

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday June 11, 2024

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

Zoning Board of Appeals members present:

Chairman Ryan Mills	Patrick Krey	Richard McNamara
Gerald Drinkard	Patricia Burkard	

Zoning Board of Appeals members absent: Raymond Skaine

Town Officials present:

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

Other Interested Parties:

Garry Daigler	Garry F. Daigler	Marilyn Daigler	Eric McDougall	John Zifmann
Rehab Siam	John Hawkins	K. Rayeneur	James Smith	Michelle Smith
Ann Perry	Tim Gentner	Jeff Platt	A. Delmonte	Joe McGreevy
Daniel Harrington	David R. Fleming	Courtney Geertman	Kyle Geertman	Michael Berger
Kevin Roberts	Rebecca Pratt Roberts			

Motion by Gerald Drinkard, seconded by Richard McNamara, to **approve** the minutes of the meeting held on May 14, 2024.

Gerald Drinkard	Aye	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Patricia Burkard	Aye		

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

Braunscheidel LGS Inc.
Industrial Business Park

Applicant requests a variance of 40' to allow a structure to have a 60' setback from an adjoining residential zone located at 9610 County Road.

Town Code Reference:
§229-102(H)

Withdrawn per applicant's request

Appeal No. 2

Tim Gentner
Residential Single-Family

Town Code Reference:
§229-55(E)(1)

Applicant requests a variance of 3' to allow a detached accessory structure (shed) to have a 3' setback from the principal structure located at 8958 Willyoungs Overlook.

DISCUSSION:

Tim Gentner was present to represent his request, explaining that the existing shed is too close to his garage. He mistakenly only considered the distance to the property line when putting the shed in, choosing the location because of low visibility, not being able to see it from the street, and it is not a hinderance to the neighbors behind him.

Mr. Gentner stated that he is requesting this variance to be able to keep the shed where it currently is.

Mr. Drinkard asked Mr. Gentner if he built his house.

Mr. Gentner responded yes.

Mr. Drinkard asked Mr. Gentner if he is the owner.

Mr. Gentner responded yes.

Mr. Drinkard stated that based on his property visit, he does not believe the shed is 3 ft. from both the building and the back of the building on the side of it. It looks to him to be approximately 18-24 inches at the most.

Mr. Gentner noted that he cannot recall exactly, but on the left side it is at least 3 to 5 ft., and he is not sure of the distance off of the back.

Mr. Drinkard explained that he is more concerned about the side closest to the house and a fireplace exhaust located on that side, very close to the building.

Mr. Gentner responded that it is a risk he is willing to accept for the decision that he made.

Mr. Drinkard asked Mr. Gentner what he will store in the shed.

Mr. Gentner stated that currently there are pool supplies and patio chairs, nothing flammable like propane or gas tanks.

Mr. McNamara asked Mr. Bleuer if a Building Permit was needed for this structure.

Mr. Bleuer responded yes; he has had conversations with both the fire inspector as well as the Building Code Enforcement Officer associated with this permit. They have mutually agreed that the only code that was being violated was specifically the Clarence Zoning Code.

Mr. Krey asked how hard it would be to move the shed.

Mr. Gentner responded that it would be pretty difficult; it is already on a concrete slab so he would need to figure that out to start with. It would be pretty significant.

Mrs. Burkard stated that she is also concerned about the fireplace. When she looked at it, she did not realize how dangerous it was having it that close, and asked how close it was.

Mr. Gentner responded that it is approximately 5 ft. from the fireplace.

Mrs. Burkard explained that she did some research and found that there are 144,000 fires caused by fireplaces a year. She called her local fire company and spoke to someone there who told her that 3 ft. is way too close.

Mrs. Burkard stated that she is very concerned about that, and would not want to be responsible for saying yes to this variance request and then having a fire happen one day as a result.

Mrs. Burkard asked what the fire code states.

Mr. Bleuer responded that he is unable to say exactly what the fire code states, but he can say that the fire inspector did review it and determined that it is not in violation of New York State Building Code.

Mrs. Burkard questioned whether the Fire Inspector felt the shed is safe to be where it is.

Mr. Bleuer noted that depending on the type of structure there may be requirements for fire rating of walls, but this structure did not meet the requirements of needing a fire rated wall.

Mrs. Burkard noted all the chemicals that will be stored in the shed.

Mr. Bleuer stated that they did not discuss anything more than fire code, he did not get in to their opinions.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no comments were received.

Mr. Drinkard asked Mr. Gentner if he has estimated what it would cost to move the shed so that it is within code.

Mr. Gentner responded no; he has not.

Mr. Drinkard asked if a new slab would need to be installed if it was relocated.

Mr. Gentner responded yes.

Mr. Drinkard asked if the structure is stick-built with a cement floor.

Mr. Gentner responded yes.

ACTION:

Motion by Gerald Drinkard, seconded by Patricia Burkard to **deny** Appeal No. 2 as written for the reasons listed:

1. too close to the main dwelling
2. very near a fireplace outlet

Gerald Drinkard	Aye	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Nay	Patricia Burkard	Aye		

MOTION CARRIED

Appeal No. 3

Vinay Rajendran
Agricultural Flood Zone

Applicant requests a variance to allow a 400' front yard setback for the construction of a single-family home located at 8305 & 8325 Wolcott Road.

Town Code Reference:
§229-31

DISCUSSION:

Architect for the project Jeff Platt was present to represent this project and explained that his client is requesting this setback because it is a single-family dwelling being built on this lot. They would like privacy as well as acoustic privacy from Wolcott Road. Additionally, this house which is approximately 4,500 sq. ft. should be set on the property in the most appropriate way given the size of the lot, which is over 10 acres. They would like to utilize the site to the fullest potential.

Referring to a site plan which was marked in as Exhibit A, Mr. Platt noted that there are a number of trees both deciduous and green, most likely green Arborvitae.

Mr. Platt explained that the site is currently a vacant lot with an adjacent vacant lot with native plantings. The goal is to restore some of that and also to create a layered appearance to give the client the privacy they are requesting.

Mr. McNamara asked if the applicant owns the two lots.

Mr. Platt responded yes; they do.

Mr. McNamara asked why there is a cut-in on the third lot behind the houses.

Mr. Platt explained that the seller of the lot did that, they are unsure as to why. The client was not aware of the cut-in, the lawyer did not tell them and it was all misrepresented. His client was under the understanding that they were getting 2/3 of the lot. Mr. Platt stated that the entire situation was very confusing.

Mr. Platt explained that once he was hired, they put the house 2/3 of the way back in order to maximize the site. Had it been the full two-thirds without the cut out, they may have been interested in going even further back.

Mr. Bleuer stated that he believes the original owner had anticipated installing a pond, so they had drawn the lines under the pretense of having a pond there.

Mr. Platt stated that there is a pond there, and the other cut-out he assumed was to sell it to someone to build a house there, and to make it wider.

Referring to the vegetation noted on the site plan, Mr. McNamara asked if that is what they plan to do.

Mr. Platt responded that it is pretty close.

Mr. McNamara asked if that was made a condition of a potential approval, would they agree to it.

Mr. Platt stated that if it does not impact it one way or the other, he assumes it would help because they are trying to get that idea of the native plant plan to give it more of a concealed look.

Mr. McNamara asked how big the house is, and how many stories.

Mr. Platt responded approximately 3,000 sq. ft., two-stories and a walk-out basement.

Mr. McNamara asked if it is located in a flood zone.

Mr. Platt responded yes, but he believes they are bringing up to grade.

Referring to the landscaping depicted in Exhibit A, Chairman Mills asked Mr. Platt if he is confident that it will remain as shown.

Mr. Platt responded fairly close, yes.

Chairman Mills asked if they stated that an approval is based on the landscaping being substantially similar to what is depicted in Exhibit A, would they be agreeable.

Mr. Platt responded yes; that would be acceptable.

Chairman Mills asked if there are any architectural drawings done for the house.

Mr. Platt responded not yet, they are only in the preliminary stage. They have some conceptual ideas, and it will most likely be a very modern home, stick built with very clean lines.

Chairman Mills asked Mr. Bleuer if the established setback for this property is at 75 ft.

Mr. Bleuer responded it is 90 ft.

Chairman Mills confirmed that it is a 310 ft. variance request.

Mr. Bleuer responded yes.

Mr. Krey stated that he does not understand why it needs to be so far back, considering the request is more than 4 times the existing setback. Why can they not go back 100 – 150 ft. rather than 400 ft.

Mr. Platt stated that the number one reason is the privacy aspect, and the separation between the street with the 45-mph speed limit, and to get those layers of landscaping to truly conceal and accommodate the

privacy they are desiring. Both because it is substantially exposed on the west side, and the lot is proportionally wider than others on the street that have the 90 ft. setback. Mr. Platt stated that it is more or less in proportion to the size of the lot with a proposed single-family home.

Referring to the rear of the property, Mr. Platt explained that it also helps with what they are planning to do with the landscaping back there. Mr. Platt added that it would be strange to put it right up to the front, leaving a very extensive backyard that does not conform to the site plan or fit within the landscape plan that they have.

Mr. Krey asked Mr. Platt if he is aware of any other houses in the area that have a 400 ft. setback.

Mr. Platt responded that there are a couple, including one down the street on Wolcott Road called Star Struck Ranch. It is not different than similar homes on Goodrich Road.

Mr. Krey noted that this is Wolcott Road we are talking about right now.

Mr. Krey stated that he is unable to support this variance request, as the setback is huge and out of character for the neighborhood, even with the planned landscaping.

Mrs. Burkard stated that this variance request is very large, and her main concern is for the neighbors. If the plans are for the proposed to be a modern style, it will not look like anything in the neighborhood.

Mr. Platt stated that there are houses near the entrance to Spaulding Lake with variations of setbacks.

Mrs. Burkard noted that those are not in the area of this property.

As far as concealing the proposed house, Mrs. Burkard asked why that cannot be accomplished with the house closer and not back so far.

Mr. Platt responded the mature width of the trees, access to the driveway, snowplowing, and because they want multiple layers of trees, they need a fairly large setback. Some of the trees will be double-layered and just the layers of the Green Giants with their mature width of 20 ft. for them to succeed, would be close to 50 ft. just at the tree line. They do not want the trees by the road for multiple reasons including needing visibility turning out of the driveway.

Mr. Platt reiterated that it is a modern style house and does not look anything like the houses around it, which would be appropriate to conceal it even more from the neighbors.

Mr. Drinkard asked if there has been a commitment made to purchase this property, and is it now owned by the prospective owner, and what is the plan if the variance request is not approved.

Mr. Platt responded yes; the applicant owns the property, and he would then need to discuss with them what they would like to do.

Mr. Platt stated that if there was some compromise, like a minimum of a 300 ft. setback, so that they could get vegetation in there and shrink the size of the lawn, he believes that would be appropriate dialogue to have.

Mr. Drinkard stated that a 400 ft. variance is very disturbing, stating that the Town of Clarence spends a lot of money setting codes to determine what can and cannot be done within the various codes. To expand what is in the code as much as Mr. Platt's client is requesting to do, Mr. Drinkard is not in favor of. He added that what is being done is the applicant is basically saying that they do not care what the neighbors did, the neighbors all complied with the code at the proper setback, but the applicant wants their privacy.

Neighbor Notifications are on file, one resident communication was received from Gary Daigler of 8265 Wolcott Road stating they oppose the setback variance.

Chairman Mills read the correspondence in to the record.

In regards to Public Participation, the following residents spoke:

1. Gary Daigler of 8265 Wolcott Road:
 - followed all the all the codes when he built his house next to his parents who live at 8255 Wolcott Road
 - the problem with a 400 ft. front yard setback is it will not just be a quality-of-life issue, but also a flood plain issue
 - that property occasionally floods and having a house that far back will push the water everywhere else, on to neighbor's properties
 - the Town of Clarence has the right idea with the setback
 - they would like to see the consistency of setbacks and house styles stay the way that they are
2. Patricia Bittar of 8335 Wolcott Road and 8615 Wolcott Road:
 - the front yard setbacks in this zone are 45 ft. minimum, 200 ft. maximum
 - if there is a setback established in close proximity, that setback should be abided by
 - this setback request of 400 ft. is excessive especially for the two properties to the west that are agriculturally developed
 - the currently vacant properties to the east and west may potentially be developed some day, and to be forced to meet an excessive setback like that would add significant cost to development
 - the length of Wolcott Road to Transit Road is 3 miles, this would be the one residence setback in excess of 350 ft. whereas everyone else is within range of the zoning code
 - if there is an established code it should be abided by, this request is excessive
3. Charles Smith of 8285 Wolcott Road:
 - concerned with the marketability of the lot that he owns adjacent to this property
 - referred to the cut-out that was mentioned, noting that he made the cut-out large enough to have a pond on it if he ever decided to do so and also, respecting the required setbacks for a pond
 - anticipates if a house is built that far back, the applicants may object to a pond or potentially a business being located in their backyard
 - would like to preserve the marketability of this property and respect the established setback
4. David Bittar of 8335 Wolcott Road and 8615 Wolcott Road:
 - lives at 8615 Wolcott Road, and owns the property next door to this proposed project at 8335 Wolcott Road, which is currently primarily used for recreational purposes

- they hunt and shoot on the property next door, and the legal distance is 500 ft. from any structure
 - if this proposed structure is placed 400 ft. back from the road, it will eliminate them being able to legally hunt on the entire west side of their property, approximately 8 acres
 - they understood when they purchased the property that someone could eventually purchase and build on the adjacent lot, but did not think it would be that far back and affect their property and lifestyle as much as this variance would
5. Gary Daigler of 8255 Wolcott Road:
- has lived in his house for over 50 years
 - very nice having the community that they have, does not want it destroyed
 - they should build a house by the road within code
6. Marilyn Daigler of 8255 Wolcott Road:
- would not like a house 400 ft. back
 - not in line with the rest of the houses
 - concerns about water problems

Public Participation was closed for this item.

Mr. Platt returned to address the questions and concerns, stating that it is not the intention to interfere or upset the neighborhood.

Mr. Platt stated that he has concerns if the setback is not set further back, as it sounds like there is opposition to the style of the home as well.

After having heard some of the sentiments from the board members as well as neighbors, Chairman Mills asked Mr. Platt if he would like them to vote on this tonight, or if they would like to make some adjustments and return with updated plans.

Mr. Platt said of course. This is the first they have heard from the neighbors; he feels it would be in everyone's best interest to make some changes.

Mr. Platt requested to have Appeal No. 3 tabled.

ACTION:

Motion by Patrick Krey, seconded by Ryan Mills to **table** Appeal No. 3 as written.

ON THE QUESTION:

Chairman Mills asked that the applicant consider the comments they have heard from the various board members as well as the public.

Chairman Mills noted that he would like to see some more detail in the type of house, even just some sketches. Also, some alternative proposals in terms of setbacks and landscaping, and some elevations in terms of heights as well.

Chairman Mills stated that if this is heavily protected from the beginning with larger vegetation, it may have less of an impact on the neighbors.

Mr. Bengart suggested the Mr. Platt reaches out to the neighbors to gather their consensus and thoughts as well.

Gerald Drinkard	Aye	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Patricia Burkard	Aye		

MOTION CARRIED

Mr. Bleuer informed the applicant and Mr. Platt that the deadline to be on the July 9, 2024 Zoning Board of Appeals agenda is June 21, 2024.

Mr. Bleuer also noted that should this item be placed on a future agenda, all neighbors that were notified will be notified again.

Appeal No. 4

Mark Clement
Residential Single-Family

Town Code Reference:

1. §229-55(H)
2. §229-55(H)
3. §229-55(E)(2)
4. §229-55(F)

Applicant requests variances:

1. to allow a secondary detached garage (pole barn); and
2. of 632 sq. ft. to allow an 832 sq. ft. detached accessory structure (pole barn); and
3. of 1' to allow a 17' tall detached accessory structure (pole barn); and
4. to allow an accessory structure (pole barn) greater than 400 sq. ft. to use materials different from the principal structure;

located at 9712 Keller Road.

DISCUSSION:

Mark Clement was present to represent his request, stating that he would like a 26 ft. wide by 32 ft. long pole barn with a peak height of 17 ft.

Mr. Clement explained that the proposed pole barn would be used for storage of kid’s toys, bikes, and tools. Additionally, he has some hobbies such as golfing, woodworking and gardening but specifically golfing. He currently has a golf net set up in his current garage which results in his wife not being able to park in the garage.

Mr. Clement acknowledged that he was denied for a similar variance in January, 2024 due to his unwillingness to be open to the Board’s recommendations during that time. Since then, he has reviewed the recommendations and designed a new proposal, which is tonight’s request.

Mr. Clement noted that his original request was for 892 sq. ft., it is now down to 832 sq. ft., he reduced the peak height by 2 ft., he is proposing to move the building 75 ft. off of his property line.

Additionally, Mr. Clement stated that he is proposing to put the 3 pine trees on the back property line to mitigate the view of the proposed structure for his neighbors.

Mr. Clement stated that in order to make the property aesthetically pleasing from the road, he would like to put landscaping on the east side of the building, possibly 4-5 Rose of Sharon.

Mr. Clement added that Wainscoting is proposed for the proposed structure, so that the color matches the house.

Mr. Clement noted that he is proposing a minimum of 5 windows to match the house and to make it look as nice as possible.

Mr. Clement explained that he had previously signed a contract with Stately Builders, and has met with them several times since January to go over some of the concerns and suggestions. The variance for the garage door was removed, and after collaborating with his neighbors on either side as to where to place the proposed structure on the property. Both neighbors agree and support this variance request, per Mr. Clement.

Mr. Krey thanked Mr. Clement for returning, and taking the previous comments and suggestions in to consideration when updating and amending his current plan.

Mr. Krey asked Mr. Clement where the evergreens will be.

Mr. Clement responded that his plan is to put the evergreens on his back property line.

Mr. Krey clarified that the 4 evergreens would go on the back property line, not just behind the proposed structure.

Mr. Clement responded yes; they are pine trees, he believes Colorado Spruce, but something that are deer resistant.

Mr. Krey asked Mr. Clement where the landscaping will be done.

Mr. Clement responded that it will be on the east side of the proposed structure, he is hoping to put in Rose of Sharon, but is willing to adjust accordingly if needed.

Mr. Krey asked where the Wainscoting will be on the front of the proposed structure.

Mr. Clement explained that it will be black on the bottom, with the top to match his house as close as he is able to.

Mr. Krey confirmed that Mr. Clement stated he plans for a minimum of 5 windows.

Mr. Clement responded yes; he is hoping to have two in the front, then one on each side.

Mr. Krey asked if a condition was placed stating that is to be a minimum of 5 windows on the structure, would Mr. Clement agree to that.

Mr. Clement responded that he would be happy to have that condition placed.

Mrs. Burkard asked what the square footage was previously.

Mr. Clement stated that it was originally planned to be 892 sq. ft. and is now down to 832 sq. ft., a difference of 60 sq. ft.

Mrs. Burkard asked if the garage door is still proposed to be 17 ft.

Mr. Clement stated that it was originally proposed to be 19 ft., it is now 17 ft.

Mrs. Burkard asked if there are any other pole barns in the area.

Mr. Clement responded that he is able to see 2 from his front yard, and there is one shed nearby that is at least 15-16 ft. high. He would not consider it a pole barn, but it is a pretty big structure.

Mrs. Burkard asked if it is wet in the rear of the yard where Mr. Clement is planning to plant the pine trees.

Mr. Clement responded that it is not wet but he is planning to lift it up a bit, because pine trees do not like wet feet.

Mrs. Burkard asked what size Mr. Clement's lot is.

Mr. Clement responded that it is 1 acre.

Mr. Drinkard referred to his earlier comments, adding that in a Residential Single-Family zone, there are guidelines and rules. Mr. Clement is here because he wants an extreme variance. Regardless of the reduction from the original proposal, it is still a very large variance request.

Mr. Drinkard stated that despite the color of a pole barn, it is still a big structure. Mr. Clement is only 3 lots away from Kevin Court and behind all of the houses that do not have pole barns, all they will be able to see is Mr. Clement's proposed pole barn.

Mr. Drinkard noted that Mr. Clement's variance request will change the character of the neighborhood.

Referring to an accessory structure located on Herr Road, Mr. Drinkard noted that it is 3 lots away from Mr. Clement. There are 2 other pole barns near Mr. Clement, but they are in a zone that allows for them, and not in a Residential Single-Family zone.

Despite the changes made including moving it closer, Mr. Drinkard stated that it is still a big building that Mr. Clement is looking to put up in an area of all single-family homes. Mr. Clement will be a first, which will set a precedent in a transitional area.

Mr. Drinkard stated that he does not feel landscaping can hide a pole barn. It can make it look a little more attractive, but it does not hide it.

Mr. McNamara stated that he was there visiting the site today, and from Keller Road, this proposed building will not be seen, as Mr. Clement's back property line is heavily filled in with brush, trees, and other greenery.

Mr. McNamara added that on the east side, there are a good number of Juniper trees, and the west side is also heavily treed. Mr. McNamara stated that looking in from the side street there may be a view of the proposed structure, and maybe placing some high pine trees along that area would help mitigate the view.

Mr. McNamara noted that the area that Mr. Clement has proposed moving the structure to, on a 1-acre lot, would work there.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, the following residents spoke:

1. John Schwab of 9702 Keller Road:
 - is a long time engineer for many entities and consultants through the years
 - he has spoken with Mr. Clement many times; the size of the proposed structure has been reduced to be compatible with the area
 - contractor will build a good building
2. Michael Bieger of 5940 Elm Street:
 - Mr. Clement has taken suggestions and concerns from previous meeting in to consideration, and has adjusted his plan in a way that will benefit everyone
 - is in support of what Mr. Clement is looking to do, does not think it will be a detriment to the neighborhood
3. Sharon Miranda
 - spoke of the improvements Mr. Clement has done, and continues to do to his home and property

Public Participation was closed for this item.

Mr. Krey asked Mr. Clement if there is enough room on the east side of the structure to plant evergreens, as Mr. McNamara had suggested.

Mr. Clement stated that he could possibly plant Arborvitae, then asked if he should move the proposed structure in 5 more feet so that he is able to put pine trees in along the east side.

Mr. Krey acknowledged Mr. Clement's willingness to place pine trees along the back property line, noting that there is already some vegetation there. The view from Kevin Court is the one that appears to be most exposed, so potentially moving the proposed structure over a few feet and planting a few trees alone the east side would help to mitigate that view.

Mr. Krey suggested planting Weeping Willows at the back of Mr. Clement's lot if it is wet in that area. Mr. Clement stated that he would be more than happy to do that.

Chairman Mills asked Mr. Clement if he would be able to reduce the height of the proposed structure to 16 ft.

Mr. Clement responded yes; the reason he wants 12 ft. ceilings is for the golf simulator and for swinging a driver, but if it is a concern then he will adjust his plans.

Mr. Drinkard asked how far the proposed structure is from the east property line.

Mr. Clement responded 5 ft.

Mr. Drinkard asked Mr. Clement if he would be willing to move it in to 10 ft.

Mr. Clement responded yes.

Mr. Drinkard asked Mr. Clement if he'd be willing to put in a line of Arborvitae to shield the view of the structure from Kevin Court.

Mr. McNamara noted that Arborvitae would not be a good choice because of the deer, but perhaps an upright Juniper or Evergreen. Four would be a good number to aim for, depending on the species Mr. Clement decides on.

Discussion continued regarding the trees.

Mr. Krey asked if any trees should be added to the rear lot.

Mr. McNamara said no, not in his opinion.

Chairman Mills stated that there are some gaps there.

Discussion continued regarding trees for the back lot.

A resident from the audience agreed that a Weeping Willow would look nice in the back area of the lot.

ACTION:

Motion by Patrick Krey, seconded by Richard McNamara to **approve** Appeal No. 4 as written, with the following conditions:

1. move the structure to the west, 10' from the property line to allow for the planting of 4 pine trees no less than 6' in height to be planted on the east side of the structure
2. 2 Weeping Willows to be planted at the rear of the lot
3. wainscoting so that the structure has black on the bottom then the top color to match the house
4. structure is to have a minimum of 5 windows
5. no business is to be conducted out of the structure

ON THE QUESTION:

Mr. Krey stated that while this is a large variance, the applicant has shown willingness to revise his original request, and has agreed to conditions that he believes will mitigate any concerns regarding it being out of character with the neighborhood and the view of it.

Chairman Mills stated that considering the nature of this parcel, the size of it, and the natural vegetation around it, in conjunction with the vegetation that will be added, it will not have an adverse impact on the character or environmental conditions of the neighborhood.

Gerald Drinkard	Nay	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Patricia Burkard	Aye		

MOTION CARRIED

Appeal No. 5

John Ziemann
Residential Single-Family

Applicant requests a variance of 6' to allow a 43' front yard setback for an addition to the principal structure located at 4995 Meadowbrook Road.

Town Code Reference:
§229-52(A)

DISCUSSION:

John Ziemann was present to represent his request, explaining that the variance request for the front entrance will be an enclosed 6 ft. by 10 ft. vestibule including a roof-covered porch, roughly 6 ft. by 10 ft. on the north side of the vestibule.

Mr. Ziemann stated that according to the information provided by his architect, the front yard setback is 45 ft.; his house is currently set back at roughly 49 ft. 6 in. according to the survey. The front entrance impedes the code by 18 in., and this minor variance does not compromise any safety or design standards, while the overall design remains in harmony with the neighborhood.

Additionally, Mr. Ziemann noted that the proposed 6 ft. x 10 ft. entrance will not impede or restrict any views for the neighbors to the south or the north, and will significantly enhance the curb appeal of the house.

Mr. Ziemann stated that the addition of the vestibule is expected to add value to the home, which could be beneficial for the neighborhood as well as the surrounding residences.

Mr. Ziemann explained some of the reasons they are requesting the proposed vestibule is for a front closet for storage of coats, shoes, umbrellas, etc. and will ease the transition from the outdoors to indoor. It will enhance the functionality of their home, and also contribute to the overall comfort and efficiency of the living space.

Chairman Mills noted that it appears Mr. Ziemann is doing a fairly extensive renovation project, most of what appears to be interior.

Mr. Ziemann responded yes, most of it is interior. There are two additions, one on the back and one on the front.

Chairman Mills asked where the back addition is.

Mr. Ziemann explained that it is between the garage and the main living space. They are extending the family room to the backyard by 15 ft.

Referring to the architectural drawings that were submitted, Chairman Mills confirmed with Mr. Ziemann that the front façade will have a new stone veneer.

Mr. Ziemann responded yes; the existing façade is brick; they would like to do a stone veneer to give it a different look.

Chairman Mills noted that the vestibule will be stone, and asked if the existing brick will be painted.

Mr. Ziemann responded yes.

Chairman Mills asked if a color has been selected yet.

Mr. Ziemann responded no.

Chairman Mills confirmed that there will be a new architectural shingle asphalt roof.

Mr. Ziemann responded yes.

Chairman Mills asked if a color has been selected for the roof.

Mr. Ziemann responded no.

Mrs. Burkard noted that the proposed addition will add a lot to the house, and look very nice.

Thanking Mrs. Burkard, Mr. Ziemann added that it has been a long time coming, as they have lived in the house for over 25 years.

Mr. Krey asked if the rear addition needs a variance.

Mr. Ziemann responded no.

Mr. Drinkard noted that it will improve the façade of the house.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Gerald Drinkard, seconded by Patricia Burkard to **approve** Appeal No. 5 as written.

Patricia Burkard	Aye	Patrick Krey	Aye	Ryan Mills	Aye
Richard McNamara	Aye	Gerald Drinkard	Aye		

MOTION CARRIED

Appeal No. 6

John & Elizabeth Hawkins
Agricultural Rural Residential

Applicant requests a variance to allow a 195' front yard setback for the construction of a single-family home located at 6150 Strickler Road.

Town Code Reference:
§229-41(A)

DISCUSSION:

John Hawkins was present to represent his request, explaining that they are requesting a setback variance of up to 195', which is basically an additional 52' to 85' variance from where they believe the right of way is.

Mr. Hawkins stated that he does not believe they will go all the way back to 195', but they are requesting that because they are between 160' and 195' and they would like the builder to have some input, depending on lot conditions and other variables.

Mr. Hawkins explained that they fully understand their approach needs to be mindful to the character of the neighborhood, as well as the aesthetics to their neighbors. They do not believe this will have any negative impact on that.

Mr. Hawkins stated that the property is a heavily wooded 7+ acre lot, with dense brush. They plan to only use approximately 1.5 acres, with the intent to leave a u-shaped buffer around the property along the edge of the bike path and the driveway leading to the park along the back edge where the Town of Clarence's sports fields are. As well as along the north side for their neighbors, which will add privacy not only for them, but the people on the bike path and in the park.

Mr. Hawkins stated that 80% of the lot will remain naturally buffered, and they plan to add some additional pine trees as well.

Referring to photos that were included in their submission, Mr. Hawkins noted that at a 195' setback, it is very difficult to see their neighbors in either direction.

Mr. Hawkins stated that one neighbor is 1,660 ft. from their property line, and the closest neighbor to the south is 458 ft. away.

Mr. Hawkins explained that there are a lot of dead Ash and other trees in the 160'-195' range, which will make it easier and more cost effective for them, allowing them to save the healthy trees outside of that range.

There's also a safety issue, as they have numerous grandchildren, and setting the house further back provides a safety buffer from the busy road.

Mr. McNamara asked Mr. Hawkins how long they have owned the property, and if it is wet in the back area where they would like to build.

Mr. Hawkins responded that they have owned the property for approximately a year, and along the west edge of the property, there was about 2 in. of water from the rain that we have had. The rest of it is relatively and surprisingly dry.

Mr. McNamara asked if they would need to build it up a lot.

Mr. Hawkins responded no; the grading plan that they had done only has it raised up 27 in. from where it is currently.

Mr. McNamara asked Mr. Bleuer if this would be setting a precedence for the rest of Strickler Road going north.

Mr. Bleuer responded, stating that from a zoning perspective no variances would be utilized to determine future setbacks, but it would not prevent someone for seeking a variance for a future setback. This variance would not be utilized to determine future setbacks.

Mr. Drinkard asked Mr. Bleuer if this requesting the larger variance of 195' and possibly building less, is the applicant covered all the way down to 160'.

Mr. Bleuer responded yes; if it is approved, it would have to be up to 195' which would allow the building inspector to vary it down, should the applicant choose to.

Mrs. Burkard asked if the house would be seen at all from the street, or will it be back in the woods, mainly out of sight.

Mr. Hawkins acknowledged that is their intent, stating if you are standing directly in front of it you may see some of it, but their intent is to leave as many of the large trees as possible.

Mrs. Burkard asked Mr. Hawkins what size house they plan to build.

Mr. Hawkins responded it will be a 3,400 sq. ft., two-story home.

Mr. Krey acknowledged the applicant did a great job with their application, well done in terms of explanation and detail.

Referring to an earlier variance request for a 100' setback, this property is heavily wooded, and the home will be tucked back on the property amongst the trees, preserving the greenspace of the area.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Patrick Krey, seconded by Gerald Drinkard to **approve** Appeal No. 6 to allow a front yard setback variance of up to 195’.

ON THE QUESTION:

Chairman Mills stated that this variance can be distinguished from other variance requests regarding setbacks in that this has unique environmental conditions, including the proximity to the bike path as well as sports fields, there is a dense amount of foliage and no neighbors immediately nearby.

Chairman Mills also noted that with the setback, the home will be well hidden from the bike path as well as Strickler Road.

Gerald Drinkard	Aye	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Patricia Burkard	Aye		

MOTION CARRIED

Appeal No. 7

Anthony Del Monte - LTD Homes & Properties
Residential Single-Family

Applicant requests a variance to allow a detached accessory structure (shed) to be located within the front yard setback located at 9105 Main Street.

Town Code Reference:
§229-55(D)

Chairman Mills recused himself from Appeal No. 7.

DISCUSSION:

Property owner Anthony Del Monte was present to represent this request, explaining that the house is located on a .5-acre lot, there is a small house with a small garage.

Mr. Del Monte stated that because the lot has the room, and the house does not have any attic or basement space, he wanted to create some more storage space for the resident. He walked the lot with a builder, and placing the shed where its current location made the most sense being close to the garage with a man-door on the side, and the driveway there as well. When everything was laid out, it made sense to line the shed up with the rear of the house, where it also does not infringe on the view of the street, the street corner, etc. Mr. Del Monte stated that the only thing missing that he still has not gotten to, is to plant a few shrubs on the east side of the shed to make it more aesthetically pleasing.

Mr. Krey noted that because this property is on a corner lot, it constitutes as two front yards, putting the shed within the front yard.

Mr. Krey asked when the shed was placed in this location.

Mr. Del Monte responded that the shed itself is a few years old, and was placed in this location last year. Because of the size of the shed, he was not aware that he needed a variance for that location.

Mr. Del Monte stated that he had a brand-new septic system installed, which is located in the backyard. The shed did not look good placed on the other side of the lot, it looked out of place.

Mr. Del Monte noted that both aesthetically and from a practical standpoint, he placed the shed where it is currently.

Mr. Krey asked Mr. Del Monte if there are cars being parked in the shed.

Mr. Del Monte responded no; it is a 12' x 16' shed, placed on commercial fabric, and commercially compacted stone, so it will not tip over or move.

Mr. Del Monte explained that there is plenty of distance from both Main Street and Barton Road to where the shed is located, with plenty of space between the shed and the house.

Mr. Krey noted that Mr. Del Monte's address is different than the address listed on the Appeal.

Mr. Del Monte stated that it is a single-family home rental property, that he owns.

Mr. Drinkard noted that Mr. Del Monte mentioned that he was going to landscape the side of the shed, and asked what he had in mind as far as species.

Mr. Del Monte stated that Arborvitae or similar, something to make the property and shed more aesthetically appealing.

Mr. Drinkard asked Mr. Del Monte what is stored in the shed.

Mr. Del Monte responded that there is a lawnmower, snowblower, and other lawn equipment.

Mr. Drinkard noted that if the shed was moved to the other side of the property, it would not be a great inconvenience to just get the lawnmower from the other side of the property.

Mr. Del Monte noted that as far as an inconvenience, there is no walkway from the front door, it would be in the opposite direction. In its current location, it is right next to the garage and is more efficient and aesthetically pleasing.

Mrs. Burkard asked why the shed was not located in the backyard.

Mr. Del Monte stated that he had a brand new, larger septic installed, and is unsure as to the area that it covers. There is also a large tree in the back that he did not want to disturb.

Mr. Del Monte added that he requested the help of a contractor who helped him choose this current location, because it made the most sense to place it there.

Mrs. Burkard asked if it is possible to put the shed anywhere else.

Mr. Del Monte said yes, it is possible, it is a 12'x12' moveable shed, but no other area on the lot made sense for it to be located. With the distance to the roadway, it is more aesthetically pleasing and proficient in its current location.

Mrs. Burkard noted that driving down Main Street and seeing the shed, it seems very out of place. More often than not, they are in the backyard where they are mainly out of sight.

Mr. Del Monte stated that it seems disconnected from the house currently, but with some landscaping, that would help with the aesthetics and help it to look less out of place.

Mrs. Burkard asked what the white pipes are coming out of the ground in the backyard.

Mr. Del Monte responded that it is the septic.

Mrs. Burkard asked if they will remain like that, because they are an eyesore.

Mr. Del Monte stated that some people leave them like that or you can cut them down.

Mr. Drinkard asked Mr. Del Monte if he would be willing to paint the shed the color of the house.

Mr. Del Monte responded that he likes it being the same color of the house.

Mr. Drinkard asked Mr. Del Monte if his request was approved with conditions that he is to paint the shed to match the house, and also to install landscaping along the perimeter from the front to the back, would he be in agreement to that.

Mr. Del Monte responded yes.

Mr. Krey added that no business is to be operated out of the structure.

Mr. Del Monte agreed.

Neighbor Notifications are on file, no comments were received.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Gerald Drinkard, seconded by Richard McNamara to **approve** Appeal No. 7 as written, with the following conditions:

1. shed is painted to match the house
2. landscape the Barton Road side of the shed with 4 ft. tall plants every 4 ft.
3. no business to be conducted out of the structure

ON THE QUESTION:

The applicant has heard, understands, and agrees to the conditions.

Mr. Krey stated that this request is unique and different from other requests because the applicant has agreed to paint the shed to match the color of the house. Also, the landscaping along the Barton Road side will help to mitigate the view from the road.

Gerald Drinkard	Aye	Richard McNamara	Aye
Patricia Burkard	Nay	Patrick Krey	Aye

MOTION CARRIED

Chairman Mills returned to the dais.

Appeal No. 8

Amar & Rehab Siam
Agricultural Flood Zone

Applicant requests a variance of 18' to allow a 37'11" front yard setback for an addition to the principal structure located at 9905 Brauer Road.

Town Code Reference:
§229-31

DISCUSSION:

David Fleming, Project Architect with DRF Designs was present to represent the applicants for this request, explaining that they would like to build an addition to the front of their house. They are also putting on a small addition to the back of the house, that does not require a variance.

The requested variance of approximately 18 ft. is to enclose a new stair in the foyer, as well as a new covered front porch.

Mr. Fleming added that there is a significant foundation issue at the front entry of the house. This addition would both enhance the curb appeal and also solve the problem with the foundation.

Mr. Drinkard noted that most of the work is being done on the outside, not the inside of the house with significant changes to the front.

Mr. Fleming responded yes; it is approximately 16 ft. wide, so it is a significantly sized covered porch that they feel will enhance the curb appeal. On the inside of this addition is a new staircase to access the second floor.

Mr. Fleming added that while most of the work is being done on the exterior, there is a good amount being done on the interior as well, the applicant is gaining a significant foyer.

Mr. Drinkard asked what the color of the siding will be.

Mr. Fleming responded that they have not gotten to that point yet in the planning, the front of the covered porch does not have any siding but instead there are stone columns. The side of the addition will need some kind of cladding, and he assumes they will match what is there. He believes they would be happy to oblige if that was made a condition of approval.

Mr. Drinkard pointed out that on either side of the house, the neighbors are barely visible and is nicely secluded.

Mr. McNamara asked if there are existing stairs now.

Mr. Fleming shared the plan that he has, showing a bit more detail.

Mr. McNamara asked if the existing stairs are staying.

Mr. Fleming responded yes.

Mr. McNamara stated that they are making a grand entrance, and adding a couple of closets.

Mr. Fleming stated that there is an existing foyer area with no stair that is awkward, and they are trying to make the most out of the awkwardness.

Chairman Mills asked Mr. Bleuer if the calculation for the front yard setback is inclusive of the covered porch.

Mr. Bleuer responded yes.

Mr. Krey spoke on the missing Zoning Board of Appeals Variance sign on the property, noting that he had difficulty determining whether he was at the correct place.

Mr. Krey also noted that there was a “No Trespassing” sign, therefore he did not enter the property.

Mr. Krey asked if this is a residential single-family home, and if it has always been a residential single-family home.

Mr. Fleming responded yes, and as far as he knows it always has been, but he has not done any historical research on it.

Mr. Krey stated that he understands there are some issues in the front such as leaking, and critters getting inside, but he thinks those can be remedied without bringing a house 18’ forward, especially considering how much room there is to work with.

Mr. Krey stated that he does not feel it is necessary to do that, when there are other suitable means that are conforming to the code.

Mr. Fleming stated that any extension would require a variance, and asked Mr. Bleuer if that is correct.

Mr. Bleuer confirmed that was correct, they have identified that it is the established setback as it was built.

Mr. Krey stated that they could extend the back of the house if they want to remodel.

Mr. Bleuer responded yes; relatively speaking to the front yard setback, as established.

Mr. Fleming noted that the concept is to create a welcoming covered porch, and in order to do that a variance would be required, no matter how far they wanted to come out.

Mrs. Burkard asked if there is a stairway there currently.

Mr. Fleming responded that there is a small stair down to the basement and up to the second floor, when you come in the front door it is directly in line with the front door. It is like a double-rung stair, there is nothing necessarily wrong with it, but the applicant’s concept is to enhance the curb appeal of the property, while also creating more of a grand-entry.

Mrs. Burkard asked if they will re-stone or re-paint the addition.

Mr. Fleming stated that the columns will be stone, the 10 ft. heated addition will be cladding to match the existing house.

Mrs. Burkard asked what the square footage of the house is.

Mr. Fleming responded that he does not have that information, but he would be happy to follow up with it. The heated area of the addition is approximately 160 sq. ft.

Mrs. Burkard stated that the house needed something done to the front of it to help with aesthetics and curb appeal, and this is a good plan.

Chairman Mills asked how long the applicant has owned the property.

Mr. Fleming responded that he is unsure.

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

In regards to Public Participation, no one spoke.

Mr. Drinkard noted that the house is not very appealing from the front, and anything that is done to improve it, will be a benefit. This addition will not change the character of the neighborhood, but will benefit the property.

ACTION:

Motion by Gerald Drinkard, seconded by Ryan Mills to **approve** Appeal No. 8 as written.

ON THE QUESTION:

Chairman Mills noted that approximately 8 ft. of this variance includes an open, covered front porch area, not a living space with walls.

Chairman Mills also stated in regards to the character and environmental conditions of the neighborhood, this will improve the aesthetics of the home, which will also improve the character and environment of the neighborhood. It will not be a detriment to any nearby structures.

Patricia Burkard	Aye	Patrick Krey	Nay	Ryan Mills	Aye
Richard McNamara	Aye	Gerald Drinkard	Aye		

MOTION CARRIED

Appeal No. 9

Philip & Kristin Cortese
Residential Single-Family

Applicant requests a variance of 120 sq. ft. to allow a 320 sq. ft. detached accessory structure (pavilion) located at 9490 N. Melinda Drive.

Town Code Reference:
§229-55(H)

DISCUSSION:

Kristin Cortese was present to represent this request, noting that they are seeking the variance for a covered patio / pavilion that is over 200 sq. ft. to give them more covered space.

Mr. Krey noted that the application stated that the proposed structure is located within the side yard setback, but he does not see that within what is being requested.

Mrs. Cortese explained that she believes her husband added that in case they wanted it set back further, but as it stands currently, they are not using it.

After some discussion, Mr. Krey noted that the board would only be considering the variance for 120 sq. ft., as stated.

Mrs. Cortese responded that it was fine.

Mr. Krey asked Mrs. Cortese what the square footage is of their home.

Mrs. Cortese responded that she believes it is 2,800 sq. ft.

Mr. Krey asked who owns the wooded property that surrounds their property.

Mrs. Cortese responded that she believes it is the Visone's.

Mr. Krey asked Mrs. Cortese if she knows what the Visone's are doing with the property.

Mrs. Cortese responded no; to her understanding she did not think anything is able to be built on the land next to them, but she does not know specifics.

Mr. Krey stated that because of the surrounding wooded property, nobody will see this proposed structure unless walking in to their backyard.

Mr. Drinkard noted that the proposed structure will be a small addition to the backyard by comparison to what is currently there.

Mrs. Burkard asked if everything that is there now will stay, and this proposed structure will be placed further down.

Mrs. Cortese responded yes; it will be aggregate concrete.

Chairman Mills noted that photographs and a sketch drawing were submitted as part of the application packet, and asked which photograph will mostly resemble the proposed structure.

Based on Mrs. Cortese’s response, Chairman Mills noted that Exhibit A shows a wood, timber type structure.

Mrs. Cortese added that there is stone around the base of the posts, with an aggregate concrete that will match what is around the pool area.

Chairman Mills asked if the roof will be metal.

Mrs. Cortese responded that she believes so.

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

In regards to Public Participation, no one spoke.

Mr. Drinkard asked for clarification that there is no need for a side yard setback.

Mr. Bleuer responded that one was not proposed. If the board considers approval tonight, there is no setback variance to be considered.

ACTION:

Motion by Patrick Krey, seconded by Patricia Burkard to **approve** Appeal No. 9 as written.

ON THE QUESTION:

Mr. Krey noted that this request is unique because the house is entirely surrounded by wooden lots, and the placement of the pavilion will be shielded from the neighbor’s view

Gerald Drinkard	Aye	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Patricia Burkard	Aye		

MOTION CARRIED

Appeal No. 10

Joseph A. McGreevy
Residential Single-Family

Applicant requests a variance of 2.4% to allow for a 15.4% lot coverage for the addition to the principal structure located at 6044 Long Street.

Town Code Reference:
§229-56

Mr. McNamara recused himself from Appeal No. 10

DISCUSSION:

Joseph McGreevy was present to represent his request, explaining that he would like to add a one-story addition that would increase the lot coverage from 11.2% to 15.4%, which is 2.4% over the maximum 14% permitted.

Mr. McGreevy added that the addition will be minimally visible from the street, and will match the existing siding currently present on the front dormers of the house.

The proposed addition will add 640 sq. ft. to the house, and no neighbors will be impacted as far as views, the only side that it will be visible to is the south side, and that is owned by the Town of Clarence.

Mr. McGreevy stated that there is a field in the back that he has interest in potentially purchasing, which would also increase his lot size.

Mr. McGreevy noted that the impact of the view for his neighbor to the north would be minimal, because the proposed structure would not exceed the back of his garage.

Mr. McGreevy explained that the reason for this addition is his growing family, and with growing up in Clarence Center for his entire life, they love their house and street, and do not want to move.

Mrs. Burkard stated that she feels Mr. McGreevy has solved his problem well, the proposed addition will be a nice addition to his house.

Mr. Krey noted that although the footprint of the home is being enlarged, the addition fits in almost like the missing piece of a puzzle. To someone seeing it after the proposed addition is complete, it will appear to have always been that way.

Mr. Krey does not feel that it will alter anything, especially from a street-side view, it is simply making the home more usable.

Mr. Drinkard stated that he agrees with the previous comments, adding that Mr. McGreevy has a very attractive house, with very nice, dense landscaping. He agrees that once the proposed structure is completed, nobody will know that an addition was put on.

Chairman Mills stated that he also agrees with the sentiments of the other board members, and that the proposed addition is well laid out and well designed. It will not have any adverse effect on the character or environmental conditions of the neighborhood.

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

In regards to Public Participation, no one spoke.

ACTION:

Motion by Gerald Drinkard, seconded by Patricia Burkard to **approve** Appeal No. 10 as written.

ON THE QUESTION:

Chairman Mills stated that this is a smaller percentage lot coverage request, with unique environmental conditions with a vacant lot owned by the Town of Clarence to the south of the parcel, and the parcel to the west has foliage as well. There will be minimal impact to adjacent property owners

Chairman Mills added that this request is further mitigated by the tight and concise architectural design at the northwest area of the home, and it will fit in well with the character of the neighborhood.

Patricia Burkard	Aye	Patrick Krey	Aye
Gerald Drinkard	Aye	Ryan Mills	Aye

MOTION CARRIED

Mr. McNamara returned to the Dais.

Appeal No. 11

Kyle Geertman
Residential Single-Family

Applicant requests a variance of 142 sq. ft. to allow a 342 sq. ft. detached accessory structure (shed) located at 4181 Shimerville Road.

Town Code Reference:
§229-55(H)

DISCUSSION:

Kyle Geertman was present to represent his request, explaining that he would like to put up a 12 ft. by 24 ft. shed with a 5 ft. lean-to. He currently has a 10 ft. by 12 ft. shed as well as a 4 ft. by 12 ft. wood shed that is in very poor condition.

Mr. Geertman stated that the reason for the new shed is because they do not have a basement, he has two young children and his garage is packed. He would like to move some of the stuff out of the garage and in to the shed so that they can use the garage to park a car.

Mr. Geertman added that the shed will be painted to match the house.

Mr. Krey asked if the material of the shed will match the house.

Mr. Geertman responded no; it is Smart Siding.

Mr. Krey asked if the proposed shed will look like the photos that were submitted with Mr. Geertman's application packet.

Mr. Geertman responded yes; and it will be painted to match the house.

Chairman Mills asked if the proposed structure will have a metal roof.

Mr. Geertman responded yes.

Chairman Mills asked Mr. Geertman if he is ordering the proposed structure from the company in the photos.

Mr. Geertman responded no; he is ordering it from a company called Heritage Structures in Lockport.

Chairman Mills confirmed that the lean-to and everything will look like the photo that was submitted, marked Exhibit A.

Mr. Geertman responded yes.

Chairman Mills asked if there will be a concrete base, a door on the front and a door on the side.

Mr. Geertman responded yes; a garage door on the front and a man door on the side.

Chairman Mills stated that the photo submitted does not show a garage door.

Mr. Geertman responded no, it does not – it was a decision made after the photo was drawn.

Courtney Geertman explained that they could not find a photo with both the garage door and a lean-to.

Chairman Mills asked if the existing shed is being removed, and no business will be run out of the proposed structure.

Mr. Geertman responded yes, the existing shed will be removed, and no business will be run out of the proposed structure.

Mr. Drinkard stated that the look of this proposed shed will improve the look of the shed that is there. It will be on the same footprint but a bit bigger, and not too far from the neighbor on Wehrle Dr. behind Mr. Geertman, or the neighbor next to him.

Mr. Drinkard noted that it will not change the neighborhood, it will improve it.

Mr. Geertman agreed.

Mrs. Burkard confirmed that the proposed shed will match the color of Mr. Geertman's house.

Mr. Geertman responded yes.

Mrs. Burkard asked if the 342 sq. ft. includes the overhang.

Mr. Geertman responded yes.

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

In regards to Public Participation, no one spoke.

Chairman Mills asked Mr. Geertman if a condition was imposed that the proposed structure is to be the same color of the house, would he agree to that.

Mr. Geertman responded yes.

Mr. Bleuer asked Mr. Geertman if there will be a driveway attached to the proposed shed.

Mr. Geertman responded no.

ACTION:

Motion by Patrick Krey, seconded by Richard McNamara to **approve** Appeal No. 11 as written, with the following conditions:

- 1. existing shed is to be removed
- 2. new shed is to be painted to match the house
- 3. no business is to be operated out of the shed

ON THE QUESTION:

Mr. Krey reiterated the comments from the board members that there are several sheds in the area of similar size, and the existing shed is in disrepair so the new shed will be an improvement to the property.

Additionally, Mr. Krey stated that the conditions that have been imposed will eliminate any issues of the shed being out of character with the neighborhood.

Mr. Geertman has heard, understands, and agrees to the conditions.

Gerald Drinkard	Aye	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Patricia Burkard	Aye		

MOTION CARRIED

Appeal No. 12

Steven McDermott
Planned Unit Residential Development

Applicant requests a variance of 4'7" to allow a 7'11" side yard setback for an addition to the principal structure located at 8245 Golden Oak Circle.

Town Code Reference:
§229-52(B)

Mr. McNamra recused himself from Appeal No. 12

DISCUSSION:

Mike Berger with Sutton Architecture was present to represent this request, noting that they are seeking an area variance for an attached garage adjacent to the existing house.

Mr. Berger stated that when considering the setback, they looked at several key factors including the character of the neighborhood, stating that it will not be a detriment to the character of the neighborhood and it will be finished in the same material as the house.

Mr. Berger also noted that there is the potential for additional landscaping along the side of the proposed garage.

In regards to alternative options, Mr. Berger stated that they did seek out several other design ideas, none which came up with the feasibility that they are trying to achieve and for the benefit that they are seeking. In regards to size, Mr. Berger stated that they do not believe a variance request of just over 4 ½ ft. to be substantial. Also, even with the variance they do maintain the minimum setback requirement for fire code, which is at least 3 ft. away.

Mr. Berger stated that the proposed addition will not have any adverse impact on the physical environment or condition of the neighborhood regarding traffic circulation or noise or odor.

Whether this is a self-created problem, Mr. Berger stated that they do not feel the problem is self-created, because where the house sits on the property limits the possibilities to provide this addition which is needed for additional storage.

Mr. Drinkard asked if other alternatives were looked at that would not need a variance.

Mr. Berger stated that they did look at several design options, none that allowed for the proper configuration while also allowing for the size that the client needs for storage that they are trying to achieve.

Mr. Drinkard asked if the intention is to have the proposed addition match the house.

Mr. Berger responded yes.

Mr. Drinkard noted that there is brick on the bottom with a black roof.

Mr. Berger said yes; it will match the house.

Mr. Krey confirmed that the existing garage is a side-load garage.

Mr. Berger responded yes.

Mr. Krey asked Mr. Berger if he looked around in the subdivision to see if any other houses had a similar second garage added.

Mr. Berger responded that he did not do that research, no.

Mr. Krey noted that in the application, it was mentioned that there is additional landscaping that the applicant is considering putting in by the proposed garage.

Mr. Berger responded yes; it would be in coordination with the neighbor, to make sure that everyone agrees on the landscaping that would go in.

Mr. Krey confirmed that the landscaping would go on the east side, where the setback variance is being requested.

Mr. Berger responded yes.

Chairman Mills asked if there was a condition placed on a potential motion stating that a brick façade matching the house would be required, would the client be willing to accept that.

Mr. Berger responded yes.

Chairman Mills confirmed that the client does not plan to operate any type of business out of this proposed garage.

Mr. Berger responded no.

Mr. Drinkard pointed out that there are many houses in this neighborhood that have 3-car garages.

Chairman Mills stated that there are plenty of 3-car garages, not as many 4-car, which is what this request would be.

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 Patricia Burkard to **approve** Appeal No. 12 as written, with the following conditions:

- 1. exterior finished material is to match the house including a brick façade on the front of the garage
- 2. no business is to be conducted from the garage

ON THE QUESTION:

Mr. Berger has heard, understands, and agrees to the conditions.

Gerald Drinkard	Aye	Ryan Mills	Aye	Patrick Krey	Aye
Patricia Burkard	Aye				

MOTION CARRIED

Appeal No. 13

Kevin Roberts
Residential Single-Family

Town Code Reference:

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

Applicant requests variances:

- 1. to allow a secondary detached garage (pool house); and
 - 2. of 264 sq. ft. to allow a 464 sq. ft. detached accessory structure (pool house); and
 - 3. of 4' to allow a 6' detached accessory structure (pool house) side yard setback;
- located at 8427 Lakewood Court.

DISCUSSION:

Kevin Roberts was present to represent his request, explaining that they would like to build a pool house. He lives in a cul-de-sac, with an oddly shaped lot, they are trying to keep the pool house out of view from the street, and parallel with the house.

Mr. Roberts stated that the proposed pool house would be used for storage, and there would be a bathroom as well. The pool house would also provide ample shade, which his yard does not currently have.

Mr. Roberts stated that there is currently ample landscaping around the pool and his backyard, including the back property line that would mitigate the view of the proposed pool house from the neighbor.

Mr. Roberts explained that they plan to use the same materials and colors as what is on the house, to make it aesthetically pleasing from the front view.

Mr. McNamara noted that it appears the proposed pool house is set back to the concrete of the pool, so it cannot go back any further.

Mr. Roberts noted that he kept it about a foot away from the concrete surrounding the pool, he did not want to get too close to the pool from a safety standpoint.

Mr. McNamara added that for the bathroom they will need to have a footer poured, so that is another reason to not underthink the concrete.

Mr. McNamara stated that only the one corner of the proposed structure is at the 6' setback, the rest of it is at approximately 8'.

Mr. Stevens explained that because of the layout of the property, it is difficult to measure but only the one corner is close.

Mr. McNamara commented on the vegetation and landscaping in the backyard around the pool and the property line.

Mr. Drinkard asked if the next-door neighbor has had any comments or issues with the proposed pool house.

Mr. Roberts stated that he has spoken with and asked all of the neighbors, none of them have an issue with the proposed structure. When he spoke with the neighbor who would be most impacted, he had no issues with the plans.

Mr. Drinkard stated that Mr. Roberts has a nice piece of property, the lots are not rectangular or square, but rather polygons.

Referring to drawing A-1, Mr. Krey asked if that front elevation is what will be seen from the street and Mr. Robert's driveway, which is two windows and a door.

Mr. Roberts responded yes.

Mr. Krey asked what it will be like in the pool area, will it be open or will it be more like the back of a garage.

Mr. Roberts explained that they are still deciding that. For the poolside access, his wife is looking at bi-folding doors, they are deciding how wide it needs to be, and they are also considering a window with an exterior countertop so that they can pass food and drink in and out easier.

Mr. Krey noted that from the street view, even though it is being called a pool house, it will look like an attached garage.

Mr. Roberts responded yes.

Mrs. Burkard noted that because of the shape of the lot, the proposed structure cannot really be placed anywhere else, and asked how far away it is from the house.

Mr. Roberts stated that it is 12' 11" from the house. He is trying to keep it further away from the house, because he does not have any other access to get in to his backyard, they have two very large trees in the backyard. At some point the trees will need to be removed.

Mrs. Burkard stated that garages look better attached then detached, but the proposed structure is not close enough to attach and have a gate or another form of access.

Mr. Roberts responded no, plus there is a fireplace and a chimney as well, so he cannot attach to the chimney.

Mrs. Burkard asked if the existing driveway will go in to the garage.

Mr. Roberts responded that it is 16' deep, and his current car is 16' so it would not fit. Mr. Roberts noted that his current two-car garage is full of kid's stuff, lawn equipment, etc. Mr. Roberts stated that they would like to move a lot of that stuff over to the proposed structure so that they are able to park in the garage.

Chairman Mills asked if there is anywhere else that this proposed structure could be placed, like on the other side of the pool outside of the drainage easement.

Mr. Roberts stated that on the outside of the pool there is a very large tree, that he would rather not remove. On the northwest side along the fencing is closer to the easement.

Chairman Mills asked if the proposed structure could be scaled down while still accomplishing his goal.

Mr. Roberts explained that they would like to maximize the space. The difficult part is that it pushes it and makes it hit the corner to make it within the side property lot. Based on the side lot and not the rear, he has to be 10' away without the variance. That would restrict the size and ability to do what they would like to do with it.

Chairman Mills asked Mr. Roberts if they have any plans to operate a business out of the structure.

Mr. Roberts responded no.

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

In regards to Public Participation, no one spoke.

Mr. Drinkard noted that the size of the proposed structure is 29' by 16' and that the 29' is spread away from the house, towards the neighbors, and that was the reason for the variance.

Noting that the proposed structure is very large, Mr. Drinkard asked why they could not make it a little smaller so that a variance was not needed.

Mr. Roberts stated that the concrete is receding in areas, and they would like to store the patio furniture in there, and multiple other large items that they would like to store in the proposed structure. This is in addition to the items that are currently in his two-car garage.

Mr. Drinkard stated that Mr. Roberts has an oddly shaped lot, and Mr. Roberts knew the limitations of the lot when he purchased it. Now he wants a variance to put something that does not fit on the lot, and is not willing to reduce it by 6' so that a variance is not needed.

Mr. Roberts noted that the area he is looking to replace with the proposed structure consists of Arborvitaes, an area that provides privacy and curb appeal. He is not looking to attain any usable land, there is a bit of driveway that will be lost but in terms of curb appeal, he believes it is something that will be added that will look like the house with nice décor.

In terms of are there any similar structures in the neighborhood, Mr. Roberts stated that according to Google Maps, there are two similar structures in the neighborhood that have detached garages that are located at the back of the driveway. He found a few that have an attached with a breezeway, and multiple with smaller sheds that do not require any variances. Those curb appeals are nice, but he does not feel as nice as what they are proposing.

Mr. Drinkard stated that it is still 29' that Mr. Roberts is unwilling to reduce. The smaller ones that Mr. Roberts referred to obeyed the law and built within the code.

Mr. Roberts stated in terms of the smaller ones, they are approximately 10' by 10' and would not be at all accommodating. The larger ones have overhead doors, appear quite large.

Mr. Roberts stated they could go smaller, but it would make it tight, and the larger size would be more accommodating and useful.

Mr. McNamara noted that they have approved many two-car garages, and the average two-car garage is 450 – 500 sq. ft., typically 24' by 22'. He does not feel this is asking too much for the neighborhood, he feels the curb appeal will match the house.

Chairman Mills stated that he feels it is significant that similar materials to the house will be used, and asked Mr. Roberts if that was made a condition on an approval, would he agree to that.

Mr. Roberts responded yes.

Chairman Mills confirmed it will have asphalt shingles like the house, and at least two windows on the front of the proposed structure.

Mr. Roberts responded yes to both.

ACTION:

Motion by Richard McNamara, seconded by Patrick Krey to **approve** Appeal No. 13 as written, with the following conditions:

1. siding is to match the house
2. no business is to be conducted from the structure

Gerald Drinkard	Nay	Richard McNamara	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Patricia Burkard	Aye		

MOTION CARRIED

Meeting adjourned at 7:59 p.m. with a motion by Richard McNamara.

Amy Major
Senior Clerk Typist