

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
April 9, 2018

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 April 9, 2018. 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 March 12, 2018 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 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:

Case #1693 (Amended) – Widewaters Farrell Road II Company, LLC, Route 31, Tax Map #020.-01-05.1 and #020.-01-05.2:

The applicant is requesting Area Variances per Section 230-19 A.(5) for a reduction in the highway overlay setback from 165 feet to 160 feet; Section 230-16 C.(4)(a)[1][b] for a reduction in the perimeter landscape strip from 30 feet to 2 feet (varying from 2 feet to 27 feet) (Lot # 4); Section 230-22 C.(1)(b) for an increase in the number of free standing signs from the allowed two to three (Lot #2); and Section 230-22 C.(1)(b) for an increase in the total square footage of the third free standing sign from 0 to 24 square feet (Lot # 2), to allow for a commercial development, including a plaza-style development and three out-parcel retail units. The property is located in the RC-1 Regional Commercial District.

The secretary read the proof of publication.

Chairman Mangan announced that this case is going to be adjourned to next month.

MOTION was made by Deputy Chairman Wisnowski to adjourn this case to May 14, 2018. Motion was seconded by Mrs. Liebi.

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

Case #1693 is adjourned to May 14, 2018.

NEW BUSINESS:

Chairman Mangan announced that the representative of Anvil and Sons, LLC (Brooklyn Pickle) has asked to have their case moved to the end.

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

Case #1697 – JOLU Development Co. (Joe Alberici)/Laurel Springs Assisted Living Facility, West Taft Road, Tax Map #107.-18-12.0:

The applicant is requesting Area Variances per Section 230-16 B.(4)(a)[6] to increase the Maximum Gross Floor Area from 30,000 square feet to 90,000 square feet; Section 230-16 B.(4)(b)[2][a] & 230-16 B.(5)(b) for a reduction in the east side yard setback where it abuts residential from 80 feet to 55.75 feet; Section 230-16 B.(4)(b)[2][a] & 230-16 B.(5)(b) for a reduction in the west side yard setback where it abuts residential from 80 feet to 78.34 feet; Section 230-16 B.(4)(b)[4] for an increase in the height of a structure from the allowed 35 feet to 38.67 feet; Section 230-16 B.(4)(b)[5] for an increase in the number of floors from 2 to 3; Section 230-21 E. for a reduction in the number of required parking spaces from 144 to 84; and Section 230-16 B.(5)(a) to reduce the Perimeter Landscape Strip from 50 feet to a minimum of 6 feet, to allow for completion of construction of previously approved assisted living facility. The property is located in the HC-1, Highway Commercial District.

Proof of Publication was read by the Secretary.

Both Attorney John Langey of Costello, Cooney, Fearon and Brian Bouchard of CHA Consulting, Inc. represented the applicant.

Attorney Langey explained that this project goes back to 2001 when the Town approved their request to build an assisted living facility.

Mr. Bouchard gave a brief overview of the project. They plan on constructing 72 units, with access off of Bear Road. Since the prior approval of this project they have changed the Site Plan as best they can to comply with the changes in the Town Code. They have added landscaping. The main change in the code is the abutting to residential, an additional 30 feet being required. Additionally, he noted that only a corner of the building goes into the setback.

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 compatible use and its benefit outweighs other possible uses. The proposed project was previously approved for this parcel with a larger building than what is proposed now. Property to the west encompasses the identical character with an existing similar use of assisted living.

Chairman Mangan had concerns for variances when abutting residential. Whereas Mr. Bouchard noted that others also abut residential zoning. They pointed out that not all of the buildings will be over the height limit. They also believe the parking will be adequate for the facility.

Attorney Langey also noted that there will be a lot of green area and less parking pavement.

2. They don't believe there is any other feasible method than to obtain an Area Variance. Economics are a driver to the success of the facility and they feel these Area Variances are vital to this development. The proposed building footprint was reduced from that which was previously approved to help reduce floor area and provide greater setbacks..
3. They don't feel the Area Variance request is substantial.
4. They believe there have been no identified negative impacts and there will not be any physical or environmental impact to the neighborhood.
5. Their project was approved in 2006 and met all zoning requirements at that time, but there was an economic turndown and construction wasn't started. Since then the Town Code has changed, causing the need for Area Variances, so they believe the need for the Area Variance is not self-created, but economically created.

(For a more detailed Standard of Proof statements for the applicant see the submitted letter from CHA Design/Construction Solutions dated February 13, 2018.)

Deputy Chairman Wisnowski asked how many employees would they have and Mr. Bouchard said 4 to 5.

Attorney Langey stated explained there will be more than enough parking for staff and residents. Chairman Mangan asked if there were any further comments or questions and there were none.

Mrs. Liebi inquired about the bio detention pond, and Mr. Bouchard explained that it is a shallow depression, with gravel and an under drain. There will be no standing water and they plan on putting in plantings.

Kathy Cerrillo of Taft Road said she borders this proposed complex and feels she will no longer have privacy if this facility is built and that it will affect the worth of her home. She'd like a break on her taxes.

Attorney Langey explained that with this type of facility there will be less cars in the parking lot.

Mr. Bouchard noted that this is a more docile use than what could be built there.

Denise Smith voiced concern with swales and the safety of a retention pond.

Mr. Bouchard explained that they will be back before the Planning Board for these issues.

Attorney Langey assured everyone that the applicant is concerned with safety.

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, there were two, and for those opposed, there were none, to granting the Area Variance requests.

MOTION was made by Mrs. Liebe to adjourn Case #1697 to May 14, 2018. Motion was seconded by Mr. Layout.

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

Case #1697 is adjourned to May 14, 2018..

Case #1699 – John Baldini, 9506 Horseshoe Island Road, Tax Map #013.-02-11.0:

The applicant is requesting an Area Variance per Section 230-13 A.(4) for a reduction in the front yard setback from 75 feet to 48 feet to allow for construction of a former residential structure. The property is located in the RA-100 Residential Agricultural District.

Proof of Publication was read by the Secretary.

John Baldini of 210 Watson Road said he wants to completely rebuild the house using the same footprint.

Mr. Baldini addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood.
2. They don't believe there is any other feasible method than to obtain an Area Variance.
3. They don't feel the Area Variance request is substantial.
4. They don't believe there will be any physical or environmental impact to the neighborhood.
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.

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.

MOTION was made by Mrs. Liebi in Case #1699 to approve the Area Variance as requested with the condition that it be in substantial compliance with Exhibit "A" dated 2/26/2018. Motion was seconded by Mrs. Miller Allgaier.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layout	- abstention	
	Mrs. Miller-Allgaier	- in favor	<i>Carried.</i>

The Area Variance in Case #1697 was approved.

Case #1700 - Clay Medical/Summit Realty Management, LLC, 8100 Oswego Road, Tax Map #068.-02-22.1:

The applicant is requesting an Area Variance per Section 230-15 B.(5)(a)&(b) for a reduction in the perimeter landscape strip (when abutting residential) from 40 feet to 13 feet 10" for the perimeter of the site from Winterpark Drive existing driveway to Soule Road. The average dimension of this section is 15.7 feet, to allow for a parking lot expansion. The property is located in the O-2 Office District.

Proof of Publication was read by the Secretary.

Architect Jim Hagan explained that they readjusted the parking and plan on adding a tree.

Chairman Mangan noted that they are still going to be closer to the home on Winterpark Drive and he has a problem with that.

Mr. Hagan said they could add more landscaping because they can't afford to lose parking spaces.

Mr. Hagan addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood.
2. They don't believe there is any other feasible method than to obtain an Area Variance.
3. They don't feel the Area Variance request is substantial.
4. They don't believe there will be any physical or environmental impact to the neighborhood.
5. The need for the Area Variance is self-created.

Deputy Chairman Wisnowski commented that they still have the 13 parking spaces that are already in that portion of the parcel.

Thomas Bassett of Winterpark Drive stated that he felt they could stripe the parking lot differently and get more spaces. He also commented that they were good neighbors.

Mr. Hagan said they are going to restripe the lot.

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.

MOTION was made by Mrs. Miller Allgaier in Case #1700 to deny their request. Motion was seconded by Mrs. Liebi.

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 Variance in Case #1700 was **denied**.

Case #1701 - Paul Axthelm, 7 Mallard Path, Tax Map #094.-21-65.0:

The applicant is requesting Area Variances per Section 230-13 E.(4)(b)[1] for a reduction in the front yard setback from 25 feet to 14 feet and Section 230-20 B.(2)(b) for an increase in the height of a fence in a front yard from the allowed 2 ½ feet to 6 feet (corner lots have two front yards) for installation/replacement of a fence. The property is located in the R-7.5 One-Family Residential District.

Proof of Publication was read by the Secretary.

Paul Axthiem explained that he bought the house four and one-half years ago and that it had a fence which he would like to replace.

Mr. Axthelm 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 fence has been there for 20 years.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance.
3. He doesn't feel the Area Variance request is substantial.

4. He doesn't believe there will be any physical or environmental impact to the neighborhood. The fence will be vinyl.
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.

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.

MOTION was made by Deputy Chairman Wisnowski in Case #1701 to approve the Area Variance as requested. 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 Variance in Case #1701 was approved.

Case #1698 – Anvil and Sons, LLC (Red Barn/Brooklyn Pickle), 7175 Buckley Road, Tax Map #117.-01-07.0:

The applicant is requesting an Area Variance per Section 230-16 B.(4)(a)[2] & 230-19 A.(4)(b) for a reduction in the lot frontage from 300 feet to 289.98 feet. This is to allow the creation of 2 new lots out of the 3 existing lots that will not meet the minimum allowable width. The property is located in the HC-1, Highway Commercial District.

Proof of Publication was read by the Secretary.

Tim Coyer of Ianuzi & Romans and Pat Reynolds from the office represented the applicant.

Mr. Coyer explained that they need a lot line adjustment to make three parcels into two lots due to the highway overlay 300 front yard frontage.

Mr. Coyer addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. They feel this will be an improvement to this area.
2. They don't believe there is any other feasible method than to obtain an Area Variance. Reconfiguration is not feasible.
3. They don't feel the Area Variance request is substantial.
4. They don't believe there will be any physical or environmental impact to the neighborhood.

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.

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.

MOTION was made by Mrs. Miller-Allgaier in Case #1698 to approve the Area Variance as requested with the condition that it be in substantial compliance with Exhibit "A", a drawing dated 2-8-2018. Motion was seconded by Mr. Layout.

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

The Area Variance in Case #1698 was approved.

There being no further business, Chairman Mangan adjourned the meeting at 8:43 P.M.



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