

**Town of Clarence  
Zoning Board of Appeals  
Minutes**

Tuesday March 11, 2008  
7:00 p.m.

Chairman Raymond Skaine called the meeting to order at 7:00 p.m.

Zoning Board of Appeals members present:

Chairman Raymond Skaine  
Arthur Henning  
Ryan Mills

Vice-Chairman Daniel Michnik  
Hans Mobius  
David D'Amato

Other Town officials present:

Director of Community Development James Callahan  
Town Attorney Steven Bengart  
Planner Brad Packard  
Councilman Bernard Kolber  
Planning Board Liaison Richard Bigler

Other Interested Parties Present:

Lucian Visone  
Peter Weinstein  
Michael Hanes

David Gardner  
Christopher Casacci

**New Business**

**Appeal No. 1**

Stonewall Properties, LLC  
Commercial

Requests the Board of Appeals approve and grant:

- 1.) A 21' variance to allow a 4' side yard setback for the construction of an addition on the east side of an existing apartment building.
- 2.) A 16' variance to allow a 9' side yard setback for the construction of an addition on the west side of an existing apartment building.

Both requests apply to 9300 Main Street.

Appeal No. 1 is in variance to Section 229-87 (C)(2) Development Design Standards.

**DISCUSSION:**

Lucian Visone explains that instead of bringing additions to the inside of the structure, he decided to put them on the outside of the structure. The parcel to the west is combined with the parcel in question for tax purposes; the applicant owns the parcel to the west. Mr. Visone receives one tax bill for both parcels, the bill is for approximately 260' of frontage; the properties were combined approximately 4 (four) years ago.

In response to Mr. Mobius' question regarding the number of units, Mr. Visone confirms that there will be 14 units, the center unit currently has a second story, but there is no second story in the proposal.

Mr. Visone asked his neighbor to the east if he was interested in selling his property, he was not. The neighbor did not have a problem with the proposal.

Mr. Mobius clarifies that the west side of the property would have 73' of frontage; he asked what this will be used for. Mr. Visone said that is an entrance way that goes to the back properties; this is all it will be used for.

Mr. Michnik asked Mr. Visone what the affect would be if the Board approved part one of the request but not part two. Mr. Visone said it would have a great affect because he has put a lot of thought and money into the property.

Mr. Henning asked if there are plans to extend this proposed 14-unit building in the future. Mr. Visone said no. The rooms will be 12' x 12'.

Mr. Mills asked if there is any other way the applicant could meet his extension requirements without a variance. Mr. Visone said he could not do it. Mr. Mills asked what the plan is for the exterior materials. Mr. Visone said the whole exterior of the building will be covered with stone and some siding.

Mr. Skaine asked about the distance between the building and the adjacent property. Mr. Visone said there is approximately 125' from the garage to the property line. Mr. Skaine did not see stakes marking the proposal at the property. Mr. Visone said he put the stakes up a month ago. Other members of the Board located a stake at the site.

Mr. Michnik voices his concern regarding how the site will be left at the end of the work day, if the variance is granted. The DS & K project left Main Street a mess during construction and he does not want to see this project do the same. He asked Mr. Visone how the Town benefits from this project and can he guarantee that Main Street will not be a mess during construction. Mr. Visone said there are two bonuses to this site. One bonus is that the site has a hard surface; it is already paved. The other bonus is that most of the work will be done within the rear of the site as he owns approximately 40 acres to the rear of the site. The septic system is already in and there is no fill to be brought in.

**ACTION:**

Motion by Hans Mobius, seconded by Arthur Henning, to **approve** Appeal No. 1, as written.

Chairman Raymond Skaine	Aye	Vice-Chairman Daniel Michnik	Aye
Arthur Henning	Aye	Hans Mobius	Aye
Ryan Mills	Aye		

MOTION CARRIED.

**Appeal No. 2**

David Gardner  
Residential Single-Family

Requests the Board of Appeals approve and grant a 7'.5" variance to allow a 5' side yard setback for the construction of an addition to an existing attached garage at 8355 Vernon Circle.

Appeal No. 2 is in variance to Section 229-52 (A)(4)(b) Setbacks.

**DISCUSSION:**

Mr. Gardner purchased his home in 1991; it was built in 1954 with a single car garage. He has sided his house, installed new windows and a new roof. He acquired a second car and will be acquiring wood working equipment from his father. Mr. Gardner is a hobbyist. The equipment will not fit in his basement. He also has a sinus condition and would rather not deal with the dirt and the dust as it is unhealthy.

Neighbor notifications are on file.

In response to Mr. Henning's question regarding the use of the addition, Mr. Gardner said it will be used to store a car and the woodworking equipment. He hopes to begin the project in May or June of 2008.

Mr. Gardner said the portion of the addition were the vehicle will **not** occupy is 10' x 20'. It will not be living space but will have electric to run the woodworking equipment. The exterior materials will be the continuation of the vinyl siding that is currently on the house, there will be a new garage door installed and the roof will be architectural shingles. He does not anticipate any additional landscaping.

**ACTION:**

Motion by Daniel Michnik, seconded by Ryan Mills, to **approve** Appeal No. 2, as written.

Chairman Raymond Skaine	Aye	Vice-Chairman Daniel Michnik	Aye
Arthur Henning	Aye	Hans Mobius	Aye
Ryan Mills	Aye		

MOTION CARRIED.

**Appeal No. 3**

John Miosi/Miosi Builders, Inc.  
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a 20' variance to allow a 25' front yard setback for the construction of a new 3 car garage at 5426 Center Pine Lane.

Appeal No. 3 is in variance to Section 229-52 (A)(4)(a) Setbacks.

**DISCUSSION:**

Peter Weinstein, owner of the house, explains that when he originally built the house he had two (2) children, he now has four (4); all the bedrooms are taken. He has an ill father-in-law who would like to move in with Mr. Weinstein and his family and currently there is no room.

In response to Mr. Mills' question regarding the square footage on the addition, Mr. Weinstein said the second floor of the addition would be 22' x 18'; the first floor would be 30' x 20'. Mr. Weinstein shows a basic sketch of the proposal; he does not have architectural drawings at this point. The exterior will match the current house; some stone may be added.

One neighbor notification is in the file, the other neighbor has been on vacation.

Mr. Henning asked if the applicant has thought of a different plan to achieve his goal as he feels this proposal is upsetting the character of the neighborhood. Mr. Weinstein said it would be difficult to move as his family is established and his children have made many friends in the area.

Mr. Michnik voices his concern with regards to the parking area once the addition goes on. Mr. Weinstein said there is approximately 35' from the end of the fence line to the street. Mr. Michnik wonders if parking would be allowed in this area. After further discussion it is explained that there is no set requirement in law for parking in this area; the legal requirement is the front yard setback.

**ACTION:**

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 3, as written.

Chairman Raymond Skaine	Aye	Vice-Chairman Daniel Michnik	Aye
Arthur Henning	Nay	Hans Mobius	Nay
Ryan Mills	Aye		

MOTION CARRIED.

**Appeal No. 4**

Christopher Casacci  
Residential Single-Family

Requests the Board of Appeals approve and grant an 80% variance to allow the construction of an accessory structure using 100% of the rear yard at 8345 Manchester Park Drive.

Appeal No. 4 is in variance to Section 229-55 (D) Accessory Structures.

**DISCUSSION:**

Christopher Casacci clarifies that the accessory structure would use approximately 50% of the rear yard, not 100%. He explains that he is writing a book on how to grow world record vegetables and needed to set up greenhouses to get things started in the winter. He put portable greenhouse over his 8' x 8' garden beds so he can keep the garden warm in the winter; his plan is to take the greenhouses down in the spring.

Chairman Skaine indicates that the following people have written concerns about the project and are expressing their desire to have this request denied: Bradley and Lynette Sparks of 8330 Manchester Park Drive, John Hawkins who lives on an adjacent cul-de-sac 400' away, Michael & Brenda DiDuro of 8335 Manchester Park Drive, Mr. and Mrs. Paul A. O'Connor of 8332 Parliament Circle, and Tom and Mary Greenwald of 6530 Ashford Court.

Ryan Mills asked if the greenhouses were light up all night, Mr. Casacci said yes, the lighting is medium intensity in terms of brightness. Without the greenhouses the lighting would be the same; they are outdoor lights that are on poles in the yard. Mr. Casacci said his residence is the only place he grows vegetables and has not noticed an increase in rodents or insects since he started the greenhouses. He put the greenhouse up in the Fall of 2007. He has owned the property of a year and a half. If the request was denied Mr. Casacci said he would take down the greenhouses that exceed the maximum requirement of the code, which is 400 square feet.

Hans Mobius said if he was a neighbor he would be unhappy to see the greenhouses, he wished he had land he could rent to Mr. Casacci so the greenhouses could be on a farm where they belong.

If this variance is granted the situation will not be year round, it will be approximately 5-6 months a year. The illumination will be year round because the lights are outdoor fixtures. He will be growing tomatoes, peppers, corn and cabbage. He owns a gardening shop and manufactures gardening equipment.

Mr. Henning asked if it is possible to put this project elsewhere, Mr. Casacci said no, as he does not own any other land. Mr. Henning suggests renting land. Mr. Casacci said it is a massive project and must be monitored on a daily basis; he must have access to an automatic watering system and to a power line for the illumination. He has invested \$10,000 in the project thus far.

Mr. Casacci explained that the recent sleet and snow storm crushed the poles to the greenhouses and as a result they collapsed; he has stronger poles coming from the company who distributes the poles. Normally, the structure is 6' tall. Mr. Michnik asked if any structure has ever blown away or has done any damage to a neighbor's property. Mr. Casacci said he had one structure that was set to the side on his property and during a major wind storm it blew into the street; he took it down because it was not as strong independently. The structure that blew into the street did not do any damage to any property.

Mr. Mobius asked if the applicant could shield the light, Mr. Casacci said he could do that. He indicates there are absolutely no rodents. During the summer there are rodents that are generally there in the back fields. He has set mousetraps for the mice in the back field.

Mr. Mills asked if the applicant explored an attached area possibly off the kitchen area. Mr. Casacci explains that once the plants hit 5' tall they don't fit in the greenhouses. Currently, the maximum height is approximately 5 <sup>3</sup>/<sub>4</sub>' at the tallest part, then it tapers. Mr. Mills asked if Mr. Casacci could have a greenhouse that exceeds this height attached to his house. Mr. Casacci said some plants will be 15' tall,

to have an accessory structure attached to his house that is 15'-20' tall would be impractical. Directly behind his house is a pool with a stone area.

Mr. Casacci explains that the greenhouses will come down in the spring; they are just put up to start the growing process.

Mr. Henning agrees with the idea of deflecting the lighting. Mr. Casacci said the lighting will be brighter when the greenhouses come down.

Mr. Casacci said he spoke with the adjacent neighbors and no one had a problem with his project. Brad Packard explains that if the greenhouses are removed and the lighting remains Mr. Casacci will still be in violation of Zoning Standards for the lighting. The regulations state that there shall be no unreasonable illumination.

Town Attorney Steve Bengart asked the applicant if this project was just for this year, could it be over with at the end of the season and then the illumination issues can be addressed. Mr. Casacci can not provide a definite answer as to whether he will need the greenhouses again next year. He understands that he is allowed to have two (2) 200' accessory structures on his property.

Chairman Skaine said this is a substantial request. Mr. Casacci said he will abide by the law; he does not want to have a problem with his neighbors. He spoke with the neighbors on either side of his property and asked if they had any problems with the lighting or the greenhouses and the both said no.

Town Attorney Steve Bengart asked Mr. Casacci if he is amenable to going back to all the neighbors, including those who have shown an objection to this Board, and see if he can get them on board for this growing season. This would allow the request to be tabled this evening instead of a possible denial. Mr. Casacci is willing to talk to his neighbors again; however Mr. Casacci has not started his planting this year, so he has missed the growing season for this year.

Mr. Mobius suggests the applicant look into the Thompson greenhouses, they have many vacant greenhouses.

Town Attorney Steve Bengart said the applicant has the option to ask the Board to vote on the request, table the request or the applicant can withdraw his request.

#### **ACTION:**

Motion by Hans Mobius, seconded by Arthur Henning, to **table** Appeal No. 4.

#### **ON THE QUESTION:**

By tabling the request it gives the applicant the option to tear down the greenhouses however there is still the lighting problem that needs to be addressed. Chairman Skaine said tabling the request is providing the applicant with false hope. Mr. Michnik said a condition should be put on the action stating that the applicant will come back to the Zoning Board of Appeals when he has the lighting situation taken care of and the neighbor's approvals. The lighting situation may have to go before the Town Board. Mr. Casacci said he can put tarps over the greenhouses at night to help shield the light. Or turn the lights off on those plants that really don't need it at night.

Town Attorney Steve Bengart said that since the applicant has missed the growing season, he could withdraw his application and come back to the Board when all the issues have been addressed. Mr. Casacci still wants to make an attempt at this season.

Chairman Skaine asked the applicant if he is willing to take the total size of the greenhouses down to 400 square feet this year and address the lighting issues. Mr. Casacci is willing.

Hans Mobius **rescinds** his motion, Arthur Henning **rescinds** his second.

Chairman Skaine points out that Mr. Casacci has verbally agreed to be in compliance with what the Town states which is a 400 square foot structure and the details of the other areas that need to be worked out with the Planning and Zoning Office. Mr. Casacci confirms that he withdraws his application.

**Appeal No. 5**

Richard E. Terhaar  
Residential Single-Family

Requests the Board of Appeals approve and grant a front yard variance to allow the installation of a generator in the front yard at 4545 Harris Hill Road.

Appeal No. 5 is in variance to Section 229-55 (D) Accessory Structures.

**DISCUSSION:**

Michael Haynes is representing Mr. Terhaar and explains that all the utilities are in front of the house; there is a ramp on one side of the house which prohibits the generator from being placed in that location. The house is setback from the road, there are trees that would shade the generator from the street; it would not be visible from the street.

One neighbor notification is on file. A certified letter has been sent to the other neighbor as the applicant was unable to contact the owner of the property in person.

Mr. Haynes said there will be bushes planted around the generator. He also indicates that there is a neighbor that has the generator in front of his house as well.

**ACTION:**

Motion by Arthur Henning, seconded by Hans Mobius, to **approve** Appeal No. 5, as written.

**ON THE QUESTION:**

A condition is placed on the action requiring landscaping to be provided around the generator.

Chairman Raymond Skaine	Aye	Vice-Chairman Daniel Michnik	Aye
Arthur Henning	Aye	Hans Mobius	Aye
Ryan Mills	Aye		

**MOTION CARRIED.**

Motion by Arthur Henning, seconded by Daniel Michnik, to **approve** the minutes of the meeting held on February 12, 2008, as written.

Chairman Raymond Skaine Aye  
Arthur Henning Aye  
Ryan Mills Aye

Vice-Chairman Daniel Michnik Aye  
Hans Mobius Aye

MOTION CARRIED.

Meeting adjourned at 8:23 p.m.

Carolyn Delgato  
Senior Clerk Typist