

APPROVRD
ZONING BOARD OF APPEALS
MINUTES OF MEETING
March 14, 2016

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 14, 2016. Chairman Mangan called the meeting to order at 7:30 P.M. and upon the roll being called the following were:

PRESENT:	Charles V. Mangan	Chairman
	Edward Wisnowski, Jr	Deputy Chairman
	Karen Liebi	Member
	Ryan Pleskach	Member
	Nicholas Layou	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: None

MOTION made by Mr. Layou that the Minutes of the meeting of February 9, 2016 be accepted as submitted. Motion was seconded by Mrs. Liebi. *Unanimously 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 Unlisted actions, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Mrs. Liebi. *Unanimously carried.*

OLD BUSINESS:

Chairman Mangan noted that the Board still has one old case regarding Verizon Wireless for a cell tower, but it will be at a future meeting. At this time it is in litigation.

NEW BUSINESS:

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

Case #1597 – AREA VARIANCE - Richard Raaflaub, Jr., 8380 Caughdenoy Road, Tax Map #064.-01-03.2:

The applicant is requesting an Area Variance pursuant to Sections 230-19 A.(5) to allow for a reduction of the front yard setback from 115 feet to 107 feet to allow for construction of adding a roof to an existing deck and closing in the breezeway. The property is located in the RA-100 Residential Agricultural zoning district.

The Secretary read the proof of Publication.

Richard Raaflaub said they put on a porch/deck last year and they would now like to put a roof over it, so they can sit on it and keep the rain off them. They want the breezeway so that they can enter during inclement weather and not track mud etc. directly into their home. They want their home to have a colonial look.

Mr. Raaflaub addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. He feels it will increase and enhance the value of his property with a full porch and railings. It will not interfere with anything. They will landscape afterwards.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance, as the roof has to go over the porch.
3. He believes the Area Variance request is not substantial. The porch is not even close to the road.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood
5. He does feel the Area Variance is self-created.

Chairman Mangan commented that some of the other homes in the neighborhood are closer to the road.

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. Layou in Case #1597 to **approve** the Area Variances with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Pleskach.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Unanimously carried.</i>

The Area Variance in Case #1597 is **approved**.

Case #1598 – AREA VARIANCE - Hospitality Syracuse, Inc. (Taco Bell), 8075 Oswego Road, Tax Map #066.-01-48.1:

The applicant is requesting an Area Variance pursuant to Section 230-22 C.(1) to increase the number of wall signs to 5 when only 2 are allowed. The property is located in the RC-1 Regional Commercial zoning district.

The Secretary read the proof of Publication.

Robert Osterhoudt, PE represented the applicant. He stated that they would like to bring Taco Bell up to the company's standards and give it a modern look, including green space. They will be cleaning up the exterior of the building. They are not proposing a freestanding sign. They are reducing the number of signs from 6 to 5.

Mr. Osterhoudt addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. Although the applicant proposes to exceed the number of wall signs, their square footage will be less than allowed. With the renovation, they feel the project will improve the character of the neighborhood.
2. They don't believe there is any other feasible method than to obtain an Area Variance. The existing building lies below the elevation of Oswego Road so they need adequate signage on the three street visible sides of the building. Due to the visibility constraints, they believe the benefit sought by the applicant cannot be achieved by another method feasible for the applicant to pursue.
3. He believes the Area Variance request is not substantial, as they are actually reducing the number of signs.
4. They don't believe there will be any physical or environmental impact to the neighborhood. The signage is consistent with other uses in the neighborhood.
5. They do not feel the Area Variance is self-created, as the existing building is setback and set below the elevation of Oswego Road and the signage on the three visible faces of the building are critical for the business to succeed.

Mrs. Liebi noted that whereas the code only allows 2 wall signs, the applicant already has 6 signs, so they are actually decreasing the number of signs. She also noted that the applicant purchased the property knowing about the elevation so the request for the Area Variance is really 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 Mrs. Liebi in Case #1598 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Layou.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Unanimously carried.</i>

The Area Variance in Case #1598 is **approved**.

Case #1599 – AREA VARIANCES - Joshua Stone, 8251 Lawton Road, Tax Map #077.-27-64.0:

The applicant is requesting Area Variances pursuant to Section 230-13 A.(4) to allow for a reduction of the front yard setback from 75 feet to 40 feet; a reduction of the side yard setback from 25 feet to 11 feet; and a reduction of the side yard setback from 25 feet to 17 feet to allow for construction of a new home. The property is located in the RA-100 Residential Agricultural zoning district.

The Secretary read the proof of Publication.

Joshua Stone explained that they would like to build a new home and they want to add a covered porch. Since he has combined the two parcels, the Area Variance to reduce the side yard set from 25 feet to 17 feet is not needed.

Mr. Stone addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. The house will add curb appeal
2. He doesn't believe there is any other feasible method than to obtain an Area Variance. They would like a 8 foot by 12 foot porch and bring the garage forward 4 feet.
3. He believes the Area Variance request is not substantial.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood
5. He does feel the Area Variance 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 Deputy Chairman Wisnowski in Case #1599 to **approve** the Area Variances for the reduction of the front yard setback from 75 feet to 40 feet and the reduction of the side yard setback from 25 feet to 11 feet the with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Pleskach.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Unanimously carried.</i>

Two of the Area Variances in Case #1599 are **approved**, the third one as noted is withdrawn.

Case #1600 – AREA VARIANCE - Davidson Management Group, Inc., 3660-3690 New York State Route 31, Tax Map #053.-01-13.1:

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 to 3 when only 2 are allowed. The property is located in the RC-1 Regional Commercial zoning district.

The Secretary read the proof of Publication.

Brian Bouchard, PE represented the applicant (Davidson Ford). He explained that the project consists of three buildings and two monument signs. The collision shop will have two signs and the car wash will have one wall sign when two for each building are allowed by code, but they want three signs for the auto dealership building. It will comply with the Ford branding package and their position on the building is important.

Mr. Bouchard 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's a commercial neighborhood.
2. They don't believe there is any other feasible method than to obtain an Area Variance.
3. They believe the Area Variance request is not substantial. They are not exceeding the size of signs allowed. In fact they are using less than half of what they are allowed.
4. They don't believe there will be any physical or environmental impact to the neighborhood. It's just signage.
5. They do feel the Area Variance is self-created.

Mr. Layou asked if the branding package is required and Mr. Bouchard said yes.

Mr. Pleskach asked if they will need additional signs, that he wanted to be sure they wouldn't want more in the future. Mr. Bouchard said the only other signs would be directional signs.

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. Pleskach in Case #1600 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Layou.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Unanimously carried.</i>

The Area Variance in Case #1600 is **approved**.

Case #1601 – AREA VARIANCE - Anne and Kevin Kelly, 8514 Newbury Place, Tax Map #061.-05-15.0:

The applicant is requesting an Area Variance pursuant to Section 230-13 B.(4)(c)[3] to allow for a reduction in the rear yard setback from 15 feet to 4 feet for a shed and roof overhang. The property is located in the R-40 One-Family Residential zoning district.

The Secretary read the proof of Publication.

Attorney Brody Smith of Bond, Schoeneck & King represented the applicant.

Chairman Mangan noted that the applicant came in for a variance in October 2015 for the same thing.

Attorney Brody said they didn't take into account the overhang of the shed.

Chairman Mangan advised Mr. Smith that the Board cannot authorize going into an easement.

Attorney Smith said that he has asked the Town Board for authorization to get them to grant a revocable license to allow it.

Attorney Brody addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. There are 36 other homes with sheds.

Chairman Mangan asked if they needed variances and Attorney Smith said he didn't know.

2. He doesn't believe there is any other feasible method than to obtain an Area Variance. To move the pad would be expensive.
3. He believes the Area Variance request is not substantial.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood
5. He does feel the Area Variance is self-created..

Chairman Mangan noted that their fence is also in the Town easement.

Attorney Brody said they feel the weight of their argument is important and that the Board could approve the Area Variance with the condition that the revocable license be granted.

Chairman Mangan pointed out that they could go for a smaller shed.

Mr. Layou felt reluctant to grant the Area Variance without the license agreement.

Attorney Brody argued that his clients would probably not want to pay for his time at a future meeting and that the Board could grant a conditional approval of the Area Variance.

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.

Mr. Pleskach said he was hesitant to grant anything going into the easement.

Mrs. Liebi thought they had other options either to move the shed or make it smaller.

Attorney Smith commented that it was a drainage easement.

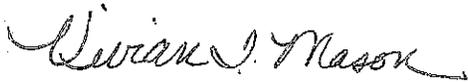
Chairman Mangan noted that the applicant has other options that weren't presented. He is not against the shed, but they could build a smaller one or move the concrete.

MOTION made by Mr. Layou to **adjourn** Case #1601 to April 11, 2016. Motion was seconded by Mr. Pleskach.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Unanimously carried.</i>

The Area Variance in Case #1601 is **adjourned** to the April 11, 2016 meeting.

There being no further business, Chairman Mangan adjourned the meeting at 8:22 P.M.



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