

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
July 8, 2013

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 July 8, 2013.

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
	Karen Liebi	Member
	Mark Smith	Member
	Brian Hall	Member
	Anne Stenham	Member
	Vivian Mason	Secretary
	John Marzocchi	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: Arthur Fennhahn Deputy Chairman

MOTION made by Ms. Liebi that the Minutes of the meeting of June 10, 2013 be accepted as submitted. 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 Ms. Liebi. *Carried.*

OLD BUSINESS:

Case #1486 – INTERPRETATION - Sikh Foundation of Syracuse, 4632 Wetzel Road, Tax map #087.-01-10.0:

The applicant is requesting an Interpretation of the Definition of Religious Institution and Exhibit Hall, for the purpose of establishing if the ‘Sikh Foundation’ located at 4632 Wetzel Road is considered a Religious Institution or an Exhibit Hall. The property is located in the I-1 Industrial zoning district.

(Proof of publication was read at the May 13, 2013 meeting.)

MOTION was made by Ms. Liebi that the Board’s findings are as follows:

1. Both the applicant and the Town Code Department agree that sometime around 1996 the Foundation purchased the property for the purposes of conducting religious instructional work pursuant to their mission statement. The Applicant produced a copy of an Operating Permit and Fire Inspection Certificates from 2008, and asked those be admitted into the record. No Building Permit for the property was produced by either the Applicant or the Code Department.

2. The Industrial 1 Zoning classification allows for the use of “Exhibit Halls.” According to Section 230-11 of the Code, an Exhibit Hall is defined as “A facility designed for the assembly of large numbers of people to attend meetings, lectures, conventions or commercial product shows. It may include areas for the consumption of food, classrooms, auditoriums and offices. It excludes facilities for the conducting of sporting events and recreational facilities.”

3. The Foundation provided credible testimony to the Board that the Foundation routinely uses the building for meetings of both small and larger groups of people. They conduct religious educational lectures and programs, and house a library and offices to support those activities. The Foundation also maintains an area for the consumption of food as a use complimentary to the educational uses. No sporting events or recreational activities occur at the property.

Therefore this Board hereby decides the proof submitted by the applicant regarding the use of the building clearly fits the definition of an “Exhibit Hall” specifically allowed in the Industrial 1 Zone classification. We hold therefore the use is in fact an allowable conforming use of the property. Motion was seconded by Mr. Smith.

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

Commissioner Territo advised the applicant that they need to apply for a building permit and submit a site plan for their addition.

NEW BUSINESS:

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

Case #1491 – AREA VARIANCES - Raymour & Flanigan Clay LLC – Kathleen Boudreau, 4000 State Route 31, Tax Map #055.-01-03.1:

The applicant is requesting Area Variances pursuant to Sections 230-19 A.(5); 230-16 C.(4)(a)[1][d]; and 230-22 C.(1) to allow for a reduction in the Highway overlay setback from 165 feet to 152.5 feet for a principal structure; a reduction in the highway overlay setback from 90 feet to 83 feet for a parking area; an increase the cumulative pavement and building coverage from 75% to 76.5%; an increase in the number of building signs allowed from 2 to 5, one on

each building face (signs will be within the 8% square footage threshold); an increase in the square footage of a non-conforming Pylon Sign from 226.0 square feet to 246.0 square feet for an additional sign panel; to add a second Pylon Sign when one is allowed; and to increase the square footage of the second Pylon Sign from 128 square feet to 246 square feet, for construction of a Longhorn Steakhouse restaurant. This property is located in the RC-1 Regional Commercial zoning district.

Marshall Hardy, the Senior Project Manager, and Scott Milnamow, the Senior Vice President of Real Estate, presented their proposed plan for the Longhorn Steakhouse restaurant.

Chairman Mangan noted that the Board had received correspondence from Mufali Family Limited Partnership stating that they are in opposition to the granting of any variances.

Also, Chairman Mangan explained that the Onondaga County Planning Board has recommended disapproval of their requests for variances because of capacity constraints at the Oak Orchard Treatment Plant, thus requiring that the Zoning Board's approval of any of their requests requires a super majority vote.

The resolution from the Onondaga County Planning Board states that "all new connections within the Oak Orchard service area are temporarily suspended for a six (6) month period commencing April 1, 2013." There may even be an extension of the period of suspension. This project might have problems moving forward. Mr. Hardy said they were aware of this and that they were looking into it, but they want to secure the variances meantime.

Presenting a site map, Mr. Hardy explained that they are considering the canopy as part of the building. They are proposing that the location of the restaurant be further north/west on the parcel. Because they want to preserve the access aisle at the rear of the proposed restaurant this creates a need for a reduction in the highway overlay and an increase in the cumulative parking area.

Mr. Hardy addressed the Standards of Proof:

1. In order to not violate the aisle that crosses the parking lot, they believe their requests for reduction in the highway overlay and the increase in the cumulative pavement will maintain the character of the neighborhood. They believe the signage also will not change to the character of the neighborhood, which is primarily commercial.
2. They believe the Area Variance request is the most feasible method, since they are not disturbing the aisle through the parking lot to Barnes and Noble.

Chairman Mangan questioned the need for a sign on the back of the building and he also didn't think they needed an additional Pylon sign.

Mr. Hardy said they feel they need the signage on all sides. They would like the second Pylon sign to give people traveling on Route 481 more opportunity to know their restaurant is there.

Mr. Smith asked if they intended to put the restaurant's name on the panel signs that are posted on Route 481 and Mr. Hardy said no.

3. They do not believe the variance requests are substantial.
4. They believe there will be no environmental impact of the neighborhood regarding any of their requests.
5. They do not believe their request for a reduction in the highway overlay and the increase in the cumulative pavement is self-created as they are insuring that the aisle across the parking lot will continue to allow access to businesses. The need for the signs is self-created.

Scott Milnamon offered to withdraw the request for the second Pylon sign if the Board so desired.

Shawn Smith, also representing the applicant, noted that the site is below grade and they feel adding signs that identify the restaurant will help traffic flow.

Chairman Mangan commented that he felt you wouldn't be able to miss the restaurant when you turn at the light. He also stated the he felt the sign on the back wall of the restaurant could only be spotted from Sports Authority, the store behind them in the parcel. Shawn Smith said he felt the sign would identify the parking area for the restaurant.

Joyce Cirrito of the Bayberry community area commented that she thinks there have been a lot of sign variances given on Route 31 and she feels the more signs there are the worse it looks in appearance

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 for those in favor and those opposed to granting the variances, and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Smith in Case #1491 to grant the Area Variance to reduce the highway overlay setback from 165 feet to 152.5 feet for a principal structure. Motion was seconded by Mr. Hall.

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

MOTION made by Mr. Smith in Case #1491 to grant the Area Variance for a reduction in the highway overlay setback from 90 feet to 83 feet for a parking area. Motion was seconded by Ms. Stenham.

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

MOTION made by Mr. Smith in Case #1491 to grant the Area Variance for an increase in the cumulative pavement and building coverage from 75% to 76.5 %. Motion was seconded by Ms. Stenham.

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

MOTION made by Mr. Smith in Case #1491 to grant the Area Variance to increase the number of building signs allowed from 2 to 5, one on each building face. Motion was seconded by Ms. Liebi.

Roll call: Chairman Mangan - against
Deputy Chairman Fennhahn - absent
Mrs. Liebi - in favor
Mr. Smith - in favor
Mr. Hall - in favor
Ms. Stenham - in favor *Carried.*

MOTION made by Mr. Smith in Case #1491 to grant the Area Variance to increase the square footage of a non-conforming Pylon sign from 226.0 square feet to 246.0 square feet for an additional sign panel. Motion was seconded by Ms. Stenham.

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

MOTION made by Mr. Smith in Case #1491 to **deny** the Area Variance to add a second Pylon sign when one is allowed. Motion was seconded by Ms. Liebi.

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

MOTION made by Mr. Smith in Case #1491 to **deny** the Area Variance to increase the square footage of the second Pylon Sign from 128 square feet to 246 square feet. Motion was seconded by Ms. Stenham.

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

The Area Variances in Case #1491, five are **granted** and two are **denied**.

Case #1492 – AREA VARIANCES - Cameron Gebo, 8023A Marlin Drive, Tax Map #119.-03-02.0:

The applicant is requesting Area Variances pursuant to Sections 230-13 G.(4)(d)[1] and 230-20 B.(2)(b) to allow for the reduction of the front yard setback from 20 feet to 12 and an increase in the height of the fence in a front yard from 2.5 feet to 4 feet, for construction of a fence. The property is located in the R-TH Townhouse zoning district.

Mr. Gebo explained that he lives in a town house and wants the privacy a fence would allow him to have. He also feels it would be for security purposes. It would create curb appeal and be white vinyl and maintenance free.

Mr. Gebo addressed the Standards of Proof:

1. The fence adds to the curb appeal and does not block vision in regards to traffic. It is also shorter than others in the neighborhood, so he doesn't believe there will be any change to the character of the neighborhood.
2. He believes the Area Variance requests are the most feasible method to obtain some privacy.
3. He is only asking for 1.5 feet, so he does not believe the variance request is substantial.
4. He believes there will be no environmental impact of the neighborhood
5. 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 had 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 Ms. Stenham in Case #1492 to grant the Area Variance with the condition that it be in substantial compliance with Exhibit "A", dated 8-15-2011. Motion was seconded by Ms. Liebi.

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

The Area Variances in Case #1492 are granted.

Case #1493 – AREA VARIANCE - David C. & Jill Taylor, 4285 Persimmon Path, Tax Map #081.-38-05.0:

The applicant is requesting an area variance pursuant to Section 230-13 E.(4)(c)[1] for a reduction in the front yard setback from 25 feet to 11 feet for construction of a shed. The property is located in the R-7.5 One-Family Residential zoning district.

Chairman Mangan asked if the fence was already there, and Jill Taylor said yes, it was there when they bought the house in 2006.

Jill Taylor explained that they need storage space since their garage is full. They would like to park the car in the garage and put the lawn equipment etc. in the shed they are proposing to move to back up to the nook created by the placement of the fencing in the corner of their yard.

Jill Taylor addressed the Standards of Proof:

1. The shed is a quality product, so they don't believe there will be any change to the character of the neighborhood.
2. Due to the boundaries of their property they don't have much choice of where to put the shed. They believe the Area Variance they are asking for is the most feasible method to allow placement of the shed.
3. They do not believe the variance request is substantial.
4. They believe there will be no environmental impact of the neighborhood
5. 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 had 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 Mr. Smith in Case #1493 to grant the Area Variance with the condition that it be in substantial compliance with Exhibit "A" dated 11-15-2006. Motion was seconded by Ms. Liebi.

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

The Area Variance in Case #1493 is granted.

Case #1494 – SPECIAL PERMIT - Kenneth & Renay Caskinett, 8344 Azimuth Drive. Tax Map #052.-09-15.0:

The applicant is requesting a Special Permit pursuant to Section 230-27 I.(2)(a) to operate an in home occupation for a one person hair salon. The property is located in the PDD Planned Development District.

Renay Caskinette explained that she has been in the hairdressing business for twenty-seven years, and operated a hair salon in her home in Baldwinsville for twenty-three years. They have now purchased a home in the Town of Clay in what they feel is an ideal location. Clients can come in through the garage and they have a separate bathroom for them. Her hours of operation will be Tuesdays and Wednesdays 10:00 A.M. to 7:00 P.M. and every fourth Saturday 8:00 A.M. to 2:00 P.M. She never has more than one client at a time.

Chairman Mangan commented that he thought it was really a good setup.

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 for those in favor of granting the Special Permit and there was one, Sheryl Hendrick of 8340 Azimuth Drive. Chairman Mangan asked for those opposed to granting the Special Permit, and there were none.

Chairman Mangan closed the hearing.

MOTION made by Ms. Liebi in Case #1494 to grant the Special Permit with the condition that it be a one person, homeowner only operation salon. Motion was seconded by Mr. Smith.

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

The Special Permit in Case #1494 is granted.

There being no further business, Chairman Mangan adjourned the meeting at 8:45 P.M.

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