

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday October 13, 2020
7:00 p.m.

Chairman Daniel Michnik called the meeting to order at 7:00 p.m.

Zoning Board of Appeals members present:

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|-------------------------|--------------------------|
| Chairman Daniel Michnik | Vice-Chairman Ryan Mills |
| Patricia Burkard | Richard McNamara |
| Raymond Skaine | Patrick Krey |

Town Officials present:

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

Motion by Patrick Krey, seconded by Ryan Mills to **approve** the minutes of the September 8, 2020 meeting.

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|------------------|-----|------------------|-----|----------------|-----|
| Patrick Krey | Aye | Richard McNamara | Aye | Ryan Mills | Aye |
| Patricia Burkard | Aye | Raymond Skaine | Aye | Daniel Michnik | Aye |

MOTION CARRIED.

Other interested parties present:

| | | | |
|---------------------|-----------------|-----------------|-------------------|
| Bill Barto | Samantha Hughes | Braeden Hughes | Jens Richter |
| Patricia Ciccarelli | Craig Collins | Shirley Collins | Marlene Horbinski |
| Dave Horbinski | Anthony Sojka | Beatrice Morgan | Peter Morgan |
| Russ Sciolino | George Weckerle | | |

New Business

Appeal No. 1

Samantha Rae Hughes
Residential Single Family

Applicant requests a variance of:

- 1) 25' to allow a 20' rear yard setback;
 - 2) 7' to allow a 38' front yard setback;
- For the construction of a single family home located at 4775 Boncrest Drive East.

Appeal No. 1 is in variance to 1) §229-52 (C)
 2) §9-52 (A) (1)

DISCUSSION

Ryan Mills recused himself from Appeal No. 1.

Ms. Hughes stated that she would like to request a front setback of 35' and along the backyard they'd like to move to a 15' setback to allow the drainage to not be through the middle of the property.

Mrs. Burkard read into the record a letter received from Scott Switzer of 8607 Bonview Terrace, Clarence, NY. The letter reads as follows: My name is Scott Switzer, I live at 8607 Bonview Terrace, Clarence. I have lived in this residence for nearly 28 years with my wife Suzanne. I am commenting and contesting the zoning variance request regarding the property located at 4775 Boncrest Dr. E.; reduced setback front and rear. I believe this property is .5 acres which many lots in the neighborhood are, however, this property is shaped in a way that is not well-suited for a dwelling in the size that would fit the character of the rest of the neighborhood. The living space of this proposed dwelling is showing 680 sq. ft. which is far less than other homes in the neighborhood. Even if you add the garage which is another 680 sq. ft. it's still smaller than a typical residence in the Boncrest Estates. It is obvious that this variance is necessary in order to fit a house to this narrow lot; and that is part of my objection to this variance request. Additionally this residence will be closer to the roadway than other properties with virtually no back yard. I also see what appears to be a septic system (possibly a sand mound) that is not like any other septic system in the neighborhood; most likely due to the wetland and stream that runs straight through the property. Again this appears to be an obvious accommodation to a piece of property not well-suited for a dwelling. Please consider these comments in your decision making process. Respectfully submitted, Scott and Suzanne Switzer. Letter is listed as Exhibit A.

Neighbor notifications on record for 4765 Boncrest Drive East and 8685 Sheridan Drive.

Mr. McNamara wanted to bring attention to the fact that the letter stated that the house is 680 sq. ft., on the plan it says 1st floor FFE (Finished Floor Elevation) which just means above sea level, so that's 680 sq. ft. 1st floor, basement 671 sq. ft., and garage floor 680 sq. ft. The house will be around 3,000 sq. ft. Mr. McNamara asked if Ms. Hughes has talked to the neighbors on both sides. Ms. Hughes said she was unable to speak to 8685 Sheridan Drive due to it being a business. She attempted to speak to 4765 Boncrest Drive East two different times and they weren't home so she left a letter explaining what variance she was requesting, what they were planning to do, her contact info, and they just signed and sent the form back. Mr. McNamara asked what type of house is going to be built, a ranch or two story. Mr. Richter responded explaining he is in the process of buying this property and developing it, the contingency is basically to have the setback so he can position the house so he can get rid of the creek

going through and reroute it with the Town of Clarence Highway Department. He wants to get rid of the water coming down from the hill and then build a ranch house but due to the water level he may have to build a raised/split level home to get up off of the elevation. Mr. McNamara asked Mr. Bleuer if that is drainage ditch or a creek. Mr. Richter responded saying it is a creek, but there is a drainage ditch going through the property that he would like to reroute and already has the plans to do so. Mr. Bleuer said for the record that the town Engineering and Highway Departments would have to approve of any relocating of drainage easements associated with this. Mr. McNamara asked Mr. Richter if he has any plans or pictures of what he wants built, what it's going to look like, and how it's going to fit in the neighborhood. Mr. Richter said Ms. Hughes has plans, and they have been presented already to the board and everything was approved. The only change Mr. Richter would make is instead of a basement, he would make it a split level and the house would stay the same shape as it was before. Mr. McNamara asked if plans have already been submitted to the Building Department. Ms. Hughes responded saying she dealt with Paul Gross in the Building Department, they have all the plans and everything was set to be built even the drainage plans until the builder fell through. In order to keep her son in the Clarence school district she had to purchase a home elsewhere. Mr. McNamara asked if Ms. Hughes has any plans here of what it is going to look like. Mr. Richter didn't bring any plans, but he has been working with Sutton Architects. He said he is building a ranch, Ms. Hughes had a basement but Mr. Richter thinks a basement will be too hard to do with the high water level. Mr. Richter talked also to Chris Woods who said he talked to the Highway Department about rerouting everything to get rid of the natural water and run it all the way down the street. Mr. McNamara asked if he has talked to the Highway Department about the two curb cuts for the circular driveway. Mr. Richter said they never got into it about the driveway. Mr. McNamara then asked if he is going to have an attached garage. Mr. Richter stated yes, and he put the circular driveway in to get away from the street, but on the corner he'd really like a 35' setback with a nice big driveway in front. No further questions from Mr. McNamara.

Mr. Krey asked Mr. Richter again what setbacks he is looking for, because what was heard and what the paperwork says doesn't line up. Mr. Hughes said along the front curve they are looking for 35', they already have 16' on the side going to the residential lot, but on the other side they'd like a 15' setback. For the record, a survey was submitted of the property from GPI. Mr. Krey expressed his confusion that the variance request asked for a 20' rear yard setback and now they are saying a 15' setback. Mr. Richter responded he wanted more room to place the house without having to come back to the board for approval. Mr. Krey asked if it is possible to build the house with more of a setback and less of a variance. Mr. Richter said they have 45' and 45' right now so he felt 35' would still be enough especially with the house being on the corner. He also stated he can't purchase this property being cramped in with 45' and 45', he feels 35' and 15' even 20' in the back would be okay but less than that would be hard for him. Mr. Krey asked Mr. Richter if he wouldn't go through with the purchase at all if he couldn't get the variance and Mr. Richter said yes. No further questions from Mr. Krey.

Mr. Skaine asked due to it going to be a little tight, it is assumed that Mr. Richter is going with a sand filter for a septic system. Mr. Richter responded yes the septic system is designed for a 3 bedroom house. Mr. Skaine asked him to explain to the general public what a sand filter septic system is, but Mr. Richter was unsure. Mr. Skaine then explained in the letter that was already read the mound of sand was questioned, but it was clarified that Mr. Richter won't have a mound of sand in the back it will be an approved septic system by the Health Department. No further questions from Mr. Skaine.

Mrs. Burkard has concerns that Mr. Richter doesn't have a picture of what the house will look like, she agrees with the neighbors next door that they want to know this house will blend in well with the neighborhood. Mr. Richter said it will be a ranch and he can describe what Mr. Hughes has sent pictures

of but he doesn't have any with him. Mrs. Burkard asked if it'll have a basement, Mr. Richter said no basement, it will be a split level/raised ranch home. Mrs. Burkard asked if there are any other that style homes in that neighborhood, and Mr. Richter said yes. Mrs. Burkard said she feels the neighbors would feel more comfortable knowing if this will fit in the neighborhood, and she'd like to see a picture. Mr. Richter said Ms. Hughes wanted a basement, but with water levels so high he would do a split level. No further questions from Mrs. Burkard.

Mr. Michnik expressed he is baffled by the whole situation, and that they are being asked for a lot to ask the board to approve something that they don't even know what it looks like. One minute it's a ranch, then it's a raised ranch, then you want 35' then you want 20'. He feels if they want to come back he would appreciate if they came back with drawings/plans, information about the septic field, and information from the Highway Department if they can have 2 curb cuts. Mr. Michnik also asked Mr. Richter if he even owns the lot, Ms. Hughes stated she owns it and will sell it to Mr. Richter if the variance is approved. Mr. Michnik asked how long she has owned the property and Ms. Hughes said since 2017. At that time everything was approved by Erie County Health Department for the septic system and everything was approved for the drainage. Ms. Hughes was just waiting to break ground when the builder took her money and ran. Mr. Michnik asked how long the lot has been for sale and Ms. Hughes said she put it up for sale last year. Mr. Michnik stated he doesn't have enough information to make a good decision, and he would appreciate more details. There are a lot of ifs and not enough good answers, but he is only one vote. He suggested that they need to find out from the Highway Department if they'll allow two curb cuts, if they'll allow the creek to be moved, and what the print will look like. No further questions from Mr. Michnik.

Patricia Ciccarelli, one of the owners of 8685 Sheridan Drive, spoke on the record. She stated that the variance being requested is very significant and for that reason they oppose it. They ask that whatever the board decides they give some consideration that the structure would be in their parking lot and she would like them to consider a berm or a maintenance free white fence to separate the locations because the variance is so significant.

Mr. McNamara asked how they will protect their neighbors, maybe a fence or a hedge row. He suggested speaking with the neighbors to request what they would like to see there. Mr. McNamara also suggested Ms. Hughes bring in all approvals for her home, which shows they've done the work.

Mr. Krey referred to the letter received and suggested that they speak with their neighbors about the square footage of the home and the design of the home. Mr. McNamara added that the square footage of the home needs to be more accurate with a more accurate footprint showing the square footage of the home and of the garage.

Mr. Skaine was asked if he has any questions and he stated that he would personally like to see that lot developed. He said that he would like to see a house on the lot or the lot cleaned up. He was excited when he initially heard they would be hearing about this lot.

Mrs. Burkard agreed that they need more information, especially what the home is going to look like.

ACTION

Mr. Michnik asked if they would like the board to vote tonight or table the application. Mr. Richter has asked the board to table this application at this time in order for him to obtain the information that the

board has requested. Mr. Michnik stated they are looking for Mr. Richter's plans, not Ms. Hughes' plans, the Highway information, the county information, and they want to make sure they come back with the exact footage of what they're looking for. Ms. Hughes, the applicant, officially made the statement that they are looking to table this request.

Patrick Krey made a motion to **table** Appeal No. 1, seconded by Patricia Burkard.

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|----------------|-----|------------------|-----|------------------|-----|
| Patrick Krey | Aye | Richard McNamara | Aye | Patricia Burkard | Aye |
| Raymond Skaine | Aye | Daniel Michnik | Aye | | |

MOTION CARRIED

Appeal No. 2

Dave Horbinski
Residential Single Family

Applicant requests a variance of 80' to allow a 20' setback from a pond to a proposed parcel line located at 5480 Thompson Road.

Appeal No. 2 is in variance to §93-19(D) (1)

*Minor Subdivision Approval by the Planning Board will be required for the creation of a new buildable lot.

DISCUSSION

Richard McNamara recused himself from Appeal No. 2

Mr. Horbinski stated he is looking for a variance of 80' to allow a 20' setback from a pond between a building lot adjacent to the home he lives in now. He currently has 14.6 acres, and would like to cut out 1.5 acres of that to build a ranch, and next year at some point after the house is built he hopes to sell the house they have now. Mr. Michnik clarified with Mr. Horbinski that this is something he is looking to build himself and move into, Mr. Horbinski said yes.

Neighbor notifications on file for 5485 Thompson, 5566 Thompson, 2 for 5450 Thompson, and 5430 Thompson.

Mr. Michnik asked if there is anything else to tell about this request. Mr. Horbinski stated that he is just going to build a ranch approximately 2,700-3,000 sq. ft., Sutton Architects are drawing up the plans now, and they'd like to start in the spring as soon as the weather permits. Mr. Horbinski then explained they have 1.5 acres they'd cut out of 14.6 acres to build this house. The house they currently have has a pond which they put in. They bought the 14.6 acre property in 1987, and have lived there ever since. They want to downsize and figured it's a nice piece of ground, they have great neighbors, and he'd like to stay there. So Mr. Horbinski is cutting a piece of property out to be able to have enough to build a house on.

Mr. Krey asked in regards to the smaller carve out of the lot facing Thompson Road, how wide is it by how long? Mr. Horbinski said it is about 225' wide by about 300' long. Mr. Krey then asked normally you have to be 100' from the pond, is there any reason why you can't subdivide so it conforms to the zoning code? Mr. Horbinski said he'd just like to leave enough behind him to have a piece of property as a yard and currently it says about 20' but it actually is about 30' off where the line is now. Mr. Krey asked Mr. Bleuer what is the setback for the front of the house in that area. Mr. Bleuer explained the average of the existing homes, without knowing the calculations of what's there now it would be the average of anything on that side of the street within 500'. Mr. Krey just wanted to capture what Mr. Horbinski had just said and asked Mr. Horbinski when you build your home you basically want to leave enough backyard and if you move it up to much you'll cut into your backyard, Mr. Horbinski agreed. Mr. Krey has no more questions.

Mr. Skaine wondered why Mr. Horbinski needs only 20' not 100' for a backyard. Mr. Horbinski said they are just looking to have enough cushion behind his house, the way the property is laid out now it comes in off the street about 150' and it slopes up on a plateau. When he put the pond in about 30 years ago they scraped all the topsoil and all the clay up out of the pond and put it into a mound causing a plateau. So Mr. Horbinski would like to build his house on the plateau and instead of putting the lean-to in front of the house, as the plateau slopes down he'd put the lean-to there. Mr. Horbinski said they're kind of in line with his neighbors and other properties. He just wants to make sure that the house that will be about 2,700-3,000 sq. ft. and approximately 90' by 50' has enough cushion behind it to give enough space for a yard.

Mrs. Burkard told Mr. Horbinski he has a beautiful piece of property, and asked when referencing the aerial view provided by Planning Department if he is going to be selling all the property and the green part is where he wants to build, Mr. Horbinski replied yes. Mrs. Burkard asked if his new home will be in line with his present home, Mr. Horbinski replied a little forward toward the street. Mrs. Burkard asked what size house he plans to build, and Mr. Horbinski replied 2,700-3,000 sq. ft. No further questions from Mrs. Burkard.

Mr. Mills asked if there are any issues with the pond. Any flooding issues ever? Any problems at all? Mr. Horbinski replied no issues and there is a swale that carries the excess out to the drainage out front, the water flows through nice, no problems. No further questions from Mr. Mills.

Mr. Michnik asked according to the aerial view print, you have a strip that goes behind the pond you own and the property behind the pond, Mr. Horbinski replied yes. Mr. Michnik then asked how wide is that strip? Mr. Horbinski replied 20'. Mr. Michnik asked if Mr. Horbinski is looking to use the full 300 sq. ft. Mr. Horbinski replied yes. Mr. Michnik then asked so you're not looking to subdivide it? Mr. Horbinski replied no. How about sell the property behind the pond? Mr. Horbinski replied eventually they talked about selling the house after the new house is built. Mr. Michnik then asked if he planned to sell directly behind the pond as a building lot, Mr. Horbinski replied no it stays with the house right now. When referring back to the aerial view, Mr. Michnik asked what the future plans for the 20' strip is. Mr. Horbinski replied perhaps it could be sold, he isn't planning on building on it. Mr. Michnik explained he has a concern about the property in the back. Mr. Horbinski asked what his concern was, and Mr. Michnik replied he'd like to know the whole picture of what he's looking at. Mr. Horbinski then stated once they build the house they'll probably sell the house with 5 acres and then the piece in the back they'll sell by itself. Mr. Michnik then asked Mr. Bleuer if that is available for them to do. Mr. Bleuer explained it would have to be proposed, and if it meets code then it'd be taken through due process. To be a buildable lot you need frontage, so as backland it would either need to be sold to an adjacent property owner and combined with a lot or proposed as an open development. Mr. Michnik asked how much would Mr. Horbinski needs to have for it to be an open development, would they just need to put in a driveway? Mr. Bleuer replied they'd have to propose a driveway, a shared access, 2 acre lots, and 36' of frontage in order to propose that. Mr. Michnik asked does it make sense if someone in the future planned to do that, they should think about it now. Mr. Bleuer replied at 20' he doesn't see that as a potential. No further questions from Mr. Michnik.

Mr. Michnik asked if anyone has any additional questions. Mrs. Burkard asked about the property in the back that Mr. Horbinski plans to sell in the future, she would like to know what is behind it. Does it go to another road or house? Mr. Horbinski replied no it goes against Cimato's development. Mrs. Burkard asked so it's possible you could sell that property to Cimato? Mr. Horbinski replied yes, but he hasn't spoken to him about it.

Peter Morgan, immediate neighbor on south side at 5450 Thompson Road, is present and stated that Mr. Horbinski has explained to him in detail his plans. Mr. Morgan stated they have been neighbors and friends for 20 years and he is very happy with what was proposed.

ACTION

Ryan Mills made a motion to approve Appeal No. 2, second by Raymond Skaine, as written.

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| Patrick Krey | Aye | Ryan Mills | Aye | Daniel Michnik | Abstain |
| Raymond Skaine | Aye | Patricia Burkard | Aye | | |

MOTION CARRIED

Appeal No. 3

George Weckerle
Residential Single Family

Applicant requests a variance of 509 sq. ft. to allow for the construction of a 960 sq. ft. attached garage addition, resulting in 1,425 sq. ft. of total attached garage space located at 4884 Pineledge Drive West.

Appeal No. 3 is in variance to §229-55(D)

DISCUSSION

Mr. Weckerle stated in September 2017 he was granted a variance after appearing before this board for a large garage addition. The variance at that time was 313.4 sq. ft., those garage plans have since been modified. He is now requesting a variance, for a smaller garage addition, of 509 sq. ft., the garage addition is 32 x 30, 960 sq. ft., and again the variance request is for 509 sq. ft.

Mr. Michnik welcomed back Mr. McNamara and thanked Mr. Krey for his time and effort.

Mr. Skain explained that he had a good conversation with the applicant, everything was well staked, the location of it was back into the woods, and the existing garage does need a lot of work, so he can see why Mr. Weckerle needs a new garage.

Neighbor notifications on file for 4878 Pineledge Drive West and 4888 Pineledge Drive West.

Mrs. Burkard asked Mr. Weckerle just to clarify that the variance was approved last time, Mr. Weckerle replied yes. Mrs. Burkard then explained she is a little confused about the little pathway/breezeway between the garages. She asked how big is that going to be, looking at the paperwork it says 13' and 10'. Mrs. Burkard asked so 10' wide by 13' long? Mr. Weckerle said on the plans he showed it as 8' wide and 13.5' long. Mrs. Burkard is trying to picture what it'll look like, just plain wall? Mr. Weckerle said he doesn't think plain wall, he was debating whether to put doors or windows. The whole idea was so that when you come down the driveway or backing out of the garage you don't have to make an angle to get into the garage. Mrs. Burkard asked to see the plan Mr. Weckerle was looking at up close. Mr. Bleuer clarified that the plan set being put into record is in everyone's packet just reduced in size. Mrs. Burkard asked again about windows, and Mr. Weckerle agreed and doesn't think a plain wall would look very good. He wants to try and make it look like the rest of the house and fit with the other ranches in the neighborhood. Mrs. Burkard asked where he got the 1,425 sq. ft. and Mr. Weckerle explained that includes the existing garage. No further questions from Mrs. Burkard.

Mr. McNamara has no questions at this time.

Mr. Mills stated when looking over the minutes and approval from last time regarding this property, one of the conditions was that the applicant was instructed in accordance with the elevation noted as exhibit A in file that stone or brick is to be used on the front façade facing the street at least up to the edge of the window. Mr. Mills asked if that is something that he still contemplates doing and find acceptable for the

variance being approved. Mr. Weckerle said he'd rather not have that as a condition of the garage that's being proposed for the simple reason that he has existing brick on certain parts of the house right now to try and match with new brick would be very difficult to make look decent. Mr. Mills said he isn't saying he has to match it, but Mr. Weckerle could pick a material whether stone or brick that compliments it. You may choose stone, an accent brick, or some other material but you certainly don't have to match it exactly. Mr. Weckerle said he wants to make it look as good as possible, staying with standards of the neighborhood, and he intends to refinish the whole existing garage as well. He is going to make the garage look good for the neighborhood. No further questions from Mr. Mills.

Mr. Michnik has no further questions. He liked the idea Mr. Mills brought up from the record of Mr. Weckerle's previous appeal that was approved, he thinks that the idea of brick or stone to compliment and cut down the look of having all white/grey/blue/ from the street would make Mr. Weckerle much happier with the results and possible resale value in the future.

Mrs. Burkard asked if Mr. Weckerle is going to be doing the stone or brick, could he continue it on the breezeway, and is the stone 1/2 way up or all the way up? Mr. Mills stated that they said up to the windows edge previously, Mrs. Burkard asked what windows? Mr. Weckerle replied in the drive. Mr. Mills said approximately 1/4 of the way up, approximately 4'. Mr. McNamara asked if they are just talking about the front of the garage, between the 2 garage doors and the corner. Mrs. Burkard asked can you continue down the breezeway and will it be closed in? Mr. Weckerle said that it'll be eventually closed in. Mrs. Burkard asked would you be able to continue brick when you enclose it. Mr. Weckerle replied if that is a requirement then he would have to. Mrs. Burkard asked if it'll be vinyl siding. Mr. Weckerle replied he has wood on the existing garage and new vinyl on the house. He was going to do wood, but he's not exactly sure yet. If he has to do some brick in the lower sections, he said he could arrange. No further questions.

ACTION

Motion by Raymond Skaine to **approve** Appeal No. 3 as written, second by Ryan Mills with the following condition:

- 1.) Stone or brick to be used at front façade portion facing the street up to 4' tall, window edge height, including breezeway when walls are finished.

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| Richard McNamara | Aye | Ryan Mills | Aye | Daniel Michnik | Aye |
| Patricia Burkard | Aye | Raymond Skaine | Aye | | |

MOTION CARRIED

Appeal No. 4

Russ Sciolino
Agricultural Flood zone

Applicant requests a variance of 50' to allow a 50' setback from edge of proposed pond to existing side property line located at 7715 Goodrich Road.

Appeal No. 4 is in variance to §93-19(D) (1)
*Pond Permit requires Town Board Approval

DISCUSSION

Mr. Sciolino is looking to put a pond on his property, he has 26 acres and the pond is going to be about a little under 2% of the size of the property. Mr. Sciolino went to Erie County Soil and Water, and it has been about a 1.5-2 year process for them to get everything designed up. All their plans were submitted in. Mr. Sciolino is requesting a 50' setback from the neighbor's lot on the south side. The town requirement is 100'. Mr. Sciolino said he has four reasons why he wants the pond and where he wants it on his property.

- 1.) It is a narrow lot about 275' at the front, wider at the back, but the area he is looking at is +/- 275'. The pond size is a little under .5 acre.
- 2.) The pond will line up with his house and it's going to be about 400' possibly more from his house.
- 3.) He is looking to do a future barn, and with the pond in the center of the property he won't be able to put a barn because of the 250' requirement from the creek and by moving the pond over it allows for the barn which will be on the north side of the property.
- 4.) He had Erie County Soil and Water come in and that is where they recommended the pond to be put.

Mrs. Burkard has no questions at this time.

Mr. Skaine has no questions at this time.

Mr. McNamara asked how deep the pond is going to be. Mr. Sciolino said approximately 10' in the center. Mr. McNamara asked if Mr. Sciolino is just using this pond for looks. Mr. Sciolino responded basically at this point just for looks, but he would like to get a horse in the future. Mr. McNamara asked what he is doing with all the spoils. Mr. Sciolino said they came up with a plan to leave the spoils on the property and he has requirements that he can't fill more than 2' to the north south throughout. At this point he said he is probably going to be removing some of the spoils from the property because he has to do SWPPP (Stormwater Pollution Prevention Plan) for the permit. Mr. McNamara just wanted to understand, on the submitted site grading plan is the outline in red the spoils area? Mr. Sciolino said yes, and it is probably going to be 4-6" in rise. Mr. McNamara asked Mr. Bleuer if the process to fill out the property is needed to be permitted. Mr. Bleuer responded that depending on how this variance goes this evening, there are 2 further steps needed. First, is engineering approval sign off, which there is a comment letter in the file from engineering. Second, is town board approval of the pond permit, and depending on meeting state of emergency it may be able to be administratively approved out of the Planning office.

Mr. Mills has no questions at this time.

Neighbor notifications were sent to 7735 Goodrich Road, 7715 Goodrich Road, and 7705 Goodrich Road.

Mr. Skaine stated he just doesn't like how close it is to the adjoining property, it's only 50' away and just the size of the pond. Looking at the report from the engineer from East Aurora, Mr. Skaine wished it was back further from the south portion of the lot. Mr. Michnik asked Mr. Skaine if he'd like the easement greater than 50', and Mr. Skaine said yes because 50' isn't very far if you have woods there. He isn't sure what 7705 is using the woods for. Mr. Michnik stated 7705 owner is here, that is 100% on the natural wetlands inventory and 50% on the DEC wetlands. Therefore, that is not a buildable/usable area.

Mr. Michnik asked if anyone would like to speak on this. Exhibit A was submitted. Anthony Sojka who lives at 7705 Goodrich Road began to speak saying his property is adjacent to Mr. Sciolinos, and this pond affects him directly. Mr. Sojka stated he is not in favor of the 50' set back, he feels having the pond at 50' from his property is to close. Mr. Sojka's property which borders Delaware Road is basically slanted from north to south, his property drains north to south, and the edge of his property does drain somewhat the property of Mr. Sciolino because he has water that runs through his property north to south towards a water way along Delaware Road during the wet seasons. They do like to enjoy the walking paths they have in the back but there are certain times they can't use them because of the flow of water. The pond is a bit large, which they're okay with, but his major concern is that it is only calling for a 6" deep spillway from the top of the water to the bottom. If they have a heavy rain, they have 6" and that's it. The wood lot he presently owns, leafs fly in the wind, and with the design of Mr. Sciolino's pond they will also get growth around the perimeter of the pond which is normal and okay, but this brings up a problem of maintenance. Ponds aren't built for 1-2 years, they are built for 10, 15, 50 years. Recently Mr. Sojka looked at

ponds he knows have been there for the 34 years that he has, and he found that none of them are still maintained. The spillways are blocked, in fact 1 pond even has a beaver that has been building dams across Black Creek causing water to back up through his ditch. Mr. Sojka understands that maintenance is the most important thing and that when people move or die the next owner may not care but he has to care about his property for him and for future people. At this time, Mr. Sojka has given it a lot of thought and he's willing to allow an 80' setback, not 50'. Mr. Michnik stated Mr. Sojka mentioned about the care of these ponds, but you don't know the history of them, if family still owns it, if they've moved on, or if they were simply abandoned because of no one living there. Mr. Sojka stated in both cases the original owner died and the property has been passed on. Well again, Mr. Michnik stated that it is assumed the new owner bought that knowing the pond had to be done, and he doesn't believe we have an enforcement policy for maintaining ponds. Mr. Bleuer responded he's not aware of any policies, the engineering department has standards but he personally isn't aware of any. Mr. Michnik stated that his lot is wet to begin with, so if Mr. Sciolino needed to get the pond redesigned so he's not 6" maybe he needs more, that would help your situation but you've already said that your property has water sitting there. Mr. Sojka said water draining from his property. Mr. Michnik said Mr. Sciolino would have to have the town do a drawing to make sure he diverts the water so it doesn't empty on your property too. There is a lot of steps to building a pond, it's not just digging a hole and filling it with water, the engineering and highway departments are good about what they approve and how they approve things. This may help you because the water that keeps running on your property and he's willing to plant some trees and buffer that off, and from a personal standpoint Mr. Michnik thinks it's great you use the backyard but you're not using it 365 days a year, it's probably based on weather and soil conditions when you go back there. We all know Delaware Road is not the driest road in the neighborhood. Mr. Michnik told Mr. Sojka that he appreciates his concerns but he's sure the highway and engineering departments would take care of a lot of them.

Mrs. Burkard asked Mr. Sciolino if he could repeat again how he mentioned something that he got approval/you were told that was the best place to put the pond on your property. Mr. Sciolino responded per your code it is required to go through Erie County Soil and Water, which from what he understands is not a government agency, it's some kind of co-op. The Department of Agriculture has a division that designs ponds, they came there, laid everything out, and had a surveyor there. Everything was taken care of, and the spillway is exactly what the Department of Agriculture recommends, the addition of riprap was per the town. Mr. Sciolino continued that the area around the pond, if you look at the drawing isn't being disturbed, so any runoff of this pond which is at current ground level is going to go through the spillway.

ACTION

Motion by Daniel Michnik to **approve** Appeal No. 4 as written. Mr. Michnik feels Mr. Sciolino has shown that he has gone through the process to get this done, he's looking to do it the right way, and he's had government agencies or co-ops explain exactly where it needs to be put. Mr. Michnik is basing his approval on that Mr. Sciolino has gone through all the homework, he's got all the steps completed, and he thinks it'd be good for him and gives him the ability to build his barn plus he's building it for his own eye pleasure. Motion second by Richard McNamara.

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| Richard McNamara | Aye | Ryan Mills | Nay | Daniel Michnik | Aye |
| Patricia Burkard | Aye | Raymond Skaine | Nay | | |

MOTION CARRIED

Appeal No. 5

Bill Barto
Residential Single Family

Applicant requests a variance 100 sq. ft. to allow a 300 sq. ft. detached accessory structure located at 6260 Balsam Fir Court.

Appeal No. 5 is in variance to §229-55 (H)

DISCUSSION

Neighbor notifications are on file for 6254 Balsam Fir Court and 6266 Balsam Fir Court. Mr. Barto also gave a neighbor notification for 9220 Clarence Center Road, written on the access consent form accidentally.

Mr. Barto is putting in a pool house for a new pool that was just installed and it is 100 sq. ft. over the allowed, which he understands is 200 sq. ft. When you look at the actual drawing the structure itself is 15' x 15' as far as the main body, the additional 5' comes from an overhang. When you look at the neighborhood and pictures provided there are a number of similar structures that are in the neighborhood. Also, when you walk over 1-2 streets, pictures are provided, there are comparable or larger structures, so Mr. Barto feels it fits in the neighborhood nicely. When you look at the pictures the structure is consistent with the house as far as the roof, and when you look at the overall project it fits in well with the large lot they have, so he feels it's aesthetically pleasing and fits in the neighborhood criteria well.

Mr. Skaine with confusion asked Mr. Barto if he's also building something off of the house. Mr. Barto said correct. Mr. Skaine asked is it the pool house attached to the house. Mr. Barto said it isn't attached to the house, there is another overhang that's going off the house over about 2/3 of the patio. Mr. Skaine said when referring to the aerial photo, would the box in red, which is the pool house, be to the east of your house not onto the patio of the house? Mr. Barto said those are 2 different projects. Looking at the back of the house the overhang is to cover the outdoor patio attached to the house. If you look from the house to the back left hand corner, there is an open concrete pad there. Mr. Skaine asked the dimensions of the pad. Mr. Barto responded with 15' x 20', 10' of it is going to be ideally storage, 5' is going to be for pool toys/towels/sunscreen, and the front 5' is going to be an overhang for shade. Mr. Skaine asked if the pool was installed recently. Mr. Barto said yes, Labor Day. Mr. Skaine asked if the same people that put in the pool, put the pad in. Mr. Barto said SWIMCO did the pool and Real L concrete did all the concrete work.

Mr. Mills has no questions at this time.

Mrs. Burkard has no questions at this time.

Mr. McNamara has no questions at this time.

Mr. Michnik asked Mr. Barto about having the pad poured before realizing a variance was needed. Mr. Barto responded that is correct, and he knows this is not an excuse but when he was putting it in all he was told by his contractor was that he had to get plans drawn up by an architect and submitted. He thought that was the 1 requirement, he found out about the variance after that was poured. Mr. Michnik asked if Mr. Barto planned to put a 2nd floor onto the pool house. Mr. Barto said no. Mr. Michnik then asked for a description of what it's going to look like on the inside. Mr. Barto explained that the back 10' is just going to be open storage, the front 5' is going to be a narrow passage with some cubbies for towels/sunscreen, and the front 5' is going to be an overhang with 2 columns to put chairs underneath. Mr. Michnik said he agrees there are other pool houses in the neighborhood that are about the same size. He was a little upset that it wasn't clearly marked where he was staking. Mr. Michnik went out once and then went out a 2nd time after Planning and Zoning put out the sign. He also added those building it weren't very kind when he was there. Mr. Barto appreciated that information and apologized. He said there was a lot of wind, and every time he put the markers out they'd blow away, but he apologized for them not being there.

Mr. Barto asked if they needed the pictures. Mr. Michnik said they can put them in the record.

ACTION

Motion by Ryan Mills to **approve** Appeal No. 5 as written, second by Richard McNamara.

ON THE QUESTION

Mr. Mills noted that the interior enclosed structure itself is 15' x 10', whereas the overhang porch represents 15' x 5'.

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| Richard McNamara | Aye | Ryan Mills | Aye | Daniel Michnik | Aye |
| Patricia Burkard | Aye | Raymond Skaine | Aye | | |

MOTION CARRIED

Appeal No. 6

Craig Collins
Residential Single Family

Applicant requests a variance of 240 sq. ft. to allow a 440 sq. ft. accessory structure within the rear yard located at 5130 Salt Road.

Appeal No. 6 is in variance to §229-55(H)

DISCUSSION

Mr. Collins stated he is looking to build a 20' x 22' basic A frame storage shed structure, 8' off the current foundation of his existing home.

Mr. Skaine asked Mr. Collins if they already had the pad in. Mr. Collins responded yes, he had to update the pad anyway and he was in contact with Paul Gross because he had a lot of low laying water so he had it lasered, checked with the contractor, and raised to keep it to use in the future. The existing pad was from a barn when he bought the property in 2001. Mr. Skaine asked Mr. Collins if he put stone in. Mr. Collins responded that he put the stone in and then Dominic Furelli was the contractor. He made sure he stayed in line with Paul Gross and made sure everything was by code, even though it was just a pad he wanted to make sure before he got this approved he did everything properly with the adjacent property line and from the structure from his existing home. Mr. Skaine asked if Paul approved everything. Mr. Collins said yes he approved it for general use, he knew he had to get the variance. He was delayed with the contractor with the pad because of covid. Mr. Skaine asked so you're not doing this yourself, other people are doing it. Mr. Collins said other people are doing it, he was a general contractor for building his existing home so he is going to assist but yes he is having a contractor stick build or a pre fad unit coming from Pennsylvania. Mr. Skaine asked if he had a designer. Mr. Collins responded that he gave general looks, and he has basic designs. Mr. Michnik asked if the pictures in the package are what he is looking for. Mr. Collins said he also has a rough of what everything is going to be. He wanted to show a basic A frame type of unit, he didn't want to put the money into a stamp drawing until he made sure the variance was approved. It's going to be siding and a metal roof. He wants it basic and similar to his house and it's 25% of the total square footage of his home. He wanted it to look nice, not stand out or be a burden. Mr. Skaine said the pad looked like it was well done, he was happy about that but not happy that it was already in with no approval. Mr. Collins said that was intentional, he did tell Paul that whether it was approved or not he wanted the pad.

Mrs. Burkard asked if this is going to be facing the back of the lot. Mr. Collins said the roof line is perpendicular to the house so the water runs off the gutters. The double doors will be towards the pool. Mrs. Burkard asked about the second shed on the property, and if he planned on keeping that. Mr. Collins said there's currently a pretty beat up shed that eventually he would like to upgrade/change. Mrs. Burkard asked if the pool is coming down also. Mr. Collins said yes, with covid there hasn't been a lot of scrap collectors willing to come so he has to dismantle it.

Mr. Mills asked if Mr. Collins chose this location because there was already an existing pad there that was in disrepair. Mr. Collins responded saying it wasn't really in disrepair, it was built pretty well, and the previous owners had a garage on it. As soon as they built his current home, they took it down because to build the home you had to have that for approval. Then they decided it was a nice location and looked the best proportionately to the new pool, new layouts, just being enough off the property for the neighbors so it doesn't disturb them, and where they felt was the best place for future expansion. Mr. Mills asked if he can get away with any less enclosed space. He understands the pad is there, but maybe some of that can be outdoor seating space and a smaller portion be enclosed. Mr. Collins said he would like to get approved for that square footage because eventually when he does the pool he'd like a changing room section inside, plus his 2 car garage he'd like to clean out to fit his vehicles in.

They thought through that process, and when they did the layout he was just under 25% of the house's square footage. He didn't feel it was out of proportion, he actually wanted to go bigger but he took some advice from people and contractors. Just for future upgrades he'd like to use that 20' x 22' to fit what they're looking to do.

Mr. McNamara stated that the next door neighbor to the north has a very large garage, it looks like it is larger than Mr. Collins. Mr. Collins said correct, he believes it is around 550 sq. ft. Mr. McNamara asked how long ago that was built. Mr. Collins said it was built when he moved in, late 90's.

Mr. Michnik asked how far he is off the property line with the pad. Mr. Collins said he is just over 18' from the south side neighbor 5120, 8' back from his foundation, and he's not sure how far from the neighbor's existing garage. It's a 100' lot, so probably at least 60' probably 50' from the other neighbor. Mr. Michnik asked if this was approved and 1 condition was for you to remove the extra shed on the property, would he be willing to do that. Mr. Collins said he'd like to update that shed for future storage. So if you'd approve, he'd update down the road with another variance approval. He doesn't plan to go much bigger than the 200 sq. ft. allowed, but he'd like to maybe get a workshop in it with his retirement coming up. Mr. Michnik asked Mr. Bleuer if he can have 2 free standing structures. Mr. Bleuer said town code allows with permit up to 2 accessory structures 200 sq. ft. each. Mr. Michnik said so the existing one is probably 200 sq. ft. Mr. Collins responded saying that it is just under 200 sq. ft. Mr. Michnik said he just has a real concern about the shed, about the size of where it is being placed. Mr. Collins would like to have a little bit for living space. He just wants to make it look nice and user friendly for his family. Mr. Michnik said the plans being shown aren't showing a pool house, they're showing more of a garage. Mr. Collins said he did mention something about a portion being utilized for the pool.

ACTION

Motion by Raymond Skaine to **approve** Appeal No. 6 as written, second by Patricia Burkard.

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| Richard McNamara | Aye | Ryan Mills | Nay | Daniel Michnik | Nay |
| Patricia Burkard | Aye | Raymond Skaine | Aye | | |

MOTION CARRIED

Meeting adjourned at 8:42 in a motion made by Mr. Mills, second by Mrs. Burkard.

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| Richard McNamara | Aye | Ryan Mills | Aye | Daniel Michnik | Aye |
| Patricia Burkard | Aye | Raymond Skaine | Aye | | |

This meeting will be taped.