

Town of Clarence
Zoning Board of Appeals Minutes
Tuesday, October 10, 2006
7:00 PM

Ronald Newton, Chairman, called the meeting to order at 7:00 PM.

Board of Appeals members present were:

Ronald Newton, Chairperson
Daniel Michnik
Ryan Mills

Raymond Skaine, Vice-Chairperson
Arthur Henning
Hans Mobius

Other Town officials present were:

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

Other Interested Parties Present:

Mike Metzger
Ronald Daigler
Charles Bosch
Rhonda Buettner
Umberto Berardi
Steve Shafer
Susan Dubill
Mark Zygaj
Don Kleinschmidt
Dan Loudenslager

Don Stiglemeier
Gerald Schrader
Patrick Buettner
Staci Berardi
James Gsell
Haibo Jiang
John Dubill
Michael Vilardo
Joe Sorrentino

Motion by Raymond Skaine, seconded by Ryan Mills, to **approve** the minutes of the meeting held on September 12, 2006, as written.

Ronald Newton Aye
Daniel Michnik Aye
Ryan Mills Aye

Raymond Skaine Aye
Arthur Henning Abstain

MOTION CARRIED.

Michael Metzger, of Metzger Civil Engineers, asks the Zoning Board of Appeals to reconsider the previous denial on the variance request for 10505 Greiner Road, in the name of Don Stiglemeier. The Board heard this request at the April 13, 2004 Zoning Board of Appeals meeting. Mr. Metzger said the applicant has approached his neighbor to see if he would be willing to sell him enough land to bring Mr.

Stiglemeier's parcel in compliance with the Zoning Code. The neighbor was unwilling. If the neighbor sold Mr. Stiglemeier enough land to make his parcel compliant, the neighbor's parcel would then be short on frontage and would become a non-compliant lot. Mr. Metzger advises there are now sanitary sewers in the area, and if a home were to be built on the lot it would be served by sanitary sewer. The Zoning Board of Appeals members are not interested in rehearing the request because there have not been any significant changes made and if granted it would still create an undesirable change to the neighborhood. Concerns are also voiced regarding the backyard privacy of the neighbors.

Ronald Newton notes that a letter from David Kawaler of 6445 Salt Road was received on September 15, 2006. The letter indicates that Mr. Kawaler was unhappy with the outcome of the Zoning Board of Appeals decision on Appeal No. 1, 6425 Salt Road, from the September 12, 2006 meeting. The letter is on file.

Old Business

Appeal No. 2

Ronald Daigler
Residential Single-Family

Requests the Board of Appeals approve and grant two (2) variances:

1. A 3' variance to allow for the construction of an accessory structure 19' in height.
2. A 320 square foot variance to allow the construction of a 520 square foot accessory structure.

Both requests apply to 8401 Clarence Center Road.

Appeal No. 2 is in variance to Section 229-55 (E) (2) and 229-55 (F) Accessory Structures.

DISCUSSION:

Mr. Daigler points out that there are barns in the area that are larger than his proposed structure. Ronald Newton asks Mr. Daigler if he redesigned the barn to bring the height down, this was the request of the Board at the September 12, 2006 meeting. Mr. Daigler said he is willing to bring the height down to seventeen feet (17'), however, the square footage would remain at 520'. The structure will be used for storage and as a gardening shed. In the future, when Mr. Daigler retires, he may want to use the structure as a place to rebuild a car. Mr. Mills asks what materials will be used for the construction of the structure. Mr. Daigler said the materials will be red dutch latch siding, black shingles and white trim.

Arthur Henning asks Mr. Daigler why he needs so much space; Mr. Daigler believes he needs the space for his utility trailer, storage, gardening shed and the possibility of storing a car in the future.

Daniel Michnik agrees that nineteen feet (19') is too high, he agrees with the suggested height of seventeen feet (17'). He does not have a problem with the square footage of the building.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning, to grant **approval** of Appeal No. 2 under Old Business based on the following stipulations:

- the height of the building shall not exceed seventeen feet (17').

-the plans be submitted to the Town Engineering Department prior to a building permit being issued. The Town Engineering Department must be in agreement that the submitted plans show the building at a maximum of seventeen feet (17') in height.

Ronald Newton	Nay	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

ON THE QUESTION:

Ronald Newton thinks the size of the building is excessive.

MOTION CARRIED.

Appeal No. 3

Gerald R. Schrader
Residential Single-Family

Requests the Board of Appeals approve and grant a 40 square foot variance to allow the construction of a 12'x 20' shed at 4595 Christian Drive.

Appeal No. 3 is in variance to Section 229-55 (H) Accessory Structures.

DISCUSSION:

The applicant has staked the property.

All members of the Board agree they do not have a problem with the variance request. Neighbor notifications are on file.

ACTION:

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

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

New Business**Appeal No. 2**

Pat & Rhonda Buettner
Residential Single-Family

Requests the Board of Appeals approve and grant two (2) variances:

1. A second garage.
2. A 2.5' side yard setback to allow the construction of a 20' x 14' detached garage 7.5' from property line.

Both requests apply to 6420 Lakemont Court.

Appeal No. 2 is in variance to Section 229-55 (H) and 229-55 (E) (1) Accessory Structures.

DISCUSSION:

Pat and Rhonda Buettner are present; Chuck Tiffany speaks on behalf of the applicant. Mr. Tiffany explains that there is a seven and a half foot (7-1/2') easement and the applicant is asking for another two and a half feet (2-1/2') so they will actually be ten feet (10') from the lot line. He believes the easement is either for utilities or for the drain that is underground. Jim Callahan confirms that it is a public drainage easement.

Ronald Newton asks the applicant to explain the need for a second garage. Mr. Buettner explains the second garage would be used for basic storage. He has three (3) children and once he parks his two (2) cars in the existing garage there is no room for bikes or patio furniture.

Mr. Skaine points out that this would be the only detached garage in the neighborhood. Mr. and Mrs. Buettner said there are three (3) other detached garages in Meadowlakes. Mr. Skaine is looking specifically in the applicant's neighborhood, on their street. Mr. Skaine explains that this would alter the physical condition and change the nature of the neighborhood. Mr. Tiffany said the garage would be thirteen feet (13') high. Mr. Buettner thinks this garage will look nice. Mr. Tiffany explains that this would have to be a detached garage because the existing garage is a side-load garage. Mr. Skaine asks why a second structure can't be put up at a different location on the applicant's land. Mrs. Buettner said their lot is not conducive for a shed because there is a slope in the yard. Mr. Tiffany said the proposed garage will match the house.

Ronald Newton asks why the second garage can't be attached with a breezeway, this way it would be an attached garage, as opposed to a detached garage. Mr. Tiffany said this would create an additional expense.

Daniel Michnik suggests the existing garage be extended to a three (3) car garage and keep it a side load garage. Mr. Buettner said a car could never get around this structure; Mr. Michnik reminded him that he said the proposed garage would be used for storage only. Mr. Buettner said his utility meters and the underground cable and electric wires are located in this area and would have to be relocated. Mr. Michnik said a freestanding one-car garage is out of character in this neighborhood.

Mr. Tiffany said the garage would have the same roofing, same pitch to the roof and the same vinyl siding as the house.

Arthur Henning asks for clarification on the use of the proposed garage. Mrs. Buettner said it will either be used for storage or one car will be parked in it to allow for storage room in the existing garage. Mr. Henning does not have a problem with the request.

Ryan Mills suggests a brick façade to match the character of the house. This will help mitigate the issue of a detached garage. Mr. Buettner thinks the vinyl siding will look better, but he will abide by a brick façade condition if that is what the Board wishes. Mr. Tiffany said this will add considerable cost to the project. Mr. Buettner wonders if the brick for the proposed garage will be easy to match to the brick on the house, the brick on the house has been weathered. Mr. Mills said if the brick façade idea is not going to work he would like to see something else within the design to help mitigate the detached garage and tie it in with the house.

Mr. Tiffany explains that the urgency for this project is to get the concrete in before the weather changes. Raymond Skaine would like to take a look at the other detached garages in the neighborhood.

ACTION:

Motion by Raymond Skaine, seconded by Daniel Michnik, to **table** Appeal No. 2 under New Business to allow the applicant time to provide the Board with the addresses of the other detached garages in the neighborhood. The Zoning Board of Appeals members can then view these sites that have detached structures located on them.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Nay
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 3

All Season Rental
Major Arterial

Requests the Board of Appeals approve and grant two (2) variances:

1. a 40’ variance to allow a commercial accessory structure 5’ to adjoining residential zone.
2. A 5’ variance to allow a 5’ side yard setback for a commercial accessory structure.

Both requests apply to 5885 Transit Road.

Appeal No. 3 is in variance to Section 229-94 and 229-95 Accessory Structures.

DISCUSSION:

Staci and Umberto Berardi are present. Ms. Berardi said the location is a mess and they are looking to build an accessory structure to store their inventory mainly tables and chairs.

Raymond Skaine visited the site twice and was unable to locate any stakes on the property. Mr. Skaine saw two (2) red flags; this does not constitute “staked” property. Mr. Berardi said he staked the

property before he went out of the country. Ms. Berardi said pink flags marked the property. Ronald Newton said the property was not staked on Sunday. Ms. Berardi said they are closed on Sunday, the site is fenced and no one can walk in there on a Sunday. Mr. Newton walked around the outside of the site.

Daniel Michnik walked the site on Saturday with Ms. Berardi. He agrees that the request is difficult to understand, had he not spoken with Ms. Berardi he would not understand the request either. Mr. Michnik understands that the applicant needs to clean up the site. He suggests putting some of the items in storage so that the other members of the Board can walk the site and see where the buildings are proposed and then review how the site will work once operational. Mr. Michnik saw a stake in the northeast corner.

Mr. Skaine asks if greenspace is an issue here and if the Zoning Board of Appeals is embodied to make a decision on it. Jim Callahan said that since the project is in a Major Arterial zone, ultimately, the Town Board has to approve this project. This project could not go to the Town Board without the granted variance.

Arthur Henning walked the property with Ms. Berardi and he understands what the plan is. He feels the equipment does not need to be moved from the site at this time.

Ryan Mills was at the site at a time when the business was closed, so he did not see exactly where the stakes were. He would like to see a table just so he can take a look at it. He agrees with Mr. Henning and doesn't feel it is necessary to move items to storage.

Mr. Skaine said this is a substantial variance. Ms. Berardi said she needs room to grow.

ACTION:

Motion by Raymond Skaine, seconded by Ryan Mills, to **table** Appeal No. 3 under New Business to allow time for those Board members who were unable to walk the site during business hours to make a second visit during business hours. The applicant is to submit a Request for Action form explaining exactly what they are asking for.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Daniel Michnik explains that with the weather changing soon, Ms. Berardi might want to protect her assets by covering or storing some of the equipment that is outside. Ms. Berardi said that is her discretion, and she will take care of it as she sees fit.

Appeal No. 4

James G. Gsell
Residential Single-Family

Requests the Board of Appeals approve and grant a 45' variance to allow a 100' front yard setback for the construction of a new house at 10731 Greiner Road.

Appeal No. 4 is in variance to Section 229-52 (A) Setbacks.

DISCUSSION:

James Gsell explains that the existing homes in the area are at a 45’ setback, so the request is actually for 55’, for a total of 100’. A builder representing Mr. Gsell is present. Mr. Gsell said the reason for the request is because there is no sewer system in the area to be hooked up to. The sewer truck comes down Bank Street and heads west. He also wants to save as many trees as possible. The plan is for the septic to be in front of the house. He has three (3) children under the age of five (5) and would prefer the house be set back for safety reasons. Mr. Gsell closed on the lot in February 2006, and plans to build a 2,400 square foot ranch on the property with the driveway on the east side.

Mr. Gsell said he was aware of the zoning setback regulation when he purchased the lot. Another reason he purchased this lot is so he could be close to his business. Mr. Gsell said he staked the front corner of the house and knocked down enough brush so that when the members of the Board walked the site they should be able to see the stakes if they went in on a particular angle. There is a Town drainage ditch that is maintained and provides access to the property year round.

Daniel Michnik points out that if the house was set back 45’, there would be more room in the back yard for the children to play safely, as opposed to playing in the front yard.

Neighbor notifications are on file.

Raymond Skaine explains that this request is out of character with the neighborhood.

ACTION:

Motion by Raymond Skaine, seconded by Daniel Michnik, to **deny** Appeal No. 4 under New Business based on the following reasons:

- this variance request would change the character of the neighborhood taking away the privacy of the existing houses.
- the benefit sought by the applicant can be achieved by some other method; the home can be kept at the same set back as the current homes.
- the request is substantial; this is better than a fifty percent (50%) deviation from the current zoning regulation.
- this variance would have an adverse effect on the current neighborhood.
- this request is self-created; the applicant knew, when he purchased the property, that the regulation was a 45’ set back.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 5

Haibo Jiang
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a 3' variance to allow a 7' side yard setback for the construction of a bedroom addition and a 20' x 11' indoor pool at 9705 Rocky Point.

Appeal No. 5 is in variance to Section 229-52 (a) Setbacks.

DISCUSSION:

Haibo Jiang is present. Mr. Skaine said since the east lot line is on such a diagonal the plan for the pool can not be effectively turned or repositioned to meet the Zoning requirements, thus this is not a self-created hardship. Mr. Jiang explains that he wants to expand the master bedroom, there is no closet in the bedroom and he wants to put one in.

Neighbor notifications are on file.

Mr. Jiang said the building material will be the same brick construction as the home. The bedroom structure is one story. He is not adding a bedroom; he is expanding the existing one. Mr. Jiang purchased the home in May 2006.

ACTION:

Motion by Daniel Michnik, seconded by Arthur Henning, to **approve** Appeal No. 5 under New Business, as written.

ON THE QUESTION:

Ryan Mills reviews the plans and asks if there will be an addition of a second floor balcony. Mr. Jiang confirms this is true.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

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:

Susan Dubill explains that when she built the shed she did not realize this size shed required a permit. The ground next to and behind her home slants. There is no other place on the property to put the shed. Ms. Dubill said it would be an expense to change the shed now.

Ms. Dubill said the shed was built about one (1) year ago. The house was built three (3) years ago, then came the pool and the garage. At this point she noticed there was more pool equipment than she expected. She originally thought the pool equipment could be stored in the garage, however this storage plan is not feasible because that garage is full of Mr. Dubill's car equipment, this is his hobby. Ms. Dubill said the garage is too far away from the pool and the gate; this poses a safety problem as well.

Raymond Skaine said to have a wood structure that close to a house is not only unattractive but it is dangerous as well. Ms. Dubill said the shed is on a concrete slab. Mr. Dubill said the construction material is wood with $\frac{3}{4}$ inch plywood. A fire wall was suggested by Paul Gross of the Town of Clarence Building Department, it could be installed between the home and the shed. Ms. Dubill explains that the shed matches the house and hides the other concrete slab that holds some pool equipment. Mr. Skaine wonders if the shed could be enclosed/attached to the house, this would eliminate the need for a variance because now the structure would be attached. Mr. Dubill said he was told, by someone in the Building Department, that he could not do that.

Ronald Newton asks what fire protection district the applicant's house is in. There is no one at the meeting that knows which district the home is in. Mr. Newton suggests, besides asking for clarification from the Building Department, the applicant should obtain some type of response from the fire company that represents the area.

Mr. Dubill asks what the difference is between his home and the shed, with regards to fire protection. Mr. Newton explains that there is no dry wall in the shed, so if there was a fire it would immediately spread to the walls and roof and the entire structure would go up like a torch. Mr. Dubill explained that there is no electric wiring in the shed and Mr. Newton said there doesn't have to be, there are pool chemicals, oil and gasoline being stored in there.

ACTION:

Motion by Raymond Skaine, seconded by Ryan Mills, to **table** Appeal No. 6, under New Business, to allow the applicant time to provide the following information:

- a comment from the appropriate fire company.
- the Town of Clarence Building Department's recommendation.

ON THE QUESTION:

Mr. Dubill asks for clarification on what is required of him. Jim Callahan said the letter from Paul Gross of the Building Department should identify why the shed has to be separate from the house and what his recommendation is. The letter from the fire company should be as detailed as possible and should identify any problems they see with the shed and what rectification would be required, if any.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 7

Mark Zygaj
Residential Single-Family

Requests the Board of Appeals approve and grant two (2) variances:

1. A second garage at 6742 Westminster Drive.
2. A 424 square foot variance to allow the construction of a 24' x 26' (624 square foot) garage at 6742 Westminster Drive.

Appeal No. 7 is in variance to Section 229-55 (H) Accessory Structures.

DISCUSSION:

Mark Zygaj explains he does not have a lot of storage room nor does he have room for an additional vehicle, which he is looking to purchase. He would like to build this additional structure to help with these issues. The section to the right on the survey is wooded, so you would not actually see where the garage would be when traveling on County Road. Mr. Zygaj did not realize he had to stake the property, thus there are no stakes at the site.

Daniel Michnik does not have a problem with this request, other than it was not staked. He indicates that the structure would be tucked in the woods.

Raymond Skaine asks Mr. Zygaj where there is another detached garage in his complex. Mr. Zygaj does not know that there is one. Mr. Skaine did not see a detached garage as he drove through the neighborhood. Mr. Zygaj explains that his house is not considered part of the development. Mr. Skaine asks why Mr. Zygaj has not considered attaching the garage to the house. There are at least three (3) large trees that will need to come out if the detached garage is built. Mr. Zygaj explains that the opening to the additional garage would be facing the existing driveway and there would be a driveway built to that second structure. He also explains that with the pool, he did not think an attached garage would fit in as well as a detached garage. Mr. Skaine said there will be a lot of fill to be brought in as well. Mr. Zygaj agrees.

Arthur Henning did not see any stakes at the site either and suggests the applicant come back with a revised plan showing an attached garage.

Ryan Mills saw no stakes at the site and asks how tall the structure will be, will there be a second story? Mr. Zygaj said there will be storage on the second story of the proposed garage; however he does not recall the overall height of the structure. He wants to match the brick that is on his house and use that for the construction of the front of the garage. The stairs will be on the inside.

Ronald Newton explains that it is difficult to understand the applicant's intentions when the property is not staked, he did not see any stakes either.

ACTION:

Motion by Raymond Skaine, seconded by Ryan Mills, to **table** Appeal No. 7, under New Business, to allow the applicant time to stake the property and provide the height of the proposed structure. The applicant also needs to show potential that the garage can be tied with the house by way of a breezeway (or some other way) so that it would be an attached garage as opposed to a detached garage.

ON THE QUESTION:

Mr. Zygaj asks for clarification on what constitutes an attached garage. Mr. Skaine said a breezeway/covered walkway is acceptable. Mr. Zygaj said he will be the general contractor and hire someone out. Mr. Skaine explains that if the garage is attached and a building permit is issued, Mr. Zygaj will not have to go before the Zoning Board of Appeals again regarding this issue.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 8

Steve Shafer
Agricultural Rural Residential

Requests the Board of Appeals approve and grant a 5' variance to allow a 5' side yard setback for the construction of a 20' x 30' pole barn at 10155 Keller Road.

Appeal No. 8 is in variance to Section 229-44 (D) (2) Accessory Structures.

DISCUSSION:

Steve Shafer explains that the request is to maintain adequate access to the rear of the property which is 475' deep. The garage is a side loading garage and this will allow the applicant to back the car out of the garage and head down the driveway. Mr. Skaine asks if what number of trees will be eliminated. Mr. Shafer said he will be taking out two (2) or three (3) pines, that's it. The pole barn will be used for storage and in the winter he will store his vehicle in it.

Daniel Michnik voices his concern regarding the elimination of trees, but when he walked to the other side of the lot he saw that there was a second or third set of trees. A buffer will remain between the two properties.

Ken and Joann Loewer are the owners of the property.

Ronald Newton asks why, with all the space on the lot, the pole barn has to be 5' from the side lot line. Mr. Shafer explains that the apron is 24' off the side loading garage, then there is another 24' of paved driveway turn around, if the variance is not granted it will take 7' from the radius and that makes it tight for the cars to turnaround in the area.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning, to **grant** Appeal No. 8 under New Business, as written.

ON THE QUESTION:

Daniel Michnik asks what the height of the structure will be. Jim Callahan explains there is no height restriction in the Agricultural Rural Residential zone. Mr. Shafer guesses that the height is approximately 17' maximum.

Ronald Newton	Nay	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 9

Mike & Joann Vilardo
Residential Single-Family

Requests the Board of Appeals approve and grant three (3) variances:

1. A second garage.
2. A 376 square foot variance to allow a second accessory structure measuring 576 square feet.
3. A 40' variance (off Highview Court) to allow the placement of the new garage in the front yard 65' from the property line.

All requests apply to 4950 Pineledge Drive East.

Appeal No. 9 is in variance to Section 229-55 (H) Accessory Structures.

DISCUSSION:

Don Kleinschmidt, who is assisting Mr. Vilardo, does not understand request number 3 and asks for an explanation. Jim Callahan explains that, since the house is on a corner lot, there are two front yards; the setback is not necessarily the same.

Mr. Vilardo explains that the second garage will be used mostly for storage of children's bikes, toys, hockey equipment and pool supplies.

Mr. Kleinschmidt asks if the garage could be attached. Ronald Newton explains it could be attached but the applicant would still need a variance for the setback from the street.

Ryan Mills asks why the applicant needs so much storage space. Mr. Vilardo explains he needs to store pool supplies, lawn furniture and children's toys. There is too much in the existing shed. There is no storage in the house. Mr. Mills asks if the applicant would consider a smaller structure, in terms of square footage. Mr. Vilardo agrees if that's what's necessary. Mr. Kleinschmidt explains the construction will be frame, roof pitches to match the house and the elevation will not exceed existing structures. Mr. Vilardo said he wants to trellis it off, make it like a court yard area with some landscaping as well. The side of the house is going to be resided and the proposed garage would be sided with this same new siding.

Arthur Henning asks if there is a problem with attaching the garage to the house. There are some houses that have detached garages within the area.

Raymond Skaine voices his concern regarding the size of the proposed garage; it is out of character with the neighborhood. He would rather see an attached garage.

Daniel Michnik asks for clarification on the discussion regarding a connection to the building. Mr. Kleinschmidt said the arbor part would connect to the fencing. Mr. Michnik voices his concern regarding the view of the building when a passer by turns the corner, "it's just there". He agrees with attaching the garage to the house.

Ronald Newton agrees that the proposed building is too big and too far out front; it is not in keeping with the neighborhood.

Mr. Kleinschmidt wants to discuss the possibility of an attached garage and asks the Board for their consideration. If the proposed garage is now attached, Steve Bengart, Town Attorney, said requests No. 1 and 2 can be tabled, if the Zoning Board of Appeals wishes. Jim Callahan said request No. 3 can be approved, if the Zoning Board of Appeals wishes. Raymond Skaine questions the approval of request No. 3. If the proposed garage is now attached it actually brings the garage ten feet (10') closer. The applicant is not against an attached garage.

ACTION:

Motion by Raymond Skaine, seconded by Daniel Michnik, to **table** Appeal No. 9, subsections one (1) and two (2), under New Business.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Motion by Raymond Skaine, seconded by Daniel Michnik, to **grant** Appeal No. 9, subsection three (3), under New Business. This approval is for a 40' variance off Highview Court to allow the placement of a new garage in the front yard. The minimum is 40'.

ON THE QUESTION:

Mr. Vilaro asks if it matters how the garage is attached. Mr. Skaine said that is up to the applicant.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 10

Joseph Sorrentino
Planned Unit Residential Development

Requests the Board of Appeals approve and grant a 2' variance to allow the construction of a four foot (4') fence along the southerly portion of 5260 Via Del Sole.

Appeal No. 10 is in variance to Local Law 101-3 Fence Regulations.

DISCUSSION:

The Board of Appeals members did not see any stakes at the site. Mr. Sorrentino, the realtor, said the stakes are painted with florescent orange paint and were put up two (2) weeks ago. Mr. Sorrentino explains that he is looking to ensure a little more safety and privacy by erecting this fence. The berm was put up after the home was built and it is shorter than the other berms in the area.

Mr. Michnik asks if the applicant thought of planting something on the berm. Mr. Sorrentino said they did think of planting something but it is an expense. The home is not sold yet. Cimato Brothers Construction Inc. put the berm in. Mr. Sorrentino said he discussed the berm with Cimato and it was not a concern at the time, there was a forest across the street; there was no commercial development when the house was completed. Mr. Sorrentino said he knew, when he was going to sell the house, that it was a corner lot.

Mr. Henning asks for confirmation that the fence will run along the Greiner Road side of the house and not the front of the house. Mr. Sorrentino confirms and explains the fence is for privacy. Mr. Henning did not see many fences along Greiner. Mr. Sorrentino said from Harris Hill going west there are six foot (6') fences; however there are none in the PURD area. Mr. Skaine explains that the Zoning Board of Appeals needs to specifically look at the PURD area, since this is the applicant's neighborhood.

Mr. Henning explains that an In-Law apartment was approved for this house a couple years ago. Mr. Sorrentino confirms this information; he owns the house and said now he wants to sell it. He is having a hardship selling the house because the people who are interested in buying it want to be able to put up a fence or some type of barrier. Mr. Henning voices his concern regarding only one side of the lot being fenced in.

Mr. Sorrentino said the height of the berm combined with the height of the fence will equal a six foot (6') fence. Mr. Sorrentino has looked into raising the berm, however this would cause run-off issues and lawn maintenance issues, he thinks a raised berm would look ugly.

One of the Board members suggests a white acrylic fence. Mr. Sorrentino said it would never hold up with the wind that comes across Greiner Road. If the Board wants a white fence he will put it up but he does not think it will last one season.

The home has been on the market for nine (9) months. The current asking price is \$379,900; the assessed value is \$375,000. The house has been at the asking price of \$379,900 for two (2) months.

Mr. Skaine explains the criteria that the Zoning Board of Appeals Members take into consideration as they review a variance. An undesirable change will be produced in the character of the neighborhood and/or a detriment to nearby properties will be created by granting this variance because this is the only fence on the Loch Lea section of Greiner Road. Another method the applicant could

pursue is to erect a four foot (4') black chain link fence. The variance request is substantial at 50%. The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The alleged difficulty was self-created because the applicant knew it was on a corner lot and that there would be commercial development in the area.

ACTION:

Motion by Raymond Skaine, seconded by Daniel Michnik, to **deny** Appeal No. 10, under New Business, based on the reasons discussed in the previous paragraph which list the criteria that is considered by the Zoning Board of Appeals.

ON THE QUESTION:

Mr. Henning asks if the applicant wanted to put up a fence that does not require a variance what the acceptable height would be. Various members of the Board provide the answer that a four foot (4') fence would be acceptable without a variance; this fence can not be placed on the berm.

Mr. Sorrentino asks how the other fences were put up along Roll Road; they are six feet (6') tall and are less from the road than what he is proposing. Mr. Newton thinks that some of them went up without coming through the Zoning Board of Appeals and without any approval. If there is a complaint on a fence that went up without approval, the applicant can be asked to take it down.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Appeal No. 11

Clarence Center Volunteer Fire Co.
Traditional Neighborhood Development

Requests the Board of Appeals approve and grant a variance to allow metal paneling on an accessory structure at 9415 Clarence Center Road.

Appeal No. 11 is in variance to Section 229-67 (C) (4) Design Standards.

DISCUSSION:

Dan Loudenslager, one of the Directors of the Clarence Center Volunteer Fire Co. explains that the request for metal paneling is because the majority of the use of this building is for training. One section of the building will be for storage of the hover craft and the snowmobile, but the rest of the building will be used for training. The building will be “smoked-up” and train for a Search and Rescue. The trainees will be going in to the building with charged hoses and there is a concern for mildew if the structure is built of wood. At the back side of the area there is a blacktop area where they will be doing fire training with autos. Although this training is quite a distance away from the building, Mr. Loudenslager does not want to take a chance of damaging the building if it were constructed of vinyl. He would like to keep this building in line with the rest of the buildings and construct it out of the same material. Mr. Loudenslager said about ten percent (10%) of the building would be visible from the road and that would be mostly the roof.

Mr. Mills asks if the applicant explored any other construction materials that were not as combustible as vinyl. Mr. Loudenslager said the building is being built with the money that was made from the Labor Day event.

Mr. Henning asks how long the fire company has owned the property, which consists of 23 acres. Mr. Loudenslager said he has been with the fire company for 37 years and they have owned the property since he has been a member. He said there are no other plans for this property, at this time.

Mr. Skaine explains the criteria that the Zoning Board of Appeals takes into consideration when reviewing a variance. This will not produce an undesirable change to the neighborhood; the building will be shielded from the neighbors. The benefit sought can not be achieved by some other method; the metal paneling is for safety reasons. This is not a substantial request; there are other metal buildings in the Town and on the specific property. The proposed variance will not have an adverse effect on the neighborhood. The alleged difficulty was self-created, but the safety concerns of the trainees outweigh this concern.

In Mr. Michnik's opinion the proposed location is acceptable.

Mr. Newton said, for the training purposes, the location of the proposed building seems like a reasonable place, it is shielded from Clarence Center Road. He understands the necessity of the metal paneling.

ACTION:

Motion by Raymond Skaine, seconded by Daniel Michnik, to **approve** Appeal No. 11, under New Business, as written, based on the criteria previously stated.

Ronald Newton	Aye	Raymond Skaine	Aye
Daniel Michnik	Aye	Arthur Henning	Aye
Ryan Mills	Aye		

MOTION CARRIED.

Meeting adjourned at 10:15 p.m.

Ronald Newton, Chairperson