

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday, September 9, 2025

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

Zoning Board of Appeals members present:

Chairman Ryan Mills	Patrick Krey (arrived at 5:33 p.m.)	Richard McNamara
Gerald Drinkard	Steven Dale	Forest Rung

Town Officials present:

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

Other Interested Parties:

Dennis Murphy	Erica Mufalli	Frank Mufalli	Mary Ann Anaka
Ellot Lasky	Eric Jefferson	Chris Janson	

Motion by Gerald Drinkard, seconded by Richard McNamara, to **approve** the minutes of the meeting held on August 12, 2025.

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

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

Harris Hill Development, LLC.	Applicant requests a variance to allow a third
Commercial & Restricted Business	story on three (3) multiple family housing
Town Code Reference: §229-126(D)(1)(f)	buildings located at 8450 Sheridan Drive.

Mr. McNamara recused himself from Appeal No. 1. The proper paperwork will be filed.

DISCUSSION:

Sean Hopkins with Hopkins Sorgi McCarthy, Ken Zollitsch with Greenman Pedersen Inc., Al Radacchio, Pete Petersen, and Elliott Lasky were present to represent the applicant.

Mr. Hopkins reviewed the lengthy project history with the help of a PowerPoint presentation, beginning with the location of the proposed project. The location is split-zoned Commercial and Restricted Business.

After clearing had been done on the site, Mr. Hopkins noted that the original proposal was determined to not be feasible. They have been working on this reiteration of the project for approximately a year.

Mr. Hopkins continued to review the previous project plans in comparison to the current proposed plans.

Noting that the Planning Board issued a Negative Declaration at their August 20, 2025 meeting, Mr. Hopkins stated that in terms of environmental impacts, they have been thoroughly identified, and thoroughly evaluated.

Referring to the current plan, Mr. Hopkins stated that there are 85 residential units, three 3-story mixed-use buildings along Sheridan Drive totaling 24,195 sq. ft. hence the need for the requested variance. They are asking for a variance to allow a 3-story mixed-use building versus a 2-story that is otherwise permitted.

Mr. Hopkins explained that the variance is not a height variance, it is a variance within a mixed-use building.

Referring to the three buildings on the site, Mr. Hopkins explained that the two end buildings both on the east and the west both have a step-up to the third floor while the middle building is entirely 3-stories.

Mr. Hopkins reviewed the architectural style of the proposed buildings, adding that they are hoping to attract high-end commercial tenants.

Mr. Hopkins continued to review the proposed plans.

Mr. Hopkins noted that due to the clearing that was done on the site, the applicant was requested to install temporary landscaping along the edge of the property directly adjacent to the residential neighbor. This has been completed and approved by the Landscape Review Committee on March 11, 2025. This is only for the small portion of the project site along the western property line; there will be an overall landscape plan for this project.

Addressing the five criteria that are set forth by New York State for determining the benefits to the applicant versus any detriments that might affect the health and safety of the surrounding neighborhood, Mr. Hopkins stated that the benefits are quite clear.

Mr. Hopkins stated that by replacing the eight 2-story mixed-use buildings with three 3-story mixed-use buildings, this proposed project has become more economical. In the absence of requested area variances, they would lose 12 units.

In regard to whether the requested variance would result in an undesirable change to the character of the neighborhood or a detriment to nearby properties, Mr. Hopkins stated that they feel the answer to that is no. If granted that relief the mixed-use buildings along Sheridan Drive will improve the appearance of the site.

Mr. Hopkins continued to the second criteria, which is whether the benefits they are seeking are granted through the requested relief can be sought through some other method, relief while allowing them to receive the benefits that they are seeking. Mr. Hopkins stated that the answer is no; the originally approved project determined to not be feasible; this project is feasible. Reflecting input received from the Town Board, Planning Board, Planning Department, and project team. It has been expected that this proposed project would need to come to the Zoning Board at some point to request a variance for the 3rd floor for the Mixed-Use buildings.

For criteria number 3; whether the requested area variance is substantial and will there be any harm as a result, Mr. Hopkins stated that they do not feel any harm will result if granted the requested relief. If they were forced to comply with the 2-story limitation to mixed-use buildings, they would lose 12 units which would have a tremendous negative impact.

Mr. Hopkins continued to the 4th criteria, whether the granted requested relief would have an adverse effect or impact on the physical or environmental conditions of the neighborhood. After conducting a very thorough coordinated environmental review, the Planning Board approved a Negative Declaration.

Mr. Hopkins added that if the Zoning Board approves the variance request, it is not the end of the review process. They need to return to the Planning Board for Concept Plan approval. Once that has been accomplished then the project engineer Ken Zollitsch and GPI will submit fully engineered plans, showing that they have satisfied each and every technical requirement. This includes the need for an on-site stormwater management system to be designed and installed to handle a 100-year storm.

Mr. Hopkins discussed the concerns of the neighbors to the north regarding drainage. They will be making temporary drainage improvements which they have been asked to have completed by November 1, 2025.

Mr. Zollitsch explained that they expect the temporary drainage improvements to begin within the next two weeks for the November 1, 2025 deadline.

Mr. Hopkins noted the wetland previously found on the project site has since been determined by the Army Corp of Engineers to not be subject to their jurisdiction.

Mr. Drinkard asked Mr. Hopkins to give a thumbnail as to what will happen as far as the temporary drainage is concerned.

Mr. Zollitsch explained that they worked with the Town of Clarence Engineering Department for the approval of this plan. Essentially what will happen is they are creating a swale starting at the western end of the site, coming through then running along the northern property line there will

be some deeper swales. These will collect the site run-off that comes from Sheridan Drive as the site slopes down to the north. They will cut off the drainage and go in to the swales and go across check-dams so that they get the initial filtration before entering a piped system. The piped system is already present at the property line of the Harris Hill subdivision and this mixed-use site. That will take the drainage flow through the Harris Hill subdivision through their existing pond.

Mr. Drinkard asked when that will be available and completed.

Mr. Zollitsch stated that they have been asked by the Town of Clarence to have it completed by November 1, 2025. They are on track to have it completed before that deadline.

Mr. Hopkins stated that there is a different permanent stormwater system that complies with the requirements.

Mr. Drinkard stated that there are no retention ponds because there will be direct connections basically in to the plumbing that is already in place.

Mr. Hopkins noted that when they worked on the Harris Hill subdivision, they planned for a much more intensive project on this site.

In the context of the SEQRA, it has been completed and accepted by the Planning Board, Mr. Drinkard noted that the project is in the early stages where it is too soon for the detailed questions that could potentially arise. He will make his comments on the 3 buildings that are part of the variance request, and not the overall project, as it is not the Zoning Board's purview.

Mr. Drinkard added that from what he has seen, this project and the buildings are very nice with 3 stories, adding that 2 stories would diminish from the project.

Mr. Drinkard added that he likes the color elevations a lot, and that this project is the perfect project for Sheridan Drive and agreed to by the Town Board. The plans for the Sheridan Drive corridor and other projects that were already accepted that have even more height. We are not looking at the number of feet or elevation, because they fit within the required elevation. It is simply because there is an extra story of living space.

Mr. Krey asked for more information regarding the economic changes that necessitated the proposed changes.

Mr. Hopkins explained that with any size project, you need to obtain financing from a bank to complete the construction. Unfortunately, many things occurred between 2016 when this project originated and when it was finally approved. Interest rates doubled, construction costs increased by more than 200%, and lenders have become more stringent. All of these factors have worked against the applicant.

By taking what was a previously approved plan of 8 mixed-use buildings, and consolidating them in to three 3-story mixed-use buildings with additional units as is permitted by the code, this project is now economically feasible whereas the previous project was not.

In terms of actual changes from the previous plans to this one, Mr. Krey asked if the residential units have decreased.

Mr. Hopkins stated that they have increased by 4 residential units.

Mr. Krey added that the square footage increased from 17,100 sq. ft. to 24,000.

Mr. Hopkins explained that originally, they were at approximately 24,000, they attempted to reduce that by approximately 7,000 sq. ft. by going in front of the Planning Board and received some pushback. They then went back and added more commercial square footage. The key with mixed-use projects in Clarence is that they want to make sure the commercial square footage is there as well. That was added back in at the request of the Planning Board.

Mr. Krey asked if that was on request of the Planning Board.

Mr. Hopkins responded yes.

Mr. Dale asked if any of the new 3-story buildings have elevators.

Mr. Hopkins responded yes; each one will have an elevator. That is also a benefit; smaller mixed-use buildings with three residential units on the 2nd, obviously elevators are not economically feasible. With more units under one roof, the elevator does become economically feasible.

In terms of the number of units, Chairman Mills asked if there are 12 additional units.

Mr. Hopkins referred to the original plan that had 80 units approved previously; they are currently proposing 85 units. They have increased by 5 units, and decreased in construction costs from the previously approved project.

Chairman Mills clarified that the 3rd floor allows for a more efficient construction cost per unit.

Chairman Mills asked if this request was not approved, would the project still move forward.

Mr. Hopkins responded no; they would not be able to do the mixed-use buildings if they were limited to 2 stories. They would have to go back to the drawing board again.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, the following resident spoke:

1. Dennis Murphy of 4801 Glenwood Drive:
 - concerned with the notification process
 - a lot of airport traffic over his house, a third story should be sound proof for the residents living on the top floor

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

ACTION:

Motion by Gerald Drinkard, seconded by Steven Dale to **approve** Appeal No. 1 as written.

ON THE QUESTION:

Mr. Drinkard stated that it has been noted that the entire project does fall within the Vision Sheridan or part of Clarence 2030 Comprehensive Master Plan.

Mr. Drinkard also noted that the project site area is in keeping with the use of the Traditional Business Land in the Clarence 2030 Plan, centering on integrating small businesses and residential living in a mixed-use community.

Also, Mr. Drinkard added that the request for a variance as described will not result in an undesirable change to the character of the neighborhood. This project did receive a Negative Declaration finding in the SEQRA review, and accepted by the Planning Board at its 8/20/2025 meeting.

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

MOTION CARRIED

Mr. McNamara returned to the meeting.

Appeal No. 2

Steve Seedhouse
 Planned Unit Residential Development
 Town Code Reference:
 1) §229-55(B)
 2) §229-55(C)

Applicant requests variances:
 1) of 3'6" to allow a 9'0" principal structure side yard setback; and
 2) of 32'6" to allow a 12'6" principal structure rear yard setback;
 located at 5130 Rockledge Drive.

DISCUSSION:

Mr. Seedhouse was present to represent his request, explaining that he was previously before the Zoning Board requesting a pool house in their backyard, which was approved. When they went to their HOA, they were told that they were not allowed to build a detached structure on their property. It needs to be connected with continuous walls and a roof to the house.

Mr. Seedhouse explained that this is now the amended plan, it will now connect to the back of the detached garage. The intervening space between the pool house which is an unchanged design and the house will be an unfinished storage unit similar to a garage.

Mr. Seedhouse continued, explaining that the proposed structure will contain existing pool equipment, the builders will need to move an outdoor unit for a mini-split. The pool heater will be located just outside of the back wall of the proposed structure.

The reason this was not in the original design Mr. Seedhouse explained, is due to the cost.

Mr. McNamara stated that he was at the house today and does not see any issues with the proposed addition.

Mr. McNamara added that the materials will match the house.

Mr. Krey confirmed that the property backs up to escarpment; there are no neighbors directly behind Mr. Seedhouse's property.

Mr. Seedhouse responded yes.

Mr. Dale asked who owns the property between the two fences.

Mr. Seedhouse stated that the lots are connected and the fences are inset from the property line, so they own half and the other half is owned by the other property owner.

Mr. Dale asked if the tree in the back northeast corner will remain.

Mr. Seedhouse asked Mr. Dale if he is referring to the apple tree inside of their fence line.

Mr. Dale responded yes.

Mr. Seedhouse stated that it will be removed.

Mr. Dale asked if they can add landscaping along the east side between the building and the fence.

Mr. Seedhouse stated that he has not thought about it, but he probably can. The benefit to the way the proposed structure is laid out is that his neighbor has huge pine trees and greenery lining his entire yard. When he is at his neighbor's house, you can barely see his backyard.

Mr. Seedhouse described his neighbor's property set up and how the view from his view is already buffered.

Mr. Rung asked Mr. Seedhouse if his neighbor is comfortable with this proposed structure.

Mr. Seedhouse responded yes. He has doubled up on the original Neighbor Notification forms and explained the new plans to them.

Chairman Mills stated that the last time this was approved, a condition was placed that either stone or brick on the bottom of the proposed structure at least 36" or 42" in height to match the house all the way around was to be placed. Chairman Mills asked if that is still the plan.

Mr. Seedhouse stated yes' that is still the plan and they have identified the supplier of the stone where it was purchased from and it will match perfectly.

Chairman Mills asked Mr. Seedhouse if he knows whether it will be 36" or 42".

Mr. Seedhouse did not recall.

Chairman Mills asked Mr. Seedhouse if it was made a condition of approval, would he be in agreement with that.

Mr. Seedhouse responded yes.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

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

Mr. Drinkard asked if the distance between the setback on the side of the yard is in the grass, and is it the plan to keep it grassy.

Mr. Seedhouse responded it is in grass, but that he does not think the grass will survive back there. It will be a stamped concrete walkway from the driveway all the way back to a door that will enter in to the pool house. It will run alongside the new connecting area.

Mr. Drinkard stated that it will not be seen from the street, he does not think that anything will grow there except possibly ground cover.

ACTION:

Motion by Patrick Krey, seconded by Richard McNamara to **approve** Appeal No. 2 as written, with the following conditions:

1. roof and siding materials to match the house
2. Stone or brick on the bottom be at least 36" in height all the way around to match the house

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

ON THE QUESTION:

Mr. Krey stated that what distinguishes this request from others is that the applicant backs up to an escarpment with no neighbors directly behind him. It is a unique property; the structure will not be visible from the street. Additionally, the side yard of the neighbor closest to it has a large

amount of pine trees that provide a substantial buffer. Because it has to be connected to the house upon request of the HOA, it will look like the house extends back.

Mr. Krey does not feel that it will have any adverse impact or alter the character of the neighborhood.

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

MOTION CARRIED

Appeal No. 3

James Dudo
Agricultural Rural Residential
Town Code Reference: §184-6(B)(3)

Applicant requests a variance to allow a Ground-Mounted Solar Photovoltaic System on a parcel under five acres in size located at 5865 Kraus Road.

DISCUSSION:

Mr. Dudo was present to represent his request, explaining that his lot is just under the required 5 acres in size.

Jeremy Sealing with Essential Power was also present and explained that the reason Mr. Dudo needs to do a ground-mount solar array rather than a roof-mount solar array is due to the location of the property and in accordance to where the sun goes.

Mr. Sealing explained that in regard to production rate, putting them on the roof is not feasible due to the size and shape of the roof, and how it lies on the property from north to south. His property is large enough to fit the array and the placement of the system receives a greater percentage of sun at the specified ground location.

Mr. Dale had a question on pages five and six of the report submitted with the package stating it was confusing as to whether it was ground or roof-mounted equipment when it was clearly stated Mr. Dudo wanted ground-mounted.

Mr. Sealing apologized that the engineers must have mistakenly included information for the roof-mounted solar deck. Those solar decks are also put in there as junction boxes for our equipment that is on the array.

Mr. Dudo said it is the same electrical schematic for the ground and roof -mounted equipment.

Mr. Dale asked Mr. Dudo how much power his house consumes on average.

Mr. Dudo said his average consumption is 1100-1200 watts of power per month.

Mr. Dale asked how the panels will be landscaped to improve the view from the surrounding neighbors.

Mr. Dudo said the neighbor to the south has fourteen roughly 20-foot high pine trees to block the view of the panel array. Properties to the rear are blocked by two acres of thick woods. The property to the north will not see the system at all due to thick shrubs. The property to the west may see the panels toward the road. The solar array is perpendicular to the road. Pine trees will be planted to block the direct view of the low-profile solar array.

Mr. Krey asked Mr. Sealing about the 110% production rate for the panels, asking if that is a part of their code.

Mr. Sealing explained the limit for production is 110% of what the customer requires, otherwise the grid may be overloaded. The property is evaluated to achieve the average usage for the property and that will dictate how many panels are required to comply with the power company codes.

Mr. Krey asked Mr. Dudo about planting pine trees to mitigate the sight of the solar panels.

Mr. Dudo stated his house is fully landscaped and the same theme will carry to the front where the pine trees are to be planted.

Mr. Krey asked if they will be planted in the front but not to overshadow the solar panels.

Mr. Sealing said an engineer will be contacted regarding the placement of the trees to not interfere with the panels. Arborvitaes may be considered. The trees could be trimmed to avoid casting a shadow. The panels will have microinverters to avoid shutting down production of the whole array, only the part that is shaded.

Mr. Krey asked about the cost of the project.

Mr. Sealing said the total project cost is \$47,000.00.

Mr. McNamara asked about the trees to screen the array. He thinks three to four trees would help screen the array. He also asked about what will be underneath the array.

Mr. Dudo said it will most likely be mulched to keep the grass and weeds down.

Mr. Drinkard asked what the longevity of the array would be.

Mr. Dudo said the system could last 35-40 years and is guaranteed for 25 years.

Mr. Sealing stated the system comes with a 25-year warranty. If anything goes wrong with the array, it is fully maintained. The systems are monitored by the office 24/7 and the customer can also monitor the system from their cell phone. A service technician will be sent to repair any malfunction covered by warranty for the next 25 years after install.

Chairman Mills asked if it was just not feasible to place the panels on the house.

Mr. Sealing said Mr. Dudo would not get the production he is seeking and would not save money with the panels placed on the house.

Chairman Mills referenced the landscaping and asked if the Zoning Board made it a condition of the variance, would Mr. Dudo be amenable to landscaping on the west side. He is shielded on all other sides but there is a view of the panels from the west. Some people do not like the aesthetics of the solar panels. If that is mitigated by the landscaping at least four feet in height to start along the west view 11 feet minimum.

Mr. Dudo was in agreement to this condition.

Neighbor Notifications are on file, several inquiries were received but no formal comments were received at this time.

In regard to Public Participation, the following resident spoke:

1. Anthony DelMonte of 5895 Kraus Rd
 - concerned about the landscaping and said there is a buffer between them as far as shrubbery. He thought the panels were closest to his property line.
 - after further review, he does not have an issue with the project.

Mr. Dale referred to the 11 feet of landscaping saying the landscaping out by the road would not provide a visual buffer.

Chairman Mills stated that there will be a distinction based on the height, species, and where it is placed. The delicate balance is to not go so close where shade is cast, but not so close to the street that it does not provide any visual buffer.

Chairman Mills noted that whomever makes a motion may want to include a footage restriction of possibly no more than 30' to 40' off of the panel.

Mr. Dudo stated that would be fine; their house is well manicured all the way around; they would not have any problem limiting the distance to 40'.

Mr. Drinkard stated that they are concerned with the intent of the landscaping and what it would accomplish. The goal is to shield the solar array from the street. The neighbors will know it is there, and they also do not want trees that will encroach on the arrays.

Mr. Dudo stated that he would want to be cautious of imposing a condition of landscaping to shield, as everyone's opinion of shielding can be different. The panel is very low; only 8' 10" off of the ground at the highest peak, and Mr. Dudo added that they are almost 100' from the road. Mr. Bleuer stated that if this variance is granted, the applicant would have to apply for a permit for this installation. Part of the requirement is a landscaping plan. The specificity does help to get everyone on the same page tonight, but there will be a landscape plan reflecting what happens at tonight's meeting.

Mr. Sealing stated the panels are only 8-9 feet high and any landscaping would shield the view. He also said there is no glare from the panels in the sunlight, they have an anti-glare coating.

Public Participation was closed for this item.

Mr. Dale asked if the panels will interfere with airplanes flying in and out of Buffalo.

Mr. Sealing reiterated that they have an anti-glare coating on them, they will not cast a glare.

Mr. Rung asked Mr. Dudo if the border between the neighbor to the south that has a tall, grassy area will be kept that way.

Mr. Dudo responded that he owns that area, and he does intend to keep it that way.

ACTION:

Motion by Patrick Krey, seconded by Ryan Mills to **approve** Appeal No. 3 as written, with the following conditions:

1. applicant plant at least 11' minimum of landscape vegetation at least 4' in height and no more than 30' away from the solar panels on the west side of the property

ON THE QUESTION:

Mr. Krey stated that what distinguishes this from similar requests is that the applicant's lot size is very close to 5 acres. Both the applicant's property and the property behind him are heavily wooded, so the solar panels will not be visible to the surrounding properties.

Additionally, Mr. Krey stated that the conditions that they are imposing help to mitigate any street views.

Chairman Mills added that according to Erie County records, this parcel size is 4.93 acres, which is very close to 5 acres. All of the views are heavily wooded and mitigated except the view facing west which is Kraus Road, and the applicant has agreed to additional landscaping to shield that view.

Mr. Bleuer stated for the landscape requirement with these conditions in place and standards, we will need a landscape plan. It does not need to be a stamped plan by a landscape architect, it could come from a nurseryman a nursery, or could even be done by the applicant. The plan would need to include specificity on species type, and needs to be included in the application in order to be processed.

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

MOTION CARRIED

Appeal No. 4

Kristine Buscaglia - Three Sisters Farm, LLC.
 Agricultural Flood Zone
 Town Code Reference: §299-34(E)

Applicant requests a variance to allow a detached accessory structure (permanent produce stand) to be within the front yard setback located at 10490 Cedar Road.

DISCUSSION:

Kristine and Christopher Buscaglia were present to represent their request, explaining that they moved to the property in July, 2023 and because Clarence is a Right-to-Farm community, they brought their pre-existing, successful farm stand business with them.

Mrs. Buscaglia continued to describe their successful agricultural business, explaining that they needed to expand due to success of their business which ranges from chickens, eggs, and vegetables to grazing sheep, raising Thanksgiving turkeys, and developing community partnerships.

Mrs. Buscaglia explained that this proposed structure will provide greater accessibility for their customers. They have been restricted to utilizing farmers markets or a small stand outside that offered no protection from the elements. Having a permanent structure will allow them to provide greater accessibility and a safer way for them to provide food to the community.

Mrs. Buscaglia stated that they intend to provide power to the proposed structure.

Mr. Buscaglia explained that it is 10' by 20' professionally built, Amish shed. The purpose of the power will be to provide lights both inside and outside of the structure, and power to a cooler and a freezer. Most of their products need refrigeration and some type of climate control.

Mrs. Buscaglia stated that they currently use messaging to line up times with people to pick up their products within an appropriate amount of time. They closely follow the New York State Agricultural and Markets guidelines to assure that the appropriate timelines are being followed for safety purposes.

Mrs. Buscaglia added that they strive to keep everything tidy and well-kept. They keep all of their properties maintained, and keep the space better than they found it.

Mr. Drinkard asked Mrs. Buscaglia if they are an LLC, and if they have filed an agricultural data statement so that they are certified to have a farm stand like the one they are seeking.

Mrs. Buscaglia responded yes; they are an LLC, and asked if the agricultural data statement is a requirement with the Town of Clarence.

Mr. Drinkard responded no; it is just a question.

Mrs. Buscaglia stated that they have not, and they are unfamiliar with what that is.

Mr. Drinkard stated that under the agriculture law, there are certain restrictions that the Town of Clarence in its governing of a farm, there are certain things they can talk about, pass, or reject. The fact that we are a Right-to-Farm community is a given. But under that farm, the board cannot say or do much of anything. If Mrs. Buscaglia had filed an Agricultural Data Statement with the State, and there is a form to do that, they are more interested in that statement of what they will be selling at their farm stand. Therefore, the Zoning Board is limited in what they can do in regard to restricting them from selling.

Mrs. Buscaglia stated that it is her understanding that any farm product that is produced within the community of Clarence is allowed to be sold at the farm stand on that property.

Mr. Drinkard noted that if they filed as a member of what would fall under the Agriculture Law.

Mrs. Buscaglia asked if all of the farm stands in Clarence have done this.

Mr. Drinkard said he does not know; they are talking about her farm stand.

Mr. Buscaglia stated that they are unfamiliar with this, and they will speak with their attorney. They have a registration with the farm service agency.

Mrs. Buscaglia added that they are working with representatives with the USDA to obtain grants to expand the farming venture.

Mr. Drinkard stated that they may want to look in to it, because it is a New York State Law that governs what can be done and not done under the Agriculture Law. This law wants to cover the food that they sell and protect them.

Mr. Drinkard stated that whether they are even able to deny this variance, as Mr. and Mrs. Buscaglia are in an agricultural district, and they are agricultural, the question is; what are their restrictions in approving or denying a variance.

Mr. Drinkard noted that Mrs. Buscaglia indicated the stand will be closer to the main road in order to make it more visible. Mr. Drinkard asked if there will be advertising on the proposed stand.

Mrs. Buscaglia stated that they currently have a vinyl sign hung on the farm stand. Eventually they would like to have a more permanent sign that can be seen from the road, in both directions. They would apply for any necessary permits.

Mrs. Buscaglia stated that they do not want to become a grocery store, they want to remain a farm market.

Mr. Drinkard added that they have a nice orderly looking farm with a stand that they would like to replace with a larger one so that they can supply more product for people to have access to.

Mr. McNamara asked how big the farm is.

Mr. Buscaglia stated that it is 36.75 acres.

Mr. McNamara asked if there will be any parking so that people can park off of the road.

Mr. Buscaglia stated that they plan to do that. The proposed farm stand is approximately 70 ft. from the road, their driveway is approximately 600 ft. Currently there is enough room along the sides of the gravel driveway, but they do intend to improve the parking.

Mr. Buscaglia explained that as it sits, no parking has to be along the roadway or the right-of-way, it will all be on their property. There are no obstructions of the sightlines for people coming or leaving, no safety issues will be created. They planned it so that there is enough visual flat sight to be able to see oncoming vehicles and pedestrians.

Mr. McNamara noted that having the stand by the road will be nice as it will keep people from driving up the driveway to access the stand.

Mr. McNamara confirmed that they will be running power out to the proposed structure.

Mr. Buscaglia responded yes; perhaps a small light affixed to the front of the shed, and then a few lights inside for patrons that come in the evening hours.

Chairman Mills asked Mr. Bleuer if he is aware of anything that would place restrictions on items that can be sold.

Mr. Bleuer stated that seasonal produce stands are allowable as a right, and are limited to products that are raised or grown on-site. Because this is a permanent produce stand, it has been deemed as a permanent structure that would be subject to this variance. From a seasonal perspective, it is meant to be for produce or items grown or raised on-site.

Mr. Bleuer stated that he did some research on the agricultural data statement and believes that it references if there is proposed development within an agricultural district and an agriculturally producing property. It would require things such as use variances, site plan or subdivision approval. It would not be subject to an area variance such as this.

In terms of what they plan to sell, Chairman Mills asked if it will be exclusively produce and meats and things that they grow on site.

Mrs. Buscaglia responded that anything they sell, they exclusively grow on site, they do not get anything from anywhere else including auctions.

Chairman Mills asked if they put a condition on the variance stating that they are only permitted to sell what they grow, raise, and farm on their property – would they be amenable to that.

Mr. Buscaglia stated that in terms of growth, other local producers of breads, honeys, common farmers markets items are included in their stand. He requests that it would include locally within the township produced products as well.

Chairman Mills stated that there needs to be a balance where this does not become a retail establishment where they purchase things online and resell them at their stand.

Mrs. Buscaglia stated that they have no intent whatsoever to purchase things on Amazon and sell them at their store. To support their business model, they would like the leeway to have merchandise that advertises their store would be helpful to their business. They currently partner with other producers who share the same values in producing things that are organic, and things for the community. It would be wonderful to have the leeway to continue working with local, licensed producers of farmers market items.

Chairman Mills explained that he is looking for some language that dictates any items grown from their farm for the first prong. The second prong could state any item grown in the Clarence area within 10 miles

Mrs. Buscaglia stated that the farming community extends to Niagara County, deeper in to Erie County where farms actually exist, are viable and can produce something. They are limited to that, as there is not much in Clarence that produces consumable products.

Discussion continued.

Mr. Bleuer stated that a good compromise would be that since they are reviewing a specific structure, anything brought in from off-site could not be located outside of the structure itself. That would control what happens.

Mr. Krey asked if they have three daughters and if that is where the name came from.

Mr. and Mrs. Buscaglia responded yes; they do. They are thrilled to be able to provide this lifestyle for their girls.

Mr. Krey stated that when he went to the property, he saw that the shed is already there, but he did not look inside. Mr. Krey asked what the base of the shed is and how it is based to the ground.

Mr. Buscaglia stated that it is on skids; the front skids closest to the driveway are on the ground then behind it, it is supported by cinder blocks. He plans to have a contractor come out to give him a quote on a gravel-base so that they can level it up and have a permanent, safe structure.

Mr. Krey noted in terms of additional potential conditions, it was mentioned in their application that they plan to have people park on their property and not on the road. Mr. Krey asked Mr. and Mrs. Buscaglia if they would be amenable to have that as a condition that their customers will be encouraged to park on the property and not on the street.

Mrs. Buscaglia responded yes.

In terms of neighboring properties, Mr. Krey noted that it appears very rural to him, and asked how much of their lot is farmland.

Mr. Buscaglia stated that their total acreage is 36.75 acres; total open land is approximately 15 acres.

Noting that the area is zoned Agricultural Flood zone, Mr. Krey noted that he saw some of the neighboring properties are residential properties with newer builds down the street. In terms of the property directly across the street, Mr. Krey asked who owns that.

Mr. Buscaglia stated that the property across the street is technically owned by S & S Construction, which is a business. They are fully supportive of their business and this proposed structure. Nobody lives there currently; they have some accessory structures on the property.

Mr. Dale stated that when they run the electric to the structure and install lights, to be sure there is no light spillage on to the road.

Additionally, Mr. Dale stated that the applicant has talked about rotational grazing, but there are no fences.

Mr. Buscaglia explained that they use electric netting which is labor-intensive, but useful. There is 164 ft. of mobile netting that he moves every 2 days. They are currently working with the USDA for future a grazing management plan.

Mr. Buscaglia continued to explain the grazing management plan.

Mr. Dale asked if ultimately the fence will be electric.

Mr. Buscaglia responded part of it would be.

Mr. Rung asked if where the final position of the proposed structure will be.

Mr. Buscaglia stated that it is right where it is now.

Mr. Donohue asked the Buscaglia's if they intend to use this proposed structure all-year long.

Mr. Buscaglia stated that he is unsure whether they will have enough product to sustain 12 months. They are currently seasonal; their season is largely productive from mid-May through mid-October. When they run out of product, it will be fully closed.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

With no one wishing to speak, Public Participation was closed for this item.

ACTION:

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

1. parking is to be off the street
2. any items not grown or raised on-site must be kept in the shed

ON THE QUESTION:

Mr. Krey stated that this property is in an Agricultural Flood Zone area so the use is not out of the ordinary. A produce stand currently exists on the property, a shed will add stability and help to preserve their product.

Mr. Krey added that he does not feel there will be any drastic changes to alter the character of the neighborhood, and it will fit in just fine.

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

MOTION CARRIED

Appeal No. 5

MaryAnn & Peter Anaka
Residential Single-Family
Town Code Reference: §101-3(C)(2)

Applicant requests a variance of 2' to allow a 6' fence to be within the front yard setback located at 4780 Bickert Drive.

DISCUSSION:

MaryAnn Anaka was present to represent this request, adding that she sees this as her side yard, although she found out that the Town of Clarence sees it as the front yard.

Mrs. Anaka explained that they would like the additional 2' for a 6' fence for some privacy. They have lived in their house for 8 years and they never really use their back or side yards because it is totally open to the street. They live in a walking neighborhood, and she has seen people on her camera using the sidewalk next to their driveway.

Mrs. Anaka stated that they will have a wooden dog-eared fence that they will stain, there will be a 10' sliding gate and also a 4' man-door.

Basically, Mrs. Anaka stated she wants the fence for protection, privacy, and really just for privacy for her backyard to spend time with her family.

Chairman Mills asked for clarification, the fence would only be 6' in height from the garage to the corner of Bickert Dr. then down Bickert only on the one side.

Mrs. Anaka responded yes; it will be 'L' shaped. It will start 8' back from the corner of their garage, it will not start at the beginning of the garage, and will extend 34'. Within the 34' there

will be a gate, then a 10' swing gate then another 16' of fencing, then it will run parallel with Bickert Drive.

Chairman Mills entered the aerial view in to the record as Exhibit A with the fencing as depicted by the red line.

Mr. Krey asked how long they have lived there in this house.

Mrs. Anaka responded that they have lived there for 7 years.

Mr. Krey asked if they have considered any landscaping.

Mrs. Anaka responded yes; she is not a fan of pine trees; most bush or shrubbery takes time to grow and she cannot afford to purchase bushes that are already 6' high, or enough bushes to fill in the 88' span.

Mrs. Anaka stated that they have given it a lot of thought over the past 7 years, and continued to explain all of the people that try to talk to them as they walk by their yard when they are outside. This is why she would like some privacy.

Mr. Krey stated that he meant landscaping to go along with the fencing, not to act as fencing.

Mr. Krey stated that without the variance Mrs. Anaka could have the fence the height that she wants basically right up to the house, then once it gets to the back of the house it would need to drop to 4'.

Mrs. Anaka stated that she was told she would need a variance for the entire fence because of living on a corner and having two front yards.

Mr. Krey asked Mr. Bleuer to clarify.

Mr. Bleuer stated that a 6' fence could run along parallel to Bickert Drive, but would need to be 43.07' back in order to match the setback.

Mr. Krey asked if it could then transition to a 4' fence.

Mr. Bleuer responded that they could have a 4' fence wholly within the front yard.

Mr. Krey explained that he is clarifying that by granting the variance, the change from what would be allowed would only be from the side of the house to the front of the house. The remaining part going to the back would not be allowed without a variance.

Mr. Bleuer responded no; because the fence is extending in to the front yard.

Mr. Krey realized the fence is not in line with the house, the entire fence needs the variance.

Mrs. Anaka responded yes; because she lives on a corner lot it's considered her front yard.

Mrs. Anaka stated that they would not be opposed to do some kind of landscaping along the fence. She would not plant bushes, but would plant flowers.

Mr. Dale asked how far the fence will be from the natural barrier.

Mrs. Anaka stated that according to her survey, approximately 10' to the property line.

Mr. Dale stated the fence will be 10' from the road.

Mr. Bleuer stated that the applicant is proposing to have the fence 10' off of the right-of-way line. The right-of-way is 60' wide, the paved surface is approximately 30', so the fence will be approximately 25' from the edge of the pavement.

Mr. Rung asked about the driveway adjacent to the concrete driveway, and asked if the concrete driveway extends to the side of the house, or is in the front only.

Mrs. Anaka responded no; it is just the gravel.

Mr. Rung asked where the camper sits.

Mrs. Anaka stated it is on gravel and will sit behind the fence. That is why they are having the 10' sliding door added to the fence, so that they are able to pull out the camper.

Mr. McNamara stated that after visiting the site today, he does not see that a 6' fence will have any visual impacts on drivers.

Mr. McNamara added that the neighbor across the street from the applicant has a 6' fence.

Mrs. Anaka stated that there are several people on corners in her neighborhood who have 6' fences.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

Mr. Dale asked Mrs. Anaka if they plan to do anything with the rather large trees on the edge of their property.

Mrs. Anaka responded that those are Town of Clarence trees, she has spoken with the Town this past summer, and asked them if they would trim the one very large tree because it is dying. She does not like to see trees taken down, but it's not in the best condition. She would like it at least cleaned up a bit, but it is not her tree.

Mr. Drinkard asked Mrs. Anaka if they really need a 6' fence.

Mrs. Anaka responded that this is purely for privacy and protection. She would like to be able to use her backyard with some privacy, and the street lights on Bickert have not worked in over a month, so it is also for protection. They would like to be able to enjoy their family and their backyard.

ACTION:

Motion by Richard McNamara, seconded by Steven Dale to **approve** Appeal No. 5 as written.

ON THE QUESTION:

Mr. Krey stated that neighboring properties already have 6' fences without any landscaping around them. Also, this fence will not have any impact on line of sight in terms of driving down the street.

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

MOTION CARRIED

Appeal No. 6

Frank & Erica Mufalli
Residential Single-Family
Town Code Reference:
1) §229-55(H)
2) §229-55(H)

Applicant requests variances:
1) to allow a secondary detached garage (shed); and
2) of 108 sq. ft. to allow a 308 sq. ft. detached accessory structure (shed); located at 9458 Kristina Circle.

DISCUSSION:

Frank and Erica Mufalli were present to represent their request, explaining that they would like to build a shed in their backyard for storage. The proposed shed will basically be a miniature version of the home, they are using all of the same materials and colors. The window will be an almost exact replica of the windows on their home, the overhead door will match the overhead door on their home.

Mr. Mufalli stated that they have talked to their neighbors on both sides and across the street, they are all fine with the plans.

Chairman Mills confirmed that the proposed structure will be stick-built on the property.

Mr. Mufalli responded yes, on a slab pad.

Chairman Mills confirmed that the siding will match the house.

Mr. Mufalli responded yes.

Mr. Drinkard asked if the proposed structure will be right on the side of the house, 5' away from the neighbor's fence.

Mr. Mufalli responded yes.

Mr. Drinkard stated that there is a similar structure going up just down the street.

Mr. McNamara noted that there is an easement to the rear of the property, so the back buffer will prevent the back neighbors from seeing the proposed structure.

Chairman Mills noted that there are other sheds in the neighborhood, and asked the applicant if they have any idea how many.

Mr. Mufalli responded at least 5.

Noting that there is a Homeowner's Association (HOA), Chairman Mills asked Mr. Mufalli if they need to get approval from the HOA.

Mr. Mufalli stated that before they started the variance process, he called the HOA and told them the approximate size. They said that they cannot give formal approval until a building permit is obtained.

Mr. Krey asked Mr. Bleuer why the variance states "to allow a secondary detached garage" instead of a shed.

Mr. Bleuer stated it is because the applicant is proposed a roll garage door.

Mr. Krey confirmed that if they did not have a garage door proposed, they would not need a variance for that prong.

Mr. Bleuer responded yes.

Mr. Krey asked if they have any intention of extending the driveway to the proposed structure.

Mr. Mufalli responded no.

Mr. Krey stated that his personal preference, he is not a fan of garage doors on sheds; he prefers regular doors. Otherwise, it looks like a garage in the backyard.

Mr. Krey asked Mr. Mufalli how big their home is.

Mr. Mufalli responded that it is approximately 2,300 sq. ft. He explained that they originally wanted to have a 2.5 car garage, the house is designed with a 2.5 car garage, but their lot is shaped like a pie. When it came to building the house, the lot was not wide enough to fit the 2.5 car garage.

Mr. Dale asked if the shed will have any utilities.

Mr. Mufalli stated that they are not sure about electricity yet, but otherwise none.

Mr. Dale confirmed that the outside of the shed will mimic the house.

Mr. Mufalli responded yes; including the roof.

Mr. Dale asked Mr. Mufalli if they plan to do any landscaping around the proposed structure.

Mr. Mufalli responded yes, most likely around the 3 sides, excluding the back.

Mr. Rung noted that he foresees ATVs and pool supplies stored inside.

Mr. Mufalli responded ATVs most likely, no pool yet.

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 noted that Mr. Mufalli stated that they will store lawn furniture and similar items inside the proposed shed.

Mr. Mufalli responded yes.

Mr. Drinkard asked if they plan to run a business out of the proposed structure.

Mr. Mufalli responded no.

ACTION:

Motion by Gerald Drinkard, seconded by Steven Dale to **approve** Appeal No. 6 as written.

ON THE QUESTION:

Mr. Drinkard stated that there are other sheds and accessory buildings similar to this request in the neighborhood.

Mr. Drinkard also stated that the back of the house faces what appears to be a rough area of land of an easement that is not to be built on, and no neighbors.

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

MOTION CARRIED

Appeal No. 7

Chris Janson
Agricultural Rural Residential
Town Code Reference: §229-44(F)(2)

Applicant requests a variance of 5' to allow a 5' detached accessory structure side yard setback located at 9751 Martin Road.

DISCUSSION:

Chris Janson was present to represent his request, explaining that he'd like a gravel driveway to align directly with the center line where the door will be for a proposed 14' by 28' accessory building. The center line of the door with the center line of the gravel driveway.

Mr. Dale asked why the door is not moved to the left then line it up without asking for an additional 4'.

Mr. Janson stated that the aesthetics of the building. On the side of the garage and family room wall there is 16' to the property line. There is an asphalt bump-out from the asphalt driveway that goes to Martin Road. The bump out is where it is 10' wide and where the gravel driveway will be installed.

Mr. Janson explained that when he is accessing the structure, he would like the center line of the door to be in the center of the 14'. Aesthetically, he would like it to be centered.

Mr. Dale stated that there is not a lot of room between the house and all the brush on the side that people would not see that except for perhaps Mr. Janson. That is the aesthetic.

Mr. Dale asked Mr. Janson if he intends to back the boat up to and parking it in to the shed.

Mr. Janson stated no; it will not fit in the shed.

Mr. Dale stated that when visiting the site, he was confused by the stakes that Mr. Janson posted because he could not figure out where the 14' mark was.

Discussion continued with where the markers were placed.

Mr. Dale stated that it appeared as though the proposed shed will be very close to the ditch on the side, there is a lot of landscaping.

Mr. Janson stated that the ditch is 5' to the west, and where the structure will be will have a gravel foundation right up to the property line. It will be leveled and improved, have gravel all the way up to the property line, then from the front of the structure to the asphalt bump-out will be a 10' wide gravel driveway extension. 6' of landscaping to a fence that will be 6' by 90' long. It will be landscaped along the 6' of new area.

Mr. Dale stated that the sole reason for the collinearity is solely for aesthetics.

Mr. Krey asked why the shed just cannot be moved over.

Mr. Janson explained that the lot is 100' wide, the structure of the house has only 16' to the growth and swale, and the other side of the building has 13' to the other side of the property line. They are planning to have a stamped-concrete patio put in, landscaping, there is a large tree in the back, a fire pit. The back patio will be removed and it will all be landscaped and improved. To move the shed 5' farther to the east would require this gravel driveway to dog-leg out another 5' to give you the full 10' of the required setback.

Mr. McNamara stated that while he was at Mr. Janson's property today and he looked to the west side, there is really nice, solid green scaping where nobody to the west can see the property. The view from the east is also mitigated with the pool and a tree line. The street view has 3 large trees and you really cannot see much of this proposed building. He understands keeping the driving nice and straight, and keeping everything symmetrical.

Mr. Drinkard is in complete agreement with Mr. McNamara's statements.

Mr. Rung asked if the proposed positioning of the shed will impact the ability to get behind the house such as an ambulance or pickup truck.

Mr. Janson responded that he believes there is plenty of room. If he has to haul items to the back with his pickup, he goes in from either the east or west sides.

Neighbor Notifications are on file, one email was received by the neighbor at 9737 Martin Road stating that she did tell Mr. Janson that they prefer all structures and driveways and fences to be within the zoned laws and rules of the Town of Clarence and no closer to the property line.

In regard to Public Participation, no one spoke.

With no one wishing to speak, Public Participation was closed for this item.

Mr. Drinkard stated that the ditch that was mentioned is loaded with phragmites, which is a weed that gets thicker and thicker. The neighbor that makes the point of being closer to the property line will not be able to see what is being proposed due to the thickness of these weeds.

Chairman Mills asked if the driveway will be 10' off of the property line.

Mr. Janson responded that the driveway will be 6' off the property line, and 10' wide, so from the edge of the west wall of the house there is 10' of gravel that will be added and from that 10' there will be a remaining 6' to the property line which is where the 90' fence, 6' high will be. Chairman Mills asked Mr. Bleuer if the variance is needed for the driveway going back.

Mr. Bleuer responded no; typically, code is 3' off of the property line or enough to accommodate drainage.

Mr. Janson asked Mr. Bleuer for clarification on the email that he mentioned.

Mr. Bleuer explained that the neighbor at 9737 Martin Road believes that anything Mr. Janson does on his property should comply to code.

ACTION:

Motion by Richard McNamara, seconded by Gerald Drinkard to **approve** Appeal No. 7 as written.

ON THE QUESTION:

Chairman Mills stated that there is extensive vegetation around Mr. Janson's property, and some vegetation facing Martin Road which would make this difficult to see from almost any angle.

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

MOTION CARRIED

Meeting adjourned at 7:33. with a motion by Richard McNamrara.

MOTION CARRIED

Amy Major
Senior Clerk Typist