

Clarence Board of Appeals Minutes  
Tuesday, September 13, 2005  
7:00 PM

Ronald Newton, Chairman, called the meeting to order at 7:00 PM.

Board of Appeals members present were:

Ronald Newton  
Arthur Henning

Raymond Skaine

Board of Appeals members absent:

Eric Heuser  
John Brady

Other Town officials present were:

James Callahan

Jim Hartz

Other Interested Parties Present:

Sloan Miller  
Mark Ziemba  
Anthony Campione  
Keith Ware  
Joanne Paxon  
James Mondello  
Grace Mondello  
Gregory Orffeo  
Jennifer Hannon

Robert & Natasha Esmond  
Donna Hall  
C.E. "Pete" Piger  
Curtis Mohr  
Rashawn Boyd  
Robert McCarthy  
Carl Binner  
Linda Clark  
Bob Conway

Motion by Raymond Skaine, seconded by Arthur Henning, to approve the minutes of the meeting held on August 9, 2005, as written.

ALL VOTING AYE. MOTION CARRIED.

**Appeal No. 2**

Miosi Builders  
PURD

Requests the Board of Appeals approve and grant a twelve-inch (12") variance, creating a first floor elevation of five feet (5') above the crown of the road at 9737 Cobblestone Court.

Discussion:

Sloan Miller explained to the board that he began excavating the cellar on May 5, 2005 and finished on June 1, 2005. As they proceeded, it was discovered that it was hard rock. They needed to go through 5' and were able to get through the first 2.5' – 3' in 2 or 3 days. However, when they got to the northwest corner of the house, progress slowed as hard rock was encountered. The builders said, "We tried."

Action:

Motion by Ray Skaine, seconded by Arthur Henning to approve Appeal No. 2 under Old Business, as written.

ALL AYES. MOTION CARRIED.

**Appeal No. 3**

Robert & Natasha Esmond  
Agricultural-Rural Residential

Requests the Board of Appeals approve and grant a three-foot (3') variance to allow a twelve-foot (12') setback at 10625 Clarence Center Road.

Discussion:

Robert Esmond explained that according to the plans, they were building an in-law apartment specifically for his mother who is 72 years old. The builder previously spoke to the Building Inspector who indicated that according to the plans they had drawn up, their plan would be suitable for that property. Natasha Esmond interjected that this conversation occurred *before* they purchased the property. Mr. Skaine was asked if he had any questions. Mrs. Esmond said that the neighbors are fine with this.

Ray Skaine asked if they were looking for 3' on either side or 12'. Jim Callahan replied that the zoning in that new zone requires a 15' side yard. Mr. Skaine wondered when the zoning had changed. Jim Callahan said it changed in March. The Esmond's were asked when they purchased the property. They didn't have an exact date but believed it was around March. Jim Callahan asked the Esmond's when they believed they first approached the Building Department – was it prior to March? Mr. Esmond thought it was perhaps February. Jim Callahan commented that they got caught in the zone change.

The Esmond's were asked if they were tight on all sides because of the fact that they were building an in-law apartment to which Mr. Esmond replied, "correct." Ray Skaine

remarked that they can't move the house one way or the other based up their desire to center the house on the property. Mr. Esmond said, "That's correct."

The Esmond's were asked if the neighbors had been notified. Neighbors at 10615 and 10635 were recorded as having been notified as well as the neighbors on both sides. There were no comments on the neighbor notification queries. There were no further comments from the Board. Mr. Skaine said it appeared the Esmond's were stuck between "a rock and a hard place." He said, "Under the circumstances, I would be willing to accept it."

Action:

Motion by Ray Skaine, seconded by Arthur Henning to approve Appeal No. 3 under Old Business, as written.

ALL AYES. MOTION CARRIED.

**Appeal No. 1**

Mark Ziemba  
Residential Single Family

Requests the Board of Appeals approve and grant a 240' variance to allow for the construction of a 1,200 sq. ft. accessory structure at 8290 Stahley Road.

Discussion:

Mark Ziemba was asked to explain his request for variance. He introduced his friend, Bob Conway, an architect. Mr. Ziemba said that a proposed house would eventually accompany the accessory structure in question. He has applied for and been permitted a minor subdivision which will split the lot in question into two lots. The structure is mainly a result of the building materials. He said he originally intended to construct a 24' X 40' building and at that time was entertaining the idea of a wooden post frame structure. However, he came across a manufacturer of steel (Steelbuildings.com) and liked the product mainly for ease of installation and durability. The minimum that the company offered was 30' X 40' and that's the reason for the revision.

Mr. Ziemba pointed to his plans and noted that his proposed home won't have a driveway or parking area as this will be the only accessory structure located on the property. As a result, his plan will require additional parking at the back. He's been working with Erie County regarding the driveway and the point of ingress, which will be there and will be legitimate shortly. He mentioned a small parking area in front of the building and additional parking to the rear. Additionally, for the benefit of his neighbors, Mr. Ziemba hired Tom Witnauer to create the berm (6' in height and the length of the property) that had been previously discussed by this Board at the last meeting. It is existing. Again referring to his plans, Mr. Ziemba pointed out an area he intends to fence in that will be for storage for his car and motorcycle.

Ron Newton asked Mr. Ziemba if he had any access from the house to Stahley Road. He responded by saying that he has a temporary culvert. He was asked if he intended to

close it up. Mr. Ziembra replied that in the future he did, indeed, intend to have only one point of ingress on the property per Erie County rules. The Stahley Road access point will be closed.

In an effort to shield the structure, Mr. Ziembra has already purchased (18) 4" trees as well as ornamental pear trees that will line the front of the property. Landscaping will be installed this fall that will screen the building.

Ron Newton asked Mr. Ziembra if the only changes since last month are in the dimensions of the steel structure. Mr. Ziembra answered affirmatively. Referring to the plans, it was asked whether Mr. Ziembra had any intentions of paving an area shown on the plan as stone. Mr. Ziembra stated that this is a temporary area and that should he in the future desire to turn it into lawn, he has no intention of paving the area.

Mr. Ziembra was asked when he was moving the house. He replied that Farley Moving would move it in mid to early November. He sold his property on Transit Road to the E. Amherst Post office as they are expanding their facility.

Ron Newton asked Mr. Ziembra how many doors he intended to have in the structure. Mr. Ziembra replied, "just one." There will be a standard garage door. There were no further questions.

Action:

Motion by Arthur Henning, seconded by Ray Skaine to approve Appeal No. 1 of New Business, as written.

ALL AYES. MOTION CARRIED.

**Appeal No. 2**

Donna Hall  
Residential Single Family

Requests the Board of Appeals approve and grant a 130' variance to allow a 225' front yard setback for the construction of a new home at 5845 Shimerville Road.

Discussion:

Donna Hall explained to the Board that prior to her purchasing the above property, the owners of the property, David and Joan Giglia, requested that she build that far back. She would like to honor their request and was informed by the Town that she needed a variance to do so.

Mr. Skaine mentioned that it wasn't staked where she wanted the house. He said he was assuming it was across from the accessory shed on the south side? Donna Hall said, "yes." Mr. Skaine wanted to know where, roughly, the front of her house would be in relation to the accessory sheds. He was told the house would be located at the beginning. Mr. Skaine also wondered what the stake with the red ribbon on it was marking. Was it the back

of the house or the back of the property? Donna Hall replied that it was marking the back of the property, not the back of the house. Mr. Skaine questioned the dimensions of the property because it was indicated to be 800' in length and consequently, the location of the marker with the red flag couldn't possibly be the back of the property. He asked Donna Hall if she bought the whole 800' to which she replied, "yes." After further discussion, it was revealed that the entire 800' parcel is divided into 2 parcels. The marker with the red flag is indicating the back lot line of the **front** parcel. Mr. Skaine was not happy that the house was not staked.

Donna Hall replied by stating that she had asked her builder to go out there and put "something". Mr. Skaine said that's what they wished would've happened. He was there yesterday and there were no markers. Donna Hall responded by saying that she believes her builder misunderstood her request. The builder went to the site and put their sign in the front of the property.

Mr. Skaine asked who owns the house to the south of the property - 5825 Shimerville - and what's her feeling on it. Donna Hall sold that property to the owners of 5825 Shimerville and she is fine with the location of that house. Mr. Skaine asked her if she realized that 5825 Shimerville would potentially be looking at her backyard to which she replied that that is where she wants her house situated and she is fine with her neighbor's view of her property. She has no objections.

Arthur Henning asked how long they've owned the property requiring this variance. Donna Hall replied that they are supposed to be closing next week. She intends to start construction as soon as her permits are allowed. She was then asked if she has a rationale for wanting her house back so far. She responded that she did. Her back entrance faces east; her side yard faces north. She doesn't want to look at her neighbor's back yard. She would rather look at the front yard just like she does with her other neighbors.

Action:

Motion by Ray Skaine, seconded by Arthur Henning to approve Appeal No. 2 as written.

ALL AYES. MOTION CARRIED.

**Appeal No. 3**

Anthony Campione  
Residential Single Family

Requests the Board of Appeals approve and grant two variances at 6215 Heise Road for:

1. construction of a second detached garage; and
2. a 240 sq. ft. variance to allow the construction of a 960 sq. ft. accessory building.

Discussion:

Anthony Campione expressed his desire for additional storage space to house about five vehicles including antique cars and 4-wheelers.

Ray Skaine asked him if he planned to use this space for storage for his truck for business to which Mr. Campione replied "just to put it in there at night to keep it out of sight for neighbors." Mr. Skaine thought it looked like he could fit his truck in the space but not his four cars. Mr. Campione said the truck was going to go on the end and the cars on the side. He also said he is building the same building that just went up on Thompson except he is putting in a green roof, wainscoting on the sides, 2 windows in front, and a man-door on the side.

Further, Mr. Campione was asked how tall the building would be to which Mr. Campione replied that it was 12' high with a 10' garage door.

Arthur Henning asked how long Mr. Campione lived at this property. He has lived there 1.5 years. Mr. Campione was then asked why he was doing this project now rather than earlier to which he replied that when he built the house, he ran out of money.

Mr. Skaine mentioned that the building may look very stark and he suggested some plantings be added to the front of the structure. Mr. Campione assured the Board that he would make it look like the front of the house.

Action:

Motion by Arthur Henning, seconded by Ray Skaine to approve Appeal No. 3 as written.

ALL AYES. MOTION CARRIED.

**Appeal No. 4**

Pete Piger  
Residential

Requests the Board of Appeals approve and grant a 9' variance to allow for the construction of a 32' X 30' X 8' garage structure at 8170 Wehrle Drive.

Discussion:

Pete Piger explained to the board that the existing 20' X 27' garage on his property is in a state of disrepair with walls that are leaning out and roof issues. They would like to tear it down and replace that area with a yard/play area. He said that the only other place to put a garage is where they have requested it because of a pool, shed, the septic system, vent/clean out area, etc. They would like to build a 3-car garage because his daughter and son-in-law live in the other half of the house and they share the garage.

Arthur Henning asked if the Piger's had anything from the neighbors. The people at 8180 Wehrle Drive signed off on the project. Mr. Piger stated that he had been told that the neighbors at 8160 didn't need to be contacted because this project wouldn't affect them because they are on the other side of the property. It was noted that a 20' spruce tree would have to be removed.

Mr. Campione reiterated that a lawn/play area would be where the old garage was and that the new garage would be used for cars and lawn equipment only. Mr. Skaine proposed that the demolition of the old garage be included as part of the condition; Mr. Campione agreed. It is his intention to have this all done by November.

Action:

Motion by Ray Skaine, seconded by Arthur Henning to approve Appeal No. 4 as written with the condition that the applicant will remove the current garage within 12 months.

ALL AYES. MOTION CARRIED.

**Appeal No. 5**

Curtis Mohr  
Industrial

Requests the Board of Appeals approve and grant a 17' variance at 8645 Roll Road to allow for the construction of an open storage building.

Discussion:

Curtis Mohr explained to the Board that they have most of their materials out in the weather at the moment. He would like to get them under shelter. He continued by referring to the photos he included in the variance package and pointing out that there is 30' to where the tractor-trailers come in and out, and he can't move that entrance. He stated that he has no other area to put the storage building.

Ron Newton stated that he was satisfied with the information being given; property well marked off, fence in the back will separate the two and Bob Tesmer has signed off on it. Ron Newton continued by saying he thinks this is a fair request.

Action:

Motion by Ray Skaine, seconded by Arthur Henning to approve Appeal No. 5 as submitted.

ALL AYES. MOTION CARRIED.

**Appeal No. 6**  
Joanne Paxon  
Agricultural-Flood Zone

Requests the Board of Appeals approve and grant a variance to allow for the construction of a pole barn 2.5 feet below the base flood elevation at 9955 Tonawanda Creek Road.

Discussion:

Joanne Paxon explained the reason she is requesting a pole barn below the flood level is to attach it to an existing building. The existing pole barn is being used for horse storage. The requested pole barn would be used as an indoor horse-riding arena. Joanne Paxon stated that she has never had any flooding problems with the existing building. Joanne Paxon continued by saying that her original permit application was denied and she was told she needed to elevate it by 3 feet. Joanne Paxon stated that elevating the building 3 feet would entail adding steps, which would be impossible for horses. Joanne Paxon said that she had spoke to Jim Hartz regarding this zoning law. Joanne Paxon stated that Jim Hartz informed her that a mistake may have been made and that the zoning laws have not changed since she built her first pole barn. Joanne Paxon issued a memo to the Board of Appeals (see attached) regarding compliance of conditions. Ron Newton questioned Ms. Paxon if she had any problems regarding the conditions, Joanne Paxon replied, "No sir, I have already discussed them with Mr. Latona and Mr. Lavocat".

Ron Newton noted for the record that the Town Engineering Office has a memo in the file indicating certain requirements that the property owner must meet if the variance were to be approved. Ron Newton added that if the variance were to be denied, the letter is mute and will be part of the file.

Action:

Motion by Ray Skaine, seconded by Arthur Henning to approve Appeal Motion No. 6 with the following conditions:

A letter issued by Mr. Timothy Lavocat, dated July 14, 2005, requiring the last three (3) conditions be met.

1. A letter of understanding from the property owner be submitted to the Engineering Department accepting the increased flood risk associated with constructing the pole barn finished before elevation 2.5 feet lower than the requirements set forth in Local Law 03-2000. All other proposed construction and/or filling operations on the subject property must be in conformance with all requirements set forth in Local Law 03-2000.
2. Flood damage prevention will be reviewed for compliance by the Engineering Department **prior** to issuance of a building permit.
3. Property owner submit a certified "as built" elevation survey of the pole barn showing the finished floor elevation. This survey will be required **prior** to issuance of certificate of compliance.

ON THE QUESTION?

Ray Skaine questioned Joanne Paxon if she understood the addendum to the motion that she must meet. Joanne Paxon replied, " Yes, I do. That's reasonable".

ALL AYES. MOTION CARRIED.

**Appeal No. 7**

James & Grace Mondello  
Residential Single Family

Requests the Board of Appeals approve and grant two variances at 4859 Pine Ledge Drive for:

1. the construction of a second 24' x 36' detached garage; and
2. a 144 sq. ft. variance to allow a 864 sq. ft. garage.

Discussion:

James Mondello explained to the Board that he is requesting these variances because he currently has four vehicles including two sports cars and one classic car. James Mondello added that two of these vehicles in particular are usually off the road for more than half the year. James Mondello continued by saying he needs to store a riding lawn mower, 2 lawn mowers, 2 snow blowers, tables, chairs, etc.

Ron Newton questioned the construction of the building. James Mondello displayed an illustration and described there will be 2 windows on each side, a double door in the front and a single door in the back. James Mondello stated that his intentions are to have it resemble the existing garage. James Mondello assured the Board that he spoke with both neighbors, and the neighbors have no complaints. Ron Newton stated that he liked the idea of the garage resembling the existing garage.

Ron Newton questioned Jim Callahan if Mr. Mondello were to convert the existing garage into a family room, would it still be considered a garage. Jim Callahan informed the Board that it would no longer be considered a garage and a variance would not be needed. Jim stated that a variance would still be needed for the second garage.

James Callahan informed the Board that the wording is somewhat confusing regarding lot coverage and it will be corrected.

Action:

Motion by Ray Skaine, seconded by Arthur Henning to approve Motion No. 7 as written.

ALL AYES. MOTION CARRIED.

**Appeal No. 8**

Robert McCarthy  
Residential Single Family

Requests the Board of Appeals approve and grant a variance to allow for the construction of a second garage (24' x30') structure at 8924 Amy Leigh Lane.

Discussion:

Robert McCarthy explained to the Board that he is requesting a variance for a second garage because he needs the extra space to store a boat, car and garden tractor.

Ron Newton commented that this is was a fairly large structure for a boat and car. Ron Newton questioned Robert McCarthy as to the size of his boat. Robert McCarthy replied, "It's a good size". Robert McCarthy continued by saying he intends to use the garage as storage for other yard items.

Ron Newton informed the Board of neighbor notification from 8914 and 8934 Amy Leigh Lane. Ron Newton referred to the memo from the Engineering Office noting:

\* the property owner submit a certified "as built" elevation survey of the pole barn showing the finished floor elevation. This survey will be required **prior** to issuance of the certificate of compliance.

\*A flood plain development permit is required **prior** to any work on site.

Ron Newton confirmed with Robert McCarthy that he received a copy of the memo.

Ron Newton asked Mr. McCarthy if he is aware that building in a 100-year flood plain requires the compliance of certain stated requirements, if given the variance. Mr. McCarthy acknowledged that he is aware of that.

Ray Skaine stated he has very serious concerns regarding this project. Ray Skaine informed Robert McCarthy that when the Board reviews a variance, the Board takes into consideration five (5) factors:

- Whether an undesirable change will produce in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. Ray Skaine stated that there are no other sheds this size in this particular neighborhood.
- Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
- Whether the requested area variance is substantial. Ray Skaine stated that a 24' x 30' garage is very substantial.
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Ray Skaine stated that he has a problem with this particular factor. Mr. McCarthy driving his vehicle over 15-foot public drainage easement on the rear of the property could possibly damage the easement.
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily

preclude the granting of the area variance. Ray Skaine stated that he feels it will.

Ray Skaine noted that the neighbors were notified and the property has been staked.

Ray Skaine informed the Board that another concern came from Timothy Lavocat/Deputy Flood Plan Administrator. Ray Skaine questioned Robert McCarthy as to how he anticipates to being in compliance with Local Law 03-2000. Mr. McCarthy questioned the Local Law 03-2000. Ray Skaine briefly informed Robert McCarthy that it involved the flood plain and bringing up the elevation in that area to one (1) foot above the base flood elevation. Robert McCarthy informed the Board that the fill would consist of 8" of stone and 4" of concrete.

Ron Newton stated that according to the submission, Mr. McCarthy's rear property is located on federal wetlands.

Jim Callahan suggested that Robert McCarthy check with the Army Corps. to what jurisdiction the Army Corps. may have over the federal wetlands.

Action:

Ron Newton recommended that Appeal No. 8 be TABLED until the Board receives clarification regarding delineation of the federal wetlands and he would like Tim Lavocot or the Town Engineer questioned regarding the effect a vehicle would have passing over the drainage pipe.

ALL AYES. MOTION CARRIED.

**Appeal No. 9**

Rashawn Boyd  
Agricultural-Flood Zone

Requests the Board of Appeals approve and grant a variance to allow for a 175' setback on a 600' property at 9810 Brauer Rd.

Discussion:

Rashawn Boyd explained to the Board that his request for variance was because he is trying to stay with the character of the neighborhood. Most of the other newer houses on his street are set back about the same distance to his 175' request. He has spoken to his neighbor to his immediate left and the neighbor is putting an addition on his house and he has no problem with Mr. Boyd's setback request. He is also planning on keeping his lot completely wooded which he feels will provide a nice cushion on each side with trees.

Ron Newton asked the Boyd's how big a home they intend to build. They replied they plan to build a 2-story, 2,000 sq. ft. home. He continued by reading a notice from the Engineering Office that states that: "the proposed setback distance of 175' does not, impact compliance with Local Law 03-2000 – Flood Damage Prevention. All

proposed construction and/or filling operations on the subject lot must be in accordance with the requirements set forth in Local Law 3-2000 and will be reviewed for compliance prior to the issuance of a building permit. Building restrictions and conditions will apply for compliance with Local Law 3-2000 since the proposed structure will be located within the density floodway. A floodplain development permit is required prior to any land disturbance on the property."

Mrs. Boyd said they do have the floodplain permit and they are in the process of bringing fill in. Mr. Henning wondered if they own the property and when they intended to begin construction. They replied that they do own the property and they intend to begin construction this year.

Mr. Newton referred to the examples of neighbor notification contained in the variance file. He wondered what the setbacks were for 9780 and 9800 – the two immediate neighbors to the west. Mrs. Boyd replied that 9800 had a 90' setback and the other lot is vacant. Mr. Newton noted that the neighbor constructing the addition already signed off on the project. Mr. Newton wondered if there was a reason why they couldn't keep within the established line of the existing homes.

Mrs. Boyd responded that they really like the look of 9700 – how the driveway comes in and there are trees up front. Mr. Newton continued to point out that the property at 9700 has a 134' setback and he questioned why they felt it necessary to go 175' back. Mrs. Boyd said, "that's what we were hoping." Mr. Newton wondered if a compromise would be acceptable and he suggested a 134' setback. He said that would still be a good distance off the road with lots of shielding.

Ray Skaine commented that he thought leaving the house at 175' would provide a better buffer due to the trees on the west which the Boyd's confirmed they intended to leave intact. A debate ensued regarding winter, foliage, brush, and shielding with varying opinions. Ultimately, all agreed to compromise on a 150' setback.

Action:

Motion by Ray Skaine, seconded by Arthur Henning to grant Appeal No.9 a 50' variance for a total of 150' setback.

ALL AYES. MOTION CARRIED.

**Appeal No. 10**

Carl Binner  
Residential Single Family

Requests the Board of Appeals approve and grant a variance to allow for the construction of a 24' X 20' accessory structure at 5795 Thompson Road.

Discussion:

Carl Binner explained to the Board that he would like to construct an accessory structure or "garden house" which will resemble the front of his own home and will be used for gardening equipment and storage.

Neighbors at 5785 Thompson Road – the ones most affected by this project – have been notified. Mr. Henning asked specifically what the structure would be used for. He was told the applicant has a 3-car garage and may eventually want to purchase another car and he needs storage for garden equipment and his large lawn mower. Mr. Binner has no intention of putting a driveway back there. Mr. Binner was asked if he intended to put any planting for screening for the sake of his neighbors to which he replied that it was already there. He has no intention of taking the plantings down.

Action:

Motion by Ray Skaine, seconded by Arthur Henning to approve Appeal No. 10, as written.

ALL AYES. MOTION CARRIED.

**Appeal No. 11**

Gregory Orffeo  
Residential Single Family

Requests the Board of Appeals approve and grant a variance to allow for the construction of a 12' X 24' accessory building at 4655 Ransom Road.

Discussion:

Gregory Orffeo explained to the Board that he would like to replace an existing accessory structure with a larger one. He received Town approval for the building but then was told it was too big and that he needed a variance. The original structure was 6' X 12'. The new slab has been poured and exists.

Arthur Henning wondered what the structure would be used for. Mr. Orffeo replied that the Duroshed would serve as a pool house and a storage shed for lawn equipment. It was determined that Mr. Orffeo is 80 sq. ft. higher than the regulation. After Mr. Orffeo got the permit and had the concrete poured, he received a phone call from the Town stating the structure was over-sized and that he needed a variance. The concrete slab that the Board saw on his property is the "staking" or physical indication as to where the structure will be located. Notification and consent from the neighbors at 4659 Ransom Road and 4702 Sawmill Road has been obtained.

Action:

Motion by Ray Skaine, seconded by Arthur Henning to approve Appeal No. 11, as written.

ALL AYES. MOTION CARRIED.

**Appeal No. 12**

Linda Clark  
Restricted Business

Requests the Board of Appeals approve and grant a 4' 6" variance to allow a 6' 4" side yard setback for the construction of an addition at 8469 Sheridan Drive.

Discussion:

Linda Clark's contractor explained to the Board that she is requesting a variance for a new roof overbuild on the existing house to prevent ice damage from ice building up. They also want to move an existing garage and create a play area for the children at the rear. The concrete pier would come out 6' 4" for the support for the roof from the existing foundation wall which would encroach on the 10' right-of-way. Ron Newman asked if they had 10' now. He was told the fence was 5' away from the building with another 5' on the other side of the fence.

Mr. Newman asked if this project needed to go before the Town Board. Jim Callahan responded by saying that it doesn't have to go before the Planning Board, however, he did say, "the Town Board ultimately has to approve anything in a commercial zone." Mr. Callahan said it would be on the next Town Board agenda.

Consequently, Ray Skaine suggested this appeal be tabled pending the Town Board's reaction. Also:

1. When he assessed the site, he found that the placement of the new garage had not been staked. On the application, it clearly states that proposed sites be staked or marked appropriately. He said he saw a handicap ramp but had no idea what it meant. He wants to see how far the overhang is coming and asked if it going over the fence. He was told it is going over the fence and he stressed that this needs to be clearly marked.
2. Also, pointing to the drawings, he wanted to know where the fence would be in relation to the play area. This was unclear and not marked per the application instructions.

Mr. Skaine felt there were too many unanswered questions and that a decision couldn't be made until the Town Board looks at the project. At that point, Linda Clark wanted to know what she needed to do to ensure this problem wouldn't happen again. She was told again that the physical boundaries of the new structure must be clearly marked out. She was told she needs to show where it is physically going to sit on her property, as stated on the application. The contractor asked if they could just make a notation on the survey. Mr. Skaine said, "No!" He stressed that he didn't care how she marked the property – red paint or stakes were fine – but the exact location of the building needed to be clearly visible to the Board members when they went again to assess the project. Mr. Skaine said, "When I go out there I want to see four - red paint, red paint, red paint, and then have a board sticking over the fence how far you're going over the fence. That's all you have to do."

The contractor asked if they could attach it to the fence because it's a handicap ramp it has to go over. He was told it would be fine to set it back off the ramp, but at least they would know how far over the neighbor's lawn it would extend.

Action:

Motion by Ray Skaine, seconded by Arthur Henning to TABLE Appeal No. 12, based upon the need for further clarification by the applicant and approval by the Town Board.

ALL AYES. MOTION CARRIED.

Meeting adjourned at 9 P.M.      Ronald Newton, Chairman