

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday, March 10, 2026

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

Zoning Board of Appeals members present:

Chairman Ryan Mills	Patrick Krey	Gerald Drinkard
Steven Dale	Forest Rung	

Zoning Board of Appeals members absent: Richard McNamara

The Zoning Board led the Pledge to the Flag

Town Officials present:

Director of Community Development Jonathan Bleuer
Councilman Paul Shear

Other Interested Parties:

Sean Hopkins	Dave Sutton	Gregory Mulvey	John Kowalczyk
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Motion by Gerald Drinkard, seconded by Steve Dale, to **approve** the minutes of the meeting held on February 10, 2026.

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

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

8750 Main Street Associates, LLC.
Traditional Neighborhood &
Residential Single-Family
Town Code Reference: §229-59(A)

Applicant requests a variance to allow for a structure over 30,000 sq. ft. to be constructed at 8750 Main Street and SBL 70.20-4-3.12.

Chairman Mills recused himself from Appeal No. 1. The proper paperwork will be filed with the Town Clerk’s Office.

DISCUSSION:

Mr. Hopkins with the law firm Hopkins Sorgi McCarthy was present on behalf of the applicant, as well as project architect Dave Sutton with Sutton Architecture.

Mr. Hopkins reviewed a PowerPoint presentation to present this variance request, stating that this proposed project site is located directly behind Samuel's Grande Manor on Main Street. It has been in various states of proposals and approvals for the past 5 years at least.

Mr. Hopkins explained that tonight, they are seeking an area variance to allow a building larger than the permitted 30,000 sq. ft. in the Traditional Neighborhood District (TND). The building that they are proposing is 52,185 sq. ft. This site is split-zoned, predominantly zoned TND and the rear approximately 172 ft. zoned Residential Single-Family. This decision will ultimately be made by the Town Board.

Mr. Hopkins continued to review the slide presentation.

Reviewing the traffic flow plan that was submitted by Michael Metzger of Metzger Civil Engineering, Mr. Hopkins noted that there will be 3 access points on to Main Street. This has all been reviewed and approved by the New York State Department of Transportation (NYSDOT) in terms of access. Ultimately, a highway work permit will be needed from the NYSDOT for any modifications including utility improvements.

Mr. Hopkins reviewed the original approvals for previously proposed projects on this site, leading in to further review of the present proposed project.

Mr. Hopkins noted that there have been multiple variations of this current proposal; a 3-story building placed as far north as possible on this site. This proposed building will include 50 units for lease, 2 detached garage buildings equaling a total of 20 garage spaces. It will also include a complete redevelopment; a new septic system, electric improvements, utility improvements, and an on-site stormwater management system. This will be a complete redevelopment of the northern portion of the site.

Mr. Hopkins reiterated that in the TND the allotted size for a building is 30,000 sq. ft. and the building they are proposing is 52,185 sq. ft.

Mr. Hopkins continued to review the previous proposals for this project.

Mr. Hopkins explained that Dave Sutton, the architect for this project, has designed this building to have the appearance of two buildings with a connection piece.

Mr. Sutton explained the design of the building to have the presence of two individual buildings. The connector element is recessed back, very transparent and is the vertical circulation. It is the mechanical chases and the elevator.

Mr. Sutton noted that there is a lot of transparency in the connecting element, and it is critical in order for the building to work as a whole, while displaying as two separate buildings. That is

important, because the variance they are requesting is for the size of the building. In reality, it is two separate buildings with a very minimalist connection between them from a practical and a circulation standpoint.

Noting that the design of this proposed project has an almost townhouse look to it, makes it more visually and pedestrian friendly than a typical building.

Mr. Sutton reviewed the design aspects of the building.

Mr. Hopkins stated that he feels this proposed building is unlike any other building in the Town of Clarence.

Mr. Hopkins noted that by using a flat roof as compared to the typical residential slope roof, they have reduced the roof line to 30' 8". This is a substantial reduction in the actual height of the building.

Mr. Hopkins continued to review the project and the slide presentation.

Mr. Hopkins noted that this is not the final step in the review process. They will also require rezoning and a Special Exception Use Permit from the Town Board after a public hearing, then return to the Planning Board for Development Plan approval based on fully engineered plans.

Mr. Hopkins noted that the architecture for the proposed building is substantially more than what it needs to be, based on the code.

Mr. Hopkins reviewed the five criteria for an area variance, starting with their belief that there will be no detriment to the community by granting this area variance. Though a substantial distance back from Main Street, the proposed building may be somewhat visible from Main Street and is situated behind Samuel's Grande Manor.

In regard to whether there are any alternatives that are feasible for the applicant to pursue that would eliminate the need for the requested variance while still allowing them to receive the benefits that they are seeking, Mr. Hopkins explained that there are no feasible alternatives that would allow them the benefits that they are seeking. If the variance is not granted, they would need to reconsider the actual overall design of the entire project, or remove the connective point between the two buildings.

The next criterion is whether the requested area variance is substantial; Mr. Hopkins noted that the key point here is whether granting the requested relief will result in any harm. Here they see no harm whatsoever that will result in the granting of the requested area variance.

Next is whether granting the request will have an adverse effect on the physical or environmental conditions of the neighborhood; at a previous Planning Board meeting, a Negative Declaration was issued based on a State Environmental Quality Review Act (SEQRA) after conducting a coordinated environmental review. Ultimately none of the agencies that participated in the

lengthy review process had any concerns that the project would result in one or more adverse physical or environmental effects.

Finally, is whether the alleged difficulty is self-created. Mr. Hopkins stated that as the Zoning Board knows, this cannot be the sole criterion for the decision making. They ask that the actual project itself, project design, project renderings are the result of a lengthy review process. He does not feel that this specific criterion is that important, but acknowledges for the record that they know what the zoning code says, and what the TND requirements are. If this criterion is not in their favor, the overall balancing test of the criteria provides ample justification.

Mr. Krey stated that Mr. Hopkins' presentation will be marked Exhibit A.

Mr. Krey noted that at first glance it appears that the total number of square feet requested is almost doubling what is allowed on the property, but in reality, as earlier plans which were in accordance with the zoning, allowed for the same number of units inside the building but not as one contiguous building.

Mr. Hopkins stated that is correct; it is the actual building size, not the overall square footage of the buildings that triggers the need for the variance.

Mr. Krey stated that at least for him, that is good information to keep in mind because it is not like the request is being doubled from the original proposal, it is the fact that for the reasons Mr. Hopkins has stated, they need to have two connected buildings as opposed to having one separate building.

Mr. Krey added that if a variance is not approved, the applicant would need to re-design the project without the connecting piece.

Mr. Hopkins stated that is correct.

Mr. Rung confirmed that the septic will need to be in the front of the building because it is tucked all the way to the north end of the site, and is up-slope from the proposed building. Is there drainage that runs underneath the building and out to the north end.

Mr. Hopkins responded no; that is not allowed, the stormwater management system captures the runoff from impervious surfaces. There will be no drainage from the north end, in fact they have to accommodate water coming in to the site.

Mr. Rung asked if the stormwater will remain on site with an infiltration basin or something similar.

Mr. Hopkins responded yes.

Referring to the rear of the building, Mr. Rung asked if there is access out to the north end. Are there any plans for community activity or recreational space behind the structure?

Mr. Sutton responded no, that will remain as greenspace. The first-floor units may potentially have access to a small concrete patio for their own private use. There is no access for the entire building that will be occurring in the back of the building.

Mr. Rung noted that the property extends to the elementary school property, and asked if there will be a fence to separate the properties.

Mr. Sutton stated that they will most likely flush that out during the Planning Board approval process. They are not anticipating any fence, and would like to keep it very natural back there, with a natural buffer. If the Planning Board deems it necessary to have a fence back there for some reason, they would obviously entertain and propose some version of that to them at that time.

Mr. Rung stated that he does understand they are not in front of the Zoning Board for that tonight, but the nature of the very large structure blanketing the entire northern section could cause some areas to be difficult to see.

Mr. Hopkins stated that while it is a good point, if it is a topic they need to address, they will.

Mr. Rung noted that it is nice to have a Main Street façade, but not on Main Street, and asked if the intention is to be a private building. They do not plan to bring people in off of the street with any future commercial aspects to the proposed project.

Mr. Sutton stated that the proposed building is intended to be complimenting of a very lively outdoor space to the backyard of the existing business. The existing business holds a lot of outdoor events that are very well attended by the general public. Mr. Sutton added that they are trying to give a very nice visual backdrop not only from Main Street, but also from the back of the existing property especially during the summer months.

Mr. Drinkard complimented Mr. Hopkins on his excellent presentation.

Noting the one item that Mr. Hopkins emphasized, Mr. Drinkard referred to what harm this proposed project would create, because more bulk of building on a lot is requested. Mr. Drinkard stated that he could not see any harm, so that was not going to be a reason to deny the request. The Clarence Master Plan 2030 almost specifically states these are the type of projects that they would like to have on Main Street.

Respecting that this proposed project needs to go through review with the Planning Board, Mr. Drinkard added that the one thing he would request they pay attention to, it is how the people in the proposed building will access Main Street specifically when the parking lot is full of snow.

Mr. Hopkins noted that the site plan shows a sidewalk connection extending out to Main Street.

Mr. Dale asked how exactly residents will drive back and forth from Main Street to the proposed building.

Mr. Hopkins stated that they have access aisles proposed at both ends of the building and what they are envisioning is the access including parking area which is to the west of the building would be for entering vehicles, while exiting would be the driveway to the east.

Mr. Dale stated that Mr. Hopkins is showing him a vacant parking lot and saying this is it. He advised Mr. Hopkins to go to the site some night when there is snow, and everyone is parking helter-skelter. You are not able to get through the parking lot, so the people who will be paying good money for these apartments are going to struggle to access their apartments.

Mr. Dale reiterated that he is concerned with access, and recommends they develop a reserved corridor for the residents and specific signs that state “no parking”.

Mr. Hopkins stated that in terms of what is currently on the site and specifically during inclement weather, obviously they are purchasing the back portion of the site from the existing owner. If improvements need to be made in terms of a maintenance plan, they absolutely have to be completely assured that they have adequate, safe, secure parking on the site otherwise they will be unable to lease the units.

Mr. Sutton added that topic has been a high topic of conversation with the Planning Board and if you look at the site engineered drawings, you can see the introduction of greenscape islands delineation. The reason it appears as though the parking is “helter-skelter” is because it is not clearly defined on the plans. Part of this approval as already stated, is that they will be reviewing the existing parking lot and defining fire lanes and access islands. Also, clearly defining where people are supposed to be parking and not parking. Mr. Sutton feels that will help not only for the existing business up front, as well as the residents in the back.

Mr. Sutton stated that there is a clear delineation between the parking for the residents and the parking for the business. There will be efforts in the site plan during the approval process that defines a clearly defined path primarily for circulation but the main focus will be a fire access aisle. There has to be maintained 26’ wide fire access aisle that will be clearly defined. That will be seen in the follow-up plans that will be presented to the Planning Board.

Mr. Dale stated that the proposed project representatives are here tonight to request a larger than standard building and yet there is no concrete way of accessing the building from Main Street. He is a little disappointed.

Mr. Sutton stated that he feels the site plan presented today represents that clear path. They are not presenting it as such, because they are focused on the variance at hand, which is not the amount of square footage that is on site, it is the fact that it is all in one building as opposed to the two separate buildings.

Mr. Sutton added that if it is necessary to talk more about the safety of the path of fire access vehicles, they can do that, if it will make Mr. Dale more comfortable with the submittal in front of them tonight.

Mr. Dale stated that it is fire access, and resident access. With 50 units they are talking about 100 cars.

Mr. Hopkins stated that the Town of Clarence is very diligent in their reviews, and they have to demonstrate to the satisfaction of the town that they meet the many stringent requirements contained in the New York State fire code including dedicated emergency access with a width of 26', the required separation for fire trucks accessing the building in front of the building, they need to have signage, and more. Mr. Hopkins noted that they need to have details and while they may not be represented overly concretely at tonight's meeting, they are well aware of them, and they will be addressing them.

Mr. Hopkins reiterated that they have to have substantial parking; clear, safe, dedicated, well-maintained parking.

Mr. Hopkins noted that they will consider Mr. Dale's points.

Mr. Krey asked if there was any history of this property being mixed-use, or if it was all residential.

Mr. Hopkins confirmed that previous plans were all for residential use.

Mr. Bleuer also confirmed that previously proposed plans were for residential use.

Mr. Krey asked if the 50 units that the applicant is proposing has been established based on economic needs.

Mr. Hopkins responded yes; they need that density for the project to be financially feasible. Anything much below that, it would not be economically feasible.

For the purpose of justification for the area variance, Mr. Hopkins stated that he is not relying on use variance criteria which is economic hardship. He is relying on the balancing act of the five criteria.

Mr. Krey stated that it speaks more to the benefit of the applicant.

Mr. Hopkins stated that it does speak more to the benefit of the applicant, and while they could possibly do this a different way with two buildings and still capture the same density, the project would be questionable if they reduced the density very much.

Based on the building design, Mr. Hopkins noted that by not going with a cookie-cutter standard look, they are substantially increasing the cost of the proposed project.

Mr. Krey referred to a comment Mr. Hopkins made regarding a previously approved site plan, and the reasoning for not moving forward with the previous project was due to economic restraints.

Mr. Hopkins stated that was the existing owner of Samuels Grande Manor. Neither him, Mr. Sutton, or his client were involved with the project back at that time.

Mr. Bleuer explained that it was previously a fully approved project back in 2021 and at that time, an owner of Samuel's Grande Manor stated that he did not move forward due to economic reasons.

Mr. Krey acknowledged that it helps him to understand clearly what can be done with the property as a right, versus what this applicant is requesting. The previous proposal that was fully approved compared to what is currently being proposed are very similar to one another.

Mr. Krey also noted that during Mr. Hopkin's presentation, he made a comment regarding the initial project submission from earlier this past year being not particularly creative or innovative.

Mr. Hopkins explained that looking at the initial project submission, it was more traditional, two buildings, the buildings did not particularly bear a relationship to one another, with no interesting streetscape created. The townhome / brownstone look and feel had not been created, and although the previous layout would not have required a variance they feel this proposed plan and layout is much more appealing.

Mr. Krey asked who had deemed the previous project not particularly creative, the applicant or the town.

Mr. Hopkins stated that the initial feedback from the Planning Board Executive Committee certainly suggested that, therefore they went back to reconfigure their plans.

Mr. Bleuer confirmed that it was the Town that deemed the previous project as insufficient.

Mr. Krey stated that the information is helpful for him, because they could do the previously proposed project as a right, but the Town was stating that they would like to see something different, which is what they are now proposing.

Referring to the decrease in the height of the building, Mr. Krey asked if that was done in response to feedback from the Town.

Mr. Hopkins explained that you cannot do the brownstone / townhome type building and have it look right with a residential slope roof.

Mr. Krey stated that in his opinion, it is a benefit having it take up less of the viewing area. He was curious as to whether it was in response to any other outside feedback.

Mr. Hopkins reiterated that it is in response to making the building look nicer, and also reducing the height.

Neighbor Notifications are on file, no comments were received. Mr. Bleuer added that as part of the Planning review, they have a significantly longer Neighbor Notification list. All prior comments are on record through the Planning Office.

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

ACTION:

Motion by Gerald Drinkard, seconded by Forest Rung to **approve** Appeal No. 1 as written:

ON THE QUESTION:

Mr. Krey stated that he voted to approve this request because he found the presentation (Exhibit A) to be persuasive. Also, the board is looking at this as what the applicant is able to do as a right which is basically the same size structure, but these two will be connected. He believes the way it will be laid out on the property will be an improvement in terms of aesthetics, which goes along with commentary that was received earlier from the Planning Board in terms of requested changes to this proposed project.

Mr. Drinkard stated that this proposed project met all criteria for the SEQRA review, and has fulfilled requirements of the Planning Board for concept review.

Mr. Drinkard also stated that this proposed project complies with the Town of Clarence 2030 guidelines and goals.

Mr. Drinkard added that this proposed project is set back from Main Street corridor, and will not have a negative effect on the neighborhood.

Forest Rung	Aye	Gerald Drinkard	Aye	Ryan Mills	Recused
Patrick Krey	Aye	Steven Dale	Nay		

MOTION CARRIED

Chairman Mills has returned to the Dais.

Appeal No. 2

Gregory Mulvey
Residential Single-Family
Town Code Reference: §196-3(C)

Applicant requests a variance of 10' to allow a swimming pool to be 0' from the principal structure located at 5754 Red Hawk Trail.

DISCUSSION:

Gregory Mulvey was present to represent his request.

Mr. Dale complimented the project, then stated that he has a concern regarding protection from people accidentally falling in to the pool. Typically, with above-ground pools there is fencing, but Mr. Dale assumes fencing is not Mr. Mulvey's desire.

Mr. Dale suggested a gate for the stairs going up, he is unsure how Mr. Mulvey would prevent people from accidentally coming to the glass door of the patio.

Mr. Dale asked how the spill wall will be protected from the water that goes up over the wall. It appears to be 1 ½ - 2 ft. deep.

Mr. Mulvey stated that it is not that deep.

Mr. Dale asked how deep it is.

Mr. Mulvey stated that he would need to get the exact numbers, but he specifically asked that question also. He believes they made it a little bit wider rather than deeper for that reason.

Mr. Mulvey stated that the door has an alarm on it, as does the pool.

Mr. Dale stated that he assumes Mr. Mulvey has small children.

Mr. Mulvey stated that he does not; his children are all grown.

Mr. Dale suggested to Mr. Mulvey that he attains a copy of the pool directives in the code and review them.

Mr. Mulvey responded yes, absolutely. He has a reputable pool contractor that is handling that for him.

Mr. Krey complimented the design of the pool, and inquired about the waterfall that falls over in to the basin, and asked if that lower area is accessible.

Mr. Mulvey explained that you cannot swim in the basin, the water just barely spills over the edge.

Mr. Krey stated that he assumes the backyard will be fenced in.

Mr. Mulvey stated yes; the backyard is fenced.

Mr. Krey noted that he believes one of the main reasons that it states in Town Code that the pool needs to be setback 10' from the house is based on a concern about people jumping in to the pool from the house.

Mr. Krey asked Mr. Bleuer if that is his understanding as well.

Mr. Bleuer stated yes; it was stated from the building inspector that the code was written that way.

Mr. Krey asked if there are any concerns with a portion of the house being too close to the pool, and if the patio area is covered.

Mr. Mulvey stated that a portion of the patio is covered, part of it is not. The roof is back quite a distance from where the pool starts.

Chairman Mills asked if that is a hot tub in the center.

Mr. Mulvey responded yes.

Chairman Mills asked what the overall depth of the pool is.

Mr. Mulvey responded that he believes it is 5' at the deepest point.

Chairman Mills asked Mr. Mulvey if he contemplated having any type of glass fencing set around the pool.

Mr. Mulvey explained that he very briefly contemplated it, then quickly dismissed it because it would be too difficult to keep maintained.

Chairman Mills confirmed that it is the plan to keep it completely open.

Mr. Mulvey responded that is correct.

Chairman Mills noted that there will be a fence around one side.

Mr. Mulvey responded yes; the area to the right-hand side.

Mr. Drinkard noted that the Town of Clarence complies with the uniformed prevention and fire code of New York State and is very detailed about the fencing for pool enclosures, electrical, and setbacks.

Mr. Drinkard stated that he did see Mr. Mulvey's backyard, and the pool will be beautiful.

Referring to the ability to be able to jump in to the pool, Mr. Rung confirmed that there is no easy access to Mr. Mulvey's roof.

Mr. Mulvey responded that is correct, there is no easy access.

Neighbor Notifications are on file, no comments were received.

Mr. Bleuer noted that the Engineering Department has stated that a floodplain development permit would be required for this pool. He understands that the ownership is aware of that.

Mr. Mulvey responded yes.

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. 2 as written.

ON THE QUESTION:

Chairman Mills stated that while this is a rather unique circumstance, it should be noted that the entire parcel is still fenced. The applicant understands his duties to meet all applicable building codes relating to pools, pool alarms and fencing that would apply in regard to this matter.

Chairman Mills confirmed with Mr. Mulvey that as previously stated, he understands he needs to meet with all building codes, whether state or local.

Mr. Mulvey responded yes.

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

MOTION CARRIED

Appeal No. 3

John & Larissa Kowalczyk
Planned Unit Residential Development
Town Code Reference: §196-3(C)

Applicant requests a variance of 7' to allow for a principal structure addition to be 3' from an existing swimming pool located at 5861 Monaghan Lane.

DISCUSSION:

John Kowalczyk was present to represent his request, adding that they would like to build a covered patio. The pool, house, and patio are all existing, they would like to build a roof structure over the patio between the house and the pool.

Mr. Kowalczyk stated that the proposed structure would include posts and a roof to provide shade and weather protection, and used as an outdoor living space. The design is consistent with other covered patios in the neighborhood, as well as the existing house.

The variance request is specifically to allow the edge of the roof as well as a post to come within 3' of the hot tub.

With regard to safety features, the pool has existing compliant fencing that has been permitted by the Town. An unobstructed 3' walkway will remain around the perimeter of the pool, and the proposed structure will not obstruct any visibility from the house to the pool.

Mr. Kowalczyk added that he does not believe the proposed patio will have any negative impact to his surrounding neighbors. The structure is in the rear yard, does not encroach on any setback requirements, and will not create any drainage or privacy concerns. The design is consistent with what is typically found in residential neighborhoods.

Mr. Kowalczyk stated that they have notified the neighbors that have adjacent properties to them, and all have been supportive of the project.

Mr. Drinkard noted that while visiting Mr. Kowalczyk's backyard, and noted that Mr. Kowalczyk is only requesting to extend the existing roof on the house outward, not actually enlarging the house.

Mr. Kowalczyk responded no, it is completely open and there would be no enclosure of the patio. It is a simple roof from the house to cover the patio.

Mr. Drinkard noted that the patio is oblong, extending away from the house.

Mr. Kowalczyk responded yes.

Mr. Drinkard stated that the next-door neighbor's pool is oblong, but set back from the house and therefore farther back.

Mr. Drinkard asked Mr. Kowalczyk if he plans to put any electric in any form underneath this proposed roof.

Mr. Kowalczyk responded yes; he will probably have lighting, perhaps a fan and some type of heating component.

Mr. Drinkard asked if it is a planned area to have a cooking device underneath the proposed structure.

Mr. Kowalczyk stated that he currently has a gas grill out there, he is unsure if they will incorporate a cooking island or something along those lines. The idea of cooking and having the smoke and fumes inside is not ideal to him.

Mr. Drinkard noted that from a safety perspective, Mr. Kowalczyk will honor the 3' distance from the house.

Mr. Kowalczyk responded that he is aware he needs to maintain 3'. The hot tub is a concrete patio that is 3' from the house, and abutting that is a separate concrete patio. He does not want to disrupt the hot tub.

Mr. Rung noted that this is similar to the previous request, he is concerned about safety, as it appears there is a window just above the proposed roof extension over the patio and there could potentially be opportunity for a child to attempt to jump in to the hot tub.

Mr. Rung asked Mr. Kowalczyk if he has children at home, and if the window is able to be locked so that this situation would not be tempting.

Mr. Kowalczyk stated that he does have children, they range in age of 10 years old to 16 years old, and have never been tempted to climb out on the roof in the 12 years that they have lived in this house.

Mr. Rung noted that he would hope a kid would not try to jump in to a hot tub that he assumes is very shallow.

Mr. Kowalczyk stated that the hot tub is only 3' deep.

Mr. Rung stated that is probably why the code exists.

In regard to the benefit to the applicant, Mr. Krey asked Mr. Kowalczyk why he needs his patio covered.

Mr. Kowalczyk stated that the way the house faces, they either get blasting hot sun, rain, or wind. This will provide a bit of protection from the weather and provide some shade and make the space more enjoyable for a longer duration of the year.

Mr. Krey added that the way the house is situated, it looks like when they do get sun, it is the entire day.

Mr. Kowalczyk stated that it is shade in the afternoon, and then full sun the rest of the afternoon.

Mr. Krey asked what the dimensions are of the pool.

Mr. Kowalczyk stated that the pool is 16' x 32', 3 ½ ft. in the shallow end which is closest to the house, and 5 ½ ft. in the deep end.

In regard to the ages of Mr. Kowalczyk's children, Mr. Krey stated that is peak "doing dumb stuff" years like jumping off of roofs in to a pool. But the shallowness of the pool should be discouraging for such activities.

Mr. Kowalczyk explained that there will be a 3' separation from the roof to even the hot tub, 10' to the pool itself.

Mr. Dale stated that according to the blueprints, the height at the opening of the proposed structure is a little over 11'. He could not find the width of the opening facing the pool.

Mr. Kowalczyk responded that he believes it is either 18' or 20'.

In regard to the construction, Mr. Dale asked if it is a shell or does it have a ceiling.

Mr. Kowalczyk responded that it would have a ceiling.

Mr. Dale asked if there will be a gap between the ceiling and the roof.

Mr. Kowalczyk responded yes.

Chairman Mills asked if other locations in the rear yard have been explored for a covered patio.

Mr. Kowalczyk stated yes; but this is a preferable location for a couple of reasons. First, the entrance door from the house to the patio is in the area where it would be covered by this proposed structure. There is a bit of patio space away from the house, offset from the pool but there is no access to the house from that space.

The way it is built out, as shown in the diagram, Mr. Kowalczyk stated is like a natural alcove that they would like to cover.

Chairman Mills confirmed that they will use asphalt shingles for the roof, which will match the existing roof of the house, and simple columns on each side.

Mr. Kowalczyk responded yes.

Neighbor Notifications are on file, no comments were received.

Mr. Bleuer noted that Assistant Municipal Engineer Joe Lancellotti provided comment stating no building code concerns for the pool placement. They are awaiting a ZBA determination prior to the Building Department issuing permits.

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

ACTION:

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

- 1. asphalt shingles on the addition is to match existing roof shingles

Mr. Kowalczyk heard and agreed to the condition.

ON THE QUESTION:

Mr. Krey stated that what makes this request unique from other requests is that the distance from the added patio cover to the pool and the shallow hot tub and shallow end of the pool located between it, discourages anyone attempting to jump in to the pool.

Additionally, in terms of having any effect on neighboring properties, Mr. Krey stated that this proposed addition will not be visible, considering its location in the backyard as well as all of the trees mitigating the view.

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

MOTION CARRIED

Meeting adjourned at 6:34 with a motion by Patrick Krey.

MOTION CARRIED

Amy Major
Senior Clerk Typist