

BOARD OF APPEALS MINUTES

On Tuesday March 9, 2004 at 7 p.m. the Town of Clarence Zoning Board of Appeals heard the following requests for variances:

APPEAL NO I
Susan Hocko
Agricultural

Requests the Board of Appeals approve and grant a nineteen foot (19') variance creating a six foot (6') rear lot line for construction of a 1600 square foot addition to the existing residence at 8645 Clarence Center Road.

APPEAL NO I is in variance to Article V, section 30-27 C, size of yards.

APPEAL NO II
Nicholas Kubiszyn
Agricultural

Requests the Board of Appeals approve and grant a five hundred foot (500') variance creating a six hundred foot (600') front lot line setback for construction of a new home north of 9281 Tonawanda Creek Road.

APPEAL NO II is in variance to Article V, section 30-27 B, size of yards.

APPEAL NO III
Michael & Sharon Dunn
Agricultural

Requests the Board of Appeals approve and grant a two hundred eight foot (280') variance creating a three hundred eighty foot (380') front lot line setback for the construction of a new home at 10560 County Road.

APPEAL NO III is in variance to Article V, section 30-27 B, size of yards.

APPEAL NO IV
Marcos Bahas
Residential A

Requests the Board of Appeals approve and grant a three foot six inch (3'6") height variance creating a thirty eight foot six inch (38'6") height for construction of a new home at 9080 Hillview Drive.

APPEAL NO IV is in variance to Article II, section 30-11, size of buildings.

APPEAL NO V
David Phillips
Residential A

Requests the Board of Appeals approve and grant a five foot (5') variance creating a five foot (5') side lot line for construction of a new house with side load garage at 9077 Winding Creek Lane.

APPEAL NO V is in variance to Article II, section 30-12 D, size of yards.

ATTENDING: **Ron Newton**
 John Brady
 John Gatti
 Arthur Henning
 Eric Heuser

INTERESTED
PERSONS: **Susan Hocko**
 Rosa Hocko
 Nicholas Kubiszyn
 Michael Dunn
 Sharon Dunn
 Anna Bahas
 David Carr
 David Phillips

MINUTES **Motion by John Gatti, seconded by Arthur Henning to**
 approve the minutes of the meeting held on February
 10, 2004 as written.

ALL VOTING AYE. MOTION CARRIED.

**APPEAL NO I
Susan Hocko
Agricultural**

Requests the Board of Appeals approve and grant a nineteen foot (19') variance creating a six foot (6') rear lot line for construction of a 1600 square foot addition to the existing residence at 8645 Clarence Center Road.

DISCUSSION:

Susan Hocko said her present home is a two bedroom home. It is too small, and in the future she may have additional occupants living with her, such as her Mother.

Her Mother owns the home next door, as well as the land behind her home. John Gatti asked Susan Hocko what the possibility was of her Mother selling her some more property, so she wouldn't need a variance.

Eventually the property will be split between her and her brother who lives on the other side of the property, it is going through the will process. The addition would include a dining room, a laundry room, a bedroom, a family room, and an office. Ron Newton said it is no big deal for her Mother to sell her or give her the property she needs to have the proper rear yard footage to fulfill the town of Clarence requirements. The Town of Clarence should not have to wait for many years to make this piece of property legal. Ron Newton read the factors that must be considered when the Board of Appeals makes a decision. After much discussion there were two options for the applicant to consider. Either she can acquire more land from her Mother or have the addition re-designed so it does not infringe on the rear lot line setback.

ACTION:

Motion by Ron Newton, seconded by Arthur Henning to DENY Appeal No I as written.

ALL VOTING AYE. MOTION CARRIED.

**APPEAL NO II
Nicholas Kubiszyn
Agricultural**

Requests the Board of Appeals approve and grant a five hundred foot (500') variance creating a six hundred foot (600') front lot line setback for construction of a new home north of 9281 Tonawanda Creek Road.

DISCUSSION:

Mr. Kubiszyn said the property he owns is actually three different properties. His home is on one, the barn is on another, and then there is roughly 17 plus acres of property. They would like to sell their home, and he would like to sell off three lots on the north east corner. He would like to use 150 feet of frontage, and go back roughly 500 feet and build a duplex of sorts, or an in-law apartment of 1100 square feet, and their attached house would be 1600 square feet something for a total of 2900 square feet. Arthur Henning asked Mr. Kubiszyn if he would sell the lots if his appeal was denied. Mr. Kubiszyn said he probably would. Mr. Kubiszyn forgot to have the neighbor notifications forms signed, but he will. Eric Heuser said before he makes a decision, he would like to know the neighbors had been notified of this meeting. Mr. Kubiszyn said he is not in a hurry, and he wouldn't want to do anything to offend the neighbors. There is a substantial amount of trees from 4 to 6 inches in diameter with heavy growth between his house and his neighbors. The pie shape is all open land. John Gatti said he has a problem with this, because you are going to be in everyone's back yard, including the three lots, your existing home, and the people who are out in front already. Ron Newton asked Mr. Kubiszyn why the area was not staked, so the board could see the impact on the neighbors.

ACTION:

Motion by Arthur Henning, seconded by Eric Heuser to table this appeal until the house is properly staked, and all of the neighbors have been notified.

ALL VOTING AYE. MOTION CARRIED.

**APPEAL NO III
Michael & Sharon Dunn
Agricultural**

Requests the Board of Appeals approve and grant a two hundred eighty foot (280') variance creating a three hundred eighty foot (380') front lot line setback for the construction of a new home at 10560 County Road.

DISCUSSION:

Jim Hartz explained that the Dunns just received a survey for the property. The brine line is farther back than they thought, so they will have to re-advertise the appeal for the additional distance. A site meeting was set for March 25, 2004 at 5:30 p.m.

ACTION:

Motion by John Gatti, seconded by Arthur Henning to table Appeal No III, re-advertise it, and have a site meeting on March 25, 2004 at 5:30 p.m.

ALL VOTING AYE. MOTION CARRIED.

**APPEAL NO IV
Marcos Bahas
Residential A**

Requests the Board of Appeals approve and grant a three foot six inch (3'6") height variance creating a thirty eight foot six inch (38'6") height for construction of a new home at 9080 Hillview Drive.

DISCUSSION:

The Engineer for the Bahas, explained that this is not a request for a variance for the total roof height, it is only for a small portion of the roof to allow daylight windows in the basement. No one had any problems with the request.

ACTION:

Motion by John Gatti, seconded by Arthur Henning to approve Appeal No IV as written.

ALL VOTING AYE. MOTION CARRIED.

**APPEAL NO V
David Phillips
Residential A**

Requests the Board of Appeals approve and grant a five foot (5') variance creating a five foot (5') side lot line for construction of a new house with side load garage at 9077 Winding Creek Lane.

DISCUSSION:

Mr. Phillips said he would like to build a first floor master bedroom. He also would like to set his stair for his basement going from the front of the house towards the rear of the house. And of course, the side load garage on a 100 foot wide lot with a 25 foot pad, and 3 more feet for drainage. Every house in that neighborhood has a side load garage. Arthur Henning asked the applicant why he couldn't move this house in a different direction. Mr. Phillips said if he moves it to the right, he would have to get a variance for a smaller pad. When Mr. Piestrak started to subdivide the rest of the lots, he made them 105 feet to accommodate side load garages. The adjacent neighbors did not have any problem with this request. John Gatti said there was a front load garage going up right across the street, and he saw a two car garage in the back of the house. He has never seen so many different garage set ups. Mr. Phillips said he hired an architect after he bought the lot. He thought he would be fine with a Residential A lot. Ron Newton said he thought it was too close to the line, the house would be more properly suited if it was designed so it fit a little better.

ACTION:

Motion by Arthur Henning, seconded by Eric Heuser to approve Appeal No V as presented.

**John Gatti AYE
John Brady AYE
Eric Heuser AYE
Arthur Henning AYE
Ronald Newton NAY**

MOTION CARRIED.

**Meeting adjourned at 9:15 p.m.
Ronald Newton, Chairman**