

**Town of Clarence**  
One Town Place, Clarence, NY  
**Zoning Board of Appeals Minutes**  
Tuesday, February 13, 2024

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

Zoning Board of Appeals members present:

Chairman Ryan Mills	Patrick Krey	Raymond Skaine
Richard McNamara	Gerald Drinkard	

Zoning Board of Appeals members absent: Patricia Burkard

Town Officials present:

Junior Planner Andrew Schaefer  
Deputy Town Attorney Steven Bengart  
Councilman Paul Shear

Other Interested Parties:

Dan Chapman	Kevin Wagner	Maura Pearl	Richard Pearl	Matthew Stold
Brian Panzer	Barry Gonsior			

Motion by Gerald Drinkard, seconded by Raymond Skaine, to **approve** the minutes of the meeting held on January 9, 2024.

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

MOTION CARRIED

**NEW BUSINESS**

**Appeal No. 1**

Dan Chapman  
Agricultural Floodzone

Applicant requests a variance to allow a Ground-Mounted Solar Photovoltaic System located at 8355 Goodrich Road.

Town Code Reference:  
§184-6(B)(3)

**DISCUSSION:**

Dan Chapman was present to represent his request, explaining that he wants to have solar panels installed to assist with the cost of his electric bill.

Mr. Drinkard asked if all of the installers are certified in various certifications

Kevin Wagner with Solar by CIR, the company that Mr. Chapman has hired to install the proposed solar system, was present.

Mr. Wagner responded that not all of the installers are certified.

Mr. Drinkard stated that he would like to see information pertaining to the safety aspect of a ground-mounted solar system, specifically during the day when it's charging. Also, there are no fences on the property which would make it accessible to children while it's charging and picking up electricity.

Mr. Drinkard asked if the system is grounded and will it shut itself down if necessary.

Mr. Wagner stated that when the grid shuts down, the ground-mount will shut down.

Mr. Drinkard stated that according to Clarence Town Code, a solar system such as this one that is being proposed requires a property with a minimum of 5 acres, whereas this property is less than one acre. Mr. Drinkard noted that the proposed system takes up a large part of the backyard.

Mr. Drinkard asked Mr. Chapman if he read the Town Code and assumed he would be granted a variance.

Mr. Chapman responded no; he did not realize that there was a 5-acre minimum requirement.

Mr. Drinkard asked Mr. Wagner if as the manufacturer and installer, they read the Town Code.

Mr. Wagner stated yes, they have installed a few systems that did have 5 acres, so it was simpler. He did see that the size of this property is less than 1 acre, they have to do the best that they can do with the site.

Referring to the code for solar systems that was adopted in 2017, Mr. Drinkard stated that he does not know of any other ground-mounted solar systems in the Town of Clarence.

Mrs. Chapman spoke, referring to a property nearby that does have a similar solar system on less than 5 acres of land.

Mr. Skaine noted that Mr. Chapman's original plan was to place the solar system in the front of the property, then it was changed it to the rear.

Discussion continued regarding the location of the proposed solar system, with Mrs. Chapman noting that it has always been planned for the north side of the property, they just moved it back further than the original plans showed.

Mrs. Chapman explained that the dimensions of the proposed system are 28 ft. by 17 ft.

Mr. Krey asked Mr. Chapman if they have considered mounting the solar panels on to their roof.

Mr. Chapman stated that their house was built in the 1840's and is not big enough to support the solar panels. The garage is probably big enough, but it would be in the shade.

Chairman Mills asked if this proposed solar system would be mobile at all.

Mr. Chapman responded no.

Chairman Mills noted that at the tall end of the system, it is 130.75 inches high.

Mr. Wagner responded that it is over 15 ft. tall at the back side.

Chairman Mills asked if there is any landscaping planned around the proposed system.

Mrs. Chapman responded that they have not planned any, but if the Town requires them to, they will do the best that they can.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

**ACTION:**

Motion by Gerald Drinkard, seconded by Patrick Krey to **deny** Appeal No. 1

**ON THE QUESTION:**

Mr. Drinkard stated that the proposed Ground-Mounted Solar Photovoltaic System would be large, at 476 sq. ft., and would take up a large portion of the backyard, as well as being too close to the neighbor’s property. It is unsightly, and would have a negative effect on the neighborhood. There are no similar systems in the area.

Chairman Mills agreed that the proposed system does not match the overall character of the neighborhood, and based on the overall lot size versus the solar structure, it would not fit on the property.

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

**MOTION CARRIED**

**Appeal No. 2**

Richard Pearl  
Agricultural Rural Residential

Applicant requests a variance to allow a detached accessory structure (emergency generator) to be located within the front yard setback located at 4332 Autumn Trail.

Town Code Reference:  
§229-44(E)

Note: A corner lot shall be considered to have two front yards from the public road right-of-way to the closest point of the principal structure.

**DISCUSSION:**

Homeowners Maura and Richard Pearl were present to represent their request, explaining that they live on a dead-end street and it gets very dark when the power goes out. Their property is a corner lot, giving them two front yards.

Mr. Pearl added that due to extensive landscaping around their home, they are limited in places to have the generator installed. The proposed area is behind some landscaping and generally out of sight.

Mr. McNamara asked where the electrical meter is.

Mr. Pearl stated that their house is L-shaped, and it is located in the middle of the house, the proposed generator will be approximately 40-50 ft. from the electrical box.

Mr. McNamara asked if their contractor confirmed that the location would be ok.

Mr. Pearl responded yes.

Mr. McNamara asked Mr. Pearl if they would agree to putting landscaping in front of the proposed generator to mitigate the view.

Mr. Pearl responded that there is existing landscaping but if they needed to add more, they would.

Chairman Mills stated that the proposed location appears to be tucked in behind some foliage, and asked Mr. Pearl what the plan is in terms of additional landscaping.

Mr. Pearl explained that if he needs to, he would place bushes and foliage in front of the proposed generator, and has considered wrapping the generator itself in vinyl so that it resembles bushes and blends in more.

Mr. Krey advised Mr. Pearl to consult with the installer of the generator to assure that there is no constriction of the air quality.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

**ACTION:**

Motion by Patrick Krey, seconded by Raymond Skaine to **approve** Appeal No. 2 as written.

**ON THE QUESTION:**

Mr. Krey explained that the placement of the generator within the existing landscaping protects it from street views, keeping it from standing out. It is not out of character for the neighborhood and will not have an adverse impact on neighboring properties.

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

**MOTION CARRIED**

**Appeal No. 3**

CMK Builders  
Residential Single-Family

Town Code Reference:  
§229-52(C)

Applicant requests a variance of 1' 6" to allow a 43' 6" rear yard setback to allow for the construction of a principal structure (single-family residence) located at 8550 Nottingham Terrace.

**DISCUSSION:**

Matthew Stoldt, Vice President of CMK Builders was present to represent the homeowner.

Chairman Mills asked what occurred that necessitated the need for this variance request.

Mr. Stoldt explained that there is a pergola that the homeowner wanted to keep and remain on the property. Therefore, the foundation needed to be moved back, and is located back further than what is allowed by Town Code.

The foundation has already been poured; Mr. Stoldt stated that they were not aware of this information until afterwards.

Mr. Skaine stated that he understands why it was done, he only wishes the variance request would have been made prior to doing the work.

Mr. Drinkard asked if the height of the foundation and the house itself will have a heavy slope on the driveway, and is that equivalent to what was already there.

Mr. Stoldt responded yes.

Mr. Drinkard asked what type of house is going to be built on the foundation.

Mr. Stoldt responded a two-story house, similar to what is in the neighborhood.

Mr. Krey asked Mr. Stoldt if they have learned what to do differently in the future, and if there has been a process change within the company to assure that this won't occur again.

Mr. Stoldt stated that they will double check and confirm in the future. The homeowner that they are building the home for also owns the property behind this one, so they did not think it would be an issue in that sense.

Chairman Mills asked Mr. Stoldt if the setback varies in the different communities that they build in.

Mr. Stoldt responded yes.

Chairman Mills noted that most of CMK Builder's business appears to be in the Alden area. Mr. Stoldt confirmed that, and added that generally the houses aren't so close together, so they don't need to worry as much about the property lines.

Chairman Mills asked what the total square footage of this house will be.

Mr. Stoldt responded approximately 1,200 sq. ft., two-story with a crawl space.

In regards to Public Participation, the following resident spoke:

1. Brian Panzer of 8545 Nottingham Terrace:
  - the height does not match the previous structure, it is severely higher than the adjacent property
  - it will make a steep slope once the grading is complete
  - what is the drainage plan
  - if there is this error, he wonders how many other errors there may be
  - feels the gazebo is an odd reason for an 18 in. error

Chairman Mills explained that throughout the process there are Town of Clarence Building Enforcement Officers from the Building Department that check for compliance, which is when it was determined that it was off.

Mr. Schaefer added that a drainage plan needs to be approved by the Engineering Department. Both the Building and Engineering Departments require plans for new builds, and there are multiple inspections throughout the phases.

Mr. Stoldt asked if there is a height requirement also.

Mr. Schaefer explained that the maximum height for a single-family dwelling is 35 ft. total from the base of the home to the ridgeline. The height of the actual grade is better answered by the Engineering Department.

Discussion continued regarding where the measurements were taken from.

Public Participation was closed for this project.

Neighbor Notifications are on file, no comments were received.

#### **ACTION:**

Motion by Raymond Skaine, seconded by Gerald Drinkard, to **approve** Appeal No. 3 as written.

#### **ON THE QUESTION:**

Mr. Skaine stated that this was a mistake, and that 18 inches is not a large amount.

Mr. Krey explained that this is unique because it abuts a commercial property which changes the nature of the property line.

Chairman Mills added that the rear of the parcel is also owned by the owner of this house and property. The builder of this house has learned from the mistake, and is not expected to return to this board for any similar errors.

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

**MOTION CARRIED**

**Appeal No. 4**

Barry Gonsior  
Residential Single-Family

Applicant requests a variance of 7' to allow a 33' front yard setback located at 4280 Fireside Drive.

Town Code Reference:  
§229-52(A)

**DISCUSSION:**

Jacquelyn Montemage from Bammel Architects and Barry Gonsior were both present to represent this request.

Ms. Montemage stated that they are requesting an 8' variance.

Mr. Schaefer explained that the standard setback in the zoning code is 45' but with an established setback line for an existing single-family residence, the existing setback line of 39.82' would be the measurement for the existing allowable setback.

The existing home had a shed and porch that extended from the house, which they would like to enclose and extend out an additional 3 ft. 6 in.

Mr. Krey asked for an explanation as to why the house is being expanded.

Mr. Gonsior explained he'd like to put a bench seat in there to make it easier to put his shoes on and get ready.

Mr. Skaine noted that it will dress the house up.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

Mr. Drinkard stated that this will not affect the character of the neighborhood, there are several houses that have similar different appearances to the front of their houses. This will have minimal change to the appearance of the house.

**ACTION:**

Motion by Gerald Drinkard, seconded by Richard McNamara to **approve** Appeal No. 4 as written.

**ON THE QUESTION:**

Chairman Mills noted that this does not affect the character or environment of the neighborhood.

Mr. Krey noted that the applicant did a great job with their supporting documents.

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

**MOTION CARRIED**

Meeting adjourned at 6:09 p.m. with a motion by Gerald Drinkard.

**MOTION CARRIED**

Amy Major  
Senior Clerk Typist