

Clarence Board of Appeals Minutes
Tuesday, January 10, 2006
7:00 PM

Ronald Newton, Chairman, called the meeting to order at 7:00 PM.

Board of Appeals members present were:

Ronald Newton
Raymond Skaine
Daniel Michnik

John Brady
Arthur Henning

Other Town officials present were:

James Callahan
Councilman Bernard Kolber

Jim Hartz

Other Interested Parties Present:

Charles Kelkenberg
Jerry Logan
Doug Wurtz
James Ryszkiewicz
Marilyn Betz
Lynn Ryszkiewicz

John Conciardo
Lynne Logan
Mark Adams
Laurie Eikemeyer
Sharon Brauen
Alan W. Eichberg

Motion by Raymond Skaine, seconded by Daniel Michnik, to approve the minutes of the meeting held on December 13, 2005, as written.

ALL VOTING AYE.

MOTION CARRIED.

Old Business

Appeal No. 5
Charles Kelkenberg
Agricultural Rural Residential

Requests the Board of Appeals approve and grant two variances:

1. A 50' variance to allow the construction of a single-family home on a 100' wide lot at 10680 Croop Road.
2. A 25' variance to allow the construction of a single-family home on a 125' wide lot at 10716 Croop Road.

DISCUSSION:

Charles Kelkenberg is present and indicates that he sent a letter to the adjacent landowners. The context of the letter notified the landowner of Mr. Kelkenberg's intentions and asks to buy property from anyone who was able to participate. Copies of the letters are in the file. Two of the three recipients sent a reply indicating they were not interested. Mr. Kelkenberg had a conversation with Mr. Montanino, of Croop Road, who owns an older double located to the west of the site, however the conversation was unproductive. Mr. Kelkenberg advises that located very near the property line is a large drainage ditch that drains a lot of property in the back. Mr. Montanino claims the Town maintains the ditch. There is also a building on this property that would need to be considered if 50 feet of land were purchased.

Mr. Kelkenberg advises that it was himself who originally split this lot. Raymond Skaine asks when Mr. Kelkenberg purchased the lot. Mr. Kelkenberg advises the purchase was made in September 2004. Mr. Skaine asks if, at the time Mr. Kelkenberg purchased the lot, was he aware of the possibility that the minimum requirement might change to 150 feet. Mr. Kelkenberg replies, "No." The house at 10700 Croop was started about one year ago. Mr. Skaine asks if Mr. Kelkenberg attended any of the work sessions that were held regarding the Zoning Law changes. Mr. Kelkenberg did not attend any sessions.

Mr. Skaine voices his concern regarding the amount of similar variance requests the Zoning Board of Appeals may receive in the future. He does not want to set a precedent by approving this request.

Mr. Kelkenberg advises that the lots were deeded and filed with Erie County; he will obtain the exact date of the filing. If there is proof of when this filing occurred it would identify, to the Board of Appeals, that this may have been a split that occurred before the law changed.

Mr. Skaine is also concerned with the financial hardship that may occur if Mr. Kelkenberg loses three lots.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning, to TABLE Appeal No. 5 until the next Zoning Board of Appeals meeting of February 14, 2006. At the February 14, 2006 meeting the applicant will provide information regarding the exact date the property was deeded and filed with Erie County. The applicant will also continue to work on purchasing property for lot number six, 10680 Croop Road.

ON THE QUESTION:

Mr. Kelkenberg asks if it is possible to obtain approval for Appeal No. 6 this evening. Mr. Skaine advises it is not possible to obtain approval without review of all the facts.

Daniel Michnik asks if the applicant should obtain copies from the Erie County Health Department as an additional requirement for the next Zoning Board of Appeals meeting. Mr. Kelkenberg advises that he usually tests as he goes, he would not have any pre-approved documents, and therefore, he would not have paperwork at the next meeting. Mr. Kelkenberg explains the procedure: if the standards are met for the Erie County Health Department he sends an application to the Erie County Health Department just before he is ready to file for a building permit. Mr. Michnik withdraws his request for additional information.

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|----------------|-----|----------------|-----|
| Ronald Newton | AYE | John Brady | NAY |
| Arthur Henning | AYE | Raymond Skaine | AYE |
| Daniel Michnik | AYE | | |

MOTION CARRIED.

Appeal No. 6
Charles Kelkenberg
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 50' variance to allow a single-family home on a 100' wide lot at 7060 Salt Road.

DISCUSSION:

See discussion for Appeal No.5.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning, to TABLE Appeal No. 6 until the next Zoning Board of Appeals meeting of February 14, 2006. At the February 14, 2006 meeting the applicant will provide information regarding the exact date the property was deeded and filed with Erie County. The applicant will also continue to work on purchasing property for lot number six, 10680 Croop Road.

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|----------------|-----|----------------|-----|
| Ronald Newton | AYE | John Brady | NAY |
| Arthur Henning | AYE | Raymond Skaine | AYE |
| Daniel Michnik | AYE | | |

MOTION CARRIED.**New Business****Appeal No. 1**

John Conciardo
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a 4' 9" variance to make a 3" side lot line to construct a tool shed while leaving maximum yard usage at 5442 Center Pine Lane.

DISCUSSION:

John Conciardo is present and advises the tool shed is already built. Originally he was not aware he needed a building permit or a variance. The foundation of the shed is Uni-Lock pavers and can be moved. Neighbor notifications are on file. If a new neighbor moves next to the applicant and complains about the shed, it can be moved.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning, to APPROVE Appeal No. 1 as written.

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| Ronald Newton | NAY | John Brady | AYE |
| Arthur Henning | AYE | Raymond Skaine | AYE |
| Daniel Michnik | AYE | | |

MOTION CARRIED.

Appeal No. 2

Jerry Logan
Residential Single-Family

Requests the Board of Appeals approve and grant a 100' front yard set back to accommodate a sand filter in front yard at 9285 Greiner Road.

DISCUSSION:

Jerry and Lynne Logan are present. Ronald Newton reads the letter from the Town Engineer into the record. The letter addresses the conditions that will apply prior to issuance of a building permit. The letter is on file. Mr. Logan received a copy of the letter in the U.S. Mail today.

Mr. Logan originally applied for a 55' setback, but as the project transpired he realized 55' was not enough, thus the request for 100' front yard setback. The Erie County Health Department has advised Mr. Logan numerous times over the past couple years that they want the sand filter systems in the front yard. There has to be a drainage absorption trench that is either parallel to the ditch or storm sewer or close to it. Mr. Logan presents a drawing of his intended project. The Health Department also requires Mr. Logan to dispose of all the trees on the property so the roots will not grow into the sand or leach bed and plug up the system.

Raymond Skaine voices his concerns regarding the neighbor privacy if this variance is granted.

Mr. Logan will abide by the Town Engineer's letter.

Daniel Michnik voices his concern with the set-up and feels this request changes the character of the neighborhood.

Lynn Ryszkiewicz, of 9275 Griener Road, likes the privacy of her backyard and does not want to be looking at another house sitting there. She would rather see their backyard. There are no fences between the yards.

Doug Wurtz, of 9245 Greiner Road, is opposed to the variance request, as well.

Laurie Eikemeyer, of 5235 Thompson Road, likes the character of the neighborhood as it is. If the house is set back she is concerned with the effect of the natural water flow that comes from the escarpment.

Mark Adams, owner of property at 9255 Greiner Road, advises that Erie County has other remedies for the septic system and the absorption trench.

Raymond Skaine and Daniel Michnik refer to the Review Sheet for ZBA Members that has been completed and is in the file. The review sheet reflects the following:

- An undesirable change will be produced.
- The applicant can achieve the same benefit by some other method.
- The requested variance is substantial.
- The request will have an adverse effect on the physical conditions of the neighborhood.

ACTION:

Motion by Raymond Skaine, seconded by Daniel Michnik, to DENY Appeal No. 2, based on the results of the Review Sheet.

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| Ronald Newton | AYE | John Brady | AYE |
| Arthur Henning | AYE | Raymond Skaine | AYE |
| Daniel Michnik | AYE | | |

MOTION CARRIED.

Appeal No. 3
 Alan Eichberg
 Agricultural Rural-Residential

Requests the Board of Appeals approve and grant a 100' variance creating a 145' front yard setback for the construction of a new home at 7300 Salt Road.

DISCUSSION:

Ronald Newton reads a letter from the Town Engineer. The letter indicates that the requested setback will directly impact NYSDEC Jurisdictional Wetlands. NYSDEC Wetland Disturbance Permits are required prior to issuance of a building permit. The legal setback of 45 feet may also require NYSDEC Wetland Disturbance Permits. The letter is on file. Alan Eichberg is aware of the letter and advises he has the permits, although they have not been approved yet.

Mr. Eichberg currently lives in a cottage on the property. Eventually Mr. Eichberg's parents will live there. Mr. Skaine advises Mr. Eichberg if this variance is granted, the homes on either side will have to be setback 145 feet as well. Mr. Eichberg owns three lots at this location and if he sells any lot he needs to make the buyer aware of this setback requirement.

ACTION:

Motion by Raymond Skaine, seconded by Daniel Michnik, to GRANT Appeal No. 3, as written.

Ronald Newton AYE
Arthur Henning AYE
Daniel Michnik AYE

John Brady AYE
Raymond Skaine AYE

MOTION CARRIED.

Meeting adjourned at 8:20 p.m.

Ronald Newton, Chairperson