked Mr. Romanowski if he would consent to conditions stating that no business is to be run from the proposed structure, and also that the old shed will be removed from the property. Mr. Romanowski agreed.

ACTION:

Motion by Patrick Krey, seconded by Raymond Skaine to **approve** Appeal No. 4 as written, with the following conditions:

1. color of the metal sides to match the house.
2. no business to be conducted from the structure.
3. old shed to be removed.

ON THE QUESTION:

Chairman Mills noted that this variance request is different from others in that it is very well shielded on all sides with foliage, which will minimally impact nearby neighbors. Also, it is a larger parcel therefore the proportion of the accessory structure to the overall parcel size is minimal.

| | | | | | |
|-----------------|-----|------------------|-----|------------|-----|
| Gerald Drinkard | Aye | Raymond Skaine | Aye | Ryan Mills | Aye |
| Patrick Krey | Aye | Richard McNamara | Aye | | |

MOTION CARRIED

Appeal No. 5

David Sarles
Residential Single-Family

Town Code Reference;

1. §229-55 (H)
2. §229-55 (E) (2)

Applicant requests a variance:

1. of 184 sq. ft. to allow a 384 sq. ft. detached accessory structure; and
 2. of 1'9" to allow a 17'9" tall detached accessory structure;
- located at 5505 Thompson Road.

DISCUSSION:

Homeowner David Sarles, and builder Jim Bielmeier were present to further explain the request and answer any questions.

Mr. Bielmeier stated that they are requesting a variance for the size of the detached structures.

Chairman Mills asked why the variances are necessary. Mr. Sarles stated that to get the size of the structure that he wants, it needs to be that high. Mr. Sarles added that it's a rather small structure on a 3.5-acre lot, tucked in to the woods. He added that even though he has numerous garages, he wants to keep everything that is flammable in this proposed structure, to avoid the risk of fire. Mr. Sarles stated that he doesn't necessarily need the size of the structure, but in order to make it look aesthetically appealing, this is the way that it turned out.

Chairman Mills asked in regards to materials, will the proposed structure utilize the same materials as shown in the plans. Mr. Sarles responded that it will be board and batten siding.

Chairman Mills referred to a photo depicting what the proposed structure will look like, as Exhibit A. The front elevation will have three windows on the top, a person door, and a small garage door area. Mr. Sarles responded that it matches the house, although it won't be the same color.

Chairman Mills confirmed with Mr. Sarles that he will not be running any type of business out of the structure. Mr. Sarles responded no; it will be used for storage.

Mr. Skaine noted that Mr. Bielmeier explained the project well, and the photos of similar accessory structures in the area show that this proposed one will be much smaller in size. It won't be easily visible due to the location and the foliage that is around it to mitigate the view.

Mr. Drinkard asked about the structure that is there now and if it will be removed. Mr. Sarles responded no, it is a shed that is not on a foundation, delivered and placed on timbers.

Mr. Drinkard added that based on the proposed location, there won't be any issues with the view from neighboring properties.

Mr. Sarles stated that he has provided copies of the plans to all of the neighbors so they were able to see the plans ahead of time.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

ACTION:

Motion by Richard McNamara, seconded by Raymond Skaine to **approve** Appeal No. 5 as written.

| | | | | | |
|-----------------|-----|------------------|-----|------------|-----|
| Gerald Drinkard | Aye | Raymond Skaine | Aye | Ryan Mills | Aye |
| Patrick Krey | Aye | Richard McNamara | Aye | | |

MOTION CARRIED

Meeting adjourned at 6:30 p.m. with a motion by Patrick Krey.

Amy Major
Senior Clerk Typist