

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
October 11, 2022

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	Patricia Burkard

Town Officials present:

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

Motion by Patrick Krey, seconded by Raymond Skaine, to **approve** the minutes of the meeting held on September 13, 2022.

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

MOTION CARRIED

Appeal No. 1

Zubin Homes - Howard Zubin
Residential Single-Family

Applicant requests a variance of 662 sq. ft. to allow a total attached garage square footage of 1,622 sq. ft. located at 5462 Rolling Creek Lane.

Town Code Reference;
§229-55 (D)

DISCUSSION:

Howard Zubin from Zubin Homes was present to represent the request.

Mr. Drinkard asked if there are any buildings built on that lot yet. Mr. Zubin confirmed there are not.

Mr. Drinkard stated that he attempted to go back as far as he could on the property, but it was challenging. Mr. Zubin stated that he staked the area where the house will go, to make it easier to be seen, as he is aware it is difficult to travel too far back.

Chairman Mills asked Mr. Zubin who the legal owner of the property is.

Mr. Zubin responded that it is Susan Berbich.

Chairman Mills asked Mr. Zubin who his client is.

Mr. Zubin responded that it is Benderson Development.

Mr. Bleuer explained that a Special Exception Use Permit for a Secondary Living Unit was approved by the Town Board last month.

Chairman Mills asked how the house will be situated on the parcel. Mr. Zubin stated that it will be pointed northwest.

Chairman Mills asked if they plan to put in berms. Mr. Zubin responded that there are already berms all the way around the property, and they do plan to put more up along the north side.

Chairman Mills stated for the record, he is referring to the Site Plan 18-1.

Chairman Mills asked if the pond is located in the back. Mr. Zubin stated yes, it was built prior.

Mr. McNamara noted for the record that the survey shows it is 8.78 acres.

Mr. McNamara noted that he has no issues with the request.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

ACTION:

Motion by Raymond Skaine, seconded by Patrick Krey by to **approve** Appeal No. 1 as written.

ON THE QUESTION:

Chairman Mills stated that due to the size of this parcel, and the location of this proposed structure being situated further back from the other sites, as well as landscape berms and foliage mitigating the views, there does not seem to be any adverse effects on the surrounding homes in the area.

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

MOTION CARRIED

Appeal No. 2

David Wiertel
Residential Single-Family

Town Code Reference;
§229-52 (A)

Applicant requests a variance of 6’ to allow a 73’ front yard setback for an addition to the principal structure fronting Wehrle Drive located at 8390 Wehrle Drive.

DISCUSSION:

David Wiertel, property owner and applicant was present to represent the request. He explained that his wife comes from a large family, and they are coming from overseas, needing a place to stay. In addition, they plan to expand their family and would like some additional space.

Mr. Krey asked if the addition will be located on the side of his lot, and asked why it needs to be on that side of the home.

Mr. Wiertel responded that they will have easier access with it in that location.

Mr. Skaine asked how big the addition will be. Mr. Wiertel responded that it will be 16' x 20'.

Mr. Drinkard noted that this proposed structure will line up with the neighbor's property and line of sight as well, and will not cause any adverse effects.

Mr. Wiertel noted that his neighbor has no issues with it.

Chairman Mills asked if the materials will match the existing house. Mr. Wiertel responded yes.

Chairman Mills confirmed that in regards to locations, nothing else made sense. Mr. Wiertel responded yes.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

Mrs. Burkard asked Mr. Wiertel how many bedrooms they have now. Mr. Wiertel responded that they have 2.

ACTION:

Motion by Patrick Krey, seconded by Ryan Mills to **approve** Appeal No. 2 as written, with the following condition:

1. Siding and roofing materials to match the existing house.

ON THE QUESTION:

Chairman Mills noted that based on the lot size, and the fact that it is a corner lot, the architectural design of the house as well as the addition, it does not appear that it will impact any neighbors adversely.

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

MOTION CARRIED

Appeal No. 3

Lynn Honsberger
Agricultural Rural Residential

Applicant requests a variance of 2’ to allow a 6’ fence to be located in the front yard setback of 8425 Lapp Road.

Town Code Reference;
§101-3 (C) (2)

DISCUSSION:

Mr. Honsberger was present to represent his request, explaining that he would like to raise the fence up 2 ft. past what the code allows, to go 2 ft. past the front of the house. The reason is to provide some type of wind block, as the wind is unbearable in that area. They have a patio which they are not able to utilize because of the wind.

Mr. McNamara commented that he understands the issues with the westerly wind, and asked if Mr. Honsberger plans to have a gate as part of the fence. Mr. Honsberger responded yes, there will be a 6ft. gate on the west side.

Mrs. Burkard asked what the building is used for. Mr. Honsberger responded that it is a residence.

Chairman Mills asked what type of material will be used for the fence. Mr. Honsberger responded that it will be white vinyl.

Chairman Mills marked Exhibit A and asked Mr. Honsberger to confirm where the fence will be located.

Mr. McNamara asked if the fence will enclose the whole patio. Mr. Honsberger responded yes; it will encompass everything but the walkway.

Chairman Mills referred to a line drawn on Exhibit A.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

Mr. Drinkard noted that when he visited the property, the building that he is putting the fence to sits way back from the road, with the west side wide open. A fence will be miniscule to the eye, and have no effect to the neighbors.

ACTION:

Motion by Richard McNamara, seconded by Ryan Mills to **approve** Appeal No. 3 as written.

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

MOTION CARRIED

Appeal No. 4

Robert Honadle & Elizabeth Zmirak
Agricultural Rural Residential

Applicant requests a variance to allow a 150' front yard setback for the construction of three (3) single family homes located on Miland Road (SBL: 31.00-1-18.2).

Town Code Reference;
§229-41 (A)

*Average front yard setback of 45'

DISCUSSION:

Mr. Honadle was present to represent their request, stating that they purchased the nine-and-a-half-acre lot on Miland Road in 2018. The lot was approved to be subdivided in to 3 lots approximately 200' by 700' lots.

Mr. Honadle added from a building standpoint, they would like to set back the homes 150' for multiple reasons. Back when the original approval was made, one of the conditions was to preserve the trees in Clarence, and setting the homes further back would achieve this.

Mr. Honadle added that additionally, it is a safety precaution for children and pets, etc.

Mr. Honadle stated the lot across the street is 100 acres and cannot be subdivided, but if it is ever approved for a subdivision, it would be better for these houses to be set back.

Mr. Skaine noted that the previous meeting that Mr. Honadle referred to was the March 21, 2018 Planning Board Meeting when this was approved.

Mr. Skaine asked Mr. Honadle if he plans to reside in any of these houses, or is sub-dividing them. Mr. Honadle responded that they plan to build in the center lot.

Mr. Drinkard referred to an aerial view of the parcels, and asked if the parcel located in the back is the parent parcel. Mr. Honadle responded yes.

Mr. Drinkard asked if there are any plans to develop the parent parcel. Mr. Honadle responded no, there are no plans to develop the parent parcel. They spent a great deal of time before purchasing the lot that they did to be sure they covered all bases.

Mr. Drinkard stated that there are setbacks all along that area, and this request won't stand out.

Mr. Krey reiterated the calculation for the setback for the area is based on the average of the others in the area.

Mr. Krey asked Mr. Honadle to confirm that he plans to build and reside on the middle lot. Mr. Honadle responded yes.

Chairman Mills noted that they are referring to the March 21, 2018 Planning Board document that shows all three parcels, identified as Lot 1, Lot 2 and Lot 3 will be marked Exhibit A.

Chairman Mills added that Mr. Honadle has stated that he plans to occupy Lot 2. Additionally, Mr. Honadle stated that Lot 3 has foliage covering the first 100 ft. of the frontage which he would prefer to not disturb.

Mr. Honadle confirmed Chairman Mill's statements, and added the two houses on either side are surrounded by woods, which would mitigate the view of the house he plans to place on Lot 2.

Mr. Krey asked what the intentions are for Lots 1 and 3.

Mr. Honadle responded that they plan to sell those lots, and they would like to have them deed restricted stating that any homes built need to be 150' back.

Conversation continued regarding deed restrictions on the other two lots.

Mr. Bleuer stated that someone could proceed to move forward not using the variance so unless the applicant deed restricts the parcels, we would honor the established setback, or if there is a future variance.

Elizabeth Zmirak, co-applicant stated that it was her understanding that if they received the variance on the parent parcel then sub-divided, that the action received today would travel legally from one lot to the other.

Mr. Bleuer stated that if the Zoning Board of Appeals grants a variance, it would be honored for future owners but they can also choose not to utilize the variance.

Mr. Honadle noted that they have spoken with an attorney and their plan is to proceed with the deed restriction.

Discussion continued regarding deed restrictions.

Mr. Honadle referred to the document from 2018, noting that the conditions of that approval stated that the trees had to be maintained.

Mr. Bengart stated that it is a different Zoning Board now than it was in 2018, but anything previously approved would still apply. The current board members may not know the information set forth by the previous board members.

Mr. Honadle stated that the conditions from the 2018 board were that as many of the trees along the tree line are kept and maintained as possible. By setting the home back 150' they are able to achieve that.

Discussion continued regarding the trees.

Chairman Mills asked Mr. Bengart if this is all currently one parcel and they are granting the variance for the entire parcel, will it survive future splits.

Mr. Bengart responded, stating that it will create a new setback line going across all 3 lots, and with plans by the applicant to deed restrict the parcels, it is simple.

Chairman Mills asked if there are any additional deed restrictions the applicant is considering for these lots aside from the 150' setback.

Ms. Zmirak responded that she is unfamiliar with what is allowable, but does not want development like golf courses or similar to be located on the property. Ms. Zmirak added that she would like to keep it similar to what is currently located in the neighborhood.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Gerald Drinkard, seconded by Raymond Skaine to **approve** Appeal No. 4 as written.

ON THE QUESTION:

Mr. Krey stated that due to the nature of Miland Road, there are currently houses with varying setbacks. These lots are all large, and having them approved at the same time with the same setback will be keeping more in accordance with the intention of the zoning law.

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

MOTION CARRIED

Appeal No. 5

Adam Hojnacki
Residential Single-Family

Town Code Reference;
1) §229-55 (E) (2)
2) §229-55 (H)

Applicant requests a variance:

1. of 1'3" to allow a 17'3" tall (not including 3' tall cupola) detached accessory structure (shed); and
2. of 128 sq. ft. to allow a 328 sq. ft. detached accessory structure (shed) located at 10800 Stage Road.

DISCUSSION:

Mr. Bengart received the letter from Adam Hojnacki stating that he requests his father Frank Hojnacki acts as his representative during the October 11, 2022 Zoning Board of Appeals review. This letter was placed in the file.

Mr. Hojnacki stated that his son is seeking a larger, more architecturally appealing shed. Mr. Hojnacki added that the shed will probably not be seen from the road.

Mr. Hojnacki stated that his son shared the plans for the shed with his neighbors who all verbally stated they had no issues with them.

Mr. Drinkard asked if his son plans to run a business out of the shed. Mr. Hojnacki responded no.

Mr. Skaine asked what the difference in height is from Stage Road looking back on to the property. Mr. Hojnacki noted that he can only guess, and estimates approximately 12ft. Mr. Skaine noted that it will barely be visible from Stage Road.

Mr. McNamara noted that it is a nice looking shed, hidden by the trees, and if there is a car in the driveway it will most surely block any view of the shed. It fits in well with the surroundings.

Mrs. Burkard agreed that the shed will not be seen by the street and she sees no issues with it.

Chairman Mills asked Mr. Hojnacki if he would be willing to agree to a condition that states no business is to be run from the shed.

Mr. Hojnacki responded yes, he would.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

ACTION:

Motion by Gerald Drinkard, seconded by Richard McNamara to **approve** Appeal No. 5 as written with the following condition;

1. no business to be conducted out of the structure (shed)

ON THE QUESTION:

Chairman Mills stated that due to the deep slope of the property and the area that the shed is going to be situated, sloped down significantly from road level from Stage Road, it will likely not be viewed at all by neighbors or motorists. Additionally, it will have no adverse impact on the neighborhood due to it's location.

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

MOTION CARRIED

Appeal No. 6

Paul Gulde
Residential Single-Family

Applicant requests a variance to allow a detached accessory structure (shed) to be located within the front yard setback located at 6335 Jennifer Court.

Town Code Reference;
§229-55

DISCUSSION:

Paul Gulde was present to represent his request, stating that he needs a shed so that he is able to utilize his garage. Also, they have a pool and need a place to store items for the winter.

Mr. Gulde added that they applied for the building permit based on the location they had planned to place the shed, then were informed that because their home is located on a corner, they are considered to have two front yards.

Mr. Gulde added that the reason he would like to have the shed located on the side of the property is because there is a lot of run-off water that comes on to his property from the property behind him. The Town has put in a drainage easement to help collect the water runoff, and that drain is located on the opposite side of his property. If he located the shed on that side, it would risk blocking the drain.

Chairman Mills referred to a photo entered in to the file as Exhibit A that shows where the drain and drainage easement are located.

Mr. Gulde added that they don't want to place the shed in that location and risk causing additional drainage problems for themselves or their neighbors.

Mrs. Burkard stated that because it is in line with the neighbor's shed it would not be as noticeable.

Mrs. Burkard asked Mr. Gulde if he would be willing to put landscaping around the proposed shed. Mr. Gulde responded that the trees limit what they could do for landscaping.

The shed is sided vinyl grey and their house is white. Mr. Gulde added that he plans to side their house within the next couple of years, and he assumes it will be done to match the shed.

Mr. Krey asked Mr. Gulde is he is part of a Homeowner's Association. Mr. Gulde responded no they are not.

Mr. Krey agreed that the existing trees create a buffer, and asked whether planting bushes would be considered to assist with shielding the shed. Mr. Gulde stated that the bushes that are located in that area now are dying due to the shade created by the trees, and he fears planting new ones would be a waste because they would not last either.

Mr. Gulde stated that because it is a show model, it comes "as is" with the grey vinyl siding. There are two windows, and a double front door.

Chairman Mills noted that as Mr. Gulde has documented and verbally stated, that due to water issues, this is the only location that works in regards to location.

Chairman Mills asked if Mr. Gulde would agree to a condition stating that no business can be run from the shed. Mr. Gulde responded yes; he would agree.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments have been received.

ACTION:

Motion by Patrick Krey, seconded by Raymond Skaine to approve Appeal No. 6 as written, with the following condition;

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

ON THE QUESTION:

Mr. Krey commented that as Mr. Gulde stated, there is not an alternative location for placement of the shed, due to the water and drainage issues on the other side of the property.

Mr. Krey added that the trees on location provide a natural buffer and won't cause a negative impact on the appearance of the neighborhood. Additionally, it will be in line with the neighbor's shed.

MOTION CARRIED

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

Appeal No. 7

Craig Cieplinski
Planned Unit Residential Development

Town Code Reference;

- 1) §229-55 (H)
- 2) MAP COVER 3378 SETBACK

Applicant requests a variance:

- 1. of 109 sq. ft. to allow a 400 sq. ft. attached garage addition for a total of 1,068 sq. ft. of garage space; and
 - 2. of 4.16' to allow two principal structures to be closer than 20' apart;
- located at 5979 Wexford Manor.

DISCUSSION:

Craig Cieplinski was present to represent and further explain his request. Mr. Cieplinski explained that he was asked by the Homeowner's Association to attach the structure to his home, so he worked with his architect to make that possible with a breezeway which is attached to the proposed garage.

After meeting with his architect and the Homeowner's Association for Waterford, these are the updated plans that they have developed.

The Board reviewed the previous variance file.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments have been received.

ACTION:

Motion by Richard McNamara, seconded by Raymond Skaine, to approve Appeal No. 7 as written, with the following condition;

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

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

MOTION CARRIED

Appeal No. 8

Marisa Samson
Residential Single-Family

Applicant requests a variance to allow chickens on a property less than 5 acres in size located at 4600 Shisler Road.

Town Code Reference;
§229-47 (B)

DISCUSSION:

Marisa Samson was present to represent her request, stating that she is looking for a variance so that she can keep her 7 hens on her property.

Ms. Samson added that the property is her great grandmother's property, originally farmland that housed a 2-story barn. As part of that history, she would like to continue to keep her chickens, which are also used for therapy for medical purposes.

Due to the history of farmland on the property, she believed the property was zoned agricultural.

Mr. Drinkard asked when the chicken coop and chickens were built and obtained.

Ms. Samson responded that they acquired the chickens near the end of June, 2022.

Mr. Drinkard stated that living on a lot less than 5 acres where chickens are not allowed, Ms. Samson needed to have a reason to have the chickens.

Ms. Samson stated that there used to be chickens on the property, but it has since been explained to her that the property was rezoned in 2005.

Mr. Drinkard asked Ms. Samson if she owns the property.

Ms. Samson responded no; it is a family-owned property.

Mr. Drinkard reiterated that Ms. Samson is seeking to keep the chickens on a property that does not allow chickens, with the reasoning that they are used as therapy chickens, with a letter from a licensed mental health counselor, supporting her claim.

Mr. Skaine verified that Ms. Samson obtained the chickens in June, 2022 and asked if she had any prior knowledge that she was not zoned to allow chickens.

Ms. Samson responded no, that she misunderstood the Town of Clarence's "Right to Farm" statement. She spoke with her family as well as neighbors, all who claimed to not be familiar with the zoning or restrictions.

Mr. Skaine noted that there had been a rooster in the flock also, which has since been re-homed. Ms. Samson confirmed that, adding that it was an “oopsie” rooster.

Chairman Mills asked who legally owns the property.

Ms. Samson responded that it is currently being held in an estate. Her dad signed a letter stating that she could speak on his behalf and his sibling. Ms. Samson added that there have been some complications because it is an estate, and the family has been working on that for some time.

Chairman Mills asked who the Executor of the estate is.

Ms. Samson responded her father, Christopher Ostolski

Chairman Mills asked Mr. Bengart due to it being an estate and not sure of how things are being distributed, if the letter granting permission to speak on his behalf is adequate.

Mr. Bengart asked Ms. Samson if the estate is open.

Ms. Samson responded that she is unsure.

Mr. Bengart stated that there needs to be someone who has the authority to speak to allow Ms. Samson to bring the variance on behalf of the estate. Technically the Executor of the estate should be present.

Chairman Mills asked Ms. Samson if she has any additional medical evidence relating to this issue. Specifically, chickens and Ms. Samson’s diagnosis.

Ms. Samson responded no.

Chairman Mills asked Ms. Samson if she has had chickens before she had this property.

Ms. Samson responded no; she has had the chickens since June, 2022.

Mr. Krey complimented the chicken coop, and asked Ms. Samson if she built the chicken coop, or if a company built it.

Ms. Samson stated that they built it themselves.

Mr. Krey reviewed the facts thus far.

Mrs. Burkard asked if there is another location on the property that the coop could be placed, making it less obvious from the street.

Ms. Samson responded that they were very strategic in their placement of the coop, placing it out of the line of sight from her neighbors. It is able to be moved if necessary.

Mrs. Burkard asked Ms. Samson if the house is being willed to her.

Ms. Samson responded that is the intention, but unsure how long that will take due to legal complications.

Mrs. Burkard noted that there has only been one complaint regarding the chickens.

Mrs. Burkard asked for clarification on the therapeutic reasoning with chickens.

Ms. Samson responded that she has had them since their first day of life, they have become very familiar with her and they are calming.

Mrs. Burkard asked if Ms. Samson is able to find comfort with any other animal.

Ms. Samson responded that it's possible that any animal for sure would be able to provide that.

Mr. Bleuer stated that the Planning Office became aware of this from a Town of Clarence Building Inspector that drove by and identified the chicken coop. The inspector identified that a building permit was necessary for the structure, then upon seeing the chicken coop, advised the applicant to proceed to the Planning Office.

Mr. Bleuer added that despite how many or few complaints are received, ultimately we must enforce the law.

Mr. Krey asked Ms. Samson how large the property is.

Ms. Samson responded that it is approximately .65 acres.

In regards to Public Participation, the following resident spoke:

1. Renee Morton of 4594 Shisler Road:

- her house is adjacent and set back a bit behind Ms. Samson's, they have lived there for over 30 years.
- her mother-in-law used to have chickens on that property, they had no idea that they were no longer allowed.
- the property behind them is zoned industrial wetlands and will never be built on.
- she enjoys the chickens, and they bring her daughter Ms. Samson an enormous amount of joy.
- both hers and Ms. Samson's property are family owned, and will never have other owners, which Ms. Morton asks to be taken in to consideration when making a determination.
- these are not regular farm chickens. Ms. Samson loves her chickens like some people love their dogs.

2. Bonnie Tarbell of 4590 Shisler Road:

- has been a neighbor of the applicants for the past 6 years and has no objections to the chickens. The coop is beautiful, they take great care of it, and Ms. Samson and her husband are wonderful neighbors, and so is Ms. Morton.
- she does not hear or smell the chickens, and supports Ms. Samson's request with her full blessing.

Neighbor Notifications are on file, with letters of support received from the same individuals that spoke here tonight.

Mr. Drinkard discussed the Americans with Disabilities Act.

Mr. Drinkard further explained that the information they request and are provided should only extend as far as what is necessary to evaluate the ability and / or disability that are needed for the accommodation.

Mr. Bengart stated that he has also done extensive research to what Mr. Drinkard is referring to.

Chairman Mills informed the applicant that the board has the ability to approve, deny, or table the request. He stated that the board would like some additional documentation which includes;

1. documentation showing the Executor of the estate as well as consent from the executor of the estate; and
2. to provide additional support from other medical professionals that may assist them in the decision-making process.

Chairman Mills asked Ms. Samson if she would be agreeable to having her request tabled until the next meeting, in order for her to gather the requested additional information.

Ms. Samson responded yes.

Mr. Skaine asked when the law went in to effect stating chickens were not allowed under 5 acres.

Mr. Bleuer responded that it was in 2005.

Mr. Skaine asked who recommended chickens, and why choose chickens over a dog. Mr. Skaine continued, stating that the request is a violation of the Town of Clarence code and there is enough evidence to support that.

Mrs. Burkard asked Ms. Samson if she would consider re-locating the chicken coop to a different location on her property.

Ms. Morton returned to the podium to speak, stating that the chicken coop could be re-located to her property, if that is an option.

Chairman Mills noted that Ms. Morton has a slightly larger property and the chicken coop would be able to be located towards the back of the property, but a variance would still be needed.

Chairman Mills stated that if the Board decides to table the request, it does not mean that it will be approved or denied when it reappears in front of the Zoning Board.

Ms. Samson stated that she understands that.

Mr. Drinkard asked what the recommended number of chickens are to keep.

Ms. Samson responded that she is not sure of the minimum number of chickens that are suggested to keep in a coop. Too few is unhealthy for them.

Chairman Mills noted that there are conditions that may attach to the variance should it be considered for approval.

1. only hens, no roosters allowed

2. chicken coop to be located at the farthest point away from the property line and in an enclosed area so that the chickens are unable to escape.
3. chicken coop to be screened and out of the site of neighbors.
4. no more than 7 chickens
5. coop and runway to be kept clean and sanitary at all times.
6. no feces kept on the ground or runway and instead stored in metal containers.
7. allow the county to inspect the coop quarterly upon no less than 3 days written notice.
8. providing a letter from a licensed medical professional stating that the need for therapy continues to exist.

Ms. Samson agreed to all of the potential conditions, should the variance request make it to the point of approval.

ACTION:

Motion by Ryan Mills, seconded by Richard McNamara to **table** Appeal No. 8

ON THE QUESTION:

Mr. Bengart asked Chairman Mills to make it clear with the applicant what specific documentation the board is requesting.

Chairman Mills responded, stating the following:

1. documentation from the estate clearly identifying the Executor and giving consent to seek a variance for this property, and who the owner of the property will be once the process is concluded.
2. additional documentation from other medical providers such as an MD or a DO stating that a need for the chickens.
3. proposal for alternative site locations.

Mr. Bengart provided his contact information to be of assistance to anyone before this item returns on a future agenda.

Richard McNamara	Aye	Patrick Krey	Aye	Ryan Mills	Aye
Raymond Skaine	No	Gerald Drinkard	Aye		

MOTION CARRIED

Appeal No. 9

Sean Jacobs
Agricultural Flood Zone

Town Code Reference;
§229-34 (E)

Applicant requests a variance to allow a detached accessory structure (garage) to be located within the front yard setback located at 9290 Tonawanda Creek Road.

DISCUSSION:

Daniel Kydd from Kydds Construction was present, representing Sean Jacobs.

Chairman Mills asked why Mr. Jacobs is seeking this variance.

Mr. Kydd responded that Mr. Jacobs has never had a garage to store anything. Mr. Jacobs has an antique car to store in the garage along with his lawnmower and other equipment.

Chairman Mills asked Mr. Kydd if he has consent from Mr. Jacobs to act on his behalf.

Mr. Kydd responded that he has consent, but nothing in writing and Mr. Jacobs is not present.

Chairman Mills stated that they need something either in writing, or his presence, stating that Mr. Kydd has consent to represent him on his behalf.

Cory Bannach was also present to represent Mr. Jacobs.

Discussion continued regarding consent given by Mr. Jacobs.

Mr. Bengart advised Mr. Kydd and Mr. Bannach that he is advising the Zoning Board members not to vote on this variance request tonight due to lack of authority to speak on the applicant’s behalf.

ACTION:

Motion by Ryan Mills, seconded by Raymond Skaine to **table** Appeal No. 9 until such a time that the applicant is available, or provides written consent authorizing someone else to speak and respond to questions on his behalf, as indicated by the Town Attorney.

ON THE QUESTION:

Mr. McNamara asked if after reviewing the file, there is any information not provided that the board needs to see.

The members of the board responded no.

Mr. Drinkard asked if the adjacent neighbors have consented to this request.

Mr. Bannach responded that of the two neighbors, one consented and the other one has been unattainable.

Mr. Bleuer pointed out that the cover page of the application states that the applicant must appear or provide authorization for someone to speak on their behalf.

Chairman Mills stated that if Mr. Jacobs is able to make it to the next meeting, would be ideal.

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

MOTION CARRIED

Meeting adjourned at 6:58 p.m. with a motion by Raymond Skaine, seconded by Gerald Drinkard.

MOTION CARRIED

Amy Major
Senior Clerk Typist