Town of Clarence

One Town Place, Clarence, NY

Zoning Board of Appeals Minutes
Tuesday, September 8, 2025

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

Zoning Board of Appeals members present:

Chairman Ryan Mills	Patrick Krey	Richard McNamara
Steven Dale	Forest Rung	

Zoning Board of Appeals members absent: Gerald Drinkard

Town Officials present:

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

Other Interested Parties:

Marc Martinez	Francine Martinez	Jim Purcell	Shawn Pappas
Matt Coia	Karen Coia	Phil Gusmano	Lisa Savakinas
Mary Savakinas	Andrew Dupler	Jacob Fox	Madison Fox
Michael Stuermer	Jillian Stuermer	Bill Severyn	Jaweed Shariff
Jim Gorski	Lily Gorski	George Pappas	Shawn Pappas
Adam Petrie	Michelle Petrie	Olivia Paulo-Lee	Matt Campana
Elina Sarcisyan	Joel Papke	George Peppes	

Motion by Steven Dale, seconded by Richard McNamara, to **approve** the minutes of the meeting held on July 14, 2026.

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

MOTION CARRIED

OLD BUSINESS

Appeal No. 2 – From the August 2026 Meeting
Shawn Pappas
Residential Single-Family & Agricultural Rural Residential

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

Town Code Reference: §229-52(A)

Richard McNamara recused himself from this item. The proper paperwork will be filed in the Town Clerk's Office.

DISCUSSION:

Shawn Pappas was present to represent his request, explaining that they would like to build a single-family home. They would like to set the house back due to safety concerns for their 4 children, providing more of a barrier from the busy road. The setback would also provide additional privacy; they are building a 2-story home while the houses on either side are ranch houses.

Mr. Krey asked Mr. Pappas if he has spoken with the neighbors regarding his request.

Mr. Pappas responded yes, he sent them all the Neighbor Notification forms. He knows there are always concerns when someone is building a home.

Mr. Krey asked Mr. Pappas if he has evaluated what can possibly be done to mitigate any of the concerns of the neighbors. Mr. Pappas's proposed front yard will basically be the neighbor's side yard, since he would not be in line with them.

Mr. Pappas stated that he has created a landscaping plan; they would put a split-rail fence up to establish property lines, and Green Giant arborvitaes.

Mr. Krey asked Mr. Pappas if he has any drawings of his landscape plan with him.

Mr. Pappas responded that he does not have any drawings, it is just some plans they have come up with and talked about. They are working on actual landscape drawings.

Mr. Pappas stated that the neighbors to the left side of the property have not voiced any concerns regarding privacy, but he would probably do the same thing on both sides in regard to landscaping. Also, a split-rail fence on the east side, which is less about privacy, and more about establishing property lines.

Mr. Dale asked Mr. Pappas if his proposed two-story house will have windows on the sides.

Mr. Pappas responded yes; they are still in the process of figuring everything out, but the plan is to have windows on all sides of the proposed house.

Mr. Dale noted that it will make it more difficult to maintain privacy for the neighbors on either side of the proposed house. There would be the ability to look out a side window. Mr. Dale hopes that the green arborvitae will be tall.

Mr. Pappas stated that the ones they plan to put in can grow up to 50' tall. They want privacy for themselves as well as for the neighbors.

Mr. Dale asked if the arborvitae will extend from the back of the neighbor's house to the front of Mr. Pappas's proposed house.

Mr. Pappas responded yes; the lot is already wooded, and where they plan to build 125' back, the right side of the house will be a front-load garage. They would most likely do the front-right side of their property, extending back on both sides.

Mr. Rung asked if the lot size is any narrower than the two adjacent properties.

Mr. Pappas stated that they are pretty similar, his is 105' wide.

Mr. Rung asked if the neighbor to the east uses their driveway to get to the barn at the rear of their property.

Mr. Pappas responded no; that is his property. They both purchased the property at the same time – he bought the lot; the neighbor bought the house. He is getting rid of half of the driveway, as it will not be needed in that location.

Chairman Mills asked Mr. Pappas if he already closed on this property.

Mr. Pappas responded yes.

Chairman Mills asked if this variance was not granted, would Mr. Pappas's plan just be to build closer to Stahley Road like the neighbors.

Mr. Pappas responded yes; they would still plan to build, but change some of the design standards. He did search some of the houses along Stahley Road, some of the setbacks are scattered; he found 10 houses that are setback between 115'-200' from the road.

Chairman Mills asked Mr. Pappas if he is able to provide those addresses.

Mr. Pappas responded that he can, yes.

Chairman Mills entered the survey that Mr. Pappas submitted as Exhibit A, and the list of other properties on Stahley Road with larger setbacks as Exhibit B.

Chairman Mills asked Mr. Pappas if a condition of the variance being approved that states Green Giant Arborvitae are installed on both the east and west sides of the property from the tree line to the front of the proposed house, would he agree to that.

Mr. Pappas responded yes.

Mr. Krey asked if that is to be in line with the front or back of the neighbor's house.

Discussion regarding the location of the trees continued.

It was decided that the Green Giant Arborvitaes would be planted from the rear of the neighbor's house on the east and west side, to the rear of Mr. Pappas's proposed home. Spacing and height left to the discretion of Mr. Pappas.

Neighbor Notifications are on file. There have been numerous inquiries regarding this request, but no written comment has been received.

In regard to Public Participation, the following resident spoke:

1. Attorney Olivia Paulo-Lee on behalf of Marc and Francine Martinez of 8580 Stahley Rd.:
    - concerns with the proposed setback and application, is the applicant's preference that the house is setback, with no greater reasoning given
    - understanding the concerns for the children and safety from the road
    - feels the property should be in line with the existing neighbors
    - to their understanding, applicant's preference is not enough for an appeal there must be more in regard to test and balancing the applicant and neighbors
    - proposed setback would put the house in the back of the neighbor's property where they enjoy their yard
    - placing the house closer to Stahley Road would give the children more room in the backyard to play
    - requesting the plan be consistent with the existing residential pattern on Stahley Road

Chairman Mills asked Ms. Lee what their position is on the 10 other properties on Stahley Road with a larger setback that the applicant provided.

Ms. Paulo-Lee stated that they are not shown anywhere in the packet of information, so she would like to take a look at that additional information.

Chairman Mills confirmed with Ms. Paulo-Lee that her clients are not in favor of any variance beyond what is statutorily allowed.

Ms. Paulo-Lee stated that is correct.

Chairman Mills explained to Mr. Pappas that he has heard some feedback from the neighbor with regard to setback, and them not being in favor of that. At this point in time the Zoning Board can vote on Mr. Pappas's request, or he can ask to have this request tabled. Mr. Pappas can take the opportunity to talk with his neighbors to see what, if anything, would work for both of them. Some compromise between the two of them.

Mr. Pappas stated that while he understands the neighbor's concerns with keeping his house in line with the other houses, he also thinks it is a matter of preference for them as well. Their house is 35' at the lowest end in regard to depth, and his will be 65' deep. Regardless, part of their house will still be in their backyard and they would be up to building code, to his understanding.

Mr. Pappas understands the neighbor's statements about the children, but they do have 4 kids and the driveway will be the only hard space, where the kids tend to naturally gravitate.

Mr. Pappas stated that 8440 Stahley Road is only 6-7 houses away and sits approximately 115' back.

Mr. Pappas added that he feels setting their house back along with the privacy plan, will create the best options for all of them. Plus, their house will not shade their house like it will if they were to build directly in line with the neighbor.

Chairman Mills asked Mr. Pappas if he would like the board to move forward and vote on the request, or table it to the next meeting so that he has an opportunity to talk with the neighbors to see if there is some compromise they can come to.

Mr. Pappas stated that he would rather just vote on it now.

Mr. Krey asked Mr. Pappas if he has given any consideration to perhaps not the full 125' setback, but maybe a slightly smaller setback.

Mr. Pappas stated that he was content with 125', it was their "sweet spot" in relation to the other houses on the street, while still giving them each the privacy. He feels this location offsets the houses from being in each other's backyards.

Mr. Pappas stated that he is open to suggestions and ideas.

Mr. Krey added that he feels it is always good when a neighbor has issues with something, to take the time to sit down with them and go over things.

Mr. Pappas agreed.

Discussion continued regarding the process for returning to the Zoning Board with an updated request versus a completely new request.

ACTION:

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

ON THE QUESTION:

Chairman Mills explained to Mr. Pappas that the sentiment of the Board, as well as neighbors is that there are concerns raised by the neighbors with regard as to how the setback will impact them. While not mandatory, it is encouraged that Mr. Pappas has conversations with the neighbors or their counsel, and try to figure out some compromise position.

Chairman Mills added that these are just suggestions, not required. Mr. Pappas can bring his request back to the Board as is, if that is what he chooses.

Discussion continued regarding potential discussion between Mr. Pappas, his neighbors, and their counsel.

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

MOTION CARRIED

Mr. McNamara returned to the dais.

Appeal No. 3 – From the February 2026 Meeting Matt Campana Residential Single-Family Town Code Reference: §229-52(A) & ZBA Approval of 2/10/2026	Applicant requests an amendment to a previously approved variance allowing a 753' principal structure front yard setback, now to allow a 608'6" principal structure front yard setback located at 5695 Shimerville Road.

DISCUSSION:

Phil Gusmano with Crafted Concepts Architects and Builders was present to represent the applicant, as well as the applicant, Matt Campana.

Mr. Gusmano explained that the applicants recently purchased this property that had a previously approved Zoning Board variance for a 753’ principal structure front yard setback. Based on the current client’s plans for this property, as well as consulting with the architecture team, they focused on a location that made more feasible sense.

In regard to whether or not this will cause an undesirable change to the character of the neighborhood, Mr. Gusmano stated that this is a private access road. The precedent of placing the home off the setback is very evident throughout all of the houses that were placed on this private access road. The change they are making is not a change to the overall character of the neighborhood.

Mr. Gusmano noted that the applicant is looking to center the single-family ranch home in the blueberry field as possible, leaving the blueberries as a buffer to the neighbors. The applicant knows that this will take a lot of work, it is all part of their long-term plan that they have for the house. Compared to the previously approved setback, this creates a more even setback from all of the neighbors. Also, this makes it so that the house is not directly behind any of the neighbors in the neighborhood.

In regard to whether the benefit sought by the applicant can be achieved by other feasible means, Mr. Gusmano explained that the location of the currently approved variance is financially prohibitive. The extra distance adds a lengthier driveway, and utilities run.

Mr. Gusmano explained that due to being out of the code allowed distance to reach and be accessed to the fire hydrant that exists on the site, is the one of the main reasons for this change.

Also, the extra cost for sprinkler systems that would be needed for the added distance is a large burden.

Regarding the criteria as to whether the request is substantial, Mr. Gusmano noted that the previously approved setback was larger, he does not think this request is a substantial change.

Whether the request will have an adverse impact physically on the environmental conditions of the neighborhood, Mr. Gusmano reiterated that all of the houses in the neighborhood are off of an established private access driveway. The applicant is attempting to be respectful with attempting to center the proposed house in the large volume of space. The goal is to be setback from all of the neighbors equally, not just one.

Mr. Gusmano noted that the next criteria is whether the request is substantial. Because this request is bringing the setback in closer, he does not think that this is a substantial request.

Whether the request will have an adverse physical or environmental effect, Mr. Gusmano reiterated that all of the houses are on an already established, private-access drive. The applicant is trying to be respective and center their home on the large area of space, to respect the setbacks and favor all of the neighbors.

Mr. Gusmano stated that the request is not self-created, the applicant bought a house with an approved variance for a substantial setback, and is attempting to move it to a better, more feasible and economical location.

Mr. McNamara noted that this property has been in front of the Zoning Board a number of times through the years, and asked what is different now from the last request.

Mr. Gusmano stated that it is a new client, he was not present at the past meetings and cannot speak on exactly what changed. As an architect and designer looking at this from a feasibility standpoint, the cost of the fire hydrant, or extending the road and utilities is not feasible. They opted to keep the driveway in remotely the same location as the previous applicant. They are trying to be aware of some rather cost prohibitive conditions, and do not see this request as a substantial change, considering this board previously approved a larger setback for a house.

Chairman Mills asked the client if he has closed on this property yet.

Mr. Campana responded no; not yet, they are under contract.

Chairman Mills asked if they have permission from the current owner to seek this variance.

Mr. Campana responded yes.

Chairman Mills asked if this variance is a condition of moving forward with the sale.

Mr. Campana responded no.

Chairman Mills noted that this is not a condition, but rather a preference.

Chairman Mills asked Mr. Campana if they have a price estimate for what the sprinkler system would cost.

Mr. Gusmano stated that he just had one built in to a house that cost approximately $50,000 plus an additional 300'-350' of road, electric lines, water lines, and gas lines. There are compounding costs that estimated could cost an additional $125,000+.

Chairman Mills asked what the square footage is of the proposed house.

Mr. Gusmano responded that currently it is approximately 3,100 sq. ft.

Chairman Mills asked if there are any other structures anticipated for the parcel.

Mr. Gusmano responded no.

Chairman Mills asked if the plan that was provided is in the final form.

Mr. Gusmano responded that it is pretty close to how it is going to be.

Chairman Mills confirmed that the proposed home will be a ranch.

Mr. Gusmano responded yes.

Chairman Mills explained that the last variance approval included a condition for a 6' tall privacy fence to be located along the western property line. These include 5745 Shimerville Road, and 5715 Shimerville Road, running the width of each lot, located along the rear property line.

Chairman Mills asked the applicant if they are aware of that condition.

Mr. Gusmano and Mr. Campana both responded yes.

Mr. Gusmano stated that he and Mr. Campana discussed that, and he would be willing to honor that condition.

Mr. Krey asked where the fire hydrants are currently on the access road.

Mr. Gusmano stated that the one at the start of the driveway is the closest one.

Mr. Krey asked if there were any other fire hydrants, he is wondering about the existing homes.

Mr. Gusmano noted that the existing homes most likely pre-date the fire codes.

Mr. Krey noted that if the driveway is moved in, they would still be dealing with the setback because it is still moved in closer to Shimerville Rd.

Mr. Gusmano stated that by code, you are supposed to follow the path of travel for a fire hydrant. You cannot draw a diagonal line and be in reach of a fire hydrant.

Mr. Krey confirmed that where the previous variance placed the home, a sprinkler system would be needed due to the distance from the fire hydrant. Moving the home closer removes the need for the sprinkler system.

Referring to the picture of the proposed house, Mr. Dale noted that it would be placed between the two existing houses on Shimerville Rd.

Mr. Gusmano responded yes.

Mr. Dale asked Mr. Gusmano if he read the minutes from the previous variance meeting for this request.

Mr. Gusmano stated that he did not read every conversation, but he did review the minutes. This is a new applicant coming in with new plans and ideas for this property. He is here to represent this applicant and his request regardless of the restrictions or cost of what the previous variance brought.

Mr. Dale asked if there is a plan for landscaping.

Mr. Campana stated that at this point, they do not have much planned out for landscaping. The idea is that they are amenable to the previous variance of a 6’ tall fence to provide privacy for the houses along Shimerville Road. They are building a ranch home, so they will not be up high to see over the blueberry bushes that are there currently. The disturbance area will be kept under an acre. A blueberry expert will be consulted as to whether the plants can be saved.

Mr. Dale said it was decided the plants cannot be revived. The previous individual was asked what can be done to remove the dead blueberry plants. It looks terrible.

Mr. Campana said for starters, they will mow between the rows and maintain the blueberry plants to improve the appearance.

Mr. Gusmano said the topic for discussion is related to the variance for the setback, not mandating landscaping.

Mr. Dale said it is your topic for discussion, but we are talking about the whole package here. His interest is building a house. The interest is how the house relates to the rest of the area.

Chairman Mills said for an area variance, we are asked to look at Town Law Section 267 which has 5 criteria:

1) Whether an undesirable change will be produced in the character of the neighborhood
2) Whether the benefits sought by the applicant can be achieved by some other method feasible for the applicant to pursue
3) Whether the requested area variance is substantial
4) Whether the variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood
5) Whether the alleged difficulty was self-created

We have to look at those statutory criteria. As part of that, we have to consider the overall site conditions.

Mr. Gusmano stated he understood.

Chairman Mills said that questions will be tailored to the overall site condition of the area. This is a fact-finding pursuit.

Mr. Gusmano stated Mr. Campana has 3 children and this will be their forever home. He is willing to invest money in the property to improve the area. Whether the improved landscaping will happen financially immediately remains to be determined. His intent is to own and be the steward of the property.

Chairman Mills said he is aware the applicant is new to this project. This property has a very long history with the Town and in front of this Board.

Mr. Dale requested the applicants review minutes from prior Zoning meetings related to this property.

Mr. Rung had no questions.

Neighbor Notifications are on file per Mr. Bleuer: 5715, 5645, 5745, 5685, 5755 and 5665 Shimerville Road. No written comments were received. There has been some inquiry regarding the request. The applicant did reach out prior for our file and used it to prepare their request for this evening.

In regard to Public Participation, the following residents spoke:

1. Jim Purcell of 5745 Shimerville Road spoke stating he fully supports this plan. He wanted one house on the property among the blueberry rows that were originally planted by himself. He states the plants are not dead and just require the proper care, which he is willing to assist the new owner. He does not want a fence on the property. This sounds like a solid solution, as the home is in an open gap. He would like a condition to deal with the drainage problem.

Chairman Mills referred to Mr. Bleuer and stated Engineering will cover any drainage issues as part of the project.

Mr. Bleuer stated there will be a drainage plan associated with the home. Due to the size of the lot, he cannot provide assurance the Engineering Department would become involved with existing conditions at property lines.

Mr. Purcell said he understands it is a massive property. He is asking for maintenance to control the drainage. He would ask the previous owner to run a tractor in the rows to create ruts to channel the water to the front of the property. He is not asking for pipes to be installed, he is just asking for maintenance to prevent serious drainage problems.

Chairman Mills asked Mr. Donahue to offer a suggestion from a compliance standpoint.

Mr. Donahue said by code every property is required to maintain its own water. It could be a code violation if drainage is an issue, but it does not relate to the request before you. The placement of the house will not create a drainage issue. Mr. Purcell can certainly take his complaint to the Engineering and Building Departments.

Chairman Mills stated from a compliance standpoint it is difficult to place a condition on the project. If it becomes an issue, Mr. Purcell can contact the Town.

Mr. Purcell asked if the fence can be removed.

Chairman Mills said that is a possibility if both the homeowners agree to that condition.

2. Jaweed Shariff of 5715 Shimerville Road:
    - expressed his concern with water in his basement and drainage.

Chairman Mills asked Mr. Shareef about the 6-foot-tall fence removal.

Mr. Shareef is okay with the variance and the fence removal, but they are not okay with the maintenance of the blueberries.

3. Jillian Sturmer of 5755 Shimerville Road:
    - stated she did not get any information regarding the variance for the project. She is interested in how the house will sit on the property.

Mr. Bleuer supplied Ms. Sturmer with the packet of information.

Mr. Krey suggested Ms. Sturmer review the information tonight as the Board will be voting whether or not to approve the project this evening.

4. Michelle and Adam Petrie at 5665 Shimerville Road:
    - do not have an issue with the variance at all and are in full agreement with the project. She said she and her neighbors had the opportunity to buy the property but did not. She started clearing out blueberries on her property. She asked if the applicant is clearing one acre for the project.

Chairman Mills said the applicant will address this question.

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

Chairman Mills asked the applicant to approach and address concerns raised by the neighbors. The first being the size to be cleared.

Mr. Campana verified the size at just under one acre of the property to be cleared.

Chairman Mills asked if the blueberries cannot be revived, what will their plan be for landscaping.

Mr. Campana responded he does not have a firm answer but with some care, the blueberries may come back. If after this attempt, they do not come back, they will look at alternatives to improve the property.

Chairman Mills stated they have heard concerns from both of the neighbors to the west regarding the drainage issues.

Mr. Gusmano said his firm will address the drainage concerns involving creating berms and installing drainage pipes. Without a topography survey, it is apparent that a lot of run-off may be coming straight down Shimerville toward the neighbors. The house and driveway may create a damming effect to minimize the drainage.

Chairman Mills suggested a condition to the variance request of a drainage culvert or similar along the rear of both of the parcels subject to review by Engineering and Building.

Mr. Gusmano asked that the drainage be a direct effect from the property and not from other drainage problems.

Mr. Campana stated he is willing to work with the neighborhood and come to a solution everyone will be agreeable to.

ACTION:

Motion by Patrick Krey, seconded by Ryan Mills, to **approve** Old Business Appeal No. 3 as written.

ON THE QUESTION:

Mr. Krey stated that this is a very unique lot, unlike other ones that have come before the Board that necessitate a setback such as this. As the applicant has explained, the benefit to them in terms of having a house placed there and not having to have a sprinkler system installed in the home is very significant in terms of cost.

Mr. Krey appreciates the neighbors who all spoke, none voicing concerns or reservations, so that no conditions need to be placed on a potential approval. As this property is, there are houses of all different configurations in relation to the street, he does not think that it will be out of character at all for the area. It will preserve the existing blueberry area.

Chairman Mills asked if the previous condition regarding the fence is not imposed, will it dissolve.

Mr. Bleuer stated that with a statement on the question that the prior condition put in place on February 10, 2026 is not being carried over to this approval.

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

MOTION CARRIED

NEW BUSINESS

Appeal No. 1

Elina Sarcisyan	Applicant requests a variance of 2' to allow a 6' tall fence to be within the front yard setback located at 10213 Shamus Lane.
Agricultural Rural Residential	
Town Code Reference: §101-3(C)(2)	

DISCUSSION:

Elina Sarcisyan of 10213 Shamus Lane was present to represent her request for a variance to allow a 6’ fence in the front yard setback. She needs the 6’ tall fence to safely enclose her pool yard and for privacy. She is asking the Board to take a look at the layout of this property and approve this variance.

Mr. Rung had no questions for the applicant.

Mr. Dale had no questions, but noted that it is really only a 4 ½’ fence.

Chairman Mills said that the fence is in place. The applicant is asking for 6’ but what is up is not 6’ along the whole length.

Ms. Sarcisyan replied yes the fence is up but it is 54”.

Mr. Bleuer said the fence itself is 4 ½’, but it was not installed flat on the ground. We measure from the average grade to the top of the fence. Due to the placement being installed higher than the average grade, we look at that overall height. The material is not 6’ but it is mounted up to the highest point being 6’ at one of the areas. You can see it follows the slope.

Chairman Mills confirmed that the applicant agrees with that rationale.

Ms. Sarcisyan responded yes.

Mr. Krey asked if a permit was filed for the fence.

Ms. Sarcisyan stated that the fence company was supposed to submit the fence permit, which they did, and stated that they were never informed that they were not able to have a 54" fence in the front yard.

Noting that this home is a new build, Mr. Krey asked when the fence was put up.

Ms. Sarcisyan stated that it was months ago.

Mr. Krey noted that there was an addition as well, to the house.

Ms. Sarcisyan noted that it is 6' tall, they talked to the fencing company and there is a plan to lower down the fence to the ground, to eliminate that space. In the future, they plan to duplicate the same landscaping that they have on the other side of the house.

Mr. Krey asked if there is a Homeowners Association in the neighborhood.

Ms. Sarcisyan responded no.

In regard to the new structure, Chairman Mills asked if there is garage space on the first floor.

Ms. Sarcisyan responded yes.

Chairman Mills asked if there is living space above the garage space.

Ms. Sarcisyan responded no, just storage. There is no living space.

Mr. McNamara stated that it is a very nice fence, it is not overbearing, it is not a stockade fence, it is not noticeable that it is 6' high.

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 Richard McNamara, seconded by Steven Dale, to **approve** Appeal No. 1 as written.

ON THE QUESTION:

Mr. Krey stated that what makes this request unique and distinguishes it from other requests is that the home is very large, and set back very far from the street. It also curves toward the street, and is not perfectly straight, changing all of the different variables that are normally reviewed. The fence looks very nice, and will not have a negative impact on neighboring properties, or alter the character of the neighborhood.

Chairman Mills added that there is extensive landscaping on the parcel that helps to mitigate the effects of the fence, as well as it being a translucent fence that you can see through, it is a quality fence that is not stockade and does not obstruct views from neighbors. He does not think that it has any adverse impact on the character or the environmental conditions of the neighborhood.

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

MOTION CARRIED

Appeal No. 2

Joel E. Papke
Residential Single-Family
Town Code Reference:

1) §229-55(D) & ZBA Approval of 6/8/1993
2) §229-55(E)(1)

Applicant requests variances:

1) of 528 sq. ft. to allow a 1,408 sq. ft. detached accessory structure (garage); and
2) of 7' to allow a 3' detached accessory structure (garage) side yard setback;

all for the addition to an existing detached accessory structure (garage) located at 9380 Greiner Road.

DISCUSSION:

Joel Papke was present to represent his request, explaining that he would like to have some extra space for car supplies that he uses. His hobby is working on old cars, currently he has them stacked in temporary buildings and trailers. He would like to consolidate everything so that they are accessible and within his view.

Chairman Mills asked Mr. Papke if he intends to run a business out of the proposed structure.

Mr. Papke responded no; he has been doing this for 40 years, he is just running out of space.

Mr. Dale asked if there is any alternate way that Mr. Papke can create the desired storage space without needing a 7’ variance, bringing him closer to the neighbor.

Mr. Papke responded no; while putting an addition on the garage has been discussed, it is not financially feasible.

Mr. Dale noted that the lean-to that Mr. Papke had talked about is basically the same thing; a fixed roof, with a wall. It is basically an addition to the garage. He does not understand why that can not be done on the other side.

Mr. Papke stated that if he puts a garage on the back at the present time, the lean-to would go over the actual asphalt space.

Mr. Dale asked Mr. Papke if he has had any discussion with his neighbor regarding this proposed structure, and what the neighbor intends to do with her property.

Mr. Papke responded yes; he lives near the old Snyder farmhouse that sits right on the road. Chairman Mills asked Mr. Papke if he is referring to the house to the east of his house.

Mr. Papke responded yes.

Chairman Mills confirmed that the house is vacant.

Mr. Papke responded yes.

Chairman Mills asked Mr. Papke if he knows when someone last lived there.

Mr. Papke responded approximately 2 years ago.

Mr. Dale stated that it may directly impact the woman who lives there, if Mr. Papke brings his garage up to within 3' of the property line.

Mr. Papke reiterated that the house that is currently on the neighboring property is right up by the road, and he does not have any idea about future plans for the property or the house.

Mr. Dale asked Mr. Papke how long his current garage is.

Mr. Papke responded that it is 44' long.

Referring to the potential of a future house being built on the adjacent property, Mr. Dale stated that it would be intimidating to anyone wanting to build there.

Mr. Papke explained that he and the current resident of the property have discussed his proposed addition, and he does not have any idea if she knows or has any plans for what they are going to do with the existing house and property.

Mr. Rung asked if there will be doors.

Mr. Papke responded that he would like at least one garage type style door in the front for access.

Mr. Rung asked if there will be doors on the proposed structure facing the east where it will be 3' from the property line.

Mr. Papke responded no.

Mr. McNamara stated that anything built within 5’ of the property line needs to be fire rated. With this proposed structure being 3’ away from the property line, 2’ of the structure needs to be fire rated. This includes the wood, soffits, overhang, all of it, and there is a lot of extra cost related to that.

Mr. Papke noted that he does not understand fire rating, and asked Mr. McNamara what that means.

Mr. McNamara explained that the different products that are used are fire rated, special siding, special insulation, all of those building materials are specially rated.

Mr. McNamara advised Mr. Papke that perhaps he reduce the size of the proposed building thus reducing the size of the setback and distance to the property line. This will decrease the fire rating, and the cost.

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 Patrick Krey, seconded by Forest Rung, to **approve** Appeal No. 2 as written, with the following condition:

1. addition siding and roof material to match existing garage.

ON THE QUESTION:

Mr. Krey stated that what makes this a unique request as opposed to other ones, is that the neighboring property to the east, that home is not in line with the house, and is much smaller and closer to the street so that encroaching on the setback in this regard is not having any detrimental impact on the neighboring property line.

Mr. Krey added that in that area of Greiner there are a lot of properties with an attached garage and garages that are a similar size, so it will not be a detriment to the neighborhood.

Mr. Bleuer asked for specificity for materials, and asked if there will be any walls associated with the proposed addition. Just enough detail so that the Building Department knows what to expect.

Chairman Mills confirmed with the applicant that this proposed structure will be a covered porch type of structure.

Mr. Papke responded yes.

Chairman Mills asked if there will be asphalt shingles.

Mr. Papke stated that there is currently a steel roof on it, he will do a steel roof and steel siding.

Chairman Mills asked about the columns.

Mr. Papke stated that the columns will be 6’ by 6’, pressure treated and a footer will be poured along the edge.

Mr. Bleuer confirmed that the proposed structure will have walls.

Mr. Papke responded yes; it will be totally enclosed.

Chairman Mills reiterated that it will be totally enclosed.

Mr. Papke responded yes.

Mr. Bleuer asked if all three new sides will have walls.

Mr. Papke responded yes.

Mr. Papke noted that in talking with Mr. Dale the other day when he was making a site visit, that Mr. Dale pointed out that the proposed structure is an addition to the garage, not a lean-to.

Chairman Mills stated that he was under the impression that it was an open structure, such as a lean-to, not a fully enclosed structure.

Chairman Mills confirmed that this is a full garage addition.

Mr. Papke responded yes.

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

MOTION DENIED

With no additional motion made, request **failed**.

Appeal No. 3

Severyn Development, Inc. Agricultural Rural Residential Town Code Reference: §229-41(B)(1)	Applicant requests a variance to allow up to a 260' principal structure front yard setback located at 8604 Lapp Road.

DISCUSSION:

Will Severyn from Severyn Development, Inc. was present to represent this request, explaining that they are working with the property owners, Renoj and Elizabeth Varughese to build a single-family home on a 5-acre parcel. The current setback on Lapp Road is 200', Mr. and Mrs. Varughese would like to set the proposed house back 260', for their own pleasure.

Chairman Mills asked if there is any additional reasoning for wanting the set the house back, aside from their own pleasure.

Mr. Severyn responded no.

Mr. Krey noted that the house adjacent to this property is set back 280', and asked Mr. Bleuer if that property needed a variance to set the home back that far.

Mr. Bleuer explained that the house Mr. Krey is referring to is fronting Kenfield Road, and because there was no established setback on Kenfield Road, that house established the setback.

Mr. Dale confirmed they are referring to parcel #3.

Mr. Severyn responded yes.

Mr. Dale asked what is planned for parcels 1 and 2. His concern is the house immediately adjacent to these parcels, that are set back at 85'.

Mr. Bleuer noted that it is 8500 Lapp Road.

Mr. Dale stated that his concern is that if houses are being built at a setback of 280', there will be a point where the house set back at 85' will stick out like a sore thumb. Mr. Dale asked how we can avoid that.

Mr. Severyn acknowledged Mr. Dale's concern, stating that he believes the home is much older. They could keep the other two lot setbacks at 200', which would not bring it right up to the street, but closer to the 85'.

Mr. Dale stated that the area is a heavily wooded lot, and asked if they could keep a strip of woods between the house at 8500 Lapp Road and this proposed home. Also, approximately 20' with whatever is done with the other two parcels.

Mr. Severyn responded yes; they are developing along Lapp Road and down Kenfield Road, every property owner intends to leave some trees on the properties.

Chairman Mills interjected, stating that conditions posted would not be on this specific parcel.

Mr. Donohue confirmed that it would be a problem to do that.

Chairman Mills explained that if they do come to the Zoning Board related to parcels 1 and 2, that would be the point in time to place those potential conditions.

Mr. Rung asked Mr. Severyn if he is involved in further development further north on Kenfield Rd., or is this it.

Mr. Severyn responded yes.

Mr. Rung noted that it is anticipated there will be additional homes similar to those heading north on Kenfield Rd.

Mr. Severyn responded yes.

Referring to the parcel to the west, Mr. Rung asked if there will eventually be 4 homes that face Lapp Road.

Mr. Severyn noted that there will be 3 homes facing Lapp Road, and on the corner facing Kenfield Road.

Chairman Mills confirmed with Mr. Severyn that he is responsible for constructing the home currently on Kenfield Rd.

Mr. Severyn responded yes.

Chairman Mills stated that the house proposed to go on this specific parcel, Mr. Severyn provided the architectural drawings for, and asked if this is the final version of the proposed home.

Mr. Severyn responded yes.

Chairman Mills entered architectural drawings A-1, A-2, A-3 and G-1 in to the record as Exhibit A.

Chairman Mills asked what the approximate square footage is of the proposed home.

Mr. Severyn stated that he believes it to be approximately 3,000 sq. ft.

Referring to the adjoining parcel with the home currently under construction at the corner of Kenfield Road and Lapp Road, Chairman Mills asked what the approximate square footage is of that.

Mr. Severyn responded that it is approximately 4,500 sq. ft.

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 Patrick Krey, to **approve** Appeal No. 3 as written.

ON THE QUESTION:

Chairman Mills stated that this is a somewhat undeveloped area on the corner of Lapp Road and Kenfield Road. There is a home currently under construction with a setback from Lapp Road of approximately 280'. The next established home on that side of the road on Lapp Road is 85' and there are several parcels in between them. This would somewhat conform with the setback of the home that is under construction on the corner of Lapp Road and Kenfield Road.

Chairman Mills added that there is a large parcel in between this proposed home and the other home that two more homes are going to be constructed on, because the applicant owns that parcel and has attested to that. He does not believe that this will have any adverse effect on the character or environmental conditions of the area. It will conform aesthetically with the home under construction at the corner of Lapp Road and Kenfield Road, and not be a detriment to the area.

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

MOTION CARRIED

Appeal No. 4

Severyn Development, Inc. Agricultural Flood Zone Town Code Reference: §229-31	Applicant requests a variance to allow up to a 330' principal structure front yard setback located at 9639 Tonawanda Creek Road.

DISCUSSION:

Will Severyn with Severyn Development, Inc. was present to represent this project, adding that this parcel is approximately 26 acres. While not specifically a flat lot, the frontage is somewhat narrow, which is why they are requesting to build back approximately 330' for a single-family home.

Mr. Severyn stated that the property is very wooded, and the purchaser intends to keep the site as wooded as possible.

Chairman Mills asked Mr. Severyn if he owns this parcel, or if the client does.

Mr. Severyn stated that he does not.

Chairman Mills asked Mr. Severyn who currently owns the property.

Mr. Severyn stated that he believes the purchaser has recently closed on the property, they are Mr. and Mrs. James Murphy.

Chairman Mills noted that architectural drawings were provided for this 2,432 sq. ft. proposed ranch home as well.

Mr. McNamara asked what the distance is from the front of the house to the rear lot line of the house located in the front.

Mr. Severyn stated that it is approximately 120'.

Mr. McNamara confirmed that the septic system will be installed at the front of this proposed house.

Mr. Severyn responded that to his knowledge, the septic is planned to be installed on the north side for this proposed project.

Mr. McNamara confirmed that the septic will be located between the proposed house and the street.

Mr. Severyn responded yes.

Mr. McNamara confirmed that the lot is very wooded, and how big of a buffer will be left between this proposed house and the house in front of it.

Mr. Severyn is unsure, but stated that the new buyers do intend to keep it very wooded.

Mr. Dale noted that currently the access to the property is gained by a path that is very close to the existing home next to this property.

Mr. Severyn stated that the path is going to be moved to approximately the center of the existing frontage.

Referring to the submission showing the topography of the site, Mr. Rung asked if it depicts the approximate are of the fill that was previously placed there.

Mr. Severyn responded yes.

Mr. Rung confirmed that the area shown is not wetland, but assumingly the rest of the area around it is wetland.

Mr. Severyn responded yes; to his knowledge, the fill was done at least 15 years ago.

Neighbor Notifications are on file, Mr. Bleuer stated that a letter of objection was received from the residents at 9649 Tonawanda Creek Road. Other inquiries and comments were also made by neighboring residents who brought to our attention that there was some prior activity on the site.

Between the years 1999-2001 there was what appeared to be some illegal fill operations that occurred. We have reached out to the Engineering Department to locate any past records, there has not been any activity on the site predominantly since then.

Chairman Mills asked Mr. Severyn if he or his clients are aware of this activity.

Mr. Severyn responded no; not that he is aware of.

Mr. Krey asked Mr. Bleuer if by illegal fill activity, why move fill to an area that needs a variance, rather than get the variance first. Does that mean that there is concern that there was things buried on the site.

Mr. Bleuer stated that he has no information regarding the reasoning, his intention was to make the applicant aware of information given to us and what we could locate. If this variance is approved, they will still need to go through the full Building and Engineering review, probably with a floodplain development permit or similar.

Mr. Bleuer stated that this information was given to Mr. Severyn's son, so he does have the information.

Mr. Severyn stated that he believes they have already conducted a soil boring test.

Mr. Rung noted that wetlands should not be filled without a permit.

Mr. Krey asked where the neighbor that voiced concerns lives.

Mr. Bleuer stated that he does not know where the individual that provided some of the information lives.

Mr. Bleuer reiterated that there should be no earth disturbance without permit.

Mr. Krey asked if they could get a permit and relocate the fill, or is that not permitted due to the wetlands.

Mr. Bleuer responded that he does not know.

Mr. Rung stated that they could obtain a permit to fill the wetland, but a wetland delineation would need to be conducted.

Mr. Donohue stated that the current condition of the lot is what it is, it happened 25 years ago, it is not necessarily an issue today. The current issue is the setback request. If it needs to be filled to build the house where they would like to build it, then the Building and Engineering Departments will address that.

Chairman Mills asked Mr. Bleuer for clarity that the allowed setback is 200' at this location.

Mr. Bleuer responded no; the established setback for that lot is 75'.

Mr. McNamara asked if there are any wetlands located at the road on this lot.

Mr. Severyn stated that he does not believe so.

Mr. McNamara confirmed that from the road frontage straight back, there are no wetlands.

Mr. Severyn responded no; there are not.

Mr. McNamara asked if there is anything in the floodway or flood zone.

Mr. Severyn stated that would be right behind where the proposed house site is.

Chairman Mills reviewed where things stand now, stating that Mr. Severyn's client has purchased and closed on this property. If this variance is not granted, do they plan to build at the established setback of 75'.

Mr. Severyn stated that he does not believe that is possible, it is not wide enough there to build a home.

Chairman Mills asked Mr. Severyn at what point on the lot would it be wide enough for them to build a home on.

Discussion continued regarding the location of the proposed home on the lot.

Chairman Mills stated that they probably would not be able to build on the lot unless they went back at least 250'.

Mr. McNamara noted that the farther back this proposed home is, the more privacy the neighbor in the front will have.

In regard to Public Participation, the following resident spoke:

1. Lisa Savikinas of 9495 Keller Road, on behalf of her mother, Mary Savikinas of 9625 Tonawanda Creek Road:
    - concerns with the existing drainage problems that have affected her property due to work done on this property 30 years ago
    - additional construction, fill, or changes to the property without fixing the existing drainage will make the problems worse
    - concerned with potential impact on her property due to drainage issues affecting the use, condition, and value of her property
    - not opposed to neighbors improving their property, but believes the existing drainage issue needs to be addressed before a variance is approved
    - requests the board requires a professional drainage solution, and not at her expense
    - consider long term impact on neighboring properties

- has 6 photos to show the back property where it floods and is too wet to mow

Chairman Mills entered the 6 photographs in to the record as Exhibit A.

Chairman Mills asked Mr. Bleuer to speak on the engineering role in new home construction.

Mr. Bleuer explained that part of any new home construction requires both building and engineering involvement. There would be full grading and drainage plans associated with any construction, regardless of location.

Mr. Bleuer stated that he cannot speak to any past activity other than what he has already stated.

Addressing the letter and statements made by Ms. Savikinas on behalf of her mother, Chairman Mills stated that if this request is approved, there would have to be a grading and drainage plan reviewed by the Engineering Department.

Mr. Donohue added that the general rule when it comes to construction on a new building, is that it cannot create additional drainage, but it also cannot necessarily make them fix any existing drainage issues. Engineering will make sure that construction of the proposed home will not contribute to the existing issues.

Ms. Savikinas stated that the dirt that was illegally placed there is causing all of this. Saying that you can or cannot fix whatever was there, it is there illegally. So, remove all of the dirt and let the drainage system go back to the way it was. Something needs to be fixed before more fill is brought on to the property.

Chairman Mills stated that Ms. Savikinas's concerns are noted.

Mr. Severyn agreed with Mr. Donohue in that a grading and drainage plan is part of the approval, this will be addressed. He is happy to speak with the neighbors regarding their concerns and this issue, and at least guarantee they will do everything they can to not add to the issues.

Public Participation was closed for this item.

Mr. Krey noted that this property is in a flood zone, so this is a wet area to begin with. If this board denies this request, there is nothing preventing the applicant or anyone else, from placing a home at the standard setback. This could mean two areas that could contribute to drainage issues.

Mr. Krey continued, stating that by granting the variance, the only area is the existing one, which could potentially be helped with drainage pipes and other remediation.

ACTION:

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

ON THE QUESTION:

Chairman Mills noted that this is a unique parcel, it starts off narrower, then opens up. To be in compliance and not require a variance for a setback is going to put the house 75’ off of Tonawanda Creek Road. This would be pretty close to the adjoining neighbors, and the narrowness of the lot does not allow for many building options with that setback. This is a large, dense parcel, and as proposed, set back far enough that it should not be able to be seen by the other parcels.

Regarding water concerns raised by at least one neighbor, Chairman Mills noted that this is a wet area, but by setting the proposed home farther back, it may help it more than being closer to Tonawanda Creek Road, where a variance is not required.

Chairman Mills stated that he believes that this variance makes sense, given the nature and size of the parcel. He does not believe it will have any adverse impacts on the character or environmental conditions of this area.

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

MOTION CARRIED

Appeal No. 5

Matthew & Karen Coia
Agricultural Flood Zone
Town Code Reference:

1) §229-30
2) §229-30
3) §93-19(D)(1)
4) §229-31

Applicant requests variances:

1) of 4'6" to allow a lot frontage of 145'6"; and
2) of 4'6" to allow a lot frontage of 145'6"; and
3) to allow an existing pond to be closer than 100' to proposed property lines; and
4) to allow 135' principal structure front yard setbacks for two proposed single-family homes;

all to allow for a minor subdivision of land, which would result in one lot being split into two lots of record located at 8660 Wolcott Road.

DISCUSSION:

Matthew and Karen Coia were present to represent their request, noting that they are not the current owners of this property. They are seeking these variances in order to determine if they will continue to seek this property, and whether it will fit their needs. Their goal is to split this property to each of their children, so that they can have a property to build on in the future.

Mr. Coia explained that the first issue they had when attempting to subdivide this property in to two, is that the frontage is only 291’. Dividing that by 2, does not give the required 150’ for those two properties, hence the reasoning for the first two variances.

Mr. Coia added that there are other properties in close proximity to this property that are fairly close to the road, under the 150’ frontage area.

In regard to prong 3, Mr. Coia stated that the existing pond is central on the property, and approximately right about where they would like to divide the property. In discussions with the Engineering Department, one of their suggestions was to bump out the property line around the pond, leaving the pond for one property and excluding it from the other.

Mr. Coia stated that the reason for the pond to be closer than the required 100’ from pond to property line, is that it would basically cut off one property from the north side of the property.

Mr. Coia noted that prong 4 for the 135' principal structure front yard setbacks for two proposed single-family homes is because there is currently a home on the property that is setback approximately 135’. They would like to keep that setback, because it is historically at that location. There is also a barn at the same setback, and they would like to keep the existing look on the property.

Mr. Coia added that the property also has some substantial trees that are near the road that would need to be removed in order to meet the setbacks set in the guidelines.

Chairman Mills asked Mr. Coia if they are under contract to purchase this property.

Mr. Coia responded no; they are trying to get it all done ahead of time.

Chairman Mills noted that they have the current owner’s permission to seek these variances, but are not even under contract yet.

Mr. Coia responded that is correct.

Chairman Mills asked Mr. Coia to describe the proposed houses.

Mr. Coia stated that they are average family homes, approximately 2,500 sq. ft., unsure if they will be 2-story or ranch.

Chairman Mills confirmed with Mr. Coia that this would not work for them as just one parcel.

Mr. Coia responded no.

Chairman Mills noted that there are quite a few variances, the pond one is the most concerning.

Mr. Coia stated that it is the most concerning for them as well.

Chairman Mills stated that the reduction in lot lines and attempting to create more lots is also concerning.

Chairman Mills asked Mr. Bleuer what the average setback is for this property.

Mr. Bleuer stated that if the house that was previously approved to be demolished was removed, the average setback would be 50'.

Chairman Mills noted that in his opinion, that one is the most compelling of the 4 variance requests is the 135' setback. There is a structure there currently at that, and though a variance would still be needed, in his opinion, that is one of the variances that makes the most sense.

Mr. McNamara asked about the pond, noting that many developments have ponds in the backyards of the properties. This pond looks to be about 40' off of the property line from side-to-side, and approximately 20' from front to back.

Mr. Coia stated that is the way they wrote it up, they are willing to adjust the lines a bit, but they do not want to cut off one side from the back of the lot.

Mr. McNamara asked what the side setback is to the left side of the pond.

Mr. Coia stated that from pond to property line on the west side, it is about 100' to the pond.

Mr. McNamara said that he would like to see the 20' increase a bit if that is possible, maybe to 40' so that the sides are equal, and consistent on 3 sides.

Mr. Coia responded okay.

Mr. Dale stated that while he is not particularly concerned with the pond being closer than 100' to any of the property lines, he is concerned about building houses within 100' of the pond.

Mr. Coia stated that they would not be.

Mr. Dale responded that if he has his word, they will be. Especially if there will be young families living there, near the pond, the kids will want to play in the pond. That is where the 100' property line relationship came from; for the safety.

Mrs. Coia stated that as the future grandmother of any children, they will take every precaution including fencing and whatever needs to happen, to protect the children from any misuse of the pond.

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 Patrick Krey**,** that pursuant to Article 8 of the Environmental Conservation Law, to accept the Part 1 Environmental Assessment Form as

submitted and approve the Part 2 & 3 Environmental Assessment Form as prepared and to issue a Negative Declaration on the proposed Coia Minor Subdivision at 8660 Wolcott Road. This Unlisted Action involves a lot split to create two (2) new lots in the Agricultural Flood zone. After thorough review of the submitted plans, letters and Environmental Assessment Forms, it is determined that the proposed action will not have a significant negative impact on the environment.

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

MOTION CARRIED

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

1. minimum of 40’ setback from the pond edges on all 3 sides of the cutout be established
2. Matthew and Karen Coia must purchase this property, or all prongs of this variance are null and void

ON THE QUESTION:

Mr. Krey stated on the question, that the applicant has produced evidence that there are other lots in close proximity to this with similar frontage. In terms of that variance, it is not out of character with the neighborhood.

In terms of the structure setback, Mr. Krey stated that it will not stand out, and it is reasonable considering the length of these two lots.

Mr. Krey stated that in terms of the pond being close to the property line, while not ideal, this is a unique situation, and the applicant has agreed to extending the property line further, to address safety and concerns. They have also acknowledged in the future if there are any children, access to the pond would be limited.

Chairman Mills reiterated that these variances only apply to the purchase of 8660 Wolcott Road by Matthew and Karen Coia, and would not apply to any other perspective purchasers. Should this deal not move forward, any other purchasers will have to come in front of the Zoning Board, should they desire the same variances.

Mr. Bleuer stated that once purchased by Matthew and Karen Coia, the variances are in place. They could choose to sell, or gift the property, but as long as the next transfer goes to Matthew and Karen Coia, the variances will be in place.

Mrs. Coia thanked the Planning and Zoning Department, Engineering Department, and the Zoning Board for their work on this variance, adding that they have all been an absolute joy to work with.

Richard McNamara	Aye	Ryan Mills	Aye	Patrick Krey	Aye

Steven Dale Nay Forest Rung Aye

MOTION CARRIED

Appeal No. 6

Jacob Fox Residential Single-Family Town Code Reference: §101-3(C)(2)	Applicant requests a variance of 2' to allow a 6' tall fence to be within the front yard setback located at 4520 Shimerville Road.

Ryan Mills recused himself from Appeal No. 6. All of the necessary paperwork will be filed with the Town Clerk's Office.

DISCUSSION:

Jacob Fox was present to represent his request, stating that he is requesting a 2' variance to allow them to have a 6' fence in their secondary backyard. The reason for this request would be to allow for reasonable use and enjoyment of the property while also maintaining a safe and attractive appearance.

Mr. Fox continued, adding that the proposed fence will not negatively impact traffic visibility, or create any safety concerns for motorists, pedestrians, or neighboring properties. The variance is to provide increased privacy, safety, and security for his family and the use of their backyard. An enclosure would also help to deter deer and other wildlife from entering the yard, producing situations where their dog may be inclined to chase the animals. The fence will provide a safer and more secure environment for their children, by creating a defined and protected backyard space.

Additionally, Mr. Fox stated that this proposal is consistent with the existing character and appearance of the neighborhood. The rear property line is already bordered by an existing 6' wooden privacy fence, shared with the neighboring property. A 6' privacy fence along the proposed location would create a cohesive appearance, maintain neighborhood aesthetics, and provide a logical continuation of the existing fence rather than introduce an incompatible design element.

Mr. Krey asked Mr. Fox if he coordinated with his neighbor in terms of this fencing.

Mr. Fox responded yes.

Mr. Krey asked how this came about, to pursue the fences at the same time.

Mr. Fox stated he and his wife have always wanted a fence, and received a fence permit for a 4' black chain-link fence. After additional consideration, and talking with their neighbor, they discussed maintaining the neighborhood aesthetics, and a 6' wooden privacy fence would be more beneficial to the neighborhood.

Mr. Krey asked Mr. Fox if he has a fencing contractor picked out.

Mr. Fox responded that they will be installing the fence themselves. The fence itself is the exact same 6’ dog-eared, wooden fence style that is already in between the two property lines.

Mr. Rung noted that it is nice to see two neighbors working together, and to be careful of the trees when they put the fence posts in. Try to stay as far away from the trees as they can, so that they keep the root structure.

Mr. Dale asked Mr. Fox if he plans to keep the pine trees.

Mr. Fox responded yes.

Mr. McNamara explained he was out there today to look at the stakes, talked to Mr. Fox’s next-door neighbor, and has no problems with this request.

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 Steven Dale, to **approve** Appeal No. 6 as written.

ON THE QUESTION:

Mr. Rung stated that based on where the fencing is being installed in relation to the road, it does not appear that it will create any sight line issues for the public, creating any safety risks.

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

MOTION CARRIED

Chairman Mills returned to the meeting and the dais.

Appeal No. 7

Andrew Dupler	Applicant requests a variance of 2' to allow a 6' tall fence to be within the front yard setback located at 4515 Christian Drive.
Residential Single-Family	
Town Code Reference: §101-3(C)(2)	

DISCUSSION:

Andrew Dupler was present to represent his request, explaining that he is the backyard neighbor to Jacob Fox at 4520 Shimerville Road, the previous applicant.

Mr. Dupler stated that they would also like a 6’ fence for all of the same reasons that Mr. Fox previously stated. They have young children, and unfortunately with the way their yard is laid out, the section between the road and their pool area and back of their garage is where their kids play the majority of the time.

Mr. Dupler continued, stating that for privacy and protection purposes, it is in the best interest of their family to have a 6’ fence.

Mr. Dupler explained that they have spoken with all of the neighbors, and they all agree and have no issues with this request. He understands the board’s concerns with sight lines, and with the photos that he submitted, the only hinderance are the existing Cottonwood Trees that are there. Those trees will stay, as the proposed fence will be installed to the inside of the trees.

Mr. Dupler reiterated that they will be installing the fence themselves, he installed the existing fence himself as well.

Chairman Mills confirmed that the proposed fence will be the same material as the existing fence and the Fox’s fence at 4520 Shimerville Rd.

Mr. Dale confirmed that Mr. Dupler plans to keep the Poplar and Cottonwood Trees.

Mr. Dupler responded yes, he is aware that one of the concerns as to was whether the fences will line up between where the Fox’s pine trees and his Cottonwood trees are. He will be closer to Christian Drive on his side, but the pine trees will stay.

Neighbor Notifications are on file, no comments were received.

Mr. Bleuer noted that should approval be considered there is a small portion of the fence to the existing fence running north and south that extends south of the foundation line of the house. That would be included in to this variance in order to cover it, as it already does exist.

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 Patrick Krey, to **approve** Appeal No. 7 as written.

ON THE QUESTION:

Chairman Mills stated that this fence does seem to conform well with the prior variance approval of Appeal No. 6; it is in line with that fence, and will be the same material. Chairman Mills does not feel that it will adversely affect the character or environmental conditions of the area.

Mr. Dale noted that it does not have any visual impact coming around the corner on Christian Drive.

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

MOTION CARRIED

Appeal No. 8

Ognian Pomakov
Residential Single-Family
Town Code Reference: §229-52(B)

Applicant requests a variance of 4'6" to allow for an 8' principal structure side yard setback located at 4955 Goodrich Road.

DISCUSSION:

George Peppes with Designer Homes of Western New York they are looking to build a single-family home with a variance, so that he can extend the pad. This will be so that when he pulls in to his driveway and turns in to his home, the pad is a little wider.

Mr. Peppes added that the applicant, Mr. Pomakov does own the lot next door, and plans to gift it to his kids to build a house on in the future.

Chairman Mills confirmed that the lot directly to the south is also owned by the applicant, and will be retained for a family member.

Mr. Peppes responded yes.

Chairman Mills asked if the only reason for this request is for some additional turn-around space.

Mr. Peppes responded yes; it gives him an extra 4’ in the pad next to the driveway. They did look in to shrinking the house a little, but it was too difficult with 4’ and where they are cutting. The applicant wants to assure that the house will be adequate for his forever home, if he has to be in a wheelchair in the future.

Chairman Mills asked Mr. Peppes if the proposed house is a first-floor primary with a wider footprint.

Mr. Peppes responded yes.

Chairman Mills confirmed that the garage is proposed to be on the north end, but the applicant needs the additional space.

Mr. Peppes responded yes.

Chairman Mills added that it is a side-load garage.

Mr. Peppes responded yes.

Chairman Mills confirmed that the total square footage of the proposed home is 4,990 sq. ft.

Mr. Peppes responded yes.

Chairman Mills asked Mr. Peppes if they worked with a variety of designs, and this one is the only way that it will work.

Mr. Peppes responded yes.

Mr. Dale asked what side of the house the garage is on, as you face Goodrich Road.

Mr. Peppes explained that if you are on Goodrich Road facing the house, the garage is on the north side.

Mr. Dale stated that it is next to the existing house.

Mr. Peppes responded yes.

Chairman Mills noted that the variance request is closer to the south side. They are trying to gain more driveway space on the north, by moving closer to the south side.

Mr. Rung asked if this property is part of the Spaulding Lake Homeowner's Association.

Mr. Peppes responded no; he does not believe so.

Mr. Rung asked if there will be access to get behind the house if needed.

Mr. Peppes responded yes.

Referring to the property to the south, Mr. McNamara confirmed that the applicant also owns that.

Mr. Peppes responded yes.

Mr. McNamara confirmed that this proposed house the applicant is for the applicant, who is going to build and reside there.

Mr. Peppes responded yes.

Mr. McNamara asked what the plans are for the property next door, does he plan to sell that.

Mr. Peppes stated that the applicant has two other lots there, and plans to give each of the lots to his kids for future homes of their own.

Mr. McNamara confirmed that the lots are septic.

Mr. Peppes responded yes.

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 Patrick Krey, seconded by Ryan Mills to **approve** Appeal No. 8 as written.

ON THE QUESTION:

Chairman Mills noted that they have heard testimony and have seen evidence that the applicant also owns the lot to the south, which is the one that would be the most impacted. Also, taking in to account the size of the parcel, and the fact that it is a new build home that will be very pleasing based upon the drawings, he does not believe that would have any adverse impact on the character or site conditions of the neighborhood. It will allow a little more driveway space based upon the applicant's testimony, and based upon how the house to the north is already situated, it will not adversely impact the character or environmental condition of the house. There will not be any overall detriment.

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

MOTION CARRIED

Appeal No. 9

Patrick Krey Agricultural Flood Zone Town Code Reference: §229-34(D)	Applicant requests a variance to allow an accessory structure (pole barn) to be constructed on a parcel that currently does not contain a principal structure located at 7700 Salt Road.

DISCUSSION:

Patrick Krey was present to represent his request, adding that he purchased this property last November, mainly intended to use it for hunting. It is 25 acres, with 20 acres wooded and the other 5 acres are clear, previously used to farm hay by a nearby farmer.

Mr. Krey stated that he would like to do some hobby farming in the clear part of the property, mainly to attract deer to that area for hunting purposes. He was attempting to do this without proper farming equipment, because he lives on a suburban lot and does not have farming equipment. All of his attempts thus far have been labor intensive and unsuccessful, bringing him

to the realization that to get the most out of the 5 acres, he would need to put up a pole barn so that he can have a tractor on site. This would allow him to take care of the property and the field, and also not have to pay someone to do it for him.

Mr. Krey noted that this property is in the Agricultural Flood Zone, a floodplain permit is needed to be able to do anything on the property. He does have a chicken coop, and has a floodplain permit for that. In order to put up a pole barn he would need to bring fill in for the area, his idea is to dig a pond on the property and use the fill from that to build up the base for the pole barn.

Mr. Krey stated that by granting the variance, there is definitely a benefit to him as the applicant that he is able to get more out of the property. It is also a benefit to the neighboring properties, and the Town of Clarence, as it gives him the ability to take care of the property and not have it become overgrown and unruly.

Chairman Mills asked Mr. Bleuer if this proposed structure is used for agricultural support services, does there still need to be a principal residence on the parcel.
Mr. Bleuer explained that the code does not allow an accessory structure to be placed in advance of a principal structure. One could state that an agricultural accessory structure is deemed the principal structure, but that would take away all future rights or allowances, should the applicant someday wish to place a home or a principal structure on the property.

Chairman Mills asked Mr. Krey if he has any intentions of ever building a home or principal structure on this property.

Mr. Krey responded that while he does not currently plan to, he would not rule it out as a possibility, because he does not know if some time in the future, he may want it for one of his children to build a home. At this point, the intention is solely to put up a pole barn to store the equipment that would allow him to take care of the property.

Chairman Mills confirmed with Mr. Krey that this proposed structure would be used for agricultural purposes.

Mr. Krey responded yes; for the foreseeable future.

Mr. Dale asked what could potentially be done to make it a second residence, similar to a summer home. Very limited, rustic living.

Mr. Bleuer stated that it would be a completely different building code and permit. It would have to be constructed as a principal residence, whether to be used 1 day or 365 days of the year.

Mr. Krey added that he does not even intend to add utilities to the proposed pole barn, he would just like to have windows for sunlight. It will be primarily used for storage of equipment.

Mr. Dale asked Mr. Krey where he would get the water to fill the pond.

Mr. Krey responded that Mother Nature would provide the water, that is how ponds get filled.

Chairman Mills asked Mr. Krey if he plans to have a concrete floor, and insulating the proposed structure.

Mr. Krey stated that he was not planning to insulate it, but he did plan on a concrete pad.

Mr. Donohue noted that the land is pretty low and wet.

Mr. Krey responded yes; that is why a pond is almost a necessity.

Chairman Mills asked what the total size of the parcel is.

Mr. Krey responded that it is 25 acres. He recently rented a walk-behind brush hog to clean up the 5-acre field, it served the purpose for this year but he will need to do more to continue maintaining the property.

Chairman Mills asked how far back on the property Mr. Krey would set the proposed pole barn.

Apologizing for not having an exact measurement, Mr. Krey stated that it would generally be around where the future pond ends up going. He had a contractor come out to the property just to give him some ideas, and the contractor suggested midway in the back of the property, with the proposed pole barn in front of the pond.

Mr. Krey stated that he is open to any conditions that the Zoning Board would impose on him.

Chairman Mills is curious about the view of the pole barn from Salt Road or Delaware Road.

Mr. Krey stated that the way it was laid out, he intended it to be in line with the neighbor's property, and also to get a curb cut. Salt Road is a county road, so he would need to go through the county to get the curb cut. There is an existing curb cut but it is very narrow, he would attempt to get that widened, and have a driveway with direct access to the pole barn.

Mr. McNamara confirmed with Mr. Krey that the proposed pole barn would have steel siding and a steel roof, and inquired about the color.

Mr. Krey was thinking neutral colors, to blend it in to the existing property. He is open to suggestions and / or conditions from the board.

Mr. McNamara asked what the size is of the proposed pole barn.

Mr. Krey stated that he is currently looking at a 30' x 40' pole barn, so that there is room for the tractor, trailer, and any additional accessories and equipment needed.

Mr. McNamara asked Mr. Bleuer about a previous and potentially similar variance on Westphalinger Road.

Mr. Krey recalled that project also, it was a commercial agricultural operation.

Mr. Dale stated that he is uncomfortable with the board taking this action, because he knows they have denied previous applicants for similar requests for not having a principal structure. It is a little difficult for him to make an exception.

Mr. Rung asked Mr. Krey if he has ever had a wetland delineation done on the property.

Mr. Krey responded no; not on this property. It is mostly wetlands to the west of the property, with only one little corner down Delaware Road that there are some wetlands on it. Where they are looking to put the pond and the barn is so far removed from where the wetlands that they never even considered it.

Mr. Rung asked Mr. Krey if he has any concerns with security.

In terms of security, Mr. Krey stated that it would be similar to the homeowners in the area; he would have the structure locked up. He has been disappointed to see all of the dumping. He has spoken with the neighbor to the north of the property to make sure he had no issues with it, and he does not.

Speaking on Mr. Dale's concerns, Mr. Krey stated that to his recollection, the previous instances of the board denying an accessory structure without a principal structure involved an applicant who wanted to live in the pole barn until his home was built. That is obviously quite different from this request where it is solely for storage and farming equipment. The use is completely in line with the character of the neighborhood.

Neighbor Notifications are on file, no comments were received.

In regard to Public Participation, the following resident spoke:

1. Paul Shear of 9530 Maple Street:
    - asked Mr. Bleuer if there are any accessory structures on any property in the Town of Clarence without a primary residence.

Mr. Bleuer responded yes; The Badding Brothers for the barn that they placed on Westphalinger Road. He is confident that there are other properties with very old, even historic barns. He cannot think of examples of pole barns in town, but it does not mean they do not exist.

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

ACTION:

Motion by Richard McNamara to approve Appeal No. 9 as written.

With no second, the motion failed.

Motion by Ryan Mills, seconded by Steven Dale, to **table** Appeal No. 9.

ON THE QUESTION:

Chairman Mills stated that he would like to see some more detail in terms of the color and style of the pole barn, and precisely where it would be situated in relation to the proposed pond. The most that the proposed pole barn would be able to be viewed from Salt Road would be favorable.

Mr. Dale stated that he would like Mr. Bleuer to research previous cases where the Zoning Board has had this situation, and how they resolved it.

Mr. Krey asked about the view from Salt Road., stating that the further back from the road the proposed pole barn is, the better that would be in terms of views from the road.

Chairman Mills reviewed the homes located nearby on Salt Road, and pointed out that setting the proposed pole barn further back toward Delaware Road would be the ideal setting. Additional landscaping may help to mitigate the view of it as well.

Mr. Rung stated that he does not feel that it would be an eye sore, but rather more of a concern of the barn being by itself on the property. Tucking it up as close to the neighbor as allowable could make it seem as if it is the neighbor's barn.

Mr. Donohue stated that if the pond needs to be engineered it does not make much sense to discuss where the pond should be now.

Richard McNamara Aye Ryan Mills Aye Steven Dale Aye Forest Rung Aye

MOTION CARRIED

Meeting adjourned at 8:24 p.m. with a motion by Ryan Mills.

MOTION CARRIED

Amy Major
Senior Clerk Typist