

**Town of Clarence**  
One Town Place, Clarence, NY  
**Zoning Board of Appeals Minutes**  
**Tuesday, April 8, 2025**

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

Zoning Board of Appeals members present:

Chairman Ryan Mills  
Gerald Drinkard

Patrick Krey  
Steven Dale

Richard McNamara

Town Officials present:

Director of Community Development Jonathan Bleuer  
Deputy Town Attorney David Donohue  
Councilman Paul Shear

Other Interested Parties:

James Boglioli  
Wendy Swantek

Geoff Bostard  
Dave Baran

John Swantek

**OLD BUSINESS**

**Appeal No. 4** – From 12/10/2024 & 2/11/2025 Meetings

Edward Bobowicz  
Traditional Neighborhood

Applicant requests a variance of 1,254 sq.ft. to allow a 1,974 sq.ft. detached accessory structure (garage) located at 9320 Clarence Center Road.

Town Code Reference:  
§229-66

Note: This request supersedes the 12/10/2024 & 2/11/2025 variance requests that were tabled.

Mr. Ed Bobowicz represented the project.

**DISCUSSION:**

Chairman Ryan Mills asked Mr. Edward Bobowicz what has changed with his project since the last meeting.

Mr. Ed Bobowicz said he has complied with all of the Board's requests. The building is lower, the square footage is revised and he does have landscape designs. Those were the issues he was confronted with previously. The new plan should show that.

Mr. Drinkard referred to the December meeting where the board was presented with a request for a variance for a building that is 1,932 square feet, needing a variance of 1,212 square feet. In the February meeting, the building size was increased to 2,371 square feet.

Mr. Bobowicz responded, unfortunately, that was not his request, Steve Andres added room for a staircase, of which he was unaware. The staircase seemed to enlarge the building. He added 6 feet one way and 5 feet another way, which increased the size considerably.

Mr. Drinkard said now you are asking for a variance of 1,254 square feet and the original was for 1,212 square feet. In December, Mr. Drinkard was disturbed by the size of the building. What was presented looked nice but the size was the issue. A larger request was presented and now the size is close to the original request. Originally the building was meant to be a carriage house with storage for antique cars and it did look nice. The applicant was asked if he is going with design one and two?

Mr. Bobowicz said it was very close and asked if Mr. Drinkard saw the new plan.

Mr. Drinkard said he has elevations but does not have photographs or color charts.

Chairman Mills noted, for the record, the Board received new drawings entitled A1, to be called Exhibit A and A3 to be called Exhibit B. He has two drawings, one is elevation, Exhibit A; and a floor plan entitled A3 to be referred to as Exhibit B.

Mr. Bobowicz said there was an enlarged set by Mr. Andres.

Mr. Drinkard had a question regarding the size of the building facing Clarence Center Road. He is concerned the proposed building will be larger than the 1400 square foot residence on the property.

Mr. Bobowicz compared similar properties in the Village. He has checked the size of barns and garages in the area similar to the one he is proposing. All the existing buildings are full 2 stories high. They are all on small Village lots. His lot is 16,000 square feet. The Building Department specified 40% green space for properties in the Town. Mr. Bobowicz has more than 40% green space on his property. He is one of the last homes on the street with farm land adjoining his property. He had pictures of his existing garage with the landscaping to show his property appearance is pleasing.

Mr. McNamara agreed the building looks nice and with the proper landscaping with trees and bushes on the south side, it will be appealing. Although the building is large, the stone on the building presents a positive visual. The building is set far enough from the road and downhill.

Mr. Bobowicz said the stone will be similar to the base of the house. Most of the building is behind the house.

Chairman Mills referred to Exhibit A, A1, is that elevation accurate as depicted?

Mr. Bobowicz said he actually lowered the elevation two feet from the previous drawing.

Chairman Mills asked, in terms of the design, if a condition for the approval of the variance request that you construct it as the elevation depicts with stone up to the windows, the dormer, shutters, cupola and landscaping all as shown.

Mr. Bobowicz stated the building will be constructed as close to the drawing, Exhibit A, as possible.

Chairman Mills asked if the building will be constructed as depicted. Essential conditions are the stone, dormer, shutters, cupola, and the landscaping.

Mr. Bobowicz agreed to all of the design points, except for possibly the shutters because the house does not have shutters. Everything will be included and it will look like a small park.

Mr. Krey asked if Mr. Bobowicz would share the list of large accessory structures.

Mr. Bobowicz shared the examples of properties with large accessory buildings. All examples are in the village of Clarence Center. He also had photos of his existing garage and the landscaping.

Chairman Mills said the examples will be entered into the record as evidence. One of the conditions is will this produce an undesirable change in the character of the neighborhood or a detriment to nearby properties? Documentary evidence has been provided in the nearby area that have accessory structures with a similar size.

Mr. Bobowicz said they may not have the square footage because of the lot size.

Chairman Mills noted the addresses for the similar structure comparisons.

Mr. Krey said he appreciated the work put in by Mr. Bobowicz and in providing the elevations for the project. Mr. Krey has no further questions.

Mr. Dale stated he has no questions but still believes the proposed structure is too large.

Neighbor Notifications were sent to 9245, 9300, and 9324 Clarence Center Road, and no comments were received.

In regards to public participation, no one spoke.

#### **ACTION:**

Motion by Patrick Krey, seconded by Richard McNamara to **approve** Appeal No. 4 under Old Business. Subject to the following conditions being met:

- The project must be built substantially similar to the elevation shown in exhibit A-1, including the stonework, cupola, dormer, and landscaping.
- No business should be operated out of the project.

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

Mr. Krey stated that he did not think that this project would be out of character for the neighborhood based on the age and location of the home. He said it looks like a second home and will fit nicely.

Mr. Drinkard proposed that no business should operate from the project.

Chairman Mills stated that although this variance request can be construed as larger in nature, the unique environmental conditions regarding the lot size as well as the adjacent parcels and their size mitigate the overall size as well as the design. The applicant has also gone to great lengths to have a minimal impact.

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

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

## MOTION CARRIED

**Appeal No. 1** – From the 3/11/2025 Meeting  
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.

Mr. Richard McNamara recused himself from Appeal No. 1 under Old Business. The paperwork is on file.

Sean Hopkins and Bill Burke were present to represent the project.

## Discussion:

Sean Hopkins started with a review of the project using an updated power point presentation. The site, 9105 Sheridan Drive, slightly less than three acres in size, has 300 feet of frontage on Sheridan Drive. It was formerly utilized as a family diner. It was purchased by his client in July 2023 subject to contingencies.

The site is zoned Commercial for a mixed-use project. Other projects nearby have been approved for this type of project. Mr. Burke wanted to find property that was properly zoned and a mixed-use project was consistent with the recommendations of the comprehensive plan. Mr. Burke has taken into consideration the planning objectives including architecture, green space, lighting, site layout, etc. That information has been previously provided.

The mixed-use redevelopment project proposes a three-story mixed-use building along the Sheridan Drive frontage. That will consist of 7,000 square feet of first floor commercial space and 10 upper floor apartments. On the back portion of the site, there are three 2-story, 4-unit attached townhomes with garages. There is one curb cut onto Sheridan Drive. The project has been vetted and approved with respect to the curb cut on Sheridan Drive subject to the issuance of a highway work permit. There is also a sidewalk connection to Sheridan Drive. This project was reviewed by the Planning Board in connection with the concept plan review process. If the requested relief is granted, the concept plan will be finalized before the Planning Board and proceed to the development plan approval with submission and review of the fully engineered plans.

Mr. Burke has spent a great deal of time looking at the building design aspects such as landscaping. There will be an improvement with over 400 trees, shrubs, bushes, ornamental grasses, etc. to green up the site compared to the existing vegetation. This will make the project consistent with the high-quality character the Town has established along the Sheridan Drive corridor.

The architectural overview emphasizes the three-story building along Sheridan Drive. Working with Dave Sutton from Sutton Architecture, we have created a unique building blending the commercial space with the residential space with vertical and horizontal relief, a residential style roof and upscale building materials. The building will stand the test of time and look as good in 2056.

The project was started in July 2024 and there are many steps in the process. The first variance is to allow a three-story mixed-use building within the zoning classification. The underlying zoning classification allows a three-story building but only if it is exclusively commercial. A mixed-use building will have a better appearance. The building does comply with the maximum height requirement of 45 feet. The second variance which is the density variance is for density in the number of residential units per strict compliance with section 229-126 D1B of the zoning code allowing 12 units per acre. We are proposing 22 units which equates to the 12 townhome units in the back. In the context of the variance test and criteria; criteria number one is whether the grant for request of relief will result in an undesirable change in the character of the neighborhood or detriment to nearby properties. To a large degree, the buildings will not be visible from Sheridan Drive. The architecture will mimic the high-quality design we are using for the mixed-use building along Sheridan Drive. Some of the surrounding architecture only look good from the front, the buildings proposed will look appealing from all four sides.

The Planning Board did issue a negative declaration pursuant to the State Environmental Review Act during the meeting on January 29<sup>th</sup>. All environmental impacts were considered as well as input from involved agencies.

Three questions were emphasized last month:

1. Stormwater management on site
2. Onsite wastewater treatment
3. Financial feasibility and economic analysis

Mr. Hopkins acknowledged they need to comply with the stringent stormwater quantity and quality requirements of the NYS Department of Environmental Conservation as well as the Town standards. That includes the need for the system to handle a 100-year storm event. This is subject to additional review upon the submission of engineered plans being prepared by CarminaWood Design.

As for the wastewater treatment, there is space on site for a secondary/redundant septic system subject to review and approval by the Erie County Health Department. The life expectancy for the septic system is about 30 years and it will need to be maintained by Edge Development.

On to financial challenges, whether or not there is economic hardship, is not a factor for the decision-making by a Zoning Board of Appeals. The minimum relief they are seeking is essential for the project to be financially feasible. The site has challenges with water on the other side of Main Street adding \$100,000 to the project. Shallow bedrock also presents a problem for the site. Also, construction permits and costs are increasing rapidly.

Mr. Bill Burke compared rental units in the area and believe they can be competitive with existing rentals. The rates will be 5%-27% higher at compared to existing rentals.

The financial projections are based on five scenarios as listed:

1. The first scenario is the project as proposed with 22 units and 7,000 square feet of retail shows a modest return.
2. The second scenario with 16 units and 7,000 square feet of retail would not be financially viable and would have a negative net cash flow.
3. Scenario three is the proposed project without the third-floor story variance, building out instead of up, the project would drop in free cash flow to net zero return.
4. The fourth scenario is the base case and adding the Clarence IDA incentive with 22 units and 7,000 sf retail, utilizing the Clarence IDA pilot program with abated taxes, mortgage tax and sales tax abatement for construction moves into a healthier financial viability position with rates of return closer to 4%.
5. The last scenario is the 16 units case with the Clarence IDA incentive would not be financially feasible with or without the Clarence IDA incentive.

Chairman Mills moved on to questions from Board Members.

Mr. Dale said since the number of residential units permitted in a mixed-use project is indirectly dependent upon the wastewater system proposed, he has a few questions. What setback dimension was used to position the proposed septic system area?

Mr. Hopkins responded approximately 10-15 feet. He did not believe there was a minimum setback, which Mr. Bleuer confirmed.

Mr. Dale said, concerning the onsite wastewater treatment system, it declares the life expectancy of a wastewater treatment designed for 16 residential units would not be substantially different than the wastewater treatment system proposed for the 22 residential units of this project. How would the two designs differ?

Mr. Burke said it would be a calculation of the capacity of the system. Engineers utilize a calculation approved by the Erie County Department of Health and NYS Department of Environmental Conservation.

Mr. Dale asked what the calculation is based on.

Mr. Hopkins said it is 110 gallons per bedroom and commercial is based on square footage. The only difference is the size and capacity of the system, same design. Chris Wood from CarminaWood Design stated there was no difference in the lifespan of the system.

Mr. Dale stated the applicant would perform routine maintenance every 1-3 years according to the recommendations per Mr. Wood's letter to Mr. Bleuer. Mr. Dale asked if the septic system is periodically inspected by the New York State Department of Conservation or the Erie County Department of Health? And, if so, what would be the frequency?

Mr. Burke responded that there are compliance standards that the Erie County Department of Health puts forth and he believes they inspect every 5 years to ensure the system is being properly maintained.

Mr. Hopkins stated he believes it needs to be certified by a licensed engineer at the applicants cost.

Mr. Dale asked if the Erie County Department of Health inspects the septic system every 5 years.

Mr. Hopkins said the inspector is hired by the property owner to perform the inspection and submit the paperwork for approval.

Mr. Burke said it is in their best interest to properly maintain the system for longevity. 30 years is the minimum life expectancy, they hope to get 50 years.

Mr. Dale referenced the letter to Mr. Bleuer again, Mr. Wood stated the sand filter septic system should last 30 years with proper maintenance. In the event that the proposed sand filter system does not provide the necessary service to support the number of proposed residential units for 30 years, would they hold any approving agencies, the NYS Dept. of Conservation, the Erie County Dept. of Health or the Town of Clarence, financially responsible for the repair?

Mr. Hopkins replied, no, absolutely not. The financial responsibility for the repair is unconditionally, unequivocally, legally on the applicant.

Mr. Dale questioned if mechanical means, such as hammering or blasting would be utilized to increase the voids in the system?

Mr. Hopkins said there could be instances where mechanical means could be necessary, but unlikely there will be blasting.

Mr. Dale said Mr. Woods projected the flow rate of the affluence to be greater than 1,000 gallons per day. What would the projected flow rate of the system had been if the number of residential units was kept at 16?

Mr. Hopkins said the commercial would be the same, 7,000 square feet, far less sewer fluid than residential. If you have 110 gallons per day and divide 16 by 22, it would be 3/4ths of the residential component.

Mr. Krey had no questions.

Chairman Mills had questions on the financial analysis. He referred to scenario one in the presentation; with a 1.67% rate of return, it would not be an economically viable project?

Mr. Hopkins said that was correct, and not only that, but he would not be able to get necessary bank financing. He said this is a year one, fully occupied rate of return.

Chairman Mills asked if there were any 5-year projections on scenario one?

Mr. Burke said in 5 years they could expect 3%.

Chairman Mills asked about year 10?

Mr. Burke replied with 4-5%. Again, interest rates can dramatically affect the rate of return causing it to become unpredictable.

Chairman Mills asked about scenario four where the variances are granted and the IDA incentives are included. How would the 5-year projection look on this scenario?

Mr. Burke said it is projected at 7%.

Chairman Mills asked about the return in year 10?

Mr. Burke said it should be 8-9%.

Chairman Mills asked from past experience with property development, what is a typical rate for 5 and 10 years?

Mr. Burke said the ideal rate is above 6% minimum, ideally somewhere between 8 and 10%

Mr. Drinkard said his questions about the septic and stormwater with concerns regarding multiple units have been answered in the presentation.

Mr. Dale asked Mr. Hopkins about the landscaping plan and asked if he plans to landscape the reserve?

Mr. Burke said they avoid that area entirely.

Neighbor Notifications are on file, there were 11. Mr. Bleuer said there was an interested individual, Mr. John Campagna, stated concerns about the density of the project, potential noise from the project and the lighting associated with it. Some of those are tied to the concept review at the Planning Board level but he wanted to make note of the comments received.

Chairman Mills asked if the project was all commercial use, would the third story be allowed?

Mr. Bleuer replied yes, the proposed project does meet the underlying height limit of the zone.

In regards to public participation, John Campagna spoke.

Mr. John Campagna of 9138 Main Street, his property is adjacent to the back portion of the project. He thinks it is an extremely high density of homes for the location. He has to deal with the noise and has concerns for the septic system. Two septic systems in the area have failed. There are issues with removing black water. He is also concerned with the watershed and is concerned the water will flow back in his yard.

Mr. Drinkard said to document his concerns and send it to the Planning Board.

Mr. Hopkins suggested Mr. Burke can meet with Mr. Campagna when it is convenient for him to address his concerns.



## ACTION:

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

## ON THE QUESTION:

Mr. Dale recommended revising the Motion to specify 22 residential living units, noting that there are 10 main structures and 12 isolated units.

Mr. Bleuer said you could simplify the Motion by stating “as written.”

Mr. Krey and Mr. Drinkard amended the Motion by stating “as written.”

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

## MOTION CARRIED

## NEW BUSINESS

### Appeal No. 1

Benderson Development, LLC.  
Major Arterial

Applicant requests a variance of 15' to allow a 10' principal structure side yard setback located at 5017 Transit Road.

Town Code Reference:  
§229-94(E)

Chairman Mills noted that Mr. McNamara is back.

## DISCUSSION:

Attorney James Boglioli was present to represent the applicant.

Mr. James Boglioli, attorney with Benderson Development, located at 570 Delaware, Buffalo, New York had a presentation for the Board. The Board is familiar with the property, it is the former Applebee’s restaurant, which is no longer there. It is located on the east side of Transit Road. The building, as it existed, was 10 feet off the south property line. It is part of a large shopping center and has no access on Transit Road. The variance is to place the Trader Joe’s in the same location as the Applebee’s.

Benderson Development is proposing to remove Applebee’s, construct a 13,500 square foot Trader Joe’s and provide 87 parking stalls, which is the minimum required for Trader Joe’s. The setback for the building will be 10 feet, the same setback as Applebee’s. The landscape will be increased and improve traffic safety by closing the cut-through to Moe’s on the other side. Pedestrian connections for the site will be improved. The Planning Board has been reviewing this project and have issued a negative

declaration pursuant to SEQR at their last meeting and sent us to the Zoning Board. The Landscape Committee also approved this project.

The Board has to undertake the 5-point balance test, it requires the Board to balance the benefits of the applicant. In this case the benefit is redeveloping the site with Trader Joe's. There are 5 criteria:

1. First, there will not be an undesirable change in the character of the property. The same setback of 10 feet will be used, comparable to 5 other properties that have similar setbacks from 9.88 feet to 12.97 feet.
2. The second is whether we can achieve the benefit by some other means feasible, the answer is no. The plan was taken to overlay and shifted the building to comply with the 25-foot setback. When that was done, 18 parking stalls were lost, the outcome was 69 parking stalls, which would result in the loss of Trader Joe's. They looked at reducing the sidewalk which is 16 feet wide. If the 15 feet were taken off the sidewalk, that would leave 1 foot, which is not wide enough. The minimum width of Trader Joe's is 100 feet and they are at 100 feet wide. There are no feasible alternatives, other than placing the building where the Applebee's building was.
3. The next criteria is whether the variance is substantial and Mr. Boglioli said it is not substantial since they are using the existing setback with no change and are maintaining the existing condition. If they were to reuse the existing Applebee's building, it would have been in the exact location where the proposed building will be. There is no harm in granting the variance.
4. The next criteria are whether there will be an adverse physical environmental impact in the area. He argued, no, this is a commercially zoned property. The Planning Board has issued a negative declaration including there would be no environmental impacts as a result from this development.
5. Finally, whether the hardship is self-created, that is not determined. It is a variance resulting in the property. Even if it is self-created, there is no harm in granting this variance.

Mr. Krey asked how Trader Joe's settled on 87 parking spaces? Is there a methodology behind it?

Mr. Boglioli said Trader Joe's has counts and the minimum is 87, they prefer to have 100 spaces as the minimum, but are allowing 87.

Chairman Mills asked about the minimum width Trader Joe's allows and if it were less than 100 feet, would the project move forward?

Mr. Boglioli said the building width is 100 feet of frontage and that is the declared minimum.

Chairman Mills asked if no Trader Joe's anywhere in the United States have less than 100 feet?

Mr. Boglioli said he cannot testify to that fact, but in this deal, as well as the one on Niagara Falls Boulevard, they both have 100 feet of frontage. There are only two Trader Joe's in the area and it is consistent.

Mr. McNamara asked how much frontage Applebee's had.

Mr. Boglioli said he thought they were half of that, it was a 4,500 square foot building and the length of the building was not turned toward Transit so it was about half of Trader Joe's.

Mr. Drinkard had no questions.

Mr. Dale asked if there were any windows facing the adjacent business, Ben Garelick Jeweler.

Mr. Boglioli said there are no windows on that side of the building.

Neighbor Notifications are on file, there are 5, no comments were received.

In regards to public participation, no one spoke.

### **ACTION:**

Motion by Patrick Krey, seconded by Steven Dale to **approve** Appeal No. 1 as written.

### **ON THE QUESTION:**

Mr. Krey referenced exhibit A regarding the setbacks in relations with the neighboring properties with similar setbacks. He said the presentation was very persuasive and does not think it will have an impact on any of the neighboring properties.

Chairman Mills noted that exhibit A, page 4 showed setbacks from nearby commercial structures: City Mattress at 11.91 feet, Delta Sonic at 12.97 feet, Ben Garelick Jeweler at 10.91 feet, Rockler at 10.75 feet, and Vitamin Shoppe at 9.88 feet. Also points out that the prior structure, Applebee's, was at the same setback as the applicant is requesting.

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

### **MOTION CARRIED**

#### **Appeal No. 2**

MDKP Holdings, LLC.  
Residential Single-Family

The applicant requests a variance of 2.2% to allow a 15.2% lot coverage located at 4183 Connection Drive.

Town Code Reference:  
§229-56

Attorney Gary Borek and Geoffrey Bostard with MDKP Holdings LLC were present to represent the applicant.

### **DISCUSSION:**

Mr. Borek gave a brief overview of the project. The developer is seeking to build a single-family, split-level home instead of a ranch or two-story home. Mr. Borek said a ranch would not be economical unless they could put in a basement, which is unlikely to happen due to the ground conditions. The two-story home would be huge and overwhelm the existing homes in the neighborhood. He had pictures of a split-level home versus a two-story home for the Board to view. The two-story could be built on the lot within

the 13% lot coverage but would overshadow the other homes. A setback variance is not being requested. They would be allowed 18% lot coverage if they went with a ranch. They are asking for a 15.2% variance in lot coverage to accommodate the split-level home. He supplied copies of a chart showing homes in the area that exceed the 13% rule which probably were built prior to the 13% lot coverage rule. The home next door to the property has a home with 14.8% lot coverage which is very close to the 15.2% being requested by the developer. They are not going to the IDA or asking for any tax exemptions. The factual issues will be handled by the developer.

Chairman Mills said the chart with the neighbor comparisons will be marked Exhibit A for the record.

Mr. McNamara had no problems with the variance request.

Chairman Mills asked, from a cost perspective, if a split-level is less costly to build than a ranch?

Mr. Bostard answered yes and no, due to the high bedrock there, a ranch would want to have a basement. The bedrock would have to be hammered and we are looking to build a 2,200 square foot home. He assumes the 13% lot coverage is to limit the home size to a single-family, 2-3-bedroom home. They are planning a modest 3-bedroom home. If the house were to be made smaller, it would negate the center bedroom.

Chairman Mills said architectural drawings were submitted, titled A1 through A3, the three documents will be called Exhibit B. Chairman Mills asked what the total square footage would be?

Mr. Bostard responded with 2,200 square feet. That is including the bonus room on the first level which is not a bedroom. The first floor has another sitting room on the back side near the garage.

Chairman Mills asked how far they have to go down below grade?

Mr. Bostard said not very far, bedrock is about three feet below grade.

Chairman Mills asked if they built a ranch with a full basement, they would have to go much lower?

Mr. Bostard said yes.

Chairman Mills asked if they were concerned about resale value with a home with no basement?

Mr. Bostard said yes, they have a target of 2,200 square feet, a comfortable home for a growing family.

Chairman Mills asked if they have done any other split-levels recently?

Mr. Bostard said they have not built any split-level homes as yet, this will be their first. They like the design of the split-level. A ranch was their first choice but when they found the bedrock was high, they changed to the split-level design to stay on par with the neighborhood. Another reason for going with the split level is to reduce the height of the home and present a modest looking home to blend with the rest of the development.

Chairman Mills asked if the exterior would be all vinyl siding with stone in the center?

Mr. Bostard stated yes and they are contemplating a wood grain siding in the center and stone on the bottom portion.

Chairman Mills asked if the developer has already acquired the parcel or if it is under contract?

Mr. Bostard stated they own the parcel.

Chairman Mills asked if the plan is to construct the split-level home and sell it?

Mr. Bostard replied yes.

Mr. Krey asked if the percentage of lot coverage is based upon the footprint of the home on the lot?

Mr. Bleuer said yes, it is; there are two calculations, one would be for a single story, the other would be for a two story. It is based on the total square footage of the lot to the square footage of the footprint of the home.

Mr. Krey said if the Board were to approve the variance and then economics-wise, if it were to change to a two story, the calculation of the lot coverage would change again.

Mr. Bleuer said it is a different calculation based on whether the build is a two story or one story.

Mr. Krey was asking if they should make a motion that the build not be a two-story home. He appreciates the developer is staying in line with the character of the neighborhood.

Mr. Bostard said the current plan to be approved is the house that will be constructed.

Mr. Dale had no questions.

Mr. Drinkard asked about the septic system in the back and if the existing garage, blacktop and concrete will be removed?

Mr. Bostard said it will all be removed.

Neighbor Notifications were sent by the applicant to 4165, 4189, and 4177 Connection Drive, and only inquiries were received, but no comments were received

Regarding Public Participation, the following resident spoke.

John Swantek of 4171 Connection Drive:

- He is concerned about the aesthetics of the neighborhood as most of the homes are getting close to one hundred years old, and the proposed variance does not quite fit the neighborhood, in his opinion.
- Speaking from experience on his property, he is concerned about the potential impact on water flow if they need to elevate their lot due to the septic system. He is worried that this may cause water to flow onto his side of the property.

Chairman Mills asked Mr. Bleuer to speak in terms of the water management approval plan by engineering.

Mr. Bleuer stated that before a building permit is issued, it would be subject to the ability to keep all the water on site. One property cannot cause water runoff onto another property. Engineering would verify the water on site. Mr. Bleuer cannot discuss the septic system as it is managed by the Erie County Health Department.

Mr. Drinkard asked if stormwater pipes would connect to the applicant's property.

The applicant answered no and said that the water would dissipate throughout the property.

Mr. Drinkard stated that storm water is going to be an issue on that property.

Mr. Bleuer stated that it is something for the engineering department to look at. He added that he did notice while he visited the site, and based on his casual look at the property, he had noticed it was staked at the four corners of the proposed house. he is assuming the applicant measured out the standard 45-foot front yard setback. However, it appeared that the stakes placed looked further back than the existing homes on either side. Mr. Bleuer stated that he will have to meet the established setback. He asked the applicant if he was agreeable to match the established set-back requirements.

The applicant answers yes, he will be agreeable to the terms.

#### **ACTION:**

Motion by Steven Dale, seconded by Gerald Drinkard to **approve** Appeal No. 2 as written

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

Chairman Mills pointed out that the applicant has provided the board with documentation in Exhibit A in a series of homes that have similar type coverage to what he is requesting as well as the fact that it is a vacant parcel and the applicant has demonstrated based upon his analysis the split level seems to be the ideal set up for the size of this parcel.

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

#### **MOTION CARRIED**

**Appeal No. 3**

Vishala & Kumar Neppalli  
Residential Single-Family

The applicant requests a variance of 365 sq.ft. to allow a 1,325 sq.ft. attached accessory structure (garage) located at 4380 Westwood Road.

Town Code Reference:  
§229-55(D)

Vishala & Kumar Neppalli of 4380 Westwood Road were present to represent this request.

**DISCUSSION:**

Vishala Neppalli started with some history of the property of 1.6 acres which was built approximately 1955. Additions have been made to the property. There is an existing two car garage which is functional and set far back on the property. The proposed garage space will be a 4-car garage. There will be usable space above the garage. The completed building will have an “L” shape. The driveway will be moved to the right of the house. Drawings have been submitted.

Mr. Drinkard stated the proposed extensions are very aggressive. They are moving the living area to the second floor over a 4-car garage on the same parcel. The porch will also have work.

Mrs. Neppalli said there is an existing porch and the porch will be moved so it will have access when it snows with the proposed changes.

Mr. Drinkard said they are set back far from the street and asked if the siding will be white vinyl facing the street.

Mrs. Neppalli said the siding will not be white and the siding on the existing building will be changed. The siding is old, aged and in disrepair. Renovations are needed for the house as well. The front where the windows are going will match the existing style of the windows. The porch will come forward and the existing driveway is where the structure will be built. The garage will have a light color siding with a combination of stone to match the changes to the front of the house.

Mr. Drinkard referred to drawing A1: a small room on the side was identified as a porch.

Mrs. Neppalli clarified that is currently a kitchen bay window in the back. The window will be removed and an opening from the dining space to a three-season room with plants. A patio door will replace the window.

Mr. Drinkard inquired about the 12.5-foot side yard setback as shown on exhibit A2.

Mr. Neppalli said the setback will remain the same.

Mr. Bleuer stated that looking at A2, the existing side yard setback of the southside of the home is 8 ft 4 inches. However, there is no addition planned within the 12.5-foot required side yard setback.

Mr. McNamara, questioned the aesthetics of the east elevation facing the street. He stated it was very simple and very bland and this area is the front of the home and what everyone is going to be looking at per the drawings.

Mrs. Neppalli stated it was not going to be bland and what he was looking at was only the spec lines that were being shown to give an idea. She also explained that she has been reviewing some architectural designs and mentioned adding a large window and adding flower boxes to dress the home up.

Mr. McNamara explained that they are reviewing what she sent in and it is very plain.

Mrs. Neppalli said the drawing he is referring to were only presented for the variance and to show the setbacks and to be sure they are following the regulations. She said additional drawings from the architect are being worked on.

Mr. McNamara said he understands she is asking for a variance but the board wants to be sure that the project looks good and if they grant the variance now and does not want her to come back with different plans.

Mr. McNamara said he has no problem with the north side or the south side that faces the back of plaza parking lot. His only issue is with the east side of the property.

Chairman Mills stated that he shares Mr. McNamara's concern about the east elevation. He said from the aesthetic standpoint it is not great for the character or environmental conditions of the neighborhood and that is criteria that the ZBA are asked to look at. He understands that she said she was going to change it but they have to vote based on what is presented at the present meeting. The exhibit A2 left elevation #3 is not aesthetically appealing from his perspective. Charmain Mills offered for her to have the board vote on the project at this meeting or ask the board to have the project table the Appeal and come back at a later date and bring a different design.

Mr. Krey said he also agrees with his fellow board members in terms of their concerns from a Street view but differs from them as he has concerns of the Northside of the project and gave the example of driving down Westwood toward Main Street the home is totally out of character of the other homes in the area and feels it is too much to have a four-car garage.

Mr. Dale asked how many bedrooms there will be when the project is completed.

Mrs. Neppalli answered there will be three bedrooms in the space above the garage and there are four bedrooms in the existing house, totaling 7 bedrooms when the project is done.

Mr. Dale asked what the purpose was for 7 bedrooms.

Mrs. Neppalli said she has 3 boys who work from home and the additional space offers them office space in which to work.

Mr. Dale asked her how many kitchens there will be when the project is completed.

Mrs. Neppalli answered 1 kitchen and the existing garage is going to be utilized as part of a kitchen remodel to the existing kitchen.



Mr. Dale also shares the same concern of how the east elevation looks aesthetically. He suggested maybe a few more windows on both floors.

Mrs. Neppalli said there are going to be windows and she does not have the full plans as she expected this meeting to get the variance for the 4-car garage space and said what she believes is a 3-car garage for the home. She said she understands what the Board is asking about as far as the aesthetics and had she known the board wanted to visualize the project, she would have had the architect do some renderings. She visualizes the home as a 1.6-acre lot and set far back with trees and landscaping from front to back and she will be adding windows to the home so it does not look like a warehouse. She is also adding a new driveway and the one on the current plan will no longer exist. She continued to discuss her plans for the property.

Mr. McNamara questioned the septic system with the addition of bedrooms to the addition.

Mrs. Neppalli stated that the total square footage when the project is completed will be 7,000 sq. ft.

Chairman Mills stated that as per the exhibit A-A, the second-floor addition is 2,125 sq ft and the first-floor additional sq. ft is 257 sq. ft. and the additional garage space of 1,325 sq. ft. Total living space on the addition is 2,382 sq. ft. He asked Mrs. Neppalli what her current home square footage is.

Mrs. Neppalli said it close to 5,000 sq. ft.

Mr. Dale said he is ready to table this and allow Mrs. Neppalli the time to revise her plans with the ideas that she has for the project.

Mr. Neppalli said he wanted to address Mr. Krey's concern about the 4-car garage. He explained that the request for the 4-car garage is to accommodate his interest in cars. He explained he repairs cars and has a few of them and a 2-car garage does not accommodate them and are sometimes unsightly when left in the driveway. He said he could build another building on the land in which he feels would be detrimental to the aesthetics of the property and thought the 4-car garage was the best option and continued to explain the need for the additional garage.

Mrs. Neppalli stated that she did not think she needed the rendering for today's meeting but will be happy to sit down with the architect and share her vision and understands why the ZBA Board is concerned.

Mr. Dale asked if she could wait a month and give her time to discuss her plans with her architect.

Mrs. Neppalli said that it a possibility but stated if they are well within the rules and regulations, she would like to start planning out the renovations and find builders. She would like to have the project done before next year.

Regarding Neighbor Notifications are on file

Mr. Bleuer stated there are 13 on file and has 1 letter of correspondence.

Regarding Public Participation, the following resident spoke.

Bikhal Shwani of 4370 Westwood Road, Clarence, NY

- She purchased her home because of the privacy and concerned with the proposed project taking away from her privacy.
- Also concerned about the location of the garage that is proposed and the noise level of the vehicles coming and going as it is very close to her property.
- She is concerned about flooding and drainage

Mr. Dale asked if the fence shown on the plan belonged to Ms. Shwani.

Ms. Shwani answered yes this was her fence.

Mr. Drinkard asked Mr. and Mrs. Neppalli to step back to the podium. He wanted some clarification on the curved driveway, and asked if they are taking the existing curved driveway and add in a new driveway? Mr. Drinkard also asked how they planned on dealing with the large drain that is in the existing driveway. He said it would be ideal if they were to table the appeal at the meeting and to be prepared to come back with an elevation of the addition, outlining the driveway, and landscaping.

Mr. Neppalli said their plan is not to shift the entire driveway and to keep the existing entrance to the driveway and are not looking to increase the dimension, but as they get closer to the home, there will be an extension to enter into the garage.

Mr. Drinkard stated it would be nice to keep the large trees that are currently on the property and adding additional trees would certainly help some of the concerns of the aesthetics.

Chairman Mills asked the applicant if they wanted the board to vote on the appeal or table the appeal and return with additional plans drawn up.

Mrs. Neppalli said she needs additional clarification of what the voting means as she said if their current request is within regulations on the way that it is drawn out, she can do the architectural drawings and come back at a later date.

Mr. Bleuer explained to Mrs. Neppalli that if you ask for a vote and they approve it, then you are good to proceed to the building department for the permit. If the board votes to deny it, then the motion has failed and you have to start over with a new request and cannot apply for the same request.

Mrs. Neppalli said she would like to have the chance to work with the architect to return with revised plans to give the board a better visual of the addition.

Chairman Mills asked each board member to share their concerns so that Mrs. Neppalli understands what they are looking for when she returns.

Mr. Drinkard said the current plan detracts from the neighborhood. The proposed plan is too large on one side and is very plain. He would like to view something that shows what the neighbors will see. He understands that she explained what she is going to achieve, but reminded her that she needs to get an approval first.

Mr. McNamara summarized the East elevation, landscaping, driveway and also mentioned that because of the increase in the bedrooms, they may have to increase the capacity of the septic tank. He also said they

should be concerned about the next-door neighbor and what can they do to make them feel more comfortable.

Mr. Neppalli asked to address the comments of the neighbors and on the terms of their privacy and stated that the windows will not be facing the back of their yard.

Mr. McNamara suggested to have the conversation with the neighbors so that they can resolve their concerns.

Chairman Mills said, from his perspective, he would like to see what the East elevation will look like when it is constructed. He added that they should also list the materials that they will be using. He would like to see a landscaping plan which also include the driveway. He also would like to see more details on the South elevation in terms of landscaping and how the windows will be laid out.

Mr. Krey asked Mr. Neppalli to clarify his comment in his testimony about adding an additional detached garage.

Mr. Bleuer intervened to explain that a secondary detached garage is not allowed.

Mr. Krey suggested Mr. Neppalli find similar homes in the area that have 4-car garages and consider a side load, which will not be in the same view and it will not stand out.

Mrs. Neppalli said that she needs to have the board envision what she is visioning through her eyes and after listening to the board members she feels the best move would be to get the architectural drawings and renderings and will submit the drawings.

Mr. Krey said that would help.

Mr. Dale referred to the drawing that was presented to them and stated that the markings show a 2-car driveway from the road all the way up to the garage but he stated that is not what was explained by them and reiterated that they would just get larger near the garage areas so the car can be pulled in. He asked for them to show the Board what they really plan on attempting to do with the project. He also suggested to contact Mr. Bleuer and ask him about the re-tree program where you can get trees planted for you along the road.

Mrs. Neppalli said she believes they missed the deadline for that program.

Mr. Bleuer stated they have moved on to another area but if she inquires, he will note her interest.

Bikhal Shwani of 4370 Westwood, Clarence, NY stepped back to the podium. She wanted to mention the opposite side of the home has no other properties there and asked why they cannot build on that side instead of on the side of their home as she is also concerned about the flooding and drainage from the proposed project.

Chairman Mills explained to Mr. and Mrs. Neppalli, they have heard the concerns from the neighbors and from the ZBA board and asked them if they would like to table the appeal.

Mrs. Neppalli said yes to tabling the appeal and she will come back and bring renderings and landscaping plans.

Chairman Mills wanted to be sure Mrs. Neppalli understood that although she will bring these documents it does not necessarily mean that permission will be granted.

Mrs. Neppalli said she understands.

### **ACTION:**

Motion by Steven Dale, seconded by Chairman Mills to **table** Appeal No. 3 as per the applicant's request.

### **ON THE QUESTION:**

Mr. Bleuer wanted the applicant to know that the next Zoning Board of appeals meeting is scheduled for May 13, 2025 and the deadline to bring in the new plans and application is April 25, 2025.

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

### **MOTION CARRIED**

The meeting adjourned at 7:40 p.m. with a motion by Gerald Drinkard

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

Robin Kosmowski  
Part Time Clerk