

APPROVED  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING**  
**February 11, 2019**

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 February 11, 2019. 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
	Luella Miller-Allgaier	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: None

**MOTION** made by Mrs. Liebi that the Minutes of the meeting of January 14, 2019 be accepted as submitted. Motion was seconded by Mrs. Miller-Allgaier. *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 a Type II, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Mr. Layou. *Unanimously carried*

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

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

**Case #1736 – McDonald’s USA, LLC, 3806 Brewerton Road, Tax Map #118.-01-12.1:**

The applicant is requesting Area Variances per Section 230-22 C.(1) for an increase in the allowable number of wall signs from 2 to 4 (with a total area of 75 square feet); an increase in the allowable square footage of "Sign #3" from 0 square feet to 14 square feet; and an increase in the allowable square footage of "Sign #4" from 0 square feet to 14 square feet, to allow for 4 wall signs. The property is located in the LuC-2 Limited Use District for Restaurants.

The Secretary read the proof of publication.

Lauren Monaghan P.E. of Bohler Engineering represented the applicant. She explained that this

McDonald's is actually located between two streets, Brewerton Road and South Bay Road. McDonald's would like to modernize their building, and update their signs. She displayed a picture of what the restaurant will resemble.

Chairman Mangan asked her to send the picture to Commissioner Territo and she said she would.

Ms. Monaghan addressed the Standards of Proof:

1. She doesn't believe there will be any negative or undesirable change to the character of the neighborhood. Commercial properties are adjacent to McDonald's. The restaurant is accessible from either Brewerton Road or South Bay Road, so the signs need to be visible from both sides.
2. She doesn't believe there is any other feasible method than to obtain Area Variances. The signs are necessary to the visibility and identity of the business since both roads are busy traffic wise. Their existing architecture is dated and this McDonald's will not be as easily identified since the new image does not include the red roof.
3. She doesn't feel the Area Variance requests are substantial because the signs are essential to the restaurant's identity.
4. She doesn't believe there will be any physical or environmental impact to the neighborhood. It's a commercial area.
5. The need for the Area Variance is self-created, however they feel sufficient signs are needed for this type of pass by use.

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 noted that their freestanding sign is partially over their property line.

Chairman Mangan asked if anyone in the audience had any further 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** was made by Mr. Layou in Case #1736 to approve the request with the condition that it be in substantial compliance with Exhibit "A", a Site Plan dated 1/18/2019. The motion was seconded by Mrs. Miller-Alligaier.

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

The Area Variance in Case #1736 is **approved**.

**Case #1737 – Bryant & Stratton College, Inc., 7805 Oswego Road, Tax Map #085.-01-02.5:**

The applicant is requesting an Area Variance per Section 230-21 E. for a reduction in the number of parking spaces from 127 to 76 to allow for Bryant & Stratton to locate on this site without the required number of parking spaces. The property is located in the RC-1 Regional Commercial District.

The Secretary read the Proof of Publication.

Pat Fitzgerald of Phillips Lytle LLP of Buffalo, NY and Peter Casilio the landlord for the college and also Construction Manager represented the applicant.

Mr. Fitzgerald said they are only doing interior modifications and that they only need 76 parking spaces rather than what is required by the Zoning Code since half of the student population is off site. (The building was formerly a drug store and then a pool business.)

Mr. Fitzgerald 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 site currently contains 76 parking spaces, which satisfies the applicant's parking needs. (*Under the zoning code, the applicant's proposed use would require 10 parking spaces per 1000 square feet of floor space instead of the 6 parking spaces per 1000 square feet when the previous use was retail.*) No nearby businesses will suffer a detriment, because a reduction from the Assembly group's parking requirements under the zoning code will not result in any change to the site. The existing parking spaces are sufficient to support the applicant's proposed use.
2. He doesn't believe there is any other feasible method than to obtain Area Variances. The site cannot be beneficially developed by the applicant for its proposed use without the Area Variance.
3. He doesn't feel the Area Variance requests are substantial. The use of this site as a blended learning facility does not demand the voluminous parking requirements, because students remain off site for 50% of the required course work.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood. 76 parking spaces is sufficient for the needs of the facility.
5. The need for the Area Variance is self-created, although they are not expanding the footprint.

*(A more complete explanation of the applicant's Standards of Proof is in the file.)*

Deputy Chairman Wisnowski remarked that their current site on Carling Road has more parking spaces than this new site and questioned the need to reduce parking.

Susan Cumoletti of Bryant and Stratton explained that they can service 50% of the students on line and 50% on the campus. Students do have to be at the campus at times. This is a new direction colleges are taking to reduce costs, with students participating online.

Mr. Fitzgerald explained that there are 200 students, but they are never there all at once and the college has three years of experience with blended classes.

Deputy Chairman Wisnowski asked how many class rooms they would have here.

Mr. Fitzgerald said seven. It is a 12,608 square foot building and will be beautiful when done. When they add an addition to the top, 76 parking spaces will still be sufficient for their needs.

Ms. Cumoletti commented that some classes are very small, consisting of eight students.

Deputy Chairman Wisnowski said he just wanted to make sure that there will be enough parking spaces in the future and that they will not be back seeking another Area Variance.

Mr. Fitzgerald explained that if the college didn't think it was worth it, they wouldn't make use of this site as it is going to be very expensive, over a million dollars without counting furniture.

Mrs. Liebi inquired about snow removal and Mr. Fitzgerald said if necessary they would remove it from the site.

Mr. Layou commented that he is very excited about this project but cautioned that if students parked other places they would be ticketed, so they shouldn't park beyond their limit.

Mr. Fitzgerald further explained that their current location is not blended learning and they don't want to expand the campus, but this satellite is a convenient location.

Ms. Liebi asked why they are moving.

Ms. Cumoletti of Bryant and Stratton stated they are scaling down and want extra amenities; the bus stop is nearby.

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 noted that an increase in the building would require more parking spaces.

Attorney Germain stated that the Area Variance is for 76 spaces and would remain that even if they expand.

Chairman Mangan asked if anyone in the audience had any further 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** was made by Deputy Chairman Wisnowski in Case #1737 to approve the request for a reduction of the required parking spaces to 76. The motion was seconded by Mrs. Miller-Alligaier.

Roll call: Chairman Mangan - in favor  
Deputy Chairman Wisnowski, Jr. - in favor  
Mrs. Liebi - in favor  
Mr. Layou - in favor  
Mrs. Miller-Alligaier - in favor *Unanimously carried*

The Area Variance in Case #1737 is **approved**.

**Case #1738 – Colin McConnell, 7884 Morgan Road, Tax Map #082.-01-32.0:**

The applicant is requesting an Area Variance per Section 230-13 A.(4) for a reduction in the side yard setback from 25 feet to 5 feet, to allow for installation of an 8.97 kw ground mounted solar array. The property is located in the RA-100 Residential Agricultural District.

The Secretary read the proof of publication.

Colin McConnell explained that they are not mounting solar panels on the roof as it would require unmounting them if in the future the roof had to be replaced. The house angle is also not right for mounting panels. With the placement of the solar panels he is going to allow space for landscaping.

Mr. McConnell addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. They can be seen but will not be obtrusive. Steve Simon of Renovus Solar added that the solar panels will be 80 to 90 feet from the back of the house and will be a 35 to 40 foot array.
2. He doesn't believe there is any other feasible method than to obtain Area Variances. The engineer tried other places in the yard, but they were not possible for efficiency purposes.
3. He doesn't feel the Area Variance requests are substantial. It is not a very large Area Variance.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood. He will be landscaping which will help with erosion. He will be cutting down some dead trees.
5. The need for the Area Variance is self-created.

Mrs. Liebi asked if when checking for sunlight they found they had to be near the property line?

Mr. Simon said yes. They will be on the north border facing south. Mounted on steel lifts, they can also easily be removed as there is no cement.

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 further 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** was made by Mrs. Liebi in Case #1738 to approve the request with the condition that it be in substantial compliance with Exhibit "A", a sketch dated 11/1/2018. The motion was seconded by Deputy Chairman Wisnowski.

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

The Area Variance in Case #1738 is **approved**.

**Case #1739 – Jody Vecchiarelli-McDougall, 5753 Boulia Drive, Tax Map #077.-13-39.0:**

The applicant is requesting Area Variances per Section 230-13 D.(4)(c)[1] for a reduction in the front yard setback from 25 feet to 15 feet and Section 230-13 D.(4)(c)[2] for a reduction in the side yard setback from 11.5 feet to 6.5 feet to allow for a shed and a fence. The property is located in the R-10 One-Family Residential District.

The Secretary read the proof of publication.

Chairman Mangan gave the applicant, Jody Vecchiarelli-McDougall, copies of three emails they received in opposition to her request.

Ms. Vecchiarelli-McDougall said the fence has been there since 2012 when they bought the property. They added the pre-built shed and didn't realize they needed a permit. They palced it where they did because of the pool lawn area.

Ms. Vecchiarelli-McDougall 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 it is completely enclosed by the fence..
2. She doesn't believe there is any other feasible method than to obtain Area Variances, as she feels it would take up too much of the yard.
3. She doesn't feel the Area Variance requests are substantial.
4. It is her opinion there will be any physical or environmental impact to the neighborhood.
5. The need for the Area Variance is self-created.

Mrs. Liebi noted that the pool is not sketched in on the survey.

Ms. Vecchiarelli-McDougall said there is a stockade fence around the yard.

Mrs. Miller-Allgaier asked when the shed was put in and Ms. Vecchiarelli-McDougall said January of 2019. Mrs. Miller-Allgaier what the height of the shed was and Ms. Vecchiarelli-McDougall said 12 feet tall and the size, 12 x 16 feet. She explained that they had outside storage, but it was costly and decided to get a shed.

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

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

Chairman Mangan asked for those in favor of a granting the Area Variances and there were none. He asked for those opposed to granting the Area Variance requests and there were the three emails, but no one in the audience.

Chairman Mangan closed the hearing.

**MOTION** was made by Mrs. Miller-Allgaier in Case #1739 to approve the request for the for a reduction in the front yard setback from 25 feet to 15 feet and for a reduction in the side yard setback from 11.5 feet to 6.5 feet for the fence with the condition that it be in substantial compliance with Exhibit "A", a survey dated 7/31/1996. The motion was seconded by Mr. Layou.

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

**MOTION** was made by Mrs. Miller-Allgaier in Case #1739 to deny the request for the for a reduction in the front yard setback from 25 feet to 15 feet and for a reduction in the side yard setback from 11.5 feet to 6.5 feet for the shed. The motion was seconded by Mr. Layou.

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

The Area Variances in Case #1739 are **approved** for the fence and **denied** for the shed.

**Case #1740 – Sonbyrne Sales, Inc. (Byrne Dairy), 4739 Buckley Road, Tax Map #088.-01-17.2:**

The applicant is requesting Area Variances per Section 230-22 C.(1) for one additional wall sign of 49 square feet when 0 feet allowed and Section 230-22 C.(1) for three additional canopy signs of 28 square feet when 0 feet allowed. The property is located in the LuC-1 Limited Use District for Gasoline Services.

The Secretary read the proof of publication.

Larry Tyson, Director of Facilities for Sonbyrne Sales, Inc. stated that they would like an illuminated wall sign and three canopy signs,

Larry Tyson addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood.
2. He doesn't believe there is any other feasible method than to obtain Area Variances. It's a corner lot, they need the visibility.
3. He doesn't feel the Area Variance requests are substantial. It is similar to the surrounding neighborhood.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood. The signs will be attached to the building.
5. The need for 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.

*(There was no audience remaining to ask for comments or approval or disapproval.)*

Chairman Mangan closed the hearing.

**MOTION** was made by Mr. Layou in Case #1740 to approve the request with the condition that it be in substantial compliance with Exhibit "A", a Signage Plan dated 7/2019. The motion was seconded by Mrs. Miller-Alligaier.

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

The Area Variance in Case #1740 is **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