

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday, June 9, 2026

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

The Zoning Board led the pledge to the flag.

Zoning Board of Appeals members present:

Chairman Ryan Mills	Patrick Krey	Richard McNamara
Gerald Drinkard	Steven Dale	

Zoning Board of Appeals members absent:

Forest Rung

Town Officials present:

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

Other Interested Parties:

Iris Weinstein	Kenneth Weinstein	Daniel Thompson	Chris Louisos
Lynn McCarthy	Kris Beyer	Sean Hopkins	Bobby Corrao
Angelo Natale	Kevin Coppola	Chris Stattora	Ken Zollitsch
Chris Thompson	David Sutton	Erika Kazmark	

Motion by Gerald Drinkard, seconded by Patrick Krey, to **approve** the minutes of the meeting held on April 14, 2026.

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

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

Daniel Thompson - CT & ST Family, LLC.

Residential Single-Family

Town Code Reference:

1) §229-49(A)

2) §229-50(C)

Applicant requests variances:

1) of 26' to allow for a lot frontage of 99' along Fairlane Drive; and

2) of 200 sq. ft. to allow for a Fairlane Drive lot acreage of 19,800 sq. ft.;

all to allow for a minor subdivision of land to create one new lot of record along Fairlane Drive, to be split from 6120 Herr Road.

DISCUSSION:

Chris Thompson, Manager of CT & ST Family, LLC and owner of the property in question, was present to represent his request. Mr. Thompson stated that the request is to split the lot on Fairlane Drive to be a similar lot and size as the adjacent lots at 6075 Fairlane Drive and 6095 Fairlane Drive.

Chairman Mills asked what the purpose of this split is, do they plan to sell it, build a home, any plans as of now.

Mr. Thompson said that they have no plans currently, but want to have the options to sell or build. Right now, it is part of the contiguous lot that connects over to Herr Road, and they would like to have the option to sell if and when they decide to. They currently have no buyers or contracts; they simply want to have the option.

Mr. Drinkard stated that it is a beautiful lot that is situated between two neighbors who have cared for it over the years. Mr. Drinkard asked Mr. Thompson if he has maintained it, or if it has been maintained by the neighbors.

Mr. Thompson responded, noting that one of the neighbors had been taking care of it, Steve Lumia, but he recently passed away. He had kept it up, and used it as his own while he was able to.

Mr. Drinkard asked if Mr. Thompson has the option of having a septic system, or being on public sewers.

Mr. Bleuer stated that would be a question for the Engineering Department. He does not want to give any specificity, if it is in a sewer district with access to public sewer, then he would be required to connect. If there is no access to sewer, then Erie County Health Department would consider a septic system.

Mr. Drinkard asked if a 20,000 sq. ft minimum sized lot is required in order to connect to a potential sewer system.

Mr. Bleuer stated that it seems as though Erie County is requiring approximately $\frac{3}{4}$ of an acre.

Mr. Drinkard stated that there are numerous 100' lots along the street, and this would not be out of character for the neighborhood, should a house ever be built on the property.

Mr. McNamara asked what the frontages are for the neighbors to the left and to the right.

Mr. Thompson said he does not know specifically, but he believes they are right around 100' – 102'.

Mr. Bleuer confirmed that they are in the 100' range.

Mr. McNamara asked if this is one large parcel being split 3 ways.

Mr. Thompson stated that they have already split off 6130 Herr Road, which was already a taxable lot. The piece on Fairlane needed the variance to split off.

Mr. Thompson added that it is a very interesting piece of property that extends down to the bike path, and behind the other duplexes.

Chairman Mills asked Mr. Thompson if he knows whether it is a lot connected to a sewer.

Mr. Thompson responded that he does not. He assumed where it in relation to other houses in the sewer district that it could be eligible for sewer.

Chairman Mills noted that if Mr. Thompson needed extra acreage, he could take it from the other parcel that he already owns.

Mr. Thompson responded yes; but he figured for an approval process, having it match the lots around it would make it easier.

Mr. Bleuer interjected, noting that the proposed parcel is within Clarence Sewer District #2, although he is unable to confirm the availability of a sewer tap. While he expects that it is feasible, it would require engineering review.

Chairman Mills confirmed with Mr. Thompson that at least by visual estimation, that the other lots in the area are also within the same 99' - 105' setback range.

Mr. Thompson responded yes, he did check against what is listed in the tax records for each of the lots, and he can confirm their range.

Chairman Mills asked how long the mother parcel has been owned by Mr. Thompson, his family, or the LLC.

Mr. Thompson stated that it was split up from his grandparents, so it was before Fairlane Drive was even there. His dad, Carlton Thompson, designed both Hilton Road and Fairlane Drive, so it has been in the family a very long time.

Mr. Krey agreed that visually on the survey, it looks comparable to the existing lots. He understands on paper and according to the code, the variances are needed, but it does not appear that it is actually out of line with the other lots in the neighborhood.

Neighbor Notifications are on file, no comments have been received.

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

Referring to meeting minutes from the Planning Board meeting of May 6, 2026, Mr. Drinkard noted that Fairlane Drive is vacant and proposed to be a buildable lot, consisting of approximately 4.46 acres with 102' of frontage.

Mr. Drinkard stated that it is not 102' frontage. In accordance with the diagrams that came out, it is 99'. Once it is officially surveyed, they will determine the exact footage to the inches.

ACTION:

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

ON THE QUESTION:

Chairman Mills stated that after hearing testimony and viewing documentation by way of site plans and aerial views that show the adjacent lot widths, it appears that the frontage of this subject parcel along with the overall size, seems to conform with many others on Fairlane Dr., High St., Eastwood Rd., and Hilton Dr. It would not adversely impact the character of the neighborhood, or the environmental conditions of the neighborhood. The overall lot size seems to be uniform with the other parcels in that region.

Chairman Mills added that based on testimony provided by the applicant explaining that this was not a recent acquisition, but rather a parcel that has been held for quite a bit of time by the applicant and/or his family.

For those reasons, Chairman Mills does not believe there will be any overall adverse effects.

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

MOTION CARRIED

Appeal No. 2

Chris Louisos
Residential Single-Family
Town Code Reference: §101-3(C)(2)

Applicant requests a variance of 2' to allow a 6' fence to be within the front yard setback located at 9063 Orchid Ledge.

DISCUSSION:

Chris Louisos was present to represent his request, explaining that the variance is for one 8' section of the fence that extends 56' and replaced a bed of aging pines that were falling in to the power lines. They are unsightly to them as well as to their neighbor behind them.

Mr. Louisos added that part of the fence post is approximately 100' off of Willowbrook Dr., there is no obstruction or traffic or children playing, and is barely visible from the road.

Mr. Dale noted that with Mr. Louisos' present fence, when an additional 10' is added, the ground slopes down, and asked Mr. Louisos if it his intention to have the new section level with the top of the existing fence and fill in, or will the fence be angled.

Mr. Louisos stated that the ground slopes down in both directions, towards The Fairways as well as towards Willowbrook Dr. The fence here does not come anywhere near the slope towards Willowbrook Dr., and is 20' off of the property line. It is actually on top of the slope.

Mr. Dale asked if it will be level with the existing fence.

Mr. Louisos responded that it is so he has a continuous 6' line across the top.

Mr. Bleuer explained that the portion of fence that is being requested for the variance has already been installed.

Mr. Louisos stated that is correct, explaining that as with any project, there were 4 components. He had to have the trees removed, and then that area graded. Next, all of the brush needed to be removed by the Highway Department, then the fence installer comes in. The time table was perfect at the beginning. All of the first 3 components went well, the fence installer called him in late May to explain that they have a very large commercial project starting, and they could either do their fence now, or wait until the end of summer in September.

Mr. Louisos added that as a long-time resident of the Town, and a past employee, he took his chances and had the fence installed, with the hopes that he would have full support from the Town. The fence is not obtrusive in any way, it sits quite a distance in from the property line.

Mr. Krey noted that he too was originally confused when he visited the site, not realizing the fence was already installed.

Mr. Louisos explained that he fully intends to landscape around the fence for additional privacy for both him and his neighbor, so that he does not see just a wall. The plan is to have Lavocat's nursery come out to landscape both sides of the fence. Even though the fence is approximately

100' from the neighbor's house, he felt it would be considerate to dress it up with some evergreens and other foliage.

Mr. Louisos explained that during the permit process, he learned that if he were to extend it past the garage line at the 6', he would need a variance, and the fence extends approximately 8' past the garage.

Mr. Krey confirmed with Mr. Louisos that he plans to do landscaping on both sides of the fence, and asked what kind of landscaping he is considering.

Mr. Louisos stated that he would like to do some evergreen on both sides, so that they are there throughout the year, then add some color in between them.

Referring to Mr. Louisos' landscape plan, Chairman Mills marked it Exhibit A for the record, and asked Mr. Louisos if they make it a condition of the variance that he provides landscaping in accordance with Exhibit A, on both the north and south sides, would that be acceptable.

Mr. Louisos responded yes.

Mr. Drinkard asked Mr. Louisos if he plans to do the landscaping like what is shown in the landscape plan.

Mr. Louisos stated that he worked with Lavocat's on the rendering, and while they may alter a couple of the shrubs, it will ultimately look like that.

Mr. Drinkard stated that the work that Mr. Louisos has done has been quite nice, he has made it a nice piece of property.

Mr. Louisos thanked Mr. Drinkard.

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 landscaping on the north side of the fence, similar to Exhibit A
2. plant evergreens or similar on the south side of the fence
3. landscaping to be installed and completed within 90 days

The applicant understands and agrees to the conditions

ON THE QUESTION:

Mr. Krey stated that this is a unique request in large part because it is only an 8' section that encroaches in to the front yard. While Mr. Krey was inspecting the property, it was difficult to see that it goes past the home.

Mr. Krey also noted that this fencing is to replace a bed of pines that was removed. Having an actual fence will be a nice addition to the property. He does not feel that there will be any detrimental effect on neighboring properties, or out of character with the neighborhood.

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

MOTION CARRIED

Appeal No. 3

Lynn McCarthy
Residential Single-Family
Town Code Reference: §101-3(C)(2)

Applicant requests a variance of 2' to allow a 6' fence to be within the front yard setback located at 4866 Kraus Road.

DISCUSSION:

Lynn McCarthy was present to represent her request, explaining that they are seeking this fence variance because they have Black Walnut trees, she has attempted to do a natural border with her neighbor, but everything is dying, so the natural border is not working. She does have photos to show the dead and dying trees.

Ms. McCarthy stated that they are installing the same style and color fence that her neighbor has, so that it will match. The chain link fence that is there currently will be removed; it will be very aesthetically pleasing on both sides.

Chairman Mills asked if Ms. McCarthy's rear neighbor is in agreement to this proposed fence.

Ms. McCarthy responded yes; they are using the same fencing company that her neighbor used for his front yard fence.

Chairman Mills asked if they make it a condition that Ms. McCarthy's fence be the same material and color as her neighbor at 4875 Smiley Terrace, would she agree to that.

Ms. McCarthy responded yes.

Mr. Krey noted that he did see the dead trees, they look like Evergreen trees, with lights on them.

Ms. McCarthy responded that they had made attempts to make the trees look nice. Those evergreens were planted approximately 4 years ago, that is as mature as they got. The trees that line the back of the fence were planted almost 2 years ago, and you can see the toxicity of the soil is causing the trees to die from the ground up.

Mr. Krey asked if those trees are going to be removed, and if they made it a condition of an approval, would Ms. McCarthy agree to that.

Ms. McCarthy responded yes, absolutely.

Mr. Drinkard confirmed that the fence quote that is in their packets is the fence that Ms. McCarthy is proposing to install.

Ms. McCarthy responded yes.

Mr. Drinkard asked if it is the exact same fence as Ms. McCarthy's neighbor.

She said yes, she had conversation with him to confirm that they would have identical fences. Mr. McNamara confirmed that the neighbor at 4875 Smiley Terrace has previously received a variance to have their fence, the precedent has already been set.

Mr. McNamara asked Ms. McCarthy if she plans to run the fence down along the Smiley Terrace side of her property.

Ms. McCarthy responded no; eventually they would like to plant some greenery along that side, but no current plans for that.

Mr. McNamara confirmed that it is only this section of fencing that the variance is needed for.

Ms. McCarthy responded yes.

Neighbor Notifications are on file, no comments have been received.

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

ACTION:

Motion by Richard McNamara, seconded by Steven Dale, to **approve** Appeal No. 3 as written with the following conditions:

1. all existing dead plants (evergreens) to be removed
2. fence to be the same color and style as 4875 Smiley Terrace portion that was recently approved and installed.

The applicant understands and agrees to the conditions.

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

MOTION CARRIED

Appeal No. 4

Peter Jackson Trust
Agricultural Rural Residential
Town Code Reference: §93-19(D)(1)

Applicant requests a variance to allow an existing pond to be closer than 100' to proposed property lines located at 7039 Salt Road.

DISCUSSION:

Kris Beyer Jones, the trustee of the Peter Jackson Trust was present to represent this request, explaining that Mr. Jackson had divided his existing property to give the house to his niece. The property in question was donated to Ducks Unlimited, the property line behind that is being gifted to the neighbor. They are requesting a variance for the property lines to be accepted in respect to the pond.

Mr. Dale asked if that is the Miland Road address.
Ms. Beyer responded yes.

Mr. Drinkard stated that as Ms. Beyer is aware, a variance is needed to have the pond on another part of the parcel as they are subdivided lots.

Mr. Drinkard asked Ms. Beyer to tell them about the lots, what will be on the lots, specifically focusing on the property that has the pond.

Ms. Beyer started off by stating that the pond does not cross in to either one of the other lots.

Mr. Drinkard stated that it does not, but it should be 100' from any lot line, which is why a variance is being requested. To have the parcels split as they are, with the pond resting on the lot where it is, and not be 100' from any parcel line. Where the pond will end up is on a parcel that will belong to some body; who is that some body.

Ms. Beyer responded that it is Ducks Unlimited, they will keep it as preservation. A substantial amount of work was done on the original parcel before it was subdivided to the home, and the extension of the Weber property on Miland Road. The pond will increase waterfowl habitation, this 157-acre parcel as well as the 91 acres across the street will all be donated to Ducks Unlimited to remain as preservation property.

Mr. Drinkard asked if anything will be done to the pond, or if it will be kept as is, in its natural state. Sometimes ponds dry up.

Ms. Beyer noted that she has spoken with the farmers in the area, specifically the farmer that has taken care of the pond who attested that the pond has been there for over 40 years.

Discussion continued regarding the pond and how long it has been there.

Mr. McNamara confirmed that 7039 Salt Road is the main property, with the residence.

Ms. Beyer responded yes; the residence and the barns.

Mr. McNamara confirmed that the 157.9 acres is going to Ducks Unlimited.

Ms. Beyer responded yes.

Mr. McNamara confirmed that a strip of land is being gifted to 10575 Miland Road.

Ms. Beyer responded yes; they are going to add it to their existing property, it will not be a separate lot.

Mr. McNamara confirmed that the property across the street is also being donated to Ducks Unlimited.

Ms. Beyer responded yes; the 91 acres is a separate parcel.

Mr. McNamara asked once the parcels are split, what is the distance from the property line to the pond.

Mr. Bleuer stated that based on the survey, it could be as little as 0 ft.

Mr. McNamara asked how deep the pond is.

Ms. Beyer stated that to her understanding, it is maybe 5 ft. deep. The cows can walk across the pond and the water will cover their back, but not their head. There are no cows on the property now, but there have been.

Mr. McNamara asked how large the pond is.

Mr. Drinkard stated that it is 160' in diameter.

Ms. Beyer stated that she has personally not been back to the pond, so her only information is secondhand, from people that have been back there.

Chairman Mills asked Ms. Beyer if she has explored cutting the lot lines a little different, so as to not need the variance.

Ms. Beyer responded that Mr. Jackson did all of the reconfiguring before he passed away, therefore she does not have an answer for that. She is following the orders for the trust, and the surveys were done some time ago.

Chairman Mills noted that this is one possible option in terms of how the parcels are subdivided. It would appear that there are other ways to configure the parcels and still meet the trust's objectives.

Chairman Mills added that the 7039 Salt Road parcel could have kind of a square cut off so that there is 100' from the pond. The same thing goes with the Miland Road parcel – it could be cut in such a way that there is 100' or more than the few feet that exists now.

Chairman Mills reiterated that there are some other possible solutions that would not require such a significant variance. He wonders if the attorney or whomever else is working with the trust is able to possibly explore any of the other options.

Ms. Beyer responded that she was unaware it was going to be an issue; she is the only person working with the trust with the attorney on that. Neither of the neighbors have a problem with how close the property lines are to the pond.

Mr. Krey asked how large the lot at 10575 Miland Road will be with the proposed piece of property that is being gifted to them.

Ms. Beyer stated that she is unsure of the total acreage, but believes that the strip being gifted is approximately 14 acres.

Mr. Krey noted that an attempt to re-configure the parcels to avoid encroaching in to the pond would potentially encroach in to the other parcel, and the parcel would be awkwardly shaped.

Mr. Krey stated that it is his understanding that they want ponds away from the lot lines for safety purposes, and it seems as though at least the existing property owners are in agreement with these proposed lot lines and the proximity to the pond. He understands that when variances are granted it is in perpetuity, so it will affect homeowners in the future.

Noting that he is not familiar with Ducks Unlimited, Mr. Krey asked if they will be doing anything with the pond.

Ms. Beyer stated that she does not know if or what their plans are, she does know that they do not plan to develop it.

Mr. Krey asked if Ducks Unlimited will do any type of maintenance to it, or will they let it be natural.

Ms. Beyer stated that her directive with them is that it continues to be farmed. In fact, their exact words were, “until the cows come home.”

Neighbor Notifications are on file, no comments have been received.

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

Mr. Drinkard noted that the code that is being reference right now and excavations deals with ponds of any kind; farm ponds, the requirements and everything involved. The part that he would be concerned with that deals with farm ponds, ponds, or man-made ponds is that in the future, somebody that is close to this pond will look back on this action and say that the Zoning Board did not follow the law as it was prescribed.

Mr. Drinkard stated that this particular pond, because it does not touch fresh water inlet or outlet, it does not fall under the purview of the Department of Environmental Conservation (DEC) and

instead is fully a local jurisdiction. If the Board gives a variance for this pond to Ducks Unlimited, and something happens later and they could be cast forward in to a lawsuit, it would not be beneficial to the Town of Clarence. Because they are given the option to challenge the lot lines, Ms. Beyer as the trustee has the option of executing whatever she needs to do, he presumes, to keep herself out of litigation. If the Board does not grant the variance, she must re-do the lot lines.

Mr. Drinkard continued, stating that there are a couple of paragraphs that bother him, and the paragraph that they are referencing about the 100' setback, so they can presume that if number 1 of 4 is valid, and that is why they are here tonight, and number 2 states that farm pond, pond, or man-made lake subject to this part shall have a minimum depth of less than 8'. That is the criteria. They are casting on Ducks Unlimited to potentially fulfill the requirements that are in the law should they choose to do anything with it.

Mr. Drinkard continued to read from the Town of Clarence code.

ACTION:

Motion by Steven Dale, seconded by Patrick Krey, to **approve** Appeal No. 4 as written.

ON THE QUESTION:

Mr. Krey stated that if this property and pond was in an area with a subdivision and homes near the property, and a concern that there would be a lot of dense housing close to this pond, he would be concerned about it. Due to the fact that it is a very agricultural area, the 3 properties currently adjacent to each other at least 2 of them are operating as farms, possibly all 3.

Mr. Krey stated that he does not feel that this would alter the character of the neighborhood, nor is it out of place with the neighborhood. He also feels that Ducks Unlimited will take care to continue to keep this with the character of the neighborhood.

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

MOTION CARRIED

Appeal No. 5

Kenneth Weinstein
Residential Single-Family
Town Code Reference:

- 1) §229-55(H)
- 2) §229-55(H)
- 3) §229-55(E)(1)

Applicant requests variances:

- 1) to allow a secondary detached garage; and
- 2) of 376 sq.ft. to allow a 576 sq.ft. detached accessory structure (garage); and
- 3) of 4' to allow a 6' detached accessory structure (garage) side yard setback; located at 5870 Forest Creek Drive.

DISCUSSION:

Kenneth Weinstein was present to represent his request, explaining that he would like to build a 24' x 24', 576 sq. ft. garage.

Mr. Weinstein had photos of garages in the immediate area that he stated are identical to what he would like to do with his proposed garage.

Chairman Mills marked 4 photos as Exhibit A.

Mr. McNamara asked what the plan is for the side of the garage, does Mr. Weinstein plan to match the materials, roof shingles, and other elements of the garage to the front of the house.

Mr. Weinstein stated that it would be vinyl, to match the vinyl on the side of the house.

Mr. McNamara noted that with projects like this, they like to have the brick matched as well, to remain consistent.

Mr. McNamara asked Mr. Weinstein if he would be acceptable to that.

Mr. Weinstein stated that he would prefer it is siding, but if it is a requirement, then he will oblige.

Mr. McNamara asked if there will be double doors, or a single door.

Mr. Weinstein stated that there will be 2-single doors.

Referring to the elevations that Mr. Weinstein submitted, Mr. McNamara confirmed that is what is being built.

Mr. Weinstein responded yes.

Mr. Drinkard referred to the page of the packet that shows the exterior elevations, and asked if the options provided are both vertical siding, and horizontal siding. Where Mr. Weinstein's house is sided, it is horizontal siding. Mr. Drinkard asked if the proposed garage siding would match the house.

Mr. Weinstein stated that they could put horizontal siding on, if that was a requirement.

Mr. Drinkard stated that as closely as the proposed garage can be matched to the house is what is preferred. If there is brick on the front of Mr. Weinstein's house, then they prefer there to be brick on the front façade of the proposed garage. Something that compliments the house, and does not look like a completely different building.

Mr. Weinstein stated that he would be willing to do that.

Mr. Drinkard added that he would suggest that is a condition to any approvals they might propose.

Mr. Weinstein stated that he would agree to that.

Mr. Krey asked how big Mr. Weinstein's home is.

Mr. Weinstein stated that it is approximately 2,900 sq. ft.

Mr. Krey asked Mr. Weinstein how long he has lived in his home.

Mr. Weinstein responded 1.5 years.

Mr. Krey noted that Mr. Weinstein needs a setback variance as well, as he is encroaching in to his neighbor's side yard setback. When Mr. Krey visited the site and stood where the garage is proposed to go, it would be directly in-line with the neighbor's backyard patio. Mr. Krey asked Mr. Weinstein if he plans to do landscaping on that side of the garage.

Mr. Weinstein stated that if it is required, he will.

Mr. Krey noted that the picture Mr. Weinstein included in his submittal packet showed landscaping on that side of the garage.

Mr. Krey asked if they make it a condition to include landscaping on that side of the garage, what kind would he do.

Mr. Weinstein stated that he could do some bushes or pine trees, whatever the board would require.

Mr. Krey confirmed that Mr. Weinstein would put brick on the front of the proposed garage if the board required it.

Mr. Weinstein responded yes; he would do that.

Mr. Krey asked Mr. Drinkard to repeat his statement regarding the siding.

Mr. Drinkard reiterated that the siding on the example that the applicant included in his application packet showed vertical siding.

Chairman Mills noted that this will be Exhibit B, which is 7 pages and titled 84 Lumber 24x24 Garage 50267.

Mr. Krey confirmed with Mr. Drinkard that he wants the siding on the proposed garage to be the same orientation as the siding on the house.

Mr. Drinkard responded yes.

Mr. Drinkard explained that they were given a picture from a catalog as part of the application packet that shows landscaping, they cannot assume that Mr. Weinstein will landscape it as shown in the catalog. They will need to specify what they want to see in regard to landscaping, so that it compliments Mr. Weinstein's house. They would also specify the siding, color of the siding, and the brick.

Mr. Weinstein said okay.

Mr. Weinstein stated that it would be beige siding, and that it is not brick it is stone. He added that it would all match.

Mr. Dale asked Mr. Weinstein if he currently has a 2-car garage.

Mr. Weinstein responded yes; a side-load garage.

Mr. Dale asked what the proposed second 2-garage will be used for.

Mr. Weinstein responded that he has classic cars, and would put two of them in the proposed garage.

Mr. Dale asked if Mr. Weinstein has spoken with his neighbor regarding this proposed project.

Mr. Weinstein stated that he mentioned it to her.

Mr. Dale asked what the neighbor's reaction was.

Mr. Weinstein stated that his neighbor was afraid the proposed structure might block some of her view from her sunporch.

Mr. Dale suggested to Mr. Weinstein that he moves the proposed garage back another 4', and then move it towards the center of the yard 4'. This will eliminate the 4' side yard setback variance request.

Mr. Weinstein stated that it would require a lot more concrete to do it that way.

Mr. Dale stated that it is the same size garage, just moving it slightly 4' so that the applicant can get around their stairs to the deck.

Mr. Weinstein stated that it would still require more concrete to move it down.

Mr. Dale asked if the driveway is concrete or asphalt.

Mr. Weinstein responded it is asphalt.

Mr. Dale does not understand how it would require more concrete.

Mr. Weinstein stated that it will require more asphalt.

Mr. Dale stated okay, that may be true, but then a variance for the side yard would not be needed by moving the proposed garage a little farther away.

Mr. Weinstein does not know if he would be able to get in to the garage, because it would be too close.

Mr. Dale stated that the edge of the garage is approximately a foot and a half, so Mr. Weinstein would be able to get a car in and out fairly easily.

Mr. Weinstein stated that there is a deck behind the house that would be in the way.

Mr. Dale stated that he assumes that Mr. Weinstein did not check in to moving the garage back and more towards the center of the backyard.

Mr. Weinstein responded no; nobody brought that suggestion up to him.

Mr. Weinstein stated that legally, he could put up a little fence down his property line to block all of the view from his neighbor's sun porch looking in that direction.

Chairman Mills stated that Mr. Weinstein's point was noted.

Neighbor Notifications are on file, there has been significant inquiries received.

In regard to Public Participation, the following residents spoke:

1. Erika Kazmark of 5880 Forest Creek Drive:
 - she is the next-door neighbor that is next to this proposed garage
 - has a lot of the same concerns as the Board
 - saw what the proposed garage is going to look like, and it does not match the home. She likes the potential conditions placed that would require the proposed garage to match the home
 - there are other neighbors that have detached garages, but they have been built to very closely match what the homes look like. Most are on a cul-de-sac with more space in between their garage and property line
 - where the proposed garage is going to be to the property line, she is looking at not even 6'
 - the wall of the garage would completely block her view
 - with regard to the suggestion to move the garage back, that would then completely block her view down as well as her neighbor next to her
 - concern with her resale value
 - if the Board moves forward, she appreciates the materials matching the existing home
 - would like to see how close to the property line it is, because it is really close, less than 6'

Chairman Mills asked Mr. Bleuer if 6' is what it would be if the variance was granted.

Mr. Bleuer explained that they are unsure, as the applicant was not able to provide a foundation or a plot plan. Unfortunately, the office had to make some assumptions in terms of a 24' garage with the house having just under a 30' setback.

Mr. Bleuer stated that he did visit the property, and where the stakes are located does not seem as though there is 6' feet to the property line. Ultimately, the necessary information was not provided to make that determination.

2. Greg Wiltrout of 8092 Laurel Park Lane:

- located directly behind the applicant's property
- the proposed 24' x 24' building would cut off all of their view of Forest Creek Drive
- they have a lot of vegetation at the back of the property that he has built up for privacy, but they would still have a view of the proposed structure
- agrees that it would be substantially close to the neighbor's property line
- moving it back and away from the northern lot line seems to make more sense

Iris Weinstein, also of 5874 Forest Creek Drive stated that she would be sure that the proposed garage matches the house, because she definitely would not want a garage that does not match the materials of the house.

Mrs. Weinstein added that Ms. Kazmark's property is down from their property. The side of the garage that Ms. Kazmark is referring to, slopes down. It is not right there.

3. Roger Maddigan of 5867 Selby Court, President of the Laurel Park Homeowner's Association:

- there will be two additional houses that would be affected, as they have views of the applicant's property and the proposed structure
- the proposed structure is considerably larger than what is specified in terms of exterior building
- will be a very different change in terms of what the residents see from their property. They will see the structure regardless of whether it stays where it is proposed, or is moved to the center of the property
- concerns with the way the proposed structure will look like on its exterior

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

Mr. Drinkard asked Mr. Maddigan if there is a Laurel Park Homeowner's Association Agreement.

Mr. Maddigan stated that they have many things that affect the development within their development.

Mr. Drinkard asked if what Mr. Weinstein is proposing violates any point on the Homeowner's Agreement.

Mr. Donohue stated that Mr. Weinstein's house is not within the Laurel Park Homeowner's Agreement subdivision.

Mr. Weinstein noted that Mr. Wiltrout is the neighbor behind his house, it is 60' from his garage to Mr. Wiltrout's property line. There are bushes and trees to the rear of Mr. Wiltrout's property, so he would not even be able to see this proposed garage.

Chairman Mills addressed Mr. Weinstein, noting that he has heard some feedback from Zoning Board members, as well as some feedback from neighbors. At this point, Mr. Weinstein can ask the Board to vote on his request, or he can ask the Board to table the request, and if he chooses to, he can return with revised data and revised plans showing either a brick or stone façade, more extensive landscaping, some exploration in to shifting or moving the proposed structure a bit in different directions to satisfy some of the input that was received by both Board members as well as adjacent neighbors.

Mr. Weinstein stated that he would ask for it to be voted on contingent on the stone work in the front, and the horizontal vinyl siding to match the house.

Chairman Mills confirmed with Mr. Weinstein that he wants them to vote on the request with the condition that the front façade is to be either stone or brick to match the house.

Mr. Weinstein stated that it is stone.

Mr. Drinkard stated that he feels they are at a point where he personally would like to see an elevation. This is a 100' lot in a very nice subdivision, surrounded by very lovely other homes. They do not want to disturb the harmony of the neighborhood; they cannot clearly visualize what it would look like. He would like to see an elevation, or architect prepared elevation at least of the front of the proposed garage.

Mr. Drinkard stated that this is what they would like to have in order to be sure that the neighborhood will not be disturbed with something that is out of context with the rest of the neighborhood.

Mr. Drinkard added that it is a tight piece of property because the rear property line butts up to another property in a subdivision.

Mr. Drinkard reiterated that he would like to see an elevation of what the proposed structure will look like.

Mr. Weinstein requested to table Appeal No. 5

Chairman Mills explained to Mr. Weinstein that he has heard from at least one board member that would like to see a front elevation showing the proposed garage with the stone matching the existing house. Also, a side façade showing that the siding will match the existing house would also be beneficial.

Chairman Mills noted that if Mr. Weinstein is going to utilize an architect, it would be worthwhile to play with the size of the structure and its orientation. As Mr. Dale suggested, perhaps explore moving it a bit to the left, moving it back a little, smaller in size. He would like to see some exploration in regard to landscaping to help mitigate some of the visual concerns that has been voiced from neighbors.

Chairman Mills noted that none of this is binding, but Mr. Weinstein has heard some input from neighbors, as well as board members about some things that may be valuable, should he return to the Zoning Board and they do vote on it.

Chairman Mills confirmed with Mr. Weinstein's request to table this request.

Mr. Weinstein responded yes.

Mr. Krey asked Mr. Bleuer if the applicant was to shift the proposed garage back and closer to his home where he was not encroaching on the side yard setback, and attach it via a breezeway, would that remove any of the other variance requests.

Mr. Bleuer explained that a calculation would need to be done on the square footage of any of the attached garage space.

Mr. Weinstein stated that because of the deck in the back of the house, he does not think that can be done.

Chairman Mills stated that maybe the garage is not moved, but a breezeway is explored, to tie in the aesthetics with the house.

Mr. Weinstein said that there is no way to put a breezeway there.

Chairman Mills stated that there is a variety of architectural ways to explore this.

Mr. Dale suggested considering a double garage door rather than two single garage doors. It makes it easier to move around and allows a little more space.

Addressing Mr. Weinstein, Mr. Bleuer highly recommended he hires a design professional to scale out the plan to his survey. His fear is that if Mr. Weinstein eventually receives approval from the Zoning Board of Appeals for a certain distance from the property line, and then upon proceeding to the Building Department, they will require surveyed drawings. If the number is different, he will need to return to the Zoning Board. To do it ahead of time and know what the exact number is, it can then be posted properly and know what the number is.

Mr. Weinstein asked what the legal limit is for the distance from the lot line.

Mr. Bleuer responded that for the side yard setback, 10' is the legal compliant setback, and the rear yard is 5'.

ACTION:

Motion by Ryan Mills, seconded by Gerald Drinkard, to **table** Appeal No. 5.

ON THE QUESTION:

Chairman Mills explained that the applicant has heard a variety of input from the board members that he may want to use and return with as far as information and data. Additionally, he has heard feedback from a variety of neighbors that he might also want to consider.

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

MOTION CARRIED

Appeal No. 6

Carolyn Vinci
Residential Single-Family
Town Code Reference: §229-52(B)

Applicant requests a variance of 6'6" to allow a principal structure side yard setback of 6' to allow for an attached garage addition located at 4445 Westwood Road.

DISCUSSION:

Carolyn Vinci was present to represent her request, explaining that she would like to expand her single-car garage to a two-car garage. Her vehicle was recently stolen out of her driveway as her son was undergoing cancer treatment, which pushed her in to deciding to store her vehicle inside.

Mr. McNamara appreciates the complete drawings that Mrs. Vinci submitted.

Mr. McNamara verified that the proposed garage will match the siding and roofing on the existing house.

Mrs. Vinci responded yes.

Noting that the proposed garage is being extended towards the back, Mr. McNamara asked Mrs. Vinci if she has plans to include an office.

Mrs. Vinci responded yes.

Chairman Mills noted that stone as well as brick will be incorporated in to the design, and asked if the new architectural shingle roof will be new across the entire house, or will it be woven in.

Mrs. Vinci responded that her intent is to weave it in. She renovated the house approximately 7 years ago, the roof is relatively new. She will not be using brick, as the existing brick is from 1950. There will be Wainscot masonry, and matching the siding.

Mr. Drinkard complimented the plans that were presented, and asked if she has received any neighbor feedback.

Mrs. Vinci responded that it has all been positive feedback.

Mr. Drinkard asked if there was any correspondence.

Jonathan Bleuer stated neighbor notifications are on file and no comments were received.

Mr. Dale asked if the large tree would be removed.

Mrs. Vinci said the roots would probably be damaged during the excavation and that she has three other massive trees on her property.

Neighbor Notifications are on file, no comments have been received.

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

Mr. Krey asked about possible landscaping on the side of the garage or if it would be too crowded in that area.

Mrs. Vinci said she plans to add tall shrubs as landscaping.

Mr. Krey asked if she planned to make any improvement to the driveway.

Mrs. Vinci stated she would like to tear out the whole driveway.

Mr. Krey asked for a time-frame when the driveway would be done, not wanting to make it a condition for approval of this appeal if it will be delayed.

Mrs. Vinci said she will need to pursue bank financing in the future, possibly next year.

Mr. Drinkard observed that any upgrade to a person's property can only add value to the neighborhood and the neighborhood is well maintained. The improvement will complement the neighborhood.

ACTION:

Motion by Patrick Krey, seconded by Steven Dale, to **approve** Appeal No. 6 as written.

ON THE QUESTION:

Chairman Mills stated that while this additional garage space does require a side yard setback, the architectural plans presented by the applicant appear to fit in with the character and environmental conditions of the neighborhood, and do not appear to add any adverse impact on

the character or environmental conditions of the neighborhood. It will fit in with the overall aesthetic of the area.

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

MOTION CARRIED

Appeal No. 7

7631 Transit Road, LLC.

Restricted Business

Town Code Reference: §229-76

Applicant requests a use variance to operate a retail business located at 7631 Transit Road.

Richard McNamara recused himself from Appeal No. 7. The proper paperwork will be filed.

DISCUSSION:

Attorney Sean Hopkins, Kevin Copolla with LENCO Lumber, and project architect David Sutton from Sutton Architecture were present on behalf of the applicant.

Mr. Hopkins explained that they are seeking a use variance for the property located at 7631 Transit Road, which will be a relocation from their current leased location at 8075 Sheridan Drive.

Mr. Hopkins explained that LENCO has had a long running, successful business in the Town of Clarence, and staying in the town was the driving force when searching for a new location. There are very few parcels within the Town of Clarence that could accommodate a project of this size.

Mr. Hopkins reviewed the changes that they have made to the proposed building and site since the conception of this proposed project in July, 2025. Moving it from the southern end of the site more towards the middle, brings it away from the neighboring property to the south. Also, it works better in the location as far as complying with the Town of Clarence flood damage prevention law. On this site, that constitutes as 1/3 of the site is to remain greenspace, meaning the southern edge of this property can not be developed at any time in the future.

Mr. Hopkins noted that on the site plan at the corner of Transit Road and Wolcott Road, an outparcel is shown. There is no current proposal for the outparcel, if and when something is proposed in the future, that would be subject to a completely separate environmental review process, and any other review and approvals from the Town of Clarence.

Mr. Hopkins explained that this is a complete redevelopment. They have provided engineered plans, if the requested variance is granted, it is not the end of the process. They will need to return to the Planning Board for Concept Plan approval, then Development Plan approval, Landscape Review Committee approval, plus additional approvals from outside involved agencies.

Mr. Hopkins explained that LENCO would like to open as soon as possible, and continue with their investment in the Town of Clarence.

Mr. Sutton explained the architecture, noting that they worked very closely with the Planning Office and Mr. Copolla when designing the proposed building. The building is very agricultural-type, including cupolas and an architectural style with a metal pitched-roof. They are not looking to present themselves as a big box-store, they are attempting to stay with the surroundings, and character of the Town of Clarence.

Mr. Sutton noted that they have included a front canopy / walkway that is purely architectural and aesthetic, bringing a more human scale to the building and allows not only a sheltered walkway from the parking lot, it is more about the architecture that it is portraying.

Continuing on, Mr. Sutton noted that a series of punched openings were used to keep with the architectural style, a Wainscot of brick or durable material down at the base.

Mr. Sutton explained that this proposed project has been presented to the PBX and the Planning Board, both have provided comments and adjustments that have made it in to the final design. The collaboration of everything that has gotten them to this point has resulted in a successful building.

Mr. Hopkins explained that all of this has increased the cost of this proposed project, and what differs from this site from their existing site, is that this site will be owner-occupied. The goal is that this will be the permanent location for the Town of Clarence LENCO location.

Mr. Hopkins reviewed the 4 criteria of a use variance, noting that they believe they have met ample justification that meets all 4 of the criteria.

Noting that there was a previously approved mixed-use project slated for this property that did not happen was due to the inability to find a suitable retail tenant, Mr. Hopkins reviewed the previously approved mixed-use site plan.

Mr. Hopkins reviewed the permitted uses at this Restricted-Business zoned location.

Regarding the 4 criteria for a use variance, Mr. Hopkins explained that this proposed project will dramatically improve every aspect of this site including aesthetics, landscaping, drainage, lighting, etc.

Mr. Hopkins stated that prior to this proposed project coming in front of this Board, a coordinated environmental review pursuant to the State Environmental Quality Review Act (SEQRA) was conducted. The Planning Board did take Lead Agency status, solicited comments from all involved and interested agencies, ultimately issuing a Negative Declaration. This means that a wide range of environmental impacts have already been identified, and thoroughly evaluated with this project. Every category will be dramatically improved in connection with this project.

Mr. Hopkins summarized some of the reviews that have been conducted, specifically noting that this proposed project will comply with the most stringent and current Stormwater quality and quantity standards.

Mr. Hopkins added that there was a letter issued in March, 2026 by the Department of Environmental Conservation (DEC) raising some concerns that there may be DEC wetlands on this site, pursuant to the amended wetland regulations that went in to effect on January 1, 2025. Fortunately, those regulations were struck down on April 8, 2026 by a court in Albany, and the DEC has elected not to appeal. Based on the pre-January, 2025 regulations, there are no jurisdictional wetlands on the site.

Mr. Hopkins noted that they did receive correspondence from the Building Department, expressing some comments – all of which they are comfortable with.

Finally, as to whether or not the alleged hardship is self-created, it is their opinion that it is not. This is primarily due to the history of the site, previously reviewed and approved, and for reasons outside of the control of that property at that time, that project could not proceed. The applicant has done a substantial amount of research and has determined that this is the best location for this proposed project. They want to stay in the Town of Clarence, and they would like to proceed with construction of this project as soon as possible.

Mr. Drinkard thanked Mr. Hopkins for his presentation, adding that the correlation to the Town of Clarence Masterplan makes the proposed project more okay, than not okay.

Mr. Drinkard stated that the zone that this proposed building will be in is very close to the agricultural flood zone, which broadens the capability and begins to tamper with the word minor retail business. Referring to page 44 of the Master Plan, Mr. Drinkard noted that a transitional business would be ideal defined as limited retail operations that meet the needs of local residents. Clearly this proposed project does that.

Mr. Hopkins exclaimed that it is exactly what they are going for.

Mr. Drinkard stated that Mr. Hopkins' presentation answered a lot of questions that he had, and linked the proposed project to the Master Plan.

Mr. Krey also complimented Mr. Hopkins on the presentation, noting that he found it highly persuasive.

Mr. Krey asked if Mr. Hopkins had stated that this site was previously used as an automotive repair business.

Mr. Bleuer stated that previously, Bitterman's Automotive operated on the site.

Mr. Krey noted that in the listing of permitted businesses, he did not see automotive as an option.

Mr. Bleuer explained that it pre-dated the permitted uses.

Mr. Dale asked if there was a traffic study performed.

Mr. Hopkins explained that a traffic study was conducted with the original project, and that was provided to the Department of Transportation by the Planning Department (DOT). The DOT which has the sole and exclusive rights over Transit Road did not require a traffic study. The typical threshold for a traffic study is 100 trips per hour during peak time, at any given intersection. This proposed project is nowhere close to that.

Mr. Hopkins added that this project has been designed to accommodate tractor-trailers.

Mr. Dale stated that this will not be the only lumber store on Transit Road.

Mr. Hopkins responded that no; it will not, but it will be the best one.

Chairman Mills asked if there are any additional architectural drawings for the side elevations.

Mr. Sutton explained that they have focused primarily on the Transit Road exposure, extending it down the northern side of the building because of the visual presence on the corner. They have focused their attention on having the architectural turn around the building. The southern side will have less exposure, and will be de-emphasized more. They have realized that more of the architectural features come at a cost, and they would like to put the cost where it is best appreciated. This was discussed with the Planning Board and Planning Board Executive Committee, which has evolved to focusing on anchoring the corner as well as giving it good presence on to Transit Road, and letting the architectural details diminish as proceeding in to the depth of the property.

Chairman Mills confirmed that it is metal clad proceeding back beyond the front façade.

Mr. Sutton responded yes.

Neighbor Notifications are on file, no comments have been received. Comments have been received through the Planning Board review; those comments have been addressed at this point.

In regard to Public Participation, no one spoke.

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

Mr. Krey entered Mr. Hopkins' presentation materials in to the record as Exhibit A.

ACTION:

Motion by Patrick Krey, seconded by Gerald Drinkard, to **approve** Appeal No. 7 as written:

ON THE QUESTION:

Referring to Mr. Hopkins's presentation Exhibit A, Mr. Krey stated that he agrees with the rationale that Mr. Hopkins stated.

Chairman Mills stated that as pointed out earlier in the presentation, this is a use variance, which does call for different criteria than the area variance. By way of both oral and written testimony and material documented evidence, the applicant has provided proof that these are unique circumstances associated with this parcel. It could be debated as far as reasonable rate of return for different project possibilities, but he believes that there is compelling evidence that this is a strong proposal for use at this particular parcel location.

Chairman Mills stated that he does not believe that based upon design and aesthetics, that it would in any way alter the essential character of the neighborhood.

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

MOTION CARRIED**Appeal No. 8**

Chris & Denise Santora
Residential Single-Family
Town Code Reference: §101-3(C)(2)

Applicant requests a variance of 4' to allow an 8' fence to be within the front yard setback located at 5735 Newhouse Road.

Mr. McNamara has returned to the dais.

DISCUSSION:

Christopher Santora was present to represent his request, explaining that this proposed fence would be located between their yard and the neighbor's yard.

Mr. McNamara noted that there were pine trees on the site that have passed away.

Mr. Santora stated that yes; the trees were approximately 25' tall, they planted them when they moved in in 2001. They could not be replaced with more 25' pine trees, so they removed them. At the same time, they had a pole barn put up behind their house and need to bring utilities in through the one side.

Mr. Santora explained that they spoke with their neighbors about putting up a 7 ½' fence. The fence itself is 6', with 1 ½ ft. on the top that is decorative.

Mr. Santora added that both of his neighbors approve of the proposed fence.

Mr. McNamara stated that basically, this fence is in Mr. Santora's front yard, but abuts up to his neighbor's back yard.

Mr. Santora stated that they are set back 270' off of the road, and the neighbor is approximately 100' from the road. It would give both of their backyard's privacy, from the back corner of their house where the fence would basically start, 100' towards his house.

Mr. McNamara asked Mr. Santora if he plans to do any plantings on either side of the fence.

Mr. Santora stated that they already have on the side where the utilities are not going, they have planted 35 variegated Willow Trees, which will get 8'-10' tall, and 6' wide.

Mr. McNamara asked if they are on the neighbor's side of the fence, or Mr. Santora's side.

Mr. Santora stated that where the fence ends, the plants start. The fence is 100' long and the plants give another 175' of privacy.

Mr. McNamara asked what would be in front of the fence.

Mr. Santora said there is not anything in front of the fence now. The reason for the fence being taller than the normal 4-6' fence is due to the slope of the ground on the side. A 4 or 6' fence would not provide enough privacy when Mr. Santora is in his driveway and his neighbor is on his back porch, he would be able to see him from the waist up. That is the reason for needing a higher fence.

Mr. McNamara asked if he would be willing to add plants in the front.

Mr. Santora said he would be planting perennials in front that would grow 2' tall and 3' wide on both sides.

Mr. Drinkard does not prefer an 8' fence in the front yard. Something else could be supplemented, such as plantings. If the neighbor is looking for privacy, they could put up something in their backyard. If Mr. Santora were to put up a planted item, trees or shrubbery would be preferred. A white 8' fence is stark. Town requirements do not allow 8' fences in the front. It was his decision to set his house so far back on his property causing lack of privacy. A fence would be somewhat restrictive.

Mr. Santora explained that the issue with his prior pine trees being used as a privacy screen was a problem when the trees died and as this kept reoccurring, it becomes expensive to keep replacing them. Also, replacing the tree with a smaller size does not present a nice appearance. He presented the addition of a fence to the neighbors. He is proposing perennial plants to break up the stark white of the fence. The top portion, one and a half feet of the fence, is decorative with black wrought iron posts.

Chairman Mills said he believes the starkness of the white vinyl fence can be mitigated with perennials as a condition of this variance. He acknowledged the unique situation with his home set back farther from the neighboring properties. He asked if Mr. Santora owns the property on either side or if it is a rental property.

Mr. Santora clarified to the right is rental and the left is owner occupied.

Chairman Mills asked if both of them are in favor of the fence.

Mr. Santora said the neighbor notifications were signed.

Mr. Bleuer said the neighbor notifications are in, no comments received.

Chairman Mills said other than fencing we are back to landscape/foliage-type barriers which they tried in the past presenting its own challenges. This application is a medley of both a fence and landscaping with the benefit being it will allow privacy on both sides.

Mr. Krey asked why he has the see-through top portion of the vinyl fence.

Mr. Santora said this style fence was agreed upon by all. The 6' was not high enough and the 8' was a bit too high so they compromised to improve the appearance of the fence.

Mr. Dale is concerned with setting a precedent for an 8' fence in the front yard. He prefers they use a 6' fence solid to the top.

Mr. Santora said it is a unique situation with the neighbors in agreement.

Mr. McNamara asked if he moved the fence to the neighbors side it would be in the rear yard of his neighbors and only need a 2' variance from 6' to 8'.

Chairman Mills said the additional height would be needed due to the architectural nature of the fence design. Design is subjective and the parties involved are in agreement.

Neighbor Notifications are on file, no comments have been received.

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

ACTION:

Motion by Ryan Mills, seconded by Richard McNamara, to **approve** Appeal No. 8 as written, with the following condition:

1. plant perennials of his choice along the inside of the north and south fence lines

ON THE QUESTION:

Mr. Krey stated that this is a very unique request in the sense that the applicant's property is setback very far from his neighbor's. As pointed out, although the fences will be in his front yard, they are fencing the neighboring property's backyard, so it is more of a variance request of 2' in terms of height increase.

Also, due to the grade of property as the applicant explained, Mr. Krey stated that if he did not receive the variance for the height of the fence, it would not satisfy as a privacy buffer for him or his neighbors.

Chairman Mills pointed out that this applicant has provided testimony that he did try a natural buffer for over 20 years. Because of the way Mr. Santora's house is situated back on the property, it will provide privacy for both them and the adjacent neighbors. He will attempt to mitigate the fence with the perennials along his interior, and the neighbors can do similar if they choose too as well.

In regard to the additional height, Chairman Mills explained that the architectural design detail lends to the overall height of the fence. It is more of a 6' fence with architectural spindles that provide the extra height.

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

MOTION CARRIED

Appeal No. 9

Natale Builders, Inc.

Commercial

Town Code Reference: §229-126(D)(1)(f)

Applicant requests a variance to allow a third story on six (6) multiple family housing buildings located at 8080 & 8112 Wehrle Drive.

DISCUSSION:

Ken Zollitsch, with the engineering firm GPI, present along with Bob Corrao and Angelo Natale, the applicant for Natale Builders to represent the request. They are proposing 6 mixed use buildings located at 8080 Wehrle Drive adjacent to Home Depot, Dave Smith Ford, and across from Hobby Lobby, in a commercial corridor and properly zoned for this project. They wish to provide mixed use buildings/apartments to support the commercial properties at this location. They are requesting the variance to allow three stories on each of the 6 buildings. The buildings are in compliance with the height requirements. This is similar to variances approved for previous commercial projects by this Board along Sheridan Drive and Main Street, where 3 stories were allowed in mixed use buildings. If the variance is approved, they will move on to concept approval.

Mr. Krey asked for an explanation why they need a third story as opposed to 2.

Mr. Zollitsch said to support the substantial amount of commercial space, they need a certain number of residential units in place. As opposed to having a larger footprint, that is where they run into problems meeting parking requirements on site. By building vertically and stacking the units, they are able to meet the necessary parking requirements that are needed for the commercial and residential components of the project.

Mr. Krey asked if there are any 3-story buildings in the immediate area.

Mr. Zollitsch stated that he is not aware of any in the immediate vicinity, although he does know that there are some substantially tall buildings in the immediate area. Understanding that across the street is Lancaster and not Clarence, the Regal Imax movie theater is well above what these

proposed buildings will be. They are seeing more and more of these types of buildings throughout the towns, and in the immediate vicinity.

Mr. Dale questioned the design changing from flat roof to a sloped roof.

Mr. Zollitsch stated that it is still early on, and that they are largely leaning towards the flat roof as opposed to the sloped roof. They were asked to assess what the sloped roof would be, and they feel that given this location, as opposed to some of the previous projects that were granted a 3-story variance, those they felt were in a more traditional, detached single-family area where it might be appropriate to have more of a homey-style look to it. With this proposed project being located along the Transit Road corridor, they feel that a flat roof would be more appropriate.

Mr. Dale asked if there will be an elevator, or an Americans with Disability Act (ADA) accessible apartment on the first floor.

Mr. Zollitsch responded yes; all of the six proposed buildings will be equipped with elevators.

Mr. Drinkard noted that it is unnecessary to spend a lot of time discussing topics that will be thoroughly addressed in Development Plan review with the Planning Board.

Chairman Mills confirmed with Mr. Zollitsch that this proposed project is not economically feasible without the third floor.

Mr. Zollitsch responded that is correct.

Chairman Mills asked if that is a result of the Commercial component of the proposed project.

Mr. Zollitsch stated that they do understand the Town's desire for more commercial properties, and given the code, and being able to conform to the code, they cannot have stand-alone mixed-use buildings. In order to supplement, they are looking for that number of residential units on-site.

Chairman Mills confirmed that there is a total of 134 units.

Chairman Mills asked how many commercial spaces there are proposed.

Mr. Zollitsch explained that they have not broken it down in to individual spaces yet. They are close to 60,000 total square feet.

Neighbor Notifications are on file, no comments have been received apart from comments received through the Planning Board review.

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

ACTION:

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

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

MOTION CARRIED

Meeting adjourned at 7:47 pm, with a motion by Patrick Krey.

MOTION CARRIED

Amy Major
Senior Clerk Typist