

APPROVED  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING**  
**June 14, 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 June 14, 2010.

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
	Arthur Fennhahn	Deputy Chairman
	Eugene Young	Member
	Mark Smith	Member
	Vivian Mason	Secretary
	John Marzocchi	Acting Attorney
	David Balcer	Town Planner

ABSENT: Karen Liebi Member

Chairman Mangan announced that Mr. Fennhahn has stepped down, and that he has been appointed Chairman by the Town Board. Chairman Mangan appointed Arthur Fennhahn as Deputy Chairman.

**MOTION** made by Mr. Young that the Minutes of the meeting of May 10, 2010 be accepted. Motion was seconded by Mr. Smith *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 Type II actions, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Deputy Chairman Fennhahn. *Carried.*

**OLD BUSINESS:**

**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.

Chairman Mangan noted this case was adjourned at the previous month's meeting.

*(Proof of publication was read at May 10, 2010 meeting.)*

Mr. Svarc explained that he is replacing an old fence and adding on 40 feet more.

Mr. Svarc addressed the standards of proof:

1. Mr. Svarc said he believes there will no change in the character of the neighborhood. He said it will hardly be seen. His neighbor has a hedge and he will have plantings in front of his fence.
2. There is no other feasible method, as he is replacing an existing fence and adding to it.
3. He does not feel the variance is substantial.
4. He believes there will be no adverse or environmental impact on the neighborhood.
5. He stated that the need for the variance is self-created.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said replacing and adding to the present fence makes it more palatable in appearance.

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

Chairman Mangan closed the hearing.

**MOTION** was made by Deputy Chairman Fennhahn in Case #1363 to grant the variance with the condition that the fence be constructed in substantial compliance with attachment "A". Motion was seconded by Mr. Young.

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

The variance request in Case #1363 is granted.

**NEW BUSINESS:**

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

**Case # 1365 - VARIANCE - Mary Ruppracht, 118 Hazlehurst Avenue (Tax map #113.-03-16.0):**

The applicant is seeking a variance to reduce the existing non-conforming setback which is 23.5 feet and not the required 25 feet to 17.5 feet to construct a front porch.

The secretary read the proof of publication.

John Tiffany spoke for the applicant. He explained that he is Mary Ruppracht's fiancé and they would like to build a six foot porch, roof and railing, the length of the house.

Mr. Tiffany addressed the standards of proof:

1. They believe the proposed porch will enhance the aesthetics of the neighborhood.
2. Previous foundation repairs resulted in the removal of the original porch. They want to replace it, and because of the home design layout they feel a porch the length of the house is a natural addition.
3. They do feel the variance is substantial.
4. They believe there will be no obstruction of visibility for either traffic or neighbors.
5. Because they want to enhance the home value and socially connect with the neighbors they feel the need for the variance is self-created.

Mr. Balcer, Town Planner, noted that the residence is an existing non-conformance in its front yard setback.

Deputy Chairman Fennhahn asked if they had plans to enclose the porch and Mr, Tiffany said never.

Chairman Mangan asked what was there before the foundation issues and Mr. Tiffany said just steps and posts.

Chairman Mangan asked Town Planner David Balcer if he had any comments and he said, that with the request for the porch, he is caught between protrusion and aesthetics, but it is palatable if it's not enclosed.

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

Chairman Mangan closed the hearing.

**MOTION** was made by Deputy Chairman Fennhahn in Case #1365 to grant the variance with the condition that the porch not be enclosed. Motion was seconded by Chairman Mangan.

Mr. Young said that because of the age of the neighborhood this porch would stick out and destroy the look of the neighborhood and he will be voting no.

Deputy Chairman Fennhahn said he lived in that neighborhood and that the houses were built in 1954 after the war and contractors did not do much aesthetically. He said he would be voting in favor of granting the variance.

Roll call:

Chairman Mangan	- in favor
Deputy Chairman Fennhahn	- in favor
Mr. Young	- not in favor
Mrs. Liebi	- absent
Mr. Smith	- not in favor <i>Motion failed.</i>

The variance request in Case #1365 is denied.

**Case #1366 - VARIANCE - David and Linda Doty, 3921 Bonstead Road (Tax map #025.-01-**

**08.2)** :

The applicant's new home was built 23.4 feet off the rear property line where 30 feet is the required setback, furthermore, the applicant is seeking to reduce it down to a 10 foot setback to construct a deck, for a total reduction in the rear setback from 30 feet to 10 feet. Per Town Ordinance Number 230-13B.(4)(b)[3]

The secretary read the proof of publication.

Town Planner David Balcer noted that the house was built too close to the property line.

Mr. Doty explained that the sides of the hole for the cellar fell in and the footers were put in the wrong place, so the house is not where it should be.

Chairman Mangan commented that the neighbor's house is built further back.

Mr. Doty said they didn't realize they were seven feet off with the foundation. Now they would like to put a deck on the back of the house. There is State land behind them, and they intend to buy some of it.

Chairman Mangan asked if the land towards the water will be developed and Mr. Doty said no. He added that he bought the land next to him to have more privacy. Chairman Mangan then asked Mr. Doty if they were close to any buildable property and Mr. Doty said no, and once they own the State land they will clear it out. As he understands it, there is a 99 year lease on the State land in place already.

Mr. Doty addressed the standards of proof:

1. He believes there will no change in the character of the neighborhood.
2. There are doors on the second floor to the outside and they need the deck for access to the back yard, so he feels there is no other feasible method.
3. He does feel the variance is substantial.

*Chairman Mangan noted that the needed variance increased due to the house being built in the wrong place, which has eaten into the set back. The only way to correct that would be to tear the house down.*

4. He believes there will be no adverse or environmental impact on the neighborhood.
5. He stated that the need for the variance is self-created.

Mr. Smith asked if the deck was in the original plans and Mr. Doty said yes, so consequently an even greater variance is needed.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said that when you're building a house and the hole for the foundation caves in, you should check the measurements, but since there is State land in the back, no one is affected by the variance.

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

Chairman Mangan closed the hearing.

**MOTION** was made by Mr. Young in Case #1366 to grant the variance as requested, with the condition that construction be in compliance with Exhibit "A" and "B". Motion was seconded by Mr. Smith.

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

The variance request in Case #1366 is granted.

**Case #1367 - VARIANCE - Kathleen (Mazzuca) Gardynski, 8223 Cedarcrest Circle (Tax map #067.-03-01) :**

The applicant is seeking a variance to erect a 6 foot high stockade fence 7 feet 0 inches in front of the building line where the code allows only a 2 ½ foot high fence in the front yard.

The secretary read the proof of publication.

Chairman Mangan noted for the record that the Board received three letters from neighbors stating no issues with the request for the variance.

John Gardynski said that he didn't realize the 30 foot long fence was over the building line. He had already moved his shed back. He wants the fence to go diagonally to the shed.

Town Planner David Balcer explained that they had a permit, but they were installing the fence wrong.

Mr. Gardynski addressed the standards of proof:

1. He feels there will no change in the character of the neighborhood.
2. When they bought the house, Oakwood Drive was a dead end. No longer a dead end, they want more privacy, so they believe there is no other feasible method than a fence. They also want it for safety purposes, for the children.
3. Since there will still be 25 feet to the street line, they don't feel the variance is substantial.
4. He believes there will be no adverse or environmental impact on the neighborhood.
5. Because Oakwood Drive is no longer a dead end, they believe the need for the variance is not self-created.

Chairman Mangan commented that in the back of the house there is open town land, so the fence

would not be obstructing the road.

Mr. Young said that they want to fence parallel to the street line.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor of granting the variance and there were two, Mike Brennan and Richard Lansing. Chairman Mangan asked for those opposed to granting the variance and there was none.

Chairman Mangan closed the hearing.

**MOTION** was made by Deputy Chairman Fennhahn in Case #1367 to grant the variance with the condition that the fence be limited to six feet in height and be constructed in accordance with Exhibit "A", dated August 22, 2000. Motion was seconded by Mr. Young.

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

The variance request in Case #1367 is granted.

There being no further business, Deputy Chairman Mangan adjourned the meeting at 8:27 P.M.

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