

Town of Clarence
 One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
 Tuesday September 12, 2017
 7:00 p.m.

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

Zoning Board of Appeals members present:

Chairman Daniel Michnik	Vice-Chairman Ryan Mills	David D’Amato
Patricia Burkard	Richard McNamara	Jonathan Hickey

Town Officials present:

Director of Community Development James Callahan
 Deputy Town Attorney Steven Bengart
 Councilman Paul Shear

Motion by David D’Amato, seconded by Richard McNamara, to **approve** the minutes of the meeting held on August 8, 2017, as written.

Jonathan Hickey	Aye	Richard McNamara	Aye
Patricia Burkard	Recuse	David D’Amato	Aye
Ryan Mills	Aye	Daniel Michnik	Aye

MOTION CARRIED.

Other interested parties present:

Mary S. Gober	Geoff Goodwin	Sean O’Brien	Stephen J. Constable
Robert Sauer	Linda Clark	David Ganschow	Anthony Agnello
Adolph G. Iannaccone		Robert LaMastra	Thomas Kujawa
Brooke Arber	Pam Gelia	Karin Yerger	Maurice Gelia
Howard Payne			

New Business

Appeal No. 1

Mary S. Gober
 Residential Single Family

Requests the Board of Appeals approve and grant a 2’ variance to allow an 8’ side yard setback for the installation of a detached accessory structure (emergency generator) located at 4650 Oakwood Lane.

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

DISCUSSION:

Mary Gober is present. There is one neighbor notification form on file. Ms. Gober said she is looking to put in a back-up generator. Geoff Goodwin is the contractor who will install the generator, he is present as

well. Ms. Gober noted that there are photos of the area and a memo from her neighbor which states the neighbor has no objection to the request. These documents are on file.

Mr. Goodwin provided the details on the generator noting that it is a 17kw Briggs & Stratton. It can be as close as 18" away from the home, but there are openings and windows on the home so they moved it out approximately 3'. The generator is about 30" deep. He said it is more accurate to ask for a 3' variance.

Ms. Gober has lived in Clarence at this property for many years and because of her business she did a lot of international travelling, however she is retired now and will be living full-time in Clarence. She wants to secure her comfort in her home year round.

Mr. D'Amato asked how many generators Mr. Goodwin has installed. Mr. Goodwin said 30-40, this is his business. He has explored other location options on the property and said this is the one they chose because the utilities are on this side, the gas extension will be exterior instead of trying to tap inside. It is a more economical installation at the proposed location. In the back of the property there are trees and a patio that Ms. Gober uses. Sometimes a generator is not that pleasant to look at. Mr. Goodwin feels it is very appropriate to put the generator on the side of the house as proposed. Mr. Goodwin suggested the Town adopt a code that puts the setback requirement more in line with surrounding towns and counties, which is between 3' and 5'. He is willing to help write the code.

Chairman Michnik asked if it is a concern that the variance was posted at 2' and now the applicant is requesting 3'. Deputy Town Attorney Steve Bengart said it is not a concern, the request can vary.

Mr. Goodwin said the generator is about 52" wide and 30" deep and will run beside the home. Chairman Michnik asked about the schedule for the generator testing itself. Mr. Goodwin said this manufacturer designed the generator so it can be set at any time to test itself, so it works for the convenience of the owner and the neighbors. It will turn on once a week and run for twenty minutes.

ACTION:

Motion by David D'Amato, seconded by Patricia Burkard, to **approve** Appeal No. 1, with the following change: a 3' variance to allow a 7' side yard setback for the installation of an emergency generator.

ON THE QUESTION:

Mr. Goodwin said the generator will be approximately 30" away from the house. He does not like to place the generator at the minimum requirement (18") to the house because it is hard for them to service the equipment when it is so close to the house.

The applicant has provided evidence that the foliage in the back yard makes it not an ideal location, there is also a patio being back there. There are photographs of a generator that the neighbor has that is in a similar location as to where the applicant is requesting.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 2

Sean O'Brien
Residential Single Family

Requests the Board of Appeals approve and grant a 196 square foot variance to allow a 396 square foot detached accessory structure located at 6364 Everwood Court North.

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

DISCUSSION:

Sean O'Brien is present. There are four (4) neighbor notification forms on file. Mr. O'Brien explained that a tree fell on the existing structure, which was a 12' x 16' shed. He would like to replace the shed with something larger because his children are getting larger. He would like to put up an 18' x 22' one-car garage.

Mr. McNamara asked if the structure will mimic the siding on the house. Mr. O'Brien said yes, the garage will match the siding on the house and will have a shingled roof as well. There will be a man-door on the side of the building and two (2) windows. Mr. McNamara asked if there will be concrete or black-top to the garage. Mr. O'Brien said it is something they are considering, there will be a concrete foundation. The tree that fell on the existing shed damaged the foundation so a new foundation is needed. There was power to the damaged shed, the power lines were not damaged so the applicant will use those lines for power in the proposed shed. It will be used for personal storage of lawn and garden equipment, there will not be a business operated out of the shed.

Mrs. Burkard asked if the proposed shed will go in the same location as the damaged shed. Mr. O'Brien said yes, same location.

Mr. O'Brien clarified that the shed will be big enough for a vehicle but will be used for lawn and garden equipment. It may be used for vehicle storage in the future once his children start driving. The façade will either be brick or vinyl sided.

Mr. Mills asked if the applicant could get away with any smaller size while still accommodating his needs. Mr. O'Brien said he could go smaller but things are getting bigger and he would like to have the flexibility of having the proposed size as his family grows, and it won't impede on anyone else. The proposed shed will be stick-built on-site, it is not a pre-fabricated unit.

Chairman Michnik voiced his concern saying the applicant is the only one in that court to start the process of the Board approving these sheds. He said if the applicant is going to spend that kind of money he should attach it to the home and make it look like it is just not sitting there. Mr. O'Brien said his neighbor has a very similar shed in a similar location as to what he is asking for. Mr. D'Amato said he saw the neighbors shed when he visited the property and you can't even tell it is there, it blends in nicely. Chairman Michnik mentioned the possibility of a brick façade on the accessory structure and Mr. O'Brien said if that makes everyone comfortable with the request, he will put a brick façade on it. Chairman Michnik is also concerned with the size of the building. Mr. O'Brien noted again that he would like the flexibility to store a vehicle in the garage once his children start driving, this helps to keep his driveway clean. There is a tree on the property that the contractors are concerned with so if the Board is more comfortable bringing the shed in a couple feet, he would do that. The neighbors shed is approximately the same size as what the applicant is proposing. Chairman Michnik asked the applicant what he could live with if he had to reduce it. Mr.

O'Brien said 18' x 20'. Mr. McNamara said if the size is reduced it is more a shed than a garage. Mr. McNamara also said the façade could be brick veneer.

Mrs. Burkard asked if it would cost much more money to attach an accessory structure. Mr. O'Brien said yes.

The house that has a similar accessory structure is the house next to 6358 Everwood Court North. Mr. O'Brien showed the Board photos of the neighbor's garage on his iPad, Deputy Town Attorney Steven Bengart printed the photos and they are on file as Exhibit A and Exhibit B. It is a detached structure with a brick façade and vinyl siding on the sides.

Mrs. Burkard asked if the applicant can install a gate or something else that connects the two buildings. Mr. O'Brien said yes and went on to explain that there was a connecting gate previously but it was destroyed, he will be installing another one that will connect the house and the garage. He will also replace the fence that was damaged along the property. Mrs. Burkard asked the applicant if he is amenable to a condition stating the front/façade has to be brick. He is in agreement.

ACTION:

Motion by Ryan Mills, seconded by David D'Amato, to **approve** Appeal No. 2 with the condition that the front façade facing the street be either a full brick or a veneer brick, not plastic.

ON THE QUESTION:

The applicant provided testimony that the backyard is dense in terms of foliage. The neighbor has a similar size detached accessory structure which also has a brick façade, showing that this request will fit in with the character of the neighborhood.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Nay		

MOTION CARRIED.

Appeal No. 3

Stephen J. Constable
Agricultural Floodzone

Requests the Board of Appeals approve and grant a 15' variance to allow a 30' front yard setback for the construction of a residential single-family home located at 9800 Tonawanda Creek Road.

Appeal No. 3 is in variance to §229-31(A)(1).

DISCUSSION:

Chairman Michnik noted there are no neighbor notification forms in the file. Stephen Constable is present and submitted three (3) certified receipts from the mailing of the neighbor notification forms to the three surrounding properties. Mr. Constable explained that he wants to build a new home on the site. The area where they want to put the house has already been filled and raised. Dominic Volanti is a modular home builder and explained that part of the property is in a floodzone, so if they met the required setbacks the

septic system would be in the floodzone and double the cost of the septic. A house close to a floodzone would raise the cost of insurance. He referred to an architectural drawing C-101 dated June 6, 2017 and said everything is where it needs to be. The drawing is on file. The house will be built on a crawl space as opposed to a full basement.

Another builder said he met the previous owner who told him Barden Homes was going to build there, that's why the area is filled and ready to be built on. A drainage plan needs to be completed for the Engineering Department and that can't be done without the variance.

Mr. Constable owns the property, he closed on it in July 2017. He bought it from Don Lavocat. Mr. D'Amato asked if Mr. Constable was aware of any issues he may have building on the property at the time of purchase. Mr. Constable said he was told by the real estate agent that he could build on it. Before he closed on the property, his attorney insisted on the Health Department saying that he could have a septic system, if they couldn't have a septic system the deal was off.

In response to Mr. Mills' inquiry on who Timothy Newton is, the builder said he is one of his sub-contractors.

It is clarified that there is no pad just dirt which is higher than the road. The size of the proposed home is 29' x 56', it comes in two (2) sections and will be built on site.

Mr. McNamara asked if the applicant thought about turning the house and putting the septic system out front towards the street. The builder said according to the Health Department that was not an option and the Health Department designed the plan as presented.

Mr. Mills said he understands the position of the applicant is that he could build back but it would cost more because more fill would be needed and insurance premiums would possibly be increased. Also, an entirely different septic system would have to be installed due to the floodzone and it would cost \$25,000-\$30,000. The total project cost is approximately \$220,000. The home is 933 square feet on the second floor, and 1400+ on the first floor. It will be a finished Cape. There is no garage. Mr. Constable understands that he needs a building permit in order to put up a garage.

Mrs. Burkard asked if the surrounding wooded areas are buildable lots. The only lot that doesn't have a house on it is to the right side of the applicant's property. The back yard of the property on the left side backs up to the applicant's property.

Robert Sauer is a neighbor and is present, he said he is fine with the request.

Mr. Constable is ready to start construction as soon as he obtains this approval. The developer said they are 6-8 weeks out.

ACTION:

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 3, as written.

ON THE QUESTION:

The applicant provided evidence by way of a septic site plan that shows the floodzone. He provided testimony as to the hardship and why the structure is situated closer to the road. The neighbors have no objection. There will be no adverse impacts to the neighborhood.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 4

Linda Clark
Restricted Business Zone

Requests the Board of Appeals approve and grant a 3' variance to allow a 9' fence in the rear yard of 8185 Sheridan Drive.

Appeal No. 4 is in variance to §101-3(B).

DISCUSSION:

Linda Clark is present. There is one neighbor notification form on file. Ms. Clark said she delivered the form to the other neighbor twice but she has not received the signed copy back. She explained she is looking to put up about 100' of fence for her privacy. She wants to put it against the neighbors existing fence so there will be privacy from the waist up. The neighbor has raised the property 3'-4' so the existing 6' fence is not doing the trick.

The owner of the property next to Ms. Clark put up the existing fence. She said there was an agreement that he would put up an 8' fence and that he would get the variance. Mr. D'Amato asked about the placement of the fence and Ms. Clark said there will be about a foot between her fence and her neighbors. Mr. D'Amato asked how the property between the fences will be maintained. She said there will be enough room to get a push mower between the fences. Mr. D'Amato asked if the applicant approached the neighbor regarding an 8' fence. She said she spoke with him about it four (4) months ago and his response was that she take it up with the Town. He has also knocked some of her trees down. She is proposing a wooden fence to match the neighbors.

Mrs. Burkard asked how much of the windows will be covered up by the fence. Ms. Clark said she will see 6"-7" of the top of the windows. Deputy Town Attorney Steve Bengart noted that Town Code says the climbable side of the fence must face inside. Mrs. Burkard asked if the neighbor is aware that they will see their fence and then another fence 2' higher. Ms. Clark said the renters are aware of it, and the owner has been made aware of it but he has not contacted Ms. Clark.

Mr. Mills asked if the applicant considered additional landscaping to provide a natural barrier. Ms. Clark said yes she has. She had many e-mails with Steve because he knocked down many of the trees on her property, he was going to replace the trees, they were 20 year old Blue Spruces and a 100 year old Oak. He opted to put a fence up. It is 20 years before a new tree grows to the size of the big one that is there and creates a barrier.

Chairman Michnik asked for clarification on what type of fence Ms. Clark will install. Ms. Clark said if the fence doesn't match the neighbor's it will be a wood fence on posts, but the fence will be raised off the ground 2' which will make it easier to maintain the grass and weeds between the fences. The fence will actually be 6' high but will be raised off the ground 2'-3'. There is a 90% chance that it will match the neighbor's fence just because of the visual. However, that style fence creates a wind tunnel that acts like a wind storm and she can't sit in her backyard or put her umbrella's up.

Chairman Michnik referred to the fence description and asked for clarification on the measurements. Ms. Clark said she will either put the 6' piece up and then the 3' on top of that or vice versa.

Deputy Town Attorney Steve Bengart asked if the applicant would consider adding three feet (3') onto Kieffer's existing fence with some sort of lattice work. Ms. Clark said that would look nice for him but not for her. She might consider it depending on the lattice and if it will give her privacy. Deputy Town Attorney Steve Bengart said he is willing to reach out to Mr. Kieffer only if Ms. Clark is interested in this suggestion. Chairman Michnik asked if Deputy Town Attorney Steve Bengart would be looking for the additional cost of the work. Deputy Town Attorney Steve Bengart said he does not have an answer to that. Chairman Michnik and Mr. D'Amato both have a concern on how it is going to look.

Ms. Clark is comfortable with tabling the appeal to allow time for Deputy Town Attorney Steve Bengart to contact the owner of the neighboring property for a possible different conclusion.

ACTION:

Motion by David D'Amato, seconded by Richard McNamara to **table** Appeal No. 4 to allow time for Deputy Town Attorney Steve Bengart to contact the owner of the neighboring property for a possible different conclusion.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 5

David Ganschow
Residential Single Family

Requests the Board of Appeals approve and grant a 624 square foot variance to allow a 1,344 square foot detached accessory structure located at 6055 Railroad Street.

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

Councilman Paul Shear, as liaison to the Zoning Board of Appeals, recused himself from all discussions on Appeal No. 5 and left the meeting room.

DISCUSSION:

David Ganschow is present. There are two (2) neighbor notification forms on file. Mr. Ganschow said the existing 20' x 26' garage and the 10' x 16' shed/chicken house behind the house need a new roof and the foundation is breaking apart due to how wet it gets when it rains. He would like to replace the structure. The existing structure is L-shaped and measures 20' x 42'. He would like to make the new structure 4'

wider and 14' longer. There is a lot of dead space behind the existing structure that he wants to fill in. Within the new structure he would like to create a pool house with a changing room where he can store pool supplies. Currently he cannot get his vehicles in the garage, the proposed structure would allow him to store his vehicles and continue to store what he currently has in the garage.

Chairman Michnik referred to the letter that Mr. Ganschow submitted that identifies other garages/buildings in the neighborhood that are similar to his request. Chairman Michnik said some of the buildings Mr. Ganschow referred to in his letter are not comparable to his request because some of them have been around a lot longer. Also, some of those buildings tie into the neighborhood part of it. They are not pole barns, there are some stick-built, some existing, and some may be in the Agricultural or Business zone. Mr. Ganschow said they are not in the business zone, the properties are residential.

Mrs. Burkard asked what the cost difference is between a pole barn and a regular sided garage. Mr. Ganschow said he received a quote for approximately \$10,000. Mrs. Burkard said Mr. Ganschow has a beautiful home and she is very concerned that he wants to put a pole barn so close to it. She is concerned with how it will fit in with the house. Mr. Ganschow noted that the proposed structure will be located in the same footprint as the existing and is only 4' closer to the house. Mrs. Burkard asked if it will be similar to the one on Maple and Long. Mr. Ganschow said he is looking at similar siding, which is metal, but a different structure. He submitted photos that show a similar structure to what he is requesting. The color scheme would match the house.

Mr. D'Amato asked if the structure will attach to the pool fence. Mr. Ganschow explained that the pool house would only be accessible from the pool area. The door to the pool house would be within the fenced area of the pool. Mr. D'Amato asked if the same blue print can be used. Mr. Ganschow said what is there is 680 square feet, this does not include a pool house and he cannot get his cars in the garage. Mr. D'Amato is concerned with the size and the look of the proposed structure. Mr. Ganschow has lived in this house all but nine (9) years of his life and plans to live there for many years to come. He explained that visually from the road it will be a little bit longer, the roof line for the garage would be similar. Mr. D'Amato asked if the applicant considered other options like having a contractor put up a wood framed pool house, this would match the character of the applicant's property as well as the neighborhood, versus a steel pole barn. Mr. Ganschow said there is pole barn down the street and they matched the color scheme to the house. There is another one across the street from him where the materials don't match but the color scheme does. Further down there is wood on the house and vinyl on the garage. There are many other examples in the area where the garage and the house do not match.

Mr. Hickey clarified that the variance is for the size of the proposed structure. The request of 624 extra square feet is an 86% increase, substantial by any definition. At 6111 Elm there is a structure that Mr. Ganschow referred to but it is not a pole barn. Mr. Ganschow said it is their garage and shed, it is made up of multiple buildings and only some of those buildings match the house. Mr. Hickey asked if Mr. Ganschow plans on matching the proposed structure to his home. Mr. Ganschow said the cost increases a lot if he matches the structure with vinyl siding and a shingled roof like the home has. The estimated cost for matching the home is an additional \$10,000. For a metal sided structure the estimate is already up to \$54,000. Further discussion ensued regarding the surrounding properties that Mr. Ganschow cited in his letter. Mr. Hickey asked how close to 720 square feet could Mr. Ganschow get. Mr. Ganschow said if he had to reduce it he would go 720 and then build another structure, but there has to be 10' between the structures and he would lose the use of some of his property this way. He does not want to have multiple structures on the property.

Mr. Mills voiced his concern with the aesthetics of the proposal and the change in the character of the neighborhood. Mr. Mills suggested vinyl siding and a metal roof. Mr. Ganschow does not know how much that would cost. He has to do the house of the roof at the same time as the garage, so his budget is tight. He submitted the photos to show that they make metal structures very nice now. He said a functional reason that it is important for him to have a metal roof is because the sun can never get at it because his neighbor's sycamore tree is on the north side, asphalt shingles hold moisture and will grow moss.

Chairman Michnik said he would like the applicant to come back to the Board with a plan that shows exactly what he is looking for. He could not vote for this request because there are too many variables that he is looking at and he needs something more definite. He said this building would look like a metal barn from the street. The concerns are the size, the shape and the height.

Mr. McNamara asked if the contractor can come up with some drawings. Mr. Ganschow said he will check with his contractor. Mr. McNamara said they should include a front elevation and an elevation from Maple Street. Deputy Town Attorney Steven Bengart said an elevation for the neighbor's side should be included as well.

Mr. Mills said he would be more amenable to the project if it was vinyl versus metal. He went on to say suggested anything the contractor can do to enhance the architectural appeal should be on the plan. Mr. Ganschow said there will be an overhang so they can set on the stamped concrete near the pool, this will help break up the visual length of the structure.

Chairman Michnik said the applicant needs to put bigger stakes on the property so the Board members can see what he is asking for.

Mr. Ganschow said there is a huge metal barn across the street from his property which is for a business. His is going to look much nicer aesthetically. The Highway Department just down the street from him is made up of four (4) different materials: brick, cinder block, vinyl and big metal barn in the back, none of which match. They have multiple structures that don't match. This is all part of the Hamlet. Mr. Ganschow is trying to match his structure to his house.

Mrs. Burkard suggested the applicant come back with the cost of what it would be for vinyl siding.

Mr. Ganschow referred to the concern of the size of the proposed structure and said to have multiple structures on property would look a lot worse.

Mr. Ganschow asked the Board to table his request until next month's meeting.

ACTION:

Motion by David D'Amato, seconded by Ryan Mills, to **table** Appeal No. 5.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Councilman Paul Shear returned to the meeting room.

Appeal No. 6

Anthony Agnello
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 3' variance to allow a 7' side yard setback for the construction of an attached garage at 10755 Rosewood Lane.

Appeal No. 6 is in variance to §229-41(A). *Subdivision approved with 10' side yard setback.*

DISCUSSION:

Three (3) neighbor notification forms are on file.

Anthony Agnello is present and explained he wants to add a garage for parking vehicles and storage of miscellaneous yard equipment and recreational vehicles. The problem with the garage now is that you have to do a 3-point turn to get into it, so the garage he is adding he wants to use for vehicles and use the existing garage for storage. He will not be using the garage for any type of business operation.

Mr. Agnello said the brick, the siding and the roof of the proposed structure will match the house. He has lived at this residence for about one (1) year.

Mr. Mills pointed out that the garage door in the elevation is a single 2-car door, but the floor plan shows two (2) bays. Mr. Agnello explained that when he photo-shopped the image he made it one door because that is what is on the house. He would like to do two (2) separate doors but he is not sure how it will look and he prefers to have what looks better. The brick will be standard brick to match the house. The photo shows three brick bump-outs on the garage, Mr. Agnello will not have this on his structure. The front façade will be brick and rest will be vinyl sided. Mr. Mills asked if the garage was pulled in a few feet would that allow a two (2) car garage. If he made it shorter a vehicle would really have to "hug" the inside of the garage, plus there would not be a lot of room for storage.

Chairman Michnik asked why there was a bump out where the patio is. Mr. Agnello said the septic system is there and a little closer than 10' so he created a bump-out for clearance. Mr. Agnello thinks the project would probably start in the Spring 2018. The estimate is \$23,000-\$25,000 for the proposed structure, but that does not include the brick.

Adolph Iannaccone lives at 10750 Rosewood Lane and said Mr. Agnello has made him aware of the iterations that he has gone through for this project. This variation is smaller than the one he had proposed several months ago and it was planned for 5' from the property line. Mr. Iannaccone appreciates the concessions Mr. Agnello has made and went on to say he does not oppose this request.

Mr. Agnello said the proposed garage will be approximately 675 square feet. The second floor will be a loft for storage.

ACTION:

Motion by Patricia Burkard, seconded by Daniel Michnik, to **approve** Appeal No. 6, as written.

ON THE QUESTION:

Chairman Michnik said the approval is based on the fact that there will be brick tied into the building. The turning radius to get into the existing garage is non-existent. The existing garage will become a playroom for the applicant's child. The applicant will be able to pull vehicles straight into the garage. The neighbor is happy with the results.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 7

Great Lakes Motor Corp
Commercial

Requests the Board of Appeals approve and grant a 19' variance to allow a 6' side yard setback for the construction of a vehicle service drop-off lane at 8185 Main Street, Mercedes-Benz of Buffalo.

Appeal No. 7 is in variance to §229-87(C)(2).

DISCUSSION:

Neighbor notification forms were mailed certified on August 28, 2017, however, there are no signed forms on file.

Tom Kujawa, the architect, is present along with Robert LaMastra, the owner of Great Lakes Motor Corp. and property owner and president of Mercedes-Benz USA. Brooke Arbor, general manager of Mercedes-Benz USA is also present. Mercedes-Benz of Buffalo is investing more than 1 million dollars in upgrades to their dealership. They will do showroom improvements, new delivery service bays, new roofing, new signage, new façade treatment to the building, repairs to the façade panel throughout the building to some dated materials. They are also re-doing the interior service/reception area, and re-doing the computer stations. They are here today to talk about the new drive-lane service drop-off addition. These improvements are part of Mercedes-Benz USA factory requirements in order of the dealership to be in compliance with its franchise license as well as ownership re-investment. This particular dealership has been a fixture in Clarence for 83 years. He referred to plan C-2 dated June 13, 2017, which is on file. Currently, there is a 90 degree turn into the building for the service area for drop-off vehicles, the vehicle has to meander through the building to get to the service area which is dangerous and has caused accidents in the past. The applicant would like to change the situation and create a new service area which includes a 2-lane, 3-car queuing drop-off lane. This will give the vehicles a straight shot into the building. Mr. LaMastra said they want the visibility of a service drive-thru. Mr. Kujawa went on to explain that the proposed addition is 39' wide by 64.8' long. The height is approximately 19'6" and is setback over 200' from the property line. It will have metal siding and overhead glass speed doors, and will have no impact on the neighboring property which has a 2 ½ story windowless, metal sided building on the property. Mr. Kujawa said the main code concern on this project was the fire department/emergency access. His office prepared a preliminary code review and sent it to the Town Fire Inspector David Metzger. Mr. Metzger indicated that, based on the code review, the addition complies with the NYS Fire Code, related to the Fire Department access around the perimeter of the building. The materials of the addition will match the

existing building. If they can't do this it would be a serious hardship to the dealership and to the business model. Mr. LaMastra said they are below the requirements of Mercedes-Benz USA.

Mr. Kujawa said they looked at other locations on the site to put this addition. It can't go in front of the building, as that is a finished product. It can't go in the back of the building because it backs up to a house area. They looked at the east side but there is underground infrastructure there.

Mr. Kujawa went on to say they will upgrade the metal panels, the façade, and the signage. The color will be changed from blue to black. It will blend in with the rest of the dealership.

Mr. McNamara asked how far from the power lines will the top of the addition be. Mr. Kujawa said they will be 10' away, per code.

Mr. Mills asked if the presented plans have already been approved by Mercedes-Benz. Mr. Kujawa said yes, they have been working on it for two (2) years. Mr. LaMastra said the work has to be completed by June 1, 2018 or they will be fined. It is cost prohibitive to put the building on the east side. They looked at flipping the operation to put the addition in a different location but that would be cost prohibitive as well. The presented plan is the only viable option.

It is clarified that the landscaping between the applicant's property and the Life Storage property belongs to Life Storage.

ACTION:

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 7 as written.

ON THE QUESTION:

The applicant has provide testimony by way of drawings that the proposed location is the only viable option for this project. The Life Storage complex next to the applicant will not be adversely impacted based on the nature of that business and the composition of that structure.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Appeal No. 8

Pamela Payne Gelia
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 5,019 square foot variance to allow for the creation of a 52,916 square foot parcel, split from 5380 Strickler Road.

Appeal No. 8 is in variance to §229-39(B). *1.33 acres=57, 935 square feet.*

DISCUSSION:

Neighbor notification forms were mailed to the adjacent neighbors, certified mail receipts are on file.

Pamela Gelia is present and explained that they are in the process of obtaining an official survey so they are working off the tax map. She explained that she would like to create a separate building lot on the side of what is her mother's property. In order to make the lot meet the requirement of 1.33 acres it would come to the center of her mother's driveway. They would like to cut that back 15' from her driveway. The property does have a sewer tap to the Heise Brookhaven sewer system, this was confirmed by Tim Lavocat of the Town's Engineering Department.

Ms. Gelia's mother passed away. Ms. Gelia, her sister and her brother are co-executors of their mother's estate.

They want to sell the property as a separate building lot. They do not currently have a buyer. The other parcel with the house will probably sold.

Mr. D'Amato asked what the applicant would do if the request was denied. Ms. Gelia said they would have to sell the parcel as one.

Mr. Mills asked if the applicant contemplated carving out a strip going back. Ms. Gelia said yes they looked at that but asked what the value of that would be to a land owner to have a thin strip of land, it would also take a portion the existing driveway. Mr. Mills suggested taking it from the back corner, this would allow the applicant to meet code without a variance. Ms. Gelia said that would leave a thin piece of property that nothing can be done with. Mr. Mills asked if the applicant received a professional opinion indicating it would be more profitable to sell the property as two lots as opposed to one. Ms. Gelia said they spoke with a few realtors who recommend selling the property either way.

Mr. McNamara asked what the Town requirements are for a sewer parcel. Mr. Callahan said one (1) acre and 20,000 square feet in the Residential Single Family zone, in the agricultural zone it is 1.33 acres. Mr. Mills asked if the applicant is amenable to a condition stating that the lot can only be sewer if it is approved. Ms. Gelia said they would agree to that condition.

Chairman Michnik asked how much acreage there is going from Strickler back. Ms. Gelia said 6.2 acres. He asked if the applicant obtained estimates on how much the lot would sell for. Ms. Gelia said between \$65,000 and \$80,000.

Karen Yerger of 5340 Strickler Road is present to understand what the request is for. She asked if there will be only one home on the new lot. Chairman Michnik clarified that there would be two lots, if this was granted, one with the existing home and the other would be a buildable lot.

Mr. Yerger, Karen's son, asked if all the properties down the road have frontage that is 194'. Mr. Callahan explained that the minimum in that zone is 150'. The lot in question, based on its size, has a greater amount of frontage, it doesn't have the depth to be a legal lot in this zone, but the applicant is asking for 5,000 square foot variance.

Deputy Town Attorney Steve Bengart clarified that the existing house is presently on septic, there is only one tap available to hook into the Heise Brookhaven sewer system.

Mr. McNamara said there will be approximately 244' of frontage left for the existing house if the request is granted.

ACTION:

Motion by Ryan Mills, seconded by Richard McNamara, to **approve** Appeal No. 8, with the condition that the new split lot be sewer only and not septic. This is the lot with no existing house and measures approximately 194.4' by 272.2".

ON THE QUESTION:

Mr. Mills said it seems that the intent behind the additional square footage for this parcel would be to accomplish additional space for a septic. This lot is not going to use septic so the variance is appropriate.

Richard McNamara	Aye	Patricia Burkard	Aye
David D'Amato	Aye	Ryan Mills	Aye
Daniel Michnik	Aye		

MOTION CARRIED.

Meeting adjourned at 9:48 p.m.

Carolyn Delgato
Senior Clerk Typist