

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
April 14, 2014

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, Clay, New York on April 14, 2014.

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
	Mark Smith	Deputy Chairman
	Brian Hall	Member
	Anne Stenham	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark Territo	Commissioner of Planning

ABSENT: Karen Liebi Member

MOTION made by Deputy Chairman Smith that the Minutes of the meeting of March 10, 2014 be accepted as submitted. Motion was seconded by Mrs. Stenham. *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 Mrs. Stenham. *Unanimously carried.*

OTHER BUSINESS:

As request has been made by Barrett Paving Materials, Incorporated, for an extension of six (6) months for a temporary trailer at 4530 Wetzel Road (Case #1503, Special Permit pursuant to Section 230-A.(2) approved on 10/14/2013, Tax map #087.-01-04.2)

Motion was made by Chairman Mangan to approve the request for a six (6) month extension. Motion was seconded by Mr. Hall.

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

The extension is granted.

OLD BUSINESS:

Case #1498 – AREA VARIANCE - Donald Wehrung, (5346 Guy Young Road), Lot 4, Ethel Road, Tax Map #038.-01-04.0:

The applicant is requesting an Area Variance pursuant to Sections 230-13 A.(4) to allow for a reduction in the front yard setback from 75 feet to 60 feet to allow for the construction of a single family house and garage. The property is located in the RA-100 Residential Agricultural zoning district (*The secretary read the proof of publication at the September 9, 2013 meeting.*); and

Case #1516 - AREA VARIANCE - Donald Wehrung, (5346 Guy Young Road), Lot 4, Ethel Road, Tax Map #038.-01-04.0:

The applicant is requesting Area Variance pursuant to Sections 230-13 A.(4) to allow for a reduction in the side yard setback from 25 feet to 10 feet to allow for the construction of a single family house and garage. The property is located in the RA-100 Residential Agricultural zoning district. (*The secretary read the proof of publication for Case #1516*)

Chairman Mangan asked Mr. Wehrung if he had obtained approval from the county in writing and Mr. Wehrung said verbal but not written. Chairman Mangan adjourned the hearing indefinitely, until Mr. Wehrung had written permission from Onondaga County and was clear as to what he specifically needed in Area Variances.

NEW BUSINESS:

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

Case #1517 – AREA VARIANCE – Stewart’s Shops. 7769 Morgan Road, Tax Map #089.-19-06.1:

The applicant is requesting Area Variances pursuant to Section 230-21 A.(1); 230-16 D.(4)(b)[2][a]; 230-06 D.(5)(a); and 230-19 A.(5) to reduce the driving aisle from 20 feet to 11 feet; to reduce the side yard setback from 25 feet to 17 feet to allow for an auto service addition; to reduce the perimeter landscape strip from 20 feet to 17 feet to allow for an auto service addition; and to reduce the highway overlay setback of an accessory structure from 90 feet to 62 feet for a Canopy. Thus is to allow improvements to an existing gasoline service station. The property is located in the LuC-1 Limited Use District for Gasoline Services zoning district; and

Case #1518 – AREA VARIANCE - Stewart’s Shops. 7769 Morgan Road, Tax Map #089.-19-06.1:

The applicant is requesting an Area Variance, pursuant to Section 230-22 C.(1) to allow a reduction in the front yard setback from 25 feet to 5 feet to allow a freestanding sign. The property is located in the LuC-1 Limited Use District for Gasoline Services zoning district.

The secretary read the proof of publications.

Chuck Marshall, Real Estate Representative for Stewart’s Shops, Saratoga Springs, New York explained that they plan to make over the building into a gas station/convenience store (Stewart’s

Shops) and Angelo Constantini (Hiram's auto repair) will rent the space from them which will include an addition between and connecting the two present auto repair buildings.

Mr. Marshall addressed the Standards of Proof:

1. They don't believe the changes, the aisle width, the addition, the canopy or the sign will be any detriment to the character of the neighborhood. It is a commercial area.
2. They don't believe there is any other feasible method. The aisle width is for safety; the configuration of the buildings dictates the place for the addition the most feasible, and the freestanding sign will be on the corner where it is most visible to traffic.
3. They do not believe the variance request is substantial for the addition or canopy, but the aisle width may be considered substantial, and the freestanding sign request is substantial, however they feel the site layout does not allow acceptable visibility if moved to 25 feet.
4. They believe there will be no physical or environmental impact to the neighborhood for any of their requests.
5. They believe the need for the variance is self-created, but it will be a huge improvement to that corner.

Mr. Hall noted that the Onondaga Country's comments address concern that there be no parking on the County right-of-way. Mr. Marshall assured him that there would be no parking there.

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 Joyce Cirrito from the Bayberry Community said she was excited to have Stewart's. She inquired as to how many pumps they would have and Mr. Marshall answered six as before.

Chairman Mangan asked for those in favor and those opposed to granting the variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Smith in Case #1517 and #1518 to **grant** the Area Variances as requested with the condition be in substantial compliance with Exhibit "A", the site plan, dated 2/3/2014. Motion was seconded by M. Hall.

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

The Area Variance requests for Case #1517 and Case #1518 are granted.

Case #1519 – INTERPRETATION - National Bath Systems, LLC (Bath Fitters), 3910 Brewerton Road, Tax Map #118.-01-06.1:

The applicant is requesting an Interpretation, pursuant to Section 230-11 C. for the definition of “retail use” compared to “warehouse use”. The property is located in the NC-1 Neighborhood Commercial zoning district.

The secretary read the proof of publication.

Attorney Anthony D’Elia represented the applicant. He explained that Monday night the Town Board granted their request changing the zone on the parcel to an NC-1. The applicant has changed the space so that storage is for the bath fixtures sold, then the customer goes into the office and signs a contract for the product and installation. The molding of the fixture is done at the customer’s residence.

Chairman Mangan asked if the storage is only for what is sold and Attorney D’Elia said yes.

Mr. Hall asked how many cargo vans and trucks would be parked there and Attorney D’Elia stated that the installation vans are on the road by 8:00 A.M. There are 3 employee vehicles. There is also a delivery of materials once a week.

Chairman Mangan noted that they consider the definition as a retail site with storage of sold goods and Attorney D’Elia said yes.

Mr. Hall commented that it is more retail show room than storage.

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 they would be open by appointment only or regular business hours and Attorney D’Elia said they would be open regular business hours.

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

Chairman Mangan asked for those in favor of the definition being considered “retail use” and Robert Rotundo one of the partners said he felt the showroom fell into the definition of retail. Chairman Mangan asked for those opposed to the definition being considered “retail use” and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Hall in Case #1519 that the definition of the proposed use fits the definition of “retail use” pursuant to Section 230-11 C. Motion was seconded by Deputy Chairman Smith.

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

The Interpretation as “retail use” for Case #1519 fits the purpose of a Bath Fitters store.

Case #1520 – AREA VARIANCES - Fastrac Markets, 8467 Oswego Road, Tax Map #019.-02-23.1:

The applicant is requesting an Area Variance, pursuant to Section 230-22 C.(1) and 230-16 D.(5)(a) to increase the number of wall signs from the allowed 2 to 6, and to reduce the 20 foot required landscape strip to 5 feet to allow for a dumpster and parking.

The secretary read the proof of publication.

Matt Napierala, Manager for Fastrac Markets, explained that they have a façade enhancement program and want to place 6 signs on the new face of the building. The square footage of the 6 signs will actually be a reduction of what is there now. They also have been approved for a drive thru which creates site work, plus an Area Variance for the dumpster location and a reduction of the landscape strip to allow parking.

Mr. Napierala addressed the Standards of Proof:

1. They don't believe there will be any detriment to the character of the neighborhood. The surrounding area is commercial. The signage is a reduction in square footage, and regarding the landscape reduction, the neighboring property to the west does not have a landscape buffer either.
2. They don't believe there is any other feasible method, as the number of signs fit the architectural elements of the new façade and there is not sufficient room to locate the proposed pavement elsewhere without a reduction of the landscape strip.
3. They do not believe the Area Variance requests are substantial.
4. They believe neither of the Area Variances will have a physical or environmental impact to the neighborhood.
5. They believe the need for the variance is self-created, but it is for enhancement purposes and improvement to the entrance.

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 variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mrs. Stenham in Case #1520 to **grant** the Area Variances as requested, with the condition that they be in substantial compliance with Exhibit "A", both pages, dated November 7, 2013. Motion was seconded by Mr. Hall.

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

The Area Variance request for Case #1520 is granted.

Case #1521 – AREA VARIANCE - Maple Road Associates, Inc. (Michael Bragman, Jr.), Lot #97, Maple Road, Tax Map #063.-01-05.0:

The applicant is requesting an Area Variance, pursuant to Section 230-22 C.(1) for a reduction in the neighborhood identification sign setback from 25 feet to 1 foot.

The secretary read the proof of publication.

Michael Bragman, Jr. of Cicero, New York, explained that they would like to install a second entrance sign to their housing development.

Chairman Mangan commented that should they obtain the Area Variance they should place it where they say they want it. The first one was not installed where it was designated.

Mr. Bragman assured the Board that it would be right this time. As with their previous request for the other sign, it is difficult to adhere to the 25 foot setback.

Mr. Bragman addressed the Standards of Proof:

1. They don't believe there will be any detriment to the character of the neighborhood.
2. They don't believe there is any other feasible method
3. They do not believe the variance request is substantial.
4. They believe there will be no physical or environmental impact to the neighborhood.
5. They believe the need for the 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 asked who would be responsible in the future for any disrepair, perhaps 20 years from now. Mr. Bragman said the homeowner is responsible and that it states it in the deed. He added if they were still around, they would fix it.

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 variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Smith in Case #1521 to **grant** the Area Variance as requested, with the condition that the Town receive an acceptable "as built" survey, and the sign be in substantial compliance with Exhibit "A", the site plan dated January 28, 2014. Motion was seconded by Mrs. Stenham.

Roll call:	Chairman Mangan	- in favor
	Deputy Chairman Smith	- in favor
	Mrs. Liebi	- absent

Mr. Hall - in favor
Mrs. Stenham - in favor *Carried.*

The Area Variance request for Case #1521 is granted.

There being no further business, Deputy Chairman Smith adjourned the meeting at 8:20 P.M.

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