

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday, July 9, 2024

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

Zoning Board of Appeals members present:

Chairman Ryan Mills Richard McNamara Gerald Drinkard
Patricia Burkard

Zoning Board of Appeals members absent: Patrick Krey
Raymond Skaine

Town Officials present:

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

Other Interested Parties:

Sanchiya Ravindradas Romain Calini Ben Hanford Kanika Gulati
Marlana White

Motion by Gerald Drinkard, seconded by Richard McNamara, to **approve** the minutes of the meeting held on June 11, 2024.

Gerald Drinkard Aye Ryan Mills Aye Richard McNamara Aye
Patricia Burkard Aye

MOTION CARRIED

OLD BUSINESS

Appeal No. 3 – From the January 2024 Meeting

Ashvani Gulati
Residential Single-Family

Town Code Reference:

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

Applicant requests variances:

- 1. to allow a secondary detached garage; and
- 2. to allow the detached accessory structure (garage) to be located within the front yard setback; and
- 3. of 280 sq. ft. to allow a 480 sq. ft. detached accessory structure (garage);
located at 5884 Bent Brook Court.

DISCUSSION:

Kanika Gulati was present to represent this request, noting that when they were previously in front of this board in January, 2024 it was suggested that they connect the proposed structure. Ms. Gulati stated that

she decided to not connect the proposed structure, and to leave it detached. They have changed the proposed structure to be taller, and have improved the aesthetics of it.

Mr. McNamara asked if the applicant has moved the proposed structure at all, as previously suggested.

Ms. Gulati responded no; it is in the same place.

Mr. McNamara asked what the distance is between the house and the proposed garage.

Ms. Gulati stated that she does not have that information.

Mr. McNamara stated that they are 12 ft. off of the property line.

Mr. McNamara asked Mr. Bleuer what the side yard setback is.

Mr. Bleuer responded that for a detached accessory structure on a side yard it is 10 ft., but this request is being proposed as a front yard setback, which is not allowable.

Mr. McNamara confirmed front yard, adding that it's also a side yard.

Mr. Bleuer stated that any variance being considered tonight would be for the exact location as anywhere in the front yard is not allowed.

Mrs. Burkard asked if the proposed structure is to the right of the house near all of the evergreens, noting that the neighbors will not be able to see the proposed structure.

Ms. Gulati responded no they will not, they were the first neighbors that they checked with when deciding to build this proposed structure, and the neighbors stated they were fine with it.

Mrs. Burkard asked if adding a structure near the evergreens will affect the trees.

Ms. Gulati stated that her intention is for the trees to remain there, and only the branches will need to be trimmed during construction.

Mrs. Burkard asked what the distance is between the house and the proposed garage.

Ms. Gulati responded that she does not have that information.

Mr. Drinkard stated that his concern is primarily with the trees on the property, because they provide a nice cover and a visual break.

Mr. Drinkard asked Ms. Gulati if they are her trees.

Ms. Gulati responded yes; stating that they planted those trees over 30 years ago.

Mr. Drinkard asked what the plan is if one or two of the trees died, would they replace them.

Ms. Gulati stated that if it was an issue with the neighbor and they felt that it was necessary to replace them, then yes, they would.

Mr. Drinkard stated that they could work that out with their neighbor.

Referring to page A-1 of the supporting documents showing the floor plan, marked Exhibit A, Chairman Mills addressed the materials that will be used.

Chairman Mills asked if the vinyl siding will match the house.

Ms. Gulati responded yes.

Chairman Mills asked if they have considered adding any stone or brick.

Ms. Gulati responded no.

Chairman Mills asked if they plan to add anything else to help with the aesthetics of the proposed structure.

Ms. Gulati responded that the proposed structure will have a peak, and they have had the drawings redone, and have added more aesthetics.

Chairman Mills noted there will be some glass on the garage door, the vinyl siding will match the house as will the asphalt shingles on the roof to also match the house.

Chairman Mills asked if any type of business will be run out of the proposed garage.

Ms. Gulati responded no.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Gerald Drinkard, seconded by Richard McNamara to **approve** Appeal No. 3 under Old Business with the following condition:

1. no business is to be conducted out of the structure

ON THE QUESTION:

Ms. Gulati has heard, understands, and agrees to the condition.

Gerald Drinkard	Aye	Ryan Mills	Aye	Richard McNamara	Aye
Patricia Burkard	Aye				

MOTION CARRIED

NEW BUSINESS**Appeal No. 1**

Marlana W. White
Residential Single-Family

Applicant requests a variance of 193 sq. ft. to allow a 393 sq. ft. detached accessory structure (pool house) located at 8885 Williams Court.

Town Code Reference:
§229-55(H)

Note: Supersedes February 2024 Appeal #3 – Element #3

DISCUSSION:

Marlana White was present to represent her request, explaining that the variance is for the size of the proposed pool house. Ms. White added that they would like it this size so that it blends in with the house, and not look like an out of place stand-alone structure.

Mr. Drinkard confirmed that Ms. White agrees to put in landscaping.

Ms. White responded yes.

Mr. Drinkard asked Ms. White if she has done anything with the previous conditions yet.

Ms. White stated as far as planting, no but they have ordered 60 trees including Evergreens, Blue Spruce, White Spruce, and multiple others. Ms. White noted that she prefers trees that do not shed, because it is such an exposed lot and she wants privacy. They plan to place a line of trees along Shimerville Road, then a chunk of trees between her and the neighbor, and another row at the front of the cabana.

Mr. Drinkard asked how tall the trees are.

Ms. White stated that they should be between 6' to 8' tall.

Chairman Mills asked about the materials to be used on the pool house, confirming there will be electric run to the proposed structure, and asked if there will be any plumbing or gas included.

Ms. White responded yes to the electric, and no to the plumbing and gas. The pool house will primarily be for providing shade, also a bit of storage and there is no plan to add a bathroom.

Chairman Mills noted that it will be vinyl siding to match the house and asked if there will be any stone detailing.

Ms. White pointed out the drawing that shows the bump out, explaining that it will mirror the bump out stone from the rest of the house, it is a square bay window. Ms. White stated that they are trying to make it in front of the proposed structure, so that it blends with the house.

Chairman Mills noted that it is not depicted on the current architectural drawings, and confirmed with Ms. White that they will be adding the stone.

Ms. White responded that the window will have stone like the front of the house.

Chairman Mills stated for the record, they are referring to A1 which is the window with the transoms and asked how much of it will be stone.

Ms. White explained that it will exactly match the front of the house, so it will be all stone. On either side of that for the house, they have stone as a water table but are most likely not going to do that. They will probably do the board and batten.

Chairman Mills stated that he thinks that will all help with the aesthetics of the proposed structure.

Ms. White explained that around the back they plan to do the same as the side of the house with the board and batten on the side. There will be a row of trees located there also.

Mr. McNamara asked if the pool filter will be inside the proposed structure.

Ms. White responded no; it will be outside.

Mrs. Burkard asked if the front of the pool house will be open.

Ms. White responded yes; there will only be three walls.

Mr. Drinkard noted that at the previous Zoning Board of Appeals meeting that Ms. White was at, she had stated that the retention pond was on her property.

Ms. White responded yes.

Mr. Drinkard noted that the retention pond as well as the other one across from it are filled with Cattails, which prevents the pond from doing what it needs to do.

Ms. White explained that the retention pond is maintained by the Homeowner's Association.

Discussion continued regarding maintenance of the retention pond.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Richard McNamara, seconded by Ryan Mills to **approve** Appeal No. 1 as written

ON THE QUESTION:

Mr. Bleuer stated that this approval supersedes the previous variance issued for a smaller pool house at the same location.

Chairman Mills noted that due to the size of the parcel and the size of the home, as well as extensive landscaping and foliage in place, this will not adversely impact the character or environmental conditions of the neighborhood.

Gerald Drinkard	Aye	Ryan Mills	Aye	Richard McNamara	Aye
Patricia Burkard	Aye				

MOTION CARRIED

Appeal No. 2

Benjamin Hanford
Commercial

Applicant requests a variance to construct a single-family home on a parcel where a prior pre-existing non-conforming single-family home was demolished greater than 12 months ago, located at 4765 Shisler Road.

Town Code Reference:
§229-162(C)

DISCUSSION:

Property owner Ben Hanford was present to represent his request, explaining that he would like to build a single-family home on this commercial lot. It previously had a house on the property that was torn down, he would like to restore the property to residential.

Noting that there is approximately 100 ft. frontage, Mrs. Burkard asked how far back the property goes.

Mr. Hanford responded that while he does not have his survey in front of him to refer to, he believes it is approximately 350'-370' to the back, diagonally.

Mrs. Burkard asked what the square footage is on the house.

Mr. Hanford responded that they are meeting with the architects, they are hoping for approximately 2,000 sq. ft.

Referring to a photo depicting a white house with a metal roof, Chairman Mills entered it in as Exhibit A.

Mr. Hanford explained that none of their plans are set in stone at this point, they will be meeting with an architect to get a better idea of what they can and cannot do. They are waiting to see if the variance request is approved before they got too far in the planning process.

Mrs. Burkard confirmed that they will be in line with the house next door.

Mr. Hanford responded, stating that they will need to be in line with the houses on both sides of the proposed house.

Mr. McNamara asked how long ago the previous house on the property was torn down.

Mr. Hanford responded that he is unsure, he purchased the lot in August, 2023.

Mr. McNamara confirmed that the property is currently all zoned Commercial.

Chairman Mills asked Mr. Hanford if he plans to build a home for himself on this property, approximately 2,000 sq. ft.

Mr. Hanford responded yes to both.

Chairman Mills noted that the elevations and drawings that Mr. Hanford provided are examples, and not necessarily what will be built.

Mr. Hanford responded yes.

Mr. Drinkard asked Mr. Hanford when he purchased the property.

Mr. Hanford responded August, 2023.

Mr. Drinkard asked Mr. Hanford if he was aware the property is zoned Commercial upon purchasing the property.

Mr. Hanford responded no; not before purchase.

Mr. Drinkard stated that when you own a piece of property in a Commercial zone that does not provide for Residential Single-Family.

Mr. Drinkard read portions of the zoning law, stating that it is obvious a single-family home cannot be built on Commercial property.

Mr. Drinkard stated that he is against allowing for a single-family home to be built on this property. The lot is zoned Commercial, Mr. Hanford must do something that is commercial.

Chairman Mills asked Mr. Bleuer for confirmation that there had previously been a single-family home on this property.

Mr. Bleuer responded yes.

Chairman Mills noted that if Mr. Hanford had begun construction of a new single-family home within one year of the demolition, there would not be a need for a variance.

Mr. Bleuer explained that it would have been allowed, however it would have still been approved by the Zoning Board to insure it was in substantial conformity with prior use. A verification that there was a single-family home demolished less than 12 months ago and a single-family home is being rebuilt.

Mr. Bleuer added that the specific variance tonight is because it ceased the use for more than 12 months.

Chairman Mills asked if this variance is granted, will the parcel use change to Residential Single-Family.

Mr. Bleuer explained that the parcel will continue to be zoned Commercial, but the building inspector would utilize the Residential Single-Family code for setbacks.

Chairman Mills noted that there are single-family homes to the north and the south of this property.

Mr. Bleuer responded yes.

Chairman Mills noted that two houses to the north are single-family homes, and one to the south.

Mr. McNamara asked how long the property has been zoned Commercial.

Mr. Bleuer stated over 20 years.

Chairman Mills asked Mr. Hanford what his plan is, should this variance be denied.

Mr. Hanford responded that it would be an investment to hold on to.

Chairman Mills confirmed that Mr. Hanford purchased the property intending it to be residential.

Mr. Hanford responded yes.

Chairman Mills asked Mr. Hanford if he had an attorney involved in the process of purchasing the property.

Mr. Hanford responded yes.

Mr. McNamara asked Mr. Hanford if the variance is approved, how soon does he plan to begin construction.

Mr. Hanford responded that he is planning on spring time.

Neighbor Notifications are on file, with one comment received from Jacqueline Blonski informing the applicant that they control the property to the rear at 10295 Main Street which is zoned Commercial. Ms. Blonski wanted to insure that there may be future commercial uses in that vicinity that may impact the enjoyment of a residential parcel.

Mr. Hanford understands this notification.

In regards to Public Participation, no one spoke.

Mrs. Burkard asked if Mr. Hanford could start a business on this property because it is zoned Commercial.

Mr. Bleuer stated that if this variance is approved, no; it would require a change-in-use by the Town of Clarence.

Chairman Mills asked Mr. Hanford if he has any intentions of starting a business, should this variance be approved.

Mr. Hanford responded no.

ACTION:

Motion by Gerald Drinkard to **deny** Appeal No. 2.

No second, motion fails.

Motion by Ryan Mills, seconded by Patricia Burkard to **approve** Appeal No 2 as written, with the following conditions:

1. residence only
2. no business to be conducted from the home, without Town of Clarence approval

ON THE QUESTION:

Chairman Mills noted that while this is a unique situation involving a commercial parcel, there does appear to be a hardship in that the applicant purchased the property with the intention of using it for a single-family residential home. There is also an adjoining residential single-family home to the north, as well as to the south, and also across the street.

Chairman Mills does not believe that a new single-family home of approximately 2,000 square feet would adversely impact the character or environmental conditions of the neighborhood.

Mr. Hanford has heard, understands, and agrees to the conditions.

Mr. Bleuer noted that this variance would remain in perpetuity, and since this will remain a commercially zoned property, there is an opportunity that someday it may convert to commercial. Mr. Bleuer recommended that the conditions of this variance be noted that it is without Town of Clarence approval. This assures that should it ever be proposed for commercial; it would not need to come back before the Zoning Board but would simply need to go to the Town Board and Planning Board.

Chairman Mills agreed, and the motion was amended to reflect without town approval.

Gerald Drinkard	Nay	Ryan Mills	Aye	Richard McNamara	Aye
Patricia Burkard	Aye				

MOTION CARRIED

Appeal No. 3

Shanchiya Ravindradas & Romain Calini
Planned Unit Residential Development

Applicant requests a variance to allow chickens on a property less than 5 acres in size located at 5319 Coyote Court.

Town Code Reference:
§229-47(B)

DISCUSSION:

Shanchiya Rayindradas and Romain Calini were present to represent their request, explaining that they are requesting this variance for medical reasons.

Noting that the applicants recently purchased this home, Chairman Mills asked if they knew the law before purchasing.

Ms. Ravindradas responded no; the property was listed as Williamsville and their realtor stated that chickens are allowed in Williamsville, they were unaware that the property was in the Town of Clarence.

Chairman Mills asked about the number of chickens, asking if the objective can be accomplished with less than 6 chickens.

Ms. Ravindradas stated that they are communal animals and need a little family, but that 4-5 chickens would work.

Chairman Mills asked where the chickens are purchased from, and if they are sold in groups of four. They were under the impression that they were sold in a group with a minimum of 6 chickens.

Ms. Ravindradas responded that they get them from Tractor Supply, and purchased 6 last time but can buy as many or as few as desired.

In regards to chickens versus other animals, Chairman Mills asked why chickens specifically have more of a therapeutic benefit.

Ms. Ravindradas explained that they do also have a dog, and due to medical reasons as well as research and doctor support, chickens have proven to personally be beneficial for a patient.

Chairman Mills noted that a combination of the chores associated with the chickens as well as having a different type of animal is beneficial.

Ms. Ravindradas responded yes.

In terms of the chickens navigating the yard, Chairman Mills asked if the chickens will be contained.

Ms. Ravindradas responded yes; they have a chicken coop and they will also clip their wings so that they are unable to fly out.

Chairman Mills asked if the chickens will be on a run inside the coop when they are free-ranging, and not running around the yard.

Ms. Ravindradas responded yes, they will be on the run inside the coop, not running freely in the yard.

Mr. Drinkard confirmed that the chickens will not be running around in the backyard.

Ms. Ravindradas stated that if they are supervised, for instance previously when fed in the morning, they are outside of the chicken coop, as long as she or her husband are present to supervise.

Mr. Drinkard stated that the chickens would always need to be in a coop, with the person taking care of them going inside the coop. The chickens would never be outside of the pen, running around in the grass, and asked Ms. Ravindradas if that would be ok with her.

Mr. Calini explained that when fed, the chickens would run around and play in the yard, supervised by himself or his wife. They have a fenced in yard, so that the chickens would not be able to escape. The idea is to keep them in the coop as much as they can, letting them out in the yard once in a while.

Mr. Drinkard asked if the chicken's wings are clipped.

Ms. Ravindradas responded yes.

Mr. Drinkard reviewed the care of chickens.

Ms. Ravindradas stated that when they had chickens at their previous house, they cleaned the coop every day to every-other-day, and use a special absorbing bedding, as she is very sensitive to smells.

Mr. Drinkard noted that their lot is approximately 2/3 of an acre, it's relatively small.

Mr. Drinkard stated that there is a noise component with roosters, noting that they should never have a rooster.

Ms. Ravindradas responded no, they would not have a rooster.

Mr. Drinkard asked what kind of noise 4-5 chickens make, is it just a cluck-cluck-cluck?

Ms. Ravindradas responded that it is not much noise at all. She was doing research in preparation for this meeting, and found that it takes approximately 12 hens to equal the noise of 1 barking dog.

Mrs. Burkard asked what the chicken coop will look like, and will it be an open structure.

Ms. Ravindradas presented a photo that shows the coop that they plan to purchase.

Chairman Mills entered the photo in to the record as Exhibit A.

Mrs. Burkard noted that a neighbor had complained that they are against this project due to the wild animals that the chickens will attract.

Ms. Ravindradas explained that with their previous chicken coop they put in grounded fencing which nothing can dig in to or under, and is attached to the coop.

Mrs. Burkard stated that she researched coyotes, and found that they are able to jump / climb up to 6 ft.

Ms. Ravindradas stated that in her experience she has never had that issue.

Neighbor Notifications are on file, comments have been received from the following residents and are also on file:

1. 5315 Coyote Court in opposition of the variance due to noise and the attraction of predators
2. 5366 Coyote Court with a number of questions, identifying they have experience with chickens in a more rural area, and the multiple concerns that they have and hope that the board would address

Noting that there are many different kinds and breeds of chickens, Mr. Drinkard asked Ms. Ravindradas what kind of chickens they would have.

Ms. Ravindradas responded that they will have breeds which are hearty for the east coast weather, and are social birds.

Mr. Drinkard asked if there have ever been any comments from neighbors that have lived near residences that have been approved to have chickens.

Mr. Bleuer responded that specific to previous variance approvals, no complaints have been received after the variance has been granted.

Chairman Mills noted that there is documentation in the file from a licensed medical doctor in the file.

Mr. McNamara asked where in the backyard will the chicken coop and run be located.

Ms. Ravindradas stated that it is more than 50' from the back perimeter, and more than 30' from the side perimeter, and they have already installed fencing.

Ms. Ravindradas marked on a photo the approximate location that they plan to have the coop and run. This was entered as Exhibit B.

Mr. Drinkard reviewed the list of conditions that could be placed on a possible approval.

Discussion continued regarding the possible conditions.

Regarding the number of chickens, Ms. Ravindradas asked if a chicken dies, are they allowed to purchase a replacement.

Mr. Drinkard responded yes; if a chicken dies it can be replaced, noting that he is not sure how an existing chicken will accept a newcomer chicken, but they are social animals, perhaps they adapt.

Chairman Mills asked Ms. Ravindradas how long they envision needing the chickens for.

Ms. Ravindradas responded that she is unsure.

Chairman Mills noted that they have a medical letter for one patient.

Chairman Mills asked what an average life span is of chickens.

Mr. Calini responded approximately 4-5 years.

Mr. Drinkard stated that there are chicken breeds that last up to 15 years.

Noting that there is a letter for only 1 patient, Mr. Bengart asked how long they envision needing chickens. This is a residential area, and would generally not allow it. If an exception is made to allow this, and knowing that an average chicken lasts 4-5 years, and knowing if one of them dies they may want to replace it.

Mr. Bleuer stated that this question may be answered with condition number 10, if adapted it would allow the applicant to provide verification every year that the therapy is still required for the patient. If that is the case, they can comply with the condition of 4 chickens regardless of whether they are new or old.

Mr. Drinkard continued to review the potential conditions.

Mrs. Burkard asked what would happen with the chickens if the patient loses interest in them.

Mr. Calini responded that they would most likely keep them, because their son would most likely gain interest again.

ACTION:

Motion by Gerald Drinkard, seconded by Ryan Mills to **approve** Appeal No. 3 with the following conditions:

1. Only hens and no roosters.
2. All hens must have their wings clipped.
3. The Chicken Coop kept at the furthest point away from the property lines and at least 20' from any window or door other than the owner's dwelling.
4. Chicken coop and runways are to have enclosed areas so the chickens cannot escape.
5. The coop is to be reasonably screened from site by neighbors.
6. No more than 4 chickens are allowed at any one time.
7. The coop and / or runway(s) are to be kept clean and sanitary at all times – including cleaning at regular intervals of every day / no less than daily. Cleanliness shall include but not be limited to, having no dirt or feces left upon the ground or in the coop nor allow noxious odors to emanate off the property.
8. All feed is to be stored in metal containers or some other type material container that is rodent proof.
9. Applicant agrees to allow quarterly inspections upon 48 hours' notice.
10. Satisfactory proof to be provided, on an annual basis, to the Planning and Zoning Department from a licensed medical professional that the need for therapy animal continues to exist. The proof should be in the same format as required for an approval of the animal in the first instance.
11. A 15' by 15' contained area, no more than 4 ft. high with temporary fencing for the chickens to run under supervision.

Mr. Bleuer explained that the chicken coop may need a permit, and may be considered an accessory structure. The larger 15' by 15' foot enclosed area for the chickens to be supervised in will need temporary fencing, should not be permanent or need a fence permit. It should also not exceed the height of the existing 6' privacy fence.

Discussion continued regarding the need for a building permit for the chicken coop.

Mr. Bengart reiterated that this is not an agricultural zone, and that there is no way to change it. That is why a variance is needed to allow the chickens as therapy chickens.

Mr. Bleuer stated that the Building Department may consider the chicken coop an agricultural structure. Discussion ensued regarding the allowable number of accessory structures applicant asked if the chicken coop would be considered an accessory structure whereby not allowing future pool house. The Town of Clarence reiterated restrictions of no more than 2 accessory structures on a residential property, and it is to be determined if the chicken coop constitutes a permissible accessory structure. If so, a variance would be required to consider a third accessory structure such as a pool house.

Mr. Bengart asked Mrs. Ravindradas if she heard, understands, and agrees to the conditions.

Mrs. Ravindradas responded yes to all.

Gerald Drinkard	Aye	Ryan Mills	Aye	Richard McNamara	Aye
Patricia Burkard	Aye				

MOTION CARRIED

Meeting adjourned at 6:37 p.m. with a motion by Richard McNamara.

MOTION CARRIED

Amy Major
Senior Clerk Typist