

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
May 10, 2022

Chairman Ryan Mills called the meeting to order at 5:30 p.m.

Zoning Board of Appeals members present:

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

Town Officials present:

Director of Community Development Jonathan Bleuer
Deputy Town Attorney Steven Bengart

Other Interested Parties:

Patrick Johnson	Tom Thielmann	E. Evans	Mike Dalfonso
Joe Odell	Stephanie Adams, Esq.	Jonathan Priset	Michael Thorpe

OLD BUSINESS

Appeal No. 1 (from the February, 2022 meeting)

Joshua Thomann
Residential Single-Family

Applicant requests a variance;
1. of 750 sq. ft. to allow a 950 sq. ft. detached accessory structure; and
2. of 3’6” to allow a 19’6” tall detached accessory structure;
located at 5040 Winding Lane.

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

Note: This request for this property supersedes the February 2022 variance request, which was tabled.

DISCUSSION:

Mr. Thomann was present, stating that he is resubmitting his request with some of the changes that were suggested by the Zoning Board.

Mr. Thomann stated that the size of the proposed building has been drastically reduced by approximately 33%. The height of the proposed building has also been reduced by over 25%, to 19’6” tall.

Mr. Thomann noted that they also added a 6’ fence to help reduce the view from his neighbor’s property, and increased the setback as well.

Mr. Drinkard stated that he walked around the property where the proposed building is planned, and also read through previous meeting minutes. He does not believe the building is appropriate for the neighborhood and area. It is too large, even with the adjustments that Mr. Thomann described.

Mr. Drinkard asked Mr. Thomann about the other buildings on his property, and asked how soon he believes this proposed building would take to build. Mr. Thomann stated that if approved, he plans to begin right away, and be completed between 6 months to a year.

Mr. Thomann added that his plan is to get this proposed building up, then finish the other half of his house that he started.

Mr. Drinkard explained that Mr. Thomann's neighbors would have a clear view of this building, and it would change the environment of the neighborhood.

Mr. Thomann stated that there are between 5 to 10 other barns within a mile radius of his house. He has downsized the proposed building over 32% from his original plans, which was in consultation with his neighbors.

Mr. Drinkard stated that zoning is important, because the neighbors around him built their homes, not thinking that they would ever have to live near a structure of this size.

Mr. Skaine stated that he is still not in agreement with this proposed project.

Mr. Krey asked why the height needs to be so high. Mr. Thomann responded that he would like to install a basketball net at regulation height.

Mr. McNamara asked Mr. Thomann how far down in the ground he plans to put the foundation. Mr. Thomann responded 4 ft. Mr. McNamara stated that he has an issue with the height of the building, and the view for the neighbors.

Mrs. Burkard asked about the time frame for the building. Mr. Thomann confirmed he believes it would take approximately 6 months.

Mrs. Burkard asked about the what the project is that Mr. Thomann has started on his house currently. Mr. Thomann responded that the plan for the new house is to add in a couple more bedrooms and a two-car garage.

Further discussion ensued regarding the height of a basketball net.

Mrs. Burkard asked why the incomplete project hasn't been finished yet. Mr. Thomann responded that he would have to put everything from inside the house in to a portable storage container while work was being done, and the neighbors would need to see that container.

Chairman Mills stated that his sentiments echo those of the other board members.

Chairman Mills asked whether attaching it to the rear of the garage would be a feasible option. Mr. Thomann responded that because of the way the land is laid out, drainage could be an issue.

Chairman Mills noted that it could be another option.

Mr. Krey asked if the structure was connected to the house, would a variance be required for the height. Mr. Bleuer responded no, it would no longer be considered an accessory structure, it would be allowed to the principal structure height. Mr. Thomann would need to comply with the rear yard setbacks, with an analysis done by the Building Department to determine if it is an accessory use or part of the principal use. If considered part of a garage space, it may require a variance.

Mr. Drinkard asked Mr. Thomann his plans for outside lighting for the proposed structure, if it was allowed. Mr. Thomann responded he didn't have anything planned at this point for the structure, and would be open to suggestions. Mr. Drinkard stated that if approved, lighting conditions for an accessory structure, which included downward facing lighting that wouldn't impose on neighbors may be added.

Mr. Bleuer stated that one piece of correspondence was received from Janis Morgante of 5030 Winding Lane with concerns regarding the proposed project. Even with the updates, the same concerns stand. Previous correspondence and concerns received have already been made part of the record.

In regards to Public Participation, the following resident spoke:

1. Lindy Ruff, neighbor:
 - stated that he is in agreement with the board, and that he and his wife chose their home because of the character of the neighborhood. Mr. Ruff stated that from his backyard, if this proposed structure was built, it is all he would see, which would hinder his view.
 - Mr. Ruff added that for him, it comes down to the fact that the proposed structure does not fit the neighborhood, which is a primary reason why people moved there.

ACTION:

Motion by Raymond Skaine, seconded by Gerald Drinkard to **deny** Old Business Appeal No. 1. For the following reasons:

1. Undesirable change to character of the neighborhood.
2. Requested variance is substantial.
3. Adverse effect on the physical environment of the neighborhood.
4. Alleged difficulty is self-created.

ON THE QUESTION:

Mr. Drinkard asked Mr. Thomann if he would be willing to consider other alternatives that would not require a variance, or considering other options. Chairman Mills stated that attaching the structure to the rear of the existing home is an option that should be investigated further.

Mr. Bengart stated for that another basis for the request for denial includes all prior hearings on the matter, as well as all correspondence that has been received as part of the record.

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

MOTION CARRIED

Appeal No. 7 (from the April, 2022 meeting)

Michael Thorpe
Residential Single-Family

Applicant requests a variance of 2' to allow a 6' fence to be located in the front yard setback located at 4760 Brentwood Drive.

Town Code Reference;

§101-3 (C) (2)

*A corner lot shall be considered to have two front yards from the public road right-of-way to the closest point of the principal structure.

DISCUSSION:

Mr. Thorpe was present, to further explain his request, stating that he would like to put up a 6' fence in his front yard on a corner lot. The reasoning for his request is his small children, unsecure pools on the properties around him, as well as an increase in traffic. Mr. Thorpe added that they also have a large dog, and a 6' fence would contain him in their yard.

Mr. Thorpe stated that there are other residences in the neighborhood that have 6' fences, including the one located at 8225 Sheridan Drive, that is similar to the fence he is hoping to install.

Mr. Thorpe added that they have planned to add landscaping around the fence to add to the aesthetics over the entire property. Mr. Thorpe stated that they have been working diligently since they moved in to make it a presentable and pleasing part of the neighborhood.

Mr. Thorpe stated that his proposed fence is in line with his neighbor's fence at 4725 Helenwood, which continues the fence line straight across on to his property. His other neighbor at 4750 Brentwood also has plans in place to build a fence as well.

Mrs. Burkard asked if he would be able to go any smaller than 6'. Mr. Thorpe stated that 4' will not keep his little boy who likes to climb everything, contained in the yard.

Mr. Thorpe stated that he was in the military, and would like to adopt some dogs to train, and that a 6' fence is a requirement for that. Mrs. Burkard asked Mr. Thorpe how many dogs he plans to get. Mr. Thorpe added only 1 maybe 2 at a time, nothing more than that because the dogs need a lot of attention.

Mr. McNamara noted that Mr. Thorpe supplied the information that had been previously requested of him. The proposed fence is 18' from the right-of-way, though any of the landscaping that they plan to install will be in the right-of-way, which they know if it was ever necessary, could be dug up.

Mr. McNamara asked Mr. Bleuer if placing shrubbery in the right-of-way is allowable. Mr. Bleuer responded that the Town of Clarence would not state that is allowable. Mr. Bleuer stated that it would be the decision of the Highway Department.

Mr. Skaine stated that he was disappointed that the markings showing the placement of the fence weren't clearer.

Mr. Drinkard asked Mr. Thorpe if he would consider reducing his request to a 5' fence. Mr. Thorpe responded that 6' is the requirement for everything he is attempting to do. A 5' fence would make the whole point moot.

Mr. Drinkard asked if Mr. Thorpe plans to replace any of the dead greenery that he ripped out. Mr. Thorpe responded that they plan to landscape the entirety of their property, and make it more aesthetically pleasing.

Mr. Drinkard noted that landscaping around the fence would offset the height.

Chairman Mills asked Mr. Thorpe if his goal can be achieved by lining the fence up with the front of the house. Mr. Thorpe responded that the leech field is located there. Chairman Mills asked whether the cost to relocate the leech field would be feasible. Mr. Thorpe responded that it would not be.

In regards to Public Participation no one spoke.

Mr. Drinkard stated that the improvements that Mr. Thorpe has made have made the lot much more presentable.

Chairman Mills asked the applicant if he is aware of any 6' fences on a corner lot within the neighborhood, other than the one located at the corner of Sheridan Drive. Mr. Thorpe responded that layouts of the other houses do not match with his.

ACTION:

Motion by Patrick Krey, seconded by Richard McNamara to **approve** Old Business Appeal No. 7 as written.

ON THE QUESTION:

Mr. Krey stated that it benefits the applicant in regards to his children and the dogs, it makes sense that a fence of that height would be necessary.

Additionally, walking the neighborhood and seeing other properties, the fence is tall, but it will not stand out or cause an undesirable change in the neighborhood.

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

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

Dominick Farbo
Planned Unit Residential Development

Town Code Reference;

1. §229-55 (D)
2. §229-52 (B)

Applicant requests a variance;

1. of 707 sq. ft. to allow an 805 sq. ft. attached garage addition for a total of 1,667 sq. ft. of garage space; and
2. of 7' to allow a 5'6" principal structure side yard setback;

located at 8135 Golden Oak Circle.

DISCUSSION:

Mr. Farbo was present to further explain his request, adding that he is an avid car enthusiast. He is planning to retire soon, and they would like to remain in the neighborhood but needs additional room to store his car collection.

Due to the shape of his lot, it's not an easy adjustment to put on an addition. The current garage faces east, making it difficult to add on to.

Mr. Farbo stated that he would like to add a lift so that he can safely work on the underbelly of his cars, instead of the car jack that he currently uses.

Mr. Farbo also stated that he currently has pull-down stairs in the garage that he uses to carry parts up and down. If he is able to attach this proposed garage, there are stairs already connected to the upstairs through the house and existing garage. This also increases his safety measures.

Mr. Farbo explained that he would like to go across the house and join the structures, blending the rooflines together.

Mr. Farbo added that they are trying to keep with the character and aesthetics of the neighborhood with these plans.

Mr. Krey stated that the variance request is large in terms of setbacks, and asked Mr. Farbo whether he has considered reducing it at all. Mr. Farbo responded that due to the angle of the existing garage, as well as the roof height for a car lift and having the ability of moving the car lift around, this size was the most narrow and small that he felt he could go to suit his needs.

Mr. McNamara stated that the proposed structure fills up the backyard.

Mrs. Burkard noted that she did not see any buildings similar to this request in Mr. Farbo's neighborhood.

Mrs. Burkard stated that her concern is for the neighbor to his left, and that they will see the proposed building rather than the lake when sitting in their backyard.

Mrs. Burkard asked what the building will look like, in regards to materials matching the house. Mr. Farbo responded that it will match and compliment the house, but that he has no definitive plans for materials yet.

Mr. Drinkard stated that the neighbors around the lake will see this large proposed structure when they are looking across the lake, as it will fill up the backyard.

Mr. Farbo responded that the building will be within the neighbor's tree line, and had not considered the view from across the pond.

Discussion ensued regarding the view of the proposed structure from the neighbor's homes.

Mr. Skaine stated that he is in agreement with previous statements regarding the size and views from the neighbors, as well as the proposed structure changing the neighborhood.

Chairman Mills reviewed materials for the proposed structure with Mr. Farbo. Mr. Farbo stated that he isn't opposed to any materials, but they have not reached that point in the planning process yet.

Chairman Mills approached each angle of the proposed building, beginning with the north façade that has an existing garage and includes a brick façade. This existing garage will be the point of entry in to the proposed additional garage.

Chairman Mills then noted that the west façade is partially landscaped, adding that additional landscaping would be necessary to further mitigate that neighbor's view of the proposed structure.

Chairman Mills explained that the south side which is exposed to all of the neighbors, and faces the pond. Mr. Mills suggested placing brick around the bottom of that side of the structure and adding some landscaping, to mitigate the view for the neighbors.

Chairman Mills pointed out that the east view will be primarily seen by Mr. Farbo and his family.

Chairman Mills stated that a more detailed analysis of materials, and how to protect neighbors from the views they'll have of the proposed structure would be beneficial. He wants to be sure that care is taken in the design of this project to ensure that it is protecting views from the neighbors as well as accomplishing Mr. Farbo's goals.

Chairman Mills explained to Mr. Farbo that he has the option of having the board vote on this request tonight, or requesting to have it tabled in order to provide additional information.

In regards to Public Participation, no one spoke.

Mr. Bengart asked Mr. Farbo if he would agree to a condition that no commercial or retail business would be run out of the building.

Mr. Farbo agreed to that potential condition.

Mr. Farbo asked if it would be better to remove the front garage, and build the new garage in its place, removing the issue of the angle. Mr. McNamara stated that it would help, and Mr. Farbo would get more usable square footage as well.

Mr. McNamara stated that if Mr. Farbo returns with options for the board, it doesn't guarantee an approval, but it would help to explain his request more clearly.

ACTION:

Motion by Ryan Mills, seconded by Patrick Krey to **table** New Business appeal No. 1.

Chairman Mills stated some of the things the board would like Mr. Farbo to consider when returning to the board include:

- Materials used
- How to protect views with landscaping
- Reduce the size of the variance.

ON THE QUESTION:

Mr. Bengart stated that the board is requesting the applicant to take in to consideration all of the discussion from tonight and come back with something for the board, but that this does not guarantee an approval.

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

MOTION CARRIED

Appeal No. 2

Michael Dalfonso
Residential Single-Family

- Town Code Reference;
1. §229-55 (D)
 2. §229-55 (D)

- Applicant requests a variance;
1. to allow a detached accessory structure (garage) to be located within the front yard setback; and
 2. of 60 sq. ft. to allow a 780 sq. ft. detached accessory structure (garage);
located at 5783 Goodrich Road.

DISCUSSION:

Mr. Dalfonso was present, and further explained his request, stating that he would like to build a detached garage in front of his house. His home is offset and sits back far enough that it is in line with his neighbor’s garages.

Mr. Dalfonso explained that when his house was originally built, there were no houses behind it. His rear yard is only 14 ft. deep. Mr. Dalfonso stated that he does not currently have any other garages on his property.

Mr. Dalfonso stated that his proposed garage will be aesthetically pleasing to the neighborhood, he will use the same materials and colors as what is currently on his house.

Mr. Dalfonso added that the height of his proposed structure will be within what is allowed per code, he would not need a variance for the height. Mr. Dalfonso also stated that the garage door will be 9 ft., not 10 ft. tall.

Mr. Dalfonso stated that he has researched every option, and has had contractors come to his property to see if there were other options as well. All other possible options would come with additional problems and issues, which involved utilities, and the right-of-way to Boxwood Drive. None of the other options were feasible.

Mr. Dalfonso explained that because his house does not have a basement, attaching the garage to his home created additional issues.

Mr. Drinkard stated that after reading the previous meeting minutes, Mr. Dalfonso purchased his house fully understanding there was no basement or garage.

Mr. Drinkard explained the Traditional Neighborhood District with a Clarence Overlay zoning where Mr. Dalfonso's house is located. Mr. Drinkard read the two parts in the Clarence Overlay that the Zoning Board finds important:

“To ensure that new buildings or building modifications are harmonious to surrounding structures in scale, use, and design” and also, to “allow for a mixture of uses that would allow many existing parcels of land and structures to be utilized without the need for a variance”

Mr. Drinkard stated that he is not in favor of the proposed building at the scale that Mr. Dalfonso has requested.

Mr. Drinkard asked Mr. Dalfonso if he can reduce the size of his request for his proposed garage to meet the scale of the lot. Mr. Dalfonso responded that the size he's requesting is what he needs.

Further discussion ensued regarding the size of the proposed structure.

Mr. Dalfonso explained that the aesthetics of his proposed garage will improve the rest of the property. The garage door will be facing north, not Goodrich Road.

Mr. Drinkard stated that all of the diagrams that Mr. Dalfonso submitted show a 10 ft. garage door. Mr. Dalfonso responded that it was his misunderstanding, and reiterated that he would install 9 ft. garage doors, not 10 ft.

Mr. Drinkard stated that Mr. Dalfonso has two options in terms of placement on the lot. One location was more north, and in line with the house while the other was offset a bit. Mr. Dalfonso responded that he prefers the option which is 10 ft. off of the property line, set further south.

Mr. Skaine stated that he has no problem with the request.

Mrs. Burkard asked if there will be vinyl siding on the proposed structure, Mr. Dalfonso confirmed yes.

Mrs. Burkard asked Mr. Dalfonso if he would be willing to put in landscaping. Mr. Dalfonso responded yes, and that the flower bed currently there will be relocated along the side of the garage.

Chairman Mills entered the drawing Mr. Dalfonso referred to as Exhibit A for the record.

Mrs. Burkard asked if there would be any issues getting cars in to the proposed garage, Mr. Dalfonso responded no.

Previously there was a one car garage with the house, but there was a house fire, and since then the furnace, hot water tank, etc. was moved in to what was the old garage.

Mr. McNamara stated that with Option #1, being 10 ft. off of the property line gives more of a view of the front of the house.

Mr. McNamara noted that he has no problem with the requested 780 sq. ft., because the extra 60 ft. will be well utilized. The equipment outside of the house can be moved to inside the garage, to clear up the yard.

Mr. Krey asked if there will a man door on the side of the garage that will be facing Goodrich Road. Mr. Dalfonso responded that there will be a man door, but it will not be on the Goodrich Road side. That side of the proposed structure will have a window with window treatments, and a flower bed.

Mr. Krey asked if it would be possible to have a man door on the Goodrich Road side of the building. Mr. Dalfonso stated that he would prefer not to, but if ended up being a condition of the variance request, then he would construct a door that looked like a door, but would not have accessibility to the garage. He does not want to place an additional door that has that much accessibility to the house, and out of his view.

Chairman Mills stated that he feels landscaping is an important component, and asked Mr. Dalfonso if it was made a condition of approval, would he be in agreement with that. Mr. Dalfonso confirmed that he would.

Chairman Mills noted that based on the position of the proposed structure, he believes that it is important to have at least two windows on the west side of the structure, which faces Goodrich Road. Mr. Dalfonso responded that he would agree to that as well.

Chairman Mills referred to the garage entry on Boxwood Drive, and asked Mr. Dalfonso if he would consider installing a glass or designer garage door. Mr. Dalfonso agreed.

Mr. Drinkard asked Mr. Dalfonso whether he will be running a business from the proposed structure, or has any future plans to do so. Mr. Dalfonso responded no, adding that he owns a business fixing furnaces, and has never had to bring a furnace home to work on, all of his work is done on site. Mr. Dalfonso added that he has a home office, and that the office will not be in the garage. The proposed garage is for personal use only.

Mr. Drinkard asked what the lighting will be for the proposed structure. Mr. Dalfonso responded that there will be two small lights on the outside of the front of the garage.

Neighbor Notifications are on file.

Mrs. Burkard asked what size the windows are on the side facing Goodrich Road. Mr. Dalfonso responded that he doesn't have any particular size planned, and is open to suggestions. He does not want them too large because they are visible from the road, and he would be happy to comply with a minimum size requirement.

Mr. McNamara stated that 32"x48" windows with shutters would be adequate.

ACTION:

Motion by Ryan Mills, seconded by Richard McNamara to approve Appeal No. 2 with the following conditions:

1. the west side (facing Goodrich Road) is landscaped in accordance with the landscaping as set forth in Exhibit A.
2. the west side (facing Goodrich Road) has at least two windows size 32"x48" or larger with shutters on them;
3. the garage doors facing Boxwood Dr. have some glass designer component to them
4. the applicant agrees to not operate any business out of the structure
5. stick built, vinyl siding;
6. option one location from the client's proposal is to be used
7. 9' tall garage door

ON THE QUESTION:

Chairman Mills stated that based on the character of the neighborhood, specifically the fact that the house at 5775 Goodrich Road appears to line up with this proposed garage structure as well as some other parcels along Goodrich, this would not impact the character of the neighborhood.

Based on the testimony of the applicant as well as the questions and answers of the Zoning Board, the applicant discussed the hardships faced with any alternatives to placing the garage to the location that he has requested. The alternatives were either not feasible, couldn't be done, or were cost prohibitive.

Mr. Dalfonso understood and agrees to all of the conditions as stated.

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

MOTION CARRIED

Appeal No. 3

Joseph O'Dell
Residential Single-Family

Applicant requests a variance of 2' to allow a 6' fence to be located in the front yard setback of 8250 Ericson Drive.

Town Code Reference;
§101-3 (C) (2)

*A corner lot shall be considered to have two front yards from the public road right-of-way to the closest point of the principal structure.

DISCUSSION:

Mr. O'Dell was present, and further explained his request stating that he would like the replace the existing 6' fence with a new 6' fence. The current fence has been there since the 1960's from what they can tell.

Mr. O'Dell stated that they have an inground pool in the backyard that has also been there since they moved in. He would like to keep a 6' fence up for when they use the pool, they have the privacy. It would also keep children from climbing over a shorter fence.

He has cleaned up the areas of neglect that were overgrown prior to him purchasing the house. He would like to put up a 6' white vinyl fence, and improve the aesthetics of the property.

Mr. Drinkard stated that when replacing something that has been grandfathered in, the replacement should be within code. Mr. O'Dell stated that it would be too difficult to replace it piece by piece.

Mr. Drinkard asked if it would be possible to reduce the height to 5 ft. Mr. O'Dell responded that 6 ft. would not be in the best interest of the neighbors and his family.

Mr. Drinkard asked whether Mr. O'Dell would consider a wood stockade fence rather than white vinyl. Mr. O'Dell responded that in speaking with his contact at the fence company, due to various reasons, white stockade was the most efficient and timely. Rather than wooden posts, metal ones will be used, which are proven to last longer than wooden ones.

Mr. Krey asked Mr. O'Dell when he bought the house. Mr. O'Dell responded that he purchased it slightly over a year ago at the end of March.

Discussion continued regarding the recent improvements to Mr. O'Dell's property.

Mr. Krey asked Mr. O'Dell if he plans to put in any landscaping around the fence. Mr. O'Dell responded yes. Mr. Krey asked Mr. O'Dell if he would be in agreement if they made landscaping a condition of an approval. Mr. Krey stated that the previous trees and landscaping provided a natural barrier. Mr. O'Dell noted that the landscaping that was there was overgrown and impeded in to the street. He has had several neighbors thank him for clearing it up.

Mr. McNamara complimented Mr. O'Dell on the great job updating the yard.

Neighbor Notifications are on file.

Mr. Bleuer stated that one correspondence was received, from Patrick Johnson of 4581 Gentwood Drive. Concerned with the variance request due to a site-line issue currently with the 6ft. tall fence that pre-exists. Mr. Johnson added that a 4 ft. fence would allow better visibility for both cars and pedestrians.

Mr. O'Dell responded stating with the trees that were there, even if there wasn't a fence at all, seeing around the corner was next to impossible.

Chairman Mills asked Mr. O'Dell if this request was denied, would he retain the 6 ft. fence currently there and repair it. Mr. O'Dell responded that he would prefer not to do that, the fence is falling down. If he had to put up a 4 ft. fence, he would plant shrubs all the way around in order to achieve the same effect as a 6 ft. fence.

Discussion continued regarding the landscaping that has been done and the improvement it has made within the neighborhood.

Mr. McNamara noted that the pre-existing fence has been there for 30-40 years. There have not been any accidents caused by the 6 ft. tall fence hindering visibility, to his knowledge.

ACTION:

Motion by Patrick Krey, seconded by Raymond Skaine to **approve** Appeal No. 3 as written.

ON THE QUESTION:

Mr. Krey stated that this will not cause an undesirable change in the character of the neighborhood.

The pre-existing fence is already the same height, and had been completely overgrown with trees. It will improve the aesthetics of the neighborhood.

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

MOTION APPROVED

Appeal No. 4

Keith Shulsky
Agricultural Floodzone

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 8970 Wolcott Road.

DISCUSSION:

Keith Shulsky was present, and further explained his request, stating that they would like to build a detached garage. However, due to the floodplain as well as the septic, leech field, and sand pit, they are limited as to possible locations for a garage.

Mr. Shulsky stated that he has multiple hobbies including classic cars, and he would like to build a structure large enough to accommodate his hobbies.

Mr. Shulsky stated that he feels the scale, appearance and design of the proposed structure are in line with his neighbors along Wolcott Road. Mr. Shulsky added that all of his neighbors that he has spoken with are enthusiastically supportive.

Mrs. Burkard referred to Exhibit A, asking Mr. Shulsky if he plans to have his structure look like the one in the photo. Mr. Shulsky responded that the photo is the inspiration for what he would like to have. The photo shows a stick-built garage, and due to the price of lumber and supplies, it was more efficient to build a pole barn style structure. Mr. Shulsky stated that all of the elevations would be the same as what is shown in Exhibit A, and would match the colors of the house as well.

Mrs. Burkard asked Mr. Shulsky if and why he plans to keep the other building if he builds the new proposed structure. Mr. Shulsky responded that ideally yes, they would like to keep that original structure as well, mainly to store lawn equipment.

Mr. Shulsky stated that they plan to plant apple trees along the driveway, and red maples along the front, but the leech field is located in that area as well, so they will need to work around that. Mr. Shulsky stated that it is their intention to enhance the appearance of the property, not diminish it.

Mrs. Burkard asked if there is a second floor or simply a window. Mr. Shulsky stated that there is a loft proposed, strictly for storage.

Gregory Smith, Mr. Shulsky's contractor stated that the plan is to heat the floor, have electricity, and insulate the proposed structure.

Mr. McNamara asked Mr. Shulsky if he had considered attaching the proposed structure to his house. Mr. Shulsky stated that due to the location of the septic system, that was not a possibility. He added that the proposed location is approximately 8 ft. from the junction box, to the sand pit, and out to the leech field. The leech field is close to the street, and there is a pipe that runs from the junction box to the front, and is approximately 40 ft. from where the shed is, to where the leech field begins.

Mr. Shulsky stated that they are finalizing their septic inspection soon, and will then have more information as to whether they need to re-berm the line and the junction box to the leech field

Mr. McNamara asked about the yellow ribbons that were on the trees across the driveway noting Wetlands, and whether they were there when Mr. Shulsky purchased the property. Mr. Shulsky responded that their long-term goal is to extend their backyard, construct a pond, then dry up a little less than .10 of an acre, in order to stay within the Army Corp of Engineers requirements. They have recently had a wetland delineation conducted, which is what the ribbons are for.

Mr. Krey stated that the applicant has done a good job explaining the reason for his request, and because it is in an agricultural zone, and rural in nature, it makes sense.

Mr. Skaine stated that he is concerned about the secondary structure due to the existing shed to the east. Mr. Skaine added that it would be considered a secondary structure which they normally do not allow, and he feels it would be setting a precedent.

Mr. Skaine asked Mr. Shulsky if he needs the existing shed. Mr. Shulsky responded that he will work with whatever the board decides, but would like to be able to keep the shed.

Discussion continued regarding the shed and other possibilities.

Mr. Shulsky asked if the board would consider a Lean-To on the north side, rather than the existing shed. This would keep it out of street view, while still achieving the ability to have storage for the items that Mr. Shulsky would like to store in the shed.

Mr. Bleuer stated that this request is not on the agenda for a size variance, because of the agricultural zone location. It is on the agenda for the location, not the size.

Mr. Drinkard asked if the photo shown in Exhibit A is what the end result of the proposed structure and surroundings will look like when completed.

Mr. Shulsky responded that it will look very similar to the photos, but rather than vinyl siding, it will be metal siding and roof. They will have the brick façade to match the house.

Chairman Mills asked if the façade will be stone or brick. Mr. Shulsky responded a stone façade that will be 36” high, and will match the house.

Chairman Mills asked Mr. Shulsky if they made it a condition that the stone goes up 36” high and extends all the way around, would he agree to that. Mr. Shulsky responded yes, then asked if it would be possible to only do the sides that face the house and Wolcott Road, or does it need to be all the way around, all four corners.

Chairman Mills responded that he feels the aesthetics are more appealing if it’s all the way around, so that it is seen from all angles.

Chairman Mills asked if the roof will be metal, Mr. Shulsky confirmed yes, he has color samples available to select from as well, which closely match the color of their house and the stucco on the house.

Chairman Mills asked about vinyl vs. metal for the siding. Mr. Shulsky responded that they can look at it, and that because of all the improvements that they are making, the decision to use steel was based on budget.

Chairman Mills asked Mr. Shulsky’s contractor, Gregory Smith, about the different options between metal and vinyl. Mr. Smith responded that the current issue with doing any kind of siding, is the skyrocketing costs, while the price of steel is decreasing. Mr. Smith stated that the reason to go with steel is because it is becoming more common and popular. Mr. Shulsky’s property is located in the agricultural district, and there are other structures in the neighborhood with steel roofs and architecture.

Mr. Smith stated that they are trying to make this proposed structure match the aesthetics of what is existing on the street. It is much more cost effective to do color-match steel to the stucco.

Chairman Mills asked Mr. Shulsky if he agrees to not run any business out of the structure. Mr. Shulsky agreed.

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

In regards to Public Participation, no one spoke.

ACTION:

Motion by Raymond Skaine, seconded by Richard McNamara to **approve** Appeal No. 4 with the following conditions:

1. Shed to the east is removed, add size to the new structure as needed.
2. No business to be conducted out of the structure.
3. 36” stone veneer knee wall all around the structure.

ON THE QUESTION:

Chairman Mills stated that this proposed structure fits in with the character of the neighborhood, based on other similar structures in the vicinity.

Chairman Mills added that the applicant has demonstrated that this appears to be the only viable location, based on the location of his septic system, as well as the fact of the wetland delineation that was conducted. This showed that the rear portion of Mr. Shulsky's property is predominantly wetlands.

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

MOTION CARRIED**Appeal No. 5**

Jonathan Priset
Agricultural Rural-Residential

Applicant requests a variance to allow a detached accessory structure to be located within the front yard setback located at 6425 Salt Road.

Town Code Reference;
§229-44 (E)

DISCUSSION:

Mr. Priset was present to further explain his request. Mr. Priset stated that he would like to erect a 24'x24' pole barn in a spot that is located slightly in front of his house line.

Mr. Priset stated that he has a gasoline easement, which runs diagonal through his lot. Mr. Priset added that the proposed structure is more than 25 ft. from the gas easement.

Mr. Priset stated that he took his neighbor's property in to consideration as well when planning the location. Mr. Priset stated that he did attempt to move the proposed structure back more, and that the corner may be slightly in front of his house, and the pitch that he would need when he does his landscaping would be very close to his neighbor's property. This may also cause more of a water issue than what they already have.

Mr. Priset stated that he would like to do some drainage with the ditch that is located in the front of his house.

Mr. Priset noted that there are multiple structures in his area, similar to the one he is proposing.

Mr. Priset further explained the process he has gone through to get to this point.

Mr. Bleuer stated that according to the survey, the proposed structure would be within the front yard setback.

Mrs. Burkard stated that she doesn't feel the distance in to the front yard setback would be very noticeable.

Chairman Mills asked about the landscaping that is planned. Mr. Priset responded that aside from landscaping, he plans to have part of it tapered to have it look clean. He'd like to plant grass, and he also plans to work on the drainage.

Mr. Priset stated that, if necessary, he would do additional landscaping around the structure as well.

Chairman Mills asked if they placed landscaping along the south and west sides (Keller Rd. and Salt Rd. sides) of the structure as a condition, would Mr. Priset agree to that. Mr. Priset asked if he put in another row of trees similar to what he has on his property already, would that suffice. Chairman Mills responded yes.

Neighbor notifications on file, with no comment received.

Mr. Bengart asked if Mr. Priset plans to run any business out of the building, Mr. Priset responded no.

In regards to Public Participation, the following resident spoke:

1. Stephanie Adams, Esq. on behalf of John Norris of 10758 Keller Road.
 - Ms. Adams identified the following concerns of Mr. Norris's:
 - Concern of setting a precedent with this proposed accessory structure within the front yard setback.
 - Concerns with drainage. The structure is already unusual and non-conforming. Believes there should be a drainage solution presented which is shared with the neighbors prior to the variance being approved.
 - Ms. Adams stated that Mr. Norris has reported additional standing water.
 - Ms. Norris submitted a letter from the Law Offices of Stephanie Adams, which was placed in to the file, marked Exhibit B.
 - Ms. Adams stated that they do appreciate the unusual situation with the easement on the property, and that it is a non-conforming lot, and offered what they feel to be additional solutions.

Mr. Priset stated that the neighbors have all discussed the drainage issues, and it is a joint issue that they recognize needs to be addressed together, each property has their own drainage issue.

Chairman Mills asked Mr. Priset if as a condition of approval, he would be amendable to placing drain tile along the ditch. Mr. Priset agreed.

Mr. Bleuer stated that Mr. Priset would work with the Building and Engineering Departments regarding the drainage issues and possible solutions.

ACTION:

Motion by Ryan Mills, seconded by Richard McNamara, to **approve** Appeal No. 5 with the following conditions:

1. No business to be conducted from the structure.
2. Alleviate drainage issues which may include but not be limited to drain tiles along the rear of the structure, along the Keller Road side. Subject to approval of the Building and Engineering Department.
3. Provide some landscape buffer along the same west side facing Keller Road.

ON THE QUESTION:

Mr. Drinkard asked Mr. Priset if all of the water that drains is coming from his property. Mr. Priset responded that he doesn't believe so, he feels that it is a conglomeration of issues. Mr. Priset reiterated that he has attempted to place the proposed structure away from his neighbor's properties as much as possible.

Mr. Drinkard asked Mr. Priset if he understands that by working with Engineering and put in drain tile, that he may be helping his neighbor's as well. Mr. Priset responded yes. Mr. Priset added that he is aware his neighbor is going to be putting in a pool in his backyard as well. If he needs to put in a bigger pipe to alleviate that issue, he doesn't mind.

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

MOTION CARRIED

Appeal No. 6

Keith DeGraff
Agricultural Rural-Residential

Applicant requests a variance of 17' to allow a 66.8' front yard setback for the addition (porch) to the principal structure located at 10865 Howe Road.

Town Code Reference;
§229-41

DISCUSSION:

Mr. DeGraff was present, and explained that he would like to add a porch to improve the curb appeal of the home, and have a usable porch.

Mr. Krey referenced the photo, and Mr. DeGraff explained that the pitch of the house will need to be changed to compliment the porch.

Mr. Krey asked Mr. DeGraff when he purchased the home, Mr. DeGraff responded approximately four (4) years ago.

Mr. Bleuer stated that if approved without condition, it would then be stated as the new established setback. Any future additions would need to meet that established setback.

Mr. Krey asked Mr. DeGraff why he chose to put on a porch rather than expanding the front of the house. Mr. DeGraff responded that a porch is less expensive.

Mr. McNamara complimented the design, adding that he feels it is a great asset to the house and neighborhood.

Mrs. Burkard asked if there will be a new peak, referring to photo C-108, which was marked Exhibit A. Mr. DeGraff responded yes, with a window that will match the same windows currently in his house.

Mrs. Burkard asked if there will be a new sidewalk as well. Mr. DeGraff responded yes, as well as new garage and man doors.

Mr. Skaine agreed that it is a well-done plan.

Mr. Drinkard stated that the roof line is being raised significantly, and asked if Mr. DeGraff is adding any additional room to the second floor of his house. Mr. DeGraff responded that there is currently no second floor to his house, only an attic crawl space.

Chairman Mills asked what material the tan material is in Exhibit A. Mr. DeGraff responded some type of stone, to be determined.

Chairman Mills asked if the house will be re-sided. Mr. DeGraff stated that they will most likely keep the siding and then applying the stone like a Wainscot around the front.

Neighbor Notifications are on file, no comment has been received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Richard McNamara, seconded by Raymond Skaine to approve Appeal No. 6 as written.

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

MOTION CARRIED

Appeal No. 7

Thomas Thielmann
Industrial Business Park

Applicant requests a variance to allow a 348’ front yard setback for the construction of a single-family home located at 8931 Wehrle Drive.

Town Code Reference;
§229-102 (E)

DISCUSSION:

Mr. Thielmann was present to further discuss his request, stating that he would like to construct a new single-family residence. The purpose for requesting the 348’ setback is to get some distance from Wehrle Drive which has a substantial amount of truck and car traffic.

Mr. Skaine asked who owns the house located on the west side of the property. Mr. Thielmann responded that he owns the house, he plans to keep it.

Mr. Skaine asked Mr. Bengart about the motion that was made by the town board back in 2007 regarding the subdivision of land and addition of any houses on the property, and whether the house was there at that time.

Mr. Bleuer stated that in 2007 it was one parcel with the existing two-family residence on it. In 2007 the Town Board allowed a minor subdivision that allowed the parcel to be split, and for the creation of one

additional residential house on the newly created vacant parcel, which is what the applicant is now seeking the setback variance for.

Mr. Drinkard stated that the zone this property is located in doesn't allow for a home; however, Mr. Thielmann has the approval for the residence from the previous action in 2007.

Mr. Drinkard asked Mr. Thielmann if he intends to use the house as a business. Mr. Thielmann responded that it will be strictly residential.

Mr. Krey asked Mr. Thielmann if there was a frame from a house there. Mr. Thielmann responded that it is a foundation from 2006 when he planned to build a house but ran in to issues with funding.

Mr. Krey stated that it is a unique situation and one that they try to avoid by having uniform setbacks.

Mr. Krey stated that it is a fairly wide lot, and asked Mr. Thielmann if he plans to do any landscaping to help mitigate the view from the front of his house. Mr. Thielmann responded yes, that he has already began planting pine trees.

Mr. Krey stated that the requested setback appears to be very close to the home on the east.

Mr. McNamara stated that the setback is 348', and the existing foundation may be used for a garage at some point. Mr. Thielmann responded possibly.

Mr. McNamara asked Mr. Bleuer if an additional variance would be required if a garage was built on to the existing foundation.

Mr. Beuer responded that in his opinion, it would make it more of a conforming setback. Without knowing what it is going to be, it is difficult to say right now.

Mr. McNamara asked if Mr. Thielmann was granted the 348' variance and then decided to build a garage on the existing foundation, would he need to come back with another variance.

Mr. Bleuer responded that without a condition he may need to. If there is interest in approving this request, he recommends a condition stating that there is a possibility that the setback may become more in to conformance.

Mrs. Burkard asked what the square footage of the home Mr. Thielmann plans to build is. Mr. Thielmann responded up to approximately 2,300 sq. ft.

Chairman Mills asked Mr. Thielmann if he's already used Timber Bild to construct the house, Mr. Thielmann responded yes.

Chairman Mills asked Mr. Thielmann if he has any additional structures planned for the property other than possibly a garage. Mr. Thielmann responded no, and no business will be operated from the proposed home.

Neighbor notifications are on file. No comments have been received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Richard McNamara, seconded by Patrick Krey to **approve** Appeal No. 7 with the following condition:

1. Possible existing foundation be used as a garage is acceptable with the board.

ON THE QUESTION:

Chairman Mills stated that due to the unique characteristics of the parcel both the size and the proximity to nearby structures as well as the quarry, the setback is justified. It does not adversely affect the character of the neighborhood or impact the neighbors.

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

MOTION CARRIED

Meeting adjourned at 7:45 p.m. with a motion by Patrick Krey.

MOTION CARRIED

Amy Major
Senior Clerk Typist