

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday, February 11, 2025

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	Steven Dale	

Town Officials present:

Director of Community Development Jonathan Bleuer
Councilman Paul Shear

Other Interested Parties:

Gale Bobowicz	Steve Andres	Roger Metz	Laurie Hauer-LaDuca
Dave LaDuca	Alan Hunt	Sybille Hunt	

Motion by Gerald Drinkard, seconded by Richard McNamara, to **approve** the corrected minutes of the meeting held on January 14, 2025.

Gerald Drinkard	Aye	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Steven Dale	Aye		

MOTION CARRIED

OLD BUSINESS

Appeal No. 4 – From the December 10, 2024 Meeting
Edward Bobowicz
Traditional Neighborhood District

Applicant requests a variance of 1,651 sq. ft. to allow a 2,371 sq. ft. detached accessory structure (garage) located at 9320 Clarence Center Road.

Town Code Reference:
§229-66
Note: This request supersedes the December 2024 variance request, which was tabled.

DISCUSSION:

Gale Bobowicz, and Steve Andres were available to represent this project. Mr. Andres helped with the drawings for the proposed structure and Mr. Metz owns the property behind the applicant. Mr. Bobowicz is unable to attend tonight.

Mr. Andres stated that Mr. Bobowicz has a car collection and that is the reason for the size of the building. There is a 2-car garage that will be used for their every day cars, a workshop area to work on the cars is located behind the 2-car garage, then the 12 ft. high proposed structure will be for the car collection. The second floor is proposed for the purpose of storage.

Noting that the address listed for their residence is a Tonawanda Creek Road address, Mr. Drinkard asked Mrs. Bobowicz if they rent out this Clarence Center Road property.

Mrs. Bobowicz stated that their daughter lives at this property on Clarence Center Road.

Mr. Drinkard explained that at the previous meeting, the applicant agreed to table the request in order to work on some things that the Board suggested they would like to see. Some of these suggestions include the size of the structure at that time was big for a traditional neighborhood. The Zoning Board believed it was a nice-looking structure, but they wanted to see the proposed structure smaller in size.

Mr. Drinkard stated that with this resubmission, they have requested an even bigger structure.

Mrs. Bobowicz stated that they did not have all of the dimensions at the previous meeting, they did not realize that they needed them.

Mr. Drinkard noted that when the Bobowicz's requested to table their request at the last meeting, they stated that they would return with elevations that indicated what the inside of the proposed structure was going to look like.

Mr. Drinkard stated that previously, Mr. Bobowicz had stated that there was no electric power planned for the proposed structure but the new plans show a workshop is planned.

Mrs. Bobowicz explained that the plan is for a workshop table, not a full-blown mechanic area.

Mr. Drinkard noted that the applicant has indicated that a turn-around may be installed at a later point in time, but there is currently room for 3-4 vehicles.

Mr. Andres stated that 2 vehicles are for everyday use, then the additional space would be for the collector cars.

Mr. Dale stated that asking for a variance that is larger than the primary residence seems to be a little absurd.

Mrs. Bobowicz asked if that is not allowed.

Mr. Dale stated that the variance is becoming extremely large. It was large when they were here previously, and it has gotten bigger.

Mr. Krey referred to the drawings that the applicant submitted, labeled for the record as Exhibit A – Front and Right Side, if that is the view that would be seen walking up the driveway.

Mr. Andres stated that the “front” is facing Clarence Center Road.

Mr. Krey stated that it is the street view.

Mr. Andres responded yes. The driveway side is the east side.

Mr. Krey asked if there will be garage doors on both sides of the building.

Mr. Andres responded yes. The east side would be the ones they would use for the daily garage, and the front elevation would be the collector side with the taller roof section.

Chairman Mills asked if the daughter that is currently living in the house plans to continue to live there.

Mrs. Bobowicz responded no. She will be moving out.

Chairman Mills asked Mrs. Bobowicz if they were residing there at one point.

Mrs. Bobowicz responded yes. That is what they plan to do.

Chairman Mills stated that the aesthetics of the proposed garage are nicely done, the concern is the size of it. As Mr. Dale pointed out, in proportion to the principal residence, this proposed accessory structure is larger.

Chairman Mills added that this is a large variance, and while design helps to mitigate the size, there is still concern as to the size. Chairman Mills asked Mrs. Bobowicz if they can accomplish their objective with any less size.

Mr. Andres stated that it is possible.

Mrs. Bobowicz responded yes. They will if they have to.

Mr. Andres stated that they could squeeze it down, he could attempt to ascertain exactly which vehicles will go in to the collector’s side. He could make the staircase a little smaller and reduce the size of the main side from 22 ft. to 21 ft.

Chairman Mills explained that as a Zoning Board they are tasked with looking at several statutory factors, one of which is the character of the neighborhood. They need to look at different conditions such as house size, lot size, environmental conditions, and this is a large

structure. There has not been any evidence presented of any similar structures in the area, so there is concern based on the size.

Chairman Mills explained that one option is to not have the Board vote again and come back with another proposal, or they can vote on this proposal.

Mr. McNamara stated that he also has problems with the size of the proposed structure, the applicant returned with a proposed structure that is more than 20% larger than the originally proposed structure. It is a very nice-looking structure, but an accessory structure that is larger than the principal structure is not good.

Mr. McNamara asked what will be on the second floor, because it is big enough to be a small apartment.

Mrs. Bobowicz stated that it would be storage for car parts, nobody will be living up there.

Mr. Andres noted that it is his understanding that they have existing storage for car parts now that would fill up that space.

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

Regarding Public Participation, the following resident spoke:

1. Roger Metz of 9245 Clarence Center Road:
 - has a pole barn and another barn located at 9270 Clarence Center Road
 - his barn is a large structure
 - feels that the proposed garage would compliment the whole area, thinks it would be ideal to have it in their neighborhood

Chairman Mills asked Mr. Metz how big his parcel is.

Mr. Metz responded approximately 2 acres.

Public Participation was closed for this item.

Chairman Mills asked Mr. Metz if his property are two separate parcels.

Mr. Metz responded yes, his son owns the farmhouse that goes with the barn.

Mr. Krey agreed that the structure appears to be aesthetically pleasing, and asked if it needs to be that high. He understands the desire to have the shop for storage, but would they rather have the storage on the first floor.

Mrs. Bobowicz stated that her husband liked the design of the proposed structure.

Mr. Krey noted that if there is any way to lower the height of the proposed structure but still accomplish the same goals, that would be preferred. Dropping the height would also lower the square footage.

Mr. Andres stated that they can drop the roof pitch down.

Mr. Krey stated that the overall size of the proposed structure is a concern.

Mr. Andres explained that these were preliminary plans and as the applicant prices the project, it will probably decrease.

Mrs. Bobowicz requested to table this variance request.

Chairman Mills reiterated that the design of the proposed structure is great, but that the size is an issue.

Mr. Bleuer stated that in regard to the height of the proposed structure, the Planning Office did not calculate the second level square footage in the request therefore it would not reduce the size as listed in the variance. The height is compliant for the zone.

Mr. Krey then agreed and noted that the height is not the issue, rather the footprint.

ACTION:

Motion by Ryan Mills, seconded by Steven Dale to **table** Appeal No. 4 under Old Business.

ON THE QUESTION:

Mr. Drinkard stated that in the previous meeting, one of the renderings that the applicant submitted for the final footprint shows the planned landscaping to buffer the view is too big for a Traditional Neighborhood District.

Mr. Drinkard stated that they need a landscaping sketch when they resubmit their variance request.

Mr. Krey added that they would like to see similar structures in the area identified with a re-submittal. It would also speak to the character of the neighborhood.

Gerald Drinkard	Aye	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Steven Dale	Aye		

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

Susan Vogel
Residential Single-Family

Applicant requests a variance of 4'3" to allow a 6' side yard setback to allow for a previously constructed addition to the principal structure located at 5165 Willow Brook.

Town Code Reference:
§229-52(B)

DISCUSSION:

Susan Vogel and David McKee both of 5165 Willow Brook were present to represent the item.

Ms. Vogel stated that they added a 4 ft. addition to their garage to allow for additional storage space. They do not have enough storage space with having 2 cars and the existing footprint of the garage is just barely enough for the 2 cars. They needed extra space for their trash cans and tools.

Mr. Dale noted that they currently have what appears to be 4 ft. of distance between their garage door and the north wall, and asked where they intend to put the addition and what they have stored there currently.

Referring to the plans, Mr. McKee explained that the inside of the garage is only approximately 2 ft. from the garage door to the wall. The existing garage space is 21' 4" by 21' 4".

Mr. Dale asked how much room is left after they pull the car in to the garage.

Ms. Vogel stated approximately 1 ft.

Mr. Dale asked if that is in the back, between the garage door and the car.

Ms. Vogel responded approximately 3 ft.

Mr. McKee explained that when there are 2 cars in the garage, there is basically enough room to have walking space around the cars.

Mr. Dale asked if they have considered any other locations where they could add space for their garbage cans and snowblower. There is a garden shed at the end of the garage, Mr. Dale asked if they have considered enlarging that instead and using that for additional storage.

Ms. Vogel stated that there is not much space there because it is just garden structures. There is a slope in the yard so the ground is very wet there. In the back of the yard there is also a slope and since they are septic and have a leech field, they do not want to build on top of that.

Ms. Vogel added that the addition looks nice.

Mr. Dale stated that is an interesting point and he thinks it may look nice for the applicant, but he wonders what the neighbors think when they look out of their window facing south and all they

see is asphalt roof. If the applicant is planning to extend the area, it will be one long area for the neighbor to have to look at.

Ms. Vogel stated that is what it was like before.

Mr. Dale responded that it has gotten worse with putting an addition on.

Ms. Vogel noted that when they put up a 6 ft. fence as allowed by the Town of Clarence Code, then the neighbor can see the vinyl fence.

Mr. Dale asked if that is their plan.

Ms. Vogel responded yes.

Mr. Krey asked about the history of the previously constructed addition.

Mr. McKee stated that the 4 ft. addition to the north is new.

Ms. Vogel noted that it was added in April, 2024.

Noting that the addition has already been constructed, Chairman Mills asked why it was constructed without prior approval.

Mr. McKee explained that they have done a number of modifications to the home over time, mostly repairs and replacements. They got over ambitious with this project and did not ask for permission before they built it.

Chairman Mills asked if they had any interaction with the Building Department.

Mr. McKee responded no; they did not interact before it was built.

Chairman Mills confirmed with Mr. McKee that he is a licensed architect, and if he works in other municipalities.

Mr. McKee responded yes, he is, and yes, he does.

Chairman Mills asked Mr. McKee if he checks with those Building Departments before beginning a project.

Mr. McKee responded yes he does.

Chairman Mills asked Mr. McKee what led him to not go to the Town of Clarence Building Department and consult with them before starting construction.

Ms. Vogel stated that she takes the blame for that. They had some time to get it done, and they really wanted to get it done. She stated that Mr. McKee did state that they should get a permit, but that could take weeks to months to obtain so they decided just to build it.

Mr. McKee interjected, stating that there are no good excuses.

Chairman Mills stated that now they have this 4 ft. structure built that should not be there.

Mr. McKee noted that it is in the setback, that is correct.

Mr. Drinkard explained that all of the members of the Town of Clarence boards are required to take training hours every year. Examples are given very similar to what is presented here with this variance request, and almost always the board requires the applicant to take down the structure.

Mr. Drinkard added that the fact of the matter is that they encroached on their side yard setback.

Ms. Vogel stated that their neighbor's house also encroaches on the side yard setback.

Mr. Drinkard responded that we are not here to discuss the neighbor.

Mr. Drinkard stated that the addition does not look bad.

Mr. McNamara noted that he is a general contractor and obtaining a building permit before building a structure is basic knowledge. While the structure does look nice, there are many issues that go along with it including potential drainage issues.

Mrs. Vogel interjected, stating that as per the drawing, the drainage goes in to the backyard.

Mr. McNamara continued, adding that they have to determine if the water is going to stormwater retention or the neighbor's yard. All these questions protect the neighbors to avoid potential issues in the future.

Mr. McNamara added that if they just let this go and there ends up being issues between the neighbors, that will cause more issues.

Ms. Vogel stated that the water is going to the same place that it went before, nothing changed. That in fact, more water is going to the backyard because previously there was water coming off of the roof and never to the backyard.

Mr. McNamara asked if it was a pipe or spread out on the lawn.

Mr. McKee explained that it was conveyed by gutter downspout and then through a 4in. line that goes in to the backyard.

Mr. McNamara reiterated that all of that is supposed to be inspected. Mr. McNamara acknowledged that the addition looks good, but it is not a good situation.

Chairman Mills asked Mr. Bleuer what the status is with the Building Department.

Mr. Bleuer explained that it is his understanding that this was a Notice of Violation which ultimately brought them to this board. It has been an active violation through the Building Department for non-compliance.

Chairman Mills asked if the applicant is working through the other inspection processes related to this.

Mr. Bleuer responded that he can not speak on that. He does believe in the board's packet that they were provided with a Notice of Violation and the violation terms associated with it, but he can not speak to other items.

Mr. McKee explained that they received a notice in June to submit for a Building Permit which he did do, and that is how they were referred to the Zoning Board.

Neighbor Notifications are on file, no comments were received.

Mr. McNamara asked the applicant if they were in Builder's Court last month and pled not guilty.

Mr. McKee stated that they did appear in front of Justice Court.

Mr. McNamara reviewed thus far, stating that as the applicant stated, they received the Notice of Violation in June, 2024 for a Building Permit, and then went to court in January before now coming in front of the Zoning Board. What occurred in the 8 months in between when all of this could have been resolved.

Mr. McKee explained that it was not intentionally pushed off, it was a combination of the holidays and busy work schedules.

In regard to Public Participation, the following resident spoke:

1. Martha Delaney of 5177 Willowbrook Drive:
 - explained that when the applicant began building this addition in May, she called and asked what the rules were for setbacks
 - stated that she told the applicant that she spoke to the Town of Clarence and a permit was required
 - she chose not call to report him to the Town of Clarence
 - the applicant put up a gutter but no downspout and the water pours in to her basement

From an aesthetic standpoint, Chairman Mills asked Mrs. Delaney if she has any issues with the way that it is constructed and looks currently.

Mrs. Delaney responded that Mr. McKee did a nice job on it, but one of the problems is that they said they built it for their garbage cans, but she has photographs showing the garbage cans behind the addition. When she is in her back bedroom, she sees the garbage cans and other stuff.

Chairman Mills entered the photos in to record and they were placed in the file.

Chairman Mills asked Mrs. Delaney if she has a preference as to whether the structure is left up or taken down.

Mrs. Delaney stated that her preference would be to not have it, but that at minimum they need to funnel the water to the storm sewer because it is ending up in her yard, since she is downhill from the applicant's yard.

Ms. Vogel stated that she has lived there for 17 years and there is a swale in the back corner that runs the length of the entire property in between their house and Mrs. Delaney's. It is wet, it always has been wet. They put dirt and shrubs to help mitigate the wetness. They had a rain barrel that they took down in the winter, and neglected to put the drain attached to the gutters to go in to the backyard.

Ms. Vogel stated that there is no way their water is traveling up hill to the neighbor's house.

Chairman Mills asked Ms. Vogel if they planned to put lattice along that side.

Ms. Vogel said eventually.

Mr. McKee said that it is on the drawings and yes, they do.

Chairman Mills asked if they plan on adding flowering Hydrangea.

Mr. McKee responded yes.

Chairman Mills asked how soon could that be put up.

Ms. Vogel stated in the spring.

Chairman Mills asked Mrs. Delaney if she would like the aesthetics of the lattice with flowering Hydrangea along the side.

Mrs. Delaney responded yes.

Mr. Drinkard asked Mr. Bleuer what happens in terms of review by the Building Department if the Zoning Board were to approve this variance request.

Mr. Bleuer stated that if a variance is granted, the Building Department would then be authorized to review and permit once all conditions have been met. A structure of this nature with the non-compliant setback. It does not guarantee that they will be able to get a permit and they need to comply with certain requirements of the Building Department, but it would allow the Building Department to eventually issue a compliant permit with a non-conforming setback.

Mr. Drinkard asked if they look at the downspout, the dispersion of water, and and drainage.

Mr. Bleuer responded yes, they would.

Mr. McNamara asked when the garden shed in the back was built.

Mr. McKee stated approximately 5 years ago.

Mr. McNamara asked if there is a building permit issued for that.

Mr. McKee responded no.

Mr. McNamara noted that twice the applicant failed to obtain a Building Permit.

ACTION:

Motion by Steven Dale, seconded by Gerald Drinkard to **table** Appeal No. 1 so that the Zoning Board is able to consult with their Attorney.

Gerald Drinkard	Aye	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Steven Dale	Aye		

MOTION CARRIED

Appeal No. 2

Alan & Sybille Hunt
Residential Single-Family

Town Code Reference:

1. §229-55(D)
2. §229-52(B)

Applicant requests variances:

1. of 582 sq. ft. to allow a 1,542 sq. ft. attached accessory structure (garage); and
2. of 1'11" to allow a 10'7" principal structure side yard setback;
located at 10825 Park Avenue.

Mr. McNamara recused himself from New Business Appeal No. 2. The paperwork is on file.

DISCUSSION:

Applicant Alan Hunt, and project architect Laurie Hauer-LaDuca were present to represent this request.

Mr. Hunt explained that he is a woodworking hobbyist and would like to build a workshop. They currently have a 2-car garage that neither he or his wife have been able to park in for a couple of years, as he has all of his woodworking tools stored in there.

Mr. Hunt added that they would like to do it as an attached structure so that it keeps in character of the house and looks nice.

Ms. Hauer-LaDuca noted that she worked on the proposed plans with Mr. and Mrs. Hunt, adding that their existing 2-car garage is 650 sq. ft., and the proposed addition will be 1,250 sq. ft. but a portion of that will be a sun room. The existing 2-car garage will become a 1- car garage with the remaining portion plus the addition will be accessory space, bringing the total accessory space to 1,542 sq. ft. The workshop itself will be 1,185 sq. ft.

Ms. Hauer-LaDuca explained that it is a very low-profile addition, very linear. Architecturally, the proposed project will match the existing architecture. In regard to setbacks, the front is 12' 9" but because the site sits on a bit of an angle, the rear corner is at 10' 7". That is why there is a request for a side yard setback variance.

Ms. Hauer-LaDuca added that the total acreage for the site is 1.06 acres, it is a very narrow site.

Ms. Hauer-LaDuca continued to explain the variance request.

Mr. Krey asked if there are any similar structures in the area with expanded garages.

Ms. Hauer-LaDuca explained that she did a similar project for a client that lives on Nottingham Drive. In Mr. Hunt's immediate area there are a number of carriage house type accessory structures.

Mr. Hunt added that there are a lot of bigger barns in his area, many of which are bigger than the houses.

Mr. Dale asked what will happen with the small building that is adjacent to the garage.

Mr. Hunt responded that the building will be relocated to the back of the property, it is where they keep their gardening equipment.

Referring to the site plan that was included with the submission, Ms. Hauer-LaDuca noted that it shows the small building relocated to the back.

Mr. Dale stated that since Mr. Hunt is proposing to build a woodshop, that he must do a lot of woodworking.

Mr. Hunt responded yes.

Mr. Dale asked if it is a business.

Mr. Hunt responded no, he is a professor and enjoys working with hands as a hobby whereas he works with his head for his job.

Complimenting the elevations that have been provided, Mr. Drinkard explained that there are similar improvements to houses a street or two over from the applicant's property. If the final product will look like it is shown in the renderings, it will add character to the neighborhood.

Mr. Drinkard asked when the proposed project would begin.

Mr. Hunt responded hopefully in the spring, but it will depend on how the conversations with the contractors go, and the cost of supplies. They wanted to make sure they would be able to do it according to their plans before receiving any quotes.

Chairman Mills asked about the proposed materials, adding that according to the elevations it appears that they will use vinyl to match the existing home. Chairman Mills asked if they have contemplated using any brick on the front façade maybe knee-wall or quarter height, to tie it in aesthetically.

Ms. Hauer-LaDuca explained that the entire home is primarily sided, there is a little brick set back under the front porch.

Chairman Mills asked Ms. Hauer-LaDuca if she feels it might help tie the proposed structure to the principal structure.

Ms. Hauer-LaDuca stated that it could, although it is an additional cost.

Chairman Mills noted that it is a pretty long span of vinyl that might be nice to have it broken up even with a small amount like 3 ft. high.

Chairman Mills asked if a condition was placed that they will not operate a business out of the structure, would that be agreeable.

Mr. Hunt responded yes.

Chairman Mills asked if there are any plans for landscaping.

Ms. Hauer-LaDuca explained that the property currently has beautiful landscaping, they will need to re-grade and add more once the proposed structure is complete.

Chairman Mills asked if they make it a condition of the variance that a 3ft brick ledge on the street side of the structure is to be added, would that be amenable to.

Mr. Hunt responded yes.

Neighbor Notifications are on file, no written comments were received, but Mr. Bleuer stated that he has had extensive phone conversations with Mr. Burger at 10805 Park Ave who was very inquisitive, but did not have any official comment.

In regard to Public Participation, the following spoke:

1. Dave LaDuca, who is with the architect addressed the front façade noting that it is stepped back a bit and breaks up the architectural view from the front.

With no one else wishing to be heard, Public Participation was closed for this item.

Mr. Krey added that for the variance, the structure itself is angled, and the need for the setback variance would only be at the one corner.

Ms. Hauer-LaDuca explained that the very front corner of the proposed structure is at 12' 9" and because as it goes back, it decreases to 10' 7".

ACTION:

Motion by Patrick Krey, seconded by Steven Dale to **approve** Appeal No. 3 as written, with the following conditions:

1. roofing materials and vinyl siding match the house as closely as possible
2. 3' brick ledge placed on the front / street side
3. no business is to be conducted from the structure

ON THE QUESTION:

Mr. Krey stated that the renderings of the proposed structure are aesthetically pleasing and from the street view will look nice and will be a nice addition to the neighborhood.

As noted, in terms of the setback it is only encroaching in the front corner, Mr. Krey stated that the setback variance is very minimal.

Gerald Drinkard	Aye	Ryan Mills	Aye	Patrick Krey	Aye
Steven Dale	Aye				

MOTION CARRIED

Meeting adjourned at 6:25 pm. with a motion by Patrick Krey.

MOTION CARRIED

Amy Major
Senior Clerk Typist