

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
May 9, 2023

Chairman Ryan Mills called the meeting to order at 5:30 p.m.

Zoning Board of Appeals members present:

Chairman Ryan Mills
Richard McNamara

Patrick Krey
Gerald Drinkard

Raymond Skaine
Patricia Burkard

Town Officials present:

Director of Community Development Jonathan Bleuer
Deputy Town Attorney Steven Bengart
Councilman Paul Shear

Other Interested Parties:

Bobby Carrao

NEW BUSINESS

Appeal No. 1

Angelo Natale
Residential Single-Family

Applicant requests a variance of 10' to allow a 15' front yard setback located at 5631 Creekwood Lane in the Residential Single-Family zone.

Town Code Reference:
Map Cover 3773 SL 21

DISCUSSION:

Bobby Corrao, President of Natale Builders was present to represent the project.

Mr. Corrao explained that this is the final lot in the Creekwood Meadows subdivision to be developed, it is located on a private road. Mr. Natale is building the home for his mom, and they would like to angle it on the lot in such a way as to provide a more appealing view of the backyard.

Mr. Corrao noted that the plan has been discussed with the adjacent neighbors who have not expressed any concerns.

Mr. Drinkard asked if there is a resident appointed board at this time.

Mr. Corrao responded no, Natale Builders acts as the sponsor, and they will be turning the Board over later this year.

Referring to Condo Status, Mr. Drinkard referred to two documents; Condominium Declaration of Condo Status, and the other is the bylaws. Mr. Drinkard asked if this request for a variance in any way violates either of those documents.

Mr. Corrao responded aside from needing Board approval, no it does not. Mr. Corrao noted that as the sponsor, Natale currently holds all 3 Board seats.

Mr. Drinkard asked if there is anything written in the two documents that would cause this variance to be in violation of either document once turned over to the resident Board.

Mr. Corrao responded no, not that he is aware of.

Mr. Skaine stated that he is not happy with this request, and that 15 ft. from the roadway is not ideal for the location. The proposed home will be fairly close to the road to the south.

Mr. Skaine asked who created the original design of the subdivision and layout of the lots.

Mr. Corrao confirmed that Natale Builders did.

Mr. Skaine asked why they never took this in to consideration, and are now coming to the Zoning Board requesting to correct the violation of a 25 ft. setback.

Mr. Skaine stated he does not feel that this is something the Zoning Board should be asked to correct, it is a self-created issue.

Mr. Krey asked if the house on the lot located to the east of this proposed lot is also positioned on an angle.

Mr. Corrao responded yes, both the house to the east and to the south are positioned on an angle.

Mr. Krey asked Mr. Corrao to explain the survey that they provided for this request.

Chairman Mills entered the survey dated February 15, 2023 from GPI Engineering, Sublot 21 Map Cover 3773 in to the record as Exhibit A.

Mr. Krey noted that according to Exhibit A, it appears that the homes are positioned at a similar angle, and that the setback for the existing home is close to the property line.

Mr. Krey asked if the requested setback is due to the location of a corner lot.

Mr. Corrao responded yes. Several of the homes follow the contour of the curved road, they have given the homeowners the ability to make slight angled changes to the homes to allow for better views of their back yards.

Mr. Corrao noted that if this was not a corner lot, there would not be an issue and they'd have more than enough room.

Mr. McNamara noted that it is their development, this should not have been a surprise after all of the time they have spent designing and developing it. He is worried about the location of the house being so close to the road, with vehicles entering the development.

Mr. Carrao explained that they purchased the property already with an approved subdivision plan. Someone else went through the approval process, but they did purchase it knowing the conditions of the setbacks. While they did not design it, they did purchase it with the knowledge of the condition.

Mrs. Burkard asked if repositioning the house will have any effect on the driveway.

Mr. Carrao responded that it will not have any, the driveway comes in from the east.

Mr. McNamara referred to Exhibit A, and asked if there will be two entrances to the driveway.

Mr. Carrao responded no, only one entrance to Creekwood Lane.

Mr. McNamara pointed out that the drawing in Exhibit A indicates a second entrance on the other street.

Mr. Carrao stated that he is not aware of that entrance, his papers only show the one entrance on Creekwood Lane.

Chairman Mills asked Mr. Carrao if it is his understanding that there will be two entrances for the driveway.

Mr. Carrao responded based on the submitted plan marked Exhibit A, yes. If it will be a condition of the request getting approved, it is something they would be willing to work through. They don't want it to impede traffic, or negatively affect the aesthetics of the neighborhood. Mr. Carrao explained that often times when they have corner lots in their subdivisions, they angle the driveway, so that it is not so sterile looking.

Mr. McNamara asked if there any sidewalks in the development.

Mr. Carrao responded no, there are not.

Chairman Mills noted that his question also related to Exhibit A with the two driveway entrances, one on Creekwood Lane and the other on Creekwood Court East. He is concerned with the sight lines and views for the cars, if the house is placed so close to the street.

Chairman Mills asked Mr. Carrao if there are any other options from a design standpoint to have the house back any further than 15 ft.

Mr. Carrao responded that if they can compromise on something, that would work for them. Their goal is to give the homeowner a better backyard view.

Chairman Mills reviewed the setbacks, noting that the required setback is 25 ft., the applicant is requesting a variance of 10 ft. for a 15 ft. setback.

Chairman Mills asked Mr. Carrao if they would be willing to go to 20 feet instead of 25 ft.

Mr. Carrao responded that 17.5 would be more realistic, but they will agree to 15 if necessary.

Mr. McNamara asked what the side lot setback is.

Mr. Carrao responded that 5 ft. is the minimum side yard setback, the house to the east of this property is set at 6.65 ft.

Mr. Bleuer noted that the minimum side yard setback in this subdivision is 6.5 ft., the rear yard setback is 20 ft.

Mr. Carrao stated that they can go back a bit, but it does not allow them to angle.

Chairman Mills stated that it does help with vehicles coming around the corner, and the line of vision.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

Mr. McNamara asked if all of the houses throughout the development are of the same design.

Mr. Carrao responded that there are 5 different models, all are ranch homes.

Mr. McNamara asked if they are all the same width.

Mr. Carrao responded no; they are not all the same width but are close in size. This model is ADA (Americans with Disabilities Act) compliant, therefore the width is necessary.

Mr. Drinkard noted that he went back to the subdivision twice. Once there was an emergency vehicle at the house directly across the street, and a garbage truck in the subdivision, making it very difficult to move around the subdivision.

Mr. Drinkard stated that he does not believe positioning the house on an angle will improve the back yard view enough that it is worth violating the code. He is not in favor of this variance request.

ACTION:

Motion by Patrick Krey, seconded by Raymond Skaine to **approve** Appeal No. 1 with the following condition.

- variance amended to 5 ft. to allow a 20 ft. front yard setback

ON THE QUESTION:

Mr. Krey asked Mr. Carrao if he would agree to the amended variance.

Mr. Carrao responded that he would prefer 7.5 ft., but if 5 ft. is what the Board prefers, he will accept that.

Gerald Drinkard	Nay	Raymond Skaine	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Richard McNamara	Nay		

MOTION CARRIED

Appeal No. 2

Joseph Sciandra
Residential Single-Family

Town Code Reference:

1. §229-55(H)
2. §229-55(E)(2)

Applicant requests variances:

1. of 92 sq. ft. to allow a 292 sq. ft. detached accessory structure (shed); and
 2. of 2' to allow an 18' tall detached accessory structure (shed);
- located at 9355 Willow Wood Drive.

DISCUSSION:

Joseph Sciandra was present to represent his variance requests, explaining that he would like to have a shed built in the corner of his lot, the size and height exceed the maximum allowed in the Residential Single-Family zone.

Mr. McNamara asked if the barn will have a second floor, if any business will be conducted from the structure, if electricity will be run to the shed, and what material the siding is.

Mr. Sciandra responded yes; it will have almost a second floor that will be used for storage. No business will be conducted from the structure, there will not be any power or electricity, and the siding and roofing will all be steel. It will match his home, essentially looking like his house.

Mr. McNamara asked how big the garage door is.

Mr. Sciandra responded that it is 8 ft. by 7 ft., there will be no driveway leading to the shed.

Mrs. Burkard asked if there will be any landscaping around the structure.

Mr. Sciandra responded no.

Mr. Krey asked Mr. Sciandra if there are any similar sheds in the neighborhood.

Mr. Sciandra responded yes, there are three within walking distance of his house.

Mr. Skaine complimented the location that Mr. Sciandra chose for the proposed shed.

Mr. Drinkard asked if the proposed structure has a concrete pad.

Mr. Sciandra responded yes.

Mr. Drinkard noted that it replaces the shed that was previously there.

Mr. Sciandra responded yes.

Chairman Mills asked if Mr. Sciandra plans to operate a business from the proposed shed at all.

Mr. Sciandra responded no, he owns his own business and will store items for the business, but will not be running any business out of the shed.

Chairman Mills asked if they made it a condition of the variance that no business is to be conducted out of the shed, would Mr. Sciandra agree to that.

Mr. Sciandra responded yes.

Chairman Mills asked if Mr. Sciandra has any plans for landscaping or foliage around the structure.

Mr. Sciandra responded that he does not have any plans for landscaping around the shed, but he takes great care and pride of the foliage around his house, and if it was made a condition, he would comply.

Neighbor Notifications are on file, no written comments were received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Raymond Skaine, seconded by Gerald Drinkard to **approve** Appeal No. 2 as written with the following condition:

- no business to be conducted out of the shed

ON THE QUESTION:

Chairman Mills stated that due to the size and shape of the parcel, as well as its location on the back corner of the property with dense foliage around it, this will not impact the character of the neighborhood.

Richard McNamara	Aye	Patrick Krey	Aye	Ryan Mills	Aye
Raymond Skaine	Aye	Gerald Drinkard	Aye		

MOTION CARRIED

Appeal No. 3

Robert Forest Rung
Agricultural Floodzone

Applicant requests a variance to allow a 360' front yard setback located at 8515 Tonawanda Creek Road.

Town Code Reference:
§229-31

DISCUSSION:

Mr. Rung was present to represent his request, explaining that they are planning to move to 8515 Tonawanda Creek Road and would like a variance for a 360' setback because the property is directly adjacent to a church parking lot, and at the end of a curve with thick vegetation and old apple orchard. They intend to set the house behind the orchard to avoid being next to the parking lot or damaging the trees.

Mr. Krey clarified the reason for requesting the setback.

Mr. Rung explained that they don't want the house to be directly next to the church parking lot, and if they moved it back 100' it would be in the middle of the apple orchard. The 360' would place it behind the apple orchard, and preserve the trees.

Mr. Rung noted that otherwise his driveway would go through the apple orchard.

Mr. McNamara asked what the machine currently on the property is for.

Mr. Rung responded that they were conducting core samples to see what type of soil they were dealing with and what type of foundation they need.

Mr. McNamara asked what size house they plan to build.

Mr. Rung stated that they would like approximately 2,800 sq. ft. and eventually he would like to build a barn. His lot is approximately 300 ft. wide where the house is located, and 32+/- acres.

Mr. Skaine asked what the pink flags on the property are for.

Mr. Rung noted that he planted pine trees and wanted to post them so that he doesn't run over them.

Mr. Skaine stated that he did not see any stakes indicating where the house will go.

Discussion continued regarding the stakes and flags.

Mr. Drinkard asked about the apple orchard, indicating that it is quite old, and inquired if Mr. Rung plans to refresh the trees.

Mr. Rung responded yes, he has planted 9 new trees thus far, and his plan is to continue to plant more. He has a long personal history with the apple orchard and plans to revitalize it.

Chairman Mills asked how long Mr. Rung has owned the parcel.

Mr. Rung responded that he purchased it in 2019.

Chairman Mills asked if any other locations have been explored for the proposed home.

Mr. Sciandra responded that he could shift it away from the parking lot, but it would still place him in direct view of the parking lot, and also place him close to his neighbor's property. His main concern is preserving all of the apple trees in the orchard. This location makes the most sense.

Neighbor Notifications are on file, no written comments have been received.

Mr. Bengart asked Mr. Rung if he sent neighbor notifications to neighbors located on both sides of his property.

Mr. Rung responded yes.

In regards to Public Participation, no one spoke.

Mr. Krey asked Mr. Rung if any other homes on the street have similar setbacks.

Mr. Rung explained the houses and properties near him, noting that the property to the east, the house has an approximately 300 ft. front yard setback. His property is unique due to several factors, including the church parking lot, curve of the road, and more importantly, the apple orchard.

ACTION:

Motion by Richard McNamara, seconded by Ryan Mills to **approve** Appeal No. 3 as written.

ON THE QUESTION:

Chairman Mills stated that this appeal can be distinguished from other appeals in that the subject parcel is situated on the curve of Tonawanda Creek Road, and there are unique characteristics with adjacent parcels. The church parking lot and the old apple orchard that the applicant intends to preserve.

Additionally, Chairman Mills noted that the requested setback would not negatively impact the character of the area or nearby parcels.

Gerald Drinkard	Aye	Raymond Skaine	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Richard McNamara	Aye		

MOTION CARRIED

Appeal No. 4

Jack Thomann
Residential Single-Family

Applicant requests a variance to allow a detached accessory structure (shed) to be located within the front yard setback located at 4290 Fireside Drive.

Town Code Reference:
§229-55

DISCUSSION:

Mr. Thomann was present to represent his request, explaining that he found out that the location he had planned for his shed is considered the front lot, and not the side as he originally thought. This is due to his property being located on a corner parcel.

He does not want to place the proposed shed in his backyard, because all of his 29 grandchildren play back there. He would like to have the shed closer to his driveway for easier access of his equipment, which will help to clear out his garage.

Mr. Skaine noted that Mr. Thomann’s lot has multiple other structures on it, and he has also been granted additional variances through the years. He does not like the positioning or the size of the shed on the corner.

Mr. Thomann explained that he has Arborvitae to mitigate the view.

Mr. Skaine stated that it will change the effect of the neighborhood, he does not like the placement of the proposed shed.

Mr. Drinkard complimented Mr. Thomann's home and garage structure, he drove around the neighborhood to check for obstructions, and did not see any.

Mr. Drinkard asked Mr. Thomann how tall the proposed structure is.

Mr. Thomann responded that it is 12' by 16', 192 sq. ft.

Mr. Krey noted that the arborvitaes do a good job of mitigating the view, and from a visual aspect, his current landscaping conceals where the proposed shed will go.

Mr. McNamara asked what the setback is for the property and neighborhood.

Mr. Bleuer explained that as previously established, the setbacks for the lots on the street are non-conforming setbacks, with no current standard.

Mr. McNamara noted that Mr. Thomann is 11 ft. from the right-of-way, and asked if he would consider moving it back so that it is not so close to the road.

Mr. Thomann responded yes.

Mr. McNamara asked if Mr. Thomann has considered a small addition to the garage.

Discussion continued regarding Mr. Thomann's reasoning for the placement of the proposed shed. Mr. Thomann added that he plans to match the siding and materials of the shed to his house, so that it is aesthetically pleasing.

Mrs. Burkard asked if the door shown in the drawings provided is what Mr. Thomann is planning to use.

Mr. Thomann responded that it will be either that or a double door, he hasn't decided yet.

Mrs. Burkard asked if there will be any electric in the proposed shed.

Mr. Thomann responded he may put electric in, but for lights only.

Mrs. Burkard asked Mr. Thomann if he is adding a driveway to the proposed shed.

Mr. Thomann stated that he may have a 4 ft. wide path installed from the driveway to the shed, but do not have plans for a driveway.

Chairman Mills asked about pushing the shed a bit further back to help mitigate the views for vehicles.

Chairman Mills asked Mr. Thomann if he would push the proposed shed back another 6 ft. for a total of 12 ft.

Mr. Thomann responded yes.

Chairman Mills asked if Mr. Thomann will use the same materials on the shed that is on the house.

Mr. Thomann reiterated he had planned to.

Chairman Mills confirmed that no business will be run out of the shed.

Mr. Thomann responded no there will not be, his business is located elsewhere.

Chairman Mills asked Mr. Thomann if he plans to add any landscaping to the front of the proposed shed.

Mr. Thomann responded that there is not a lot of room, but he would be willing to try.

Chairman Mills suggested a couple additional arborvitaes.

Mr. Thomann responded yes; he can do that.

Mr. Skaine asked Mr. Thomann if he would agree to lining the proposed shed up to the rear of his garage.

Mr. Thomann agreed to do that.

Discussion continued regarding the amended placement of the proposed shed in relation to the garage.

Neighbor Notifications are on file, one written comment was received:

1. Julie McCullough of 4251 Fireside Drive:
 - concerns regarding variance requests, number of variances issued for property, the frontage of the property, and the rationale for requesting the variance. They are not in favor of the request.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Patrick Krey, seconded by Raymond Skaine to **approve** Appeal No. 4 as written, with the following conditions:

1. siding and roofing materials on the shed are to match the materials on the house
2. rear of the shed is to line up with the northwest corner rear of the garage
3. no business is to be operated out of the shed
4. landscape the front of the shed, to the applicant's discretion

ON THE QUESTION:

Mr. Krey noted that the home to the west at 4289 Oakwood Drive, there is a pool on that side of the property. On paper, that is supposed to be the front yard, but is being utilized as the backyard. The placement of a shed, specifically where the applicant has agreed to place it will not alter the character of the neighborhood.

Gerald Drinkard	Aye	Raymond Skaine	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Richard McNamara	Aye		

MOTION CARRIED

Appeal No. 5

Paul Vaicunas
Agricultural Floodzone

Town Code Reference:

1. §229-31
2. §229-31

Applicant requests variances:

1. to allow a 65' front yard setback fronting Brauer Road; and
2. to allow a 55' front yard setback fronting Tonawanda Creek Road; located at 9990 Brauer Road.

DISCUSSION:

Mr. Vaicunas was present to represent his request, explaining that they are moving to Clarence and would like to build their retirement home on this property. One of the conditions on the contract of sale was that the pad had to be approved, which they have done.

Upon purchase of the property, Mr. Vaicunas asked if he could build a berm for landscaping. At that time, the Code Enforcement Officer informed him that he needs to be 95 ft. back with the setback, which affected the orientation of the house, and the need for the variance.

Mr. Vaicunas supplied all of the necessary documents in his submission. He would need to redo the entire project.

Mr. Vaicunas explained that he also learned he needs 20 ft. of pad space before he can taper off from the corner of his house.

Mr. Vaicunas explained that the proposal is that if he is willing to add the extra expense of the 20 ft. to the two corners, and they recognize that only the corner of the house, not the entire face of the house would be at the 55 ft. setback off of Tonawanda Creek Road and then 65 ft. setback off of Brauer Road. This allows him to still have a backyard, and allows him to expand the pad and gives him privacy, a backyard, and a garage for cars and his equipment for tilling.

Mr. Vaicunas is grateful to have learned this information before he got too far in to the project. His home will be a 2,400 sq. ft. ranch.

Mr. McNamara asked who the builder is for the home.

Mr. Vaicunas responded that it is Natale Builders.

Mr. Vaicunas stated that putting the pad in was a condition that needed to be completed before he purchased the home.

Mr. McNamara asked if the garage Mr. Vaicunas plans to build will be detached.

Mr. Vaicunas responded yes; it will on the west side of the property.

Mr. McNamara asked what street the driveway will be on.

Mr. Vaicunas responded Brauer Road, to avoid impeding traffic on Tonawanda Creek Road.

Mr. Drinkard noted that the lot is acutely angled, compromising the front of the house and making it necessary to make other plans.

Mr. Drinkard asked Mr. Vaicunas if the septic system is laid out in the front of the property.

Mr. Vaicunas responded that is his proposal, due to the pad this is the only option.

Mr. Drinkard stated that he does not believe this setback will have any effect on the neighborhood.

Chairman Mills asked how long Mr. Vaicunas has owned the property.

Mr. Vaicunas responded that they closed in December.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Richard McNamara, seconded by Gerald Drinkard to **approve** Appeal No. 5 as written.

ON THE QUESTION:

Chairman Mills noted that due to the unique nature of the lot at the corner of Tonawanda Creek and Brauer Road, in addition the need for a fill pad, the setbacks at this location will not adversely effect the neighborhood.

Richard McNamara	Aye	Patrick Krey	Aye	Ryan Mills	Aye
Raymond Skaine	Aye	Gerald Drinkard	Aye		

MOTION CARRIED

Appeal No. 6

Jennifer West
Residential Single-Family

Town Code Reference:

1. §229-55 (H)
2. §229-55 (H)
3. §229-55 (E)(2)

Applicant requests variances:

1. to allow a secondary detached garage; and
2. of 400 sq. ft. to allow a 600 sq. ft. detached garage; and
3. of 2'9" to allow an 18'9" tall detached garage; located at 9133 Greiner Road.

DISCUSSION:

Ms. West was present to represent her request, explaining that she would like to put a second garage up. Her daughter has recently started to drive, so there will be an additional car in the family. Ms. West also stated that she just bought a boat and would like to store it in the garage also, in order to keep it out of the driveway and the yard.

Mr. Drinkard noted that the line of her home set back from Greiner and the houses to the east are half of the setbacks of the houses going west.

Mr. Drinkard stated if she puts her garage up, it will be in the next-door neighbor's front yard. Mr. Drinkard stated that if this is approved, a bit of landscaping next to the proposed garage would need to be installed, in order to soften the look.

Mr. Drinkard added that another option would be to move the proposed two-car garage back, so that it is not in the neighbor's front yard.

Ms. West stated that she cannot relocate the proposed two-car garage back further, because she has trees back there that she does not want to disturb. She already has to remove 3 trees in order to fit it in the proposed location.

Ms. West noted that she also has issues with the location of her house, as her backyard is basically in her neighbor's side / front yard.

Mr. Skaine noted that there is a high buffer to the west of her house already, which would help to mitigate the view already. The property is very well maintained.

Mr. Krey explained that one of the factors they look at with these requests, is that the garage is a side-load, so the street view will not appear that she has multiple garages.

Mr. Krey asked what type of material Ms. West plans to use.

Ms. West explained that everything will match, the materials as well as the peak.

Ms. West's contractor, Thomas Mulaney explained that it will all match the house.

Mr. Krey asked about landscaping to assist with mitigating the view.

Ms. West explained that the area in question does not have enough room to plant any vegetation, and there is enough there currently.

Mr. McNamara stated that after he was there for a site visit, he understands that placing the proposed 2-car garage will give Ms. West some privacy in her backyard as well.

Chairman Mills asked if she has any plans to operate a business out of the structure.

Ms. West responded no.

Chairman Mills asked Ms. West if she has considered a breezeway, and attaching it to the main structure.

Ms. West responded no.

Chairman Mills asked if they were to make it a condition that the siding and roof materials match the house, and that no business will be operated out of the house, will Ms. West agree to that.

Ms. West stated yes.

Neighbor Notifications in the form of certified receipts are on file, no comments have been received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Patrick Krey, seconded by Raymond Skaine to approve Appeal No. 6 as written and with the following conditions:

- siding and roof material of the garage to match the home
- no business is to be conducted from the garage

ON THE QUESTION:

Mr. Krey stated that the current garage is a side-load, the street-view will not be impacted by the addition of this proposed garage.

The conditions imposed on the approval will mitigate any concerns about the appearance affecting the aesthetics of the neighborhood.

Ms. West has heard, understands, and agrees to the conditions.

Gerald Drinkard	Aye	Raymond Skaine	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Richard McNamara	Aye		

MOTION CARRIED

Meeting adjourned at 6:40 p.m. with a motion by Gerald Drinkard.

MOTION CARRIED

Amy Major
Senior Clerk Typist