

**Town of Clarence**  
One Town Place, Clarence, NY  
**Zoning Board of Appeals Minutes**  
Tuesday, September 10, 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

Zoning Board of Appeals Members absent: Patricia Burkard

Town Officials present:

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

Other Interested Parties:

Michele Buccinna                      Scott Dicey                      Kim Hamer                      Matthew Reid  
Josh Mancini                      Ari Goldberg                      Sean Hopkins                      Chris Skomra  
Barb Skomra

Motion by Gerald Drinkard, seconded by Patrick Krey, to **approve** the minutes of the meeting held on August 13, 2024.

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

MOTION CARRIED

**NEW BUSINESS**

**Appeal No. 1**

Mattina Development, LLC.  
Industrial Business Park

Applicant requests a variance to allow parking to occur within the front yard setback fronting James Ryan Parkway located at SBL: 44.00-1-55.

Town Code Reference:  
§229-103(B)

**DISCUSSION:**

Ari Goldberg with the law firm Barclay Damon representing the applicant, and Joe Mattina with Mattina Development were present.

Mr. Goldberg explained that Mattina Development is proposing the first development within the James Ryan Industrial Park. It is a retail plaza centered on a 12,000 sq. ft. multi-tenant commercial building, with access from James Ryan Parkway, which is considered their front yard. To accommodate the number of parking spaces that are required of a commercial building of this size, a portion of the parking needs to be located in the 80' front yard setback.

Referring to Exhibit 4 in the application submitted that covers the factors for a zoning variance, Mr. Goldberg reviewed some of the key points and factors.

Mr. Goldberg noted that there will not be an undesirable change with this abbreviated setback. The variance helps to achieve the required number of spaces, while still being 60' away from their property line, and even further away from James Ryan Parkway. They are also compliant with the setback as it relates to County Road.

Mr. Goldberg explained that compliance with the zoning code would result in the loss of 17 parking spaces, which would cause concern of spillover on to James Ryan Parkway.

The benefit of having the required number of parking spaces is achieved by having this variance.

Mr. Goldberg stated that the variance is not substantial, and allows them to achieve the required number of parking spaces with minimal intrusion on the community.

Mr. Goldberg added that they have made some progress with the Planning Board review, as they issued a Negative Declaration through the State Environmental Quality Review Act (SEQRA). While that determination is not binding on this board, the terms of environment under SEQRA is a broad term that also focuses on community character and community impact.

Referring to the Planning Board minutes, Mr. Drinkard asked what types of small businesses are planned for the plaza.

Mr. Mattina stated that ideally, he would like to see a couple of barber shops, a convenience store, a nail salon, he wants some "mom and pop" businesses.

Mr. Goldberg noted that the variance tonight is solely for a parking variance.

Mr. Drinkard stated that the types of businesses that go in to the plaza will affect the amount of parking needed.

Mr. Drinkard asked if the rest of the subdivision on James Ryan Parkway have been approved.

Mr. Goldberg responded that he believes the Cimato subdivision has previously been approved. Mr. Mattina was granted approval on several of the sublots.

Chairman Mills asked if any tenants have already been signed up for this plaza, and what tenants would need additional parking.

Mr. Mattina stated that he has not signed any tenants yet, he does not feel that he is at that point where he can begin advertising for space.

Chairman Mills noted that certain tenants may require more parking than others.

Mr. Goldberg asked Mr. Bleuer if parking requirements are based on the commercial zone in and of itself, or of the uses.

Mr. Bleuer explained that during the development review process, if it gets there, the Planning Board will analyze the proposed uses as it relates to parking requirements. There is a guide for parking standards, and there is some flexibility that as long as the property owner deems the site satisfies the needs, they have the ability to waive or modify the requirements. It would ultimately determine the users, based on the layout.

Chairman Mills asked if there are any layouts available of the property.

Mr. Goldberg stated that there are architectural elevations included in the application packet. Mr. Goldberg explained that they are working with Sutton Architecture and have worked with the Planning Board Executive Committee to address some of their concerns and suggestions.

Mr. Goldberg reviewed some of the changes that have been made to the elevations of the building thus far.

Chairman Mills asked if they are anticipating 5 tenants.

Mr. Mattina responded yes; possibly 5-8 tenants. It all depends on what tenants and the size of their space that is needed.

Mr. Krey noted that looking at the layout as it would be in conformance has been helpful for him.

Mr. Krey asked if there's another way to lay out where the building is that would allow for the required parking. Is there a conforming use that would still give them the parking and look as visually appealing as is being proposed.

Mr. Goldberg stated that they would have to incur additional construction costs to change the design of the building. They are also contending with a stormwater lot in the rear that they want to insure there is sufficient drainage and setback for that area.

Mr. Goldberg added that there is an 80' setback from County Road that they need to be conscientious of.

Mr. Krey commented on the proposed landscaping for the proposed additional row of parking and the street, and asked where the landscaping is proposed.

Mr. Goldberg stated that there are the parking islands, then additional landscaping between the parkway and the beginning of the asphalt.

Mr. Krey asked for clarification as to where the trees and landscaping will be.

Mr. Goldberg noted that there is area between the two curb cuts and the roadway, which is where they are proposing to put the landscaping.

Mr. Krey suggested placing the landscaping as a condition on any potential variance approval.

Discussion continued regarding the type and placement of the landscaping.

Mr. Drinkard praised the preparation and application packet that was submitted, noting that along with the Planning Board minutes from the previous meeting with the applicant, they take their job seriously and will consider comments and conditions from this Zoning Board.

Mr. Drinkard added that landscaping is a key item, and as depicted in L-100 of the applicant’s packet, if the applicant can carry off what is in their packet, it will look very good.

Chairman Mills asked if there are any floor plans, or if it is currently all open spaces.

Mr. Mattina stated that it is currently all open space.

Neighbor Notifications are on file, no written comments were received.

In regards to Public Participation, no one spoke.

**ACTION:**

Motion by Gerald Drinkard, seconded by Patrick Krey to **approve** Appeal No. 1 as written.

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

**MOTION CARRIED**

**Appeal No. 2**

Michele Buccinna  
Agricultural Rural Residential

Applicant requests a variance of 4' to allow an 11' principal structure side yard setback located at 6455 Salt Road.

Town Code Reference:  
§229-41(B)(2)

**DISCUSSION:**

Michele Buccinna and Scott Dicey were present to represent this request.

Ms. Buccinna stated that they would like to elongate their garage that they are building, 4’ in to their side yard setback.

Mr. Krey asked if there are any plans to place a fence or landscaping along this side of the property where they are proposing this extension.

Ms. Buccinna responded no.

Mr. McNamara noted that he visited the property today, and asked why there is already a hole dug and if they have a building permit.

Ms. Buccinna responded yes; for the house, the garage will be added to the house.

Mr. Drinkard asked if they knew they would need a variance for the house.

Ms. Buccinna responded no.

Mr. Drinkard asked if the house will be built on the lot, or if it is a pre-fab house.

Ms. Buccinna stated that it is a stick-built house.

Mr. Drinkard asked if they have considered reducing the size of the house a couple of feet in order to be in compliance.

Ms. Buccinna responded no; she designed the house this way because it is more cost effective, otherwise she would have unattached the garage and placed it in the rear.

Neighbor Notifications are on file, no comments were received.

Chairman Mills asked if this variance was denied, would they move the garage back and not attach it to the house.

Ms. Buccinna responded yes, and they would make it bigger.

Chairman Mills asked if from an aesthetics perspective, do they prefer the garage to be attached.

Ms. Buccinna stated that it is more cost effective to have it attached.

In regards to Public Participation, no one spoke.

Mr. Drinkard asked what the plans are for landscaping in the front of the proposed garage.

Ms. Buccinna explained that the septic system will be located in the front, so it will all be plants and flowers, primarily Lilies. There cannot be any trees due to the septic system.

Mr. Drinkard asked if they have spoken with the neighbor next door, and if they have any problems with the proposed garage.

Ms. Buccinna responded yes, she has spoken with them, and they do not have any problems with the proposed plans.

In regards to materials, Chairman Mills noted that it appears to be vinyl siding with a metal roof.

Ms. Buccinna responded yes.

**ACTION:**

Motion by Gerald Drinkard, seconded by Richard McNamara to **approve** Appeal No. 2 as written

**ON THE QUESTION:**

Chairman Mills stated that due to some unique characteristics of the property, and that the applicant could locate the garage further back and be in compliance, from an aesthetic standpoint, this proposed plan works better. The character of the neighborhood is attached garages.

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

**MOTION CARRIED****Appeal No. 3**

Kelli McKeever  
Agricultural Rural Residential

Applicant requests a variance of 1' to allow a detached accessory structure (gazebo) to have a 5' setback from the principal structure located at 5715 Salt Road.

Town Code Reference:  
§229-44(F)(4)

**DISCUSSION:**

Kelli McKeever was present to represent her request, explaining that she would like to have a gazebo placed 5' from the principal structure. All of the other requirements have been met for height, side, and rear yard setbacks. Per the Building Department, since the gazebo is in excess of 200 sq. ft., 42" deep piers need to be installed to attach the gazebo in order to get below the frost line.

Ms. McKeever explained that the existing wooden deck will be removed, and the wood shed will be relocated approximately 50' across the yard. The proposed gazebo will not be in close proximity to anything other than the house.

Mr. McNamara asked why they want to move the gazebo from 6' which would be in conformance, to 5'.

Ms. McKeever stated that while it is a minor adjustment, the piers will be placed under a new concrete patio, and they do not want to encroach any further on the existing grassed backyard that they have. They have children and would like to keep as much grass as possible, and 1' would make a difference.

Mr. McNamara asked if the Building Department stated that when structures are 5' or less apart, they both need to be fire coded.

Ms. McKeever stated that the proposed gazebo is made out of aluminum.

Mr. McNamara stated that he thought both structures need to be fire coded.

Ms. McKeever noted that the Building Department did not say anything about needing to be fire coded, only that it was too close to the house.

Mr. McNamara asked Ms. McKeever to double check with the Building Department to confirm that is not necessary.

Referring to the photo that was submitted as part of their application packet, showing a hard-top gazebo, Chairman Mills asked if the photo shows a similar gazebo.

Ms. McKeever stated that it is the exact gazebo they purchased, there will be footers to anchor it down. Because it is larger than 200 sq. ft., larger piers need to be installed.

Chairman Mills noted that the columns will be bolted down by 4 points at each column.

Mr. Drinkard asked what they will do inside the gazebo.

Ms. McKeever explained that they plan to use half of it as a dining area, and the other half as a gathering space with a couch and lounging type outdoor furniture.

Mr. Drinkard asked if there will be any propane used under the gazebo.

Ms. McKeever responded no.

Mr. Drinkard asked what will be done with the gazebo in the winter.

Ms. McKeever stated that it is an open gazebo, they do not plan to winterize it. Because it will be bolted to the concrete, it is a permanent structure. They will remove the cushions from the patio furniture and push it all to the middle to protect the furniture from the snow.

Mr. Drinkard asked if they will ever store summer items under the gazebo in the winter, including propane or any other flammable liquid.

Ms. McKeever responded that she does not expect to do that.

Mr. Drinkard asked Ms. McKeever if she would agree to a condition stating that no propane or other flammable liquids are to be stored under the gazebo.

Ms. McKeever responded yes. They plan to run electrical so that they are able to plug in some lights, to be able to utilize the gazebo at night, but no propane.

Neighbor Notifications are on file, no written comments were received.

In regards to Public Participation, no one spoke.

#### **ACTION:**

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

- ~~1. no flammable fuel or liquids of any kind will be stored in the gazebo when the gazebo is not in use~~

#### **ON THE QUESTION:**

Mr. Bleuer noted that from an enforcement perspective for the Town of Clarence it becomes very challenging to enforce that there is no propane or flammable liquids stored under the gazebo. Mr. Bleuer

suggested the mere testimony of the applicant stating that they do not intend to store any would be sufficient.

Mr. Drinkard and Chairman Mills amended their motion to remove the condition, and on the question confirm with the owner.

Chairman Mills asked Ms. McKeever if she plans to store any flammable liquids or fuels under the gazebo when it is not in use.

Ms. McKeever responded no; they do not.

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

MOTION CARRIED

**Appeal No. 4**

Matthew Reid  
Residential Single-Family

Town Code Reference:

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

Applicant requests variances:

1. to allow a secondary detached garage (pole barn); and
  2. of 412 sq. ft. to allow a 612 sq. ft. detached accessory structure (pole barn); and
  3. of 1' to allow a 10' tall overhead garage door; and
  4. to allow an accessory structure (pole barn) greater than 400 sq. ft. to use materials different from the principal structure;
- located at 5175 Old Goodrich Road.

**DISCUSSION:**

Mr. Reid was present to represent his request, and reviewed his variance requests as listed.

Mr. Drinkard asked why a 10' door is necessary.

Mr. Reid stated that he does not need a 10' door, he could go with a standard 8' door.

In reference to the colors of the proposed pole barn, Mr. Drinkard asked Mr. Reid if he would use a lighter color.

Mr. Reid responded yes; they plan to do white.

Mr. Drinkard noted that Mr. Reid has a heavily treed lot, and that by placing it where they propose to place it will not cause any large trees to be knocked down.

Mr. Reid confirmed that no, he will only need to trim one tree.



Mr. Drinkard asked Mr. Bleuer if there have been any notifications made to neighbors, and whether any comments have been received.

Mr. Bleuer stated that neighbor notifications are on file, no written comments were received.

Mr. Reid stated that in talking to his neighbors, they shared that they would like to use the proposed pole barn.

Mr. McNamara complimented the proposed project, and added that he would keep the 10' door, there are many benefits.

Chairman Mills reviewed the materials which are proposed to be metal siding, and metal roof, windows, and there is existing foliage on the property to provide some buffering.

Chairman Mills asked if they placed a condition that there needs to be some unspecified landscaping provided along the west elevation.

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

Mr. Reid responded no.

Mr. Krey asked if there are other structures in the area similar to the one that Mr. Reid is proposing.

Mr. Reid responded yes; his neighbors have one that is much larger, that they store multiple recreational vehicles in.

Discussion continued regarding similar structures in the area, as well as potential landscaping.

In regards to Public Participation, no one spoke.

#### **ACTION:**

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

1. color should generally match the house
2. no business is to be conducted from the structure
3. landscaping at the applicant's condition on the west elevation

Mr. Reid has heard, understood, and agrees to the conditions.

#### **ON THE QUESTION:**

Mr. Krey stated that due to the uniqueness of the immediate area, and multiple other homes with larger accessory structures, it will fit in well and not be out of character for the neighborhood.

Mr. Drinkard noted that although the applicant has submitted a request for a 10' door, he has stated that he does not need one of that height and would be willing to install an 8' door, although the 10' door is being approved.

Mr. Bleuer noted that due to no specificity given to the landscaping, it will not be the Building Inspector’s responsibility to inspect the landscaping.

Mr. Krey responded yes.

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

MOTION CARRIED

**Appeal No. 5**

Nickie Burdick  
Agricultural Flood Zone

Applicant requests a variance of 25' to allow a 61' front yard setback for an addition to the principal structure located at 9330 Tonawanda Creek Road.

Town Code Reference:  
§229-31

**DISCUSSION:**

Nickie Burdick’s mother, Kim Hamer, was present on behalf of the applicant; authorization is on file.

Ms. Hamer reviewed the applicant’s variance request, stating that they would like to add a bedroom due to expecting another child. The current two bedrooms that they currently have are too small to have children sharing.

Mr. McNamara noted that it is not possible to expand off of the back of the existing home due to Tonawanda Creek.

Ms. Hamer responded yes; they cannot go back, and they cannot go up.

Mr. McNamara stated that the addition is simply a bedroom and a couple of bathrooms.

Noting that some elevations and floor plans have been provided, Chairman Mills asked if any other possibilities have been explored, understanding that it’s not possible to go back but asked why they cannot explore building up.

Ms. Hamer responded because the house is on a cement slab.

Chairman Mills noted that aside from selling the house and moving, there are no other options other than what is being requested.

Chairman Mills identified the proposed structure will be vinyl sided and have 2 windows, and asked if the applicant plans to add any landscaping to the front.

Ms. Hamer stated yes; they will be landscaping around the front. The landscaping that was there has been transplanted to a different area of the lot, and will be placed back to the front of the proposed addition once it has been completed.

Mr. Krey asked why they cannot put a proposed addition to the side rather to the front.

Ms. Hamer responded that there is not enough room to extend to the side.

Mr. Drinkard asked if the external parts of the proposed addition will match the house.

Ms. Hamer responded yes; the addition will match the house.

Noting that because they are land-locked, Mr. Drinkard identified that this request is the applicant's only option.

Ms. Hamer responded yes.

Mr. Drinkard noted that the neighborhood is heavily wooded with larger lots, and this proposed addition will not disturb the neighborhood.

In regards to Public Participation, no one spoke.

Neighbor Notifications are on file, no written comments were received.

Mr. Krey asked for clarification regarding the flower bed, and if it will go in front of the proposed addition.

Ms. Hamer responded that she is unsure exactly what the applicant plans to do, but there will be something in the front of the addition in terms of landscaping.

Mr. Krey asked Chairman Mills about placing a condition in terms of landscaping.

Chairman Mills stated that a condition stating that some sort of landscaping in the front of the addition will suffice.

#### **ACTION:**

Motion by Patrick Krey, seconded by Gerald Drinkard to **approve** Appeal No. 5 as written with the following conditions:

1. landscaping in front of the addition facing Tonawanda Creek Road, at the applicant's discretion
2. materials to match the house

#### **ON THE QUESTION:**

Mr. Krey noted that the applicant has explained how there are no alternative, feasible options and that the conditions that are imposed will mitigate any potential issues.

Mr. Krey stated that the area is very wooded, with larger lot and a windy road, which serves as a buffer from the road.

Chairman Mills noted that due to the environmental site conditions of Tonawanda Creek Road, adding on to the back of the existing home is not possible, albeit logical.

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

## MOTION CARRIED

### **Appeal No. 6**

Allie & Tac LLC.  
Residential Single-Family

Applicant requests a variance of 19' to allow a 26' front yard setback for the construction of a single-family home located at 5544 Herons Glen.

Town Code Reference:  
Map Cover 3858

### **DISCUSSION:**

Sean Hopkins with Hopkins Sorgi & McCarthy PLLC was present on behalf of the applicant, the applicants Steve and Allie Rozala, architect J.R. Kruzyski as well as the builder for the proposed house.

Mr. Hopkins distributed an additional handout to the Zoning Board members, and noted that all neighbor notifications are on file.

Mr. Hopkins reviewed the property, which consists of a lot and a half, equaling 50,272 sq. ft. / 1.15 acres. There is a decorative / stormwater management pond located directly behind the parcel.

Referring to the survey of the parcel, Mr. Hopkins noted that it has A-typical dimensions, with 288' of frontage, but it is not a straight line due to the location partially on and off of a cul-de-sac. There is also a private stormwater drainage easement located at the back of the site.

Mr. Hopkins reviewed the dimensions of the property, noting it is not the typical pie-shaped lot that sits on a cul-de-sac.

Normally, a 45' front yard setback is required. A portion of this house goes to 26' which is the portion of the lot that extends out towards the cul-de-sac. The front of the house that faces Herons Glen and not on the cul-de-sac complies with the required setback of 45'. Placing the proposed house the way that they have allows for the backyard to be aligned with the adjacent neighbor's backyard.

Mr. Hopkins stated that because of the size of the lot, they will comply with all of the other requirements including the side yard setback of 12 ½ ft. and the rear yard setback of 45 ft., and all technical standards.

Mr. Hopkins reviewed the reasoning for the orientation of the proposed house, noting that they placed it facing the non-bulb portion of the cul-de-sac, so that it aligns with the house next door. In terms of street frontage and usable backyard, so that the backyard would not be oriented towards the neighbor to the south.

Mr. Hopkins reviewed some alternatives that do comply with the code, but would be less consistent with the character of the neighborhood.

Mr. Hopkins reviewed the criteria and requirements for the variance request.

Mr. Hopkins explained that they must receive a building permit, comply with drainage standards, all of the same standards that require approval for a detached single-family home. No environmental impacts will result from this request.

Regarding whether this difficulty was self-created, this specific criteria cannot be the sole basis for any decision making. While this request can be viewed as being self-created, an additional half-lot was purchased to accommodate the larger home. When this property was originally sold to the applicant, they were advised that a house of this size could fit on the lots without any variances.

Chairman Mills referred to the information that showed the analysis in terms of what percentage of the structure would be in compliance versus what would not be in compliance.

Chairman Mills asked about the garage space.

J. R. Kruzyski, architect for the proposed project explained that the area Chairman Mills is asking about that is closest to the street is a garage, as well as the indented area. The farthest bump-out is living space.

Mr. Kruzyski stated that it is a pool room to support the pool to the outside.

Chairman Mills asked if that could be pushed back farther.

Mr. Kruzyski stated that area is not the problem, the front corner of the proposed house is what is causing the issue. They could move that section back, though they would still be requesting a 26' variance.

The applicant Steve Warzala and his wife Allie were present.

Mr. Warzala stated that he understands Chairman Mills' point, and if necessary, they can push that sunroom to the inside more, they were attempting to not encroach on the property to the north. They positioned this area of the home more towards the street to move it away from the neighbor's property, and more in line with the other houses in the cul-de-sac.

Chairman Mills explained that they are looking at the request from an overall character of the neighborhood as well as the design aspect, with different views and sightlines for everyone.

Mr. Warzala explained how they determined the requested setback, and that to him there did not appear to be a noticeable difference between a 45' setback and a 26' setback.

Noting that the overall size of the parcel is 1.15 acres, Chairman Mills asked what the size of the proposed home is.

Mr. Warzala responded that it is approximately 6,500 sq. ft.

Chairman Mills asked if that includes the covered patio / cabana space.

Mr. Warzala responded no.

Chairman Mills stated that the proposed plans include a 6-car garage with entry from both the cul-de-sac and Heron's Glen.

Mr. Warzala responded yes.

Mr. McNamara asked why the footprint was not designed to meet the standards.

Mr. Warzala recounted a conversation and understanding that he made with the developer and original property owner, which he did not understand was a Town of Clarence approval and not the property owner's approval.

Once they began designing the home, Mr. Warzala stated that he was not aware they would not be allowed to continue on until Mr. Kruzyski advised him that they were not within the setbacks. What they looked at was that they are mostly staying within the frontage setback, but what he feels should be considered the side yard setback due to the irregularly shaped, is why they are requesting the variance.

Mr. Hopkins noted that the Warzala's have worked closely with the architect to help design their dream home, and this footprint works. He does not see that the minor area and setback request will cause any harm.

Mr. McNamara noted that the sunroom / cabana could be placed on the south side of the proposed home and would fit better there, as well as provide additional privacy for the neighbor on the south side. The house would then be able to be moved back a little further.

Mr. McNamara stated that there are options to consider that would make the request even more minimal. He understands that the lot is unique, but the setbacks are provided for a reason, and there has been substantial work over the past 20 years to make this development what it is.

Mr. McNamara suggested the house can be re-designed to make it fit more appropriately on the lot.

Mr. Warzala explained why they designed the proposed house the way that they did, with the 6-car garage.

Mr. Warzala explained his reasoning and thought process for the placement of the proposed landscaping.

Noting that Mr. Warzala had commented that there are previous revisions of this proposed plan, Mr. McNamara asked what the differences were between the first rendition and this one that is being proposed.

Mr. Hopkins stated that they had a house designed that followed the front yard setback and resulted in a straight-shaped layout.

Mr. Warzala explained that previous renditions of the house plans elongated the house and pushed it to the back right, and pushed the garage towards the neighbor, which they are trying to avoid.

Mr. McNamara stated that he would like to see the setback pushed back farther on the right side of the proposed house, move the cabana to the left side of the pool, giving the neighbor to the south more privacy, and the applicant's backyard additional privacy.

Mr. Kruzyski stated that when they started with the design, they did work within the setbacks, then with the request of a 6-car garage, in order to comply, they would have dog-legged the 6-car garage on an angle to the cul-de-sac. This would result in a line of 6 garage door openings, and as anyone in a cul-de-sac drove by, it would not be the most attractive view, but they would not need the variance.

Mr. Kruzyski explained that the design of the house will be American Traditional style to match the character of the street.

Mr. Drinkard complimented the late Dominic Piestrak for his development, and eclectic lot designs.

Noting that if he lived in the neighborhood, he would not have any issue with the proposed home, Mr. Drinkard asked Mr. Warzala if he has received any comments from any of the neighbors regarding the design of this proposed house.

Mr. Warzala responded no. The neighbors have all been notified, he does believe there may have been some confusion with the notifications and that they were requesting approval from the neighbors, which they were not doing.

Mr. Warzala explained how they have worked on adjusting the plans to address concerns from the neighbor to the north.

Mr. Warzala explained that he assisted the original property owner / developer in designing the lots to give each one more space.

Mr. Drinkard asked Mr. Warzala what the rectangle is on the plans.

Mr. Warzala explained that he grew up playing hockey, they reside next to a hockey player, and in hopes of someday building an ice rink for their son, they put it in the design of the house and property.

Mr. Drinkard asked what the rectangle shape is directly behind the proposed house on the drawings.

Mr. Warzala responded that it is a pool, but the schematics of the property with the rink and pool are very draft and nothing has been confirmed yet.

Mr. Drinkard noted that it is a very busy piece of property.

Mr. Drinkard asked Mr. Warzala if he has seen the homeowner's agreement between himself and the developer, and if this property and layout of the proposed house violates anything in the homeowner's agreement.

Mr. Warzala responded no; it does not.

Neighbor Notifications are on file, no written comments were received.

In regards to Public Participation, the following residents spoke:

1. Chris Skomra of 5554 Herons Glen:

- when he purchased the property, he was assured additional builders would be required to match the aesthetics of the neighborhood
- concerned with the proximity of the proposed house to the street level
- the lot should be considered a corner lot. He does not consider it the side of the house, it is directly adjacent to the cul-de-sac street and by bringing it closer to the street creates a blockage of view for not only drivers, but also for him when he exits his driveway
- every other house on the cul-de-sac has their driveway on the left as you face the house, but for some reason this proposed house was designed contrary to all of the others, with the driveway adjacent to his
- concerned that there are two driveways proposed for a residential property
- feels the applicant has had ample time to come up with a design for a house that fits the lot and the neighborhood as well as conforming to the codes of the Town of Clarence
- would like to see the proposed house redesigned

Chairman Mills noted that from a visual aesthetic standpoint, the cabana structure is on the side of one of the garages, which Mr. Skomra would have a clear view of.

Chairman Mills asked if the side garage facing the court did not have a garage door on it but more of a tandem garage, would that help remediate some of the visual concerns.

Mr. Skomra stated that if the driveway was gone it would, yes. He does not understand the need for two driveways.

Chairman Mills noted that there are 3 curb cuts.

Chairman Mills asked Mr. Skomra about the placement of the proposed cabana.

Mr. Skomra noted that it is close to the property line, he feels could be easily corrected to fit within the code. He strongly feels that the driveway should be on the left side and conform with everyone else on the street. He feels it violates his privacy having it located there.

Mr. McNamara asked Mr. Bleuer if there is an allowed number of curb cuts on a residential lot.

Mr. Bleuer responded that it is subject to review and approval by the Highway Department.

2. Alex Tuch of 5534 Herons Glen

- agrees with Mr. Skomra on all of his statements
- was not informed by Mr. Warzala, but his wife who is not the property owner was
- concerns with privacy
- they were one of the last residents to purchase their lot and they had no say in the size of shape of the lot but through a long, painstaking process, they were able to design and build a home that fit within the Town of Clarence guidelines



- they did have to make some adjustments that they would rather not have while designing their house, in order to have it comply with the town standards, including the placement of their garage
- they want to be neighborly and make sure everyone abides by the guidelines, they also want to be in unison

Mr. Drinkard asked Mr. Tuch if his house was the property adjacent to the applicant's.

Mr. Tuch responded yes.

Chairman Mills asked Mr. Tuch if the house was pushed back as shown in page 5 of the additional supporting documents, more of the house would be seen from Mr. Tuch's backyard.

Mr. Tuch responded yes.

Chairman Mills asked Mr. Tuch if that design would be more amenable to him.

Mr. Tuch stated that he is unsure how he feels about that design. 12 ½ ft. is fairly close to have side-by-side houses. The only reason he had to do it when building his house was due to the size, and they also relocated their driveway to the front of the house to be sure they stayed within the guidelines. They were not expecting someone to build that close on the other side of them.

Mr. Tuch stated that there are privacy issues, and as neighbors you have to do your due diligence and protect your own privacy. He has put in hedges, and although he is not sure how much the hedges will mitigate the views, there is a bit of an awkwardness on both sides.

Mr. McNamara asked Mr. Tuch what the size of his house is.

Mr. Tuch responded approximately 11,000 sq. ft.

Mr. McNamara asked what the sq. ft. is for the first and second floors.

Mr. Tuch responded approximately 7,000 sq. ft. and they have a 4-car garage, one with a deep section that has a garage door in the back.

Public Participation was closed for this item.

Addressing the applicant, Chairman Mills stated that some of the neighbor's concerns have been heard, and asked Mr. Warzala what his thoughts are.

Mr. Warzala responded, stating that he showed some of the plans to Dr. Skomra and Mr. Tuch and offered to meet them at his lot to walk through it and explain it to them, they were unable to do that.

Mr. Warzala noted that he was not aware Mr. Tuch's wife was not listed as a property owner when she signed the notification, he received correspondence from Mr. Tuch stating that his wife signed and they were good.

Mr. Bleuer pointed out that Neighbor Notifications are not signatures of approval or disapproval, it is simply a notice and not an opinion.

Mr. Warzala stated that they wanted to be transparent with all of the neighbors, not only the ones adjacent to their property. Their goal was to show everyone their plans and that they want to build a great house that is in-line with what the rest of the neighborhood.

Regarding the concern that his proposed driveway is on the right-hand side of the property, Mr. Warzala pointed out several other neighbors in the cul-de-sac who also have their driveway on the right-hand side of their property.

Discussion continued regarding personal reasons the applicant did not begin building their house right after purchasing the property.

Allie Warzala explained their reasoning as to why they did not begin building their house right away.

Mr. Warzala explained that were attempting to be neighborly and intended to discuss the plans and any concerns privately before coming to the Zoning Board. Mr. Warzala noted that Mr. Kruzyski designed all of the neighbor's houses included his.

Regarding the 3 driveway points, Mr. Warzala stated that it was listed on the paper, but is not necessarily what it will be.

Chairman Mills noted that Mr. and Mrs. Warzala have heard some feedback from the neighbors, with one of the points being the other driveway point closest to Mr. Smora's residence, as well as other concerns from the neighbors.

Chairman Mills noted that it would make the most sense to table this request, come up with some other designs, communicate more with the neighbors, and possibly provide some elevations. Elevations go a long way in terms of helping the board as well as the neighbors to see the aesthetics and how it fits in.

Mr. Hopkins requested to table this request, they have heard from some residents that have a vested interest and secondly, that the public hearing is left open so that everyone including the residents in attendance tonight have the opportunity to speak.

#### **ACTION:**

Motion by Ryan Mills, seconded by Gerald Drinkard to **table** Appeal No. 6.

#### **ON THE QUESTION:**

Chairman Mills explained that each board member is different and have different requests. While not a requirement, Chairman Mills stated that it would be helpful is to have some form of elevations even in a sketch format. Also, the driveway is a concern so alternative designs would be helpful. In terms of the 6 garages, Chairman Mills suggested a tandem garage so that there are not 6 garage doors.

Mr. McNamara asked Mr. Warzala what the square footage of their proposed house is currently planned for.

Mr. Warzala responded approximately 6,500 sq. ft.

Mr. McNamara noted that Mr. Tuch's house is approximately 7,000 -7,500 sq. ft. but is more condensed, and suggested Mr. Warzala consider condensing the plans more.

Mr. Hopkins noted that they will review the plans to see if they are able to reduce the amount of relief that is needed.

Mr. Drinkard stated that this is the time to determine what is fair specifically with next door neighbors in the immediate area.

Mr. Krey noted that the applicant should consider some landscaping for buffering, and review that with the adjacent neighbors, specifically the neighbor to the south.

Mr. Warzala explained that they want to provide the neighbors with as much privacy as they can.

Chairman Mills stated that after hearing comments from neighbors and board members, the applicant should work on alternative plans and return for another meeting.

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

MOTION CARRIED

Meeting adjourned at 7:06 p.m. with a motion by Richard McNamara.

MOTION CARRIED

Amy Major  
Senior Clerk Typist