

Town of Clarence  
Zoning Board of Appeals Minutes  
Tuesday May 12, 2009  
7:00 p.m.

Chairman Arthur Henning called the meeting to order at 7:00 p.m.

Board of Appeals members present:

Chairman	Vice-Chairman
Arthur Henning	Ryan Mills
David D'Amato	Robert Geiger

Other Town officials present:

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

Other interested parties present:

David Mathis	Craig Mathis
Robert Mathis	Katie Latona
Fred Cimato	John O'Reily
Camille O'Reily	Bob Friedman
Kathy Stutzman	Don Stutzman
Jordan Freedman	Alan Freedman
Vittoriano Manocchio	Paul Mitchell
James Honaker	Cheryl Honaker
Patrick Rowell, Jr.	John Miosi

**Old Business**

**Appeal No. 1**

David Mathis  
Agricultural Floodzone

Requests the Board of Appeals approve and grant: a 752' variance to allow an 800' front yard setback for the construction of a new home at 8800 Sesh Road.

Appeal No. 1 is in variance to Section 229-31 (A) (4) Setbacks.

**DISCUSSION:**

Memo from Tim Lavocat, dated April 29, 2009, finding that after an investigation into the drainage conditions at 8800 Sesh Road and discussions with the Highway Department, a new ditch must be excavated to Sesh Road and a pipe installed under Sesh Road to help the existing drainage situation. The above must be completed as part of any Building Permit Application; a Highway Work Permit from the Highway Dept. is required.

Robert Friedman presented a Memorandum of Law and Opposition to the Applicants Appeal. Mr. Freedman is present. There is a rebuttal to the Memorandum from David Mathis.

Geiger asks if the barn on the property was there prior to the building of the home; answer is yes but it was an eyesore then and still is.

Mills asks why this is the only possible location for the structure. Mathis answers that it is a barn so it would need to stay that way in order to accompany pastures while avoiding a draining issue.

Mills asks if the house can be brought up at all, answers that it could be brought up 50-100' and that trees would be planted to keep house out of sight for Stutzman.

**ACTION:**

Motion by Ryan Mills, seconded by Robert Geiger, to **approve** Appeal No. 1, as written upon two conditions:

- The applicant applies with the memo dated April 29, 2009 from Tim Lavocat.
- Referral to the Landscape Committee and the applicant follow their recommendations which include, but not limited to planting trees along the west side of the property for approximately 40' and additional trees from the East to the West of the property.

Arthur Henning	Aye	Ryan Mills	Aye
David D'Amato	Aye	Robert Geiger	Aye

MOTION CARRIED.

**New Business**

Appeal No. 1

Jordan Freedman  
Residential Single Family

Requests the Board of Appeals approve and grant:

- 1.) Applicant is requesting a 5'6" variance to allow for a 7' side yard setback.
- 2.) Applicant is requesting a 320 square foot variance to allow for the construction of a principle structure exceeding 13% of the total lot area.

All requests apply to 6417 Cloverleaf Circle.

Appeal No. 1 is in variance to section 229-52 (B) and Section 229-56

**DISCUSSION:**

Jordan Freedman wants the variance to allow for a garage to house his antique car and lawn equipment; plans to start construction as soon as possible.

Mills asks what materials would be used. Freedman answers that it will be the same as his house is now for the 16’ by 20’ garage with 12’ door and breezeway.

Two neighbor notifications are on file.

**ACTION:**

Motion by Ryan Mills, seconded by Arthur Henning, to **approve** Appeal No. 1 as written under the condition that the structure be an attached breezeway.

Arthur Henning	Aye	Ryan Mills	Aye
David D’Amato	Aye	Robert Geiger	Aye

**MOTION CARRIED.**

Appeal No. 2

Vittoriano Manocchio  
Residential Single Family

Requests the Board of Appeals approve and grant:  
A 184 square foot variance to allow a 384 square foot shed at 9190 Hillview Drive.  
All requests apply to 9190 Hillview Drive.

Appeal No. 2 is in variance to Section 229-55 (H)

**DISCUSSION:**

Manocchio wants variance to replace old structure to house gardening supplies and car.

Geiger asks if any of the trees will have to be cut; Manocchio answers no and that decorative shrubs will be added along the sides.

D’Amato asks what the structure will look like; Manocchio says it will be vinyl siding with an 8’ automatic door and service door.

**ACTION:**

Motion by Ryan Mills, seconded by David D’Amato, to **approve** Appeal No. 2 as written under the condition that the old shed be torn down, and landscaping be done on the south and west sides within three months of completion.

Arthur Henning	Aye	Ryan Mills	Aye
David D’Amato	Aye	Robert Geiger	Aye

**MOTION CARRIED.**

Appeal No. 3

Paul Mitchell  
Residential Single Family

Requests the Board of Appeals approve and grant:  
A 2’ variance to allow for an 8’ tall fence in

the rear yard of a home.  
All requests apply to 4590 Hedgewood.

Appeal No. 3 is in variance to Section 101-3 (B)

**DISCUSSION:**

Mitchell needs variance to deal with lighting issues from neighbors and wind. Says he doesn't need the whole length of his yard to solve problem (only first 60-70'), but it would look better if it were uniform.

D'Amato asks how long Mitchell has owned the house and when did the wind problem start; replies when the forest behind him was cut down.

Two neighbor notifications are on file.

James Honaker speaks about his feelings on the fence; he doesn't like it.

**ACTION:**

Motion by Arthur Henning, seconded by Ryan Mills, to **approve** Appeal No. 3 as written, extending the 8' fence down the property.

Arthur Henning	Aye	Ryan Mills	Aye
David D'Amato	Nay	Robert Geiger	Nay

MOTION FAILS.

Appeal No. 4

Flexlume Sign/ Greatbach Inc.  
Industrial Business Park

Requests the Board of Appeals approve and grant:

- 1.) Applicant is requesting a 40 square foot variance to allow a 72 square foot monument sign in the commercial sign district.
- 2.) Applicant is requesting a 28 square foot variance to allow (2) 36 square foot directional signs.

All requests apply to 10000 Wehrle Drive

Appeal No. 4 is in variance to Section 181-4 (B) (1) and Section 181-7 (C)

**DISCUSSION:**

Patrick Rowell, Jr. says he needs the variance to replace the existing sign; it goes in the exact same place as the old sign.

All the lettering and designs are painted on and will hold up, with minimal fading due to UV rays. Lighting will be from the ground.

**ACTION:**

Motion by David D'Amato, seconded by Arthur Henning, to **approve** Appeal No. 4 as written.

Arthur Henning	Aye	Ryan Mills	Aye
David D'Amato	Aye	Robert Geiger	Aye

MOTION CARRIED.

Appeal No. 5

Ken Pearsen

Residential Single Family

Requests the Board of Appeals approve and grant:

A 3' variance to allow a 7' side yard setback for the installation of a new generator at 5106 Rockledge Drive.

All requests apply to 5106 Rockledge Drive.

Appeal No. 5 is in variance to Section 229-55 (E) (1)

**DISCUSSION:**

John Miosi, builder of the home, needs variance because all utilities are on one side of the building and to put generator in would need to have same access point in basement. This would avoid going through the ceiling.

Geiger asks about neighbor notices, Miosi said both are signed.

D'Amato asks about the generator being moved back behind the second air conditioner; Miosi says that would disrupt the finished basement and running a pipe outside would be hard to cover.

**ACTION:**

Motion by Ryan Mills, seconded by Arthur Henning, to **approve** Appeal No. 5 as written.

Arthur Henning	Aye	Ryan Mills	Aye
David D'Amato	Aye	Robert Geiger	Aye

MOTION CARRIED.

Meeting adjourned at 8:58 p.m.