

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday, July 11, 2023

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

Zoning Board of Appeals members present:

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

Zoning Board of Appeals members absent:

Town Officials present:

Director of Community Development Jonathan Bleuer
Deputy Town Attorney Steven Bengart
Councilman Paul Shear

Other Interested Parties:

Carolyn Hahn	Kevin Hahn	Ari Goldberg	Kristy McGrath
Rich McGrath	Mary Markiewicz	Derek Hunt	Brett Morgan

Motion by Gerald Drinkard, seconded by Raymond Skaine, to **approve** the minutes of the meeting held on June 13, 2023.

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

MOTION CARRIED

OLD BUSINESS

Appeal No. 3 (from the June 2023 meeting)

Jill Quigley
Residential Single-Family
Town Code Reference:
§229-52(B)

Applicant requests a variance of 7' to allow a 5' side yard setback for a garage addition located at 5478 Shimerville Road.

Note: This request supersedes the June 2023 variance request, which was tabled.

DISCUSSION:

Jill Quigley was present to represent her request, as well as architect Jerry Schaffer and her contractor with S&S Construction of WNY.

Ms. Quigley explained that she would like to extend her current garage in to a two-car garage. She is requesting a 7 ft. variance to provide a 5 ft. side yard setback.

Mr. Drinkard noted that for Ms. Quigley to make her current one car garage in to a two-car garage, she will need all of the land that she has requested.

Ms. Quigley confirmed yes.

Mr. Drinkard asked what materials will be used, and will it match the current garage and house.

Ms. Quigley confirmed that the same roofing and siding materials will be used on this proposed garage that is on the existing one.

Mr. Skaine reviewed the placement of the proposed garage.

Mr. Krey noted that the request appears to be a very minimal modification to the property.

Mr. McNamara confirmed that Ms. Quigley is aware that anything within the 5 ft. setback must be fire-rated per the New York State building code, including the overhang.

Ms. Quigley responded yes.

Chairman Mills asked if Ms. Quigley plans to put any landscaping in around the proposed garage.

Ms. Quigley stated that there is not a need for any landscaping along the side of the proposed garage, nor is there much space for it.

Neighbor Notifications are on file, one piece of correspondence was received and included in the packets.

In regards to Public Participation the following resident spoke:

Yvonne Pilichowski on behalf of her mom, Mary Markiewicz of 5468 Shimerville Road:

- objection to the proposed variance, because the proposed structure would face her mom's bedroom window and master bathroom
- proposed construction of the garage would bring it very close to her bathroom windows, and obstruct the view
- the proposed structure would obscure the view that her mom currently enjoys
- believes it would lower the value of her mom's home
- believes the applicant should look in to other options for placement of her proposed garage
- the code on the books should be upheld

Mr. Drinkard explained that when looking at this project as well as the neighborhood as a whole, the applicant's request for a two-car garage is not out of character for the neighborhood.

Discussion continued regarding the placement of the garage in regards to the neighbor's property.

Mary Markiewicz of 5468 Shimerville Road:

- stated she is not in support of this request

Mr. Bleuer explained that when a Neighbor Notification form is signed, it is not a statement of support or opposition. It is stating that they have been notified of the applicant’s request and appearance in front of the Zoning Board of Appeals.

ACTION:

Motion by Gerald Drinkard, seconded by Richard McNamara to **approve** Appeal No. 3 under Old Business as written.

ON THE QUESTION:

Mr. Drinkard stated that after review of the property and the requested variance, the request is minimal and is only to enlarge the existing garage to a two-car garage. It will not change the character of the neighborhood.

Chairman Mills added that there are several homes in the immediate vicinity that have two or three-car garages that don’t seem to have an adverse impact on the character of the neighborhood.

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

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

Oasis Homes of Western New York LLC
 Residential Single-Family
 Town Code Reference:

1. §229-52(A) *Average front yard setback within 500' is 89'.
2. §229-52(A) *Average front yard setback within 500' is 95'.

located at 5575 Thompson Road.

Applicant requests variances:

1. to allow a 45' front yard setback fronting Thompson Road; and
2. to allow a 46' front yard setback fronting Roll Road;

located at 5575 Thompson Road.

DISCUSSION:

Ari Goldberg with the law firm Barclay Damon was present to represent the applicant, and reviewed the request.

Explaining that the established setback along this part of Thompson Road is 89 ft., and 95 ft. from Roll Road.

Mr. Goldberg noted that the property itself has 141 ft. of frontage along Thompson Road, and 220 ft. of frontage along Roll Road. Strict compliance of the established setbacks would not be possible for the construction of a single-family home, which is the permitted use.

Mr. Goldberg stated that requested variances would place the proposed house in a more logical, centered location on the lot. There is a floodway to the rear of the lot, as well as Gott Creek. The septic system for the home must be located outside of the floodway, and the septic system cannot be within 100 ft. of the floodway, which pushes the entire proposed structure closer to Thompson Road.

Mr. Goldberg noted that at 46 ft., it is still a sufficient amount away from the roadway, and doesn't interfere with the cleared vision of the four-way stop.

Continuing to review the factors of a variance request, Mr. Goldberg explained why this variance request is a result of no other feasible methods available to the applicant. Several variables outside of the control of the applicant makes it almost impossible to build a home within code at this location.

Mr. Goldberg continued to review the variance request.

Chairman Mills asked Mr. Goldberg if the applicant has already acquired the property.

Mr. Goldberg responded that his applicant owns the property.

Referring to the berm located to the north of the property along Roll Road, Mr. Skaine asked if the applicant plans to maintain it.

Mr. Goldberg responded that they will be maintaining it.

Mr. Skaine expressed his concern regarding the intersection of Roll Road and Thompson Road, noting that it is quite busy and dangerous. Having a house located closer to the right-of-way at that intersection is not an ideal placement.

Mr. Goldberg pointed out other houses along Thompson Road and Roll Road that are set closer to the right-of-way than this request.

Mr. Skaine confirmed that the proposed driveway will be located off of Thompson Road.

Mr. Goldberg responded yes, at the south end of the property.

Mr. McNamara asked if the applicant plans to raise the level of the lot at all, as the adjacent property to the south is approximately 2-3 feet higher.

Mr. McNamara stated that he also has issues and concerns with the placement of the proposed house so close to the intersection.

Mr. McNamara explained the conversations that he has had with the Town and County Superintendents regarding this intersection.

Mr. McNamara asked why the septic system can't be located in the front rather than the back, which would allow the proposed house to be set back further on the lot.

Mr. Goldberg responded that based on the topography of the site, this plan was the chosen layout of the New York State certified engineer that designed the proposed house.

Discussion continued regarding whether the house is able to be placed back further on the property.

Mr. McNamara stated that he would like to know if it is feasible to place the septic system in the front of the lot rather than the back.

Regarding the proposed driveway, Mr. McNamara stated that it needs to be located as far away from Roll Road as possible.

Mr. Goldberg explained that while they do have approximately 10 ft. to work with, they are trying to avoid locating it too close to the adjacent property to the south.

Mr. Goldberg noted that the location of the driveway is a site issue, not related to the variance requests.

Mrs. Burkard asked for the square footage of the house.

Mr. Goldberg responded that it is just under 4,000 sq. ft.

Mrs. Burkard asked if the applicant would consider solving the need for the variances by building a smaller house.

Mr. Goldberg responded that the requested setbacks would still be required. Whether its attainable to reduce the viability of the project, is not feasible by building a smaller home.

Mr. Drinkard noted that it appears a big house is being squeezed on to a smaller property, and attempting to make it work.

Mr. Drinkard asked about the small building located at the back corner of the property is.

Mr. Goldberg responded that it is an existing shed.

Mr. Goldberg asked for clarification regarding the existing shed on the property.

Mr. Bengart reminded the Zoning Board that they are not required to answer questions of counsel. They may if they choose to, but are not required.

Mr. Golberg explained that he is seeking clarification as to why the shed might be a detriment to the applicant's requests.

Mr. Bleuer stated that because this lot is located on a corner, it is considered to have two front yard setbacks, one on Roll Road and one on Thompson Road. If there was nothing there, it would be a minimum 45 ft. setback off of both rights-of-way.

Mr. Skaine asked about the northwest corner of Roll and Thompson Roads, and if the existing berm could be reduced back away from the right-of-way, with a condition that the applicant would have a tree or bush higher than 24 in. located in that section of the property.

Mr. Goldberg responded yes.

Discussion continued regarding a potential location and condition for the existing berm.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, the following residents spoke:

Kevin Hahn of 5565 Thompson Road:

- opposed to the variance as written
- due to the location of setbacks for the other houses located on the street, it puts the location of the proposed house basically in their front yard.
- location of the house in the requested setbacks would cause privacy issues for them
- a house of the proposed size is out of character with the rest of the homes in the neighborhood
- they faced the same challenges with Gott Creek and septic when building their home, but were able to remain compliant with the setbacks

Carolyn Hahn of 5565 Thompson Road:

- proposed house is out of character for the neighborhood
- the other homes with reduced setbacks are much smaller in size than this proposed house
- placing the proposed size house in the location of the requested setbacks is very detrimental to their privacy
- the shed located to the rear of the property has electric and could be utilized, it is not simply a shed
- while she understands the need to place a driveway as far away from the intersection of Roll Road and Thompson Road as possible, they do not want it located that close to their driveway

Public Participation was closed for this item.

Chairman Mills noted his concern regarding the septic system, and what appears to be the designer / engineer preference for placing the septic in the rear yard. Chairman Mills asked Mr. Goldberg if he has any evidence as to why it can't be located in the front yard.

Mr. Goldberg responded that he would be happy to supplement the submission to answer this question thoroughly. Mr. Goldberg deferred to the expertise of the project engineer.

Mr. Krey thanked Mr. Goldberg for the thorough and precise packet, that provided extensive information on the proposed project.

Mr. Krey explained that based on discussion, he completely understands the need for the variance on Roll Road, as the lot is not buildable without that variance. He is not convinced that the variance is needed for the Thompson Road side of the property. He would like to see something more definitive in regards to the placement of the septic tank, and why it can't be placed in the front yard.

Mr. Goldberg asked if a 40 ft. variance would be more acceptable for Thompson Road instead of 45 ft. Mr. Goldberg noted that with incorporating comments from the adjacent neighbor at 5565 Thompson Road and shifting the house further north may alleviate some of the privacy concerns that have been raised.

Discussion continued regarding potential amendments to the variance requests.

Mr. Goldberg stated that they would be willing as a condition of approval to install evergreens along the south side of the property, to help mitigate the view and enhance the privacy for the residents at the adjacent property.

Mr. McNamara asked Mr. Goldberg if he has the engineering plan for the septic system, as it is not within the site plan.

Chairman Mills expressed to Mr. Goldberg that based on conversations tonight, the Board would like to see additional information with respect to the septic system.

Mr. Goldberg requested that variance requests are tabled, so that he is able to collect the additional information that the Board has requested.

ACTION:

Motion by Raymond Skaine, seconded by Ryan Mills to **table** Appeal No. 2.

ON THE QUESTION:

Mr. Bleuer stated that if the applicant intends to be on the August 8, 2023 Zoning Board of Appeals agenda, the additional information must be received by the Planning and Zoning Department no later than July 21, 2023. Additionally, the due date for the September 12, 2023 Zoning Board of Appeals meeting is due no later than August 25, 2023.

Chairman Mills noted that he would like to see more information in terms of the septic system and why it is not able to be located in the front yard of the property, as well as why there is perhaps a preference to not have the septic placed in the front yard.

Chairman Mills also stated that he would like to see additional information as to what type and how much landscaping can be provided as a buffer along the south property line.

Mr. Krey asked Mr. Goldberg to provide an explanation in regards to potentially amending the setback request for Roll Road.

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

MOTION CARRIED

Appeal No. 2

Alan Kramer
Residential Single-Family

Town Code Reference:

1. §229-55(D)
2. §229-55(I)

Applicant requests variances:

1. of 304 sq. ft. to allow for a 1,024 sq. ft. detached accessory structure (pole barn); and
2. of 1' to allow for two 10' overhead doors; located at 8080 Roll Road.

DISCUSSION:

Alan Kramer was present to further explain his request, stating that there had been an existing, dilapidated garage located there that needed to be demolished. Rather than construct a new one attached to the house, he chose to construct one a bit larger so that he can fit all of his lawn equipment and vehicles in it.

Mr. Krey asked Mr. Kramer if he just purchased this home.

Mr. Kramer responded no, he has owned it since 2011 and has been doing some remodeling recently. He has had some fill brought in and has been working to get areas to grade that were previously below grade.

Mr. Krey asked if Mr. Kramer is aware of any similar pole barns in his neighborhood.

Mr. Kramer responded yes, there are a few including a 60 ft. pole barn across the street.

Mr. Kramer added that he will not be running any kind of business out of the proposed structure, and that when it is complete it will look exactly like that house. It will be a metal structure and roof, but the colors will all match the colors of the house, including the black metal roof.

Mr. Krey verified with Mr. Kramer that he has no intention to run any business out of the proposed structure.

Mr. Kramer confirmed that he has no intentions to conduct any business.

Mrs. Burkard asked how far the proposed pole barn will be from the back of the house.

Mr. Kramer responded that it is approximately 23 ft. from the house.

Chairman Mills asked if Mr. Kramer has any plans to landscape the front of the proposed structure.

Mr. Kramer responded no, there will be a concrete entry. He will be putting landscaping in at the front of the house, but it won't affect the pole barn.

Chairman Mills asked Mr. Kramer if he has explored the cost of putting vinyl siding on the front of the pole barn.

Mr. Kramer explained that he would need to put sheeting along the front of the proposed pole barn in order to put the vinyl siding up, which would increase the cost.

Chairman Mills asked Mr. Kramer if he would consider putting in some landscaping around the proposed structure, to avoid having plain metal walls of the pole barn as the view.

Mr. Kramer explained that it would not be feasible, because it will be all concrete around the entrance to the pole barn, extending around to the back.

Mr. Skaine commended Mr. Kramer for the improvements that he has made thus far, and asked how far back his property extends.

Mr. Kramer responded that he is unsure of the exact size, but believes it to be .6 acres.

Mr. Drinkard clarified that there will never be a business run from the proposed structure.

Mr. Kramer reiterated he will not be conducting any business from the proposed structure; it is purely for his own personal use.

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

In regards to Public Participation, no one spoke.

ACTION:

Motion by Patrick Krey, seconded by Gerald Drinkard to **approve** Appeal No. 2 as written with the following conditions:

1. the color of the pole barn is to match the colors of the house
2. no business is to be conducted out of the pole barn

ON THE QUESTION:

Mr. Krey stated that as the applicant has explained, the variance will not produce an undesirable change in the neighborhood, and placement of the pole barn further back on the lot will mitigate any street views. Granting the variance will not cause any detriment to nearby properties, and the variance makes sense for the property.

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

MOTION CARRIED

Appeal No. 3

Lynn Winiarczyk
Residential Single-Family

Town Code Reference:

1. §229-55(H)
2. §229-55(H)

Applicant requests variances:

1. to allow a secondary detached garage; and
 2. of 472 sq. ft. to allow a 672 sq. ft. detached accessory structure (garage);
- located at 8120 Miles Road.

DISCUSSION:

Lynn Winiarczyk was present to further explain her request, stating that she'd like to add a detached garage for the purposes of having more space for their 3 vehicles, lawn furniture, and additional yard and garden equipment.

Mrs. Burkard asked if the proposed garage will match the house.

Ms. Winiarczyk responded yes, aside from the color of the roof.

Mr. McNamara noted that the size of the proposed structure is the same size as the neighbor's detached garage.

Ms. Winiarczyk responded that her proposed garage will be 2 ft. wider.

Referring to the slight slope of Ms. Winiarczyk's rear yard, Mr. McNamar asked if her driveway will be extended to the new garage.

Ms. Winiarczyk explained that given two options by her engineer, she has chosen to have drainage installed that will tie in with her current drainage, to mitigate the effects of the slope in her property.

Mr. Skaine thanked the applicant for her well-marked property.

Chairman Mills asked for clarification on the materials of the proposed structure.

Ms. Winiarczyk explained that it will be a pole barn style metal structure with a metal roof. The garage door will be a standard 16 ft. by 9 ft. with a double wide door on the front, and a single wide door in the rear.

Chairman Mills asked if Ms. Winiarczyk has explored attaching it to her house.

Ms. Winiarczyk responded that she is too close to the property lines, her property is on an angle, and the front of the proposed structure would be too close her neighbor's property.

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

In regards to Public Participation, no one spoke.

ACTION:

Motion by Raymond Skaine, seconded by Gerald Drinkard to **approve** Appeal No. 3 as written, with the following condition:

1. no business is to be conducted from the structure

ON THE QUESTION:

Chairman Mills asked Ms. Winiarczyk if she plans to run a business out of the proposed garage.

Ms. Winiarczyk responded no.

Chairman Mills stated that based on the unique geographical conditions of the site, it does not appear that the positioning of this proposed structure will impact any of the neighbors in an adverse way.

Additionally, Chairman Mills noted that it will fit in with the character of the neighborhood based on existing accessory structures in the nearby vicinity.

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

MOTION CARRIED**Appeal No. 4**

Richard & Kristy McGrath
Residential Single-Family

Applicant requests a variance of 2' to allow a 6' fence to be located within the front yard setback located at 8850 Woodside Drive.

Town Code Reference:

§101-3(C)(2)

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

DISCUSSION:

Richard and Kristy McGrath were present to represent their request and address any questions or concerns.

Mr. McGrath explained that they would like a 6 ft. fence in their side yard which runs along Shimerville Road. Their goal is to make their yard safe for their daughter and as their family grows, provide a safe yard for them to play, as well as to provide some privacy.

They have been very careful in the placement of the fence both along Shimerville Road as well as Woodside Drive.

Mr. Drinkard asked why they want 6 ft. as opposed to 4 ft.

Mr. McGrath responded, stating that they would like to mitigate the traffic on Shimerville Road as best as they can.

Mr. Drinkard asked what color fence they plan to install.

Mr. McGrath responded that it will be white vinyl.

Mr. Skaine noted that there is an existing tree buffer along Shimerville Road.

Mr. McGrath responded that although it is scattered, yes there is.

Mr. Skaine agreed that it is a very busy road, and he feels a 6 ft. fence would provide some buffer.

Mr. Krey asked if the neighbor's fence across the street is 6 ft. tall.

Mr. McGrath responded yes; it is what prompted them to seek a 6 ft. tall fence as well.

Mr. Krey pointed out other neighbors in the vicinity that also have 6 ft. tall fences.

Mr. McNamara asked if there will be any additional pine trees along the Shimerville Road side to buffer the view.

Mr. McGrath explained the areas where they could potentially add a couple of pine trees. He feels that there are enough currently without adding more, but would consider adding more if the approval depends on it.

Mr. McNamara asked Mr. McGrath if he knows where his septic system is located on the property.

Mr. McGrath responded yes, he is working on getting a map from the septic company for the fence installers, to be sure they don't impede the septic system.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

ACTION:

Motion by Patrick Krey, seconded by Raymond Skaine to **approve** Appeal No. 4 as written.

ON THE QUESTION:

Mr. Krey explained that as explained by the applicant, their neighbors have similar size and style therefore the height will not be out of character for the neighborhood.

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

MOTION CARRIED

Appeal No. 5

Kevin M. Caraotta
Residential Single-Family

Town Code Reference:

1. §229-55(H)
2. §229-55(H)
3. §229-55(I)

Applicant requests variances:

1. to allow a secondary detached garage; and
2. of 1,000 sq. ft. to allow a 1,200 sq. ft. detached accessory structure (pole barn); and
3. of 1' to allow for two 10' tall overhead doors; located at 9625 Keller Road.

DISCUSSION:

Kevin Caraotta was present to represent his request and address any questions or concerns.

Mr. Caraotta stated that they would like to build a 30' by 40' pole barn. The two existing sheds on his property would be removed, and the proposed pole barn would house all tractors, lawn equipment, etc. and would clean up the property.

Mr. Caraotta explained that the paint scheme on the proposed structure would be identical to the house.

Mr. Caraotta pointed out that they do not have a neighbor behind them, but rather there are 60 acres of greenspace, and on the western side they do not have any contiguous neighbors. He plans to landscape around the proposed pole barn, they want to make it look nice.

Mr. McNamara asked what materials will be used.

Mr. Caraotta responded that it will be a pole barn, utilizing a wood frame with metal exterior. The body of the barn will be white, with a black roof and grey trim. There will be a door in the front and the back of the proposed pole barn, and the color scheme will match the house exactly.

Ms. Burkard noted that it is a good idea to get all of the stuff and other structures around the yard cleaned up and condensed in to one. She noted that she had been concerned with the placement of the proposed structure and the proximity to the house.

Mr. Caraotta stated that one of the reasons they are requesting to have it located closer to the house is for convenience and ease of access. Also, setting it back further would be too expensive for the cost of concrete and blacktop to continue the driveway back to the pole barn.

Mr. Caraotta added that he does not want to disrupt the 60 acres that is behind him.

Referring to the illustration that shows the trees in front of the proposed structure (Exhibit A), Mr. Krey confirmed that Mr. Caraotta would agree to potential conditions concerning details that Mr. Caraotta has already included.

Mr. Caraotta responded yes.

Discussion continued regarding landscaping.

Mr. Drinkard asked if there will be a cement floor.

Mr. Caraotta responded yes, there will be a concrete floor.

Mr. Drinkard asked Mr. Caraotta if he will be running a John Deere business out of the proposed structure.

Mr. Caraotta responded no, he is a real estate agent and has no plans to run a business from the proposed pole barn.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

ACTION:

Motion by Gerald Drinkard, seconded by Richard McNamara to **approve** Appeal No. 5 as written with the following condition:

1. no business is to be operated out of the structure

ON THE QUESTION:

Chairman Mills explained that this request can be differentiated from other requests based on the unique site characteristics specifically the greenspace. Additionally, multiple sheds are being removed, and unique design elements being incorporated to tie the structure with the house.

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

MOTION CARRIED

Appeal No. 6

Amee Lower
Agricultural-Rural Residential

Applicant requests a variance of 11'10" to allow a 31'2" front yard setback located at 10660 Clarence Center Road.

Town Code Reference:
§229-41

DISCUSSION:

Present and speaking on behalf of the applicant was Ms. Lower's architect and designer, David Fleming.

Mr. Fleming explained that it is very unique that the existing 2-car garage has a wood floor over a basement. The structure under the garage has been determined to be structurally precarious and he has advised the homeowner not to use the space as a garage, and not to store any automobiles in there.

The applicant / homeowner has some accessibility issues, and she would like to have a two-car garage with a concrete floor located in front of the existing garage. The only logical and easily accessible place to locate the proposed garage would be on the driveway in front of the existing garage.

Mr. Krey asked if the applicant or her representative knows the history of the home, and how the garage floor was built with wood.

Mr. Fleming responded that he did not attempt to investigate how it got to this point.

Amee Lower stated that the part of the original garage is not a garage, but a basement. It is an addition that was built on to the original house which was built in 1960.

Mr. Bengart asked Ms. Lower to confirm that she has granted permission to Mr. Fleming to speak on her behalf.

Ms. Lower responded yes.

Mr. Skaine asked if there are any plans for the existing garage.

Mr. Fleming responded yes; the existing garage will be utilized as an exercise room.

Mr. Fleming stated that they will match the existing siding on the house to that of the new structure.

Mr. Drinkard asked if the existing garage has a cement floor.

Mr. Fleming responded no; it has a wooden floor.

Chairman Mills asked if the wood framing is more extensive than typical wood framing.

Mr. Fleming responded that it appears over the years there were changes and ad-hoc remedies to it, but nothing was done well.

Chairman Mills asked if it is designed to hold an automobile.

Mr. Fleming responded that in his opinion, no. It is safe for a living space, but not to be utilized as a garage.

Mrs. Burkard asked if the applicant was aware that it was not a garage when she purchased the property.

Ms. Lower responded that they did not know until they had the inspection, at which point they decided to continue with the purchase of the house.

Mr. Fleming noted that there is an overhead garage door, giving the appearance of a garage. It appears to have been used as a garage at one point in time.

Mr. Fleming explained that there will be a new fire-rated wall installed to separate the existing garage from the new garage, as shown on the floor plan.

Mrs. Burkard asked how the new roof will connect to the existing roof.

Mr. Fleming explained the process of installing the new roof while avoiding potential code violations.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

Referring to Mr. Fleming's statement that the garage will match the house, Mr. Bengart asked for clarification as to whether that would be materials or colors.

Mr. Fleming responded that it is for both materials and colors.

Chairman Mills asked if the roofing shingles will also match.

Mr. Fleming explained that due to the low-slope roof, they are using asphalt shingle roofing, so it will match the asphalt shingle more, and is rated for a low-slope.

ACTION:

Motion by Gerald Drinkard, seconded by Raymond Skaine to **approve** Appeal No. 6 as written.

ON THE QUESTION:

Mr. Drinkard noted that the proposed garage will be well hidden by landscaping and an aggressive tree line to help mitigate the view.

Mr. Drinkard added that it does not look out of character with the neighborhood, and is relatively close to what might be expected of the houses going down the line.

Chairman Mills noted that even with the setback modification, it is still in line with many other homes on the street, and will not adversely affect the character of the neighborhood. The additional foliage around it helps to mitigate the sight lines.

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

MOTION CARRIED

Appeal No. 7

Derek Hunt
Residential Single-Family

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

Applicant requests variances:
1. to allow a secondary detached garage; and
2. of 280 sq. ft. to allow a 480 sq. ft. detached accessory structure; located at 4150 David Road.

DISCUSSION:

Derek Hunt was present to represent his request, stating that the structure will serve multiple purposes. The front half will be located directly behind the swimming pool and will store pool equipment and furniture.

The back half of the proposed structure will store lawn and garden equipment, Mr. Hunt explained.

Mr. Drinkard asked Mr. Hunt when he would be putting the building up, if it is approved.

Mr. Hunt stated that it would be within a year.

Mr. Drinkard asked Mr. Bleuer how long a variance is good for, once approved.

Mr. Bengart responded that if the project is not done within a year, technically it is too late.

Mr. Drinkard noted that although the proposed structure is in the middle of Mr. Hunt’s backyard, that due to the heavy foliage and tree growth surrounding the property, he does not believe it will be noticeable from any adjacent views.

Mr. Drinkard asked how the outside of the proposed structure will look.

Mr. Hunt explained that it is a slab on grey foundation, 2 in. by 3 in. metal framing, the outside will be white sheet metal with a white roof. They will attach wooden planters on each side.

Mr. Skaine stated that he is disappointed with the inability to gain access to the area where the proposed structure will be, therefore he was unable to appropriately get a good look at the area.

Mr. Krey noted that while he also had difficulty accessing the rear yard, he understands that due to the pool in the rear yard, having the fence around the area is a necessary safety precaution.

Mr. Krey agrees with previous comments regarding the view and foliage mitigating the view of the proposed structure.

Mr. Krey asked when Mr. Hunt purchased the home, and if he plans to keep the landscaping that is currently located in the back.

Mr. Hunt responded that it was in September, 2022, and yes, he plans to keep up with the landscaping.

Mr. McNamara concurred with Mr. Drinkard in regards to the backyard being obscured with foliage, and views of the proposed structure will be mitigated from it all.

Mrs. Burkard noted that there is a lot of land, but keeping it closer to the pool makes sense. It also allows him to have a nice amount of land remaining in the rear of the property.

Chairman Mills asked Mr. Hunt if he has any plans to operate a business out of the structure.

Mr. Hunt responded no.

Chairman Mills confirmed that the sides and roof of the proposed structure will all be metal, with a concrete floor.

Mr. Hunt responded yes.

Chairman Mills asked if there will be any utilities run to the proposed structure.

Mr. Hunt responded no.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

ACTION:

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

1. no business is to be operated out of the structure

ON THE QUESTION:

Chairman Mills noted that due to the unique characteristics of this site location, mainly the dense foliage as well as the size of the parcel, it will be highly restricted from the view of any neighbors, nor will it adversely affect the neighborhood.

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

MOTION CARRIED

Appeal No. 8

Michael Mussachio
Agricultural Floodzone

Applicant requests a variance of 8' to allow a 33'9" front yard setback located at 9125 Wolcott Road.

Town Code Reference:
§229-31

DISCUSSION:

Michael Mussachio was present to represent his request, explaining that he currently has a front porch on a pre-existing foundation that he would like to enclose the porch.

Mr. McNamara confirmed that the foundation is existing, and will not be added.

Mr. Mussachio responded yes.

Mr. Bleuer explained that it was not part of the setback because it did not have a roof.

Mr. McNamara asked if it will increase the living area.

Mr. Mussachio responded yes.

Mr. Krey asked how the porch was able to be built.

Mr. Mussachio stated that he is not sure, it has been there since he has owned the house.

Discussion continued regarding the history of the foundation of the existing porch.

Chairman Mills reviewed the proposed materials, which include vinyl siding to match the house.

Mr. Mussachio responded yes.

Mr. Drinkard doesn't believe any negative changes will affect the neighborhood.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

ACTION:

Motion by Richard McNamara, seconded by Raymond Skaine to **approve** Appeal No. 8 as written.

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

MOTION CARRIED

Meeting adjourned at 7:17 p.m. with a motion by Patrick Krey.

MOTION CARRIED

Amy Major
Senior Clerk Typist