

TOWN OF CLARKSON ZONING BOARD OF APPEALS MEETING

**Held at the Clarkson Town Hall
Wednesday, May 15th, 2024, at 7:00 PM**

Board Members

Conrad Ziarniak, Chairperson
Joseph Perry
Howard Henick
Peter Connell
Colleen Mattison

Support Staff

Keith O'Toole, Town Attorney*
Kevin Moore, Code Enforcement
Andrea Rookey, Building Department Clerk

Excused *

CALL TO ORDER:

C. Ziarniak called the Zoning Board meeting to order at 7:00 p.m. and led all those present in the Pledge of Allegiance with a moment of silence for first responders.

PUBLIC HEARING:

Applicant: Jennifer Gee

Property Owner: Jennifer Gee

Address: 3931 Lake Rd

Acres: 0.88

Zoning: RS-10

Applicant requesting approval of a home occupation for a plant business.

140-3 CUSTOMARY HOME OCCUPATION

A. An occupation or a profession which meets all of the following requirements:

- (1) It is carried on wholly within the enclosed walls of a dwelling.
- (2) It is carried on by a member of the family residing in the dwelling. [Amended 8-11-1987 by L.L. No. 2-1987]
- (3) It is clearly incidental and secondary to the use of the dwelling for residential purposes.
- (4) It employs not more than one person outside the family. [Amended 8-11-1987 by L.L. No. 2-1987]
- (5) It does not occupy more than 25% of the floor area. [Added 8-11-1987 by L.L. No. 2-1987]
- (6) It employs no exterior display, except a sign not to exceed two square feet, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the building. [Added 8-11-1987 by L.L. No. 2-1987]
- (7) It produces no offensive noise, vibration, smoke, dust, odor, heat or glare. [Added 8-11-1987 by L.L. No. 2-1987]

C. Ziarniak read the legal notice aloud for the public present.

J. Gee said that she is selling house plants and 85% of her business is online.

K. Moore said it will be within a closed building but as an accessory building.

C. Ziarniak asked when the previous recording studio ceased to be a recording studio.

J. Gee said that when they moved in, in 2017.

K. Moore said that there are minutes for the previously approved home occupation for the recording studio.

C. Ziarniak said that he wanted to point out that it was not the actual home that was approved as the home occupation location, it was the accessory building.

C. Ziarniak asked what the hours of operation would be.

J. Gee said from 10am to 4pm, Monday through Saturday by appointment only and only one person at a time.

C. Ziarniak asked where the customer would park.

J. Gee said that they are able to pull in toward the garage and there is a turnaround that they can back into so that when they leave, they are not backing out onto Lake rd.

H. Henick asked where the sign would be.

J. Gee said that the sign would be out front and would be placed out in the yard only during hours of operation.

Chris Bran, their neighbor said that he has no issue with the home occupation.

C. Ziarniak motioned to close the public hearing.

H. Henick seconded the motion.

Unanimously carried.

C. Ziarniak motioned that SEQR was determined a negative declaration and that this was type II action and not subject to further environmental review.

C. Ziarniak asked how big the accessory building was.

K. Moore said that the accessory building was 18ft by 24ft.

H. Henick said that the accessory building is less than 25%.

C. Ziarniak motioned to approve the home occupation noting that the outbuilding/previous studio was approved for a customary home occupation area variance back in 2005; this approval will continue to allow the use of the outbuilding as a customary home occupation with the following conditions:

1. Hours of Operation are from 10am-5pm.
2. Business operations days are from Monday to Saturday.
3. A maximum of 5 appointments a day.
4. No walk-ins, by appointment only.
5. An 'A' frame board may be placed in the yard during hours of operation with a maximum size of 1ftx2ft.

P. Connell seconded the motion.

Unanimously carried.

PUBLIC HEARING:

Applicant: Gary & Mary Mantegna

Property Owner: Gary & Mary Mantegna

Address: 3380 Sweden Walker Rd

Acres: 0.49

Zoning: RS-20

Applicant requesting an area variance for a generator installation not in accordance with setback requirements, Town Code 140-21D(1)(C)[2] Side setback: 10 feet.

C. Ziarniak read the legal notice aloud for the public present.

C. Ziarniak asked how many KW the generator would be.

G. Mantegna said that it was 14KW.

C. Ziarniak asked what the distance to the lot line would be.

H. Henick said it would be about 4ft and a 60% variance.

C. Ziarniak asked who would be installing the generator.

G. Mantegna said that integrated power systems would be installing the generator.

H. Henick said that the windows are not an issue where he has the generator proposed.

C. Ziarniak asked if any public present would like to comment.

No public present commented.

C. Ziarniak asked if A. Rookey received any comments from residents on this variance.

A. Rookey said no.

C. Ziarniak motioned to close the public hearing.

H. Henick seconded the motion.

Unanimously carried.

C. Mattison said that she drives by the property twice and she said that. That location looks like the most ideal location.

C. Ziarniak read aloud the questions used to determine the granting of an area variance and the answers that the applicant, M. Mantegna provided the board.

1. What benefit will be derived by the applicant who is seeking this variance?

The applicant stated, "Cost benefit."

C. Ziarniak said that the benefit of having this generator would be uninterrupted power.

2. What undesirable changes will be produced in the character of the neighborhood by the granting of the area variance?

The applicant stated "None."

C. Ziarniak said none, he said that there was no close proximity to neighbors and the noise production is a nonfactor.

3. What other methods does the applicant have to achieve the benefit other than the area variance?

The applicant stated "None?"

H. Henick said that the generator could be placed on the other side of the house.

K. Moore said that the other location is not practical due to safety.

4. Is the requested area variance substantial?

The applicant stated "60% (4ft from the property line)"

C. Ziarniak agreed that the variance was substantial.

5. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

The applicant stated "No"

C. Ziarniak said that it is natural gas and that poses no adverse effects.

6. Was the alleged difficulty self-created? Note: If the difficulty was self-created, it is relevant to the decision of the ZBA, but does not necessarily preclude the granting of an area variance.

The applicant stated "No?"

C. Ziarniak said that the owner did not build the house, so it is not self-created.

C. Ziarniak motioned that SEQR was determined a negative declaration and that this was type II action and not subject to further environmental review.

H. Henick motioned to approve the 6ft area variance for generator to be placed 4ft from the property line with the condition that there is always landscape buffering on the Sweden Walker side of the property that is unkept and maintained.

J. Perry seconded the motion.

Unanimously carried.

PUBLIC HEARING:

Applicant: Joseph & Brittini Arena

Property Owner: Joesph Arena

Address: 126 Delaina Rose Cir

Acres: 0.41

Zoning: RS-10

Applicant requesting an area variance for a fence not in accordance with Town Code 140-19M.

Corner lots and through lots. For the purposes of regulating the locations of buildings on corner lots and on lots extending through or between two nonintersecting streets, all buildings on a corner lot or a through lot shall be subject to the front yard requirements of the zoning district in which said corner lot or through lot is located on those sides which face the streets.

C. Ziarniak read the legal notice aloud for the public present.

K. Moore said that there was a fence permit, but it was issued incorrectly because it requires a variance.

C. Ziarniak asked if the fence was solid.

J. Arena said yes.

K. Moore said that they are considering all of the fence because it is considered a front yard.

C. Ziarniak asked if the fence was just two proposed types.

J. Arena said yes, chain-link and dogear fence.

H. Henick asked if they built the house.

J. Arena said no they bought it in 2016.

K. Moore said when they bought the house there was a permitted fence.

C. Ziarniak asked if any public present would like to comment.

No public present commented.

C. Ziarniak asked if A. Rookey received any comments from residents on this variance.

A. Rookey said no.

C. Ziarniak motioned to close the public hearing.

J. Perry seconded the motion.

Unanimously carried.

H. Henick asked if the neighbor is aware of the fence.

J. Arena said he talked to him the other day and he was okay with it

J. Perry asked why they wanted the fence.

J. Arena said safety and noise reduction.

J. Perry asked if he would be able to maintain the fence on the Lake road side

J. Arena said yes.

H. Henick asked if he would be the one installing the fence

J. Arena said he is

C. Ziarniak asked if it was the same as before

J. Arena said yes and that it would be a clear stain

C. Ziarniak read aloud the questions used to determine the granting of an area variance and the answers that the applicant, B. Arena, provided the board.

1. What benefit will be derived by the applicant who is seeking this variance?

The applicant stated "Safety and privacy for our family and children. A fence would help reduce the noise from the main road."

C. Ziarniak said that those are valid benefits.

2. What undesirable changes will be produced in the character of the neighborhood by the granting of the area variance?

Applicant stated "None."

C. Ziarniak said he agrees noting that there was a fence in the backyard previously and the fence would of similar style, so there would be no change to the characteristic.

3. What other methods does the applicant have to achieve the benefit other than the area variance?

Applicant stated "None."

C. Ziarniak said he agrees.

4. Is the requested area variance substantial?

The applicant stated "This request is very important to our family. There was an original fence when we purchased the home along Rt. 19. The weather caused it to fall. Due to safety and privacy, we would like the yard to be completely fenced."

C. Ziarniak said that no one would think that they have two front yards because his backyard faces Lake Road. The variance is substantial but if there ever was a reason for granting a variance based on the code this is a good reason.

5. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

Applicant stated "No"

C. Ziarniak said he agreed.

6. Was the alleged difficulty self-created? Note: If the difficulty was self-created, it is relevant to the decision of the ZBA, but does not necessarily preclude the granting of an area variance.

Applicant stated "No"

C. Ziarniak said no because there was a fence there when he purchased the property, though a variance was not previously granted this is not your self-created difficulty.

C. Ziarniak motioned that SEQR was determined a negative declaration and that this was type II action and not subject to further environmental review.

C. Ziarniak motioned SEQRA Lead Agency, determined that this was type II action and not subject to further environmental review.

H. Henick motioned approved the area variance for the fence as proposed with the following conditions:

1. Grass is maintained according to the town code chapter 45.
2. The fence shall be maintained in like new condition.

J. Perry seconded the motion.

Unanimously carried.

PUBLIC HEARING:

Applicant: Mathew Greczyn

Property Owner: Mathew Greczyn

Address: 2236 Ireland Rd

Acres: 6.04

Zoning: RS-20

Applicant requesting an area variance for front entrance deck and stairs not in accordance with setback requirements, Town Code 140-21D(1)(C)[1] Front setback: 40 feet; 75 feet on a major road.

C. Ziarniak read the legal notice aloud for the public present.

M. Greczyn said that he took down the old stairs in front of the house because they were deteriorating.

K. Moore said that the setback is 75ft from the right of way and the entrance deck would be 18ft off the right of way.

H. Henick asked how close the original stairs were to the right of way.

K. Moore said that it was originally 23ft off the right of way and the house is 27ft off the right of way.

C. Ziarniak said that this house is preexisting nonconforming.

K. Moore said that the code discourages expanding on preexisting nonconforming.
C. Ziarniak asked if any public present would like to comment.
No public present commented.
C. Ziarniak asked if A. Rookey received any comments from residents on this variance.
A. Rookey said no.
C. Ziarniak motioned to close the public hearing.
H. Henick seconded the motion.
Unanimously carried.
C. Ziarniak motioned that SEQRA Lead Agency determined that this was a negative declaration and was type II action and not subject to further environmental review.
C. Mattison motioned to approve the area variance for the front entrance deck and stairs with the following conditions:

1. Enclosed underneath the deck.
2. Must remain an open structure with no walls or roof extension.
3. No Lighting.
4. Maintained in like new condition.

J. Perry seconded the motion.

C. Ziarniak stated aye.

J. Perry stated aye.

H. Henick said aye.

P. Connell stated nay.

C. Mattison said aye.

NEW BUSINESS:

Applicant: Michael Oaks

Property Owner: Michael Oaks

Address: 8089 Ridge Rd

Acres: 1.60

Zoning: HC

Applicant requesting sign permit approval for the business, Oaks Tree Service.

**Applicant did not attend the meeting.

REVIEW MINUTES:

H. Henick motioned to approve the minutes from 4/17/2024.

P. Connell seconded the motion.

Unanimously carried.

ADJOURNMENT:

J. Perry motioned to adjourn 9:00pm

H. Henick seconded the motion.

Unanimously carried.

NEXT MEETING:

The next meeting of the Zoning Board of Appeals will be Wednesday, June 5th, 2024, at 7:00 PM held at the Town Hall.

Respectfully submitted,
Andrea Rookey, Building Department Clerk