

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday, March 11, 2025

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	Steven Dale	

Town Officials present:

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

Other Interested Parties:

Adam Hatch	Lawrence & Jeannette Zajac	Jeffrey P. Zack
Bill Burke		

Chairman Ryan Mills added the Board would go into the attorney client privilege meeting at 5:33pm and returned at 5:52pm.

Motion by Patrick Krey, seconded by Gerald Drinkard, to **approve** the minutes of the meeting held on February 11, 2025.

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

MOTION CARRIED

OLD BUSINESS

Appeal No. 1 – From the February 11, 2025

Meeting
Susan Vogel
Residential Single-Family

Applicant requests a variance of 4'3" to allow a 6' side yard setback to allow for a previously constructed addition to the principal structure located at 5165 Willow Brook.

Town Code Reference:
§229-52(B)

DISCUSSION:

Chairman Ryan Mills started with "back to old business." Appeal #1: This is your second appearance in front of us. Tell us what has changed since the last meeting.

Mr. Adam Hatch stated that Ms. Vogel and Mr. McKee have retained him to represent them. Mr. Hatch mentions that his clients built the addition without the Town's approval. He also stated that his clients have obtained a topographic survey, which will help alleviate water drainage concerns, retained counsel, and have a letter in support from a professional landscape company. In response to aesthetic concerns by neighbors, his clients are willing to put in a lattice fence with a hydrangea vine built in. The property will be available for inspection at the Town's discretion to ensure compliance with building codes.

Mr. Hatch said if the Town has a plan to allow the McKees to proceed without demolishing existing structures, they will welcome it. To add to this, he knows that the Town does not have the topographic map, the water dispersion plan, or the letter from the professional landscape company. This is new information.

Mr. Hatch believes these documents will help alleviate chief concerns about the water dispersion. It utilizes the existing back swale. The downspouts on the back of the property are not fully functional. These renovations will alleviate the existing water problem that Ms. Vogel and Mr. McKee currently have.

Mr. Hatch submitted the topographic survey, water dispersion plan, and letter from the professional landscaper.

Chairman Mills documented receipt of the topographic survey dated 3/6/2025, as well as a proposed drainage plan and landscape letter from Weigand Landscape to the Town of Clarence Zoning and Appeals signed by Constance Laing and asked for a moment to review.

Chairman Mills asked if there was anything further to review before moving to the Board for questions.

Mr. Krey asked if the proposed drainage plan included adding an underground pipe.

Mr. Hatch responded that Mr. McKee is an architect and this is his profession, he can answer your questions.

Mr. Krey asked if this will drain towards the backyard swale instead of the street.

Mr. David McKee said the back facing downspouts will collect the water and go underground and then what is proposed is to go by hard pipe one third of the way out and the last 80 feet would go into a system of perforated pipe surrounded by washed stone and filter fabric. Most of the water will be dispersed on our property in a pre-existing swale parallel to the northern property line.

Mr. Krey inquired if you have existing drainage that goes out to the street.

Mr. McKee replied that none of the downs in the back went to the street.

Mr. Krey inquired about the front of the house.

Mr. McKee stated there are 3-4 downspouts in the front that do go out to the street but are much higher in elevation than the ones in the back

Mr. Krey asked if that was why he could not connect to those because of the elevation issues, it did it not drain correctly?

Mr. McKee said that was correct.

Mr. Krey had no further questions.

Mr. McNamara had concerns about the drainage plan. The addition's side measures 648.4 at the rear corner, according to the topographic survey. In the back near the ditch is 646.78. There is less than a two-foot pitch at ground level. If the pipe is at ground level, there is no pitch. The pipe running in the back is not the way to go. The pipe needs to run to the street for drainage like the rest in the front for proper drainage.

Mr. Hatch said the catch basin Mr. McNamara is referencing with the 642.35 elevation is not within the Vogel/McKee property but is several houses down.

Mr. McNamara said the pipe runs horizontally to the catch basin in the south, which has a 646.38 invert lower than the one in the back, making it suitable for drainage purposes. He also stated it would be up to the Clarence Town Engineering Department to determine proper drainage.

Mr. Dale had no questions.

Mr. Drinkard stated he talked to Mr. McKee on his property last Tuesday, and Mr. McKee said he would meet with an expert and the lead inspector, Mr. Gross, from the Building Department.

Mr. McKee said Mr. Gross was not available to meet.

Mr. Drinkard said there were two concerns with the first being visual from the side and front and the second involving the drainage. All downspouts in the back and front go straight into the ground and likely drain into a 4-inch pipe draining presumably to the street. Mr. Drinkard questioned Mr. McKee about the damage to the underground drainage pipes.

Mr. McKee responded that digging on the north side of the garage resulted in no 4-inch drain line, and to the east of the garage, the drain line was damaged by a Magnolia tree. The drain lines were collapsed and disconnected from the street. He is not sure if they were extended out to the street.

Ms. Vogel stated when she purchased the house 17 years ago the downspout on the north side of the garage drained to the surface. She had a new driveway put in and there was no discovery of any drainage lines and again drained above ground.

Mr. Drinkard stated the water should have gone underground and is not being drained away from the structure. He would not be satisfied giving the variance unless a motion is in place that drains the water properly with a 4-inch pipe draining to the street.

The discussion continued between Ms. Vogel and Mr. Drinkard about the sump pumps on the property and how they may assist in the drainage problem.

Chairman Mills shifted to the landscape and design proposal. As a condition for approving the variance, Ms. Vogel must complete the landscape and design proposal.

Ms. Vogel responded yes.

Chairman Mills asked what they were contemplating as a fence along that side area, if anything.

Ms. Vogel proposed a solid fence up to 4 feet high and a 2-foot lattice and climbing vine to drape to the neighbor's side.

Chairman Mills said aesthetically, that would go a long way to mitigate the visual aspect of that structure being closer to your neighbor's property line. We may require a 6-foot white vinyl fence, with 4 feet solid and 2 feet lattice.

Ms. Vogel said they have not discussed the details of that fence and the materials to be used. They probably would not use vinyl because they like natural materials.

Chairman Mills asked if her preference would be wood.

Ms. Vogel said yes, or boral, which is a composite that holds paint better than wood.

Chairman Mills asked Ms. Vogel if she would be amenable to the Board placing a condition stating boral or wood for the 4-foot portion and some type of lattice for the additional 2 feet along the span on the north side of the garage.

Ms. Vogel said yes.

Chairman Mills said on to drainage, there is some dispute here regarding the most effective means for drainage to escape the property. Chairman Mills proposed to leave it to the Town Engineering Department.

Mr. Bleuer said it should be Building and Engineering.

Chairman Mills stated a third condition would be that they agree to do whatever Town Building and Engineering recommends as to drainage on the property. Now that may mean going from the

front of the house to Willowbrook even though it sounds like they have some resistance to that. Chairman Mills asked if that is something they are amenable to.

Ms. Vogel said yes.

Chairman Mills said we will leave it in their hands to digest your documentary evidence and come forward with what they recommend but you agree to follow it.

Ms. Vogel acknowledged the statement and expressed gratitude.

In regard to Public Participation, Martha Delaney spoke.

Martha Delaney from 5177 Willowbrook asked if the fence needed to be 6 inches from the property line.

Mr. Bleuer stated there is no minimum distance from the property line. A fence can be placed right up on the edge of the property so long as it is wholly located on the individual property. There is not a 6-inch offset required by code.

Chairman Mills said you heard the discussion regarding drainage, obviously that impacts you as the adjacent neighbor. You agree that the most effective plan is for the Town Building and Engineering to review everything and come up with a plan.

Ms. Delaney added the neighbor across the street had a problem in the backyard years ago with drainage and had additional work done around the house and connected to the storm sewer in the front. The water on our street runs toward Greiner. I have a double sump pump that runs all the time. All my downspouts drain toward the street as does my sump pump.

Chairman Mills stated that is helpful information.

Ms. Delaney said this is typical of what happens on our street.

Mr. Dale wants to change the condition for the fence next to the garage to be 6 feet tall and fully private. The front and back can be 4 feet.

Mr. Mills stated there is no motion yet, but this may be included.

Chairman Mills asked Ms. Delaney, as the neighbor, if she has a visual preference for the fence. You heard dialogue of a 4-foot fence with lattice or a 6-foot privacy fence.

Ms. Delaney said she does not have a visual, she just does not want it on her property. She has a concern regarding the foundation of the addition.

Chairman Mills said Mr. Bleuer will confirm that Building and Engineering will verify everything was done properly.

Mr. Bleuer said that, if approved by the Zoning Board, the Building Department will review it thoroughly and ensure compliance with state building codes and standards.

Public Participation was closed for this item.

Neighbor Notifications are on file, the Town did resend the revised meeting date to surrounding neighbors.

Chairman Mills asked if there were any other questions for the applicants from board members.

Mr. Krey asked if the landscape plan is contained in the letter from Weigand Landscape & Design.

Mr. Hatch said yes, he only has a copy of the letter.

Mr. McKee said the landscape plan is a work in progress. They collaborated with Connie on choosing plant materials. The areas marked in green on the plan are designated as rain garden areas.

Ms. Vogel stated there are existing willow and pussy willow trees, as well as red stem dogwood, lilac trees and hydrangea along the two sides to soak up water and provide privacy.

Mr. Krey asked in terms of imposing a condition since there is no landscape plan on file, does the Board want them to plant trees on the side and rear of the house 4-6 feet in height?

Mr. Drinkard said the landscape plan is a proposed drain plan to resolve water flow with a rock garden. Also, existing plants are not shown in the plan.

Ms. Vogel said the rock garden was already there, there are trees on either side of the house.

Mr. Drinkard said the landscape plan is incomplete showing growing matter.

Mr. Hatch stated his clients can submit a more detailed plan. If the issue is water dispersion, the Engineers are going to have to figure out where and how to disperse the water. Additional trees are not necessary.

Mr. Krey mentioned that the Board must consider both water dispersion and aesthetics. A letter stating a plan is not sufficient. Maybe we can come up with a design with species or types of species, distances, things of that nature. We have done that with other projects.

Mr. Hatch said his clients are willing to ensure the Town is satisfied and their property looks good. Mr. McKee and Ms. Vogel have a very nice aesthetic currently and the addition does mirror many other properties in the area and is architecturally sound. The Board and the Town will carry out their duties as determined, within practical limits. We are hopeful we can get the right result. With that, I'll defer.

Chairman Mills stated that there is agreement on the drainage plan, but an issue has arisen regarding the species and layout of the landscape plan. From a compliance standpoint we need to specify how many, what height and where. We can discuss this now, or you can submit the landscape site plan later to include in the record.

Mr. Hatch asked Chairman Mills and Board Member Krey if we had not submitted a landscape letter in support of the drainage plan, which we now know will not be adopted, would we even be asking these questions right now?

Mr. Krey said the Board does it all the time. It happens on almost everything that comes before this Board.

Mr. Hatch said if there are questions that you think we can answer here today, I will defer to my clients and hopefully we can resolve it.

Chairman Mills said our primary concern is the area along the addition. If we can lay out what species, what height and how far apart along the 22-foot span along the garage, that will go a long way from a compliance standpoint.

Ms. Vogel inquired about the possibility of an alternative to a fence.

Chairman Mills said in addition.

Ms. Vogel said in addition to the fence, okay.

Mr. Drinkard asked Mr. Bleuer if the Landscape Committee could review and approve it.

Mr. Bleuer mentioned that it is possible, he would advise against it. It would just be more people, more boards, and more confusion. But it is within your purview to do that.

Chairman Mills asked the applicant if they were not contemplating anything other than vines on that side?

Ms. Vogel stated they already did plant some tall ornamental grasses last fall to provide some visual beauty on the side. We love gardening and have put significant effort into landscaping.

Chairman Mills asked if they were contemplating putting the fence on the property line or recessing it back a distance.

Ms. Vogel said they could set it back a distance and place it against the walk.

Chairman Mills noted that the grass plantings near the walk would grow large, as previously mentioned.

Mr. McKee said the view of what we have between the face of the addition and the property line is two small planting beds with a flagstone walk or a loose natural walk. The size of the planting beds between the walk and the property line is only about a foot wide.

Chairman Mills said that is the issue here: what are you going to do with the one-foot area? What plantings can you specify on the record that you would like to go along that area?

Ms. Vogel suggested adding climbing hydrangeas or another vine there.

Chairman Mills said so let us specify that you are going to have climbing hydrangea along the whole span.

Mr. McKee and Ms. Vogel responded yes.

Chairman Mills asked if there was anything else?

Ms. Vogel said she had not thought that far.

Mr. Drinkard confirmed that the placement of the plants would include the garden shed. He asked about the willow shrubs.

Ms. Vogel explained the layout of the yard and the placement of existing plants.

Mr. Drinkard asked if the view from the roof was covered, to which Ms. Vogel responded yes.

Chairman Mills said we would hear from the neighbor one last time and move on to motions.

Ms. Delaney expressed her preference for not having a fence installed. The planted grasses are acceptable. They are not on the property line. She prefers only the plantings and feels restricted by the proposed fence. They have a fence along the backyard. The old garage had two windows. She prefers to have something placed against the wall she observes but wishes to exclude the fence entirely.

Chairman Mills said we would note your statements for the record. Back to the applicants, the preference for the applicants is to have a fence.

Ms. Vogel said the fence was not that important. We aim to keep the shed addition and offer Martha a beautiful view from her side. Our goal is to make peace.

Chairman Mills asked if the board has a motion as it relates to Old Appeal number 1.

ACTION:

Motion by Gerald Drinkard, seconded by Patrick Krey to **approve** Old Appeal No. 1 as written with the following conditions:

- Gutter connectors on the addition must drain into the underground storm water system, which must meet Town Building and Engineering Dept. requirements.
- 4-foot boral or solid wood fence with a 2-foot trellis on top, extending the entire length of the garage on the north side by July 1, 2025, along with flowering materials to minimize the roof view of the addition.
- The Building and Engineering Department must approve the structure, and the applicant must make changes to comply with the code, including possible removal if necessary. A certificate of occupancy and all necessary permits will be required.

ON THE QUESTION:

Mr. Hatch requested clarification regarding the flower language used in condition #2 from the Board. It was agreed that the flowers were to go up the trellis or wooden fence to intervene with the view of the garage's roof and neighboring properties to soften the look of the fence.

Chairman Mills stated that the applicant has come to them twice now. The applicant has acknowledged wrongdoing and has taken quite a few steps to mitigate and deal with the outcome, including landscape design and recommendations, drainage plans, and topographic surveys, as well as agreeing to all recommendations by the board. He also mentioned that it would not have an adverse impact on the overall aesthetics of the neighborhood.

Mr. Bleuer wanted to clarify the intent of condition #2 with the request of a vegetated trellis on the north side at least the distance of the depth of the garage and the fact that there is no height standard of the request.

Mr. Drinkard previously mentioned that the fence would be 4 feet high with a trellis on top. He is now amending his condition #2 to specify a 4-foot boral or solid wood fence with a 2-foot trellis on top, extending the entire length of the garage on the north side.

Mr. Bleuer stated that the fence would require a permit and that, subject to submitting the permit, the fence could be installed.

The Applicant has heard, understands, and agrees to all conditions.

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

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

Edge Development, LLC.
Commercial

Town Code Reference:

1. §229-126(D)(1)(b)
2. §229-126(D)(1)(f)

Applicant requests variances:

1. to allow for 12 multiple family housing units over the allowable residential density; and
2. to allow a third story on a multiple family housing building;
located at 9105 Sheridan Drive.

DISCUSSION:

Bill Burke from Edge Development normally has Sean Hopkins helping with the presentations and understands it can take time to review as there is a lot of information.

Chairman Ryan Mills asked if Mr. Burke would like to table the request to prevent duplicity, to which Mr. Burke stated that he intends to table the appeal and will present the project and answer any questions from the Board.

Mr. Burke stated the property is a 2.83-acre site 1000 feet northwest of the intersection at Sheridan Dr. and Main St. The former family diner site is now vacant. The land was put up for sale in 2023, and Edge Development contracted with the seller in 2024. The project site map aerial is immediately adjacent to the NYS Department of Transportation property, which straddles the Sheridan Dr. corridor. The neighborhood immediately to the east is a retail plaza.

The site is zoned Commercial and Mixed Use. Commercial allows multiple-family dwelling units subject to a special exception use permit issued by the Town Board. The area offers a variety of uses. The intent is to establish a high-quality site layout and use the flexibility inherent in campus design. We spent a lot of time looking at the zoning code comprehensive plan and, more recently, the Vision Sheridan release. As we go through this documentation, you will understand our attention to detail and our intent to capture the stated goals and objectives.

Next in the presentation is the zoning map showing we are in the heart of the commercial district that continues from Sheridan Dr. to Main St. The proposed project is expected to align with the surrounding uses. As far as the site plan goes, we are proposing a 3-story mixed-use building right on Sheridan Dr. with 7000 square feet of retail space and 10 apartments on the upper floors. We also have three 4-unit townhouses with attached garages at the back of the project, accessible via a single curb cut on Sheridan Dr.

The business and design criteria are presented in the comprehensive plan, which outlines the proposed pedestrian connectivity via the sidewalk along Sheridan Dr. right of way. That meshes well with the NYS Department of Transportation grant issued to the Town of Clarence along the Sheridan Dr. corridor. We focused on the design, ensuring parking is limited to the back of the building and does not dominate the frontage of the lot. All parking is adjacent to or behind the building to avoid having parking lots featured along the street front.

The residential buildings are exclusively residential in nature. Codes require residential properties to be at the rear with significant setbacks, while the mixed-use building is prominently along the streetscape.

We have done an extensive landscaping plan to show what we are envisioning for screening along the property line and along the street frontage. We propose a split rail fence along Sheridan Dr. on the west side of the street up to the property line. We have additional extensive landscaping throughout the site that will complement those buildings.

Sutton Architects have designed a unique mixed-use building. We have a 3-story building with 6 apartments on the second floor and 4 apartments on the third floor. That creates kind of a terrace approach with those articulating roof lines. We added several architectural features including black windows, black balconies, black accents, stone accents, etc. The architectural approach mirrored some of business center design criteria breaking up of large white walls, sloped roofs rather than flat roofs, all this culminating in what we consider to be a higher standard of development per the request of the zoning code.

The next few slides show different renderings, showing a fancy dusk view of the building from Sheridan Dr. We have a preliminary rendering of the townhouse building.

Moving on to the Vision Sheridan slide, we have the rendering for our project displayed in the Vision Sheridan plan. We also noticed that our project satisfies a lot of the intent and the stated goals of the Vision Sheridan plan, highlighting the connectivity to industrial activity creating a harmonious development approach with a mixture of uses, complementing existing establishments and creating a place making establishment.

Mr. Burke described presenting his project to the Town Board in August and seeking variances from the Planning Board. He met with the Planning Board on two occasions. The SEQR determination concluded on January 29th with a unanimous vote, declaring no negative environmental impacts associated with the project. He restated the variances requested.

Mr. Burke states there is no detriment to the health, safety and welfare of the community. Mr. Burke outlined his planning process to the Town Board in August and will seek variances from the Planning Board for his project. It does not work financially without the variances requested. This project aligns with Vision Sheridan and the comprehensive plan, offering a positive change to the area's character.

Mr. Burke stated that they did go through a series of design changes. In their preliminary design they utilized CarminaWood Design to engineer the site. CarminaWood did include a redundant onsite wastewater treatment in case any septic systems were to fail. Mr. Burke said he is not installing two septic systems, however, if the primary septic system does fail, they have an additional field for aa additional septic system to be installed in case of failure. The site has plenty of open space. The zoning code requires 30% open space, we have 57% so it certainly is not the case that we are overcrowding the space with too many buildings on the site. The open space will be complemented by the extensive landscaping.

Included are photos of nearby properties. Again, it is important to note that all properties abutting and adjacent to the project are in the Commercial district so we don't think there will be any detriments to those properties. The properties that back up to the rear of this property are fronting on Main St. and are currently utilized as commercial businesses. Immediately to the east is an existing retail facility and again, the property to the west is vacant NYS Department of Transportation property.

Mr. Burke gave a summary of the history of the property, stating the current owner did propose a self-storage facility on the site, and while that proposal would require a use variance from this board, we feel our proposal is a much better option. We did explore other site design layouts, including utilizing the transfer incentive that will allow us to build a 16-unit mixed-use building up by the road. That building would be too large for the site, waste open space, and not be financially feasible. We think our plan is much preferable.

There are financial challenges with this site. The public water supply is across the street on the northern side of Sheridan Dr., which would require a very expensive road bore. Complicating matters is the shallow bedrock. We expect that road work to cross a three-lane highway will cost \$150,000 - \$200,000. That is based on some early discussions with the Erie County Water Authority. There is a presence of shallow bedrock on the site. We have done a couple of test pits and expected the bedrock will be about 24 inches below the site, so that will require extensive site work, and to mitigate those challenges, we estimate it to be about \$250,000. Everyone is familiar with the construction cost increases, the 40-50% increase in costs from 2020 to 2025, and today's interest rates, while they are slowly creeping down, are still 400 basis points higher than in 2020.

We have a preliminary economic analysis to view the alternatives without these variances, the project would not have a chance. He believes there is no harm presented by this project. He compared similar projects in the area regarding density. Willow Square of Clarence has a density of 7.89 units per acre. The Main Center of Clarence has a density of 7.97 units/acre. Compare that with our project, which has a density of 7.77 units per acre. We think those 2 projects have a huge benefit to the vibrancy on Main St. redeveloping underutilized sites. We want to capture a lot of the same goals and accomplishments as those projects. We highlighted a few of the similar projects approved in the Town, most notably 9150 Sheridan Dr., 9500 Main St. and 9560 Main St., recently developed by Stephen Development and again are tremendous projects that added to the vibrancy along Main St. We did include site plans for Willow Square and Main Center, again highlighting the fact that if Willow Square or Main Center were to be put before the Planning Board today, Willow Square would require a variance of 13 units and Main Center of Clarence would require a variance of 12 units. Main Center was granted a variance for a density of 8 units back in 2017. Lastly, 9150 Sheridan Dr. received two variances: one for density and one for building height on the third floor. We think that is another sharp project that would add to the vibrancy of Sheridan Dr. We are trying to accomplish similar goals.

The third area variance, in the context of the third story, is just to note that the Commercial building height allowance is 45 feet. We do intend and will comply with that code requirement.

The fact that a multiple-family dwelling is not permitted to be 3 stories is what we are requesting relief from. Again, 9150 Sheridan Dr. did recently obtain a third-floor variance.

The fourth criterion examines whether the proposed variance will negatively affect the physical environmental condition of the neighborhood or district. We certainly do not believe that is the case. Evidence finds we did go through the State Environmental Quality Review Act (SEQRA) with review by the Planning Board. The Planning Board issued a SEQRA lead agency solicitation letter on November 18, 2024, with all responses due by the end of the year. We received 5 letters from interested parties, including Erie County Vision & Planning, Erie County Water Authority, Department of Transportation, SHPO, and DEC. All agencies concurred to declare the Planning Board the lead agency. The Planning Board did issue a negative declaration on January 29th, 2025.

Mr. Burke is questioning if the alleged difficulty is self-created, which should be relevant to the decision of the Board of Appeals, which is not necessarily to conclude the granting of the area variances. He also noted that this hardship can be viewed as self-created, but the overall balancing test and provided material provide a strong justification for the granting of the variance by the ZBA.

Mr. Drinkard asked if Sean Hopkin's original proposal, which was in excellent condition, fit with the master plan. He explained that both the ZBA and Planning Board agree on the setback of 15 feet rather than 10 feet. Mr. Drinkard confirmed with Mr. Burke and clarified that the distance in question was from the right of way. He noted the proximity to a major highway due to the storefronts, sidewalks, and snow removal.

Mr. Drinkard asked Mr. Burke where they planned to do snow removal.

Mr. Burke stated they would self-manage the property and have extensive experience in this area and believes they have a few locations to stack snow, including stacking some in the green space, and mentioned that they have 57 percent of open space.

Mr. Drinkard stated he is asking this because the project is requesting more people and more families in a concentrated area.

Regarding a retention pond, Mr. Drinkard said nothing was referring to connectivity to a public sewer or storm water sewage.

Mr. Burke was unable to discuss the retention pond.

Mr. Krey had no questions.

Mr. Dale asked Mr. Burke to explain the septic system and the capacity of the system.

Mr. Burke said there would be a raised bed sand filter, but was not able to answer the specifics of technical details of the septic system. However, he stated that their engineer does all the

calculations based on the Zoning requirements and typical wastewater flows from residential units in conjunction with commercial uses.

Mr. Dale explained that this was the original decision point for the number of units that are allowed on the property that does not have a sewer line and inquired about more information on the septic.

Mr. Burke stated that the Erie County Health Department will review the information, and the applicant must comply with their strict standards. He said they needed the critical review to get a septic permit.

Mr. Dale asked what the normal life expectancy was for the system as the proposed project is providing two.

Mr. Burke stated their Engineering firm is used to working with based on the standard of the Clarence Town Engineering Department. They have two as a precaution as they do not expect it to fail.

Mr. Dale asked how long they expect it to work.

Mr. Burke answered in perpetuity.

Mr. Bleuer noted that the Town of Clarence does not review or approve septic systems. He said they are reviewed and approved through Erie County Health Department through NY State Environmental Conservation Department. Furthermore, there are not two septic systems on site. The applicant is required to propose a redundant area for a system that is designed to meet the needs of the site. In the coordinator's review, the Town collaborated with both the DEC and Erie County Health Department, allowing them to provide preliminary comments on any concerns related to the proposal. A Negative Declaration was issued as no issues were found. The applicant will undergo the full design review if they reach the development plan stage.

Mr. Dale asked if Erie County Department of Health maintains any sort of responsibility for the septic system once they approve it.

Mr. Bleuer said he cannot speak for Erie County.

Mr. Burke stated they would oversee the septic system.

Regarding the financial challenges section, Chairman Mills referred to the plans and noted page 1, where it shows sixteen one and two-bedroom residential units, but the twenty-two units proposal is listed as two bedroom, three bedroom, and one bedroom and two bedrooms. He asked Mr. Burke to explain the difference.

Mr. Burke stated that the 16-unit building used the transfer design incentive to move entitlements from the rear to the mixed-use part of the project. This would be one 16-mixed-use building.

This building will utilize the one and two-bedroom units. The proposal outlines townhouses with two or three bedrooms and rear-attached garages, addressing the identified discrepancy.

Chairman Mills asked where he is getting his numbers from for the monthly rent analysis.

Mr. Burke said it is based on recent projects that they have completed in other Towns and based on recent rental rates that they have checked on in Clarence.

Chairman Mills asked if these rental rates were comparable to the Main Steet projects that Stephen Development had completed.

Mr. Burke noted that Stephen Deployment's designs are smaller and lack attached garages.

Chairman Mills asked if they are comparable to the Bliss project on Roll Road.

Mr. Burke said they offer 1 bedroom with attached garages and that their proposed project is projecting rents higher than theirs. He said he would compare them more with the Fireside and Coventry Green Apartments on Wehrle Dr.

Chairman Mills asked if it is Mr. Burke's testimony that they will not move forward if this variance was not granted.

Mr. Burke answered yes, that is correct.

Neighbor Notifications are on file for 9135 Sheridan Drive, 9070 Sheridan, 9138 Main Street, and 9120 Main Street.

In regard to Public Participation, no one spoke.

Chairman Mills asked if Mr. Burke would like to maintain his earlier position and table the appeal or if he would like to hear the vote from the board members.

Mr. Burke asked to hear the vote.

Chairman Mills stated that they have a fair amount of green space, and instead of going up for the third floor, he asked why not spread out the project.

Mr. Burke said they thought the third story design was creative and preferred the economic benefits of the third story rather than spreading it out. They aim to preserve the open space while maintaining the site's character and adding accents like split rail fences and landscaping.

Chairman Mills asked if they could agree that they have room for more units.

Mr. Burke agreed that they do have room for more units.

Regarding the cost standpoint, Chairman Mills asked if it would be more expensive to build more units on the property rather than build up.

Mr. Burke said yes, it would be more costly.

Chairman Mills, if they have run the numbers for spreading out versus building up.

Mr. Burke answered yes, they have run the numbers.

Chairman Mills asked if there were any other buildings of this height closer than Stephen Development's Buildings.

Mr. Burke indicated that he was not aware of any at that time but noted that 9150 Sheridan Drive, a different 3-story building, had been approved.

Mr. Dale, continuing with the septic system he said it's mentioned that the bedrock was 24 inches below the surface, are you going to bring in additional material to make the sand filter area higher?

Mr. Burke said they will do their best to balance the site as much as they can. Additional fill might be necessary, pending calculations. We will bring in sand and stone from foundation excavations and import stone and sand for the septic design.

Mr. Dale asked for the life expectancy of the systems.

Mr. Burke stated they are designed to last in perpetuity but beyond that is unknown.

Chairman Mills asked if there was a motion as it relates to Appeal Number 1?

ACTION:

Motion by Chairman Mills, seconded by Patrick Krey to **table** new business Appeal No. 1.

ON THE QUESTION:

None reported

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

MOTION CARRIED

Appeal No. 2

Dan Korpanty
Agricultural Rural Residential

Applicant requests a variance of 0.18 acres to allow for a minor subdivision of land; which would result in one new lot being created, of 1.15 acres, located at 6275 Salt Road.

Town Code Reference:
§229-39(B)

Chairman Mills stated the application was withdrawn by the applicant.

Appeal No. 3

David Halady
Residential Single-Family

Applicant requests variances:

Town Code Reference:

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

1. to allow a secondary detached garage (pole barn); and
2. of 360 sq.ft. to allow a 560 sq.ft. detached accessory structure (pole barn); and
3. to allow an accessory structure (pole barn) greater than 400 sq.ft. to use materials different from the principal structure;
located at 8265 West Point Drive.

DISCUSSION:

Mr. David Halady states the structure will be an outbuilding in the rear of his residence. It was described as a garage but is not intended to be a garage. There will be no driveway leading to the building. It will be a pole barn. The outbuilding will be aesthetically pleasing, the structure will match the color of the house. The design will feature a two-tone color scheme, with wainscoting for the lower four feet and a lighter shade that complements the house for the upper portion. The roof has a 6/12 pitch with windows on the side, rather than a lower-pitched flat roof at 4/12 pitch.

Chairman Mills said we will move on to questions from board members and start with Mr. Dale.

Mr. Dale said you mentioned it's going to be a storage unit and a workshop.

Mr. Halady said he calls it an outbuilding. Unfortunately, his house is older, built in 1979. I do not have an 8-foot basement with little space for a workshop, which is beneath a sunken living room with an even shorter ceiling height with no room for a table saw. That is all in the garage now.

Mr. Dale asked if it would be primarily a woodworking shop.

Mr. Halady responded that it was mainly for woodworking. He works for a company doing commercial and industrial heating and air conditioning.

Mr. Dale asked if he does work on the side to which Mr. Halady replied he does not. He mentioned that his main role is in sales, supporting casinos, hospitals and large structures.

Mr. Dale said he is asking for a very large building which will stick out in the back of his property and in the neighborhood.

Mr. Halady agreed it is large at 20' x 28', which is 560 square feet. The neighbor's property to the rear is 300 feet deep and ours is 200 feet deep. The distance from the front edge of this structure to the back of my house is 80 feet. I wish I had 5 acres.

Mr. Dale said he is not sure he is in favor of a pole barn of that size in a residential area.

Mr. Halady said the other option is a garage structure and that is not cost feasible.

Chairman Mills said the factor to consider is that a pole barn style structure will not fit in with the character of the neighborhood. Can you direct us to other homes in the neighborhood that have something like this in the yard?

Mr. Halady responded with, in his neighborhood, he could not, but on their street, others who need more storage are putting in extended double axel trailers in the driveway or on the side of their house. Is that any better? We do have several of those in the area.

Chairman Mills said you do have different options in terms of attaching a garage structure or going with a garage versus a pole barn. Obviously, it is an additional cost, but we do see benefits with applicants increasing the resale value of their property.

Mr. Halady asked if he sees an additional garage as a better option.

Chairman Mills said he sees a lot of requests with attached garages. If this is a breezeway with an attached garage, you could go a bit larger.

Mr. Bleuer said that based on the size of your current garage, a variance may still be required, but it might be less than what you are currently requesting.

Mr. Halady thought about that but said it may get too close to the property line next to the house and limit access to the backyard.

Mr. McNamara asked if he could use siding that matches the house instead of steel siding.

Mr. Halady stated he would put OSB siding over the girths going across and OSB wood across the girths and siding to match the house. It was priced a couple thousand dollars more in cost.

Mr. McNamara suggested that adjusting the size could make it resemble a backyard garage when viewed from Clarence Center Road.

Mr. Halady said that is why he is looking at the 4-foot wainscoting to be dark brown which matches the trim on his house and the upper part will be a tan/sand color which matches the siding for his house.

Mr. McNamara inquired whether the current outbuilding would remain in place or be demolished.

Mr. Halady stated that the building is sinking into the mud and will be removed.

Mr. McNamara asked if the variance is approved and if we ask for vegetation along the sides and around the back for protection from the neighbors, is he agreeable?

Mr. Halady said he is all for gardening and will plant more vegetation.

Mr. McNamara had no more questions.

Mr. Drinkard asked if Mr. Halady built the house.

Mr. Halady replied that he is the second owner and has lived there for 18 years.

Mr. Drinkard asked Mr. Halady if he was aware of the guidelines for a residential single-family neighborhood in the Town of Clarence. Mr. Drinkard is not in favor of pole barns in residential single-family neighborhoods. He feels it does not fit, but it can be built to blend in better with fewer variances and be more attractive to the neighborhood. He feels there will be complaints about the pole barn if allowed.

Mr. Halady acknowledges and strives to comply with the process.

Mr. Krey sought clarification regarding whether he intended to operate a business from the premises.

Mr. Halady firmly declined.

Mr. Krey asked, what is the square footage of your home?

Mr. Halady responded 2,000 square feet.

Mr. Krey said it does seem like a rather large structure and out of character for the neighborhood. Mr. Krey expressed his dislike for the garage door and questioned its purpose, and asked if it was a cost issue.

Mr. Halady said yes, it was to facilitate moving cabinets or snowmobiles in and out of the structure, and that was the reason for the garage door.

Mr. Krey felt visually, two barn doors would be an improvement. It looks like you have a detached garage in your backyard. It stands out. What were you planning in terms of landscaping around the entire structure?

Mr. Halady said he was thinking of landscaping in the front but does not have a plan yet. The structure is 20 x 28, so the front is 20 feet wide.

Mr. Krey asked if the same materials as the house would be used for the outbuilding. You requested three variances, one of which is to match the materials to the principal structure.

Mr. Bleuer stated there are three specific variance elements. The garage is classified as a secondary detached garage because of the type of garage door it has. The second factor is size, and the third is that a structure of this size must be constructed using materials matching the house.

Mr. Krey asked if the applicant changes the door, will it remove the first variance request?

Mr. Bleuer said if it did not have a garage door, then perhaps, yes.

Mr. Krey added for the third, does it need to have both roofing and siding material to match the house?

Mr. Bleuer stated that it is an excellent question. I would need to consult with our Building Department; however, the code specifies that a home with a detached garage must be constructed in the same manner.

Mr. Krey responded, "I understand."

Mr. Halady said he was not aware of that.

Mr. Dale asked if, given that it is a pole barn and to be considered a permanent structure, should not setback rules should apply? Five feet seems a little close to the back property line; should it be ten feet?

Mr. Bleuer stated that an accessory structure in the rear yard of a residential property requires five-foot setbacks. Of course, that is written for a 200-square-foot accessory structure. No code speaks higher than that because it is not allowed, and that's where you come in.

Chairman Mills asked for Neighbor Notifications from Mr. Bleuer, who responded three are on file, 8255 and 8275 West Point and 8270 Clarence Center.

In regard to Public Participation, the following residents spoke.

Larry and Jeannette Zajac from 8255 West Point Drive spoke. Mr. Zajac said he is not there to deny or obstruct construction of the building by David Halady. He is unfamiliar with the building

height and is concerned about drainage due to water accumulation around the buildings and the pool. What options are available for limited drainage space?

Mr. Bleuer stated, if approved, this would be required to obtain a building permit. The Building Department would look at drainage, and a drainage review would be associated with any construction.

Mr. Zajac asked about the height.

Mr. Bleuer stated that the applicant could address that question. According to the packet, the height of the structure will be 15½ feet at its peak.

Mr. Zajac said that would be acceptable. He stated they moved from Cheektowaga 47 years ago and built one of the first houses on West Point Drive. The reason they moved to Clarence is because they like the open space and the park-like environment. He’s hoping that does not change but realizes he cannot control what someone else does on their property.

Mrs. Zajac said she disagrees with the building of the pole barn. Looking out her kitchen window, she has a view of their shed, pool, and now a pole barn. Initially, they moved to have a country-like setting, and now they would not have that.

With no further questions, Chairman Mills called for a motion.

ACTION: Motion by Patrick Krey, seconded by Stephan Dale, to **table** new business Appeal No. 3.

ON THE QUESTION:

Mr. Krey offered Mr. Halady to revisit his plans as he believes by removing the garage door, it will be an improvement, he also suggested landscaping and to decrease the size of the structure.

Mr. Krey suggested discussing the plan with his neighbor and not to be so close to the property line and moving it if there are any possibilities to move it. Mr. Krey also suggested to pay attention to landscaping that will help mitigate the neighbors' view as well as the street view of the structure. He also suggested maybe having a rendering drawn up.

Mr. Krey also added that if this was to be approved that the other building would be removed and suggested to commit to a no greater than height of the structure to address the neighbors’ concerns.

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

MOTION CARRIED

Appeal No. 4

Pear Tree Homes, LLC.
Agricultural Rural Residential

Town Code Reference:
§229-37

Applicant requests a variance to allow for a total of five (5) living units, two (2) of which were previously recognized by the Town, located at 6560 Goodrich Road.

Mr. Richard McNamara recused himself from Appeal No. 4.

DISCUSSION:

Aaron Partridge states he purchased the property at 6560 Goodrich Road in 2022 believing it had 5 units instead of 2 units as listed by the Town.

Mr. Drinkard reports inspecting the property, which has two buildings. Mr. Drinkard inquired with the applicant whether the apartments within the building are currently undergoing renovation, noting the presence of a broken window at the front.

Mr. Partridge said they have been doing some minor construction on one unit.

Mr. Drinkard asked if there are separate plumbing facilities in 3 units. He asked if the units were separate and distinct from each other.

Jeffrey Zack from Lancaster said he did some of the drawings for Pear Tree Homes. There are 3 units on the second floor. He states that each unit has its plumbing, facilities, and sleeping quarters. The apartment renovations are converting from a one-bedroom to a two-bedroom layout. We are also installing egress windows in all the apartments so they can exit the building. All units have separate entrances. We are adding separations between the units as well as the units on the ground floor, as well as smoke and fire detection.

Mr. Partridge stated the goal is to make the property safer. We purchased this property in 2022. It was neglected. A new subdivision is being developed on Goodrich Road, and our goal is to ensure that it becomes a desirable property. The main goal is to ensure safety and comply with town guidelines.

Mr. Drinkard asked if he knew about a business being run from a first-floor unit on the building's south front side. It looked like he was storing materials there and running a business. He asked if the owner planned to operate a business on the first floor.

Mr. Partridge stated that there are three apartments on the second floor and shops are rented from the ground floor. There are free garage spaces below. We believe there is some business activity. We monitor it and make sure it's not anything crazy. We are aware of some business activity from the first floor.

Mr. Drinkard questioned how a three-apartment residence could operate a business.

Mr. Bleuer said there are no permitted businesses from a Town perspective on the property. So, any businesses operating on the site would be subject to review and approval by the Town through what is known as a temporary conditional permit process. The applicant knows that process well. Any tenants or subtenants wishing to operate a business would be subject to applying for a temporary conditional permit.

Mr. Partridge replied, noted.

Mr. Drinkard said the scenario is one of two. Do we approve 3 residences or require businesses to apply for a permit?

Mr. Bleuer added that the property is zoned residential, and there is to be no business operation on this property apart from what is reviewed and approved by the Town.

Chairman Mills said for the record, you have 5 units there and 3 storage units, 3 residential single family and 2 units in the other house.

Mr. Partridge replied correct.

Chairman Mills said you provided, as part of your documentary evidence, an MLS listing from when you purchased the property. Did your attorney or agent ever mention this was not allowed?

Mr. Partridge said no, it never did. Closing on this property was a nightmare, and the fact that it did is shocking.

Chairman Mills found a July 20, 2008, MLS listing showing the property was listed as 2 units with an outbuilding for potential income, not 5 units. They described it as an additional outbuilding. It seems like the last owner converted it into 3 units.

Mr. Partridge said Jeff could probably speak to the age of that construction.

Mr. Zack said the buildings predate 2008.

Chairman Mills said the building would be older, but what about the conversion from a large warehouse structure to apartments?

Mr. Zack mentioned the apartments are old but could not determine their exact age.

Mr. Partridge said Harold Frey used to run a plumbing business from that location.

Chairman Mills said Harold and Beth Frey were listed as the sellers back in 2008.

Mr. Partridge said to his knowledge, Mr. Frey was the one to construct the apartments from information gathered from prior owners.

Chairman Mills said to Mr. Bleuer, if this was denied, it would remain 2 units but would have to go back to warehouse-type rental space for the other building.

Mr. Bleuer stated that the applicant is working with the Building Department to meet code compliance, and permits cannot be issued until the variance is reviewed. If it is not granted, the Building Department cannot issue residential permits for the back building.

Chairman Mills asked, is it your desire to have this be 3 apartments?

Mr. Partridge responded, yes, we are.

Chairman Mills asked, if it was denied, what would you do with that additional structure, rent it out as a large warehouse?

Mr. Partridge said yes, we would probably look at some sort of office space. It is a two-bedroom unit located upstairs. They were made to be apartments, so we would have to get back to the drawing board and figure it out. We received a tax assessment from the town at a million dollars and for us to be able to afford this property, we bought it as a 5 unit, and to run into this hiccup could cause us to run into serious financial difficulty.

Chairman Mills asked if you bought it as a 5-unit property but are operating it as an 8-unit property.

Mr. Partridge stated that if the two or three warehouse units are included in the count, it would be considered an eight-unit property.

Chairman Mills asked, you are collecting rent from them?

Mr. Partridge replied, correct. So essentially, that is what we purchased it as.

Chairman Mills asked Mr. Bengart if we were to approve this, could we approve 5 not 8? And say it's restricted to 5 residential?

Mr. Bengart stated that if you are requesting approval for 5 residential properties and a decision on 3 commercial properties, he understands the matter.

Mr. Partridge said there are 3 residential and 3 garage/storage spaces below for the tenants upstairs. It is not as if we have three separate businesses operating; the additional space is intended primarily for garage use.

Chairman Mills said we could include a garage space with each one and charge more rent. He is concerned with having 8 rental units on that parcel. He understands there are 3 for storage.

Mr. Krey asked if we are saying the garages will not be rented separately from the units?

Chairman Mills said, if we grant the variance for 5, we limit it to 5 residential units with no commercial storage. Understanding the applicant has garage space for 3 of those units. He can presumably rent those units with garage space and charge more rent. There would be 5 tenants instead of 8.

Mr. Dale questioned why the applicant is not requesting a special exemption use permit. There are things like boarding houses allowed instead of going through the 239-38.

Mr. Partridge stated he is following instructions and taking necessary actions without providing a reason.

Mr. Krey asked if the applicant was remodeling the space to make it more aesthetically pleasing.

Mr. Partridge responded that he had done landscaping on the front of the property and around the barn. He is trying to make small improvements to make it an enjoyable place to live. For years, it was an eyesore on that stretch of Goodrich. He wants to make the apartments a nice, livable place where people can live and have a safe environment. He has been working with the Building Department regarding safety measures for the apartments.

Mr. Drinkard asked if he has contractors and if he is one.

Mr. Partridge said they do some of the work themselves but also employ professional contractors.

Mr. Drinkard asked if the Town Building Department has inspected the buildings. And what did they tell you?

Mr. Zack confirmed that the buildings remain as originally constructed and comply with legal standards. Whether they were built by permit is unknown. Our impression was to make the buildings safer by improving fire separation between all the units as well as egress windows in the apartments and smoke and fire detectors throughout. Each apartment has an egress beside the windows in the sleeping areas.

Mr. Drinkard asked if there was no shared cooking, no central kitchen, or shared plumbing.

Mr. Zack said that each apartment is a separate unit. There are separate sleeping, plumbing, living, and kitchen quarters for all 3 units. All three are private apartments, one remodeled from a single to a double bedroom.

Mr. Partridge said we are not making any major structural changes. We are not adding any new units; instead, we are converting one of the existing units into a two-bedroom unit and enhancing its safety features. It had an old deck that was falling apart. We are making safety improvements.

Mr. Bleuer said the Planning Office with the Building Department has met on-site several times to go over the entire property. We have explored every opportunity associated with code and allowances. The site, as it exists, would not comply with any current code. There is no path for

any compliant review. The method to determine what exists involves this process. If approved, the Building Department will issue the permits to ensure compliance.

Mr. Dale asked if Pear Tree will have any representative living on site.

Mr. Partridge responded that they will not, not at this time.

Chairman Mills asked Mr. Bleuer for neighbor notifications.

Mr. Bleuer stated Neighbor Notifications were sent to 6550 Goodrich Rd, 6570 Goodrich Rd, and 9296 Christina Circle.

In regard to Public Participation, the following residents spoke.

Elan Barillari of 6570 Goodrich stated that the applicant inherited a problematic building. He expressed support for allowing a variance to resolve the issue and facilitate progress. Harold Frey lived there and was known to do whatever he wanted. Mr. Barillari stated that there is a significant amount of work required for this project. He is in support of the project.

Chairman Mills asked Mr. Barillari how long he has lived there.

Mr. Barillari responded that he has lived next door at 6570 Goodrich for 17 years. He stated that they added a new deck to the back of the property and want to continue making improvements.

Chairman Mills asked Mr. Bleuer if he would be satisfied with the condition that the applicant comply with all building and engineering requirements as to structures.

Mr. Bleuer answered yes.

Chairman Mills stated that is going to be a condition in the variance and asked if Mr. Partridge would accept that condition.

Mr. Partridge answered yes, they would accept that condition.

Chairman Mills also stated that the second condition is that is a 5 residential units and no further commercial units, and asked Mr. Partridge if he accepts that as well.

Mr. Partridge asked if he could get back to him on condition number 2.

Chairman Mills said that they would not be voting on the appeal tonight and that they would table the appeal. He said that Mr. Partridge could ask for them to table it and register it to be on the agenda for next month.

Mr. Partridge asked if condition two counted as renting out a garage space to existing tenants.

Mr. Drinkard said that this was brought up earlier by Mr. Bleuer and that the property is made up of 5 living units, with three above the garages and two in the main house. And if they wanted to rent the garages, they would have to come back for a special use permit.

Mr. Bleuer corrected the above statement from Mr. Drinkard by stating that the property consists of 5 residential units for the whole property. Mr. Bleuer stated that commercial activities are prohibited in agricultural zones and that there is no documentation for commercial space. Some businesses may operate under a temporary conditional permit. Although the zoning board usually approves this without business operations, the applicant may want to pursue limited operations through the permit. A condition can be added to this by stating that no business is to be operated apart from any application and acceptance through TCP.

Mr. Partridge said he would be open to 5 residential units, and if any other tenants require commercial use, they will have to apply for a temporary conditional permit.

Chairman Mills said 5 residential units can be rented to the tenants; there is no outside commercial use. He offered for Mr. Partridge to come back if he would like a different proposal; he could ask the board to table the appeal or ask them to vote on it.

Mr. Partridge asked if he could hear from any other board members.

Mr. Drinkard agrees that there are 5 residential units within two buildings, and if there is anything else done for money, it would have to be limited to the residents of those 5 units. He noted that having another business on that property would complicate matters.

Chairman Mills followed up by stating the application and testimony has not pointed them to any other comparable units in the neighborhood as they look at 5 different factors by the state when they are evaluating a variance and to see if it has an adverse impact of character in the neighborhood is one of them and he understands that there is a hardship and that he thought this was a 5 unit and some of the board members are inclined to grant the relief but with limitation and now that applicant is stating that he would like it to be an 8 unit.

Mr. Partridge said he is not asking for that. He stated he is thinking that he does not want to inhibit any further use of the property if something were to change in the neighborhood over the years that they own it. He does not wish to restrict decision-making if any modifications are desired. He stated he prefers flexibility and wants input from other board members before deciding.

Mr. Dale stated they are talking about the variance and questioned what they are varying from.

Chairman Mills stated they are varying from 2 units to 5 units and asked Mr. Bleuer and Mr. Bengart to join in the discussion.

Mr. Dale suggested it seems like a departure.

Mr. Bengart said it is different in the sense that they are not talking about any units that share living space. They are talking about 5 separate units. Mr. Bengart said he is not commenting on if you want to do it or not, but he does not think it is comparable to a secondary living unit. He believes the focus should be on the approval of two units and the consideration of three additional ones on the same property. The applicant has indicated their interest in renting out the lower garages as well. He stated that you heard from Mr. Bleuer, and he suggested not approving anything now but allowing them to return later without denying the possibility altogether.

Mr. Partridge seeks approval to improve the third unit now, with plans to propose any future changes to the board according to Town procedures.

Mr. Dale expressed his concern about spending additional funds on the projects only to have them rejected.

Mr. Partridge expressed his appreciation and stated that his immediate priority is to ensure the unit is no longer visually unappealing. He mentioned that he would like to reassess the situation once this goal has been achieved. He plans to expand the project from two units to five. He understands the steps needed to reach his goal.

Mr. Bengart referenced Mr. Dale's statement and indicated that he might not receive authorization for the garages.

Mr. Partridge said he understood that he would need the Town's approval.

Mr. Drinkard asked Mr. Partridge if he is the landlord.

Mr. Partridge answered yes, he is the landlord along with his father and his uncle.

Mr. Drinkard inquired whether the residents have exclusive use of their rented premises.

Mr. Partridge answered yes.

ACTION:

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

- The remodeling and all improvements on site must follow all building and engineering department requirements
- No business can operate outside the 5 residential units, except those approved by the town.

The applicant has heard, understood, and agreed to all conditions.

ON THE QUESTION:

Mr. Krey stated that the applicant did not create the hardship. They purchased the property believing it was a five-unit building, but less than half of the units were approved by the town, affecting their financial return. He believes that approving the variance will improve the neighborhood and not have a detrimental impact on the neighboring properties.

Gerald Drinkard	Aye	Ryan Mills	Aye
Patrick Krey	Aye	Steven Dale	Nay

MOTION CARRIED

The meeting adjourned at 8:12 with a motion by Chairman Mills.

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

Robin Kosmowski on behalf of Amy Major
Part Time Clerk