

**APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
December 13, 2010**

The regular meeting of the Zoning Board of Appeals of the Town of Clay, County of Onondaga, and State of New York was held at the Town Hall of Clay, 4401 State Route 31, and New York on December 13, 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
	Robert Germain	Attorney
	David Balcer	Town Planner

ABSENT: Karen Liebi Member

MOTION made by Mr. Young that the Minutes of the meeting of November 8, 2010 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 Deputy Chairman Fennhahn. *Carried.*

OLD BUSINESS:

NONE.

NEW BUSINESS:

Chairman Mangan asked the Board members if they had visited the sites and all answered yes they had.

Case #1387 - USE VARIANCE - Marcos Diego, 4511 Buckley Road - (Tax map #087.-01-28.0):

The applicant is seeking a use variance to allow a commercial nursery/greenhouse for the retail sale of plants.

The secretary read the proof of publication.

Chairman Mangan commented that the Onondaga County Planning Board has submitted correspondence. He also advised the applicant and his representative that they have to meet all the standards of proof.

Chairman Mangan asked the applicant how long he has lived at this address and Mr. Diego said

two years. Chairman Mangan noted that as a buyer Mr. Diego should have known that Industrial zoned property cannot be used for a commercial nursery.

Wayne Jarvis, who is representing the applicant, explained that when Mr. Diego purchased the residence he didn't plan on a greenhouse/nursery. They are farmers and just wanted a road side stand.

Chairman Mangan advised them that growing plants is not the problem; it's the commercial sales that are not allowed in an Industrial zone. He also commented that he had concerns regarding traffic.

Mr. Jarvis presented paperwork to the Board and addressed the standards of proof:

1. They believe that 9% would be a reasonable return.
2. He stated the sale of plants is just a hobby.
3. They do not feel the sale of plants will alter the essential character of the neighborhood.
4. They feel there is no self created hardship; the applicant just wants to continue the practice of farming.

Chairman Mangan informed the applicant that the members of the Board need to give further thought to this request.

Chairman Mangan adjourned Case #1387 to January 10, 2011.

Case #1388 - VARIANCES - Red Barn Country LLC, 7354 +/- Buckley Road - (Tax map #110.-01-01.1):

The applicant is seeking variances to allow four residential building lots as follows: Lot 1 - the required "Lot Frontage" in the Highway Overlay Zone District is 112.5 feet, the applicant is seeking to reduce it to 80.91 feet, a reduction of 31.59 feet; Lot 2 - the required "Lot Frontage" in the Highway Overlay Zone District is 112.5 feet, the applicant is seeking to reduce it to 98.35 feet, a reduction of 14.15 feet; Lot 3 - the required "Lot Frontage" in the Highway Overlay Zone District is 112.5 feet, the applicant is seeking to reduce it to 94.58 feet, a reduction of 17.92 feet; and Lot 4 - the required "Lot Frontage" in the Highway Overlay Zone District is 112.5 feet, the applicant is seeking to reduce it to 103.25 feet, a reduction of 9.25 feet.

The secretary read the proof of publication.

Hal Romans, Surveyor/Planner of 636 Old Liverpool Road, stated that he is representing the applicant.

Chairman Mangan commented that they have received correspondence from the Onondaga County Planning Board, and they have advised that the applicant should do a traffic study.

Mr. Romans explained that they can build three houses on this parcel, which they plan to subdivide, but in order to make it more profitable they are requesting variances to enable them to

build four houses. They will be combining driveways. They could build five houses, which would not require any variances, but it would be a cul-de-sac. The highway restrictions would not apply, but it would require engineering and a drainage area. If allowed to build on four lots, they feel it would not impact the land, as a cul-de-sac would. Also, there will be two curb cuts, regardless as to whether there are three houses or four houses.

Mr. Young asked who would be responsible for the driveways and Mr. Romans said there would be joint covenants. Mr. Young then asked what the size of the houses would be and Mr. Romans said 2,000 to 3,000 square feet. Mr. Young asked if there would be any request for variances in the future and Mr. Romans said no.

Mr. Romans addressed the standards of proof:

1. They believe there will no change in the character of the neighborhood, as it will be consistent with other lots on Buckley Road.
2. They want to leave the back area natural and they feel the alternative of building a cul-de-sac is not desirable.
3. The worst variance request is for lot #1 with a 28% reduction, and they do not feel that this variance is substantial, so they believe none are substantial.
4. They believe there will be no adverse impact on the neighborhood, as one additional house will not add much traffic.
5. Because of the subdividing of the property, the need for the variance is self-created.

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

Chairman Mangan asked if there were any further questions and Denise Murray asked about the placing of the curb cuts. Mr. Romans advised her that the County would be reviewing them. Chairman Mangan added that the county letter stated that they would have to coordinate them with the Townhouse development across the street.

Mr. Romans stated that the Townhouses are not going to happen, and they will condition whatever the Onondaga County Department of Transportation recommends for their development of this subdivision.

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

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1388 to grant the variance with the condition that the subdivision be in substantial compliance with Exhibit "A", and only two curb cuts be allowed for this subdivision. 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 *Carried.*

The variance request in Case #1388 is granted.

Case #1389 - VARIANCES - Scott Merle, 8690 +/- Oswego Road - (Tax map #018.-03-03.0):

The applicant is seeking variances to allow a house to be built as follows: North side yard - the applicant is proposing to reduce the required 25 foot 0 inches side yard setback to 15 feet 0 inches; Rear yard - the applicant is proposing to reduce the required rear yard setback from 25 feet 0 inches to 15 feet 0 inches; and Front yard - the applicant is proposing to reduce the required 140 feet 0 inches Highway Overlay District setback to 125 feet 0 inches.

The secretary read the proof of publication.

Scott Merle of 8735 Gaskin Road addressed the standards of proof:

1. He believes the house he plans on building will enhance the neighborhood.
2. He feels there is no other feasible method.
3. Building a 19 foot by 50 foot house would be tough to build, so he does not feel the variance is substantial.
4. He believes there will be no adverse impact on the neighborhood.
5. He does feel the need for the variance is self-created.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he stated that the applicant did not submit an actual house plan for a permit on this lot. He wanted to point out that depending on how an actual house plan layout is situated within the proposed variance area, it may or may not leave any room to install a deck in the future.

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 were none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1389 to grant the variance as requested. 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 *Carried.*

The variance request in Case #1389 is granted.

Case #1390 - VARIANCE - Brian Francis, 8266 Maple Road (Tax map #062.-02-05.0):

The applicant is seeking an area variance for a proposed front yard addition reducing the existing non-conforming front yard setback from 55.4 feet to 46 feet, where the required setback is 75 feet, for a total reduction of 29 feet 0 inches.

The secretary read the proof of publication.

Brian Francis of 176 Cortland Road, in Dryden is representing the owner, Carol Venery.

Chairman Mangan commented that the Onondaga County Planning Board has submitted correspondence.

Mr. Francis said they will be removing the front entryway down to the foundation and will be building a new grand entryway 10 feet by 18 feet, reducing the front yard setback by two feet across the front.

Mr. Francis addressed the standards of proof:

1. They believe this new entryway will improve the property and that there will be no adverse change in the character of the neighborhood.
2. Since it is an entranceway, and considering the layout of the house, there is no other feasible method.
3. They do not feel the variance is substantial.
4. They believe there will be no adverse impact on the neighborhood.
5. The need for the variance is self-created.

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

Chairman Mangan closed the hearing.

MOTION was made by Mr. Smith in Case #1390 to grant the variance with the condition that construction be in substantial compliance with Exhibit "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 #1390 is granted.

Case #1391 - VARIANCE - Stephen Sabel, 5378 Bear Road (Tax map #101.-02-01.0):

The applicant is seeking an area variance for a proposed front deck. The existing house is non-conforming in the required front yard setback of 25 feet at 22± feet. The proposed deck will reduce the setback to 15.05 feet. Also, the house is existing non-conforming in the required Highway Overlay District front yard setback of 115 feet at 47± feet. The proposed deck will reduce the setback to 39 feet 5 inches.

The secretary read the proof of publication.

Mr. Sabel said he had been out of town and did not have enough time to pick up his paperwork concerning this request for variances and asked for an adjournment.

Chairman Mangan adjourned Case #1387 to January 10, 2011.

Case #1392 - VARIANCE - Jennifer Richardson, 3627 New York State Route 31 (Tax map #020.-01-14.3 & 020.-01-08.1):

The applicant is seeking an area variance to allow a large addition that does not meet front and side yard setbacks; highway overlay setbacks or perimeter landscape strip setbacks as indicated on the application.

The secretary read the proof of publication.

Mark Weiss of 4913 State Route 31 is representing the applicant. He explained that the applicant has had the salon for twelve years and since then has purchased additional properties. Some pavement exists on the other properties. She would like to expand her business and include future tenants, a nutritionist, a clothing boutique and a professional trainer.

Chairman Mangan noted that the current building is almost as close to the road as the addition will be. Mr. Weiss agreed, pointing out that the addition will actually not be any closer than the current building. Mr. Weiss went on to explain the siting of the new addition, the needed variances, the land stripping and the location of the dumpster.

Mr. Weiss addressed the standards of proof:

1. It's a commercial neighborhood, so they believe there will no change in the character of the neighborhood.
2. The business has outgrown itself and they feel there is no other feasible method than to construct an addition.
3. They do not feel the variance is substantial.
4. They believe there will be no adverse impact on the neighborhood.
5. He stated the need for the variance is self-created.

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

Chairman Mangan closed the hearing.

MOTION was made by Deputy Chairman Fennhahn in Case #1392 to grant the variance with the condition that construction be in substantial compliance with Exhibit "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 #1392 is granted.

There being no further business, Chairman Mangan adjourned the meeting at 8:40 P.M.

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