

Town of Clarence
Zoning Board of Appeals Minutes
Tuesday June 12, 2012
7:00 p.m.

Chairman Arthur Henning called the meeting to order at 7:00 p.m.

Zoning Board of Appeals members present:

Chairman Arthur Henning	Vice-Chairman Daniel Michnik
Ryan Mills	David D'Amato
Jonathan Hickey	

Zoning Board of Appeals member(s) absent: Patricia Burkard

Town Officials present:

Director of Community Development James Callahan
Councilman Peter DiCostanzo
Deputy Town Attorney Steven Bengart

Other interested parties present:

Kenneth A. Ulrich	Richard Switala
David Spoth	Kelly Klemann
Nick Klemann	Debra Vidiksis
Janice Zampogna	Joseph A. Zampogna
Kelly Simkin	Mark Nealen
Chris Simkin	Anthony J. Corigliano
Rodd S. McMinn	Beverly Tylenda
Anthony Tylenda	David J. LaDuca
Jun Wang	Martin Sehl
Mark Steck	Amy Kostecky
Paul Belko	

Old Business

Appeal No. 3 (from Feb)

Kenneth A. Ulrich
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 578' variance to allow for a front yard setback of 650' for the construction of a new primary residence at 9650 Lapp Road (SBL #30.00-2-3.111).

Appeal No. 3 is in variance to §229-41(A).

DISCUSSION:

Chairman Henning noted that this is the second time this request has been before the Board. The first time it was under the name of Kathy DeRose.

Kenneth Ulrich is present and said he proposed a purchase offer on this property that is contingent upon a due diligence period and obtaining the variance. This is the old home site that was originally on this parcel that represented a farm and a farm house. It represents the highest elevation on the property toward the front third which is accessible from the road. On recommendation from the builder, and others involved, this is the most practical place to build. There is not enough width on the frontage that is not encumbered by wet property that can be build upon that has more than 170' span in order to accommodate the foot print of the proposed house and garage. He would like to build a single-family residence about 5,000 square feet in size with a 4-bay 46' x 26' detached garage with double doors. Five bedrooms, 3 full baths and 2 half baths. The garage will be used for the storage of vehicles, a trailer boat, two (2) Jet Ski's and a trailer, a motorcycle and a trailer. They are a five (5) car family, soon to be six (6).

Neighbor notification forms are on file.

Mr. D'Amato asked what Mr. Ulrich's intentions are for the Shimerville location that he was previously before the Zoning Board of Appeals for. Mr. Ulrich said he intends to sell that lot; he will not build on it. Mr. Ulrich confirmed that the DeRose's are no longer involved with this lot. He also confirmed that he is buying all 96 acres of the property and no one else is building anything on this lot but him. He is not aware of the previous agreement that the owner had with the DeRose's.

Mr. Mills asked if the structure being proposed for this lot is the same that was proposed for the Shimerville location. Mr. Ulrich said yes and noted that he brought the front and side elevations for the Board members to view. Mr. Mills said this request is a large variance, he asked if Mr. Ulrich has any other evidence as to why this lot can't be built on closer to Lapp Road. Mr. Ulrich said he had a Wetland's Delineation done, he submits a copy of that which also indicates the proposed location of the house. A copy of the delineation map is on file. Mr. Mills said it seems that the house could be moved up a bit; he asked Mr. Ulrich if he would lessen the setback. Mr. Ulrich said he walked the site with the Engineer and the Builder who indicated the house could not be moved up, there is not enough flexibility. He confirmed that there will be no other structures, other than the detached garage, built on the site. Mr. Mills referred to a Wetlands Delineation Map created by Earth Dimensions, Inc. on May 24, 2012.

In response to Mr. Michnik's question regarding future subdivision of the land, Mr. Ulrich said he has no intention of subdividing the land, his intention it to keep the property remote. Mr. Michnik asked if the Zoning Board of Appeals could, if this variance was granted, set a condition that the land cannot be further divided. Mr. Ulrich does not think that restriction is appropriate nor does he understand how the two issues are related. Mr. Mills explained that the applicant is asking for a substantial variance, at the Board's discretion restrictions can be placed on the granting of a variance. Mr. Ulrich confirmed that he has no immediate plans to parcel of the lot.

Mr. Callahan clarified that the variance which Mr. Ulrich requested, and was granted, on Shimerville Road runs with the land, not with the applicant. The variance should be requested based on the land not the individual. Mr. Michnik said he thinks the variance should not only be based on the land but on what the applicant is looking to do. Deputy Town Attorney Steve Bengart clarified that the variance should be based on the application not the applicant.

ACTION:

Motion by Jonathan Hickey, seconded by Arthur Henning, to **approve** agenda item #3 under old business, as written.

Jonathan Hickey	Aye	David D'Amato	Nay
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Appeal No. 2 (from March)

Switala's Construction
Residential Single Family

Requests the Board of Appeals approve and grant:

- 1.) (2 counts): a 10,678 square foot variance to allow a building lot having 9,322 square feet.
- 2.) (2 counts): a 55.8' variance to allow a building lot having 69.2' of public road frontage.
- 3.) a 22.5' variance to allow for a 12.5' front yard setback to a new primary residence on a corner lot.

All requests are to allow for the creation of two (2) building lots and for the construction of two (2) new single family residences at 6132 Railroad Street.

Appeal No. 2 is in variance to (1) §229-49(A).
(2) §229-50(A).
(3) §229-52(A)(3).

DISCUSSION:

Chairman Henning noted that this is the second time this property is before the Zoning Board of Appeals. However, this is a different variance request.

Dave Sutton, from Sutton Architecture, is present representing the applicant. He explained that there were concerns from the neighbors and from Board members so he asked to be tabled to allow time to address those concerns. Mr. Sutton said the goal is to introduce two (2) single family homes, they would be independent; not the duplex structures that were previously proposed. He is proposing homes that are compatible with the surrounding neighborhood, but also respectful to the townhouses that are across the street and also act as a reasonable buffer from the property to the north, which is more of a DPW work yard and try to act as a transitional piece being friendly to the neighbors as well as develop the property in a successful way. The dimensions of the property are 138.37 north to south and 134.28 east to west. The house that was on the property used to be nestled in the north east corner of the property and has since been demolished. The applicant is proposing two (2) single family homes which will require some variances as listed above. Mr. Sutton addressed the five (5) criteria that the Zoning Board of Appeals looks at when reviewing a request. He is introducing housing that is compatible with the housing stock that is in the neighborhood, the lot size is compatible as well, which is notable in the aerial view. He is proposing either a ranch style single family home or a low level 2-story front porch concept, pushing the garage back. The applicant will build either one depending on the desire of the Board and the neighbors.

Since there was previously a double on the property, the applicant thought he could replace it with a double, but now understands that he cannot. The applicant cannot achieve a reasonable return the purchase and development of this property in any other way. A larger single family home would not be practical or compatible with the surrounding homes. Mr. Sutton said this is not a substantial variance because the aerial view shows similar size homes and lots in the neighborhood. By no means is the applicant intending to introduce housing stock that would be detrimental to the neighborhood. The alleged difficulty was not self-created; the applicant thought he could replace the duplex with a duplex but when that structure was demolished that non-conforming use disappeared. The applicant was unaware that this would happen. He did not purchase the property to obtain a variance; he purchased it to build on it and sell the home(s) independently.

Chairman Henning read a letter from the Town Engineer dated June 6, 2012 and kept on file: "The proposed project is located in Clarence Sanitary Sewer District No. 2. Please be advised, per the letter to the Planning Board from Timothy M. Lavocat, P.E. dated March 5, 2012, that because of stormwater inflow and infiltration issues in this district, the New York State Department of Environmental Conservation has put a temporary hold on any new developments within the district. The Engineering and Building Departments are able to review plans for proposed projects in the district, however, no permits will be issued until this matter is addressed." Mr. Sutton is aware of this letter.

Mr. Michnik asked if the applicant is willing to wait to develop this property until the sewer issue is resolved. Mr. Sutton said yes and his hope is that the issue will be resolved in a timely manner. The plan is to sell the homes individually. The ranch style would be 1200-1500 square foot. Mr. Michnik asked if the applicant would have a problem if a limit was put on the square footage. Mr. Sutton said if the Board imposed restrictions, he would certainly adhere to them. A 1200 square foot ranch can be a challenge to build. A 1450 square foot ranch is a popular size and has been well received in different areas. Mr. Michnik asked if the proposal is geared for retired people or families. Mr. Sutton said the ranch style design is geared for the empty-nester. The two (2) story design would be more in keeping with the neighborhood to the south and more family orientated. He feels there is a market for both, but would build whichever design the Board felt most appropriate. Mr. Michnik prefers the ranch style design because he thinks it fits in better with the neighborhood.

Mr. Mills is concerned with the substantial nature of the variance requests. He asked if the client didn't want to put a larger single family home on the lot because of a financial burden. Mr. Sutton said the concern with a larger single family home is that it is speculative; the client is not prepared to put that type of an investment in, as it potentially becomes a \$400,000 house. Mr. Sutton feels there is a high level of risk with this. The 1300 square foot ranch is a more marketable, neighborhood friendly and achievable sell. Mr. Mills asked what the client would do if the variance was denied. Mr. Sutton said the client is not prepared to build a single family home unless he has a client.

Mr. D'Amato asked what the square footage of the previous house was. Mr. Sutton said it was approximately 2500 square feet plus garages. The proposed two-story is about 1700 square feet. The price range would be between \$225,000 and \$250,000 for the ranch. The two-story would be \$350,000 plus with amenities.

Joe Zampogna, of 9501 Village Mill Lane, is not concerned with whether a person can re-coop an investment or not, he is concerned with the integrity of the neighborhood. He said there is not a lot of space between another building and Railroad Street, there is only about 12' of frontage to Railroad Street. They are trying to force two buildings on a lot that should only have one. Plan A will build them

speculatively and if they don't sell then they will go to Plan B rental. He thinks all the neighbors are opposed to any rental property in that area. There are several neighbors that weren't able to attend the meeting this evening but feel the same way as he does.

Another resident voiced his concern with the lack of yard space that is proposed with the project; there will only be 12' of yard.

Kelly Simkin, of 6122 Railroad Street, does not want a huge building 12' from her property line, there is no green space in between, you can't build privacy, you can't build berms, you can't put trees. She said the applicant has owned the property for a while and she has called Jim Martin to come in and do property care because there are rodents and the property is not maintained. If you now have renters, she is concerned that they will not take care of the property either. She thought lots had to have 100' of footage to build a home in Clarence; this lot does not have 100 feet per home being proposed. He is not leaving enough greenspace for two homes on that lot. It is not going to look right in the neighborhood.

Mark Nealen, of 6112 Railroad Street, said 12' in Clarence is too close to be looking at a wall. He is concerned with the drainage in the area. He has three 12" storm sewers that feed into one 6" drain tile on his property then goes to Goodrich Road; it doesn't handle the water, adding a project like this will be a drainage problem as well. He does not want to see two two-family homes there; he would like to see one single family, 1800 square feet in size for a reasonable price-range. Maybe the Town can step up and fix up the property and put a berm up so they don't have to look at the police station and the Town buildings.

Kelly Klemann, of 6135 Goodrich Road, she understands the marketability issue but this area is not for \$300,000 plus homes. Cramming two houses on this lot is too much. She would like to see something in between a huge home and a patio home put on that lot.

Mr. Sutton said they will stay as far away from the north side of the property as possible, they are not asking for any variances on the north side. They will have approved drainage plans and will make sure the drainage is better than what is there now on the vacant lot. This project is geared for an empty nester, someone who wants to stay in the community but does not want a lot of yard to upkeep.

ACTION:

Motion by Daniel Michnik, seconded by Jonathan Hickey, to **table** Appeal No. 2 under Old Business, for more discussion on the information that was submitted today and more consideration that the applicant has with the neighborhood.

ON THE QUESTION:

Mr. Hickey said there was a lot of new information submitted today. He takes the neighbors comments into consideration along with the property owners reasoning for his submittal. He asked the applicant if there is anything else he can do with this property to get the benefit he feels he is entitled to.

Mr. Mills asked if it is the applicant's desire to be tabled. Mr. Sutton said he thinks it is, based on the feedback from the neighbors. He invited the neighbors to talk more with him through a scheduled meeting or out in the hallway this evening. He does not want to do a present a project into a neighborhood that is objectionable by any means.

Jonathan Hickey	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

New Business

Appeal No. 1

Anthony Corigliano
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 150' variance to allow a 350' front yard setback to a primary residence at 10685 Miland Road.

Appeal No. 1 is in variance to §229-41(B)(1).

DISCUSSION:

Mr. Mills recused himself from the discussion and vote on this agenda item as he is involved in the transaction. He exited the room.

Anthony Corigliano is present and explained the main reason for the variance is because of the natural surroundings and the waterways. The property has natural surroundings along the front of the property, there is an apple orchard in the back area of the lot. Because this was previously farmland there is a swale that takes the water across all three (3) lots. Mr. Corigliano's goal is to put the home in the middle where the ground and elevation go higher. He likes the lot because of the natural beauty of the lot. Because of the way the road is angled Mr. Corigliano's proposed home would be in line with his neighbor's. He does not currently own the property. If this variance is approved he will purchase the property. The home would be 2500-3500 square feet in size for his family.

Mr. Hickey asked if the applicant looked into other options for this property. Mr. Corigliano said the only other option would involve taking out a lot of natural growth in the front of the property. The swale hits at around 125' but because it's next to the property and because of the angling of the road it limits the ability and would have to be on the far side of the property, there are a lot of natural ditches that are feeding that swale.

Mr. Corigliano said he has a contract on the property but it is contingent on perk tests, soil tests and a variance. The property consists of 4.2 acres.

Mr. Michnik is concerned with setting a precedent if this variance is granted. In Mr. Michnik's opinion he would not want to remove those trees either, it would be costly to do so. They also act as a beautiful barrier from the street.

Mr. Corigliano is aware that he will need a long driveway. If the Board denied the request, Mr. Corigliano would walk away from the property.

Deputy Town Attorney Steve Bengart asked what happens if the variance is granted but the property does not pass the perc test and the applicant walks away from the property. It is clarified that anything is going to need a variance for a setback just based on the existing houses; so the next property owner who wants to build on that lot would need to come before the Board for a variance. The swale needs to be taken into consideration when locating a house on the property.

Mr. Callahan does not see this as setting a precedent, this is not a violation of law, it is an interpretation of where the setback should be, the variance should go with the land.

ACTION:

Motion by David D'Amato, seconded by Arthur Henning, to **approve** Appeal No. 1, as written.

Jonathan Hickey	Aye	David D'Amato	Aye
Daniel Michnik	Aye	Arthur Henning	Aye

MOTION CARRIED.

Mr. Mills returned to the meeting.

Appeal No. 2

Rodd McMinn
Residential Single Family

Requests the Board of Appeals approve and grant a 184 square foot variance to allow for the construction of a 384 square foot detached accessory structure (shed) at 6314 Pine Cone Court.

Appeal No. 2 is in variance to §229-55(H).

DISCUSSION:

Rodd McMinn is present and explained he has lived in Clarence for two (2) and half years and the original shed does not accommodate his pool equipment and chairs. He would like to purchase a riding lawn mower and keep it in the shed; there is not enough room in the current shed for a lawnmower.

A neighbor notification form is on file from the neighbor that is immediately adjacent to his property.

Mr. Mills asked who will be doing the construction work. Mr. McMinn said Bosch Woodworking will be doing the construction. The vinyl siding and the black shingles will match the house. There will be no heat in the shed. Mr. Mills asked if the applicant could decrease the size of the shed. Mr. McMinn said he would like to have a larger shed; this is the smallest size he could propose to fit everything he needs to. He has no plan to extend the pavement or concrete. There will be one window on the side that faces the house. The floor will be concrete.

ACTION:

Motion by Ryan Mills, seconded by Arthur Henning, to **approve** Appeal No. 2, as written.

Jonathan Hickey	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Appeal No. 3

Anthony and Beverly Tylanda
Residential Single Family

Requests the Board of Appeals approve and grant:

- 1.) a 280 square foot variance to allow for the construction of a 480 square foot detached accessory structure.
- 2.) a variance to allow for both an attached and detached garage.

Both requests apply to the proposed construction of a detached accessory structure at 8543 Howard Drive.

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

DISCUSSION:

Beverly and Anthony Tylanda are present. Mrs. Tylanda explained they are looking for the variance because they don't have a basement and their attic is limited, they need storage area. Mr. Tylanda said they have lived there for over 30 years and as he is getting older it is getting more difficult to get into the crawl spaces that are used for storage. He wants the structure to be part of the gardens; they don't want it to be a shed, they refer to it as an English Cottage so there would be landscaping around it, it would be a destination in the garden.

There are two (2) neighbor notification forms on file.

Mr. Michnik is concerned with the size of the proposed accessory structure. Mr. Tylanda said the maximum height would be 14'. He referred to renderings that are on file.

Mr. Mills asked if the applicant planned stacked stone on the structure. Mr. & Mrs. Tylanda said yes. There will be a covered porch but all the space inside the structure will be used exclusively for storage, there will be no sitting area inside the structure. Mr. Mills asked if the applicant could get away with any less size. Mr. Tylanda said he could. It is clarified that the covered porch is included in the square footage. They do not know who will be doing the construction work.

Mr. D'Amato asked what the smaller amount is that the applicant could live with. Mr. Tylanda said he would like it not smaller than 400 square feet. He does not know if he will run electricity to the structure, he will check with the building inspector. There will be no other utilities in the structure.

Mr. Hickey asked about the neighbor behind the Tylanda's. Mr. Tylanda said someone just bought the house and they are now selling it again, he is not sure if anyone even lives there. Mr. Mills asked if the applicant had any reason to believe the person who may buy the parcel to the rear of his property would object to the variance. Mrs. Tylanda said the only thing that neighbor might see is part of the roof line.

Mr. Mills asked the applicant if a 200 square foot variance would meet their goals. This would allow a 400 square foot structure. The applicant can live with that.

Mr. Michnik asked why the structure is proposed at an angle on the property. Mrs. Tylanda thought it would be more aesthetic rather than locating it square to the fence. Mrs. Tylanda thinks it is too much at an angle; the Tylanda's will review this angle and probably move it back a bit. Mr. Michnik does not

think the extra 80 square feet will make the shed less desirable. If he makes the motion he would make it for the full 280' variance as requested.

Mr. Mills asked if the applicants intend on using higher quality materials on this structure than they would on a conventional shed. Mrs. Tylenda said yes. They would probably use a shingle siding, and stacked stone on the façade. They have no intention of using any of the structure as living space and do not have a problem if that is a condition of the approval.

ACTION:

Motion by Daniel Michnik, seconded by Jonathan Hickey, to **approve** Appeal No. 3, as written with the condition that the structure will never be turned into living space.

Jonathan Hickey	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Appeal No. 4

David LaDuca
Traditional Neighborhood District

Requests the Board of Appeals approve and grant a 160 square foot variance to allow for the construction of an addition to an existing detached garage that would total 880 square feet at 10940 Main Street.

Appeal No. 4 is in variance to §229-66.

DISCUSSION:

David, Laurie and Matthew (son) LaDuca are present. Mr. LaDuca explained that they have a 20' x 20' existing garage and is insufficient for parking vehicles in. He has construction equipment and tools scattered about on his property that he uses only for personal use and would like to store. He has two (2) classic cars that he would like to store. The tongue of the boat won't fit in the garage; he would like to store that, too.

Neighbor notification forms are on file.

Mr. Hickey asked how large the parcel is, Mrs. LaDuca said it is 60' x 346'. They have lived there for ten (10) years. Mr. Hickey asked if there are any other options the LaDuca's could consider. Mr. LaDuca said not really, no. The building material will match the house. There will be no utilities hooked up; the structure will be used strictly for storage. There will be no business operated from the structure.

ACTION:

Motion by Jonathan Hickey, seconded by Daniel Michnik, to **approve** Appeal No. 4, as written.

Jonathan Hickey	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye

Arthur Henning Aye

MOTION CARRIED.

Appeal No. 5

Jun Wang
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a 2’ variance to allow for a 6’ tall fence within the front yard space of a corner lot at 8190 Golden Oak Circle.

Appeal No. 5 is in variance to §101-3(C)(2).

DISCUSSION:

Jun Wang is present and explained that he needs the variance because he is on a wide corner lot. Per the code, both sides of a corner lot are treated as front yard space when considering a fence permit. The fence will be at least 40’ from the road, it will good for the neighborhood. Mr. Wang provided photos of another corner lot with a 6’ high fence in his neighborhood. He spoke with his adjacent neighbors and they do not have a problem with his request. He has two (2) young daughters who would benefit from the fence by keeping them from the road. He will make the fence as nice as possible because he understands the importance of keeping the community beautiful.

Deputy Town Attorney Steve Bengart noted that the Board members viewed a photo on an I-Pad of a home on Pine Loch Lane owned by Mr. Cleland that shows a 6’ fence on a corner lot. The Board members review a photo on an I-Phone of Mr. Wang’s home as well as a depiction of the house with the fence there.

The fence will be white vinyl and will be parallel with Via Del Sole; Mr. Wang thinks this will look the best.

Neighbor notification forms are on file.

Mr. Wang visited the Engineer’s Office. The easement agreement was explained to him and he signed the Private/Public Drainage Easement Agreement for the Installation of a Fence. The form is on file.

ACTION:

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 5, as written.

ON THE QUESTION:

Mr. Michnik noted that the applicant does not have to put up the exact same fence as his neighbor; it can be any type of white vinyl fence.

Jonathan Hickey	Aye	David D’Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Appeal No. 6

Martin Sehl
Residential Single Family

Requests the Board of Appeals approve and grant a 2.5' variance to allow for a 10' side yard setback for the construction of an addition to an existing attached garage at 8710 Howard Drive.

Appeal No. 6 is in variance to §229-52(B).

DISCUSSION:

Martin Sehl is present and explained that the existing garage will be demolished and the new garage will be attached to the home. The existing garage is approximately 14' from the home. He has an existing partial basement that extends into that area, allowing him an 11' wide garage. If he builds the additional distance for the second garage it will give him approximately 24', less the 4' for the partial basement it would give him an approximate 20' entrance for garage space, so allowing the 2.5' would give him a little extra distance to open doors. This will also allow two (2) cars in the garage and allow side doors of both vehicles to be opened and get in and out comfortably.

There are five (5) neighbor notification forms on file.

Mr. Michnik asked for details on the materials to be used on the addition. Mr. Sehl said the materials used for the addition will be incorporated into the home as well. The exterior of the home will be tore off and totally re-sided. There will be a new roof put on the home that will match the new garage. There will be as second story gable in the front, everything will be pitched off. Kelly at Kelkenburg homes did the drawings for the addition. Mr. Sehl has lived there since 1990 and intends to remain there. He does not anticipate putting any further additions on the home.

Mr. Hickey asked if there were any other alternatives Mr. Sehl would consider in accomplishing his goal. Mr. Sehl said the main reason for the variance is to bring the cars in the garage and open the doors comfortably, so this request is what will work for him.

Mr. Michnik asked how high the peak of the garage will be. Mr. Sehl said it will be lower than the peak of the house. There will be a second floor, large enough to walk around on it. He would like to start construction this year. Mr. Sehl agreed to no living space on the second floor if the variance is granted, he said it is planned to be used for cold storage.

ACTION:

Motion by Ryan Mills, seconded by David D'Amato, to **approve** Appeal No. 6, as written, with the condition that the structure be not used as living space.

Jonathan Hickey	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Appeal No. 7

Mark Steck
Residential Single Family

Requests the Board of Appeals approve and grant:

- 1.) a 376 square foot variance to allow for a 576 square foot detached garage.
- 2.) a variance to allow for both an attached and detached garage.

Both requests apply to the proposed construction of a new detached garage at 5165 Hillcrest Drive.

Appeal No. 7 is in variance to §229-55(H).

DISCUSSION:

Mark Steck is present and explained he needs the variance for storage of his classic car, motorcycle and his son's vehicles. One son goes to college and brings his things home on break; Mr. Steck needs storage space for these things as well. The classic car would be stored in the shed during the winter, it is currently stored off-site but he would rather store it on his own property.

Two (2) neighbor notification forms are on file.

Mr. Steck took photos of homes in his neighborhood that have the same set up that he is asking for. He does not know the size of the structures of those on the surrounding properties. His structure would be a wood frame garage with vinyl siding and aluminum soffit, all to match his existing house. There will be one window and one man door, no heat.

Mr. Hickey asked if the applicant looked at a smaller structure to accomplish his goal. Mr. Steck said all the research he has done for this proposal indicates a smaller structure would not work as well for what he is looking to use it for. The contractor he is planning on using built a garage for his brother and he did a good job on it.

Mr. Mills asked how the structure will be orientated on the site. Mr. Steck would like to angle the structure to the back of his house, similar to what his neighbor has done. There will be no driveway or pavement back there. Mr. Steck pointed out that it is the easiest way to come across his property, to come from the left hand side of the property and go straight across the back. When Mr. Steck parks the classic car in the proposed structure in the Fall, it will remain there until Spring. He would also like to keep his motorcycle in the structure during the season. Eventually, Mr. Steck will remove the existing shed from the property. Mr. Michnik asked the applicant if he would be ok with the condition of removing the existing shed once the new one is up as a condition if the request was approved. Mr. Steck keeps his lawn maintenance equipment in that shed and he would really like to keep it in there. If the existing shed falls into disrepair he would take it down.

ACTION:

Motion by Jonathan Hickey, seconded by Arthur Henning, to **approve** Appeal No. 7, as written.

Jonathan Hickey	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Appeal No. 8

Rick Heavern
Agricultural Floodzone

Requests the Board of Appeals approve and grant a 9' variance to allow for the creation of a new building lot having 141' of public road frontage at 8935 Tonawanda Creek Road.

Appeal No. 8 is in variance to §229-30(B).

DISCUSSION:

Chairman Henning noted that the applicant has asked to be removed from the agenda. The written request is in the file.

ACTION:

Motion by Daniel Michnik, seconded by Ryan Mills, to **table** Appeal No. 8 as per the applicant's request.

Jonathan Hickey	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Appeal No. 9

Amy Kostecky
Residential Single Family

Requests the Board of Appeals approve and grant a 6.5' variance to allow a 6' side yard setback for the construction of an addition to an existing primary residence at 4260 Trailing Drive.

Appeal No. 9 is in variance to §229-52(B).

DISCUSSION:

Amy Kostecky is present and explained that she is getting married. She and her new husband both have children and they will be living at her house on Trailing Drive so they need to put an addition on for another bedroom. Currently, the home is a three-bedroom and there will be four children now living there.

Neighbor notification forms are on file.

Mr. Michnik asked if the applicant looked at other places on the property to locate the addition. They looked at another location but it was too close to the septic tank. If they were to build above the garage, it is vaulted and a window would be lost in a current bedroom. There is a wood burning fireplace there and the pipe would have to be re-routed and the vaulted ceiling would be lost.

Ms. Kostecky does not have architectural plans yet because they needed to get the variance approved before going any further with the design. There will be no brick on the addition, it will be all vinyl siding. If the proposed addition was moved over it would block existing windows in the dining room area. Mr. Mills asked if the addition could be stretched out more towards the back of the property. She said yes. Once the architectural drawings are done she may not even need the 6.5' variance. Mr. Mills said 6.5' is a

lot in terms of the area. He suggested trying a 4' variance instead. The fence near the property belongs to the neighbor. Ms. Kostecky thinks a 5' variance might work.

Mr. D'Amato asked if the window is necessary because now they would be looking at the addition. Ms. Kostecky said it is the only window in that dining room area. Mr. D'Amato asked if it could be moved. Ms. Kostecky said it is all brick in back and would not be financially feasible. The sun room will be the entrance into the addition.

ACTION:

Motion by Daniel Michnik, seconded by Arthur Henning, to **approve** Appeal No. 9, as written.

ON THE QUESTION:

It is clarified that the addition would be single-story.

Jonathan Hickey	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Appeal No. 10

Paul Belko
Residential Single Family

Requests the Board of Appeals approve and grant a 2.5' variance to allow for a 2.5' setback to a detached accessory structure (shed) at 5395 Harris Hill Road.

Appeal No. 10 is in variance to §229-55(E)(1).

DISCUSSION:

Mr. and Mrs. Paul Belko are present. Mr. Belko explained that he tore down the old shed and there is a cement pad there. He wants to replace the old shed with a new shed on that same cement pad. If he doesn't put the new shed in that location he would have to tear out that cement pad. There has been a shed in that spot for 40 years. Mr. Belko said his neighbor has no problem with this request.

Neighbor notification forms are on file.

Mr. Michnik asked what Mr. Belko plans on storing in the shed. Mr. Belko said he will store his lawn mower, snow blower, tools and bikes. The doors had fallen off the old shed and it had to be demolished; he was using his garage for storage. He wants to be able to pull in his garage again. He has a six-car household plus a boat. The shed would be a 12' x 12' wooden structure with double doors. There will be no utilities hooked up to the shed. The Board members viewed paperwork which included a diagram of the structure from Wood Techs Product Storage Shed. Mr. Belko referred to the back page, top diagram entitled "Shed Specifications" to indicate what he plans to build. Mr. Belko and his friend will build the shed. The materials will consist of stained T-111.

ACTION:

Motion by Jonathan Hickey, seconded by Daniel Michnik, to **approve** Appeal No. 10, as written.

Jonathan Hickey	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Motion by David D'Amato, seconded by Ryan Mills, to **approve** the minutes of the meeting held on May 8, 2012, as written.

Jonathan Hickey	Aye	David D'Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye
Arthur Henning	Aye		

MOTION CARRIED.

Meeting adjourned at 9:25 p.m.

Carolyn Delgato
Senior Clerk Typist