

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday, November 18, 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
Forest Rung

Town Officials present:

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

Other Interested Parties:

Derrick Ford
Richard Truman
Louis Vinci

Ann Davis
Victoria Frey
Marion Olivieri

Garth Davis
Gary Frey
Lisamarie Ackley

Angelina Melkkumyan
Laurie Widman
Omar Abdallah

NEW BUSINESS

Appeal No. 1

John Grieco
Residential Single-Family
Town Code Reference:
1) §101-3(B)
2) §101-3(C)(2)
3) §101-3(I)

Applicant requests variances:

- 1) of 1' to allow a 7' tall fence in the side yard and rear yard; and
 - 2) of 2' to allow a 6' tall fence in the front yard; and
 - 3) to allow the non-climbable (finished side) of the fence to not face the neighboring properties;
- located at 10920 Stage Road.

DISCUSSION:

John Grieco of 10920 Stage Road stated he would prefer to retain the 6' fence height in the front instead of 4' due to privacy and the height will not obstruct neighbors view from their driveways. The fence is set back 40 feet from the road. He will make repairs to the rear fence, fixing the posts that were not properly installed. All panels are 6' but some were raised due to the sloped lot. He would like to keep the fence as it is with the stated variance request.

Mr. Drinkard walked the property and stated it is a unique lot with slopes and pitches with some of the panels raising to 7'. Mr. Drinkard has no issues with the fence. He asked when Mr. Grieco will change the fence so the finished side faces the neighbor.

Mr. Grieco said he plans to complete the fence reversal this month depending on contractor availability.

Mr. McNamara asked why Mr. Grieco ran the fence around the backyard since the neighbor is not visible from his house.

Mr. Grieco responded, because of the pool in the neighbor's backyard. Mr. Grieco also has fires and parties in the backyard and wanted the fence for privacy.

Chairman Mills said Mr. McNamara may have been inquiring why the finished side was not originally facing the neighbor.

Mr. Grieco stated that is the way the contractor installed the fence. He did not request it that way.

Chairman Mills asked if Mr. Grieco was going to switch it back and Mr. Grieco stated, one hundred percent. Chairman Mills said the third prong can be removed and is no longer an issue.

Mr. Drinkard said the fact is, the fence is not fixed yet. The variance is still there.

Chairman Mills referred to Mr. Bleuer on that issue, with a certain time to bring the fence into compliance.

Mr. Bleuer stated we would ask that this Board determine an agreeable time with all involved if that prong is to be removed.

Chairman Mills proposed 60 days to which Mr. Grieco agreed.

Mr. Krey asked if the contractor asked Mr. Grieco about getting permission to build the fence.

Mr. Grieco said he did not.

Mr. Krey asked if there was anything that could be done to level the fence line. It looks like it is in segments and there are steps up. He asked if there is anything to be done to bring it in line?

Mr. Grieco said he would check with the contractor to make it more even.

Mr. Dale confirmed that Mr. Grieco had someone else build the fence, and that he did not build it.

Mr. Grieco responded yes.

Mr. Dale asked how Mr. Grieco would reduce the area below the fence that is open.

Mr. Grieco stated he is still doing landscaping in the back and will have more fill brought in the back. He will have the contractors add dirt closer to the fence to bring it up.

Mr. Dale said if Mr. Grieco backfilled with dirt, then that would negate the need for a 7' variance, it will be a 6' fence.

Mr. Grieco said he will bring stone in the back and soil to level the back area.

Mr. Rung had no questions.

Neighbor Notifications - three are on file per Mr. Bleuer, significant inquiry was received but no written comments were received.

In regard to Public Participation, the following resident spoke:

1. Mark Baron of 10930 Stage Road:

- glad the fence will be reversed to have the finished side face his property.
- does not think the fence should be 7' and believes the fill will cause flooding problems on his property
- upset that a permit was not obtained prior to completing the fence
- a variance could have been taken care of prior to building the fence.
- stated that Mr. Grieco did it this way to save himself money, and it is a nuisance to him for something that is in his backyard that looks hideous
- stated the fence is up at an angle and he has pictures showing how bad the fence looks from his view, it is up and down the whole entire way.
- It was a stick-built fence, there were only 7 sections in the entire fence that were put together. Mr. Baron told the Board to come sit in his yard and take pictures of what he sees all day; it does not look as pretty as it does on Mr. Grieco's side.
- stock fences go down, not up.
- stated the fence was started 8" above the ground to go to 7'.
- Mr. Baron has done fences before, and he knows people that do fences and they follow the contour of the grade.
- The fence does not look right from his yard and devalues the property of his house and his backyard
- feels the variance should not be granted
- feels Mr. Grieco should have taken care of it properly, he would have known all the rules and regulations, and the law prior to doing the fence. The permit was obtained after the fence was installed
- Mr. Baron stated that he asked the contractors if there was a permit, and the contractors said that Mr. Grieco got a permit
- does not see the need for a fence when there are trees to block the view and the fence detracts from the neighborhood aesthetic
- Pictures were given to the Board as Exhibit A – 8 pages of photos from Mr. Baron.

- Mr. Baron added that he feels the fence is a nuisance because Mr. Grieco has a whole line of trees down his property line already
- along with whatever the reason was for the fence in the back and to take away the greenery and the beautiful neighborhood that they have had for the last 20 years
- Mr. Baron spoke further regarding the uneven fence and the fact that the fence does not start at the ground
- he took issue with the appearance of the fence compared to others in the area
- complained about Mr. Grieco not properly grading his property in the first place

After the Board reviewed the photos that were submitted, Chairman Mills asked Mr. Grieco if he would like to address the comments that Mr. Baron made.

Stating that he is upset, and Mr. Baron is obviously upset, Mr. Grieco stated that he passes on commenting, and would like for the Board to make their decision.

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

Chairman Mills stated that along the back, Mr. Grieco should be able to see how that impacts his neighbor.

Mr. Grieco stated with all due respect, he has every right to put a fence up.

Chairman Mills stated that they are not disputing it is not Mr. Grieco's property, and he can put a fence up.

Mr. Grieco stated that he gave Mr. Baron an extra 2 ft. on the property line in the back to act as a buffer.

Chairman Mills stated that he feels the issue is more about the slope of the rear fence. With the side property line, it goes down, but the rear is pretty flat. To have it all be level does not seem like a huge request.

Mr. Grieco stated that he has no issue with that, and can do that.

Chairman Mills asked if they made a condition that the climbable side is to be reversed within 60 days. A second condition that the rear fence is completely leveled all the way across, that is something he would be amenable to?

Mr. Grieco agreed to those conditions.

Chairman Mills stated Mr. Grieco would maintain 6 ft. along the back, and 7 ft. on the sides.

Mr. Baron wished to be heard again. He stated, after the pool, the fence takes a dip back to the corner along the side of the property. If Mr. Grieco is able to stay with a 7 ft. fence, what happens with the back, they should be 7 ft. pickets. The fence should be level at the ground and step down with the grade not up with the grade to get 7 ft. level. The fence should not be above

the ground. It is not a good look from his yard. The other fences in the area start at 4 ft in the front and are nicely stepped and maintained and even, starting at the ground not in the air and keeping off of the ground. Mr. Baron stated that it is not a good look in his yard, it might be ok for Mr. Grieco's yard because he has trees that cover all his stuff and he wants to put dirt on it. He also complained about extra soil to be brought in for the slope of the property causing grading and flooding issues for his property that he then has to back fill back up to the fence so that it doesn't fill and get saturated. Mr. Baron said that Mr. Grieco should have built his property the correct way to begin with, brought the grade up instead of putting a berm around his house but he chose not to and to leave all the rest of the grade around the whole entire property and the way it was. No matter what size fence is put in you will see it no matter what. He never saw a fence step off the ground 8 inches to go to 7ft. he has seen it start at the ground and go level across and step as it goes down the grade and not up off the grade.

ACTION:

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

1. approval limited to variance of 1' to allow a 7' tall fence in the side yard (north/south run). No variance is granted in regard to the fencing in the rear yard (east/west run) behind 10930 Stage Rd.
2. Rear (east/west run) fence to be completely level at ground level all the way across.
3. North/South run fence panels must begin at ground level and may be elevated up to a maximum of 7' from ground level on air gap end of each fence panel.
4. applicant has 60 days to reverse the climbable side of any and all improperly installed fence panels.

Mr. Grieco stated that he understands the conditions.

ON THE QUESTION:

Mr. McNamara addressed Mr. Grieco, stating that if he brings soil in up to the fence, he is not to impact his neighbor in any way. Any water that runs on his property is to stay on his property, and if a swale is needed to raise it, he could do that. Otherwise, there is the potential for more problems.

Mr. Grieco stated that he understands.

Regarding the concerns voiced by the neighbor, Mr. Krey stated that he understands the issues, and found his statements compelling in a sense that it was having an impact on the view. The zoning is not to alter the character of a neighborhood in an undesirable fashion. Turning the fence around, and the fence in the back is basically what will be conforming.

Mr. Krey stated that in terms of the fencing on the side on the neighbor's side of the yard, they are mitigating the issues in terms of the appearance of it, and he believes that will bring it more in to fitting in to the character of the neighborhood.

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

MOTION CARRIED

Appeal No. 2

Greg Duell
Planned Unit Residential Development
Town Code Reference: §196-3(C)

Applicant requests a variance to allow a swimming pool to be located within the front yard setback located at 5925 Kilkenny Manor.

DISCUSSION:

Greg Duell was present to represent his request, explaining that his lot is a corner lot and in order to not jam the proposed pool in to the backyard, and in close proximity to the neighbor's yard, Mr. Duell stated that they would like to put it in the side yard. The variance request is more protecting of the neighbor's property value than for his own benefit.

Additionally, Mr. Duell stated that they have young children and if the variance is not granted, the fence layout that would be required would end up enclosing more of the backyard than enclosing the pool.

Chairman Mills read in to the record a 5-page document that Mr. Duell distributed as Exhibit A.

Mr. Duell explained that the layout that was included with his variance application shows the fence around the pool. This would allow his children to enjoy the backyard without having access to the pool area.

Chairman Mills stated for the record that Mr. Duell gave the Board a 5-page document titled "Layout 2" entered in to the record as Exhibit A

Mr. Duell also stated that their house is very central in this neighborhood, they always have a multitude of kids at their house, playing in their large side yard. Putting the pool in the proposed spot would allow them to still see the activity and kids playing in the side yard.

Mr. McNamara stated that while he was on-site, he did take note of all of the trees along the side yard.

Mr. Duell stated that they would attempt to maintain as many of trees as possible, especially the large ones. Additionally, in the small corner that does not have trees, they would put some privacy landscaping in to help mitigate the view.

Mr. McNamara noted that the pool is shown as being 50' off of the side lot line.

Mr. Duell responded yes.

Mr. McNamara asked Mr. Duell what kind of fencing they plan to put in.

Mr. Duell responded that it would be a 48" black wrought-iron fence.

Noting that the pool will be fenced in, Mr. McNamara asked if there will be any access from the house to the pool area.

Mr. Duell responded that there will be 3 gates; one towards the back corner of the lot where they have a trampoline, one towards the garage, and one towards the patio side.

Mr. Krey asked if there are any other corner lots in the neighborhood that have a pool.

Mr. Duell responded that he looked and there are not a lot of pure corners in the neighborhood that have a pool similar to this.

Mr. Duell stated that it is his understanding that the purpose of the variance is because the pool structure is not contained within the limits of the house.

Mr. Dale stated that after walking the property, it appears that the pool could be moved 10'-15' further east, and stay out of the front yard setback. This would keep the area where the kids play as open as possible.

Mr. Duell stated that the drawing the Board is looking at does not have dimensions on it, and if he needed to keep the pool structure within the limits of the house itself, he would encroach further on the rear yard.

Mr. Bleuer stated that he believes the standard setback for a pool is 10' to a property line. Mr. Duell explained that in his rear yard there is a line of trees before his neighbor's fence and if he put the pool within the limits, he would really encroach and most likely be within the setback requirements. His issue is that the neighbor's patio is so close to the rear property line, and having a pool so close to the neighbor's patio would limit their enjoyment of their patio. He is trying to be respectful of his neighbor's privacy and property lines.

Mr. Duell stated that while it may be possible for him to accomplish this without a variance, but he is trying to balance both of the conditions.

Mr. Dale acknowledged Mr. Duell's thoughtfulness, but stated that he feels Mr. Duell can accommodate both. He can move the pool to the east and not impact the neighbor, while keeping the side yard for the kids to play as open as possible.

Mr. Duell clarified that where the pool is proposed is not exactly where the kids play, but more on the southwest corner of the lot. Having the pool in this proposed location would allow them to have a view of the pool and the kids from all areas of the yard.

Referring to the swing set, Mr. Rung asked if Mr. Duell anticipates cutting down additional trees.

Mr. Duell stated that he hopes not to. He would move the pool over far enough so that he does not have to, as he would really like to keep the trees, especially the large ones.

Mr. Rung stated that he agrees; the trees that are there now make a nice pocket for the pool.

Mr. Duell noted that when they built the house, they asked the builder to try to preserve as many of the trees as they could. Preserving the trees is very important to them, and keeping the character of the neighborhood is important to him.

Referring to the aerial view of the property, Mr. Drinkard noted that the house is farther over to the lot line.

Chairman Mills stated that Mr. Drinkard is referring to a Planning Department aerial view with the pool depicted as a red box. It was entered it in to the record as Exhibit B.

Mr. Drinkard stated that the house to the rear is closer to the street than Mr. Duell's house.

Chairman Mills noted that the house Mr. Drinkard is referring to is 9123 Curry Lane.

Mr. Drinkard explained that the case is made that the house at 9123 Curry Lane is smaller and could not have a pool, it does not have the room to have a pool. One of the things that they discussed is the plant and tree growth that would be put in to supplement what is already there. He would not want to destroy growth on the rear lot line only to have the pool located in the back yard, and the neighbor would be looking at the pool instead of the greenery.

Mr. Drinkard stated that the supplemental documents that were submitted, selling the fact that Mr. Duell will add supplemental plantings will sell the fact that while the pool might be in the side yard, the side yard is larger, it will not be an issue.

Mr. Duell stated that when they built the house, they had it shifted all the way over to the eastern lot line in order to create the side yard for their kids to play in.

Mr. Drinkard stated that the subdivision is covered by a Homeowner's Association (HOA), and if and when the variance is approved, then they will proceed to the HOA to attempt to get an approval from them as well.

Mr. Duell responded yes; they have a small HOA that does like to keep the character of the neighborhood. He has not started the process with the HOA yet at this point, because it is a moot point if the variance is not approved.

Referring to the rear buffer, Chairman Mills stated that in Mr. Duell's 3D renderings, he has an assortment of plantings along the north property line.

Mr. Duell responded yes.

Chairman Mills asked Mr. Duell to describe his plans for that property line to buffer the neighbor's view.

Mr. Duell stated that the Juniper that is back there have grown significantly through the years, already providing a nice buffer. To keep consistent, he would most likely plant additional Juniper, as Arborvitae have not grown well on his lot.

Chairman Mills asked if they made it a condition that Juniper or something similar is to be planted along the north side of the pool, at least 4' in height, would Mr. Duell agree to that.

Mr. Duell responded yes, adding that it will take a while for the Juniper to reach that height, and also that his neighbor to the north's property is very well protected with the trees that are currently there. In the summer time when the trees are all grown in, the leaves create nice privacy.

Mr. Duell stated that he can plant more along that side, his concern is that there is a fence there and technically he would need to plant on the neighbor's property to keep the row of Junipers going. He would be amenable to that condition.

Chairman Mills explained that he is more concerned with the area that Mr. Duell shows in Exhibit A, page 2 where it shows plantings along the side of the pool. Chairman Mills asked if that is the neighbor's property.

Mr. Duell responded no; that is the side yard, and there are some trees.

Mr. Duell showed the Board documentation that the pool company gave to him, adding that he is unsure how accurate it is.

Chairman Mills referred to page 4 of Exhibit A noting that this is the side that faces the neighbor, with Arborvitae or similar trees depicted.

Discussion continued regarding types of trees depicted.

Chairman Mills stated that he is looking for some additional landscaping on Mr. Duell's property, along the north side and asked Mr. Duell what he would be amenable to.

Mr. Duell reiterated that he would continue the line of Juiper and he would probably need to bring them around the pool so that they curve on to his property. He plans to do that to help create the privacy that is beneficial for both of them.

Mr. Krey asked if this will be done only on the north side of the pool, and not the west side which is the street side.

Mr. Duell noted that he plans to do something similar along the west side also.

Chairman Mills asked if they made it a condition of the variance that the Junipers are to be continued along the north and west side, would Mr. Duell agree to that.

Mr. Duell responded yes.

Mr. Krey asked if this would be done within the fenced area or on the outside of the fence.

Chairman Mills stated that it will be left to the discretion of Mr. Duell, as long as it is on his own property.

Neighbor Notifications are on file, no comments were received.

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

ACTION:

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

1. plant Juniper or similar on the north and west sides of the pool at least 4' in height

Mr. Duell has heard, understands, and agrees to the condition.

ON THE QUESTION:

Mr. Krey stated that the shape of the applicant's lot makes this request unique, also although the request is to allow the pool in the front yard, it will mainly be between the rear and side yards. It is not all in the side yard, it will partially be in the backyard also.

Also, the condition imposed will help to mitigate any issues of it altering the character of the neighborhood, he believes it will fit in just fine in the subdivision.

Chairman Mills added that there is existing foliage which provides a nice natural buffer along the north side and a portion of the west side. The applicant has agreed to additional plantings also along the north and west side that will further mitigate any views of the pool area from neighbors.

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

MOTION CARRIED

Appeal No. 3

Angelina Melkumyan / Milidami, LLC.
Commercial
Town Code Reference: §229-126(D)

Applicant requests a variance to convert an existing commercial unit into a residential multiple-family unit located at 9678 Main Street.

DISCUSSION:

Mikhail Yuzbashev and Angelina Melkumyan were present to represent their request, explaining that there are two duplexes on the property, the tenant in the front building has been there for 10 years. She is running a business out of one side, while living in the other side.

Mr. Yuzbashev explained that the current tenant is moving out, and they would like to convert the unit being used for business to another residential unit. The reason they are hoping to convert that is because the rear building also has two residential units. It is a very quiet place, and he feels it would fit well, would look more uniform, and be easier to maintain. It would bring the buildings to their original intent from when they were built.

Mr. Krey asked if there is a commercial issue, if they are not sure they can get another business to replace the commercial business in there currently.

Mr. Yuzbashev responded not necessarily; he does not know what kind of business they will get putting it up for rent as a commercial space. Traffic is a concern also, it gets busy and having residential units there also, sometimes people do not like having the busyness of a commercial space.

Another major concern is the driveway for Spaulding Lake is right next to this property, and Mr. Yuzbashev has found it difficult to turn on to Main Street. Depending on what kind of business would move in there, there is the potential for traffic problems and unhappy tenants.

Mr. Krey stated that his impression of the area, notably with the large mixed-use development just down the road, is that it would not be out of character to keep it as a commercial use. He does not feel there would be any problem finding someone to run a business out of the location, and there is ample traffic.

Noting that this property is in a commercial area, Mr. Dale said that if the one building is converted from a combination of commercial and residential to straight residential, it would not fit in.

Mr. Dale stated that he will have a difficult time allowing what the applicant is requesting, and making the entire property residential.

Mr. Rung confirmed with Mr. Yuzbashev that the building was previously all residential.

Mr. Yuzbashev responded yes; it was two duplexes, two units in each.

Mr. Rung asked if at some point it was changed to a commercial unit in the front.

Mr. Yuzbashev explained that the previous tenant was there for over 12 years. She got the building and she did the business in one side and lived in the other side. When it was originally built it was residential. It is really nice and a quiet area, right next to Spaulding Lake

Chairman Mills confirmed that the applicant recently purchased the property.

Mr. Yuzbashev responded yes.

Chairman Mills noted that as it is now, there are 3 residential units and one commercial unit.

Mr. Yuzbashev responded yes.

Chairman Mills asked if the commercial unit is laid out like an apartment, or is it commercial in nature inside.

Mr. Yuzbashev responded that it is residential.

Chairman Mills asked Mr. Bleuer if this building was constructed today in the current zoning, would there be a commercial component required.

Mr. Bleuer responded yes there would.

Chairman Mills asked what percentage of the 4-unit would be commercial.

Mr. Bleuer explained that it is a bit of a complex calculation, the multi-family code reads is 50% of the property has to be reserved for commercial development. This is done through a residential density calculation. There are incentives for mixed-use design where residential density can be acquired through a mixed-use building with first-floor commercial.

They do agree that this building was originally constructed all residential, and since that time the code has changed to require this commercial component and as such, a variance is required to return it to what it was originally constructed.

Chairman Mills asked Mr. Yuzbashev if they plan to do anything with the vacant land surrounding this building.

Mr. Yuzbashev responded no; not at this time.

Referring to Mr. Yuzbashev's statement that access to Main Street is difficult, Mr. McNamara asked if the variance was approved, would Mr. Yuzbashev ever consider putting in a driveway to the side street and get rid of the curb cut.

Mr. Yuzbashev responded that he does not think so, no. It would also be very expensive

Mr. Drinkard asked Mr. Bleuer when it comes to converting commercial to residential, what about in the future a tenant decides to return to commercial.

Mr. Bleuer stated that a variance would not be required as long as all additional code is met. Commercial would be allowable, and that would be permissible to do.

Neighbor Notifications are on file, no comments were received.

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

ACTION:

Motion by Gerald Drinkard to **approve** Appeal No. 3 as written. The motion failed for lack of a second.

Appeal No. 4

Richard Truman
Agricultural Rural Residential
Town Code Reference: §101-3(C)(2)

Applicant requests a variance of 6" to allow a 4'6" fence to be within the front yard setback located at 10475 Bergtold Road.

DISCUSSION:

Mr. Truman was present to represent his request, explaining that a couple of months ago he adopted a dog, and the adoption center requested they have a fence built. He also has 5 kids, 3 of which are 12 years old and under.

Mr. Truman added that they have wanted to get a fence for some time, and his neighbor recently erected a fence as well. His neighbor told him that as long as it is in the backyard, he can have a 4' 6" fence, not realizing that being on a corner lot, his backyard is also his front yard.

His house is located across the street from the Brothers of Mercy, and often times employees park along his side yard when taking their breaks. Mr. Truman travels a lot for work, and would like to keep his family and dog safe in their yard.

Mr. Dale stated that the fence is there, it looks nice, and he does not have any issue with it. Neighbor Notifications are on file, no comments were received.

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

ACTION:

Motion by Richard McNamara, seconded by Patrick Krey to **approve** Appeal No. 4 as written

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

MOTION CARRIED

Appeal No. 5

Lisa Ackley
Residential Single-Family
Town Code Reference: §229-52(B)

Applicant requests a variance of 4'2" to allow an 8'4" principal structure side yard setback located at 4730 Sawmill Road.

DISCUSSION:

The applicant Lisa Ackley was present to represent her project, as well as Steven Kalicharan, representing the applicant.

Ms. Ackley explained that she would like an extension on the house that she just recently purchased and would like to make it bigger.

Mr. Drinkard asked Ms. Ackley if she is just putting a bedroom on the back of the house.

Ms. Ackley responded yes; she is basically extending the bedroom.

Mr. Drinkard stated that it appears her current house is where the bedroom is going to be. The side of the house will be a continuation, and basically be exactly the same in terms of the setback.

Ms. Ackley responded yes.

Mr. Drinkard asked Ms. Ackley how she plans to side the proposed addition; will it be the same color as the current house.

Ms. Ackley responded yes; she plans to have it look exactly the same.

Mr. McNamara noted that the existing house is the same setback, it is basically one solid line.

Mr. Krey also noted that while it appears on paper that it will be sticking out, it will be completely in line with the house.

Mr. Krey asked if the house was built not conforming to code, or was the code changed after the fact.

Mr. Bleuer explained that they would honor the pre-existing side yard setback as established, however the property line tapers in ever so slightly in to the back so although it is following the line of the house, it is not following the property line. It is reducing the setback very slightly, which resulted in this variance request.

Neighbor Notifications are on file, no comments were received.

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

Mr. Drinkard asked if there will be a basement under the proposed addition.

Mr. Kalicharan responded no; just a crawl space.

ACTION:

Motion by Steven Dale, seconded by Patrick Krey to **approve** Appeal No. 5 as written, with the following condition:

1. siding and roof shingles to match the existing home

The applicant agrees to the condition.

ON THE QUESTION:

Mr. Krey stated that what makes this unique is that the existing home is at the same setback aside from the sloped yard. Making it conform to code would result in the house being awkward and not perfectly in line. Granting this variance will help it to fit in better with the character of the neighborhood, and not have any undesirable effect on the neighboring properties.

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

MOTION CARRIED

Appeal No. 6

Gary & Victoria Frey
Residential Single-Family
Town Code Reference:

- 1) §229-52(A)
- 2) §229-55(D)

Applicant requests variances:

- 1) of 13' to allow a 36'6" principal structure front yard setback; and
- 2) of 612 sq.ft. to allow a total of 1,146 sq.ft. of attached accessory structure (garage) space; located at 5175 Meadowbrook Road.

DISCUSSION:

Gary and Victoria Frey were present to represent their request, explaining their plans and noting that their driveway is a lot longer than the setback, at 85 ft. long.

What they are attempting to do is deal with aging, as their bathroom is on the second floor, they do not have a bathroom on the first floor. They have a small bedroom on the first floor that they would like to convert to a bathroom and closet, and then bedrooms in the front of the house so that everything is on one floor.

Mr. Frey added that the reason for the garage is because they do not have a basement or extra storage space. A single-story addition is much less costly than a two-story addition inside the property.

Mr. Frey explained how costly it would be to do a second-story addition, adding that it would cost more than the house is worth.

Mr. Frey stated that the reason they are requesting 13' is to allow for handicap capabilities.

Chairman Mills asked Mr. Frey if they explored extending to the rear rather than to the front with the bedroom addition.

Mr. Frey stated that if they went to the back, they would need to dig up the septic system.

Chairman Mills noted that it would be cost prohibitive in terms of location.

Mr. Frey stated that he does not think there is enough space in the front between the gas lines, water lines, and trees. If they could relocate the septic system to the front, it would have to go over to the side yard.

Chairman Mills stated that they clearly have more space to the back of the yard to relocate the septic system.

Mr. Frey stated not without taking out all of the trees.

Discussion continued regarding the layout of the Frey's backyard in regard to trees and the septic system.

In terms of the front façade, Chairman Mills asked if there will be stone on the front elevation.

Mr. Frey responded yes; they are trying to dress it up a bit.

Chairman Mills explained that the Frey's are requesting that the law be varied for them by allowing them to come closer to the street, the Board likes to see some aesthetic appeal. Whether it is stone or brick, it is a nice added design element.

Mr. Frey stated that all of the existing landscaping has to be moved but they do plan to put it all back.

Chairman Mills referred to a submission provided by Mr. Frey of the front elevation titled A2, stating his concern for the 3-part garage in proportion to the house. He noticed one peak has been added.

Mr. Frey stated that they added one peak on the right-hand side in an attempt to balance the line.

Chairman Mills would like to see more done with either peaks or dormers in the front to balance the long span. Something else aesthetically is needed

Mr. Frey stated that he could put another peak above the first garage door.

Chairman Mills noted that the balance may be off.

Mr. Frey suggested two small dormers above each garage door.

Chairman Mills stated that may work better.

Discussion continued regarding the placement of dormers.

In terms of other materials, Chairman Mills asked if the proposed addition will be vinyl sided along with the stone.

Mr. Frey stated yes, to match the existing vinyl siding.

Chairman Mills noted the architectural shingle roof, and asked if it will be cedar-shake vinyl in the peaks.

Mr. Frey responded yes; the entire house is going to be re-roofed.

Chairman Mills asked if they make it a condition of the variance that 2 dormers are added over the two garage doors, stone to the bottom of the windows, and vinyl-cedar shake, would Mr. Frey be amenable to those.

Mr. Frey responded yes.

Mr. Krey stated that he is ok with the variance for the front yard setback encroachment, but he does feel that the garage will look awkward being that long. He knows Mr. Frey stated that their reasoning is because they do not have a basement and they need more storage room, but do they need an addition to the garage, or can they find alternative storage solutions.

Mr. Frey stated that the other reason is because his truck is too long. The first garage area next to the man-door is for storage of the lawnmower, lawn equipment, snowblower, etc. The second bay is for his wife's car, and the proposed third one is for his truck.

Mr. Dale noted Mr. Frey's workshop, asking what he does in the workshop.

Mr. Frey responded that it is merely handyman type work. He has done most of the remodeling in the house, he tinkers in the workshop.

Mr. Dale confirmed that currently the bedroom and bathroom are both upstairs.

Mr. Frey responded yes.

Mr. Dale confirmed that they want to put a new bedroom and bathroom downstairs.

Mr. Frey responded yes; he will convert the existing bedrooms upstairs which really is not a bedroom, it has a 2 ft. by 2 ft. corner closet. It is an 11 ft. by 12 ft. bedroom that he will split in half and put a bathroom on one side and a closet on the other, and extend the front of the house. They are taking 2 ft. of the bedroom to give them a bigger bedroom.

Mr. Drinkard noted that there is a large tree in the area where the proposed 3rd garage is planned to go, and asked if Mr. Frey plans to take it down.

Mr. Frey responded that he has to.

Mr. Drinkard added that it is a nice tree.

Mr. Frey stated that while he does not like having to remove the two trees, he will put something else in.

Mr. Drinkard confirmed with Mr. Frey that they intend to replace the entire roof.

Mr. Frey stated that they are redoing the whole house.

Neighbor Notifications are on file, no comments were received.

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. 6 as written with the following conditions:

1. stone or brick up to the window on the new front of the principle structure
2. add 2 dormers above the original garage doors
3. no business is to be conducted from the garage addition

Mr. Frey agrees to the conditions.

ON THE QUESTION:

Mr. Krey stated that the applicant gave compelling testimony, and the issues going back with the septic prevented them from building in the back yard. Also, the renderings that were shared and some of the changes that were imposed will have a desirable change to the neighborhood, and will not have any negative impact on neighboring properties.

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

MOTION CARRIED

Appeal No. 7

Derrick Ford
Agricultural Rural Residential
Town Code Reference: §229-41

Applicant requests a variance to allow a ~~200'~~ 180' principal structure front yard setback located at 6405 Conner Road.

DISCUSSION:

Derrick Ford was present to represent his request, explaining that he would like to setback the house. He believes the existing setback in the area is approximately 150' and he was informed to

have that extended back so that he is not side-by-side with his neighbor, he would need a variance.

Mr. Ford added that he purchased the lot last summer, it is approximately 150' wide and 900' deep, and he prefers to not be close to the street because it is a busy street. There is a house two houses down from him that is approximately 180' back that he is trying to line up with

Mr. Ford stated that it appears that his next-door neighbor is approximately 140' back and a large portion of the back of their lot is not being utilized. He would like to utilize more of the property.

Mr. Rung asked if there is a reason Mr. Ford would not go with 180' to match the neighbor that is two houses down, also with a 180' setback.

Mr. Ford responded that there is no reason, he was unsure of what their setback was, he was trying to match that house but did not know the size of the setback.

Mr. Dale asked Mr. Ford if the 180' setback was granted, would he be willing to put in a berm next to his property.

Mr. Ford responded yes.

Mr. Dale responded yes; the side with the 130' setback.

Mr. Ford responded that ideally, he has not discussed with his wife what the landscaping will look like, but ideally yes; he would love the privacy. He grew up in close proximity to his neighbors, his whole point of moving to Clarence was to get more space.

Mr. Dale stated that if Mr. Ford mirrors the house two doors down and the 180' setback, they also have a berm and pine trees planted for privacy.

Mr. Krey asked Mr. Bleuer about the calculation that is typically done to determine a setback, based on neighboring properties. He is trying to understand if they actually grant a variance, what it is that they are granting versus what is conforming to code.

Mr. Bleuer stated that they did identify the average setback in that area is 130'.

Mr. Ford asked if that takes in to consideration the average of the houses that are across the street as well as on the same side of the street. On Conner Road many of the houses are set back a bit farther, but on the far side where it meets Clarence Center, some of the houses have less of a setback.

Mr. Bleuer explained that it is everything on the same side of the road, north and south within approximately 500'.

Recapping thus far, Mr. Krey noted that the applicant originally requested a variance of approximately 70', but after hearing testimony of neighboring properties, has agreed to come in a bit to meet the property two houses down.

Mr. Ford agreed that if the house two houses down at 6435 Conner Road is setback 180', he would be absolutely willing to sit exactly where that house is.

Mr. Krey noted that Mr. Ford stated he did not want to be perfectly in line with the immediate neighbor, but in reality, that is where many of the setbacks are. The berm would mitigate the view of his neighbor to the north looking out his backyard and having a view of Mr. Ford's front yard.

Discussions continued regarding the placement of a berm and plantings that would establish privacy.

Chairman Mills asked Mr. Ford if he knows what the square footage is for the house that they are building.

Mr. Ford stated that he has some images of the house, and had extras for the Board. It will be a 2-story house, with a lot of the main square footage on the bottom floor with another level for kid's bedrooms. It will be approximately 3,200 sq. ft. to 3,400 sq. ft. with a 2 or 2.5 car garage.

Regarding the requested setback, Mr. McNamara asked how the topography area is, inquiring if it is wet.

Mr. Ford stated that oddly enough, there is a trail that appears to go through the area that can be seen from a Google map in the vicinity of the 250-to-300-yard mark. It appears to be pretty level, and he does know that they will need to level it out more.

Mr. McNamara explained that he wants to make sure it will not affect or impact the location of the new house.

Mr. Ford responded no; not at all.

Mr. Drinkard asked where the septic system will be placed, in the front or the back.

Mr. Ford responded that he is unsure, but hopefully the front so that they can leave the backyard available for future plans.

Referring to the neighborhood, Mr. Drinkard noted that historically the other side of the street is the wetter area. Mr. Drinkard asked Mr. Ford if he has walked his property in the backyard in the spring time.

Mr. Ford stated that he finally just got everything brush hogged and knocked down so that he can get far enough back there to be able to really walk around.

Mr. Drinkard stated that putting the septic system in the front yard would be a good idea.

Neighbor Notifications are on file, comment was received from the adjacent neighbor at 6421 Conner Road, Richard and Susan Dahn. They requested of the Zoning Board of Appeals to have the applicant not exceed the setback of the existing home at 6435 Conner Road which is in the 180' range. They also requested consideration of a berm on the north side of the property line.

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

Regarding the other side of Conner Road and the houses all seemingly following one setback, Mr. Drinkard asked Mr. Bleuer how the applicant's side of Conner Road has become so zig-zaggy with setbacks, and individualized.

Mr. Bleuer stated that he does not know, but based on the testimony of at least the neighbor, who stated that there was a variance granted for 6435 Conner Road, which has the 180' setback. Then there are two homes with a 130' setback, and further south is the 100' range of setbacks.

Mr. Bleuer added that it appears potentially that at least one variance was granted for the 180' setback.

Mr. Ford explained that the lots across the street appear to be a bit less than an acre, and on his side of the street the lots are thinner and deeper, with more ability to have greater setbacks and move the houses further back on the property.

ACTION:

Motion by Patrick Krey, seconded by Steven Dale, to **approve** appeal No. 7 of 50' resulting in a total of 180' principal structure front yard setback with the following condition:

1. berm no greater than 18" tall with no less than 4' tall evergreens or similar planting from rear of 6421 Conner Road to the front of the new home. Subject to Engineering review and approval.

Mr. Ford understands and agrees to the condition.

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

MOTION CARRIED

Appeal No. 8

Ann E. Davis
Agricultural Rural Residential
Town Code Reference: §229-40(A)

Applicant requests a variance of 15' to allow a corner lot frontage of 185' along Salt Road to allow for a Minor Subdivision of Land, which would result in one lot being split into three lots of record, located at 10725 Keller Road.

DISCUSSION:

Garth Davis, also of 10725 Keller Road, was present to represent this request. Mr. Davis is also the owner of the property. Mr. Davis explained that they own the entire corner from the creek to Keller Road, he built the house on the corner. The side yard is facing Salt Road and the front yard is facing Keller Road. It was originally at 200', but they have been working on their wills and they have decided to split the three lots. The first lot would be the one that they are on currently, and the other two would be the vacant land that is between them and 6300 Salt Road, which they also own.

Mr. Davis stated that they do not want neighbors, they have had neighbors move in from subdivisions across the road from them and it is difficult. They want to maintain the buffer zone, once the kids inherit the two lots, they can do whatever they would like to do.

Mr. Davis explained that they needed to slide the northern lot like that runs east to west towards their house, which gives them 185' along Salt Road.

Mr. Davis stated that after having a 50' x 64' pole barn built on Keller Road, they discovered the deficiency. The builders that did it discovered when they measured the lot line off of the pool fence, according to the plan, that the lot line was not enough. They went with the 300' in order to keep the pole barn at 25' 6" off of the new line.

Mr. Davis noted that this will not have any effect on anyone, and it does not change anything aside from sliding the lot line in the back 15'. The two lots are 'L' shaped to go around the property and give them some additional square footage.

Chairman Mills asked Mr. Bleuer if parcel 'A' would be a conforming, buildable lot right now with the new dimensions.

Mr. Bleuer stated that if this variance is granted, they would consider parcel 'A' as a good lot of record. It would not comply with the 200' minimum frontage on both streets.

Chairman Mills noted that the deficit is it is coming off of the 15' short on Salt Road. It meets the requirements along Keller Road, with 340' of frontage on Keller Road.

Mr. Bleuer stated that this would normally be subject to a Minor Subdivision review by the Planning Board, but due to the 15' deficiency of frontage along Salt Road for parcel 'A' as proposed, is what results in the variance review.

Chairman Mills confirmed that if it was 200' frontage a variance would not be needed.

Mr. Bleuer responded yes.

Chairman Mills added that otherwise, parcel 'B' or 'C' would be short.

Mr. Bleuer responded yes.

Mr. Drinkard asked if all of these lots began from one parent lot, then were subdivided from 2010 to what we have today.

Mr. Drinkard reviewed the three lots, adding that if they agree to separate lots A, B & C, they will make an orphan lot, and asked if that is legal.

Mr. Bleuer responded no; it is not, then asked Mr. Davis if behind 6300 Salt Road which is still owned by a family member (Mr. Davis confirmed yes) there is an existing land locked parcel of land.

Mr. Davis responded yes; in the will, that will be turned over to his son.

Mr. Bleuer asked if that is the son that resides at 6300 Salt Road.

Mr. Davis responded yes.

Mr. Bleuer stated that if the Board approves this variance tonight, and a condition was made that the land locked parcel is to be merged with the house, would that be agreeable.

Mr. Davis responded yes.

Chairman Mills confirmed that Mr. Davis would be willing to merge the parcel immediately.

Mr. Davis responded yes.

Chairman Mills stated that parcel 1 would merge with the parent parcel. This was entered in to the record as Exhibit A.

Mr. Krey stated that he found it confusing with the way the home is facing, it faces Keller Road.

Mr. Bleuer stated that being a corner lot, it has two frontages regardless of which way the house faces.

Neighbor Notifications are on file, no comments were received.

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

Mr. Davis asked why the orphaned lot could not be joined to the lot in the middle.

Mr. Bleuer stated that it can be joined to any frontage lot, so it could be joined to proposed Lot C. It was originally approved in 2010 to be assigned to a frontage parcel, and somehow it was filed at the County, no action through the Town where it was left as an illegal, non-frontage lot.

Mr. Davis noted that they kept that parcel as empty land in terms of tax purposes.

Mr. Bleuer asked Mr. Davis if he has a preference whether it goes to 6300 Salt Road, or the northernly lot that is being created.

Mr. Donohue stated that it needs to be connected to a road, so connecting it to a lot that is too far away to access a road would not work.

Mr. Davis stated that they would connect it to Lot C at 6300 Salt Road.

ACTION:

Motion by Gerald Drinkard, seconded by Richard McNamara, that the Zoning Board of Appeals has the authority to act on this request after an action through the state Environmental Quality Review Act (SEQRA).

That pursuant to article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Forms as submitted and **approve** the Part 2 and 3 Environmental Assessment Forms as prepared and to issue a negative declaration on the proposed Keller Road subdivision at the corner of Keller Road and Salt Road.

This minor subdivision of land allows for the creation of Two (2) new vacant frontage lots in the Agricultural Rural Residential zone. There are 3-lots affected by this action. The 2-lots along Salt Road meet the minimum lot standards per the Town of Clarence Zoning Code. The 1-lot at the corner of Keller Road and Salt Road does not meet the minimum standards however; the non-conforming lot does not pose as a significant adverse environmental impact and the parcel is not in sharp contrast to the surrounding existing parcels. There is no physical land disturbance as a result of this approval.

After thorough review of the submitted plan and Environmental Assessment Forms, it is determined that the proposed action will not have a significant negative effect on the environment.

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

MOTION CARRIED

Motion by Patrick Krey, seconded by Steven Dale to **approve** Appeal No. 8 as written with the following condition:

1. merge parcel 1 to either Lot C or the parent parcel at the time of filing this lot split with Erie County

ON THE QUESTION:

Chairman Mills noted that while Lot A is being reduced by 15', there is quite a bit of frontage beyond the 200' required on Keller Road. There is 340' of frontage on Keller Road. With it being a corner lot, the Salt Road side is not being reduced that much and the overall size of the

parcel is still fairly substantial. It does not appear to impact the environmental conditions or the character of the neighborhood, as the applicant is proposing the lot splits to occur.

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

MOTION CARRIED

Mr. McNamara recused himself from Appeal No. 9. The proper paperwork will be filed.

Appeal No. 9

Tammy Aranyosi
Agricultural Rural Residential
Town Code Reference: §229-44(F)(3)

Applicant requests a variance of 10'2" to allow a 14'10" accessory structure (pavilion) rear yard setback located at 8721 Hearthstone Drive.

DISCUSSION:

David Allen from R. E. McNamara was present to represent this project, stating that they would like to cover an existing multi-purpose sport court with a single structure, pitched roof and no side walls.

Chairman Mills asked how long the existing sport court has been existing.

Mr. Allen stated that he is unsure, but sometime over the past couple of years.

Chairman Mills confirmed with Mr. Bleuer that the covered structure is what triggered the need for a variance.

Mr. Bleuer responded yes.

Chairman Mills confirmed with Mr. Allen that the purpose of this covered structure over the multi-use sport court is for a hockey rink in the winter.

Mr. Allen stated yes; it is multi-sport, multi-season.

Chairman Mills asked if the roof will be a metal structure.

Mr. Allen responded yes.

Chairman Mills asked if there will have utilities run to the proposed structure.

Mr. Allen stated that there is already power out there, but there will be lights.

Mr. Drinkard asked if the Zoning Board granted a variance for the multi-purpose sport court where it is.

Mr. Bleuer explained that there was a recent variance for the addition off of the house for the pool. The sport court was existing at that time.

Mr. Drinkard asked what it will be converted to with a roof over the top.

Mr. Allen responded nothing; it will simply cover the sport court so that the kids can play multi-seasonal sports. There will not be any heat, and there will be open walls.

Referring to the recent variance for the addition, Mr. Krey asked about the neighboring properties.

Mr. Allen stated that there is a 45-acre empty lot to the south.

Discussion evolved regarding a 66' natural-gas property buffer to the rear of this yard.

Mr. Krey added that this property is quite secluded without a lot of homes around it, and the applicant has existing trees on the property.

Mr. Krey asked if there are trees behind the multi-purpose sport court.

Mr. Allen responded yes.

Mr. Rung noted that it appears 8760 County Road is not associated with the rest of the development, and it appears unlikely that the rear of the County Road lot adjacent to this request could be developed to any extent similar to the surrounding neighborhood.

Neighbor Notifications are on file, no comments were received.

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

ACTION:

Motion by Gerald Drinkard, seconded by Steven Dale to **approve** appeal No. 9 as written.

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

MOTION CARRIED

Mr. McNamara returned to the meeting.

Appeal No. 10

Omar Abdallah
Residential Single-Family
Town Code Reference: §229-55(H)

Applicant requests a variance of 52 sq. ft. to allow a 252 sq. ft. detached accessory structure (pool house) located at 5479 Martha's Vineyard.

DISCUSSION:

Mr. Abdallah was present to represent his request, explaining that he would like a larger pool house in his backyard.

Chairman Mills noted that this structure is up and already being utilized.

Mr. Abdallah stated that his pool contractor failed to file the proper permit.

Chairman Mills asked who the pool contractor is.

Mr. Abdallah responded that is Chameleon Pools; they constructed the pool as well as the pool house.

Chairman Mills asked Mr. Abdallah if he was not aware of the size restriction.

Mr. Abdallah responded no.

Chairman Mills confirmed that the pool house is being utilized to store pool supplies and other outdoor items.

Mr. Abdallah responded yes; and it has a small bathroom.

Chairman Mills confirmed that there is power and plumbing that runs to the pool house, and asked if it is heated.

Mr. Abdallah responded yes, there is power and plumbing, and no; it is not heated.

Chairman Mills noted that it would obviously be a hardship to reduce the size of the pool house at this point in time.

Mr. McNamara asked Mr. Abdallah if he obtained a building permit from the Building Department for the pool.

Mr. Abdallah stated that yes; the pool had the proper permitting.

As for the pool house, Mr. Abdallah stated that the Building Department advised him to obtain a variance first.

Mr. McNamara asked if the plumbing inspections have been completed on the pool house.

Mr. Abdallah stated that a plumbing permit has been pulled because there was some plumbing around the pool that needed to be done prior to the pool being installed.

Mr. McNamara asked if a plumbing inspector saw the building going up.

Mr. Abdallah stated that he is unsure.

Mr. McNamara asked if it is all finished inside the pool house.

Mr. Abdallah responded yes.

Mr. Abdallah stated that the electrical inspection was a 3rd party inspection who inspected the pool as well.

Mr. McNamara asked if there is pool equipment inside the pool house.

Mr. Abdallah responded no; it is adjacent.

Mr. McNamara asked Mr. Abdallah what the Building Department says.

Mr. Abdallah stated that the Building Department told him to get a variance, then they will finalize everything.

Mr. Donohue stated that granting the variance does not automatically approve any plumbing or electrical permits. The Building Department will then have the opportunity to do their due diligence.

Mr. Drinkard stated that this pool house has a roofline and is pretty much built.

Mr. Abdallah responded yes.

Mr. Drinkard added that it is not operational because it does not have the permits. Nothing needs to be pulled off or put on, a variance has been requested in order to erect the pool house and have it operational.

Mr. Krey asked Mr. Abdallah what the square footage is of his home.

Mr. Abdallah responded that it is 3,600 sq. ft.

Mr. Krey asked how the size of the pool house got to be around 252 sq. ft.

Mr. Abdallah responded that it is basically due to the symmetry and width of the pool house matches the width of the pool, then 10 ft. back.

Mr. Dale asked Mr. Abdallah if his property extends to Brookside Drive.

Mr. Abdallah responded yes; it does.

Mr. Dale noted that Mr. Abdallah has access to that also.

Neighbor Notifications are on file, no comments were received.

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

Mr. McNamara asked when the pool house was completed.

Mr. Abdallah stated completion was in 2022.

Chairman Mills asked what caused this to get on the Town's radar.

Mr. Donohue stated that a pool permit was applied for in 2021 and never received a final Certificate of Compliance which requires the Town come out to do a final inspection. That never occurred so a citation was issued.

Mr. Krey asked if Mr. Abdallah submitted the pool permit application, or the contractor.

Mr. Donohue does not know; that would be a question for the Building Department.

Chairman Mills stated that customarily it is the contractor who does that.

Mr. Abdallah stated that it was the contractor.

ACTION:

Motion by Ryan Mills, seconded by Patrick Krey to **approve** appeal No. 10 as written.

ON THE QUESTION:

Chairman Mills noted that it is always troubling when an applicant constructs a structure without a permit however here, they have heard mitigating testimony that it was the contractor who was responsible for not obtaining the permit. It would be a hardship to take down a portion of the structure to reduce the size of the structure at this point.

Considering the size of the variance, Chairman Mills noted that not being anything larger than the 52' variance requested, it does not seem to impact the character or environmental conditions of the neighborhood. There is stone on the façade, roof shingles, aesthetically it seems to fit in with the character of the neighborhood.

Mr. Krey noted that the applicant's home is approximately 3,600 sq. ft., he can get away with a bit of a larger accessory structure. Relative to the house, it will not be that egregious and will not be out of character with the neighborhood.

Mr. Dale asked Mr. Abdallah if the vinyl fence behind the pool house is his.

Mr. Abdallah responded that he is unsure; it was there when he moved in. He believes it was built by the contractor that he purchased the house from, that it is his but he is not positive.

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

MOTION CARRIED

Appeal No. 11

Laurie Widman
Residential Single-Family
Town Code Reference: §229-55(H)

Applicant requests a variance to allow three detached accessory structures (sheds) to remain on the property located at 4699 Hedgewood Drive.

DISCUSSION:

Laurie Widman and Eric Adams were present to represent this request. Ms. Widman stated that they purchased the property approximately a year ago, there were 4 structures at that time. One was a tarp structure, and they are trying to make sure that the neighborhood looks good also. They took the tarp structure down and replaced it with 2 sheds, and the existing shed in the very back of the property is the one that they are seeking the variance for. They also removed another shed that was in the front that was infested with critters and very close to the neighbor's property.

Ms. Widman stated that they have been doing some beautification, and things that will help them. It is a 2-family house, a house with an apartment and she is blessed to have her son with his wife and baby live next door to her. The basement is very small and they are all active, therefore they need the space to store everything like kayaks and canoes and bikes.

Ms. Widman stated that they also just put up a fence to enclose the backyard. The property behind them is vacant and wooded, so that portion of the fence is chain-link so that they still have view of the woods.

Regarding the apartment set up, Chairman Mills asked Mr. Bleuer about it.

Mr. Bleuer stated that there is no Special Exception Use Permit for a Secondary Living Unit, however, there are preexisting dwelling spaces in the town that existed prior to this code. He can not speak to this individual parcel, the only way to do that would be to look back through historic building records to see if permits were pulled.

Mr. Bleuer added that age of construction would seem that it predates the law.

Chairman Mills asked Ms. Widman if the in-law setup was there when they purchased it.

Ms. Widman responded yes.

Mr. Dale asked if the fencing has been completed on both sides.

Ms. Widman stated that they are close, one side has been more of a challenge.

Mr. Dale asked Ms. Widman what they decided on for the size of the two new sheds.

Ms. Widman stated that they are the regulation size.

Mr. Adams stated 200 sq. ft. Each one is 192 sq. ft.

Mr. Dale stated that they sized them specifically to be within regulation and be able to keep them.

Mr. Adams explained that the options were to request a variance for one shed larger than 200 sq. ft., or put in two sheds that are smaller than 200 sq. ft. and ask for a variance for a third shed. They put the sheds in about a month ago, there is a stone pad. A bobcat is on the premises now to drill the holes for the fence.

Mr. Dale does not have any problem with the new sheds, but is not comfortable with the original one that is still on the property. That seems to be the one tipping the scale in terms of exceeding the 400.

Mr. Adams stated that when they moved in there were four sheds, so he assumed that Clarence allowed it. The fourth shed that was removed from the property actually had electricity run to it and would have been nice to have had on the premises. He owns a landscaping company and was able to have electricity go to the two new sheds because the electric already ran out there.

Mr. Adams added that is why they also put up a 6' fence, so that any neighbor concerns about changing the scenery of the neighborhood, they helped to eliminate that. They did tear down the 4th shed that was less than 5 ft. from the property line.

Mr. Dale recommended they take the old shed down.

Mr. Rung asked who owns the property to the west where the Bobcat is sitting.

Mr. Adams stated that he believes it is currently owned by the fire company, the same as the property behind him.

Mr. Krey asked Mr. Adams if he has looked in the neighborhood to see if there is anyone else who has 3 detached accessory structures.

Mr. Adams stated that he was unaware he should be looking for comparisons, but he is happy to do that.

Mr. Krey explained that one of the factors they look at is whether the request is out of character with the neighborhood, and if Mr. Adams is able to find something similar.

Mr. Adams stated that the way he looked at it, they were reducing the number from 4 sheds to 3 sheds when they bought the property.

Referring to the 3rd shed that they are here for, Mr. McNamara asked Mr. Adams what condition it is in.

Mr. Adams stated that it is in decent shape, no missing pieces from the roof or holes in the structure.

Mr. McNamara asked how big the shed is.

Mr. Adams stated that it is either 10' x 10' or 10' x 12', he is not sure.

Mr. McNamara added that it sits in the back corner under the trees, not real visible from the street especially with the fence up.

Mr. McNamara asked what they store in the 3rd shed.

Ms. Widman stated that all of her landscaping and gardening tools are kept in that shed.

Chairman Mills asked what is being stored in the new sheds.

Ms. Widman stated that kayaks, lawn equipment, items typically stored in a basement are stored in the sheds because they have very little storage space.

Chairman Mills asked if they are operating a business out of the shed.

Mr. Adams responded no; his company is based out of Hamburg.

Mr. Drinkard stated that the Board received a letter from a neighbor stating that the applicants have a very busy lot with large pieces of equipment.

Mr. Drinkard asked Mr. Adams if he runs a landscaping company out of his residence.

Mr. Adams responded no; he owns a landscaping company that is based out of Hamburg, NY. The bobcat currently on the property is for the posts for the fence that is being installed.

He does not leave any trailers or trucks on the property aside from his personal business truck, because he goes for estimates for new customers.

Mr. Drinkard asked Ms. Widman if she was a neighbor in the neighborhood, how would they describe their house currently. The fence did a lot to hide everything in the backyard.

Ms. Widman stated that when they moved in the driveway was part asphalt, part gravel, and part grass. They had that redone, and have been doing a lot of improvements to and around the house. Ms. Widman said that the neighbor across the street complimented them this summer.

Ms. Widman explained that they are trying to do everything that they can to make it look nice and look nice in the neighborhood. It is a work in progress.

Mr. Drinkard asked how much of a basement they have.

Ms. Widman responded with an example.

Mr. Drinkard stated that they basically have no basement.

Neighbor Notifications are on file, correspondence was received from the neighbor 4703 Hedgewood Drive, David Vinci stating he is opposed to this variance request, and also concerned about the appearance of commercial landscape equipment on the property.

In regard to Public Participation, the following residents spoke:

1. Marion Olivieri of 4693 Hedgewood Drive:

- reviewed the history of her family in the neighborhood
- stated her concerns with the entire existence of the applicants in the neighborhood and their lifestyle
- they park their cars like a parking lot in the driveway
- claims the applicant is running a landscape business from their house
- always activity and cars and trucks at the house from working on the house for over a year
- she can see their backyard from her 2-story house and it looks like a junkyard
- they are drilling in to the ground for the fence they are installing next to her 70-year-old trees
- they do not keep their dog on a leash, she is a captive in her home
- does not think the fence they are installing is on their own property, thinks it is on the fire company's property
- installed strobe lighting that she does not see a reason for aside from keeping her from sleeping
- feels like she is living in an industrial neighborhood

Chairman Mills stated that he appreciates her comments on a variety of other things, but this meeting is specifically regarding the shed.

Ms. Olivieri stated that the shed is not attractive, she has to look at it. Her preference is for the shed is not to be there.

Her preference is for them to honor their statement that they want to make it a nice, beautiful place. Right now, it feels like she lives next to a landscaping company. She has no faith that the fences will be finished or anything will get cleaned up.

Ms. Olivieri would like to know what is happening with the green fence in the back, she does not even think it is their property. She thought that the intent of the Town is to maintain what the Town would like. Maybe that can happen in this situation, but there is not trust.

Chairman Mills entered a 3-page document submitted by Ms. Olivieri as Exhibit A.

Ms. Olivieri continued to express her issues with the applicant and the applicant's property.

2. Louis Vinci of 18 Hidden View Court, Williamsville present on behalf of his son David Vinci at 4703 Hedgewood Drive:

- Hedgewood Drive is a beautiful street, everyone maintains their homes beautifully.
- described basements in the neighborhood
- feels that a full landscaping and snow removal business is being run from the residence
- no need for 3 sheds on the property

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

Mr. Adams emphasized he does not run a landscaping business from his house. He owns a landscaping company, is a stay-at-home father full time, his employees have been at his house the last month because they are doing jobs at his house. They are not meeting there, all of his equipment, trucks, trailers are in Hamburg at his shop.

Ms. Widman continued to explain the work that is being done at the house for the last month plus.

ACTION:

With no motion brought forth, there is no Action and Appeal No. 11 is denied.

Meeting adjourned at 8:07 p.m. with a motion by Patrick Krey.

MOTION CARRIED

Amy Major
Senior Clerk Typist