

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

Chairman Mills led the Pledge of Allegiance.

Town Officials present:

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

Other Interested Parties:

Scott Kaelin  
Brian Effinger

Tony Tocco

Dan Michnik

James Fish

Motion by Gerald Drinkard, seconded by Richard McNamara, to **approve** the minutes of the meeting held on May 13, 2025.

Gerald Drinkard  
Patrick Krey

Aye  
Aye

Richard McNamara  
Steven Dale

Aye

Ryan Mills     Aye

**MOTION CARRIED**

Attorney-Client session was entered in to at 5:33 p.m.

The Board returned from Attorney-Client session at 5:45 p.m.

**OLD BUSINESS**

**Appeal No. 3** – From the April 8, 2025 Meeting

Vishala & Kumar Neppalli  
Residential Single-Family

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)

**DISCUSSION:**

Vishala and Kumar Neppalli were present to represent their request, explaining that they have updated their plans and presentation to clearly show the Board their plans.

Mrs. Neppalli handed out copies of her presentation to the Board members, referring to the photos as she presented.

Mrs. Neppalli detailed the specifications of the property and house.

Mrs. Neppalli stated that the distance from the road to the proposed addition would be 188 ft.

From the south side, which is the closest neighbor, it would be 21.5 ft. from the south wall of the proposed building. Most of the neighbors are located on the commercial side of the property which is the auto plaza, which has the berm and a fence.

They are proposing a 4-car garage, with the existing garage space being absorbed in to the house which would leave no garage space on the property.

This is why they are requesting a variance for 365 sq. ft. in order to build a 4-car garage.

Mrs. Neppalli stated that the living space that they are adding to their home is 257 sq. ft., it will include a mud room, and ground floor living space. The second floor will consist of a living area on top of the garage with two bedrooms each with office space. This will all accommodate their needs.

Mrs. Neppalli noted that their current driveway is very long from the road to the house, and what they are proposing is to enlarge the driveway by extending it to the north approximately 6 ft. The proposed garage is a side-load, so the driveway will be curved.

Mrs. Neppalli explained that their plan is to have a metal roof, but they have not yet received any prices or specs for that so it is not definite.

As far as the siding, Mrs. Neppalli stated that they would like to keep the siding a light color, but not white like they currently have on their house, as they have found that to be very difficult to maintain.

Mrs. Neppalli added that the proposed addition will also have stone, and there will be landscaping around it as well, including ornamental trees.

Sharing a power point presentation, Mrs. Neppalli explained the layout and landscaping for the proposed addition and landscaping.

The elevations and attachments that Mrs. Neppalli provided were entered in to the project file.

Mr. Drinkard noted that it appears Mrs. Neppalli has addressed everything that the Board had concerns with from the last meeting.

Referring to the landscaping, Mr. Drinkard noted that along the south side of the property there are an abundance of large trees that have been removed, yet the rendering depicts a bountiful row of trees.

Mrs. Neppalli explained that they have been researching the types of trees, and which ones will look the best along that side. There will also be trees along the west side extending from the road towards the house.

After continued discussion regarding trees, Mr. Drinkard asked Mrs. Neppalli if the renderings that she provided are what her goal is for the trees.

Mrs. Neppalli responded yes.

Mr. Drinkard noted that the plans show a lot of trees that will be planted, and asked Mrs. Neppalli if she has spoken with the next-door neighbor regarding her plan.

Mrs. Neppalli responded yes, she showed her the plans and although her neighbor was unable to come to tonight's meeting, Mrs. Neppalli stated that her neighbor is happy with the plans.

Mr. Drinkard asked if they have spoken with the other neighbors as well.

Mrs. Neppalli said yes, they have talked to the neighbors that own the commercial property also, and there is a sewer that runs through the property on to the commercial property. There is a possibility that they may tap in to that with the expansion of the property.

Mr. McNamara stated that landscaping is important, especially street side and the view from the street. The plans that they have submitted show a plentiful amount of landscaping, which is all very important to the neighbors.

Mr. Krey stated that he also appreciates the efforts that Mrs. Neppalli has put in to addressing the concerns of the Board, and the renderings are very helpful.

Mr. Krey added that the thing that stands out to him is the house will look unusual compared to other houses in the Town of Clarence because of setback requirements, but due to the uniqueness of the lot, they could always take away one of the garages and still be able to accomplish what they are proposing.

Mr. Krey explained that he still does not like that there are four consecutive garage doors, and asked if there are any similar properties in the neighborhood.

Mrs. Neppalli noted that there is a house right on Westwood that has 4 garages, it is a multi-family house. While not directly in the neighborhood, there are similar lot sizes and houses a few streets over on Greenbriar.

Mrs. Neppalli added that it will not look like a garage from the east.

Mr. Krey asked if it would be feasible to have two larger doors rather than four doors.

Mrs. Neppalli responded that it is possible, a lot of the plan specifics are not set in stone, these are the initial renderings that they have. She likes the dormer style windows and they went along with the garage doors.

Mr. Dale noted that Mrs. Neppalli mentioned there will be board and batten siding on the proposed addition, and it will be carried through to the principal structure as well.

Mrs. Neppalli responded yes; currently, their sunroom is already board and batten and they are taking the proposed project as an opportunity to update the entire house with the same siding and the same color.

Mr. Dale asked if the proposed standing c-metal roof will also include the entire house.

Mrs. Neppalli stated that they are considering that.

Mr. Dale noted that the plans to not appear to show any insulation between the garage and the upper floor.

Mrs. Neppalli stated that they will; these are not the final plans.

Chairman Mills stated that everything Mrs. Neppalli has presented is very helpful, and allows the Board to understand and appreciate what they want to do.

Chairman Mills added that he feels the design elements will help mitigate the variance request. Some of the design elements are especially important, and Chairman Mills asked Mrs. Neppalli if it would be acceptable to them if the Board made some of the design elements conditions of approval.

Chairman Mills asked Mrs. Neppalli if the 3 ft. high stone shown on the proposed plan, marked Exhibit A was made a condition to carry it along the entirety of the proposed structure, would they agree to that.

Mrs. Neppalli explained that the front and side of the existing home already has stone, and the stone will extend up 3 ft. the entirety around the proposed structure.

Regarding the board and batten siding, Chairman Mills noted that Mrs. Neppalli indicated they plan to have that all the way around the proposed addition, would that be agreeable.

Mrs. Neppalli responded yes; it is already planned.

Chairman Mills stated that the final element would be the landscaping, which is significantly important with this variance request. He acknowledges that they are still in the process of

choosing, but if they made it a condition that there are to be at least 5 trees along the driveway side and at least 3 along Westwood Drive would that be agreeable.

Mrs. Neppalli stated that she planned to speak with the Planning Department about the trees.

Chairman Mills added that if Mrs. Neppalli knows the species, that would be even better.

Mrs. Neppalli explained that she wants to match and coordinate what is already there.

Mr. Bleuer told Mrs. Neppalli that if there is a condition placed that they need to plant trees, the Planning Office can provide a preferred street tree list to refer to.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

Public Participation was closed for this item.

Mr. Drinkard clarified that when they refer to trees, they do not mean pine trees.

Mrs. Neppalli agreed.

#### **ACTION:**

Motion by Patrick Krey, seconded by Richard McNamara, to **approve** Appeal No. 3 under Old Business with the following conditions:

1. minimum of 5 ornamental trees or similar along the south side of the driveway, and a minim of 3 along the north side of the driveway
2. landscaping on the street-side of the accessory structure similar to what is depicted in the renderings
3. stone 3ft. high all the way around the new structure
4. board and batten siding to be applied to the entire house including the accessory structure

Mrs. Neppalli has heard, understands, and accepts the conditions.

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

Mr. Krey stated that this is a very unique request due to the fact that the lot itself is very large, and much larger than the other homes on the street. The home itself is located in a unique spot in the yard where building forward does not encroach on the setback.

Mr. Krey added that with the conditions placed today will help to mitigate any issues with aesthetics and the appeal being granted. Additionally, he feels that the renderings appear to improve the appearance of the home, and will not cause any negative or detrimental impact on neighboring properties.

Chairman Mills emphasized that this is a uniquely large parcel for this neighborhood, with a substantial setback.

Chairman Mills added that there is some adjoining commercial property, and the applicant has gone through great lengths in a design element to mitigate the additional size through design efforts as well as landscaping efforts.

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

MOTION CARRIED

## NEW BUSINESS

### Appeal No. 1

Dr. Tova Ablove  
Residential Single-Family

Town Code Reference: §229-52(B)

Applicant requests a variance of 4'8" to allow a 7'10" principal structure side yard setback to allow for an attached accessory structure (greenhouse) located at 9812 Willowleaf Court.

### DISCUSSION:

Architect Ken Klapper from Koll-Arch Architectures, P.C. was present on behalf of the applicants, Tova and Robert Ablove. A letter authorizing this is in the project file.

Mr. Klapper stated that they are requesting a variance to increase the side yard setback of 2.2' for a side yard setback of 7.8' for the purpose of an accessory structure attached to the residence to add a greenhouse.

Mr. Dale asked if the neighbors next door are ok with this proposal.

Mr. Klapper stated that he believes so, yes. They were notified and the applicant has not received any comment from them.

Mr. Dale asked who owns the pine trees between the two houses.

Mr. Klapper responded that he will need to follow up on that, as he does not know offhand. There is a private drainage easement, and judging by the setbacks, he believes the pine trees are in the neighbor's yard.

Mr. Dale added that the reason he asks about the pine trees is because there is a planter box located between the pine trees that he assumes belongs to the applicant.

Mr. Klapper stated that he is unsure and will follow up with the applicant.

Mr. Dale added that the pictures of the proposed greenhouse show stone along the lower portion and asked if that is what is intended.

Mr. Klapper responded yes; they plan to match the veneer stone that is on the house. It is a concrete foundation that extends 3 ft. to handle the grade, with a glass structure will be on top of that.

Mr. Dale asked if the proposed greenhouse will create any noise or smell.

Mr. Klapper responded no.

Mr. Krey confirmed that there is a letter on file allowing Mr. Klapper to speak on behalf of the applicant.

Mr. Bleuer responded yes; it is in the project file.

Mr. Krey asked why the proposed greenhouse needs to be located on the side of the house and not in the backyard.

Mr. Klapper explained that the backyard has a couple of different things already, and this is the optimal location for it.

Mr. McNamara noted that the optimal location for a greenhouse is on the south side of the house where it will get the most sun. This is most likely why this proposed greenhouse is located on the south side.

Referring to Exhibit A, a photo of the neighborhood, Mr. McNamara noted that the pine trees located on the property line do not look to be a problem. They appear to be in the backyard of the next-door neighbor's house.

Mr. McNamara added that it looks like a nice project.

Mr. Klapper noted that he did some additional measurements, and the height of where the proposed greenhouse meets the house is 12' 7", and approximately 8' where it starts to slope. It is not a large structure; the idea is to be on the south side of the property.

Mr. Drinkard commented that it looks like a nice project.

Referring to the planter that appears to currently be on the property, Chairman Mills asked if they were to make it a condition that the planter is removed, would that be agreeable.

Mr. Klapper said that he believes so. If it is located where the proposed greenhouse will go, it will be removed.

Chairman Mills confirmed that the veneer stone will wrap the entire structure and that the only two materials will be glass and veneer stone.

Mr. Klapper responded yes.

Chairman Mills asked Mr. Klapper if they make the materials a condition, would that be acceptable.

Mr. Klapper responded yes.

Chairman Mills noted that from an aesthetics perspective the veneer stone ties in nicely with the existing structure, and the remainder of the structure being glass, it will have minimal impact on the neighbors.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

Public Participation was closed for this item.

**ACTION:**

Motion by Richard McNamara, seconded by Steven Dale to **approve** Appeal No. 1 with the following conditions:

1. stone knee wall is to wrap around as depicted on the elevations
2. existing planter located next to the greenhouse is to be removed before construction begins

Mr. Klapper has heard, understands, and agrees to these conditions.

**ON THE QUESTION:**

Chairman Mills noted that the impact of the aesthetics of the neighborhood will be minimally impacted as a result of the continuation of the veneer stone from the house and the remaining structure all glass. The visual element will be minimal.

Mr. Donahue asked if the Board wanted to place a condition for the removal of the planter.

Discussion arose regarding the location of the planter and whether it was on the applicant's property or not.

Mr. Bleuer added that enforcing the removal of the planter could be difficult.

Chairman Mills showed Mr. Klapper the location of the planter they are referring to, as shown on the plans.

Mr. Klapper agreed to the conditions.



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

MOTION CARRIED

**Appeal No. 2**

Scott Kaelin  
Agricultural Flood Zone

Applicant requests a variance of 3' to allow a detached accessory structure to be set back 3' from the principal structure located at 9345 Wolcott Road.

Town Code Reference: §229-34(F)(5)

**DISCUSSION:**

Scott Kaelin was present to represent his request, explaining that he is requesting a variance of 3' to allow his detached accessory structure which is a gazebo, to be 3' away from the house instead of 5'.

Chairman Mills asked why Mr. Kaelin is requesting it to be closer than 5'.

Mr. Kaelin stated that he mistakenly placed it 3' from the house.

Chairman Mills asked if there is a footer, or if it is just post and beam.

Mr. Kaelin stated that it is post and beam construction.

Mr. Krey asked for clarification as to how this occurred, as there is a building permit from August, 2024. When Mr. Kaelin submitted the building permit was there no discussion or indication as to where the structure would be placed.

Mr. Kaelin explained that he does not recall what he put on the building permit, but he did look at the permit that was given to him and there was no setback indicated.

Mr. Krey asked Mr. Kaelin if he has looked in to how difficult it would be to move the gazebo.

Mr. Kaelin stated that it could be done, but would not be easy.

Mr. Krey asked for some details as to what it would take to relocate the structure to the required setback.

Mr. Kaelin explained that he would need to get some specialty equipment to lift and move it, remove the deck boards that are currently on the floor and to re-level it, because the property drops off significantly.

Mr. Krey asked Mr. Kaelin what his rationale was for placing the gazebo where it is.

Mr. Kaelin stated that basically it is an outdoor entertainment area, and to block the wind because their hot tub is located there.

Mr. Dale asked if the structure has any utilities run to it.

Mr. Kaelin responded no, he has string lights run to it, but that is it – he has no plans for any utilities.

Mr. Dale confirmed that the purpose of the structure is for entertaining.

Mr. Kaelin reiterated that it is for entertaining and to block the wind from the hot tub.

Mr. Dale questioned the black element that appears to be inside the structure, as seen in the photos.

Mr. Kaelin explained that they originally planned to use it as a cooking structure, but then decided not to because they do not want to run any utilities to it.

Mr. Dale confirmed that the structure will be empty.

Mr. Kaelin responded yes, aside from a couple of patio chairs that are there currently.

Mr. Dale asked if Mr. Kaelin had a drawing prepared when he submitted the building permit.

Mr. Kaelin stated that he had a free-handed sketch that included dimensions.

Mr. McNamara noted that the building code is 3 ft., town code is 5 ft. which used to match the New York State (NYS) Building Code, but that has changed which is the reason a variance is needed. If the structure was attached to the building it would not be an issue. He does not see any problems with it.

Mr. Drinkard stated that NYS building code stating 6 ft. is for health and safety reasons. If this structure was enclosed and have an issue with gas or any other issue, Mr. Drinkard clarified that there will not be any gas lines run to the structure.

Mr. Kaelin stated that it is not even fully enclosed, it is open on two sides. When he built it, he attempted to have it blend in with the house.

Mr. Drinkard agreed that it does blend in with the house, that looking at it from the street you cannot tell that it is an open-sided building.

Chairman Mills confirmed that there are no plans to enclose the other sides.

Mr. Kaelin responded no, not at all.

Chairman Mills asked if Mr. Kaelin intends to run a business out of the structure.

Mr. Kaelin responded no.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

Public Participation was closed for this item.

Mr. McNamara added that the 5 ft. building code is for the property line setback, not from building to building.

Mr. Bleuer stated that the local law states that the setback between the principal structure and the accessory structure is 6 ft.

### ACTION:

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

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

MOTION CARRIED

### Appeal No. 3

Anthony F. Tocco  
Traditional Neighborhood

Applicant requests a variance of 5' to allow 20' principal structure rear yard setback located at 6831 Windsor Lane.

Town Code Reference: Map Cover 3887 SL 8

### DISCUSSION:

Tony (Anthony) Tocco was present to represent his request, explaining that they would like to reduce the rear yard setback from 25' to 20'. They have put a deposit down on the lot, then as they were working on putting a floor plan together, they realized that it only had a 32' building foundation allowable depth.

Mr. Tocco has written consent to speak on behalf of the property owner, Ron Grimm. This is in the project file.

Mr. Tocco stated that they are looking to construct a house approximately 2,000 sq. ft. in size, therefore 32' depth is not very substantial. The lot is a 100' pie-shaped lot, 82' front to back, making a 25' front and back setback only 32'.

Mr. Tocco stated that there are 4 reasons for this request, the first is that there is a great benefit, a feasible alternative does not really exist, the subdivision already has a variation of setbacks, and lastly the impact on the neighbors and the surrounding area is minimal.

By gaining an additional 5' of building depth, Mr. Tocco explained that it allows a substantial amount of flexibility in the design of the home. While 32' may be ok for parts of the house, other parts of the house need to be able to bump out.

Mr. Tocco stated that the rest of the subdivision average buildable depth is close to 50', at 32' this is out of character with the rest of the subdivision.

Granting the variance would allow the home to have many more features typically found in a home within the neighborhood for examples the front porch, a comfortable staircase that takes up a decent amount of space once it is built. Also, an improved entry from the garage, which the current plan at 32' only allows for a 19' wide garage which makes it very difficult to get around the cars and in to the house.

Mr. Tocco stated that it would also allow for less complex and expensive landscaping, the design they currently have has 4 corners on one side and 2 corners on the other. As the lot sits, in order to achieve optimum square footage, you have to bump out and follow the side setbacks.

Explaining that a feasible alternative does not exist, Mr. Tocco explained that to build a house on this type of a lot is very choppy inside and outside, whereas additional depth would help to mitigate this.

Mr. Tocco noted that several buyers have passed on this lot already, for these very reasons.

Noting that the subdivision already has a variation of setbacks, Mr. Tocco noted this can be seen by looking at the plat which has been included in the attachments. Lot numbers 1, 2 and 3 have a depth of 84' which is 2' more than this lot, but they were provided with a 15' rear setback, so those lots are able to handle a 44' deep house.

Mr. Tocco continued to review the other lot sizes in the subdivision, making the point that they have different allowable depths. The average buildable depth in the subdivision is close to 50'.

Regarding a potential impact on the neighbors and surrounding areas, Mr. Tocco stated that this is minimal because this lot is on an outside circle where the homes skew away from each other. There is no home behind this property, it is a wooded area that belongs to the subdivision.

Mr. Tocco stated that he has spoken with the neighbors and they were ok with this request. This variance request of 5' is for the flexibility in the home design and to add some of the features that would be found in this style of home.

Mr. Drinkard asked Mr. Tocco his relation to the property's owner.

Mr. Tocco stated that he put a deposit on the lot, no relation to the owner. He was given permission to represent him at this meeting.

Regarding the lot, Mr. Drinkard noted that it backs up to a federal wetland that connects to a retention pond, which needs regular maintenance and inspection. With this house being located so close to the back lot, Mr. Drinkard asked Mr. Tocco if he knows if the backs of all of the lots are monumented. Meaning it shows distinctly where the back of the lot ends and the federal wetland begins.

Mr. Tocco stated that he is unable to answer that question.

Mr. Drinkard explained that as he sees it, the back of the lot appears to drop off several feet and appears to be pretty rugged. You can not go in and take stuff out, and you certainly can not put anything in to it legally.

Mr. Drinkard asked Mr. Tocco if the prospective owner is aware of this. Have they walked the lot to see what it entails, before a variance is granted allowing a closer setback.

Mr. Tocco stated that while he knows the name of the owner of the lot, he is not aware of how much he knows about the lot or if he has been to the lot to see what it consists of. He has seen the lot and understands what Mr. Drinkard is referring to, but they are not asking to extend in to that area. They would like to push back in to the elevated area, not the area that drops off.

Mr. Drinkard added that it is a larger house on a very small footprint.

Mr. Drinkard asked Mr. Bleuer if when the Planning Board approved this subdivision, did it include the homeowner agreement.

Mr. Bleuer responded yes, and that Grimm brothers did accept all conditions placed on the subdivision including wetland standards. They had to get the necessary federal and state permits for that, and the Homeowner's Agreement was subject to the Town of Clarence attorney review. To his understanding, this has all been accomplished.

Mr. Dale noted that the applicant is requesting an additional 5 feet in the back of the property, does he intend to meet the front yard setback.

Mr. Tocco responded yes.

Mr. Dale stated that it is unlikely any structure will be built behind this house, due to the wetlands so he does not see where granting the 5' will make an impact on the property behind this lot.

Chairman Mills asked Mr. Tocco if there are any architectural drawings for the proposed home.

Mr. Tocco responded no, just a sketch of the floor plan.

Mr. Tocco provided Chairman Mills with the sketch for review, noting that the floor plan is for a 32' home, they do not have one for a bigger home. They do not find this one acceptable for their needs.

Referring to the sketch of the floor plan that Mr. Tocco submitted, Chairman Mills asked if it is generally how it will be laid out, only on a larger scale.

Mr. Tocco responded that he does not think so, if they have the additional square footage it will not have as many bump outs, it would have a front porch and a wider garage that would be easier to move around in.

Chairman Mills asked if the plan still to have the primary bedroom on the first floor regardless of whether they are granted the variance.

Mr. Tocco responded yes, and two bedrooms upstairs approximately 2,000 sq. ft.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

### **ACTION:**

Motion by Patrick Krey, seconded by Steven Dale to **approve** Appeal No. 3 as written,

### **ON THE QUESTION:**

Chairman Mills stated that the impact to the character and environmental conditions of the neighborhood appear to be minimal considering the federal wetland area behind the applicant's property. This is a new sub-development with other lot size adjustments throughout the development process. There is no rear neighbor directly behind the applicant's property other than the federal wetlands area.

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

**MOTION CARRIED**

### **Appeal No. 4**

James Fish  
Residential Single-Family

Town Code Reference:

1. §229-52(B)
2. §229-53(A)

Applicant requests variances:

1. of 5'2" to allow 7'4" principal structure side yard setback to allow for an attached accessory structure (garage) addition; and
2. of 1'9" to allow an open porch to encroach 13'9" into the established front yard setback; located at 6235 Willow Run Court.

## **DISCUSSION:**

Applicant James Fish, and architect Brian Ettinger were present to represent this project.

Mr. McNamara acknowledged that this proposed garage will be a front-load garage rather than a side-load.

Mr. Fish responded yes.

Mr. McNamara noted that the curb cut will most likely also need to be moved over.

Mr. Fish responded yes.

Mr. McNamara confirmed that the materials of the proposed garage will match the house.

Mr. Fish said yes; they had a new roof put on last year, so it will be easy to match.

Mr. McNamara asked if the front porch is a concrete pad.

Mr. Fish responded yes.

Mr. Krey asked Mr. Fish to explain why he needs to expand his garage.

Mr. Fish stated that it is currently a 2-car garage, he works from home so his car does not move very often whereas his wife's moves often. They are a young family with a young child, they need the space for additional toys and storage of outside furniture and other items. Also, they do not have a mud room in their house and an additional garage would serve that purpose as well, better utilizing the structure of the existing space.

Mr. Krey asked if there were any other properties in the neighborhood with similar garage expansions.

Mr. Fish stated that there is a 4-car garage a couple of houses down at 6226 Willow Run Court, most of the houses on the street have 3-car garages. There are 2 or 3 that were originally 2-car garages.

Mr. Dale asked if during the design process, did they ever consider moving the proposed garage forward, parallel to what is there now. This would negate the side yard setback variance request.

Mr. Fish responded yes, it was considered however given the size that they would need, they would still need a variance due to the curvature of their property.

Mr. Ettinger explained that one of the attachments included in the packet that was submitted show the front yard setback which is also pretty close. Moving it forward much further would have entailed a front yard setback.

Mr. Dale stated that he is more concerned with the garage side.

Mr. Ettinger noted that the front yard setback is only a few feet away from the corner of the proposed garage.

Mr. Dale stated that the applicant is already requesting a front yard setback, therefore it would be the same setback.

Mr. Ettinger stated it could be.

Mr. Fish explained the layout of the going from the garage in to the proposed mudroom, it would be possible, if need be, but the design would need to change a bit.

Mr. Ettinger noted that the current garage is setback from the principal structure, so it flows with the aesthetic rather than jutting forward. A lot of the houses on the street are similar, he would like to keep with what is established in the area.

Mr. Ettinger added that he feels no matter what, they would still need a side yard setback.

Discussion continued.

Mr. Dale asked Mr. Fish what his neighbors think.

Mr. Fish stated that he spoke with the adjacent neighbors, specifically the neighbor directly adjacent to the proposed structure. Mr. Fish explained that the neighbor had a lot of questions, but would not give any push back on what they are proposing.

Mr. Drinkard stated that this property sits on a curve, and does not think that the front yard variance is an issue at all. He also does not feel that the garage is an issue, almost everyone in the cul-de-sac has a 3-car garage or a pole barn.

Mr. Drinkard noted that what Mr. Fish is proposing will benefit the neighborhood.

Chairman Mills confirmed that all the proposed materials will match the existing home, with no trouble matching the existing siding.

Mr. Fish responded yes, they had to re-side their garage last year and had no problem matching it to the home.

Chairman Mills asked if they plan to have the stone element on the porch.

Mr. Fish responded yes.

Chairman Mills confirmed that no business will be run out of the garage.

Mr. Fish stated no, there will not be.



Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

Public Participation was closed for this item.

### **ACTION:**

Motion by Gerald Drinkard, seconded by Ryan Mills to **approve** Appeal No. 4 as written.

### **ON THE QUESTION:**

Chairman Mills stated that the applicant will match the existing house materials. The porch element is an open porch, it is not an enclosed structure which mitigates the impact of it being closer to the road.

In terms of an impact on the character and conditions of the neighborhood, there are many 3-car garages in the neighborhood, this would align with the existing character and environmental conditions of the neighborhood.

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

### **MOTION CARRIED**

#### **Appeal No. 5**

Rachel Valkwitch  
Residential Single-Family

Applicant requests a variance of 2' to allow a 6' fence to be located within the front yard setback located at 8590 Greenway Court.

Town Code Reference: §101-3(C)(2)

Chairman Mills recused himself from Appeal No. 5.

### **DISCUSSION:**

Rachel Valkwitch was present to represent her request, adding that they just purchased the home and would like to put in a 6' fence along the side and front of the property.

Mrs. Valkwitch explained that they have 3 young children, and the way the corner lot is set up they abut up to the backyard neighbor's driveway, and they are exposed on the corner. They would like the fence for the safety of their children, as well as for additional privacy since they are so exposed on the corner.

Referring to the form that was submitted about why they would like a 6' fence, Mr. Drinkard asked for a further explanation for the 6' fence.

Mrs. Valkwitch responded, stating that the request is based on the desire to have privacy and safety for her children.

Mr. Drinkard asked if there are any other extenuating circumstances, because what they are requesting is against code to have 6' fence in the front yard. If there are no additional extenuating circumstances, what Mrs. Valkwitch is proposing is to remove the current chain link fence and extend a new fence all the way around the side and back.

Mrs. Valkwitch stated yes, she wants to extend the chain-link out so that there is more space for her kids to run especially on the side where there is a lot of land. They are not looking to come all the way up on the side. She thought it would look better aesthetically if it was all one height versus the 4' that it is currently zoned for.

Mr. Drinkard asked Mrs. Valkwitch if she shared that she wanted to install a 6' fence with her realtor when they were purchasing the home, so that could have told her that there is a Town of Clarence set of laws that are to be complied with.

Mrs. Valkwitch stated that they did not discuss the change of the fence line with their realtor because they currently have a fence. After they realized what the code is, it brought them here to see if it would be possible. They knew they could have a fence because they currently have one, they see other homes in the neighborhood with 6 ft. vinyl fences, leading them to believe a vinyl fence would be allowed.

Mr. Drinkard noted that there are no houses with a 6 ft. vinyl fence in the front yard.

Mrs. Valkwitch responded that there are 3 corner lots that have 6 ft. vinyl fences:

- 6328 Cloverleaf Circle
- 6081 Meadowlakes Drive
- 6121 Shamrock Lane

Mrs. Valkwitch assumed that these pre-existing 6 ft. vinyl fences on corner lots went through the variance process and were approved.

Mr. Drinkard stated that when he drove around the neighborhood, he did not see any corner lots with 6ft. vinyl fences in the front yard.

Mr. McNamara confirmed that the proposed fence material is vinyl.

Mrs. Valkwitch responded yes.

Mr. McNamara asked if they would be removing the chain-link that is there now.

Mrs. Valkwitch responded yes, they would remove the chain-link and install vinyl.

Mrs. Valkwitch added that they spoke to the neighbors directly behind them whose driveway butts up to their yard, and the neighbors to the side and they were both very happy with the proposed fence.

Mr. McNamara asked what color fence was proposed.

Mrs. Valkwitch responded white.

Mr. McNamara noted that the fence is proposed to go right up to the property line on the side street.

Mrs. Valkwitch stated that they would be willing to come in from the property line. They did look at the Right-of-Way and to make sure from a visual sightline that they are not too far to the curb and obstructing any views.

John Valkwitch stated that they are currently looking to place the fence 28 ft. from the street.

Mr. McNamara asked how far off of the property line.

Mr. Valkwitch stated from the curb they are backing up 28 ft., which is their property line.

Mr. McNamara added that the fence blocking the visual aspect will be a concern, and asked if they would be agreeable to planting landscaping down the side to mitigate the view of the fence.

Mrs. Valkwitch stated that yes, they would be willing to plant landscaping to add to the aesthetic.

Mr. Dale asked if they would consider replacing the chain-link fence with the 6 ft. vinyl.

Mrs. Valkwitch responded ideally no; they would like to extend it to encompass more of the yard for the kids to play in. When they originally had it staked, they had it out farther but she would be willing to come in more from where it was staked, so as to not impede in any sightlines.

Mrs. Valkwitch stated that it is set far enough back that they are still approximately 100 ft. from the fence to Greenway Circle.

Mr. Krey noted that having a corner lot, you will encounter these types of issues often due to having what is considered two front yards.

Mr. Krey pointed out that if they chose to, and to stay within the scope of the Town, Mrs. Valkwitch could have a 4 ft. fence installed. It is the additional two feet that is of concern and outside of Code.

Mr. Krey asked Mrs. Valkwitch if their concern is more for privacy, or the safety of the kids because a 4 ft. fence should be adequate.

Mrs. Valkwitch fears the kids could climb over the 4ft. chain link fence, and she also feels that visually it would look better to have a consistent fence line instead of two different heights. Privacy is also a concern, as being on a corner lot means a lot of vehicles driving by and people walking by.

Neighbor Notifications are on file, approximately 13 comments of concern and opposition regarding this request have been received. All of the emails and correspondence have been provided to the full Zoning Board of Appeals as well as to the applicant. The correspondence has been placed in the file.

In regard to Public Participation, the following residents spoke:

1. Joe Schnitter of 8577 The Meadows South:
  - concern is the effect this 6ft. white vinyl fence will have on the character and condition of the neighborhood
  - there may be a couple of houses in the neighborhood that have the higher white fences, but not many
  - the neighborhood is known to be wide open with nice views, what is being proposed is not consistent with that
  - no offense or ill-will to the new neighbors moving in, his objection is solely on the fence
  - is in agreement with the feelings and statements of the Board
2. Mary Schnitter of 8577 The Meadows South:
  - concerns with maintaining the character and integrity of the neighborhood
  - there are 0 houses in the neighborhood that have a white vinyl fence in the side yard
  - disagrees that the applicant's backyard backs up to the neighbor's driveway, there is a side yard in between
  - has lived in the neighborhood for over 30 years and enjoy the wide-open spaces and have raised many children here with no issues at all
  - wishes no ill-will, but this should have been known before moving in to a lot with a side-yard
  - there is a building code in effect that states no fences whatsoever
3. Richard Moore of 6394 Cloverleaf Circle:
  - is an attorney and has experience in land use, but is here tonight as a resident
  - no question that the type of fence would have a severe visual impact on the neighborhood
  - the development was intended to stay with wide-open views when it was established which is why the deed restrictions were put in to place on the entire subdivision
  - the deed restrictions prohibit fences of any kind in the neighborhood with the exception of security fences around pools
  - the deed restrictions were put in not just for individual lots, but for all lots in the subdivision

- anyone that puts up a fence is actually at risk of having a neighbor bring an action up in court to have the fence removed
- the hardship is not unique to the applicant's property because every property in the subdivision has the same deed restriction

Mr. Drinkard asked Mr. Moore how the fences that are up in the subdivision come about that the neighbors did not take action on any of them.

Mr. Moore stated that apparently a lot of people do not realize the deed restrictions remain in place. He has been told that realtors are either ignoring the issue, or telling people that the restrictions are no longer in effect. The document of the deed restrictions shows that in the year 2000 the committee ended, but the restrictions stayed in place and automatically renew every 5 years unless there is a vote of more than 50% of the then-current residents to change the restrictions.

With no one else wishing to be heard, Public Participation was closed for this item.

Mr. Krey stated in regard to the deed issue, that is outside of the scope of review that the Zoning Board is looking at. They are merely looking at the variance requested from the Town of Clarence Zoning Code.

Regarding the deed restrictions that the neighbors keep discussing, Mrs. Valkwitch stated that the restrictions should be held up on everyone in the subdivision. She has printed photos of the two houses that have vinyl fences on the corner and submitted them to the Board.

Mrs. Valkwitch stated that yes, she did have a tree removed because it was located where they want to put the fence. They plan to plant additional landscaping.

Regarding sightlines, Mrs. Valkwitch stated that the corner of Cloverleaf Circle and Appleton Court there are multiple trees and a 4 ft. fence that goes right up approximately 6 in. from the curb.

To the points and comments made that if they erected the fence it would decrease property values, Mrs. Valkwitch stated that she had a licensed real estate agent pull comps for houses on corners with fully fenced, partially fenced, and no fenced yard. The homes that sold for the most dollar per square feet were the homes with fully fenced yards.

Mrs. Valkwitch has a list of all of the homes in the subdivision that have 6 ft. vinyl fences, not necessarily on a corner but they do have 6 ft. vinyl fences.

Mr. Krey added the documents that Mrs. Valkwitch submitted in to the record, they will be placed in the file.

Mr. Krey noted that the two photos of corner lots with white vinyl fences are marked Exhibit A:

- 6081 Meadowlakes Road
- 6328 Cloverleaf Circle

Exhibit B is the fence that comes right to the street, Mr. Krey added this in to the record, located at:

- 6290 Cloverfield Drive

Mr. Krey added Exhibit C in to the record, which is a listing of the lots in the neighborhood that have either a 6 ft. vinyl fence or they have permission, 3 corner lots.

### **ACTION:**

Motion by Gerald Drinkard, seconded by Steven Dale to **deny** Appeal No. 5. As it is against the fence law in Clarence to build a 6 ft. fence on the side lot of a property, which is basically the front yard.

### **ON THE QUESTION:**

Mr. Drinkard stated that it is the law in the Town of Clarence to not have a 6 ft. fence in the front of your house, especially in this subdivision. If you were to look at an aerial view of the Meadow Lakes Subdivision, a 6 ft. fence would deter the line of sight for vehicles coming around Cloverleaf Circle. Vehicles would drive faster because they would not be able to see what is around the corner. This is a walking community with no sidewalks. He has concerns with cars coming around Cloverleaf Circle having a blocked view.

Mr. Krey added that the concerns over the impact on the visibility from Cloverleaf Circle are great. The whole point of the Code in this case is to protect any issues where it may impact people's sight and for safety reasons the concern of the potential harm is greater than the benefits sought by the applicant.

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

### **MOTION CARRIED**

Chairman Mills returned to the Dais.

Meeting adjourned at 7:20 p.m. with a motion by Gerald Drinkard.

### **MOTION CARRIED**

Amy Major  
Senior Clerk Typist