

APPROVED  
ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
May 14, 2012

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 May 14, 2012.

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
	Mark Smith	Member
	Brian Hall	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Joseph Grispino	Code Enforcement Officer

ABSENT: Karen Liebi Member

**MOTION** made by Deputy Chairman Fennhahn that the Minutes of the meeting of March 12, 2012 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 Mr. Hall. *Carried.*

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

Chairman Mangan asked the members if they all visited the sites and all stated that they had with the exception of Chairman Fennhahn.

**Case #1447 - AREA VARIANCES – Michael Graham (Kristen Purcell), 7897 Oswego Road, Tax Map #080.-01-07.0:**

The applicant is requesting Area Variances pursuant to Sections 230-22 C.(1); 230-19 A.(5); 230-19 A.(4)(b)[1]; 230-15 A.(4)(c)[5]; and 230-15 A.(4)(c)[4] to #1} allow for a reduction in the front yard setback from 25 feet to 22 feet for a freestanding sign; #2} a reduction in the Highway Overlay from 140 feet to 117.5 feet; #3} a reduction in lot area from 35,000 square feet to 28,000 square feet; #4} a reduction in lot frontage from 175 feet to 101 feet; #5} an increase in the allowable floor area of an accessory structure from 500 square feet to 2,400 square feet; and

#6} an increase in the allowable accessory structure height from 15 feet to 20 feet. The property is located in the O-1 Office zoning district.

The Secretary read the public notice.

Hal Romans was not present yet, so Chairman Mangan adjourned Case #1447 to be heard after the other four cases.

**Case #1450 - AREA VARIANCES – Jeff Barron of Pride Signs, Ltd. (Applebee’s), 3975 Route 31, Tax Map #021-01-05.1:**

The applicant is requesting Area Variances pursuant to Section 230-22 C.(1), for an increase of nine additional signs (nine are allowed per a previous variance) making a total of eighteen signs; an increase in square footage for seven signs, five 22.4 square foot signs, a difference of 10.4 square feet for each, and 23.4 square foot signs, a difference of 11.4 square feet for each; an increase in square footage for one sign 11.1 square feet, a difference of 3.4 square feet; and an increase in square footage for one sign to 3.9 square feet, a difference of 1.65 square feet. The property is located in the RC-1 Regional Commercial zoning district.

The secretary read the proof of publication.

Steve Bell, Director of Construction for T. L, Cannon Management Corp explained that they would like new more modern awnings.

Chairman Mangan noted that they had come in a year ago for additional signs where nine had been granted by the Board.

Mr. Bell further explained that they are rebranding and they want the people to know changes are new inside also. They want the national branding with LED lighting, a more modern look.

Mr. Bell addressed the standards of proof:

1. They believe that there will not be any detrimental change to the character of the neighborhood.
2. They believe there is no other feasible method. It’s the first change in 20 years.  
*Chairman Mangan commented that they have already received 9 variances and in the future may want even more.*
3. They do feel the variances are substantial.
4. They believe there is no environmental impact on the neighborhood.
5. They believe the need for the variances are self-created.

Chairman Fennhahn asked what brought this all about, and Mr. Bell said that they were bought out four or five years ago and they are experiencing negative sales, and they had to go back to the drawing board. Now they want to rebrand to attract more customers. Costs are going up.

You think awnings will help? Chairman Mangan asked the applicant.

Mr. Bell said they have seen a 5 to 7% increase in sales.

Chairman Mangan pointed out that they had received a sign that could be seen from the highway and couldn't see what awnings can do.

To which Mr. Bell stated that research has shown they have an impact.

Chairman Mangan asked Code Enforcement Officer Mr. Grispino if he had any comments and he said he had none.

Chairman Mangan asked if there were any further comments or questions and Joyce Cerrito, from the BCA said she was afraid that granting the variances will be encouraging even more signs on the Route 31 corridor. She felt nine sign was enough. 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 #1450 to **deny** the variance requests. Motion was seconded by Mr. Smith.

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

The area variance requests for Case #1450 are **denied**.

**Case #1451 - AREA VARIANCE - Kassis Superior Signs – Jamie Bracy (Salvation Army), 3906 Brewerton Road, Tax Map #118.-01-07.1:**

The applicant is requesting Area Variances pursuant to Section 230-22 C.(1) to increase the number of freestanding signs from one to two, when only one is allowed; to decrease the setback from 25 feet to 0 feet on Brewerton Road; and to decrease the setback from 25 feet to 0 feet on South Bay Road. The property is located in the HC-1 Highway Commercial zoning district.

The secretary read the proof of publication.

Jamie Bracy of Kassis Superior Signs was there to represent the Salvation Army.

Chairman Mangan noted that the Salvation Army took over the old Burdick Toyota property.

Previously the Board had approved a dock so that people can drop things off.

Mr. Bracy explained that they want to install a sign on South Bay Road and one on Brewerton Road.

Mr. Bracy addressed the standards of proof:

1. They believe that there will not be any detrimental change to the character of the

- neighborhood. The surrounding parcels are commercial.
2. They believe there is no other feasible method. They need to identify the building and moving the sign further back would place it in the parking lot.
  3. They do not feel the variances are substantial.
  4. They believe there will not be any environmental impact on the neighborhood. The signs will match surrounding signs in the area.
  5. They believe the need for the variance is self-created.

Chairman Mangan asked Code Enforcement Officer Mr. Grispingo if he had any comments and he said 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 was none.

Chairman Mangan closed the hearing.

**MOTION** was made by Mr. Hall in Case #1451 to grant the variance with the condition that construction be in substantial compliance with Exhibits “A”. Motion was seconded by Mr. Smith.

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

The variance requests in Case #1451 are granted.

**Case #1452 - AREA VARIANCES - Charles Signs, Inc. – Wetzel Road Church of Christ, 4268 Wetzel Road, Tax Map #081.-22-10.0:**

The applicant is requesting Area Variances pursuant to Section 230-22 C.(1) to reduce the front yard setback from 25 feet to 1 foot, and to increase the square footage for a new sign from 24 square feet to 32 square feet (presently there are two signs, a total of 48 square feet, which will be a reduction of two signs to one sign). The property is located in the R-7.5 One-Family Residential zoning district.

The secretary read the proof of publication.

Alan Perkins, the Minister at Wetzel Road Church explained that they would like to replace and combine the two signs on the property into one sign.

Minister Perkins addressed the standards of proof:

1. They believe that there will not be any detrimental change to the character of the neighborhood. Neighbors have asked them to replace it.
2. They have limited yard space, so they believe there is no other feasible method.
3. They do not feel the variances are substantial.

4. They believe there will not be any environmental impact on the neighborhood.
5. They do not believe the need for the variance is self-created, since the signs were there previously.

Chairman Mangan asked Code Enforcement Officer Mr. Grispingo if he had any comments and he said 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 was none.

Chairman Mangan closed the hearing.

**MOTION** was made by Mr. Hall in Case #1452 to grant the variance with the condition that construction be in substantial compliance with Exhibit "A". Motion was seconded by Deputy Chairman Fennhahn.

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

The variance requests in Case #1452 are granted.

**Case #1453 - AREA VARIANCES - Paul Retzbach, 123 Dolshire Drive, Tax Map #117.-06-13.0:**

The applicant is requesting Area Variances pursuant to Sections 230-13 D.(4)(b)[1] and 230-20 B.(2)(b), one to allow for a reduction in the front yard setback from 25 feet to 8 feet; an Area Variance to allow for a reduction in the front yard setback from 25 feet to 0; and an Area Variance to allow for an increase in allowable front yard fence height from 2 ½ feet to 6 feet. The variances will allow for a fence and existing pool. The property is located in the R-10 One-Family Residential zoning district.

The secretary read the proof of publication.

Chairman Mangan explained that this is a corner lot so it legally has two front yards. Once it was not a corner lot, but a street was put in, turning this lot into a corner lot.

Mr. Retzbach stated that the time has come to replace the fence, which will be going exactly where the old one is now.

Mr. Retzbach addressed the standards of proof:

1. It will improve the curb appeal. They are replacing what is already there so he believes there will be no detrimental change to the character of the neighborhood.
2. They believe there is no other feasible method.
3. He does feel the variances are substantial.
4. He believes there is no environmental impact on the neighborhood.

5. He believes the need for the variance is not self-created, as it was created by the previous owner.

Chairman Mangan asked Code Enforcement Officer Mr. Grispingo if he had any comments and he noted that the fence is for the pool and asked the applicant what kind he intended to put in. Mr. Retzbach said a stockade fence. Mr. Grispingo advised that he would make sure the crossbars are on the inside and the gate faces away.

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 #1453 to grant the variance with the condition that construction be in substantial compliance with Exhibit "A", a survey dated June 28, 2005. Motion was seconded by Mr. Hall.

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

The variance requests in Case #1453 are granted.

**Case #1447 - AREA VARIANCES – Michael Graham (Kristen Purcell), 7897 Oswego Road, Tax Map #080.-01-07.0:**

The applicant is requesting Area Variances pursuant to Sections 230-22 C.(1); 230-19 A.(5); 230-19 A.(4)(b)[1]; 230-15 A.(4)(c)[5]; and 230-15 A.(4)(c)[4] to #1} allow for a reduction in the front yard setback from 25 feet to 22 feet for a freestanding sign; #2} a reduction in the Highway Overlay from 140 feet to 117.5 feet; #3} a reduction in lot area from 35,000 square feet to 28,000 square feet; #4} a reduction in lot frontage from 175 feet to 101 feet; #5} an increase in the allowable floor area of an accessory structure from 500 square feet to 2,400 square feet; and #6} an increase in the allowable accessory structure height from 15 feet to 20 feet. The property is located in the O-1 Office zoning district.

*(Note: The sign and changes made to the building are already completed. There is presently no garage.)*

Hal Romans, of Ianuzi and Romans, 5251 Witz Drive presented a revised survey showing the recent zone change. He explained that Mr. Graham bought the property thinking it was zoned Commercial. Mr. Graham has received a change of zone from the Town Board for an O-1 Office district. Mr. Graham has installed a sign and has made structural changes to the building. Consequently they need to obtain variances, #1 through #4 for the office, and #5 and #6 are for a garage.

Chairman Mangan pointed out that this parcel is surrounded by Commercial businesses.

Mr. Romans stated that there are no wetlands on this parcel, but there are some close by. They tried to obtain additional property, but could not. Mr. Graham wants his office there and would also like to construct a garage to house three to four pick-up trucks that his employees use. The garage would ensure that they didn't get broken into.

Mr. Romans addressed the standards of proof:

1. With regard to all the variances, they believe that there is no detrimental change to the character of the neighborhood. The existing building with the front porch fits well with the surrounding area.
2. They believe there is no other feasible method. Addressing #1 } the sign is already in place; #2 } removing the porch will not change the need for the variance for the highway overlay; #3 } no one will sell any of their property to the north; and #5 & #6 } they could make it fit the criteria, but want space for more than two pick-ups.
3. They do not feel the variances are substantial for #1, #3, #4, #5 and #6, but feel it is substantial for #2.
4. They believe there is no environmental impact on the neighborhood. There are other properties with similar issues, it's a commercial area, and with regard to #5 and #6, the house/office would mostly shield the garage, and they could screen the property to the south.
5. They believe the need for the variances are self-created.

Chairman Mangan asked the Code Enforcement Officer Mr. Grispino if he had any comments and he said that the applicant states that the property will not be used as a construction service yard, but with the pick-ups and garage or pole barn the Planning Department feels that inevitably the property could turn into one.

Robert Bick, the Town Assessor noted that all the changes had been made to the property without obtaining building permits.

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 #1447 to **grant** the variance requests for #1 } **Section 230-22 C.(1)** – reduction in the front yard setback from 25 feet to 22 feet for a freestanding sign; #2 } **Section 230-19 A.(5)** - reduction in the Highway Overlay from 140 feet to 117.5 feet; #3 } **Section 230-19 A.(4)(b)[1]** - reduction in the lot frontage from 175 feet to 101 feet; #4 } **Section 230-19 A.(4)(b)[1]** - reduction in the lot area from 35,000 square feet to 28,000 square feet, with the condition that it be in substantial compliance with the site plan; and

to **deny** the variance requests for #5 } **Section 230-15 A.(4)(c)[5]** - increase in the allowable floor area of an accessory structure from 500 square feet to 2,400 square feet and #6 } **Section 230-15 A.(4)(c)[4]** increase in the allowable accessory structure height from 15 feet to 20 feet. Motion was seconded by Deputy Chairman Fennhahn.

Roll call: Chairman Mangan - in favor  
Deputy Chairman Fennhahn - in favor

Mrs. Liebi	- absent	
Mr. Smith	- in favor	
Mr. Hall	- in favor	<i>Carried.</i>

The variance requests in Case #1447 are granted for #1, #2, #3, and #4. The variance requests for #5 and #6 are **denied**.

There being no further business, Chairman Mangan adjourned the meeting at 8:24 P.M.

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