

Clarence Board of Appeals Minutes
Tuesday, May 23, 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
Ryan Mills

Raymond Skaine, Vice-Chairperson
Arthur Henning

Other Town officials present were:

James Callahan, Director of Community Development
Steven Bengart, Town Attorney

Other Interested Parties Present:

Paul Young
George Tinklepaugh
Daniel Pazderski
Joyce Normandin
Dawn Munly
Jeff Palumbo
John Akiki
Susan Wickenhiser
Gerald Shaffer
Timothy Morgan

James Murty
Frank Daigler
Arlene Pazderski
Joan M. Matheis
Beatrice Carollo
Brad Davidzik
Tim O'Brien
Frank Gaskill
Erick R. Stockwell
Martin Stengel

Motion by Daniel Michnik, seconded by Ryan Mills, to approve the minutes of the meeting held on April 11, 2006, as written.

Ronald Newton Aye
Daniel Michnik Aye
Ryan Mills Aye

Raymond Skaine Abstain
Arthur Henning Abstain

MOTION CARRIED.

Old Business

Appeal No. 1
Mark Ziemba
Residential Single Family

Requests the Board of Appeals approve and grant a 240' variance to allow for the construction of a 1,200 square foot accessory structure at 8290 Stahley Road.

Appeal No. 1 is in variance to section 3.3.10 Accessory Structure.

DISCUSSION:

There is a petition on file, signed by numerous neighbors, requesting the Zoning Board of Appeals to rescind their previous decision. There is also a letter on file from Patrick Casilio stating that several people have voiced their displeasure with this project at the April 24, 2006 Town Board meeting. All members of the Zoning Board of Appeals have read the minutes from the May 9, 2006 meeting and are familiar with the discussion that took place.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning, to **rescind and deny the approval** for Appeal No. 1 that was granted on August 9, 2005 for the following reasons:

- The building has had a detrimental effect on the neighborhood and has changed the area considerably.
- The applicant did not follow through with what he told the Board he had planned.
- The requested variance is substantial; it placed two (2) detached structures on the same lot. The size and use of the building was not in keeping with the original statement of the applicant. No business should have been conducted on the premises.
- The variance request changed the environmental conditions of the neighborhood. The applicant did not do as he indicated to avoid this impact.
- The condition was self-created.

ON THE QUESTION:

A time limit should be established in order to allow Mr. Ziembra to take care of the property in a timely manner.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning, to **amend** the above action by adding the condition of a sixty (60) day time limit. The time limit is provided to the applicant in order to allow him to remove the structure and bring the property back to reasonable condition.

ON THE QUESTION:

There is a concern voiced with regards to what the Board will consider "reasonable condition". It is suggested that an amendment to the motion be made adding a condition that the property needs to be graded and seeded. The applicant is working with the Town Engineer on the drainage issues.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning, to **amend** the above action by adding the following condition:

- The Town Engineer must be satisfied with the drainage. The reconstruction of the land must also meet the Town Engineer's satisfaction.

Ronald Newton Aye
 Daniel Michnik Aye
 Ryan Mills Aye

Raymond Skaine Aye
 Arthur Henning Aye

MOTION CARRIED.

Appeal No. 4

Christopher D. Carollo
 Residential Single Family

Requests the Board of Appeals approve and grant 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:

Jeff Palumbo and Brad Davidzik, of Renaldo & Palumbo, are in attendance and are representing the applicant. Mr. Palumbo points out that the applicant has changed his application since the original request. This change is a request for 8720 Clarence Center Road only; the request for 8710 Clarence Center Road has been removed.

Mr. Palumbo refers to the photos that are on display. The photos show the condition of the property when the client purchased it. The photos also show other homes in the area with similar setbacks as to what is being requested.

Mr. Palumbo does not think the variance will create an undesirable change in the character of the neighborhood. He feels the neighborhood will be better suited with the removal of the barn.

Arthur Henning wonders why the home needs to be set back so far. Mr. Carollo explains he does not want neighbors. Mr. Carollo also wants the bike path to be accessible for his future children.

The structure on the property will be coming down by the first week of next month (June 2006). Mr. Skaine explains that if the variance is granted with the condition that the building must come down prior to the start of the project, nothing can be built until the building is completely removed. Mr. Carollo understands. He has a signed contract with the demolition contractor; there is no historical value to the structure.

Ronald Newton reiterates the section of the Town Code that indicates "one principal structure per lot".

There will be one driveway for each house.

ACTION:

Motion by Raymond Skaine, seconded by Daniel Michnik, to **approve** Appeal No. 4 with the stipulation that no second structure be constructed or built or even started until the existing building is down and removed from the property.

Ronald Newton Aye
 Daniel Michnik Aye
 Ryan Mills Aye

Raymond Skaine Aye
 Arthur Henning Aye

MOTION CARRIED.

New Business

Appeal No. 1

G. Franklin Gaskill
 Residential Single Family

Requests the Board of Appeals approve and grant a 7.5' variance creating a 5' side yard setback to construct a garage addition at 5135 Old Goodrich Road.

Appeal No. 1 is in variance to section 3.3.7 Setbacks.

DISCUSSION:

Gerald Shaffer is the architect for Mr. Gaskill's project and explains that the Gaskill's are short on storage space. One of the main things the Gaskill's want to accomplish is to gain a more efficient first floor laundry and mud room. They also need additional garage space due to their two (2) children will be driving soon.

Ronald Newton notes that neighbors at 5145 Old Goodrich Road and 5125 Old Goodrich Road have been notified.

Ryan Mills asks what material will be used for the façade of the garage. Mr. Shaffer explains it will match the existing siding of the house.

Arthur Henning asks for an explanation on the driveway. Mr. Shaffer explains that the driveway will not be as wide as it is now.

The existing tree near the proposed project will not be affected.

ACTION:

Motion by Daniel Michnik, seconded by Arthur Henning, to **approve** Appeal No. 1 as written.

Ronald Newton Aye
 Daniel Michnik Aye
 Ryan Mills Aye

Raymond Skaine Aye
 Arthur Henning Aye

MOTION CARRIED.

Appeal No. 2

Eric R. Stockwell
 Agricultural Floodzone

Requests the Board of Appeals approve and grant a 300' variance creating a 500' setback for the construction of a new house at 9155 Sesh Road.

Appeal No. 2 is in variance to section 3.1.6 Setbacks.

DISCUSSION:

Mr. Stockwell explains that the total setback will be closer to 400'. He is asking for this variance due to privacy issues, the neighbors are in agreement. One neighbor is at approximately an 800' setback. Mr. Stockwell will keep as many trees as he can. The square footage of the house is unknown at this time.

Mr. Skaine states that the applicant should be addressing the floodplain with the Town Engineer and the Floodplain Administrator.

Daniel Michnik states that flood insurance may need to be purchased. This would be handled through the Engineering Department.

Ronald Newton reads a letter dated May 18, 2006 from the Assistant Town Engineer:

“The proposed setback distance of 500 feet does not impact compliance with Local Law 03-2000 – Flood Damage Protection. All proposed construction and/or filling operations on the subject lot must be in accordance with all requirements set forth in Local Law 03-2000 and will be reviewed for compliance prior to issuance of a building and/or floodplain development permit. Building restrictions and conditions will apply for compliance with Local Law 03-2000 since the proposed structure will be located within the density floodway. A floodplain development permit is required prior to any land disturbance on the property.”

The letter is on file. Mr. Stockwell understands the letter.

ACTION:

Motion by Raymond Skaine, seconded by Daniel Michnik, to **approve** Appeal No. 2, as written.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 3

Forbes Homes, Inc.
Residential Single Family

Requests the Board of Appeals approve and grant up to a 35' variance creating up to an 80' front yard setback for the construction of two (2) new homes at 4624 and 4634 Brentwood Drive.

Appeal No. 3 is in variance to section 3.3.7 Setbacks.

DISCUSSION:

Timothy Morgan, representing Forbes Homes, Inc., explains that the request is due to the “tear-drop” configuration of the road. He is trying to create a street scape so that one house is not setback so much farther than the other. This will add to the curb appeal.

Daniel Michnik feels this situation was self-created. There should have been more foresight when the lots around this area were developed. Mr. Morgan explains that Forbes Homes was bound by the setbacks, they held the setback at 46'.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning, to **approve** Appeal No. 3, as written.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 4

Georgina Hartman
Agricultural Rural Residential

Requests the Board of Appeals approve and grant an 8' variance creating a side yard setback of 2' to allow the construction of a garage at 9215 Martin Road.

Appeal No. 4 is in variance to section 3.2.9 Accessory Structures.

DISCUSSION:

Paul Young, of 9215 Martin Road, is Georgina Hartman's boyfriend and is representing Ms. Hartman this evening. If the garage is placed to close to the house it is a fire violation. There is a large concrete pad around the house that the applicant does not want to disturb, nor does he want to disturb the line of site from one house to the other, across the back. If the garage is pushed back too far, the applicant would not see green space in the front of the driveway. There is a natural drainage behind the property; this prevents the garage from being placed back too far.

Ronald Newton wonders if the applicant has thought of shielding the garage from the adjacent property, perhaps with shrubs. The applicant advises he will provide a shield consisting of shrubs. The garage material will be identical to the house material.

The applicant would use the garage to store vehicles. There will be a six foot (6') leanto on the side of the proposed garage. The walls of the garage are seven feet (7') high; the pitch is just shy of fifteen feet (15').

Ronald Newton asks Mr. Young why so much depth is needed. Mr. Young explains that he also owns a boat that is kept in storage. The leanto will not be enclosed.

ACTION:

Motion by Arthur Henning, seconded by Ryan Mills, to **approve** Appeal No. 4 provided the applicant will properly place shrubbery around the proposed structure.

ON THE QUESTION:

Work on the proposed garage will begin immediately, once the structure is complete the shrubbery will be put in.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 5

Martin Stengel

Agricultural Rural Residential

Appeal No.5 is in variance to section 3.2.9 Accessory Structures.

Requests the Board of Appeals approve and grant a 2' variance to allow for an 8' setback from the principal structure for a new pool at 6720 Salt Rd.

DISCUSSION:

Martin Stengel explains that if the variance was not requested it would be a financial burden/hardship because the pool is already in place. He plans on installing a fence around the pool per Town requirements. Mr. Stengel also plans landscaping around the fence. The neighbors have been notified.

Mr. Stengel installed the pool himself, he did not realize a building permit was needed.

ACTION:

Motion by Raymond Skaine, seconded by Ryan Mills, to **approve** Appeal No. 5, as written.

ON THE QUESTION:

Raymond Skaine cautions the applicant to make sure the building department knows about the fence that is to be installed. Mr. Stengel has discussed the fence with the building department.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

DISCUSSION:

Raymond Skaine refers to the property at 6039 Goodrich Road, the owner is Barbara Latona. He would like to discuss the request to put a shed up at this location. The applicant is next to NovelTea and does not have much privacy. Ms. Latona would like a consensus that the Zoning Board of Appeals will grant this request at the June 13, 2006 meeting. All members agree they have no problem with this request.

DISCUSSION:

Jim Callahan refers to the property located at 5716 Fieldbrook Drive, property owner is Scott Zak. Mr. Zak was recently granted a variance to construct a large garage on his property, however, the height of the garage, which is 21', does not meet the Town requirements and he would need to appeal to the Board once again.

The Zoning Board of Appeals members are in agreement that the increased height of the garage would not fit the character of the neighborhood. At this point, the applicant needs to follow procedure.

DISCUSSION:

Ronald Newton advises the Zoning Board of Appeals members that eight (8) of the Planning Board members have passed the Land Use Training and are now certified by the State of New York.

Meeting adjourned 8:13 p.m.

Ronald Newton, Chairperson