

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday November 12, 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	Richard McNamara
Gerald Drinkard	Patricia Burkard	

Town Officials present:

Director of Community Development Jonathan Bleuer
Councilman Paul Shear

Other Interested Parties:

Matthew Stoldt	Chris Buman	Evan Giokas	Steve Seedhouse
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Motion by Gerald Drinkard, seconded by Richard McNamara, to **approve** the minutes of the meeting held on October 8, 2024.

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

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

Kevin Stoldt - CMK Builders
Residential Single-Family

Applicant requests a variance of 4' to allow an 8'6" principal structure side yard setback to allow for the construction of a deck located at 8550 Nottingham Terrace.

Town Code Reference:
§229-52(B)

DISCUSSION:

Present to represent this project is Matthew Stoldt, son of the applicant Kevin Stoldt. Mr. Stoldt has consent on behalf of the property owner to represent him at this meeting.

Mr. Stoldt explained that they want to put an 11' x 19' deck on the east side of the house.

Mr. Drinkard noted that the proposed deck has two different dimensions noted, with both 19 ft. long and 17 ft. called out.

Mr. Stoldt stated that the 19 ft. goes back and the 11 ft. comes out, to his understanding. Chairman Mills noted that the land survey is labeled Exhibit A, dated January 4, 2024.

Mr. Drinkard added that the document noted the proposed deck will be 11 ft. out and 17 ft. long, but the variance request is for 11' x 19', and asked which one it is.

Mr. Stoldt stated that he was told it is 11' x 17'.

Mr. Drinkard stated that it looks like they would run in to an air conditioner.

Mr. Stoldt noted that it is mostly likely why they are doing 17' instead of 19'.

Noting that the house has a patio entrance / exit that is 3 ft. off the ground, Mr. Drinkard asked if the patio will be 3 ft. off the ground.

Mr. Stoldt responded yes, where the step-out is for the sliding glass door.

Mr. Drinkard asked Mr. Stoldt if they need to go out 11 ft.

Mr. Stoldt noted that is what the customer desires.

Mr. Drinkard stated that they will be getting close to the business next door.

Mr. Drinkard asked if there will be a walk-down step outside on to the ground level.

Mr. Stoldt responded yes, there has to be a step to the ground level.

Mr. Drinkard stated that it was not referenced on any document that he saw.

Mr. Drinkard stated that without a print showing a step-down, they have to assume it will be off the patio going more towards the front of the house.

Mr. Stoldt responded yes.

Mr. Drinkard asked Mr. Stoldt if he knows that for a fact.

Mr. Stoldt stated that if they have to go off the front of the patio, they can do that.

Mr. Drinkard stated that they will be 3 ft. above the ground, and asked what will surround the outside underneath the deck, will there be a barrier of some type.

Mr. Stoldt responded yes; they will put up some sort of barrier around the outside so that you are unable to see underneath.

Mr. Drinkard stated that it will look pretty ugly without a barrier.

Mr. Drinkard asked what type of landscaping the owner plans to put in. Mr. Drinkard noted that the house is for sale.

Mr. Stoldt stated that he believes they plan to keep this house as a model home.

Mr. Drinkard explained that it is tough to place a landscaping condition on a house. Mr. Stoldt would need to speak on behalf of the owner of the house, who would have to agree with what Mr. Stoldt agreed to.

Mr. McNamara stated that the variance is for the side yard setback, so whether it is 17' or 19', it does not make a difference.

Mr. McNamara noted that the proposed deck will be above the ground, have a railing, meet all codes and the stairs will come off the front or back, it does not matter. It will definitely need landscaping along the front.

Mr. Stoldt responded yes to all of Mr. McNamara's remarks.

Chairman Mills asked Mr. Stoldt if they placed a condition stating that the stairs should come off of the deck on either the north or south side, would that be agreeable.

Mr. Stoldt responded yes.

Chairman Mills asked Mr. Bleuer how stairs are treated with a side yard setback. If the stairs were to come off of the east side of the proposed deck, would that count since it is a smaller span.

Mr. Bleuer stated that he does not have an answer for him. We do allow for encroachments at the front and the rear for stairs, stoops, and entryways but there is no language in our code that speaks to it in the side yard.

Mr. Bleuer stated that he believes the Building Department would look at a deck as a foundation line of a home, but he cannot speak for them. A proposed condition for the north or south side would cover that.

Chairman Mills asked Mr. Stoldt if he understands the issue of the side yard setback if there are stairs on the east side that could be counted as part of the side yard setback. That is why they will make a condition stating that the stairs need to come off of either the north or the south of the proposed deck.

Mr. Stoldt responded yes.

Chairman Mills confirmed with Mr. Stoldt that it will be composite decking with some landscaping around it.

Mr. Stoldt responded yes.

Chairman Mills asked if it is agreeable that they make some landscaping a condition, and that is left up to their client's discretion.

Mr. Stoldt responded yes.

Mr. Krey confirmed that the conditioned landscaping is for all three sides of the proposed deck.

Chairman Mills responded yes, considering the environment it is pretty open and visible with businesses both to the north and east, and a residence to the south.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

ACTION:

Motion by Patrick Krey, seconded by Patricia Burkard to **approve** Appeal No. 1 with the following conditions:

- 1. Landscaping on all three sides of the deck, up to the discretion of the applicant
- 2. Stairs located on either the north or south side of the deck

ON THE QUESTION:

Mr. Krey stated that what distinguishes this request from others that the Board receives, is the uniqueness of the lot; it is surrounded by primarily commercial businesses and parking lots. It is not like there are residential houses next door to each other. It will not have any negative impact on the neighboring properties or the character of the neighborhood.

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

MOTION CARRIED

Appeal No. 2

Evan Giokas
Residential Single-Family

Applicant requests a variance of 2' to allow a 6' tall fence to be located within the front yard setback located at 4875 Smiley Terrace.

Town Code Reference:
§101-3(C)(2)

DISCUSSION:

Mr. Giokas was present to represent his request, adding that he is replacing an existing fence that is already at this dimension and was there when he purchased the home. The fence is old, decrepit wood that he is replacing with vinyl.

Mr. Giokas stated that this variance request includes the other side of the fence that is currently chain link. They currently do not intend to replace that with the vinyl, but if it is part of the variance at this point, they may look to do that section in the future.

Chairman Mills asked Mr. Bleuer if the applicant’s request also encompasses the south side of Smiley Terrace.

Mr. Bleuer responded yes, that is also the Town’s understanding.

Chairman Mills noted that this variance would include two separate fences along the west side, as well as the south side.

Mr. Bleuer noted that only the southern west portion would require a variance, as that is the front yard. Mr. McNamara asked if the fence that is there currently will be removed and replaced.

Mr. Giokas responded yes; he is changing the material on the front.

Mr. McNamara asked what color it will be.

Mr. Giokas stated that it will be very similar, a brown oak.

Mr. McNamara asked Mr. Giokas if he plans to put any landscaping in front of the fence.

Mr. Giokas explained that he just completed a large landscaping project in the back and that will be visible through the chain link fence. He has no plans for the front yard.

Mrs. Burkard confirmed that it is only the area shown in red on the survey that is being replaced.

Mr. Giokas responded yes.

Mr. Krey asked Mr. Giokas if he knows when the fence was originally installed.

Mr. Giokas responded no.

Chairman Mills noted that the new fence is already up.

Mr. Giokas explained it is, on the left side that did not require a variance. The right side is painted, they will replace it with the vinyl material.

Chairman Mills asked Mr. Giokas to approach the dais to view the photo and confirm that the new fence is already up.

Mr. Giokas responded yes; the new fence is up. The fence installer was scheduled for today, it was the only day he could schedule him before January.

Discussion continued regarding the location of the chain link fence.

Mr. Drinkard stated that he was at Mr. Gioka's house last week and saw that the old fence was piled up at the curb.

Mr. Giokas responded yes, they were taking that fence down, it was in pretty bad condition.

Mr. Drinkard agreed.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

Mrs. Burkard asked if this variance includes the chain link fence.

Mr. Giokas responded that he believes it does.

Chairman Mills stated that it is just along the south side.

Mr. McNamara asked if the variance is for the east side also, which is still the front yard.

Mr. Bleuer stated that what Mr. McNamara saw is the new fence which is what this variance is for. They have identified that the chain link along southern line, the applicant may choose to replace that someday in the future. If he chooses to replace it in the future, this variance would cover that.

Mr. McNamara asked if the east side is also covered, should the applicant decide to encompass his whole backyard someday.

Mr. Bleuer asked Mr. McNamara if he is referring to the east side heading north.

Mr. McNamara responded yes.

Mr. Bleuer stated no, it would not.

Mr. Giokas stated that they will be requesting to put an addition on to the home, that is why they did not include that part of the fence.

Chairman Mills confirmed with Mr. Giokas that the fence should not have been installed prior to this meeting.

Mr. Giokas said yes, it was a mix-up on his part, he mixed-up the days with Veteran's Day.

ACTION:

Motion by Gerald Drinkard, seconded by Ryan Mills to **approve** Appeal No. 2 as written

ON THE QUESTION:

Chairman Mills stated that because there was a pre-existing fence already at that height, and given the nature of this lot and the size of it, as well as the character and environmental conditions of the neighborhood, and being a corner lot, he does not feel that it will adversely affect the character of the neighborhood.

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

MOTION CARRIED

Appeal No. 3

Christopher Buman
Traditional Neighborhood District

Applicant requests a variance of 2' to allow a 6' tall fence to be located within the front yard setback located at 10793 Main Street.

Town Code Reference:
§101-3(C)(2)

DISCUSSION:

Christopher Buman was present to explain his request, stating that he is looking to put a fence in the same location, the same wood stockade style of fence that is there currently, but he would like to have it 6' tall.

Mr. Krey asked why Mr. Buman desires a 6' fence instead of 4'.

Mr. Buman explained that it is for privacy, and that you can look right over a 4' fence.

Mr. Krey asked if it is for privacy from the property to the west.

Mr. Buman responded yes; he knows that the neighbor has also expressed that it is nice to have some privacy as well.

Mr. Buman noted that there is a rock wall that the fence will go directly behind.

Mrs. Burkard stated that Mr. Buman's property is unique, and she agrees with the request, it will provide additional privacy. The neighboring property may end up becoming a business, at which point extra privacy will be appreciated.

Chairman Mills noted that the adjacent property appears to be under contract, and asked Mr. Buman if he knows if the purchaser will be a business rather than a residence.

Mr. Buman stated that he was told it will be a designer, but he is unsure what type.

Chairman Mills asked Mr. Buman if he has explored planting some extensive foliage and landscaping to provide privacy instead of a fence.

Mr. Buman explained that he did try some foliage, but was unsuccessful.

In regard to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

ACTION:

Motion by Patrick Krey, seconded by Gerald Drinkard to **approve** Appeal No. 3 as written.

ON THE QUESTION:

Chairman Mills explained that this is a very unique setup, typically front yard fences are not routinely granted, but this location has an adjoining property near Main Street that appears to have some commercial use going forward, close to the driveway and site lines.

The proposed fence will provide privacy to both homeowners, given the structure and placement of both houses. Along with the existing stone wall and landscaping, will not adversely impact the character of the neighborhood.

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

MOTION CARRIED

Appeal No. 4

Steve Seedhouse
Planned Unit Residential Development

Applicant requests variances:

1. of 808 sq. ft. to allow a 1,008 sq. ft. detached accessory structure (pool house); and
 2. of 5' to allow a 21' tall detached accessory structure (pool house);
- located at 5130 Rockledge Drive.

Town Code Reference:

1. §229-55(H)
2. §229-55(E)(2)

DISCUSSION:

Steve Seedhouse was present to represent his request, explaining that they would like to build a pool house on a rectangular area of their lawn in the backyard, next to the pool. The proposed pool house is basically the same size and footprint as the pool, and located immediately behind their garage. The other two sides of the proposed pool house are wooded.

Mr. Seedhouse added that the idea for the proposed structure itself is to have it enclosed on three sides, and have the same façade as the home, so that it matches as close as they are able to.

Mr. Seedhouse noted that the builders that they are using also put two additions on a house nearby, and they did a great job.

Mr. Seedhouse explained that the idea for the side of the proposed pool house that will face the pool is to have sliding glass doors. Inside they plan to have a half bath on one side, and some storage on the other, and a bar seating area.

Mr. Seedhouse added that they feel the proposed pool house will complete the outdoor part of their property, and they have an awkward covered patio space that is not really a great use of the space. They would like some more shaded coverage where they can gather with family and friends by the pool

Mr. Seedhouse stated that it fits in with the neighborhood, and would add value to the property. They have small children and this would be a safe way to walk them in to the pool.

Mr. Seedhouse noted that both neighbors were notified and are fine with the proposed plans.

Mrs. Burkard complimented Mr. Seedhouse’s beautiful home, stating that the proposed pool house will add to the appeal of the home.

Mr. Krey asked what the square footage of their home is.

Mr. Seedhouse stated that it is approximately 5,500 sq. ft., not including the finished basement.

Mr. Krey explained that the variance is based off of 200 sq. ft., which is fixed for the entire Town. In general, that is a good rule, but when you are working with a larger home, it does not make as much sense.

Noting that he does not believe it will be visible from the road height wise, Mr. Krey confirmed with Mr. Seedhouse that he is requesting a variance to increase the height of the proposed pool house.

Mr. Seedhouse noted that the proposed structure is planned to have peaked ceilings, and will not be visible from the street. They have a two-story detached garage that this proposed structure would line up behind. Mr. Seedhouse stated that their neighbor has an attached garage connected to their home with a breezeway, that is next to their home. This proposed structure is basically behind two garages, with a wooded area behind it.

Mr. Krey asked if the escarpment is behind Mr. Seedhouse's property.

Mr. Seedhouse responded yes, and the neighbor has large evergreens located in the back also.

Referring to the elevations and plans that were provided, Chairman Mills asked if the materials shown are a vinyl cedar shake-look siding.

Mr. Seedhouse responded yes; the architect informed him that before proceeding, they would need to request a variance for the size of the proposed structure. Mr. Seedhouse would like to match it to the same material as the house if that is still available. They have a combination of red brick and stone that he is unsure they will be able to match, so they would most likely do something to closely match the stone.

Chairman Mills referred to the photo showing stone along the bottom of the proposed structure, and asked Mr. Seedhouse if that would be either stone or brick.

Mr. Seedhouse noted that they have not yet decided on that, he is not particular one way or another.

Chairman Mills asked if they made it a condition that either stone or brick is used to add some of the stone element to the proposed structure, would Mr. Seedhouse be in agreement with that.

Mr. Seedhouse responded yes.

Chairman Mills added that although it may be only partially viewed from the street, based on the size the neighbors will be able to see it, and if the house is eventually sold or new neighbors move in, there is a large enough span that it would be nice to have a stone or brick element.

Mr. Seedhouse agreed.

In regard to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

Mr. Drinkard asked if the measurement on the elevation that shows a less-sloped roof that would bring the height down to 15' 9" instead of 21' would not need a variance. Mr. Drinkard asked Mr. Seedhouse if he needs a roof that high.

Chairman Mills labeled the floor plan and side elevation that was provided as Exhibit A. Mr. Drinkard is referring the dashed marks showing a 12' x 6" pitch which would go up to a height of 15' 9" instead of the proposed 21' variance.

Mr. Seedhouse stated that he was not aware of that, he has not discussed it with his architect.

Mr. Drinkard stated that if Mr. Seedhouse goes with the 15' 9" pitch he would not need a variance. But the added slope gives more character and pitch to the roof.

Mr. Seedhouse stated that he prefers the higher roof.

Mr. Drinkard stated that he asked the question because it is shown on the plan.

Mr. McNamara clarified that the measurements Mr. Drinkard is questioning are the interior roof ceiling inside, not another option.

ACTION:

Motion by Patricia Burkard, seconded by Gerald Drinkard, to **approve** Appeal No. 4 as written, with the following condition:

1. stone or brick on the bottom at least 36 in. or 42 in. in height, to match the house all the way around

ON THE QUESTION:

Mr. Krey added that what is unique about this request is that it backs up to the escarpment which provides a buffer so that the neighbor behind will not be facing the structure. There are trees on the other side of the house, the way the property is situated, and the way the structure will be built, there will be limited visibility from the street.

Mr. Krey also stated that because the home itself is such a large size, relative to the home the pool house will fit nicely and not have any adverse effect on the neighborhood.

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

MOTION CARRIED

Meeting adjourned at 6:08 p.m. with a motion by Richard McNamara.

Amy Major
Senior Clerk Typist

