

Clarence Board of Appeals Minutes
Tuesday, April 11, 2006
7:00 PM

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

Board of Appeals members present were:

Ronald Newton, Chairperson	Daniel Michnik
Arthur Henning	Ryan Mills

Other Town officials present were:

James Callahan	Steven Bengart, Town Attorney
Jim Hartz	

Other Interested Parties Present:

Kevin Clary	Randy Saltzman
James Peacock	Amy Reichhart
Scott Zak	Len Zak
Carrie Zak	Beatrice Carollo
Tim O'Brien	E. Kosobucki
Lucy Duff	John V. Akiki
Susan Wickenhiser	

Motion by Daniel Michnik, seconded by Arthur Henning, to approve the minutes of the meeting held on March 14, 2006, as written.

Ronald Newton	AYE	Daniel Michnik	AYE
Arthur Henning	AYE	Ryan Mills	AYE

MOTION CARRIED.

New Business

Appeal No. 1

Kevin and Cara Clary
Residential Single-Family

Requests the Board of Appeals approve and grant a 40 square foot variance to allow the construction of a 240 square foot shed at 9384 Pinyon Court.

Appeal No. 1 is in variance of Chapter 229, Article VI, section 55.

DISCUSSION:

Kevin Clary explains he recently installed an 18' x 36' pool and would like to put up a shed in the backyard of his property. The shed would be used as a changing room for the pool as well as storage. He

has a two-car garage and no other storage. Neighbor notifications are in the file. The pool heater will be located behind the shed. The shed will be 12' x 24' with a concrete pad behind it for the pool heater.

Daniel Michnik asks the applicant why he desires such a large shed. Mr. Clary explains he would like to use this for a changing room for the pool. Another reason is he has no other storage on the property. Mr. Michnik voices his concern with the size of the shed and suggests reducing it.

Ryan Mills asks what type of materials will be used. Mr. Clary explains whatever is specified in the plans that were submitted will be used. There will be no interior plumbing. The shed will have the same siding and gutters as Mr. Clary's house. The electricity lines are already installed. The landscaping will be done within two (2) or three (3) weeks. With the landscaping complete, the shed will barely be visible from Pinyon Court.

Ronald Newton is also concerned with the large size of the shed.

Daniel Michnik asks if Mr. Clary can do anything about the size of the shed. Mr. Clary did not envision a situation arising and the 12' x 24' concrete pad is already poured, therefore making it difficult to change the size of the shed.

Arthur Henning thinks the shed will blend in with the property, it will be away from the road and the neighbors have no problem with it.

Daniel Michnik and Ryan Mills had concerns with the size of the shed, however, if the landscaping is completed and the neighbors have no problems they are willing to grant the request.

ACTION:

Motion by Arthur Henning, seconded by Ryan Mills, to **approve** Appeal No. 1, as presented.

Ronald Newton	AYE	Daniel Michnik	AYE
Arthur Henning	AYE	Ryan Mills	AYE

MOTION CARRIED.

Appeal No. 2 The Summit Federal Credit Union Major Arterial	Requests the Board of Appeals approve and grant a 20' variance to allow a 20' setback for a new sign at 5641 Transit Road.
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Appeal No. 2 is in variance of Chapter 181, section 4 (A) (3).

DISCUSSION:

Amy Reichhart is the attorney representing Summit Federal Credit Union. She explains that a member of the Board suggested developing a combination sign with a logo and a message board together. This has been incorporated into the plan, but there are visibility problems with the forty foot (40') setback; it would be difficult to see the new monument sign while driving down Transit Road, thus, the variance request for a twenty foot (20') setback.

Randy Saltzman, vice president of marketing for the Summit Federal Credit Union, explains that he is looking for visibility in proximity to the road. He wants to advertise messages regarding the credit union's promotions and the eligibility for new members to join.

James Peacock, representative of the sign company, explains that the pole sign would be completely removed from the location. Mr. Peacock points out, in the photo, how the trees can cause visibility problems for the sign, traveling north and south on Transit Road. There is also a retention area where the pole sign is currently, if the monument sign were erected it would actually sit down in this area. The requested variance will not obstruct the sidewalk.

Amy Reichhart also points out that there are numerous signs, up and down Transit Road, that are closer to the road than forty feet (40'). Granting this variance would not change the character of the neighborhood.

Ryan Mills asks about landscaping around the sign. There is some existing landscaping; however new landscaping would be put in. The sign will be internally illuminated, very similar to the illumination on the existing pole sign. It will have a changeable text and a locking door, to prevent tampering. Mr. Mills questions the four (4) message lines. Mr. Saltzman explains that, after looking at many different options, he feels four (4) lines on the sign are necessary.

The only other sign for the credit union is on the face of the building. This is the first branch in the Buffalo area and has been open since June 1, 2005. Arthur Henning asks if other branch locations as similar to this office. Mr. Saltzman indicates there is building and a monument sign that is exactly the same to this location, in the Penfield, NY office. This monument sign is not unique to this location. Mr. Henning voices his concern regarding the illumination of the sign. Ms. Reichhart notes that there are several illuminated signs along Transit Road within the immediate vicinity of the property. Mr. Saltzman explains that the illumination is not extremely bright.

Daniel Michnik does not have a problem with the monument sign, as long as the pole sign is coming down and the landscape will be reworked.

Mr. Peacock explains that the pole sign will be removed, prior to erecting the monument sign. Landscaping will be done to area of the property where the pole sign was.

Ronald Newton asks for clarification on the beginning point for the twenty foot (20') measurement. Mr. Peacock said they measured from the curb of Transit Road back twenty feet (20'), this is where the leading edge of the sign would start. Mr. Newton explains the measurement should start at the property line. The property was staked properly.

ACTION:

Motion by Daniel Michnik, seconded by Ryan Mills, to **approve** Appeal No. 2, with the caveat that the request read, "**as staked**" as opposed to "twenty foot (20') variance to allow a twenty foot (20') setback"

Ronald Newton	AYE	Daniel Michnik	AYE
Arthur Henning	AYE	Ryan Mills	AYE

MOTION CARRIED.

Appeal No. 3

Scott P. Zak
Residential Single-Family

Requests the Board of Appeals approve and grant two variances:

1. A 48 square foot variance to allow the construction of a 768 square foot garage at 5716 Fieldbrook Drive.
2. A variance to allow a second private garage.

Appeal No. 3 is in variance of Chapter 229, Article VI, section 55.

DISCUSSION:

Scott Zak explains that his current garage is a two-car side loading garage and is difficult to access because his house is setback a bit further than the others on the street and is very wide. He can not put anymore concrete on the one side because he is already at the property line. He owns three (3) classic cars that he shows; he would like to store them, instead of paying for storage. The garage would be constructed with full brick which matches his house.

Len Zak, father of Scott Zak, and Carrie Zak, wife of Scott Zak, both confirm that the garage is currently difficult to access.

Daniel Michnik asks if there are leases that Mr. Zak can obtain for long-term storage of the classic cars. Mr. Zak drives his cars from spring until late fall and stores them only in the winter months.

Mr. Zak had the house built and was not aware of the parking issues until after he took possession of the home. There is another house on Forest Creek that is not as big but has this same set up.

Mr. Zak confirms that the garage will be used only for the storage of his three (3) classic cars. Arthur Henning indicates this is a self-created situation, however it is not a detriment to the neighborhood and he has no further concerns.

The second floor of the garage will not be used for storage.

Neighbor notifications are in the file.

ACTION:

Motion by Arthur Henning, seconded by Ryan Mills, to **approve** Appeal No. 3, as presented.

Ronald Newton	AYE	Daniel Michnik	AYE
Arthur Henning	AYE	Ryan Mills	AYE

MOTION CARRIED.

Appeal No. 4

Christopher D. Carollo
Residential Single-Family

Requests the Board of Appeals approve and grant:

1. A 50' variance creating a 150' front yard setback for the construction of a new home at 8710 Clarence Center Road.
2. A 300' variance creating a 400' front yard setback for the construction of a new home at 8720 Clarence Center Road.

Appeal No. 4 is in variance of Chapter 229, Article VI, section 52 (A) (4) (a).

DISCUSSION:

Beatrice Carollo, wife of Christopher Carollo, addresses the Board. In an effort to preserve the existing natural surroundings at 8710 Clarence Center Road, the applicant proposes building two (2) new homes on the parcel.

Mr. Carollo has neighbor notifications from all neighbors that touch his parcel of land and two (2) neighbors from across the street.

Mrs. Carollo indicates the prospective buyers of 8710 Clarence Center Road have young children and concur that the increased setback will provide further safety for their children from a high traffic road. The buyers also think the increased setback will help keep the noise pollution, from the road, at a minimum. The buyers would like to preserve the two (2) large willow trees on the front portion of the property, they are concerned that building too close to the trees will damage the roots and eventually kill the trees. Building too close to the trees may also cause other problems in the future. The trees are approximately forty-five (45) to sixty-five (65) years old.

Mr. Carollo explains the reason for the setback request: he wants to utilize the 990' depth of property and be as far away from the road noise as possible. He wants to be close to the bike path, so that his future family members can use it. Mr. Carollo wants to use all of the property, while preserving many of the trees at the site. There are some buildings on the property that will be demolished.

Lucy Duff, of 6133 Blossom Court, has concerns with the positioning of a house at 8710 Clarence Center Road.

Mr. Carollo's setback measurements are from the centerline of the road, however, the measurements should start at the property line. With this correction, Mr. Carollo thinks he may be very close to the setback requirements and may not need a variance at this point.

Ronald Newton points out that, by building two (2) homes on this land, Mr. Carollo is taking backyard privacy away from the neighbors. Mr. Newton will not grant a setback variance when there are buildings still on the property.

The frontage requirement in the Residential Single-Family zone is 125'.

Lucy Duff voices her concern regarding the lack of sunlight in her backyard if the variance is granted. She is also concerned with the view from her house; she would be looking at a wall. She is not sure the prospective buyers would want to keep the trees that are there, they are a nuisance. Ms. Duff said

that Clarence Center is not a high traffic, noisy street, nor does she think it is a high risk area for children to play within a 45' front yard setback. She strongly opposes the variance and will sell her house if the variance is granted.

John Akiki, of 6153 Blossom Court, does not agree with granting the variance if it is going to cause Lucy Duff to move.

Tim O'Brien, of 6143 Blossom Court, is concerned with the backyard privacy. He wonders why the house at 8710 Clarence Center has to be so tight against his property when Mr. Carollo has six (6) acres to work with. The minimum side yard setback is twelve and a half feet (12.5').

Mrs. Carollo said that if all the neighbors were really concerned about backyard privacy, sun and shade, they should have thought of the future and bought the property from the Grabowski's. Ronald Newton explains that the Clarence residents rely on the Zoning Board of Appeals to provide a certain amount of protection.

Mr. O'Brien suggests "flipping" the plan so that the house at 8710 Clarence Center will not be so close to the neighbor. He is opposed to granting this variance.

Mr. Carollo explains that one of the criteria for the potential buyer of 8710 Clarence Center was to locate the driveway away from Blossom Court and put the "quiet" side of the house and garage next to Blossom Court.

Mr. Carollo is not concerned with the power line; it is medium voltage power.

The driveway is planned to be close to the utility pole on Clarence Center Road towards the house at 8710. The driveway at 8720 Clarence Center Road would be closer to the power line.

Ronald Newton advises there are many pieces of land in the Town of Clarence with 1,000 to 2,000 feet of frontage, many people would like to build their house in the middle of their lot, however, there needs to be some conformity.

Daniel Michnik asks why Mr. Carollo has not considered "flipping" the lots as suggested. Mr. Carollo advises the characteristics of the lot suggested the design of their house. Mr. Michnik states the house is going to be built in the same place, at 8720, no matter where the driveway is placed. Mr. Carollo proposed the driveways in the presented plan because he drives an F-350 diesel truck and works odd hours. He wanted to keep this activity as far away from the neighbors as possible.

Mr. Michnik is also concerned with the size of the building and asks what the dimensions are. The approximate square footage of the home to be built at 8710 Clarence Center is 2600 over two (2) stories. Mr. Michnik is concerned with privacy issues, as well. Some of the issues are self-created.

Mr. Carollo owns the property in question. Arthur Henning asks why must there be two (2) homes built on this property. Mr. Carollo explains that owning the property cost more than he had anticipated and selling a piece of it would help defer the cost. Mr. Henning asks what would happen if the Board approved part of the variance request and disapproved the other part. Mr. Carollo would appeal the decision, find out why the Board denied it and try to make adjustments. He wants to work with the neighbors and the Zoning Board of Appeals. If the request was denied, Mr. Carollo would consider

purchasing property from Thompson's Greenhouse. If the Carollo's can not sell the property at 8710 Clarence Center they can not afford the house they want to build at 8720 Clarence Center.

This request, as presented, is a detriment to nearby properties.

Ryan Mills asks what the proposed size of the house is for 8720 Clarence Center. Mr. Carollo advises the house will be approximately 3500 square feet. Mr. Mills voices his concerns with the privacy issue; he finds the request to be a detriment to the neighbors, as well.

Ronald Newton suggests moving the location of the house at 8720 Clarence Center forward for a 45' setback. This would prevent the house from totally blocking the house at 6133 Blossom Court. The house at lot eleven (11) faces a berm.

ACTION:

Motion by Daniel Michnik, seconded by Arthur Henning, to **table** both items under Appeal No. 4, to allow the applicant time to re-work the plans.

Ronald Newton	AYE	Daniel Michnik	AYE
Arthur Henning	AYE	Ryan Mills	AYE

MOTION CARRIED.

Meeting adjourned at 8:45 p. m.

Ronald Newton, Chairperson