

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
July 14, 2014

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 Town Hall of Clay, 4401 New York State Route 31, Clay, New York on July 14, 2014.

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

PRESENT:	Mark Smith	Deputy Chairman
	Karen Liebi	Member
	Brian Hall	Member
	Anne Stenham	Member
	Vivian Mason	Secretary
	John Marzocchi	Attorney
	Mark Territo	Commissioner of Planning

ABSENT: Charles V. Mangan Chairman

MOTION made by Mrs. Liebi that the Minutes of the meeting of June 9, 2014 be accepted as submitted. Motion was seconded by Mrs. Stenham. *Carried.*

MOTION made by Deputy Chairman Smith 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 Mrs. Liebi. *Carried.*

OLD BUSINESS: NONE

NEW BUSINESS:

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

Case #1499 – AREA VARIANCES - Rudolph DiRubbo, Jr.- Basil Leaf, 3920 Brewerton Road. Tax Map #118.-01-01.1:

The applicant is requesting Area Variances, pursuant to Sections 230-16 E.(5)(a); 230-16 E.(4)(b)[2][a]; 230-21 E.; and 230-19 A.(5) to reduce the perimeter landscape strip from 15 feet to 5 feet; reduce the side yard setback from 25 feet to 5 feet; to reduce the number of required parking spaces from 238 to 70; and to reduce the highway overlay from 140 feet to 52 feet for the construction of a patio. The property is located in the LuC-2, Limited Use District for Restaurants zoning district.

The secretary read the proof of publication.

Neither the applicant nor a representative was present, so Deputy Chairman Smith moved this item to the end of the meeting.

Case #1529 – AREA VARIANCE - Daniel T. Ladd, 9373 Horseshoe Island Road, Tax Map #014.-01-04.1:

The applicant is requesting an Area Variance, pursuant to Section 230-13 A.(6) to allow for farm animals on property with 2.59 acres, when 5 acres is required. The property is located in the RA-100, One-Family Residential Agricultural zoning district.

The secretary read the proof of publication.

Deputy Chairman Smith advised the applicant that the Onondaga County Planning Board's comments would also have to be addressed. The county strongly advised limiting the number of animals permitted, no more than one per acre, requiring how and where the animals will be kept, how the applicant will maintain adequate vegetation on site, and how animal waste will be disposed. They request that these conditions be reviewed on an annual basis.

Daniel Ladd explained that he has mini pigs and wants to bring them over to this address on Horseshoe Island.

Mrs. Liebi asked how many he had and Mr. Ladd said four.

Mr. Ladd addressed the Standards of Proof:

1. He doesn't believe there will be any detriment to the character of the neighborhood. They will be in a small fenced in area.
2. He doesn't believe there is any other feasible method, than to obtain an Area Variance as he can't afford to purchase more land.
3. He does not believe the variance request is substantial.
4. He believes there will be no physical or environmental impact to the neighborhood. They are small animals, 50 pounds each, and will be fenced in.
5. The need for the variance is self-created.

Mrs. Stenham asked how he would get rid of the waste and Mr. Ladd said he takes it to work, and the liquid goes into the sewer.

Deputy Chairman Smith asked if he planned on getting any other animals and Mr. Ladd said these were all he intended to have and has no interest in getting any more.

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

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

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

Deputy Chairman Smith asked for those in favor and those opposed to granting the variances and there were none.

MOTION made by Mrs. Stenham to **adjourn** Case #1529 to the August 11, 2014 to give the Board the opportunity for further review. Motion was seconded by Mrs. Liebi.

Roll call: Chairman Mangan - absent

Deputy Chairman Smith	- in favor	
Mrs. Liebi	- in favor	
Mr. Hall	- in favor	
Mrs. Stenham	- in favor	<i>Carried.</i>

The Area Variance request for Case #1529 is **adjourned** to August 11, 2014.

Case #1530 – AREA VARIANCE - McDonald’s Corporation, 3869 New York State Route 31, Tax Map #021.-01-13.1:

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

The secretary read the proof of publication.

Chris Boyea from Bohler Engineering, LLC explained that they are reinvesting, renovating and remodeling the McDonalds restaurant. There will be new services after completion and an improvement to the Drive-Thru. The seating in the restaurant will either go up or down due to the change in codes since it was originally constructed, but it is going to be more sophisticated.

They are proposing 6 wall signs, which they feel is in line with other signage in the area, others having 6 or more signs. The signs will be visible on all four sides of the building. They need these, since they are not on the Pylon sign at the entrance.

Mr. Boyea addressed the Standards of Proof:

1. He doesn’t believe there will be any detriment to the character of the neighborhood. The restaurant already exists and has commercial properties adjacent on all four sides, so building signs are necessary as they do not have a free-standing sign.
2. He doesn’t believe there is any other feasible method, than to obtain an Area Variance. The signs are necessary to identify the business for traffic from any direction.
3. He does not believe the variance request is substantial because the signs are needed to identify the restaurant.
4. He believes there will be no physical or environmental impact to the neighborhood.
5. He believes the need for the variance is not self-created because the existing building location, which is far from the road, will remain, meaning sufficient signs are needed to identify the restaurant from far distances.

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

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

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

Deputy Chairman Smith asked for those in favor and those opposed to granting the variances and there were none.

Deputy Chairman Smith closed the hearing.

MOTION made by Mrs. Liebi in Case #1530 to **grant** the Area Variance as requested with the condition that it is in substantial compliance with Exhibit “A” (C-1 dated 9/22/2010, last revised 5/19/2014. Motion was seconded by Mr. Hall.

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

The Area Variance request for Case #1530 is **granted**.

Case #1531 – AREA VARIANCES - Amanda Belmont, 4346 Wetzel Road, Tax Map #086.-07-05.0:

The applicant is requesting Area Variances pursuant to Sections 230-13 A.(4) and 230-19 A.(5) to reduce the side yard setback from 25 feet to 0 inches, and to reduce the highway overlay setback from 115 feet to 48 feet, to remedy the placement of a garage. The property is located in the RA-100, One-Family Residential Agricultural zoning district.

The secretary read the proof of publication.

Attorney Shelby Redmond of the Sugarman Law Firm, LLP represented the applicant. She explained that in 1983 a building permit and a variance was obtained, but when selling the property a difference was found in the placement of the garage.

Ms. Redmond addressed the Standards of Proof:

1. They don't believe there will be any detriment to the character of the neighborhood. The garage has existed since the 1980's.
2. They don't believe there is any other feasible method, than to obtain an Area Variance, other than tearing it down.
3. They do not believe the variance request is substantial based on the prior variance.
4. They believe there will be no physical or environmental impact to the neighborhood. The garage already exists.
5. The need for the variance is not self-created since it was done by the previous owner.

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

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

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

Deputy Chairman Smith asked for those in favor and those opposed to granting the variances and there were none.

Deputy Chairman Smith closed the hearing.

MOTION made by Mr. Hall in Case #1531 to **grant** the Area Variance as requested with the condition that it is in substantial compliance with Exhibit “A” dated 4/16/2009 and recertified 5/8/2014. Motion was seconded by Mrs. Stenham.

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

The Area Variance request for Case #1531 is **granted**.

Case #1532 – AREA VARIANCE - Sign and Lighting Services, LLC/Kirk Wright – Burlington, 4000 New York State Route 31, Tax Map #055.-01-03.1:

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

The secretary read the proof of publication.

Kirk Wright of Sign and Lighting Services, LLC was present to represent Burlington.

Deputy Chairman Smith asked if this is going in where the Sports Authority is near Raymour and Flanigan’s business and Mr. Wright said yes.

Mr. Wright stated that Burlington would like four signs so they can better identify the business from a distance. The building is set back from NYS Route 31 and they need more visibility that four signs will provide. Burlington also offers a very good line for babies, along with ladies, mens, coats and home items.

Mr. Wright addressed the Standards of Proof:

1. They don’t believe there will be any detriment to the character of the neighborhood. It is a commercial area, and most businesses have multiple signs..
2. He doesn’t believe there is any other feasible method, than to obtain an Area Variance. Signs are the most feasible way to get customers in the store.
3. He does not believe the variance request is substantial. The previous business had signs. There is a lot of square footage on the building.

Mr. Hall inquired as to whether they would still be in compliance in size and Mr. Wright said yes.

4. He believes there will be no physical or environmental impact to the neighborhood.
5. The need for the variance is self-created.

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

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

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

Deputy Chairman Smith asked for those in favor and those opposed to granting the variances and there were none.

Deputy Chairman Smith closed the hearing.

MOTION made by Mrs. Stenham in Case #1532 to **grant** the Area Variance as requested with the condition that it is in substantial compliance with Exhibit "A" (Packet) dated 5/12/2014. Motion was seconded by Mrs. Liebi.

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

The Area Variance request for Case #1532 is **granted**.

Case #1533 – AREA VARIANCES - Commercial Power Systems/Jim Wieboldt - Janus Park, 7251 Janus Park Drive, Tax Map #117.-01-01.2:

The applicant is requesting Area Variances pursuant to Section 230-16 B.(4)(c)[5] and 230-16 B.(5)(b), to reduce the rear yard setback from 80 feet to 25 feet and to reduce an additional setback where abutting a residential district, for the installation of a generator. The property is located in the HC-1, Highway Commercial zoning district.

The secretary read the proof of publication.

Andy Kuhn of Commercial Power Systems represented the applicant. He explained there have been power outages. The underground facilities make it so they have to place the generator closer to the building. There are 103 apartments and the generator is needed for the elevator and illumination. Storms make it necessary to have a power backup. There is not much room around the building, and the generator will be unobtrusive and be for emergency power only, not for individual apartments.

Mr. Kuhn addressed the Standards of Proof:

1. They don't believe there will be any detriment to the character of the neighborhood. It will be a benefit to the elderly residents in the event of a power outage, allowing them to stay on the premises instead of requiring the need for assistance evacuating during the utility power outage.
2. They believe there is any other feasible method, than to obtain an Area Variance. Due to the location of the gas meter and electric service all other locations would be too costly and would require trenching and tearing up large portions of the asphalt parking lot along the south side of the building. There are also safety concerns since the electric service and transformer is located at the rear (south side) of the building and it would not be safe or practical to evacuate in this area.
3. They do not believe the variance request is substantial. The furthest point from the lot line on the South side (rear) of the building is only 65 feet. The proposed location of the new generator is roughly 25 feet from the rear lot line keeping it a safe distance

from the gas and electrical right-of-way and avoiding the existing concrete sidewalk. It isn't possible to place the generator 80 feet from the edge of the property as requested.

4. He believes there will be no physical or environmental impact to the neighborhood. The proposed generator will be screened from view by existing trees and vegetation. No trees will be removed. The proposed generator is fueled by natural gas which is much cleaner than the diesel alternative and the sound level will reach only 71 db under full load since it runs at 1,800 rpm and has a sound attenuated enclosure covering it.
5. The need for the variance is self-created, but in order to install the proposed standby generator they will need to keep it at least 5 feet from the building, 5 feet from the gas meter, and at least 5 feet from the underground utilities located at the rear of the property. This will allow them to place the proposed generator in the location marked on the site map submitted with the Area Variance application between with minimal room to spare.

Mr. Hall asked if there would be a test run and Mr. Kuhn said once a week for ten minutes or every two weeks for 20 minutes, during the day. The generator is 4 ½ feet wide and 11 ½ feet long.

Mrs. Liebi inquired about the battery backup and Mr. Kuhn said they will replace it every four years.

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

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

Deputy Chairman Smith asked if anyone in the audience had any questions and John Wells, on behalf of St. Josephs explained that they run a sleep study and would like them to do the testing of the generator between 4:00 P.M. and 8:00 P.M. only.

Deputy Chairman Smith asked for those in favor and Mr. Wells on behalf of St. Josephs was in favor of granting the variances. Deputy Chairman Smith asked for those opposed to granting the Area Variances and there were none.

Deputy Chairman Smith closed the hearing.

MOTION made by Mrs. Liebi in Case #1533 to **grant** the Area Variances as requested with the condition that it is in substantial compliance with Exhibit "A" dated 7/27/1993 and that the testing of the generator be done mid-week between 4:00 P.M. and 8:00 P.M. only. Motion was seconded by Mrs. Stenham.

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

The Area Variance request for Case #1533 is **granted**.

Case #1499 – AREA VARIANCES - Rudolph DiRubbo, Jr.- Basil Leaf, 3920 Brewerton Road. Tax Map #118.-01-01.1:

The applicant is requesting Area Variances, pursuant to Sections 230-16 E.(5)(a); 230-16 E.(4)(b)[2][a]; 230-21 E.; and 230-19 A.(5) to reduce the perimeter landscape strip from 15 feet to 5 feet; reduce the side yard setback from 25 feet to 5 feet; to reduce the number of required parking spaces from 238 to 70; and to reduce the highway overlay from 140 feet to 52 feet for the construction of a patio. The property is located in the LuC-2, Limited Use District for Restaurants zoning district.

Deputy Chairman Smith asked if there was anyone present to represent this request. No one came forward. Deputy Chairman Smith **adjourned** Case #1499 to August 11, 2014.

There being no further business, Deputy Chairman Smith adjourned the meeting at 8:35 P.M.

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