

Town of Clarence Zoning Board of Appeals Minutes
Tuesday, March 13, 2007
7:00 PM

Daniel Michnik, Vice-Chairperson, called the meeting to order at 7:00 PM.

Zoning Board of Appeals members present:

Daniel Michnik, Vice-Chairperson	Arthur Henning
Ryan Mills	Hans Mobius

Zoning Board of Appeals member(s) absent:

Raymond Skaine, Chairperson

Other Town officials present were:

James Callahan, Director of Community Development
Steven Bengart, Town Attorney
Councilman Bernie Kolber

Other Interested Parties Present:

Patricia Powers	John Cooper
Jim Pauly	John Dubill
Don Ehrenreich	Paul Case
Robert Merino	Bill Smillie
Peter A. Manka Sr.	Peter A. Manka Jr.
Anna Lurz	Mike Lurz
Kevin Horvatits	Amy Horvatits
Gerald P. Gorman	Jeff Palumbo
Phil Silvestri	Jeff Blum
Donald Whiting	Dr. Altman
Mary Powell	

Motion by Arthur Henning, seconded by Ryan Mills, to **approve** the minutes of the meeting held on February 13, 2007, as written.

Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye	Hans Mobius	Recuse

MOTION CARRIED.

Old Business

Appeal No. 6

Susan Dubill
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 9’4” variance to allow a building permit to be issued to place a storage shed 8” from the house at 9430 Wehrle Drive.

Appeal No. 6 is in variance to Section 229-44 (D) Accessory Structures.

The applicant is not present.

Appeal No. 4

Jon Grande
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a variance to allow an additional accessory structure at 5401 Center Pine Lane.

Appeal No. 4 is in variance to Section 229-55 Accessory Structures.

DISCUSSION:

Jim Pauly is representing the applicant and has submitted photos of other detached garages within the Lock Lea area. The plan now shows a breezeway per the suggestion of the Board; however, Mr. Pauly said that the connection serves no effective purpose. The cost difference to put the breezeway in is \$4,400. He has purchased the discontinued brick for the proposed garage in order for it to match the house. The neighbors have signed off and have no problem with the proposal.

Ryan Mills asks about the plans for foliage along the sides, specifically along the south side of the proposed garage. Mr. Pauly explains that Woodstream is doing all of the plantings, many of the existing evergreens will be relocated and there will be a row of trees on the south side.

Arthur Henning asks the representative if his plan will include the breezeway, Mr. Pauly said it will not. The plan showing the breezeway was submitted to show, aesthetically, how it would look and why the applicant is against it.

Mr. Pauly said the setback from the lot line will be 10’ and will not change whether the garage is attached or detached. Jim Callahan clarified the requirement which states the setback is 12’ 5” from principle and 10’ for accessory. Mr. Pauly said he can meet these requirements.

In response to Mr. Mills question regarding Mr. Grande’s preference, Mr. Grande said he prefers the detached garage.

ACTION:

Motion by Ryan Mills, seconded by Arthur Henning, to **approve** Appeal No. 4, as written.

Daniel Michnik	Nay	Arthur Henning	Nay
Ryan Mills	Aye	Hans Mobius	Aye

MOTION DENIED.

The reasons for denial are:

- the applicant has been given the option to connect the garage with a breezeway; the applicant did not ask for this.
- the requested variance is substantial, the law has changed and the new law states a connection to the building must be maintained.
- the proposed variance will have an adverse effect on the physical environmental conditions in the neighborhood because it would initiate more variances being proposed.
- if the garage were to be attached, it brings it all together and anyone else in the area would have to follow the same rules.

Mr. Pauly asks if this includes pool houses or sheds. Mr. Michnik said if the owner's did not come to the Zoning Board of Appeals, the Board does not know they are out there. It is confirmed that if the garage is attached a variance is not needed. Mr. Grande asks if it is unreasonable to ask the Board members to come to his house and see what they are asking him to do would look ridiculous, it's like having a door that does not go anywhere.

Appeal No. 6

Susan Dubill

Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 9'4" variance to allow a building permit to be issued to place a storage shed 8" from the house at 9430 Wehrle Drive.

Appeal No. 6 is in variance to Section 229-44 (D) Accessory Structures.

DISCUSSION:

Mr. Michnik reads a memo from the Town of Clarence Building Department dated March 5, 2007 in which it states the Harris Hill Fire Department was contacted by Mr. Dubill. Fire Chief Ken Beil of the Harris Hill Fire Department contacted the Clarence Building Department and stated that he had no concerns with the storage shed location provided that the shed was in compliance with the New York State Building code. He felt a written response was not warranted. Due to the fact that this has been an outstanding issue since June of 2006, I request that this be placed on the Zoning Board of Appeals agenda as soon as possible. Mr. Michnik asks if the Clarence Building Department provided the applicant with direction for the proposed storage shed. Mr. Dubill said Mr. Gross, of the Building Department, outlined the rules and regulations for fireproofing the shed, the applicant was to apply for a variance and, if granted, meet once again with Mr. Gross for further instruction.

Mr. Michnik reads a memo dated February 13, 2007 from Code Enforcement Officer, Paul Gross. The memo is on file and reads as follows: The location and distance of the storage shed from the house, as constructed, does not comply with the N.Y. State Building Code. The Residential Code of N.Y. State R302.1 requires that a detached garage, storage shed, or similar structures remain a minimum of 6 feet from the dwelling. Any distance less than 6 feet to the dwelling requires a storage building to be constructed with a fire-separation of not less than one-hour fire resistance. The purpose and concept of the fire-separation is that it provides a convenient means of protecting one building from another as far as exposure is concerned. Exposure is the potential for heat to be transmitted from one building to another during a fire in the exposing building. Radiation is the primary means of heat transfer. Constructing a one-hour resistance rating can be completed by installing a double layer of 5/8" Type "x" drywall to each wall and ceiling of the storage shed. The floor of the storage structure must be constructed of a non-combustible material such as concrete in order for this type of construction to comply as a one hour rating. Construction of the above prescriptive assembly will bring this storage structure into compliance.

Mr. Mobius wonders why the face of the shed is not brick; it would have matched the house.

ACTION:

Motion by Ryan Mills, seconded by Arthur Henning, to **approve** Appeal No. 6, as written.

ON THE QUESTION:

Mr. Henning suggests the conditions stated in Mr. Gross' memos be made part of the motion.

ACTION:

Motion by Ryan Mills, seconded by Arthur Henning, to **approve** Appeal No. 6, as written with the condition that Mr. Dubill complies with the memos from Paul Gross to James Callahan. The memos are dated February 13, 2007 and March 5, 2007. The memos have been discussed with Mr. Dubill at this meeting and he has agreed to them.

Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye	Hans Mobius	Nay

MOTION CARRIED.

Appeal No. 7

Nativity of the Blessed Virgin Mary Church
Traditional Neighborhood
Appeal No. 7 is in variance to Section 229-67 (B) Parking Lots.

Requests the Board of Appeals approve and grant a variance to allow for a front yard parking lot per submitted design at 8550 Main Street.

DISCUSSION:

Paul Case, of Metzger Civil Engineering, is representing the applicant. Don Ehrenreich, from Nativity, is present. Mr. Case explains that the request was tabled at the last Zoning Board of Appeals meeting pending information from NYS DOT and the Town of Clarence Landscape Review Committee. The applicant was to come back to the Board with a revised plan and a letter from the DOT.

Mr. Michnik explains the Landscape Review Committee report was received and is on file, the comments are as follows:

- Reviewed rough plan to be submitted on print for meeting scheduled March 7, 2007.
- Revised plan dated March 5, 2007-approved as submitted.
- Check Kwanzan Cherry for salt tolerance.

Mr. Case points out that the proposal is the only location at the site to provide additional parking. He explains that the DOT is pleased with the plan.

Mr. Case explains some of the changes within the Landscape Plan. A 2'-3' high fieldstone wall is proposed with some planting beds and trees. Landscape islands have been added in the existing parking area.

Mr. Michnik reads a letter from the DOT dated March 5, 2007 in which it is indicated that the DOT has no objection to the proposed widening of the eastern driveway given that improvements are implemented at the western driveway to better control access. The Draft plan you provided showing the islands will be an improvement from the existing condition. As discussed in our phone conversation, you will assess the feasibility of further reducing the driveway opening. A NYSDOT Highway Work Permit will be required for the work within the State Right-of-Way. Attached is Figure 222-6 of NYSMUTCD for guidance on signing of one-way driveways. I am confident that details for the driveways can be worked out during the Town's Site Plan Review process and/or the Department's Highway Work Permit process. Thanks, Edward S. Rutkowski, P. E.

Mr. Mobius thinks this request will improve the area.

Mr. Case explains that the fieldstone wall will be consistent with the stone wall that runs down Main Street.

Mr. Henning asks if there was discussion regarding a traffic light at the location. Mr. Ehrenreich said no. If the traffic becomes difficult the church will call in an off-duty sheriff to direct traffic.

Mr. Michnik asks if Mr. Ehrenreich thinks the proposed parking lot will be used or will people still park on Main Street. What is the alternate plan? Mr. Ehrenreich will talk with Lackawanna Products located across the street from the church; he has already talked to HSBC.

The estimated cost for this plan is between \$100,000 and \$125,000.

Jim Callahan explains that the curbing must match DOT standards.

ACTION:

Motion by Hans Mobius, seconded by Ryan Mills, to **approve** Appeal No. 7, as written with the following conditions:

- The Landscape Plan dated March 5, 2007 is to be complied with.
- An approximately 3' tall fieldstone fence is to be put in place as illustrated on the plan.

Daniel Michnik	Nay	Arthur Henning	Aye
Ryan Mills	Aye	Hans Mobius	Aye

MOTION CARRIED.

New Business

Appeal No. 1

Cooper Sign Company
Major Arterial

Requests the Board of Appeals approve and grant a variance to allow a color electric message center for Ben Garelick Jewelers at 5001 Transit Road.

Appeal No. 1 is in variance to Section 181-3(B) Sign illumination and movement.

DISCUSSION:

Robert Merino, attorney for the applicant, said they are asking for an interpretation of the Town's Sign Law, section 181-3(B). He believes the proposed sign complies with the existing ordinance. The applicant has made several changes to the plan since its original. The sign will not be a distraction to motorists. Although the message can be changed, it is not a flashing sign.

In response to Mr. Mobius' question regarding the height of the previous sign, John Cooper, of Cooper Sign Company, said he does not have that information with him; however, the proposed sign is no higher than the previous sign. Mr. Cooper said the proposed sign, in concept, has been approved by the Sign Committee with the exception of the color of the message center. He was told it would be acceptable if the message center was red, but not colored. Mr. Cooper said the applicant has no intention of putting up a sign that is similar to Andrew's Jeweler's on Transit Road.

The applicant would like to see soft, soothing images put up on the message center.

Jim Callahan was in attendance at the Sign Review Board meeting when the proposed sign was reviewed and discussed. The Board denied the sign as submitted based on the fact that there is no guarantee that whoever is managing the sign in the future will not incorporate a similar message center as that of Andrew's Jeweler's. This is the type of illumination and change that is not desired. The proposed new Sign Law is currently being reviewed and it limits and further clarifies the LED experience, the Sign Review Board interpreted the law that it would not be allowed. This interpretation applies to the existing and proposed Sign Law. Mr. Cooper's understanding was that the color was the issue.

William Smillie, who works for the manufacturer, explains the existing sign is within the code and currently has a reader board on it. This proposal will clean up the existing sign and make it more aesthetically pleasing. It was his understanding that color was the issue; he asks if color is restricted for a regular sign permit.

Mr. Callahan explains the allowable square footage for a sign in the Major Arterial zone is 60 square feet and the changeable portion of the sign can be up to one-third of the sign. The maximum height is 20'; the sign is within the allowable square footage.

The time frame on the message board can be controlled.

Mr. Mills receives confirmation that the message board is going to change frequently, perhaps even during the course of a day. He questions the intensity of the sign. Mr. Mills asks the applicant to site other signs in the area that are similar to the proposed sign. The applicant said there are other signs in the area that have red message boards, but no colored signs. The sign has not been purchased yet. Mr. Mills asks what the applicant would do if this request was denied. The applicant has not thought about it.

Mr. Henning refers to the Jim's Steakout sign and voices his concern with it; it flashes and changes 7 or 8 times a day. He does not want this proposed sign to be similar to the Jim's Steakout sign. Mr. Henning asks how often the proposed sign will be changed. The applicant can not answer the question. The applicant explains the message would be multi-colored and would change with "the blink of an eye".

Mr. Michnik asks if the applicant would consider changing the sign only once a day. The applicant said no.

Councilman Kolber refers to the Sign Law which states the message can not be more than one-third of the sign; this plan shows 21' of message, which is more than one-third of the 60' sign.

Robert Merino asks what the problem is with colors on the proposed sign.

ACTION:

Motion by Ryan Mills, seconded by Hans Mobius, to **deny** Appeal No. 1, as written based on the following:

- It has been demonstrated that the sign is not essential to the business; the business has been operational for 55 years.
- The property does not have unique or highly uncommon circumstances.
- There are no other color signs or illuminated signs of constant intensity in the nearby vicinity, thus it would alter the character of the neighborhood.
- The applicant has stated that the purchase of the sign has not been finalized, there is no self-created hardship.

Daniel Michnik	Nay	Arthur Henning	Nay
Ryan Mills	Aye	Hans Mobius	Nay

MOTION FAILED.

ACTION:

Motion by Arthur Henning, seconded by Hans Mobius, to **approve** Appeal No. 1, as written.

Daniel Michnik	Nay	Arthur Henning	Aye
Ryan Mills	Nay	Hans Mobius	Aye

MOTION FAILED.

The applicant said the traffic on Transit Road is overwhelming and a sign above eye level is needed stay in business. They want to make a major investment in the store so the business will grow. The applicant is willing to sign a document that puts certain conditions on the sign, for instance he would agree to have no flipping. He wants to put up something that the Town would be proud of.

The Zoning Board of Appeals is asked if they would re-consider the motion with conditions. If the request was discussed again, the motion would have to be unanimous.

Councilman Kolber is concerned that other businesses in the area will want to erect similar signs and the Town will be come inundated with flashing message boards.

The applicant is advised to contact Mr. Callahan for advice on the next step.

Appeal No. 2

Silvestri Architects/Dr. Altman
Restricted Business

Requests the Board of Appeals approve and grant two variances:

- 1.) A 15' variance to allow a 10' west side yard setback.
- 2.) A 20' variance to allow a 5' west side yard parking setback.

Both variances apply to 8421 Sheridan Drive.

Appeal No. 2 is in variance to Section 229-79 Development and design provisions.

DISCUSSION:

Phil Silvestri, of Silvestri Architects, is representing Dr. Altman and explains that the Town Board had some concerns on the side yard setback, so the applicant eliminated the garage on the proposal. The only variance the applicant is now requesting is for the parking side yard setback; it varies between 5' and 10'.

Mary Powell, construction manager at Casilio Companies, is present.

There is one neighbor notification in the file from 8431 Sheridan Drive.

Mr. Mills asks about the construction of the proposed building. Mr. Silvestri said it is residential construction. It is a wood frame building with a pitched roof of architectural asphalt shingles, brick veneer all the way around. Trees will be preserved along the property line per the neighbor's request. Mr. Mills asks if the applicant could accomplish what he is looking for if the number parking spaces were reduced. Mr. Silvestri said the number of parking spaces was calculated to meet the Zoning requirements.

In response to Mr. Henning's question regarding ownership of the property, Dr. Altman said he currently owns the property. Jim Callahan explains that this medical office is an allowed use per the code.

A tree survey has been ordered, this will help the applicant work with the neighbor to preserve trees and provide a buffer.

Mr. Michnik asks about the fence on the west side of the property. It is the neighbor's fence.

ACTION:

Motion by Ryan Mills, seconded by Daniel Michnik, to **approve** Appeal No. 2, that the Zoning Board of Appeals grant **only** a 20' variance to allow a 5' west side yard parking setback on the condition that trees are preserved to the west of the property.

ON THE QUESTION:

Councilman Kolber voices his concern with the request to reduce the number of parking spaces and wondered if this would be a variance. Jim Callahan explains that issue is something the Town Board and the Planning Board would address.

Daniel Michnik Aye
 Ryan Mills Aye

Arthur Henning Aye
 Hans Mobius Aye

MOTION CARRIED.

Appeal No. 3

Michael & Anna Lurz
 Residential Single-Family

Requests the Board of Appeals approve and grant a 5'5" variance to allow a 7' side yard setback for the construction of an additional attached garage at 4990 Red Tail Run.

Appeal No. 3 is in variance to Section 229-52 Setbacks.

DISCUSSION:

Mr. Lurz explains that he wants to build a third attached garage onto the existing structure. The building material will match the house.

Mr. Mills asks what the use is for the proposed third garage. Mr. Lurz said it will store a sports car. The construction of the addition would be a wood frame with vinyl siding and a black roof, it will be identical to the house.

Mr. Henning asks where the sports car is currently stored. Mr. Lurz said it is in his garage, with his other car parked outside the garage. He agrees that if the request is denied the vehicles would be parked in the same locations.

Mrs. Lurz said they met with the architect and designed the garage to the smallest specifications possible.

Gerald Gorman, representing Kevin and Amy Horvatits, refer to the Town Code Section 229.46 which states the purpose of the Residential Single-Family area is to create a more open suburban character. He said there is no practical hardship. The applicant can store the sports car in a place off the premises. There has been no significant financial hardship demonstrated. There will be a negative impact on the character of the neighborhood. He explains that there are six other houses with three car garages in the neighborhood and they all fall within the appropriate Town requirements. He provides a copy of a signed petition from approximately one-third of the neighbors opposing the project.

Mr. Lurz said the six properties that have the three car garages are the most expensive properties in the neighborhood, by not granting this variance the Board is not allowing the applicant to enhance the value of their property, he considers that a financial hardship.

Mrs. Lurz said she spoke with neighbors in the area and some of them were uncomfortable being asked to take sides on something they felt was none of their concern, some of them were not approached with the petition at all. She goes on to say if a petition is going to be granted maybe the whole neighborhood should be poled, not just those that are friendly with particular neighbors. When they moved into the house six years ago there was an issue because the neighbor had their property 3' by 7' over on to the Lurz' property.

Mr. Michnik walked the property and said if the request is approved, when Mr. Horvatits looks out his backyard he will no longer be able to see the street.

Mr. Lurz said the neighbors were notified.

ACTION:

Motion by Arthur Henning, seconded by Ryan Mills, to **deny** Appeal No. 3, as written based on the following:

- The evidence in this matter illustrates that there will be an undesirable change to the neighborhood, it would, at minimum, adversely impact the neighbors to the south.
- There are alternatives such as a private storage facility for the sports car.
- The requested variance is substantial.
- The neighborhood dynamics would be impacted if the variance is granted.
- The alleged difficulty is self-created.

Daniel Michnik Aye
Ryan Mills Aye

Arthur Henning Aye
Hans Mobius Nay

MOTION CARRIED.

Appeal No. 4

Silvestri Architects/Waterford Village Bank
Traditional Neighborhood District

Requests the Board of Appeals approve and grant a variance to allow parking within the front yard setback for a new bank at 8411 Main Street.

Appeal No. 4 is in variance to Section 229-67 (B) (1) Design Standards.

DISCUSSION:

Jeff Palumbo, of Renaldo and Palumbo, is representing the applicant along with Phil Silvestri of Silvestri Architects. A member of the Board of Directors of the new bank is present as well.

Mr. Palumbo said the bank is now operational. There have been many modifications to the plan and the only remaining issue is the three parking spaces that were relocated to the front yard within the setback. Without the variance the three parking spaces would either be relocated or eliminated. Mr. Palumbo points out that there is 49% greenspace at the site. The reason for the three parking spaces proposed in the front is because there are certain customers who want to park in the front of the building for safety reasons. The other reason for parking in front of the building is to show that the bank is open and operational. Mr. Palumbo refers to the photos that show other businesses in the area that have parking in the front of the building, thus, if the Board grants the request, it would not be out of character with the neighborhood, the photos are on file.

Neighbor notifications are on file.

The proposed front three parking spaces are not handicap accessible. Mr. Mills asks if the request is denied, where the three spots will be relocated to. Mr. Palumbo said there is room to relocate the spots but it would take away greenspace; they really do not need to relocate the spots to comply with the ordinance. If the request is denied what would replace the three proposed parking spaces would be part concrete, part greenspace.

Mr. Henning asks for details regarding the bank. Mr. Palumbo said it is a locally invested bank, 90% of the Board of Directors is from the area. This is the first commercial bank that has been approved in Western New York in 70 years. This location is headquarters. Construction has started on the building; the bank is currently operating out of a trailer on site. There is handicap parking proposed on the side of the building. There is only one entrance to the bank and it is on the side of the building.

Mr. Michnik voices his concern regarding the flow of the traffic within the site.

Mr. Palumbo said if the three parking spots were relocated they would probably be put in the area in which the customer would have to walk across the drive-thru lanes in order to enter the bank, this would create another problem.

ACTION:

Motion by Ryan Mills, seconded by Hans Mobius, to **approve** Appeal No. 4, as written.

Daniel Michnik	Nay	Arthur Henning	Nay
Ryan Mills	Aye	Hans Mobius	Aye

MOTION FAILED.

Mr. Palumbo asks if this appeal can be placed on the agenda for next months meeting since one of the Board members is absent. He asks if the Board would rescind the motion and table the appeal until next meeting.

Mr. Mobius asks what the time line is for this area of construction. Mr. Palumbo said a month and a half.

ACTION:

Motion by Arthur Henning, seconded by Ryan Mills, to **rescind** the previous motion on Appeal No. 4.

Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye	Hans Mobius	Aye

MOTION CARRIED.

ACTION:

Motion by Hans Mobius, seconded by Arthur Henning, to **table** Appeal No. 4.

Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye	Hans Mobius	Aye

MOTION CARRIED.

Appeal No. 5

Blum Builders
Residential Single-Family

Requests the Board of Appeals approve and grant two variances:

- 1.) A variance to allow a second garage, an accessory structure in the required front yard.
- 2.) A 1,700 square foot variance for an accessory structure in a previously approved Open Development Area lot.

Both variances apply to the previously approved Open Development Area lot north of 5955 Shimerville.

Appeal No. 5 is in variance to Section 229-55 Accessory Structures.

DISCUSSION:

Jeff Blum explains that when lot #2 was purchased in the subdivision, part of the plan was a six (6) bay garage; however, after further review the six (6) bay garage would have made the house look off balance and would not be architecturally appropriate. So the plan changed to build some of the bays as a detached structure, but the owner did not want it to look like a detached garage. This is how the idea came about for the carriage house.

There is one neighbor notification form on file.

Councilman Kolber asks if it would be possible to attach the structure behind the house. The applicant did not think it would be as attractive if attached to the back of the house. The setback of the proposed carriage house is 105'. The setback of the proposed house is approximately 220'. The acreage is 3.1.

Mr. Mobius is in favor of the plan.

Mr. Mills asks if the owner has regular daily access to the vehicles, Mr. Blum does not believe so and goes on to explain that most of the cars are classics. Mr. Ryan suggests putting three bays right behind the three bays that are attached to the house, this will provide more depth. Mr. Blum said the applicant discussed this suggestion but did not want to have to move cars around in order to get at one vehicle within the bay; there were also roof issues with this idea.

Mr. Mobius asks if anyone would be living in the carriage house. Mr. Blum said no and goes on to explain that the proposal is for access to allow upstairs storage and electricity will be put in, it will not be furnished. The construction materials will be identical for the house and the carriage house.

The square footage of the carriage house is 1700.

Mr. Mills suggests calling the accessory structure something other than a carriage house, since a carriage house may carry the connotation of living quarters. It is agreed to call it an accessory structure.

ACTION:

Motion by Hans Mobius, seconded by Daniel Michnik, to **approve** Appeal No. 5, as written with the condition that the second garage is stated as a secondary garage and not any type of occupied living quarters.

ON THE QUESTION:

Mr. Mills suggests the motion include the condition that the building materials for the proposed secondary garage match those of the proposed house. Mr. Blum agrees. Mr. Mobius agrees to amend his motion; Mr. Michnik agrees to amend his second to the motion.

ACTION:

Motion by Hans Mobius, seconded by Daniel Michnik, to **approve** Appeal No. 5, as written with the following conditions:

- The second garage is stated as a secondary garage and not any type of occupied living quarters.
- The building materials for the proposed secondary garage match those of the proposed house.

Daniel Michnik Aye
Ryan Mills Aye

Arthur Henning Aye
Hans Mobius Aye

MOTION CARRIED.

Appeal No. 6

Donald J. Whiting Jr.
Residential Single-Family

Requests the Board of Appeals approve and grant a 25,960 square foot variance to allow a new lot configuration for an existing home at 5140 Kraus Road.

Appeal No. 6 is in variance to Section 229-49 Lot area provisions.

DISCUSSION:

Mr. Whiting explains that the property he wants to sell is boxed in by a septic system; there are two ways to obtain extra ground. One is to come across the front yard of the other house or go to the septic field, which is what he did. His plan is to ultimately sell both the structures, but he is looking to sell just one for now, which is located at 5140 Kraus Road.

Mr. Mills asks what the applicant would do if the Board denied his request. Mr. Whiting would probably wait until someone would buy both structures. He plans on putting new roofs on both buildings.

Mr. Henning asks for clarification on the number of parcels involved. Mr. Whiting said the request is for one parcel to be split in two, one lot would be of standard size, the other is of sub-standard size. He does not reside on this parcel.

The total acreage is 2.5 and Mr. Whiting acquired the property in August or September of 2006.

Mr. Mills asks why the property line can't extend to the north to achieve the acre. Mr. Whiting said because it would come right across the front of the other house.

ACTION:

Motion by Arthur Henning, seconded by Hans Mobius, to **approve** Appeal No. 6, as written.

Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye	Hans Mobius	Aye

MOTION CARRIED.

Meeting adjourned at 9:45 p.m.

Vice-Chairperson, Daniel Michnik