

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
March 9, 2015

The regular meeting of the Zoning Board of Appeals of the Town of Clay, County of Onondaga, state of New York, was held at the Clay Town Hall, 4401 New York State Route 31, Clay, New York on March 9, 2015.

Chairman Mangan called the meeting to order at 7:30 P.M. and upon the roll being called the following were:

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| PRESENT: | Charles V. Mangan | Chairman |
| | Mark Smith | Deputy Chairman |
| | Edward Wisnowski | Member |
| | Vivian Mason | Secretary |
| | Robert Germain | Attorney |
| | Mark Territo | Commissioner of Planning & Development |
| ABSENT: | Karen Liebi | Member |
| | Brian Hall | Member |

Chairman Mangan welcomed Edward Wisnowski as the new member to the Zoning Board of Appeals. He was also a Fire Chief with the Moyers Corners Volunteer Fire Department.

MOTION made by Deputy Chairman Smith that the Minutes of the meeting of January 12, 2015 be accepted as submitted. *(There was no meeting in February as the applicant withdrew his request.)* Motion was seconded by Chairman Mangan. *Carried.*

MOTION made by Chairman Mangan for the purpose of the New York State Environmental Quality Review (SEQR) all new actions tonight will be determined to be Type II actions, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Deputy Chairman Smith. *Carried.*

OLD BUSINESS:

None.

NEW BUSINESS:

Chairman Mangan asked if all the members had visited the sites and all said they had.

Chairman Mangan explained that the Board is going to handle Case #1561 first rather than last.

Case #1561 – AREA VARIANCES - Dean T. Porter, 9735 Ethel Road, Tax Map #038.-01-08.1:

The applicant is requesting an Area Variance pursuant to Section 230-13 A.(4) to reduce the front yard setback from 75 feet to 30 feet and to reduce the side yard setback from 25

feet to 14 feet to allow for the construction of a pole barn. The property is located in the RA-100 Residential Agricultural zoning district.

The secretary read the Proof of Publication.

Property abutting the river requires that the request be referred to the Onondaga County Planning Board. Chairman Mangan told the applicant that since they have recommended disapproval it requires a super majority vote of the Zoning Board members for an approval, which would require four votes. It would be unfair to the applicant when there are only three members present.

He gave Mr. Porter a copy of the county's referral and a copy of the letter from Mr. Rivette, who voiced concerns regarding the granting of the Area Variances, and suggested that they address the concerns at the next meeting.

Chairman Mangan adjourned Case #1561 to the April 13, 2015 meeting.

Case #1554 – AREA VARIANCES – James and Linda Baker, 5232 Caughdenoy Road, Tax Map #076.-01-06.1:

The applicants are requesting Area Variances pursuant to Section 230-19 A.(4)(b)[1] and 230-13 A.(4) for a reduction of the lot width from 375 feet to 167 feet (per exhibit); a reduction of the lot width from 375 feet to 120 feet (per exhibit); and a reduction of the side yard setback from 25 feet to 13 feet (per exhibit) for the purpose of sub-dividing a lot. The property is located in the RA-100 Residential Agricultural zoning district.

The Secretary read the proof of publication.

James Baker explained that he and his wife are getting ready to retire. Their existing house is a two story and they would like to move into the out building that at one time had two apartments, but the back one was demolished, and it is now just a one-family.

Mr. Baker addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. It is just a property division line.
2. He doesn't believe there is any other feasible method than to obtain Area Variances, as they are downsizing.

Chairman Mangan explained that it would mean the Board would be allowing two non-conforming lots. He suggested that the applicant ask for a change of zone instead of Area Variances.

3. He believes the Area Variance requests are substantial.
4. He believes there will be no physical or environmental impact to the neighborhood.
5. Yes, the need for the Area Variances are self-created.

Deputy Chairman Smith asked when the other building became a two family.

Mr. Baker said they purchased the nine and one-half acre property in 1983 and there were two apartments in the out building.

Commissioner Territo noted that in 2009 the building was shown as a pole barn. He added that a two family residence is not allowed.

Deputy Chairman Smith asked the applicant about access to the other part of the property since the County won't allow a driveway.

Mr. Baker explained that they own the access road to the Verizon cell tower.

Chairman Mangan reiterated that the County will not allow another driveway.

Chairman Mangan asked if there were any further comments or questions and there were none.

Chairman Mangan asked Commissioner Territo if he had any further comments and he had none.

Chairman Mangan asked if anyone in the audience had any questions and there were none.

Chairman Mangan asked for those in favor and those opposed to granting the Area Variance requests and there were none.

Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Smith in Case #1554 to **deny** the requested Area Variances. Motion was seconded by Mr. Wisnowski.

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| Roll call: | Chairman Mangan | - in favor | |
| | Deputy Chairman Smith | - in favor | |
| | Mrs. Liebi | - absent | |
| | Mr. Hall | - absent | |
| | Mr. Wisnowski | - in favor | <i>Carried.</i> |

The Area Variance requests for Case #1554 are **denied**.

Case #1556 – AREA VARIANCES – Tracey Wilcox, 116 Ravenswood Drive, Tax Map #086.-04-09.0:

The applicant is requesting an Area Variance pursuant to Section 230-13 E.(4)(c)[2] and Section 230-13 E.(4)(c)[3] to reduce the side yard setback from 6 feet to 5 feet and to reduce the rear yard setback from 10 feet to 5 feet to allow for a shed. The property is located in the R-7.5 One-Family Residential zoning district.

The Secretary read the proof of publication.

Tracey Wilcox explained that the shed replaced and old one in 2010. She has since found out that it is too close to the property line, but to move it would be costly.

Ms. Wilcox addressed the Standards of Proof:

1. She doesn't believe there will be any negative or undesirable change to the character of the neighborhood. It would look worse if moved, as it lines up with other sheds in the neighborhood.
2. She doesn't believe there is any other feasible method than to obtain Area Variances, other than move it which would be costly.
3. She doesn't believe the Area Variance requests are substantial.
4. She believes there will be no physical or environmental impact to the neighborhood.
5. Yes, the need for the Area Variances is self-created.

Chairman Mangan asked if there were any further comments or questions and there were none.

Chairman Mangan asked Commissioner Territo if he had any comments and he had none.

Chairman Mangan asked if anyone in the audience had any questions and there were none.

Chairman Mangan asked for those in favor and those opposed to granting the Area Variance requests and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Wisnowski in Case #1556 to **approve** the Area Variances as requested. Motion was seconded by Deputy Chairman Smith.

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| Roll call: | Chairman Mangan | - in favor | |
| | Deputy Chairman Smith | - in favor | |
| | Mrs. Liebi | - absent | |
| | Mr. Hall | - absent | |
| | Mr. Wisnowski | - in favor | <i>Carried.</i> |

The Area Variances in Case #1556 are **approved**.

Case #1557 – AREA VARIANCES – Community Bank, NA., 8196 Oswego Road, Tax Map #067.-01-01.3:

The applicant is requesting Area Variances pursuant to: Section 230-15 B.(5)(a) Lot 1 perimeter landscape strip along northerly and easterly lines from 15 feet to 0; Section 230-15 B.(5)(a) Lot 2 perimeter landscape strip along southerly and easterly lot line from 15 feet to 0; Section 230-15 B.(5)(a) Lot 3 perimeter landscape strip along the northerly and westerly lot lines from 15 feet to 0; Section 230-15 B.(5)(a) Lot 4 perimeter landscape strip along the westerly and southerly lot lines of the developable portions from 15 feet to 0; Section 230-15 B.(5)(b) Lot 4 additional setback abutting a residential district from 75 feet total to 60 feet total; Section 230-19A.(4)(b)[1] Lot 1 minimum area reduction from 70,000 square feet to 57,846 square feet; Section 230-19 A.(4)(b)[1] Lot 3 minimum area reduction from 70,000 square feet to 50,506 square feet; Section 230-19 A.(4)(b)[1] Lot 4 minimum area reduction from 70,000 square feet to 56,683 square feet; Section 230-19 A.(4)(b)[1] Lot 3 frontage reduction from 175 feet to 125.47 feet; Section

230-19 A.(4)(b)[1] Lot 4 frontage reduction from 175 feet to 30 feet. (Flag Lot) Variances will allow for the property to be subdivided for an office park. The property is located in the O-2, Office zoning district.

The Secretary read the proof of publication.

Hal Romans, Surveyor, explained that the site plan for this property was approved nine years ago and was approved by the town Planning Board, The site plan remains the same; the ownership is changing from one owner to four owners. The original plan was to lease the parcels, but tenants could not be found, unless they could own the parcels individually. In order to do that they had to adjust the lot lines, which triggered Area Variances.

Mr. Romans addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. Approval of the development was received in 2009. The changes of lot lines is so the lots will be owned, not leased.
2. They don't believe there is any other feasible method than to obtain Area Variances, as no one is interested in leasing.
3. They believe the Area Variance requests are not substantial, as it is only an adjustment in lot lines.
4. They believe there will be no physical or environmental impact to the neighborhood.
5. Yes, the need for the Area Variances is self-created.

Chairman Mangan asked if there were any further comments or questions and there were none.

Chairman Mangan asked Commissioner Territo if he had any comments and he had none.

Chairman Mangan asked if anyone in the audience had any questions and there were none.

Chairman Mangan asked for those in favor and those opposed to granting the Area Variance requests and there were none.

Chairman Mangan closed the hearing.

MOTION made by Chairman Mangan in Case #1557 to **approve** the Area Variances as requested. Motion was seconded by Deputy Chairman Smith.

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| Roll call: | Chairman Mangan | - in favor | |
| | Deputy Chairman Smith | - in favor | |
| | Mrs. Liebi | - absent | |
| | Mr. Hall | - absent | |
| | Mr. Wisnowski | - in favor | <i>Carried.</i> |

The Area Variances in Case #1557 are **approved**.

Case #1559 – AREA VARIANCES - Syracuse SMSA, Limited Partnership d/b/a Verizon Wireless, 7437 Henry Clay Boulevard, Tax Map #105.-02-06.0:

The applicant is requesting Area Variances pursuant to Section 230-17 C.(4)(c)[4] and 230-23 C.(2) to increase the height of a cell tower from 160 feet to 180 feet and to expand a non-conforming structure for the purpose of co-locating a wireless telecommunications facility onto the existing tower. The property is located and an I-1 Industrial 1 zoning district.

The Secretary read the proof of publication.

Attorney Ashley Champion of Nixon Peabody LLP and Colin Fazio from Verizon were present.

Attorney Champion said they want to make an expansion of a tower owned by Niagara Mohawk. The tower is 160 feet high now and they would like to increase it to 180 feet.

Attorney Champion addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. It is an industrial zone and they are only adding twenty feet in height and 12 new antennas.
2. They don't believe there is any other feasible method than to obtain Area Variances, since the height is needed.
3. They don't believe the Area Variance requests are substantial.
4. They believe there will be no physical or environmental impact to the neighborhood.
5. Yes, the need for the Area Variances is self-created.

Attorney Champion asked that the board do a SEQR determination.

Chairman Mangan asked if there were any further comments or questions and there were none.

Chairman Mangan asked Commissioner Territo if he had any comments and he had none.

Chairman Mangan asked if anyone in the audience had any questions and there were none.

Chairman Mangan asked for those in favor and those opposed to granting the Area Variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Chairman Mangan to move the adoption of a resolution that the application is an unlisted action involving no other permit granting authority outside the Town. The proposed project will not have a negative effect upon the environment and does not require the preparation and presentation of a Draft Environmental Impact Statement. Motion was seconded by Mr. Wisnowski. Ayes – 3 and Nays – 0. *Carried.*

MOTION made by Mr. Wisnowski in Case #1559 to **approve** the Area Variances as requested. Motion was seconded by Chairman Mangan.

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| Roll call: | Chairman Mangan | - in favor | |
| | Deputy Chairman Smith | - in favor | |
| | Mrs. Liebi | - absent | |
| | Mr. Hall | - absent | |
| | Mr. Wisnowski | - in favor | <i>Carried.</i> |

The Area Variances in Case #1559 are **approved**.

Case #1560 – SPECIAL PERMIT – Hoa D. Trinh, 4882 West Taft Road, Tax Map #116.-01-11.1:

The applicant is requesting a Special Permit pursuant to Section 230-13 D.(2)(d)[1] for a home occupation, to allow in home tailoring and alterations. The property is located in the R-10 One-Family Residential zoning district.

The Secretary read the proof of publication.

Neither the applicant nor a representative was present.

Chairman Mangan adjourned Case #1560 to April 13, 2015.

Case #1563 – AREA VARIANCE – Seneca Federal Savings and Loan Association, 7799 Oswego Road, Tax Map #085.-01-02.4:

The applicant is requesting an Area Variance pursuant to Section 230-22 C.(1) to allow for an increase in the number of wall signs from 2 to 3. The property is located in the RC-1 Regional Commercial zoning district.

The Secretary read the proof of publication.

Joanne Maddox Kinslow, Architect, explained that there is a sign on the front, and the entrance, and at the drive-thru above the ATM.

The ATM sign, where is it visible, Chairman Mangan inquired.

From the vehicle, when they get to it, Ms. Kinslow answered.

Ms. Kinslow addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. The ATM sign is small and far away from the road, and is there to confirm that it is a Seneca Federal Savings ATM.
2. They don't believe there is any other feasible method than to obtain Area Variances, as they want to identify the ATM.
3. They don't believe the Area Variance requests are substantial, as.
4. They believe there will be no physical or environmental impact to the neighborhood.
5. Yes, the need for the Area Variances is self-created.

Chairman Mangan asked if there were any further comments or questions and there were none.

Chairman Mangan asked Commissioner Territo if he had any comments and he had none, and he asked if there would be directional signs, and Ms. Kinslow said yes but there would not be a logo.

Chairman Mangan asked if anyone in the audience had any questions and there were none.

Chairman Mangan asked for those in favor and those opposed to granting the Area Variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Wisnowski in Case #1563 to **approve** the Area Variances as requested. Motion was seconded by Deputy Chairman Smith.

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| Roll call: | Chairman Mangan | - in favor | |
| | Deputy Chairman Smith | - in favor | |
| | Mrs. Liebi | - absent | |
| | Mr. Hall | - absent | |
| | Mr. Wisnowski | - in favor | <i>Carried.</i> |

The Area Variances in Case #1563 are **approved**.

There being no further business, Chairman Mangan adjourned the meeting at 8:30 P.M.

Vivian I. Mason, Secretary
Zoning Board of Appeals
Town of Clay