

BOARD OF APPEALS MINUTES

On Tuesday July 13, 2004 at 7:00 p.m. the Town of Clarence Zoning Board of Appeals will hear the following requests for variances:

OLD BUSINESS

**APPEAL NO II (6-8-2004)
Peter Scharf
Residential B** **Requests the Board of Appeals approve and grant construction of an accessory building in advance of the principal use at 5041 Salt Road.**

NEW BUSINESS

**APPEAL NO I
Jean Duge
Residential A** **Requests the Board of Appeals approve and grant a building permit for a 672 square foot addition to single family residence at 5459 Shimerville Road.**

APPEAL NO I is an interpretation of the use provisions in a Residential A. Article II, section 30-9 , residential uses.

**APPEAL NO II
Russ Hugenschmidt
Agricultural/Industrial** **Requests the Board of Appeals approve and grant a two hundred five (205') foot variance creating a two hundred eighty five foot (285') front lot line setback for the construction of a new home at 9665 Martin Road.**

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

**APPEAL NO III
Angelo Maritato
Residential A** **Requests the Board of Appeals approve and grant a two foot (2') variance to allow a six foot (6') high fence in the front yard of 8195 Lisa Lane. (Rear yard of corner lot on Gott Creek Trail)**

APPEAL NO III is in variance to L.L. 101-3C, fence regulations.

**APPEAL NO IV
Michael Adolf
Agricultural** **Requests the Board of Appeals approve and grant a six hundred seventy five foot (675') variance creating a seven hundred seventy five foot (775') front lot line setback for construction of a new single family home at 9410 Lapp Road. (Corner of Goodrich & Lapp)**

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

**APPEAL NO V
Karen Stendardi
Agricultural** Requests the Board of Appeals approve and grant a four hundred foot (400') variance creating a five hundred foot (500') front lot line setback for a new single family home at 10425 Keller Road.

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

**APPEAL NO VI
Timothy Graves
Residential A** Requests the Board of Appeals approve and grant a building permit for a 20' x 30' garage off of Rosewood Lane. The home faces 4237 Ransom Road, it is an irregularly shaped lot. (Use driveway at 10661 Rosewood for access to property)

APPEAL NO VI is in variance to Article II, section 30-13 A, accessory buildings.

ATTENDING:
Ron Newton
John Brady
Raymond Skaine
John Gatti
Arthur Henning

**INTERESTED
PERSONS:**
Peter Scharf
Charles Tiffany
Russ Hugenschmidt
Angelo Maritato
Anthony Maritato
Tricia Maritato
Kevin Loos
Carol Loos
Lisa Haney
Dave Haney
Jeff VanMarten
Karen Stendardi
Mario Musso
Michael Adolf
Wayne Griffiths
Deborah Griffiths
Mary Henesey
Patty Adolf
Timothy Graves

OLD BUSINESS

APPEAL NO II (6-8-2004)
Peter Scharf
Residential B

Requests the Board of Appeals approve and grant construction of an accessory building in advance of the principal use at 5041 Salt Road.

DISCUSSION:

Mr. Scharf had pictures of the proposed building. It will be 720 square feet. Mr. Scharf said as soon as the new building is built, he will demolish the existing building. It will match the existing buildings on his property. The board did not have any questions.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No II as requested providing the applicant builds the building according to the picture he showed the board.

ALL VOTING AYE. MOTION CARRIED.

NEW BUSINESS

APPEAL NO I
Jean Duge
Residential A

Requests the Board of Appeals approve and grant a building permit for a 672 square foot addition to single family residence at 5459 Shimerville Road.

DISCUSSION:

Chuck Tiffany of Tiffany Construction represented the applicant for this variance. Jim Hartz said just for the boards clarification , this is not actually a variance, this is an interpretation request from our building inspector that the plans that are before him will constitute a single family residence with the addition. This addition will be for Jean Duges daughter, and they want separate quarters. Mr. Tiffany said there will not be separate utilities, and the only entrance will be in between the garage and the house. There will be a small kitchen. It will be deed restricted as a single family home by the owner Jean Duge.

ACTION:

Motion by Raymond Skaine, seconded by John Brady to approve Appeal No II as requested. The home must be deed restricted as a single family home by the owner Jean Duge.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO II
Russ Hugenschmidt
Agricultural/Industrial

Requests the Board of Appeals approve and grant a two hundred five (205') foot variance creating a two hundred eight five (285') foot front lot line setback for the construction of a new home at 9665 Martin Road.

DISCUSSION:

Mr. Hugenschmidt said they dug for the foundation and ran into pockets of sand. Subsequent test holes were excavated to find suitable soil conditions for the foundation. They were unable to find suitable soil conditions until they were 285 feet from the road. To buffer the neighbors at 9685 Martin Road, they will plant nine 3 to 4 foot blue spruce pines in a pattern agreeable to the neighbors. In addition they will have the deciduous trees near their home. This will be done in the spring of 2005 when they landscape their home. The neighbors do not have objections to moving the house back. Ray Skaine asked if it would be possible to build at the 80 foot setback. Tim Lavocat from the Engineering Department did not recommend building at the 80 foot setback due to potential problems. Ron Newton said we do not like people building in other peoples backyards. However, there is a hardship here.

ACTION:

Motion by John Gatti, seconded by John Brady to approve Appeal No II as requested due to the fact that under examination by the Engineering Department, that the sand located there would not be conducive to building the home at 80 feet, with the condition that the neighbors will be screened by pine trees.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO III
Angelo Maritato
Residential A

Requests the Board of Appeals approve and grant a two foot (2') variance to allow a six foot (6') high fence in the front yard of 8195 Lisa Lane. (Rear yard of corner lot on Gott Creek Trail)

DISCUSSION:

Mr. Maritato said it is his backyard. The front of his house is on Lisa Lane, his side lot is on Gott Creek Trail, and his backyard faces Gott Creek also. It is virtually wide open, and Mr. Maritato showed pictures. They have lived their for nineteen years, and they would like to have some privacy. He understands they can put up a four foot fence thirty five feet from the middle of the street. Four feet does absolutely nothing for their privacy due to the slope of their lot. They have headlights, cars, people walking by, roller blading by, motor scooters, and people on bicycles going by. His wife has a medical problem, and has to sit in the sun. She has been harassed by landscapers, and truckers. They have little privacy, so they want the six foot fence. There are a lot of six foot stockade fences in the neighborhood. Neighbors at 6145 Gott Creek Trail complained about the visual obstruction they will have to deal with making it dangerous to back out of their yards. They will not be able to see because of the curve in the road. Other neighbors complained because of the safety issues, it is already dangerous. There are a lot of people who do not stop at the stop sign, and there is an increase in traffic. Mr. Maritato said no one has ever said a word to him before about this, and he has no problem pulling in and out. Chairman Newton read a memo from James Callahan stating the Town of Clarence Highway Superintendent has forwarded a concern related to the above referenced application for variance. The Highway Department has identified that there exists pine trees along this section of road that block the vision of the stop sign at the corner. The existing situation is an identified problem. The Highway Department is asking that the ZBA consider this existing situation in evaluating the application for variance. At a minimum, the proposed fence, whether 6' or 4' should be inside the existing pine trees.

ACTION:

Motion by John Gatti, seconded by John Brady to table this item and that the proper departments be notified of this such as the Highway and Engineering Departments to determine where

that fence should be put up so it complies with the code just read by Chairman Newton. After we get their report we can act on it.

On the Question?

Raymond Skaine said the variance we are looking at has nothing to do with a four foot fence. The variance that we have to deal with is only for a six foot fence. Is that what you are saying?

On the Question?

John Gatti said no, that is not what I am saying at all. If we reject this six foot fence, and if they go and put the four foot fence in, they still have to know exactly where it is. I am saying we should get some notification from these departments.

Ron Newton ABSTAINED he lives on Gott Creek Trail
John Brady AYE
John Gatti AYE
Art Henning NAY
Ray Skaine NAY

MOTION FAILED.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to DENY Appeal No III as requested.

Ray Skaine AYE
Arthur Henning AYE
John Brady AYE
John Gatti AYE
Ron Newton ABSTAINED he lives on Gott Creek Trail.

MOTION CARRIED.

APPEAL NO IV
Michael Adolf
Agricultural

Requests the Board of Appeals approve and grant a six hundred seventy five foot (675') variance creating a seven hundred seventy five foot (775') front lot line setback for the construction of a new single family home at 9410 Lapp Road.

DISCUSSION:

Mr. Adolf said the lot in front is 100 feet wide but about 400 feet back it opens up to 500 feet wide. The front of the property is low and wet, it is heavily wooded with some large trees in there. We want to put a driveway in there, they will have a six car garage, it will not fit on a 100 foot wide piece of property. They would like to preserve the woods and build back in the clearing. Ray Skaine said he didn't know where to look, he didn't see any signs for direction, so he didn't go back there. Mr. Adolf said once you are back there, you can't see any houses from the site. No one saw the yellow markers behind the barn. Ron Newton said there was no path for the board to go back there. A path should have been provided. Ray Skaine said he would like to see this tabled until the board can get back there to see for themselves, before it gets voted on.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to table this until the next meeting in August. The applicants said they will be on vacation. The board agreed to meet on Wednesday July 14th at 6:15 p.m. because the contract to purchase the land runs out on Friday.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO V
Karen Stendardi
Agricultural

Requests the Board of Appeals approve and grant a four hundred foot (400') variance creating a five hundred foot (500') front lot line setback for a new single family home at 10425 Keller Road.

DISCUSSION:

Karen Stendardi said they worked with the Army Corps of Engineers to determine where they could build their home due to the wetlands on the property. They also worked with Earth Dimensions to delineate the wetlands, and this was an area they determined was suitable to locate their home. There is a portion of wetlands in the front, but not the entire front. In

addition there is a ditch that runs at a 30 degree angle that would have gone right through the front, the overflow water from the wetlands runs into the ditch, and the ditch cannot be moved. Karen Stendardi said she has a small child. Once you go back 200 feet, the lot opens up to 600 feet wide, and it would be safer for her son. Also, there are other homes that are set back that far on Keller Road. John Gatti asked if they owned the 36 acres, and what were they going to do with it? Karen Stendardi said they want to grow Christmas trees back there. The frontage is 272 feet. The neighbors at 10395 Keller Road said they lost all their privacy in their backyard, it will be right in their backyard. Also they stripped the land and there is no buffer, and now it is completely wide open. The board suggested re-positioning the house to accommodate the existing neighbors. Mr. VanMarten said he would provide privacy for the neighbors with trees. The board decided they should meet at the property tomorrow night at 7 o'clock.

ACTION:

Motion by Arthur Henning , seconded by John Brady to table this item because of the controversy surrounding the request, and meet for a site inspection Wednesday July 14th at 7 o'clock.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO VI
Timothy Graves
Residential A

Requests the Board of Appeals approve and grant a building permit for a 20' x 30' garage off of Rosewood Lane. The home faces 4237 Ransom Road, it is an irregularly shaped lot.

DISCUSSION:

Chairman Newton asked the applicant why he wanted to build another garage when he already has a three car garage attached to the house. Mr. Graves said it would be for storing pool equipment and yard equipment, and eventually a riding lawnmower. It will match the house. It will be more of a curators house. It will not be an apartment or used for his business. A neighbor said he is violating four of the deed restrictions of the development on Rosewood Lane. Mr. Graves bought the property on Ransom, and then purchased the land off Rosewood. Their driveway is on Rosewood. After general discussion it was determined that the proposed use would be acceptable. Any future change in use would

require town approval and a permit.

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 9:00 p.m.
Ronald Newton, Chairman

Site meeting held on Wednesday July 14, 2004

APPEAL NO IV
Michael Adolf

9410 LAPP ROAD

The members of the board gathered on -site and walked to the clearing where the proposed house is to be located. Ray Skaine mentioned that there is plenty of tree buffer on both sides of the home to hide the new residence. As long as the vegetation remains on the property, there will be no change in the character of the neighborhood. Mr. Adolf said that the barn in front is going to remain on the property and that the driveway will come in to the west of the barn. John Brady mentioned that there may be a concern from a fire safety perspective. The closest hydrant is 1/10 mile from the property. Mrs. Adolf said she is Vice President of the Harris Hill Women's Auxiliary and she checked out the distance, the closest hydrant is within 1/10th of a mile. She measured it herself.

Motion by Ray Skaine, seconded by Arthur Henning to approve Appeal No IV as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO V
Karen Stendardi

10425 KELLER ROAD

The board convened on the subject property with Ms. Stendardi, Jeff Van Marten, and others at 6:50 p.m. Ron Newton said it appeared that there was enough room to fit their house in line with the other homes to the west. Mr. Van Marten said that the USACOE said they would not be able to cross the protected wetland area with a driveway. Ray Skaine noted that the lot should not have been clear cut. Now there are no good options for screening the neighbors rear yard privacy Page 2004-37

ACTION:

Motion by Arthur Henning, seconded by John Brady to approve the variance as requested with the following conditions:

1. That a 3' berm be installed along the west property line with 4' to 5' evergreens.
2. No second residence is built on the property.

Raymond Skaine	AYE
Arthur Henning	AYE
John Gatti	NAY
John Brady	NAY
Ron Newton	NAY

MOTION FAILED.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning that the board contact the Town Attorney for an executive session at their next meeting at 6:45 p.m. on August 10th to discuss pending litigation.

ALL VOTING AYE. MOTION CARRIED.

Site meeting adjourned at 7:15 p.m.
Ronald Newton, Chairman