

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
June 13, 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 June 13, 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
	Nicholas Layou	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development
ABSENT:	Ryan Pleskach	Member

MOTION made by Ms. Liebi that the Minutes of the meeting of May 9, 2016 be accepted as submitted. Motion was seconded by Mr. Layou. *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 Ms. Liebi. *Carried.*

OLD BUSINESS:

Chairman Mangan noted that the Board still has an old Case #1575 from July 5, 2015 for Verizon Wireless. Their request is for a cell tower near Route 31, but it will be at a future meeting as it is in litigation.

NEW BUSINESS:

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

Case #1614 – AREA VARIANCE - Ticada Realty - Heritage One Day Surgery, 5496 East Taft Road, Tax Map #118.-02-02.2:

The applicant is requesting an Area Variance pursuant to Section 230-16 B.(4)(a)[6] to increase the maximum gross floor area from 30,000 gross floor area to 53,000 gross floor area (an increase to 48,000 gross square feet was previously granted) for adding an addition to the medical center. The property is located in HC-1 Highway Commercial zoning district

The Secretary read the proof of Publication.

Architect Paul Huysman represented the applicant.

Chairman Mangan noted that the applicant received an Area Variance three years ago and that now they are asking for an increase to 53,000 of the gross floor area. He asked him to also address parking and traffic. The Chairman acknowledged the county's comments.

Mr. Huysman explained that the applicant wants to expand the surgery side. They will also be modifying the turning circle. Parking will be sufficient. The addition will be one story, with the same façade. There will also be renovations inside the current building. There have been changes in medical procedures, some more complicated so they need more space to provide these services.

Mr. Huysman 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 proposed addition will be in a recessed area of the fronting façade that presently is for the most part paved area. The adjacent uses are less attractive occupancies for School District Food Service and Bus Storage and Maintenance Facilities.
2. They don't believe there is any other feasible method than to obtain an Area Variance. The facility has a stable tenant role with long term leases. There is no surplus building area available within the building to expand the Heritage One Day Surgery Center. The Heritage One Day Surgery is regulated by the New York State Department of Health codes and is required to be separated from adjacent business occupancies by One Hour Fire Rated Partitions.
3. Considering the size of the lot and adjacent occupancies, they believe the Area Variance request is not substantial.
4. They believe the proposed addition will have negligible impact on the physical and environmental conditions in the area
5. They don't believe the Area Variance is self-created, since the request is the result of increased need to provide the patient population with the opportunity to have procedures scheduled within a reasonable time frame. State of the art implanting procedures require longer procedures. The proposed addition will contribute to minimize prolonged patient waiting periods and discomfort due to increased procedure scheduling opportunities.

Deputy Chairman Wisnowski asked if they would be more expansion in the future and Mr. Huysman said no.

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 #1614 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Ms. Liebi.

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

The Area Variance in Case #1614 is **approved**.

Case #1615 – AREA VARIANCE – Marketfair North (Kassis Superior Signs) 4100-4160 State Route 31 Tax Map #055.-01-06.1:

The applicant is requesting Area Variances pursuant to Section 230-22 C.(1) to increase the height of a pylon sign from the allowed 25 feet to a proposed 33 feet 4 inches and to increase the square footage of a pylon sign from the allowed 128 square feet to a proposed 211.25 feet to allow for the remodeling of an existing pylon sign. The property is located in the RC-1 Regional Commercial zoning district.

The Secretary read the proof of Publication.

Cristina Caceres of Kassis Superior Signs, Inc. represented the applicant.

Chairman Mangan noted that the plaza has two pylon signs, were they talking about the one in front, and Ms. Caceres said yes.

Ms. Caceres explained that they want to remodel and increase the size of the sign to allow more tenant names.

Ms. Caceres addressed the Standards of Proof:

1. She doesn't believe there will be any negative or undesirable change to the character of the neighborhood because they are using the same footprint and the design style is like the existing sign.
2. She doesn't believe there is any other feasible method than to obtain an Area Variance. To fit tenant names on the sign the overall height needs to be increased to allow enough room along with overall size.
3. She believes the Area Variance request is not substantial. It's the same footprint and the design has existed. They are only asking to raise the height five feet.
4. She doesn't believe there will be any physical or environmental impact to the neighborhood. They are just remodeling the sign with a slight height increase.
5. She believes the Area Variance is not self-created because competition in the area has expanded and they need to market more tenants on the sign.

Ms. Caceres further explained that tenants that are paying rent want their name on the sign.

Chairman Mangan noted that as cars breeze by in order to read the sign they will have to go down the road and turn around. He questions the need.

Ms. Caceres said they want the sign to look better and more tenants want their name on the sign.

Chairman Mangan commented that he didn't feel it would make much difference. Passing cars would have a difficult time reading them all.

Deputy Chairman Wisnowski asked how many potential tenants they have. He added that he was concerned about traffic, with more names and people trying to read them and not driving safely.

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 asked if the sign on 481 is the same size as the one they are seeking the variance.

Ms. Caceres said that it was 40 feet taller.

Chairman Mangan asked if anyone in the audience had any questions and Jim Stevens commented that there is a stop light in front of the sign and people stopping at it would be able to read the sign and that it might be an enhancement.

Ms. Liebe noted that if they weren't in the turn lane they would not be able to enter the plaza and would have to go down the highway and turn around.

Mr. Stevens pointed out that the information would be there, so they would know what businesses were in there.

Chairman Mangan asked for those in favor and those opposed to granting the Area Variance requests and Mr. Stevens was in favor. There were no opposed.

Chairman Mangan closed the hearing.

MOTION made by Ms. Liebi in Case #1615 to **deny** the Area Variance. Motion was seconded by Deputy Chairman Wisnowski.

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

The Area Variance in Case #1615 is **denied**.

Case #1616 – AREA VARIANCE - Edward Richmond, 4970 Harvest Lane, Tax Map #107.-16-16.0:

The applicant is requesting Area Variances pursuant to Sections 230-13 E.(4) and 230-20 B.(2)(b) to allow for a reduction in the front yard setback from 25 feet to 9 feet and to increase the height of a fence in a front yard from the allowed 2.5 feet to 6 feet (corner lots have two front yards) to allow for construction of a 6 foot fence. The property is located in the R 7.5 One-Family Residential zoning district.

The Secretary read the proof of Publication.

Chairman Mangan informed Edward Richmond and Eric Rodriguez that the Board received a letter from a neighbor.

Mr. Richmond explained that they want a 6 foot fence because he has a three year old granddaughter and the pool took up most of the grass, so he'd like the fence to have a safe place for his granddaughter to play.

Mr, Richmond 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 fence extension will match the existing fence.
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 substantial. They are only asking for the minimum amount of fencing necessary to have a safe place for his granddaughter to play.
4. They don't believe there will be any physical or environmental impact to the neighborhood. They feel it will be an enhancement to the property.
5. Since they want the fence, they believe the Area Variance is self-created.

Mr. Layou commented that they will still have a line of site on Palomino Path.

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 #1616 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Ms. Liebi.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Pieskach	- absent	
	Mr. Layou	- in favor	<i>Carried.</i>

The Area Variance in Case #1616 is **approved**.

Case #1617 – INTERPRETATION - Rising Hope Church, Inc. (Richard Lambert, President and Pastor), 4155 State Route 31 (Great Northern Mall) Tax Map #028.-01-40.4:

The applicant is requesting an Interpretation pursuant to Section 230-11 C. for the definition of Instructional facility as it applies to Rising Hope Church. The property is located in the RC-1 Regional Commercial zoning district.

The Secretary read the proof of Publication.

Joshua Werbeck explained that the church has been holding services in a private home in Phoenix.

Chairman Mangan asked if they would be holding services.

Mr. Werbeck said they would be using the facility for a number of reasons, instructional, retail, a restaurant, and services Sunday morning.

Chairman Mangan inquired as to whether they would be using it for a church or instructional uses, since the zoning code does not allow churches in a commercial district.

Pastor and President of the church Richard Lambert said they would be giving life instructions as to how function in society, babysitting, helping people and how to live your life. Also they will have instruction for practical practices, financial and Sunday morning services. Sunday morning services will be only two hours and during the week they will have instructional services.

Mr. Layou asked if they were open to the public and Pastor Lambert said yes.

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.

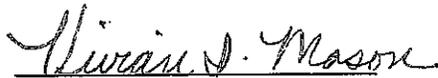
Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Wisnowski in Case #1617 that the facility is primarily used for instructional purposes. Motion was seconded by Mr. Layou.

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

The determination in Case #1617 is that the primary use of the facility is for instructional purposes.

There being no further business, Chairman Mangan adjourned the meeting at 8:25 P.M.



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