

**APPROVED  
ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
October 10, 2011**

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 October 10, 2011.

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
	Robert Germain	Attorney

ABSENT:	Karen Liebi	Member
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**MOTION** made by Mr. Young that the Minutes of the meeting of September 12, 2011 be accepted. Motion was seconded by Deputy Chairman Fennhahn. *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 Mr. Smith. *Carried.*

**OLD BUSINESS:**

NONE.

**NEW BUSINESS:**

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

**Case #1433 - AREA VARIANCE - Rite Aid, 7245 Henry Clay Boulevard (Tax Map #115.-01-19.2):**

The applicant is requesting an Area Variance pursuant to Section 230-17 C.(4)(c)[1] to allow for a reduction in the front yard setback from the existing principal structure rear line to 40 feet to construct a frame Guard Shed. The property is located in the I-1 Industrial zoning district.

The secretary read the proof of publication.

Land Surveyor Hal Romans, representing the applicant, gave a brief overview of their request to construct a guard shed on Rite Aid's 36 acre parcel. The building will be in the middle of the parcel, on tarvia next to an entrance. This will allow them to log in the delivery trucks from the

shed rather than having to walk over each time to do it.

Mr. Romans addressed the standards of proof:

1. Its an Industrial District, and typically most I-1 businesses have a guard shed, so they believe there will no change in the character of the neighborhood.
2. They would have to shift the entrance otherwise, so they feel this is the most viable and most feasible place for the shed. This will allow a more efficient means to log in the trucks as they come in for delivery or pick up.
3. They do not feel the variance is substantial.
4. As there is Tarvia there already, they believe there will be no adverse or environmental impact.
5. The need for the Area Variance is self-created.

Chairman Mangan asked Assistant Commissioner Cindy Beckhusen if she had any comments and she had none.

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 #1433 to grant the Area Variance with the condition that the guard shed be built in substantial compliance with Exhibit "A". 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 Area Variance request in Case #1433 is granted.

**Case #1434 - AREA VARIANCE - Kevin M. Merrill, 3665 Gaskin Road (Tax Map #052.-05-40.0):**

The applicant is requesting an Area Variance pursuant to Section 230-13 E. (4)(c)[3] to allow for a reduction in the rear yard setback from 10 feet to 7.5 feet for the installation of a swimming pool. The property is located in the R-7.5, One-Family Residential zoning district.

The secretary read the proof of publication.

Chairman Mangan asked the applicant if the pool was already constructed and Mr. Merrill said yes. He explained that he had measured incorrectly.

Mr. Merrill addressed the standards of proof:

1. He believes there will no change in the character of the neighborhood.
2. Since he would have to tear down the pool and move and re-install it, which would be costly, he feels there is no other feasible method than to obtain an Area Variance to leave it where it is now.
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 measured incorrectly, so the need for the Area Variance is self-created.

Chairman Mangan asked Assistant Commissioner Cindy Beckhusen if she had any comments and she asked the applicant if it was an in-ground pool and he said no. Ms. Beckhusen then asked if there was concrete and Mr. Merrill said no.

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. Smith in Case #1434 to grant the Area Variance with the condition that the pool be built in substantial compliance with Exhibit "A". Motion was seconded by Deputy Chairman Fennhahn.

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 Area Variance request in Case #1434 is granted.

**Case #1435 - INTERPRETATION - Arlington Storage Company, LLC, 4318 Arlington Circle, (Tax Map #104.-03-22):**

The applicant is requesting an Interpretation, pursuant to Section 230-23 B., to determine if "public self-storage building" is a legal non-conforming use in a residential district. The property is in the R-TH, Town House zoning district.

Attorney Dan Shulman, who is representing the applicant, notified the Board that they are withdrawing their request for an Interpretation.

**Case #1436 - USE VARIANCE - Arlington Storage Company, LLC, 4318 Arlington Circle (Tax Map #104.-03-22):**

The applicant is seeking a Use Variance, pursuant to Section 230-13 G. (2), to allow for the

proposed use of a “public self-storage building” that is not an allowable use in an R-TH Town House zoning district.

The secretary read the proof of publication.

Attorney Dan Shulman, representative for the applicant, gave a brief history, explaining that Mr. & Mrs. Bell bought the building for storage. After the closing, the ownership changed to Arlington Storage Company, LLC. Their Certificate of Occupancy from the town said it could be used for “public self-storage”. Later they subdivided the building to a separate parcel. It is among the Townhouses, but now not a part of them.

Town Attorney Robert Germain supplied the Board with the history of the property as well as a memorandum of law regarding the standards of proof. Also to be considered is that when the applicant had applied for a zone change several years ago, to use of the building as “public self-storage” the Town Board determined the zone change was not needed.

Attorney Shulman explained that a contract to sell the building was lost due to the fact that it was found that “public self-storage” was not a legal use, so they are requesting a Use Variance. Mr. Shulman added that it has been a storage building for the last 14 years. Many of the renters are from the surrounding area.

Mr. Young asked if there would be any objection the Board limiting its use to “public self-storage” and Mr. Shulman said there would be no problem with that limitation.

Evan Wojtaszek said he would like to buy the building, but he wants the Certificate of Occupancy to be legal, so that in the future, if he wants to sell it, he can without any problems.

Chairman Mangan asked Assistant Commissioner Cindy Beckhusen if she had any comments and she noted that when the applicant subdivided the property, it created the storage building not meeting the required setbacks.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor of granting the Use Variance, and there were two. Terry Mitchell from Candlelight Apartments said he was in favor, as their tenants rent storage space there. Susan Eusepi of Belmont Village also wants it to remain as a “public self-storage” building, but added a concern about any planned construction. Chairman Mangan asked for those opposed to granting the Use Variance and there was none.

Attorney Shuman stated that there would be no construction.

Chairman Mangan closed the hearing.

**MOTION** was made by Mr. Smith in Case #1436 to grant the Use Variance with the condition that the building be limited to the existing footprint as shown on Exhibit “A” dated 8-3-2011. 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 *Carried.*

The Use Variance request in Case #1436 is granted.

**Case #1437 - AREA VARIANCE -Carols Corporation (Burger King), 4035 State Route 31, Tax Map #021.-01-05.4 :**

The applicant is requesting an Area Variance pursuant to Section 230-22 C.(1) to allow nine signs (two are allowed per tenant). The property is located in an RC-1, Regional Commercial zoning district.

The secretary read the proof of publication.

Bob Storie, of Carrols Corporation, explained that they are changing the appearance of the building and replacing the signage. They particularly want one on the section facing Route 481 so that people driving by can see it. In some cases the replaced signage will be a reduction in size.

Mr. Storie addressed the standards of proof:

1. It is a commercial area, so they believe there will no change in the character of the neighborhood.
2. As the signage is needed, they believe there is no other feasible method without obtaining an Area Variance.
3. They do not feel the variance is substantial, as they are breaking up the signage.
4. They believe there will be no adverse or environmental impact on the neighborhood.
5. The need for Area Variance is self created.

Chairman Mangan asked Assistant Commissioner Cindy Beckhusen if she had any comments and she had none.

Deputy Chairman Fennhahn asked why they needed two signs on the west side and Mr. Storie said that's what Burger King wants.

Joyce Cirrito voiced concern with any lighting of the signs and Mr. Shulman said only one will have exterior lighting that will shine up at it, the rest are internally illuminated.

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 #1437 to grant the variance with the condition that the signage be in accordance with Exhibit "A". 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 Area Variance request in Case #1437 is granted.

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

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