

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
May 10, 2010

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 State Route 31, New York on May 10, 2010.

Deputy 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	Deputy Chairman
	Eugene Young	Member
	Karen Liebi	Member
	Mark Smith	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	David Balcer	Town Planner

ABSENT: Arthur Fennhahn Chairman

MOTION made by Mrs. Liebi that the Minutes of the meeting of April 12, 2010 be accepted. Motion was seconded by Mr. Young. *Carried.*

MOTION made by Deputy Chairman Mangan 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 Mr. Young. *Carried.*

OLD BUSINESS:

Case #1355 - VARIANCE - Charles L. Hafner, 7265 Buckley Road (Tax map #107.-12-32.2):

The applicant is seeking relief to install two freestanding signs. Sign "A" on the Taft Road side is proposed to be erected 1 foot 0 inches off the property line. A 24 foot reduction in the required 25 foot setback. Sign "B" on the Buckley Road side is proposed to be erected 6" (0.5 feet) off the property line. A 24 foot 6 inch reduction in the required 25 foot setback.

Deputy Chairman Mangan explained that originally this case was presented in December 2009, and the Board asked the applicant to change the positions of the signs.

Attorney Robert Ventre, representing the applicant, said that they altered the size of the sign on Buckley Road and moved it back from the road; it will be 17 feet from the curb line, at the northerly side of the entrance and would be 2 feet from the property line. The Taft Road sign was changed from the westerly to the easterly side, would be 30± feet from the curb line and 14 feet from the property line.

Deputy Chairman Mangan acknowledged that the applicant addressed the concerns of the Board,

although not exactly what the Board asked for, but changes were made.

Attorney Ventre addressed the standards of proof:

1. There will no change in the character of the neighborhood. The signs conform with other signs in the vicinity.
2. Attorney Ventre explained that they had struggled with the placement of the signs and feel there is no other feasible method that will work best for the applicant than what they've proposed.
3. They believe the Buckley Road sign variance is substantial, but not the Taft Road sign..
4. They see no adverse environmental impact on the neighborhood.
5. They believe that the need for the variance is partially self-created.

Deputy Chairman Mangan asked the Town Planner David Balcer if he had any comments and he said he had some issues regarding the sizes of the signs. A discussion followed and corrections were made to the exhibits.

Deputy Chairman Mangan asked if there were any further questions and there were none. Deputy Chairman Mangan asked for those in favor and there those opposed to granting the variance and there was one in favor and no one opposed.

Deputy Chairman Mangan closed the hearing.

MOTION was made by Mr. Smith in Case #1355 to grant the variance with the following conditions: the signs be built in substantial compliance with Exhibit "A" and "B", and Exhibit 2 dated May 10, 2010. In addition, Sign "A" is to be a minimum of 15' off the property line, a maximum of 9'-2" in width, a maximum of 19 feet tall and a maximum of 128 s.f. in area. Sign "B" is to be a minimum of 2'-0" off the property line, a maximum of 8'-0" in width and a maximum of 30 s.f in area as shown on the exhibits "A", "B" and 2. Motion was seconded by Mrs. Liebi.

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

The variance request in Case #1355 is granted. *(There was no requirement to re-advertise as the applicant's amended request was for less of a variance than the original request.)*

NEW BUSINESS:

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

Case #1362 - VARIANCE - Harold F. Hemmingway, Jr., 9618 Horseshoe Island Road (Tax map #013.-01-24.0) :

The applicant was granted a variance on a rear yard setback with the condition of being built in “substantial compliance with Exhibit “A” and it was built beyond the approved Exhibit. A roof structure was added above the deck.

The secretary read the proof of publication.

Mr. Hemingway explained that he had added a roof, because of the snow by his sliding door.

Deputy Chairman Mangan noted that when the Board approved the variance request in the past, the structure he built should have been in compliance with the building permit.

Mr. Hemingway replied that the architect changed the plans and he didn’t think to come to the Town.

Mr. Young reiterated that the applicant violated what was approved by the Board.

Deputy Chairman Mangan added that it was clear what the Board wanted at the time the previous variance was approved.

Mr. Young further stated that the Board approved a build as shown on the original request, because the Board did not want an addition. The porch is okay, and the applicant didn’t build an addition, but he can’t go any further than it is now. The porch cannot be closed in.

Mr. Hemingway addressed the standards of proof:

1. Mr. Hemmingway said he felt the roof does not change the character of the neighborhood.
2. Since it is a roof, he feels there is no other feasible method.
3. He feels the variance is substantial.
4. He believes there will be no adverse impact on the neighborhood.
5. He stated that the need for the variance is self-created.

Deputy Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said that the building permit Mr. Hemmingway had submitted is not what was built. He reminded the applicant that he has to build only what the building permit allows and that his architect had to update the drawings to match what he had built after the change was brought to the Town’s attention.

Deputy Chairman Mangan asked if there were any further questions and there were none. Deputy Chairman Mangan asked for those in favor and those opposed to granting the variance and there was one in favor and no one opposed.

Deputy Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1362 to grant the variance with the condition that the construction be in accordance with Exhibit “A”. Motion was seconded by Mrs. Liebi.

Roll call: Chairman Fennhahn - absent
Deputy Chairman Mangan - in favor
Mr. Young - in favor
Mrs. Liebi - in favor
Mr. Smith - in favor *Carried.*

The variance request in Case #1362 is granted.

Case #1363 - VARIANCE - Jaroslav Svarc, 4356 Wetzel Road (Tax map #086.-07-06.0) :

The applicant is seeking an area variance to replace 45' 0" length of 7 foot high fence in the front yard between the street line and the building setback line.

The secretary read the proof of publication.

Neither the applicant nor a representative was present.

Deputy Chairman Mangan adjourned the hearing to June 14, 2010.

Case #1364 - VARIANCE - Mary Green, 8689 Oswego Road (Tax map #018.-02-02.0) :

The applicant is seeking a variance to reduce the highway overlay front yard setback from 140 feet to 53.01 feet to construct a proposed deck, a reduction of 86.99 feet.

The secretary read the proof of publication.

Deputy Chairman Mangan explained that a building permit had been issued to Ms. Green, but then the building inspector discovered that he had not considered the highway overlay, and that a variance was needed.

Ms. Green said she obtained a building permit and some friends were building it, when they found out a variance was needed.

Ms. Green addressed the standards of proof:

1. She feels there will no change in the character of the neighborhood.
2. She feels there is no other feasible method.
3. She feels the variance is substantial.
4. She believes there will be no adverse environmental impact on the neighborhood.
5. She stated that the need for the variance is self-created.

Deputy Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he apologized for the building inspector's error in missing the highway overlay.

Deputy Chairman Mangan asked if there were any further questions and there were none. Deputy Chairman Mangan asked for those in favor and those opposed to granting the variance and there were none.

Deputy Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1364 to grant the variance as requested with the condition that construction be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Smith.

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

The variance request in Case #1364 is granted.

OTHER BUSINESS:

There is a request for an extension of an existing nonconforming use at 4985 New York State Route 31 (also known as the Clay Hotel)

David Kondra presented the Board with pictures of his progress on the former Clay Hotel building, and asked the Board for an extension of the existing non-conforming use.

Deputy Chairman Mangan noted that there was an ad in the newspaper to sell the building for any business, when the non-conforming use is only for a restaurant. Mr. Kondra said that the ad was incorrect.

Ms. Liebi asked if they planned on continuing their efforts to refurbish this building and Mr. Kondra said yes.

Deputy Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he had none.

Deputy Chairman Mangan asked if there were any further questions and there were none. Deputy Chairman Mangan asked for those in favor and those opposed to granting the variance and there were none.

Deputy Chairman Mangan closed the hearing.

MOTION was made by Deputy Chairman Mangan to grant a six month extension. Motion was seconded by Ms. Liebi.

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

A six month extension is granted.

There being no further business, Deputy Chairman Mangan adjourned the meeting at 8:16 P.M.

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