

BOARD OF APPEALS MINUTES

On Tuesday August 10, 2004 at 7:00 p.m. the Town of Clarence Zoning Board of Appeals heard the following requests for variances:

BOARD OF APPEALS EXECUTIVE SESSION WILL BE HELD AT 6:45 P.M.

OLD BUSINESS FROM JULY 13, 2004 MEETING

**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.

NEW BUSINESS

**APPEAL NO I
Ryan Burkard
Agricultural**

Requests the Board of Appeals approve and grant a twenty foot (20') variance creating a five foot (5') rear lot line setback for the construction of a new 28' x 40' garage at 10815 Howe Road.

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

**APPEAL NO II
Patricia Riemen
Residential A**

Requests the Board of Appeals approve and grant a four foot (4') variance creating a forty one foot (41') rear lot line setback for the construction of a new sunroom at 6152 Ranch View Drive.

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

**APPEAL NO III
Santo Padilla
Residential B**

Requests the Board of Appeals approve and grant a variance to allow a second garage at 5045 Salt Road. The garage will be 720 square feet.

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

**APPEAL NO IV
Robert Riley
Agricultural**

Requests the Board of Appeals approve and grant two variances:

1. A twenty foot (20') variance creating a five foot (5') rear lot line setback for a shed at 5165 Old Goodrich Road.

2. A five foot (5') variance creating a five foot (5') side lot line setback for a shed at 5165 Old Goodrich Road.

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

**APPEAL NO V
Timothy Barwell
Residential B**

Requests the Board of Appeals approve and grant a four foot (4') variance creating a six foot (6') side lot setback for the construction of a new two car garage at 4358 White Acres Road.

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

**APPEAL NO VI
Roy Jordan
Agricultural**

Requests the Board of Appeals approve and grant a fifteen foot (15') variance creating a fifty foot (50') maximum height for construction of a new home at 8587 County Road. (Approved Open Development 500 feet west of Green Acres and County - 1200 feet from the front property line - this will be the first home).

APPEAL NO VI is in variance to Article V, section 30-26, size of buildings.

ATTENDING: Ronald Newton
John Brady
John Gatti
Arthur Henning
Raymond Skaine
Eric Heuser

INTERESTED
PERSONS: Karen Stendardi
Jeff VanMartin
Wayne Griffiths
Debbie Griffiths
Ray Somers
Ryan Burkard
Patricia Riemen
Santo Padilla
Robert Riley
Timothy Barwell

MINUTES

Motion by Ray Skaine, seconded bu Arthur Henning to
approve the minutes of the meeting held on July 13, 2004
as written.

Ron Newton	AYE
John Brady	AYE
Raymond Skaine	AYE
Arthur Henning	AYE
John Gatti	AYE
Eric Heuser	ABSTAINED he was absent

EXECUTIVE SESSION: Motion by Raymond Skaine, seconded by Arthur Henning to enter into Executive Session and Attorney Client Privilege at 6:45 p.m. to discuss matters related to 9070 Sesh Road and 10425 Keller Road. The meeting adjourned at 7:02 p.m.

ALL VOTING AYE. MOTION CARRIED.

OLD BUSINESS FROM JULY 13, 2004

APPEAL NO V
Karen Stendarci
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: Motion by Arthur Henning, seconded by Raymond Skaine to re-open Appeal No V from July 13, 2004. John Gatti said the reason it is being reopened is because at the site meeting there wasn't enough clarification made. There was no consensus at the site meeting.

AL VOTING AYE. MOTION CARRIED.

Karen Stendarci passed out a packet to board members. On the first attachment they propose a continuous three foot high berm with twelve five foot high pine trees, to rectify the privacy of the neighbors Mr & Mrs Wayne Griffiths of 10395 Keller Road. On the second attachment, is their original permit to the Army Corp of Engineers, at the request of the Town to handle the delineation of the wetlands that were noted on the property map. Attachment number three is Earth Dimensions delineation performed by Mr. Don Owens that was submitted to the Army Corps of Engineers. Number four is the letter from the Army Corps of Engineers stating that they had no jurisdiction based on Earth Dimensions delineation, and the Department of Army permit is not required. Number five is the soil bore test that was done on the property as well as the geotechnical report. Number six is a letter from Mr. Owens of Earth Dimensions Inc. regarding his recommendation for proposed placement of the home, and why it was proposed to go back there. There was discussion with the neighbors who did have some drainage

concerns and concerns about the berm adding to the problem.

Mr. Ray Somers of 10375 Keller Road asked what will be done behind his home? The applicant said he doesn't have any plans at this time, however, if they grade the land in the future, they would extend the berm. John Gatti asked if they could move the house to the east and give the neighbors more privacy. Mr. Owens spoke about the soil conditions for the proposed site for the home, they are suitable and stable, and it is the higher part of the landscape. Mr. Gatti asked Mr. Owens if the neighbors privacy was taken into consideration when they did the soil boring? He said it was possible for the applicant to move the house to the east, but the area he recommended is the most desirable area. Ron Newton asked Mr. Owens how many bores he did. Mr. Owens said he did one bore, and went down sixteen feet.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No V as written with the following conditions:

1. That the berm shown on attachment No 1 dated 8-10-2004 is constructed before any building is built on the land.
2. There will be no second residence allowed to be built on the property.

John Gatti	NAY
Ray Skaine	AYE
John Brady	NAY
Arthur Henning	AYE
Ronald Newton	AYE

MOTION CARRIED.

For the record:

John Gatti said he didn't feel enough information was given. They should have given a reason for not moving the house to the east after knowing the existing residents were not happy with a home right behind the, They didn't do their homework. John Brady agreed with John Gatti.

ITEM I
Ryan Burkard
Agricultural

Requests the Board of Appeals approve and grant a twenty foot (20') variance creating a five foot (5') rear lot line setback for the construction of a new 28' x 40' garage at 10815 Howe Road.

DISCUSSION:

Mr. Burkard said the main reason for the garage is for storage of family type equipment, and to make room in their existing garage. Locating the garage at 25 feet from the rear lot line will create a lot of dead space in the right corner of the property. The garage will look like the house with the same roof color and white vinyl siding. Mr. Skaine said he talked to the neighbor, and they did not have any objection to the request. Mr. Newton asked if the applicant would have any objection to the fact that if the board granted the variance it would be for storage only, not for a business such as fixing up cars. Mr. Burkard said he had an older car, but it is a hobby. Mr. Burkard said he would not have any objections.

ACTION:

Motion by Raymond Skaine, seconded by John Brady to approve Appeal No I as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO II
Patricia Riemen
Residential A

Requests the Board of Appeals approve and grant a four foot (4') variance creating a forty one foot (41') rear lot line setback for the construction of a new sunroom at 6152 Ranch View Dr.

DISCUSSION:

Patricia Riemen said she is allergic to bees, and sitting outside is not pleasant for her. No one on the board had any problems with the request.

Motion by John Gatti, seconded by Raymond Skaine to approve Appeal No II as written

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO III
Santo Padilla
Residential B

Requests the Board of Appeals approve and grant a variance to allow a second garage at 5045 Salt Road. The garage will be 720 square feet.

DISCUSSION:

Mr. Padilla said he needs the garage for storage. His lawnmower, furniture etc. is all outside and is getting weathered and rusty. There will not be any automobiles, it will just be for storage only. There is neighbor notification for 5055 and 5035 Salt Road. Mr. Padilla showed a picture of what the garage will look like. There will not be a driveway for the garage. Mr. Gatti said he is sure the neighbors would like to see everything put into a storage building. Arthur Henning said this building is half the size of the applicants original request.

ACTION:

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

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO IV
Robert Riley
Agricultural

Requests the Board of Appeals approve and grant two variances:

1. A twenty foot (20') variance creating a five foot (5') rear lot line setback for a shed at 5165 Old Goodrich Road.
2. A five foot (5') variance creating a five foot (5') side lot line setback for a shed at 5165 Old Goodrich Road.

DISCUSSION:

Jim Callahan said we are caught in between approving a new zoning law that will turn his property to residential which is what the Master plan recommends. He would then be allowed to have 5 feet on the side and 5 feet on the rear. Mr. Riley wanted to get the structure underway, and we understood that. We had to bring it in, because under current law, he needs the variance. There were no signed neighbor notification forms. Ray Skaine said it was well staked, and he didn't have any questions. No one had a problem 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
Timothy Barwell
Residential B

Requests the Board of Appeals approve and grant a four foot (4') variance creating a six foot (6') side lot line setback for the construction of a new two car garage at 4358 White Acres Road.

DISCUSSION:

Mr. Barwell said he just had the septic field replaced, and if he went back farther the garage would be right on the leach field. There is also a tree he would have to cut down. This garage is unattached. A neighbor notification form from the neighbor to the south is in the file. Building materials will be similar to the house.

Motion by John Brady, seconded by Raymond Skaine to approve Appeal No V as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO VI
Roy Jordan
Agricultural

Requests the Board of Appeals approve and grant a fifteen foot (15') variance creating a fifty foot (50') maximum height for construction of a new home at 8587 County Road.

DISCUSSION:

Roy Jordan explained that this is a home in the open development area he just had approved. The entire site is wooded, and there are wetlands that will be preserved in a conservation easement. The houses will not be seen from County Road. There will be a total of seven homes built on the 50 plus acres. The Fire Chief Edward Thompson has no problem with the request, they have equipment that would reach 100 feet in height. Mr. Jordan explained that the New York State code for height uses an average of the roof height.

Mr. Jordan requested that the variance would cover the open development and any subsequent heights for additional homes over the 35 feet allowed by the Town.

ACTION:

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

ALL VOTING AYE. MOTION CARRIED.

Motion by Raymond Skaine, seconded by Arthur Henning to re-open and review the variance for 9070 Sesh Road.

On the Question?

John Gatti said he thought the board should seek legal counsel prior to any action. The board agreed with Mr. Gatti.

ALL VOTING AYE. MOTION CARRIED.