

Town of Clarence
One Town Place, Clarence, NY
Zoning Board of Appeals Minutes
Tuesday, August 11, 2026

Vice-Chairman Patrick Krey called the meeting to order at 5:30 p.m.

The Zoning Board led the Pledge of Allegiance.

Zoning Board of Appeals members present:

Patrick Krey Richard McNamara Steven Dale Forest Rung

Zoning Board of Appeals members absent:

Chairman Ryan Mills Gerald Drinkard

Town Officials present:

Senior Planner Andrew Schaefer
Deputy Town Attorney David Donohue

Other Interested Parties:

Penny D. Cupolla	Gerald Costanzo	Ken Weinstein	Chris Caito
Andrea Ruzzine	Shawn Pappas	Joel Reber	Elizabeth Epstein
Larry Hull	Fran Martinez	Marc Martinez	Ray Hoover
Alex Reber	Jesse Billinghamurst	Melissa Roshong	Dan McAuliffe
Maria Sanders	Jim Pauly	Elizabeth McAuliffe	Dave Sutton
Anthony Pandolfe	Nick Castellani	Michael Sanders	Erika Kazmark

Motion by Steven Dale, seconded by Richard McNamara, to **approve** the minutes of the meeting held on June 9, 2026.

Richard McNamara	Aye	Patrick Krey	Aye	Steven Dale	Aye
Forest Rung	Abstain				

MOTION CARRIED

OLD BUSINESS

Appeal No. 5 – From the June 2026 Meeting

Kenneth Weinstein

Residential Single-Family

Town Code Reference:

1) §229-55(H)

2) §229-55(H)

3) §229-55(E)(1)

Note: This request supersedes the June 2026 variance request, which was tabled.

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 3'9" to allow a 6'3" detached accessory structure (garage) side yard setback; located at 5870 Forest Creek Drive.

DISCUSSION:

Kenneth Weinstein was present to represent his request, stating that since the June meeting, he has contracted an architect, and called 84 Lumber regarding the beige siding, which they do have. It will be horizontal and match the existing pattern of the house.

Mr. Krey entered the drawing of the garage as Exhibit A.

Mr. Weinstein explained his next-door neighbor's concern that his structure would ruin the view from her sun porch, and provided photos of the views.

Mr. Krey noted that there is a photo showing the view towards 5880 Forest Creek Drive, taken from where the proposed garage would be. This photo was marked Exhibit B.

Mr. Weinstein also added that the neighbor behind his home had voiced concerns that their view would also be ruined by his proposed garage. Mr. Weinstein produced photos showing the view of the back of his lot, which is lined with trees.

Mr. Krey marked the photo Exhibit C.

Mr. Weinstein next showed a photo of a garage in the neighborhood that was built in September, 2025 around the corner from his property, showing no bricks in the front of it to match the house. The Zoning Board previously suggested to Mr. Weinstein that they would like to see bricks at the front of the proposed garage to match the house.

Mr. Krey entered the photos of 5884 Bent Brook Court as Exhibit D.

Regarding the suggested breezeway, Mr. Weinstein noted that they have a deck at the rear of their house, so adding a breezeway would not be practical.

Mr. McNamara commented that the photos Mr. Weinstein has submitted are very helpful, showing what the neighbors are referring to, and what has been allowed in the area at neighboring properties. He does not see a problem with the garage placed in this location.

Mr. McNamara added that he does take issue with the architecture, specifically the 4/12 pitch on the roof, compared to the other garages in the area. He feels that if Mr. Weinstein's garage had a steeper roof, it would look better.

Brian Effinger, Mr. Weinstein's architect was present to also represent the project, stating that they could do an 8/12 or 9/12 roof pitch, peak not to exceed 16'.

Mr. Krey reiterated that Mr. McNamara would like to see a steeper roof pitch.

Mr. Dale noted that the last time Mr. Weinstein was in front of the Zoning Board, they discussed the size of the proposed garage possibly being reduced. He made a suggestion that perhaps a double size garage door could be used, rather than two-single garage doors. He noticed both examples in the packet that Mr. Weinstein submitted still have double garage doors.

Mr. Weinstein responded that he spoke with 84-Lumber, they can get two-single doors, it would be more expensive than one double door.

Mr. Dale stated that Mr. Weinstein could also make the garage narrower.

Mr. Weinstein asked how much narrower Mr. Dale would like the garage to be.

Mr. Dale stated so that it does not exceed the 10'.

Mr. Weinstein stated that they are proposing a 24' by 24' garage, and asked Mr. Dale what his suggestion is.

Mr. Dale said to reduce it down so that a side yard setback variance is not needed.

Mr. Effinger stated that he is not sure what would need to be done architecturally to make that happen. Also, it would be smaller, the chances of hitting a car door on the side, or banging something increased.

Mr. Dale stated that this is the second 2-car garage. Mr. Weinstein is seeking an oversized garage, and a variance for closer to the setback. All he is asking is to make it a bit smaller so that a setback variance is not needed.

Mr. Effinger noted that it could be 20'.

Mr. Dale stated that they could bring it in another foot.

Mr. Effinger responded that they could not do that, there is concrete in the way. They are trying to line it up with the driveway.

Discussion continued.

Mr. Weinstein agreed to a 20' by 20' size garage.

Mr. Rung noted the photos of the other garages in the neighborhood, and asked Mr. Weinstein if he knows whether they needed variances for their structures.

Mr. Weinstein responded that he does not know.

Mr. Krey confirmed discussions, stating that the applicant agreed to remove the 3rd prong of the variance regarding the side yard setback.

Mr. McNamara interjected, adding that the one exhibit of the photo of the garage on Bent Brook Court, the garage is approximately 24' wide. Putting in a 20' garage for 2 cars, does not look great. He is a contractor; these garages are typically 24' or 28' wide. It is his opinion that the side yard setback is okay with the size of the detached garage, it makes the structure look good.

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

In regard to Public Participation, the following resident spoke:

1. Erika Kazmark of 5880 Forest Creek Drive:
 - neighbor next door to the applicant
 - when sitting in her sunroom in the backyard, there is a large bush that grows wild that she cuts back, and when the leaves fall off there is a direct view to his yard
 - she will be able to see the whole side of his garage from her sunroom
 - concerned with the drainage off of the garage, and with the steep roof, all of the water will dump to the back corner of her home
 - applicant's property is higher than hers, wants to know what the plan is for drainage so that it does not interfere with her yard
 - also concerned with what will happen to the resale value of her home with the proposed garage going in, as it will be quite large, and quite close to her home
 - when it comes to mowing around the proposed garage, the applicant will need to come on to her property to mow and maintain the side of the garage
 - the houses on the street with additional garages, all have bigger lots, allowing for more space in between the garage and the neighboring property

Mr. Krey asked Ms. Kazmark if landscaping along the rear of the garage would help.

Ms. Kazmark responded no.

There is a photo that shows her house, and where the proposed garage will be, it goes past where her sunroom is. A lot of the view will be the side of a tall garage, 5' off of her property line.

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

Mr. Weinstein explained that there will be gutters on the proposed garage, and in discussion with his architect, stated that they could use a bubbler system to direct the water out to the street.

Mr. McNamara stated that a drainage plan will be required with the Engineering Department if this proposed project moves forward to the building stage.

ACTION:

Motion by Richard McNamara, seconded by Patrick Krey, to **approve** Appeal No. 5 under Old Business as written, with the following condition:

1. roof pitch to mimic existing home, but roof ridge height shall not exceed 16'

ON THE QUESTION:

Mr. Krey stated that as the applicant has shown with the evidence that he has entered in to the record, there are several garages in the area of similar size and building materials.

Additionally, Mr. Krey stated that the condition imposed for the height of the roof peak will address the aesthetic concerns regarding the appearance of the garage.

Richard McNamara	Aye	Patrick Krey	Aye	Steven Dale	Nay
Forest Rung	Aye				

MOTION CARRIED

Appeal No. 6 – From the July 2026 Meeting

Christopher Caito

Residential Single-Family

Town Code Reference:

- 1) §229-55(D)
- 2) §229-55(H)
- 3) §229-55(E)(2)
- 4) §229-55(F)

Note: This request supersedes the July 2026 variance request, which was tabled.

Applicant requests variances:

- 1) to allow a secondary detached garage; and
- 2) of 1,080 sq.ft. to allow a 1,280 sq.ft. detached accessory structure (pole barn); and
- 3) of 5" to allow a 16'5" tall detached accessory structure (pole barn); and
- 4) to allow an accessory structure (pole barn) greater than 400 sq.ft. to use materials different from the principal structure; located at 9668 Keller Road.

Mr. McNamara recused himself from Appeal No. 6. The proper paperwork will be filed with the Town Clerk's Office.

DISCUSSION:

Chris Caito was present to represent his request, noting that he completed every request that was made or suggested at the July, 2026 meeting.

He made the building smaller, added windows, the walls will be shorter, he was asked to install smaller garage doors, those have also been re-designed to accommodate that request. Mr. Caito referred to the photos that he supplied with his submission paperwork.

Mr. Krey marked the rendering that Mr. Caito referred to as Exhibit A.

Mr. Dale thanked Mr. Caito for making the structure smaller, and for listening to them.

Mr. Dale stated that the only thing that he is uncomfortable with in regard to the proposed structure, is how dramatically different it will look from the house. The siding is metal, and it will not look at all like the house.

Mr. Caito responded that he plans to re-side his home, his current siding is old. He will use vinyl siding on his house, with the colors to match the proposed pole barn.

Mr. Dale would like the siding to be the same as the siding on the house.

Discussion continued regarding the siding on the pole barn.

Mr. Krey asked Mr. Dale if the color of the proposed pole barn siding is close to the same color as the siding on the house, is that sufficient.

Mr. Caito responded that the color will be the same.

Mr. Dale asked Mr. Caito if he intends to use the proposed pole barn for business.

Mr. Caito responded no; not at all.

Mr. Dale asked Mr. Caito if he would agree to a condition stating that no business is to be conducted from the structure.

Mr. Caito responded yes.

Mr. Dale stated that if the color is going to match, that will be ok.

Mr. Rung stated to Mr. Caito that he appreciates him addressing everything from last month, and asked if the landscaping shown in the rendering is what Mr. Caito is planning to do, or is it just for illustration.

Mr. Caito responded that he tries to keep the appearance of his home looking nice, and if there is landscaping on the front of his home, he will also put landscaping on the side of his home. It will only be on the one side.

Regarding the landscaping, Mr. Krey asked which side the landscaping will be on.

Mr. Caito responded that it will be the east side.

Mr. Krey asked Mr. Donohue about imposing a condition regarding landscaping on the side of a pole barn, what level of detail does the board need to go to.

Mr. Donohue suggested if they are looking for a number of shrubs, or a certain area to be covered.

Discussion continued regarding possible landscaping.

Mr. Krey asked if they can impose a condition suggesting the landscaping looks substantially similar to that in Exhibit A.

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

In regard to Public Participation, no one spoke.

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

ACTION:

Motion by Forest Rung, seconded by Steven Dale, to **approve** Appeal No. 6 under Old Business as written, with the following conditions:

1. landscaping to be installed substantially similar to Exhibit A
2. siding and roof of the home shall color match with the pole barn
3. no business is to be conducted from the structure

ON THE QUESTION:

Mr. Krey stated that this request is different from others that they see because in terms of the neighborhood, there is a very similar pole barn across the street, it will not be out of character for the neighborhood.

Mr. Krey added that they do appreciate the applicant making the changes based on the comments of the board from the last meeting. As the rendering depicts, it will be an aesthetically pleasing pole barn, and the conditions imposed will mitigate any other concerns.

Steven Dale Aye Forest Rung Aye Patrick Krey Aye

MOTION CARRIED

Mr. McNamara re-joined the meeting.

Appeal No. 5 – From the July 2026 Meeting

Andrea Ruzzine
Traditional Neighborhood
Town Code Reference:
1) §196-3
2) §101-3(C)(2)

Applicant requests variances:

- 1) ~~to allow a swimming pool to be within the front yard setback; and~~
 - 2) of 2' to allow a 6' tall fence to be within the front yard setback;
- located at 9430 Clarence Center Road.

DISCUSSION:

Andrea Ruzzine was present to represent her request, stating that she is withdrawing her request for prong No. 1 for the swimming pool, and is now only seeking prong No. 2 for the 6' tall fence.

Mr. Krey confirmed that prong No. 1 of the variance for the swimming pool within the front yard setback.

Ms. Ruzzine responded yes.

Ms. Ruzzine stated that essentially, she can only build the fence out 14'. The large Maple tree located on Long Street is not within the fence line.

Referring to the photos that she submitted with her packet, Ms. Ruzzine noted the photo that shows the air conditioning unit and the Maple tree that she referred to.

Mr. Krey noted the photo as Exhibit A.

Ms. Ruzzine explained that she wants to start the fence at the Maple tree, her goal is to cover the air conditioning unit. It is not a very large area that she wants to cover with the fence.

Referring to the correspondence submitted by a neighbor, Ms. Ruzzine explained the reasons she is requesting a 6' fence versus a 4' fence.

Ms. Ruzzine stated that with the wind and snow in the winter, it is very difficult to keep her walkways and porch clear.

Additionally, Ms. Ruzzine noted that she has 2 dogs and the next-door neighbor also has a dog. She would like to have the fence to keep her dogs contained and away from the neighbor's dog.

Ms. Ruzzine reiterated that she has 3 teenage daughters, and if she ends up eventually applying for a variance for a pool permit, she would like the fence up first. She would like to install the fence gate at her driveway along Long Street, to provide extra privacy.

Ms. Ruzzine noted that she would never impede any sight lines, she is a realtor and understands the importance of them.

Addressing one of the concerns stated by a neighbor, Ms. Ruzzine noted that the resale value of her home and her neighbor's will not go down because of this fence. Her resale value has already increased with all of the improvements she has made on the house in the short time she has lived there.

Ms. Ruzzine addressed all of the updates and improvements that she has made to her home and the property so far.

Mr. Krey asked about the pool that Ms. Ruzzine may eventually install.

Discussion continued regarding the potential pool in the future.

Mr. Krey noted that the only portion of the fence that requires a variance is the portion on Long Street, otherwise the 6' fence is able to go all around the remaining portion of her property.

In regard to Ms. Ruzzine's dogs, Mr. Krey asked if they could jump a 4' fence.

Ms. Ruzzine responded yes.

Mr. Rung asked Ms. Ruzzine if she anticipates any issues with drainage, as it appears that she has some gutters that come out right where the fence is proposed to go.

Ms. Ruzzine stated that the gutter needs to be readjusted, she will fix that.

Mr. Rung asked if the gutter will go under the fence.

Ms. Ruzzine explained that it just needs to be re-connected. When she had her house painted, the contractors removed the gutters and did not re-install them correctly. She will fix it. There is drainage in the ground.

Mr. Rung noted that Long Street has a sidewalk on the left side of the street, not on Ms. Ruzzine's side of the street.

Mr. Rung noted that in his opinion, the line of sight will be less of an issue because the sidewalk is on the other side of the street.

Mr. Dale asked Ms. Ruzzine if she would consider rotating her pool 90 degrees.

Ms. Ruzzine explained that she can not rotate her pool because it would be too close to the garage. Also, she is not putting the pool in now, she rescinded that request.

Mr. Donohue reminded Mr. Dale that the pool request was withdrawn.

Mr. Dale stated that he understands that, but the request for the fence is to accommodate the pool.

Mr. Dale asked how close the proposed fence will be to Long Street.

Ms. Ruzzine stated that it is 14' off of her house.

Discussion continued regarding the distance from the fence to Long Street.

Mr. McNamara determined that it is approximately 20'-25' to Long Street.

Mr. McNamara confirmed with Ms. Ruzzine that the fence will be 14' off of the house.

Ms. Ruzzine responded yes.

Mr. McNamara stated that it will not have any bearing on the sight line from Clarence Center Road.

Mr. McNamara asked what color the proposed fence will be.

Ms. Ruzzine stated that it will be a white vinyl fence, and will match the house.

Mr. McNamara asked Ms. Ruzzine if she has given any consideration to putting in some landscaping along the outside of the fence.

Ms. Ruzzine responded yes; she will be happy to do that.

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

In regard to Public Participation, the following resident spoke:

1. Melissa Roshong of 9440 Clarence Center Road:
 - owns property adjacent to the applicant
 - questioned the applicant not needing a variance for a 6' fence on the side of the property adjacent to her

Mr. Krey reiterated that the applicant does not need a variance for a 6' fence in any other area of her yard aside from the one side.

Ms. Roshong stated that the applicant's fence directly impacts her.

Ms. Roshong continued stating her concerns.

Mr. Rung asked about a wooden picket fence on the property line.

Ms. Roshong stated that according to the surveys, it is the applicant's fence.

Ms. Roshong continued stating her concerns.

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

Mr. Krey asked Ms. Ruzzine what her plan is for the existing fence.

Ms. Ruzzine stated that she is replacing it.

Discussion continued regarding the location of the fence on along Ms. Roshong's property.

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

ACTION:

Motion by Patrick Krey, seconded by Richard McNamara, to **approve** the second prong of the zoning request for Appeal No. 5 under Old Business, with the following conditions:

1. existing fencing on the east side of the property to be removed and replaced with 6' tall white vinyl fence
2. fence to be no greater than 14' from the house on the Long Street side

ON THE QUESTION:

Mr. Donohue confirmed that the applicant has withdrawn her request for variance number 1.

Mr. Krey responded yes.

Mr. Krey stated that based on the testimony and site visits, the proposed fence will not create any major change in the area. While he sympathizes with the neighbor and her concerns with the effect on the neighborhood, they are only looking at this request from the view of the side yard that is treated as the front yard, and is a small portion of the fence. He does not believe that the 2' variance that they are granting will have any impact on the view.

In terms of the applicant dealing with drifting snow, separating the dogs, and the issues stated with her children, he found those compelling reasons.

Richard McNamara Aye Steven Dale Aye Forest Rung Aye Patrick Krey Aye

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

7 Brew / Brewtopia, LLC.

Major Arterial

Town Code Reference:

- 1) §229-94(K)
- 2) §229-94(D)
- 3) §229-124(A)

Applicant requests variances:

- 1) of 490 sq.ft. to allow a 510 sq.ft. principal building; and
- 2) of 6'2" 11'2" to allow a 123'10" front yard setback (from center line); and
- 3) of 25' to allow a 55' setback for a drive-through window (from right-of-way line); located at 4301 Transit Road.

DISCUSSION:

It was noted that the proposed front yard setback was accurately written, but the variance amount should read 11'2", not 6'2".

Project Engineer Anthony Pandolfe with Carmina Wood Design, and Director of Operations with 7 Brew, Jesse Billingham were both present to represent the applicant, and review the proposed 7 Brew project.

Mr. Pandolfe stated that 7 Brew is a drive-through only, drink only establishment. There is no food on the menu, there is no sit-down area for customers. They have on-site queuing within their outparcel of the plaza, which is what 7 Brew looks for in the development of their locations; plazas that are over-parked.

Mr. Pandolfe continued, stating that this plaza allows them to use the existing parking area to the south for additional stacking. The main goal is to not allow stacking to back out on to Transit Road.

Mr. Pandolfe pointed out the additional greenspace that they are adding to their half-acre outparcel area, they have approximately 6 1/2 percent along Transit Road. They will have a total of approximately 21 percent greenspace that they are adding with their project within the interior.

Mr. Pandolfe explained the variances, noting that because 7 Brew is a drive-through only establishment, they do not need a building any bigger than 510 sq. ft.

In regard to the setback from the center line of Transit Road, Mr. Pandolfe stated that at a little over 6', this is a relatively minor variance, the code requires 130' from the center line. They cannot move the building back any further, because their outparcel is just big enough for the two stacking lanes that they are proposing. Any further away from Transit Road, they would lose the two stacking lanes, and those are very valuable to running the business efficiently.

The third prong of the variance request for the drive-through window setback, is to allow proper sight lines when exiting the drive-through lane.

Mr. McNamara asked how many cars are in a queue.

Mr. Pandolfe responded that according to the site plan that they provided, it allows for 30 cars on-site, with availability for additional cars in the other area of the parking lot.

Mr. McNamara is concerned with the cars backing up in to Transit Road, and asked if there has been any thought given to rotating the building 90 degrees counter-clockwise. Have the queuing headed east, and the whole parking lot will be available for entering and exiting. Taking the 4 rows of parking, and making it their location.

Mr. Pandolfe stated that with the existing businesses and store fronts that are currently on the site, the stacking would completely block their businesses.

Mr. Pandolfe explained that the stacking and traffic have been a large concern of both the Town Board and Planning Board, as well as with them. There is a traffic management plan in place, showing that they would utilize the existing parking lot if needed.

Mr. McNamara continued to state his concerns with cars potentially backing up on to Transit Road.

Mr. Pandolfe stated that the stacking would be in the parking lot, not the driveway.

Discussion continued.

Mr. Billinghamurst referred to the traffic plan for when they overflow their lot, which potentially may happen only the first week that they are open. A lot of the concerns as far as he can tell, are based on their Amherst location at 3999 Maple Road. Their team and processes have grown with each opening of a new store.

Mr. Billinghamurst continued to explain their drive-through, and how it has improved with each opening of a new store.

Mr. Krey entered the aerial view photo in to the record as Exhibit B.

Mr. Rung asked if the traffic plan and aerial view that Mr. Billinghamurst is referring to is for the opening day.

Mr. Billinghamurst responded yes; and any specials day that they feel will need extra support, they will add extra staff. He also pays the local police department to come and provide traffic support for them as well, as needed.

Mr. Rung asked if they have a standing agreement with the owners of the parking lot.

Mr. Billinghamurst responded yes.

Referring to the traffic plan, Mr. McNamara noted that the traffic coming in heads south, and asked if the parking lot will be restricted.

Mr. Billinghamurst explained that they have blue traffic cones that are marked 7 Brew that they use as needed to mark off an area. They use walkie-talkies that have a 30' +/- range that the staff on duty will use, as well as high-visibility jackets or vests.

Mr. Dale asked how long they anticipate the heavier traffic to last before settling down.

Mr. Billinghamurst stated that he would be surprised if it is needed the entire opening week. The Amherst location was the first one in the area, was super busy, and the employees were not prepared. Everything has changed since that opening.

Mr. Dale is a little concerned at the traffic, noting that they will be depending on the people traveling north to come in for coffee, how do you satisfy the people traveling south.

Mr. Pandolfe noted that theoretically it could cut down on customers, but they could also access one of the other entrances to the plaza.

Discussion continued.

Mr. Krey noted that the traffic concerns are all being processed with the Planning Board and Town Board. This board is merely approving the variances.
Neighbor Notifications are on file, no comments have been received.

In regard to Public Participation, no one spoke.

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

ACTION:

Motion by Steven Dale, seconded by Forest Rung to **approve** Appeal No. 1 as written and amended.

ON THE QUESTION:

Nothing on the question.

Richard McNamara	Aye	Steven Dale	Aye	Forest Rung	Aye
Patrick Krey	Aye				

MOTION CARRIED

Appeal No. 2

Shawn Pappas
Residential Single-Family &
Agricultural Rural Residential
Town Code Reference: §229-52(A)

Applicant requests a variance to allow a 125' principal structure front yard setback located at 8576 Stahley Road.

Mr. McNamara recused himself from Appeal No. 2. The proper paperwork will be filed with the Town Clerk's Office.

Mr. Krey explained that due to absences and a recusal, there are only 3 members of the board able to vote on this request. Mr. Pappas has the option to table his request for another meeting when there are more members present, or he can proceed tonight.

Mr. Pappas stated that he would like to table his request.

ACTION:

Motion by Patrick Krey, seconded by Steven Dale to **table** Appeal No. 2.

ON THE QUESTION:

Nothing on the question.

Steven Dale	Aye	Forest Rung	Aye	Patrick Krey	Aye
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MOTION CARRIED

Mr. McNamara returned to the meeting.

Appeal No. 3

Joel Reber
Agricultural Flood Zone
Town Code Reference: §229-31

Applicant requests a variance to allow an 80' principal structure front yard setback located at 8100 Goodrich Road.

DISCUSSION:

Joel Reber and his son, Alex Reber, were present to represent his request, stating that they would like the variance to build their single-family home with an attached garage back 82'. The rear of the home faces wetlands that will never be built on, so that will remain natural.

Mr. Krey stated that what is unique about this request has something to do with how the home is placed, and that proposed garage / pole barn will be in front of the house, with the house placed behind it.

Mr. Krey marked the rendering showing the garage in front of the house as Exhibit A.

Mr. Krey asked Mr. Reber to explain why the garage needs to be offset from the house, and the house placed where it is proposed.

Alex Reber stated that they would like their privacy, and also, Mr. Reber is disabled, so getting in and out of the house would be a concern.

Mr. Reber stated that they cannot place the garage behind the house, as they border the wetlands.

Mr. Krey asked Mr. Schaefer what the setback actually is.

Mr. Schaefer explained that the code states the house should be in line with the existing homes on the same side of the road within 500'. The average of the homes on either side of this property is approximately 55' from the edge of the right-of-way. This would be setback whereas the closest point of the principal structure would be 80' to the front foundation line of the attached garage.

Mr. Krey noted that it is approximately a 25' difference in terms of setbacks.

Mr. Schaefer responded approximately, yes.

Mr. Dale referred to a photo that is shown from the woods.

Mr. Reber stated that it is the back of the house, looking at it from an alternate perspective.

Mr. Dale stated one thing that concerns him, is that while the proposed home appears to be glass enclosed from the inside, there do not appear to be any windows on the outside. He is concerned about privacy for the neighbors.

Mr. Dale asked if there are any windows on the outside of the house.

Mr. Reber stated not any big picture windows, only normal bedroom windows 24' by 32'.

Mr. Dale stated that normal bedroom windows will take privacy away from the neighbors when the house is placed back that far.

Mr. Reber responded that the plan was to put perennials or evergreens lining their property on both sides.

Mr. Dale asked if the evergreens will be tall enough to block sight from the neighbors.

Mr. Reber and Alex Reber both responded yes.

Mr. Dale asked if they would accept that as a condition.

Both Mr. Rebers responded yes.

In terms of the perennials and evergreens, Mr. Krey asked what size they planned to plant when they put them in.

Alex Reber responded as tall as he can get them.

Mr. Rung asked if a wetland delineation was done on the property, who did it, and when was it done.

Mr. Reber responded yes, they did, they have the wetlands permit; it should be in the package.

Mr. Schaefer stated that for the variance application, he does not believe the delineation report was included.

Mr. Rung asked if Mr. Reber plans to build this site up, as it is very wet due to the wetlands.

Mr. Reber stated that the Department of Environmental Conservation (DEC) instructed them to build 3' up.

Referring to the renderings, Mr. Rung asked if that is the house that they are planning to build, and whether they have any drawings or architectural designs.

Mr. Reber responded not yet, but what is shown is the shape and structure.

Mr. Rung noted that the front of the house that is seen from the street cannot be seen in the images provided. Mr. Rung asked if it will be a board and batten white, similar to the photo.

Mr. Reber responded yes.

Mr. Dale asked how much underbrush will be removed from Goodrich Road.

Mr. Reber stated that they will remove as little as necessary. They are trying to keep their privacy as well as their neighbor's privacy. They will basically only put in the driveway.

Neighbor Notifications are on file, one comment received by the neighbor to south, concerning drainage.

In regard to Public Participation, the following resident spoke:

1. Larry Hull of 8110 Goodrich Road:
 - concerns that the proposed pole barn will turn in to an auto-repair shop
 - concerned with privacy from the house sitting farther back on the property
 - drainage is also a concern, the properties are already so wet due to the wetlands, there is an abundance of standing water

Mr. Krey explained that if this project is approved, the board can impose a condition that no business is to be conducted from the garage.

Regarding privacy, Mr. Krey stated that the applicant did say that they will put perennials or evergreens around both sides of the home.

Mr. Krey noted that drainage is outside the jurisdiction of this board, and will be handled through the Building Department process.

Mr. Donohue stated that the town takes drainage seriously, and they will require the property owners to maintain their own water issues on their own land.

Mr. Reber stated that they intend to improve the drainage on this property.

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

Mr. Reber stated that he plans to put the perennials in almost all the way up to the road. Privacy is important to them as well.

In regard to operating a business, Mr. Reber stated that he just likes to work on his own stuff, he has no desire to do it for work.

Mr. Rung asked if the driveway goes to the front of the garage as well as to the front of the house.

Mr. Reber responded no; the driveway will just be a bit wider, the garage is side-load.

ACTION:

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

1. both sides of the property to be landscaped with 6' high, pine trees staggered approximately 15' apart from the front of the applicant's house to the back of the neighbor's homes
2. no business to be conducted from the garage

ON THE QUESTION:

Mr. Krey stated that what makes this request unique is that it is a large lot that backs up to wetlands, so the property behind it cannot be developed.

Mr. Krey added that the issues with having to install a septic system and not being able to put it behind the house without having to move the house up so close to the street, are some of the issues that the neighbors have talked about.

What has been proposed is the best of the options for this lot. Mr. Krey noted that the renderings that show what the house and lot will look like are very aesthetically pleasing, and will improve the look of the neighborhood.

Mr. Krey stated that the conditions imposed on this approval will help to mitigate concerns raised by the neighbors, and will help it to fit in and not alter the character of the neighborhood.

Richard McNamara Aye
Forest Rung Nay

Patrick Krey Aye

Steven Dale Aye

MOTION CARRIED

Appeal No. 4

Winding Lane Farms, LLC.

Residential Single-Family

Town Code Reference:

- 1) §229-55(D)
- 2) §229-55(H)
- 3) §229-55(E)(2)
- 4) §229-55(I)

Applicant requests variances:

- 1) to allow a secondary detached garage; and
- 2) of 4,910 sq.ft. to allow a 5,110 sq.ft. detached accessory structure (pole barn); and
- 3) of 11'8" to allow a 27'8" tall detached accessory structure (pole barn); and
- 4) of 5' to allow a 14' tall overhead garage door;

located at 5004 Winding Lane Farms.

DISCUSSION:

Speaking on behalf of the applicant is James Pauly with Pauly Construction. A letter granting him permission has been submitted.

Mr. Pauly explained that the applicant is a professional race car driver, and would like to build a garage to store his race cars in.

Mr. Pauly noted the neighbors have all signed off on the proposed plans.

Mr. Dale asked if there is a Homeowner's Association, and if they agreed in writing to the proposed project.

Mr. Pauly responded yes.

Noting that there is a second floor proposed for the pole barn, Mr. Rung asked if it will be an open area, or is there a layout.

Mr. Pauly stated that there is a design plan in there, but they have not solidified them yet. The applicant would like the height so that he can have a car lift to stack the car. They are trying to get a footprint in order to design it with a little less maintenance.

Mr. Rung asked if the upstairs has a layout.

Mr. Brawdy noted that if there is an upstairs, it will be a mezzanine to look down over the cars. There will not be any bathrooms in the building due to the septic system.

Mr. Rung asked about the existing fence.

Mr. Brawdy confirmed that the fence will need to be adjusted up by the road.

Mr. Dale asked if the applicant would accept a condition stating the garage will not be used to conduct business.

Mr. Pauly responded yes.

Mr. McNamara asked Mr. Pauly to describe the materials that will be used on the proposed building.

Mr. Pauly explained that it will be a shingled roof, the applicant would like to do a cedar style look-alike, but Mr. Pauly would rather he do a board and batten steel roof.

Mr. Krey asked what the square footage is of the applicant's home.

Mr. Pauly responded approximately 6,500 sq. ft.

Mr. Krey stated that he would like to see this proposed garage match the home the best that they can.

Mr. Pauly noted that this structure will not be visible to anyone but the applicant. The one neighbor would be able to see it when he goes back to his barn, but other than that it will not be visible due to a tall, thick tree line. It will not even be seen from the front of the applicant's house, due to the backyard drop-off.

Mr. McNamara added that the design will compliment the house nicely, based on the rendering.

Neighbor Notifications are on file, no comments received.

In regard to Public Participation, no one spoke.

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

ACTION:

Motion by Richard McNamara, seconded by Steven Dale, to **approve** Appeal No. 4 as written, with the following condition:

1. no business is to be conducted from the structure

ON THE QUESTION:

Mr. Krey stated that what makes this request unique is that it is a very secluded area with an abundance of trees. It is not backing up to any other neighbors where it will be visible. There is a tree line that will obstruct the view of the proposed structure.

Mr. Krey also stated in terms of the application and the drawings that were submitted, it will be aesthetically pleasing.

Richard McNamara Aye
Forest Rung Aye

Patrick Krey Aye

Steven Dale Aye

MOTION CARRIED

Appeal No. 5

Dan & Elizabeth McAuliffe
Residential Single-Family
Town Code Reference: §229-55(H)

Applicant requests a variance of 196 sq. ft. to allow a
396 sq. ft. detached accessory structure (pavilion)
located at 5558 Herons Glen.

DISCUSSION:

Elizabeth and Dan McAuliffe as well as Project Manager Nick Castellani were present to represent this request.

Mrs. McAuliffe explained that they have recently purchased their home, and would like to add some functionality and safety to the right-side of their yard. They have applied to the Homeowner's Association, and that was approved.

Mr. Castellani explained that they are applying for an 18' x 22' gazebo to cover a hot tub. Mr. Castellani distributed 3D renderings of the proposed structure, as well as a survey showing the proposed gazebo, the house, and the property lines. The gazebo will be away from the property lines, so it will not impose on anything.

Mr. Castellani also distributed a list of materials that show the proposed gazebo will match the home. There is only one neighbor who will be able to see the proposed gazebo, and after construction it will be completely hidden with arborvitae, providing the homeowners with total privacy.

Mr. Castellani stated that this type and size of structure is pretty common in their neighborhood for pools and hot tubs. They want it to look like it was built exactly when the house was built, and not like it was built separately.

Regarding drainage, Mr. Castellani added that they have already received engineering department approval.

Mr. McNamara asked how much they will be building up in the back with the retaining wall.

Mr. Castellani responded 18 inches. The yard slopes gradually, and they are keeping most of the yard sloping aside from the small area where the gazebo will be. They had to level it out, it is only the far corner that is coming up 18 in., the rest is only coming up a few inches.

Referring to the plans, Mr. Castellani stated that they have all been revised, everything has been shrunk down.

Mr. Castellani submitted a copy of the updated plans. Mr. Krey entered them as Exhibit A.

In terms of the arborvitae that Mr. Castellani mentioned putting around the proposed structure, Mr. Krey asked if the arborvitae will basically be around every side except for the side that faces the pool.

Mr. Castellani responded yes.

Mr. Krey asked if they are sure they want to plant arborvitae, as there are many deer in the area.

Mr. Castellani stated that part of the applicant's plan is to extend the fence line to include a larger fenced in area. the arborvitae will be inside the fence for the purpose of keeping the deer away.

Mr. Dale asked the how much space there will be between the building and the wall, and will there be enough space to plant arborvitae.

Mr. Castellani stated that there will be almost 30' between the built-up area and the fence. They will be over 30' from the property line, there will be plenty of space to landscape.

Mr. Dale confirmed that they will be able to line this proposed structure with landscaping.

Mr. Castellani responded yes; the whole plan is to provide the applicants with privacy. Ideally, they are using Green Giant arborvitae because of how fast they grow, and initially they can plant them at 7'- 8' tall, then eventually the entire structure will be covered.

Mr. Rung asked if the property to the north is owned by the developer.

Mr. Castellani responded yes. They are not going anywhere near that.

Mr. Krey asked how large the applicant's home is.

Mr. McAuliffe responded approximately 7,000 sq. ft.

Mr. Krey explained that the size of the house is a big factor for him when considering an accessory structure. 196' might be a large structure when the principal structure is 1,500 sq. ft. but not with a 7,000 sq. ft. house.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

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

ACTION:

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

1. building materials on the gazebo to match the existing home
2. Arborvitae or similar to be planted around all sides of the gazebo that are not facing the pool

ON THE QUESTION:

Mr. Krey stated that this is unique because the home is large, situated on a large lot, and backs up to a conservation area, therefore there will not be a neighbor behind them.

In regard to the neighbor to the east, Mr. Krey noted that the condition imposed with the Arborvitae should address any sight issues. Mr. Krey does not feel that the variance will have any impact on neighboring properties, or change the character of the neighborhood.

Additionally, Mr. Krey stated that the applicant pointed out that there are multiple large accessory structures with the homes in that area.

Richard McNamara	Aye	Patrick Krey	Aye	Steven Dale	Aye
Forest Rung	Aye				

MOTION CARRIED

Appeal No. 6

The PDC Property Trust
Residential Single-Family

Town Code Reference:

1) §229-52(B)

2) §229-55(D)

Applicant requests variances:

1) of 4' to allow a principal structure side yard setback of 8'6"; and

2) of 265 sq. ft. to allow for a total garage square footage of 959 sq. ft.;

all to allow for an attached garage addition located at 4137 Susan Drive.

DISCUSSION:

Representing the PDC Property Trust and this request are Penny Cippola and Gerald Costanzo.

Mr. Costanzo explained that they would like to add a single-car garage on to their existing 2-car garage for their vehicle as well as storage for seasonal items from the backyard.

Mr. McNamara asked if they plan to put brick on the front of the proposed addition.

Mr. Costanzo stated that they had a recommendation to try to save the side of the existing garage where they are going to attach the proposed addition, and hopefully take that brick and use it for the front. There will not be much to do in the front because of the garage door. Eventually they would like to paint all that, because they do not like the color of the brick. If they can save the brick and use it on the front, it would look a lot better.

Mr. McNamara asked if the new garage door will match the existing garage door.

Mr. Costanzo responded yes; they are going to have two new garage doors.

Mr. Costanzo stated that they have a picture of the neighbors across the street that recently had their garage re-done. It looks very nice, and does not have the same finish.

The photo Mr. Costanzo brought was entered in to the record as Exhibit A.

Mr. Dale confirmed that the whole house is brick.

Mr. Costanzo responded yes.

Mr. Dale stated that he really wishes they could do the brick in the front, and also in the back. If they need to side the side with vinyl, so be it, but he believes it could look problematic. It is a beautiful house.

Mr. Costanzo noted that if they have enough brick to spare, they can do that; he is hoping there is not a lot of brick work. The garage doors will take up most of the front and back, but they would love to be able to use the existing brick and put it on the new addition.

Mr. Dale noted that the Zoning Board suggested conditions on a similar variance request last year with the same concept. The board told them that since they will be taking down a wall made of brick, they can re-process and reuse the bricks, but it turned out to be very costly to do that. Mr. Dale wondered if instead of doing that same thing with the brick from the side wall, they might actually come up with a brick that looks identical, and start from scratch.

Mr. Costanzo said that if the existing brick that is taken off cannot be used, looking at their neighbor's whose house is all brick as well, and that turned out beautiful. If it is crazy expensive, and the alternative is half the price, they would opt to go that way rather than trying to find new brick.

Ms. Cippola stated that their house is 1,700 sq. ft.

Mr. Costanzo noted that the properties to the rear of their house are all wooded, so there is no sight line for the neighbors from behind.

Mr. Dale stated that if they can keep the front the same, that would be great. If there is enough brick to do the back, even better. But do the best they can do.

Mr. Costanzo agreed.

Mr. Rung confirmed this will be a 3-car garage, and asked if there are any other 3-car garages on Susan Drive.

Mr. Costanzo responded yes; the photo that was just submitted on Susan Drive, and on the corner of David Rd. and Susan Dr. they put a 2-car garage on an existing 2-car garage.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

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

ACTION:

Motion by Richard McNamara, seconded by Forest Rung, to **approve** Appeal No. 6 as written.

ON THE QUESTION:

Mr. Krey explained that what makes this request unique is that there are other houses in the neighborhood that have expanded garages similar to what the applicant is requesting. This shows that it will not alter the character of the neighborhood, or be out of character with the neighborhood.

Richard McNamara Aye Patrick Krey Aye Steven Dale Aye Forest Rung Aye

MOTION CARRIED

Appeal No. 7

Michael & Maria Sanders
Residential Single-Family
Town Code Reference:

- 1) §229-52(B)
- 2) §229-55(D)

Applicant requests variances:

- 1) of 2'4" to allow a principal structure side yard setback of 10'2"; and
 - 2) of 190 sq.ft. to allow for a total garage square footage of 1,150 sq.ft.;
- all to allow for an attached garage addition located at 6242 Creekhaven Drive.

Mr. McNamara recused himself from Appeal No. 7. The proper paperwork will be filed with the Town Clerk's Office.

DISCUSSION:

Dave Sutton with Sutton Architecture was present to represent this project, adding that the uniqueness of the lot is the reason for both of these variances. The lot is an awkward pie shaped lot, and they would like to add a garage structure to this property for several reasons. They would like to store vehicles as well as other items, and also to secure their vehicles indoors.

The diagonal property line to the north as well as the orientation of the house, Mr. Sutton explained that it creates the need for the variances. There is a drainage easement that they are well aware of, they have no intent of building anywhere near or on the easement.

Mr. Sutton added that they are being very cognizant and respectful of the neighbor, and the building steps back with the angle of the property, providing an interesting architectural detail for the neighboring properties.

Mr. Sutton stated that the applicant has worked closely with the neighbors to address any of their concerns with this variance request. None of the neighbors have had any objections to this variance request.

The proposed garage is set at a 90-degree angle from the existing garage, which Mr. Sutton stated does not create a monotonous or over-bearing appearance from the street.

Mr. Sutton reviewed the 5 criteria for considering a variance request, beginning with whether the change will create an undesirable change to the neighborhood. Mr. Sutton stated that it is their opinion that no; it will not create an undesirable change in the neighborhood. It will increase the value of the property, and provide them the ability to store vehicles and other items in an enclosed structure.

In regard to whether their request can be achieved by any other means, Mr. Sutton explained that looking at the property and its uniqueness, they really cannot achieve it without the successful request of these two variances.

Mr. Sutton noted that in regard to whether the request is substantial, the request is only for a distance of 2' 4", and tapers down to 0. They are attempting to create the step-back appearance, they have minimized the variance request as much as possible, in terms of having an impact on the setback.

In terms of whether granting the variance request will have an adverse effect on the physical or environmental surroundings, Mr. Sutton stated no; they feel that it is very compatible to the residential character of the neighborhood as well as the physical and environmental surroundings.

Mr. Sutton stated that they do not feel that this alleged difficulty is self-created, because they are responding to the uniqueness of the lot. This is not the absolute criteria for this variance, it is a balancing test, and they feel that the benefit far outweighs any detriment that may come from issuing the variance.

Mr. Krey asked if there are any other homes in the neighborhood with a second garage.

Mr. Sutton stated that there are several other homes in the overall surrounding neighborhood that do have this similar type of layout that have a 2-car garage, and an additional garage front-facing to the road. The garage that we are discussing with this variance is set back 20' from the house, and they feel it is secondary, not distracting from the architecture of the house.

Mr. Krey asked if the materials of the proposed garage will match the home.

Mr. Sutton stated that they will match the siding the best that they can, and because they are approaching it from a 90-degree angle, they will match the horizontal lines, architectural character, and are hopeful for a good match on the siding.

Referring to the angle of the lot, Mr. Krey asked if there is currently a hedgerow.

Mr. Sutton stated that there is a pretty substantial hedgerow that they would like to maintain as much as they can. They have had conversations with the neighboring property, and they will coordinate with the neighbor some type of landscape plan that is desirable for both properties.

Mr. Krey acknowledged and appreciates the working relationship this applicant has with the neighbors.

Mr. Dale asked what the material is on the front of the house.

Mr. Sutton stated that it is a combination of brick and siding.

Mr. Dale asked Mr. Sutton if they would consider doing the front of the new garage in brick to match the house.

Mr. Sutton stated that they did consider that, the difficulty is that as the building or house turns the corner, it is siding so it would be brick on the front, interrupted with siding and then turns back to brick again. They felt that it was actually a detriment to the design character. They did consider a water table, and they still may consider that. There is not a lot of siding or brick in that section facing the street due to the doors.

Mr. Dale said that he thinks it would look unusual if he saw brick, brick, and then siding. He would wonder why it is not brick like the rest of the house.

Mr. Sutton reiterated that the proposed garage will sit back 20' and there is siding on the house where it is intercepting with, he thinks there are interruptions in that.

Discussion continued regarding placement of the brick and siding.

Mr. Sutton stated that they will continue to explore the options, and if it is a condition then they will attempt to match the water table if it was a necessity for the approval of this variance.

Mr. Rung asked if there are any plans for landscaping along the north side of the proposed structure.

Mr. Sutton stated that they are challenged with the grade a bit, and it will drop off slightly, but they will do some landscaping. More so probably ground cover type of landscaping, or they may be able to step the siding down. The problem is that the floor will be straight across, so if they step the landscaping down, it will be over the top of the concrete. They will be working on the landscaping, and Mr. Sutton has to do some research on the drainage easement to see if there are any restrictions in terms of landscaping. They will check with the Engineering Department.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, no one spoke.

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

Mr. Dale asked if the two garage doors will look identical.

Mr. Sutton responded yes.

Mr. Krey reviewed the potential conditions of materials.

Mr. Dale stated he would like a condition stating the front and all views to be brick.

Mr. Krey reiterated that it is angular, so it depends which direction and view you have.

Discussion continued regarding the brick and siding.

Mr. Krey stated that he does not want to impose a condition that is unclear and may cause confusion with the Planning or Building departments.

Mr. Donohue noted that the argument regarding materials could be made both ways, in which case the homeowner is in the best position to make the decision.

Discussion continued.

Michael and Maria Sanders, homeowners, stated that the contractor did say that the ledgerstone that is on the front of their house may be difficult to match because the house is 20 years old. With the siding, it would look very pleasing because of all of the existing siding. Putting stone with a relatively small space may make it more noticeable rather than blended.

ACTION:

Motion by Forest Rung, seconded by Patrick Krey, to **approve** Appeal No. 7 as written, with the following condition:

1. no business is to be conducted from the structure

The applicant agreed to the condition.

Mr. Dale stated that he will not make it a condition, he would like to see the stone carried over.

ON THE QUESTION:

Nothing on the question.

Patrick Krey Aye Steven Dale Aye Forest Rung Aye

MOTION CARRIED

Meeting adjourned at 8:03 p.m. with a motion by Forest Rung.

MOTION CARRIED

Amy Major
Senior Clerk Typist