

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
August 13, 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 August 13, 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
	Mark V. Territo	Commissioner of Planning & Development
ABSENT:	Karen Liebi	Member

MOTION made by Deputy Chairman Fennhahn that the Minutes of the meeting of July 9, 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. Smith. *Carried.*

OLD BUSINESS:

None.

NEW BUSINESS:

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

Case # 1459 – AREA VARIANCES - Paul Licari, 4982 Rabbit Run – Tax Map #089.-10-05.0:

The applicant is requesting Area Variances pursuant to Sections 230-13 E(4)(b)[1], 230-20 B(2)(b) & 230-11 to allow for a reduction in the front yard setback from 25 feet to 0, a variance to increase allowable front yard fence height from 2.5 feet to 4 feet, and a decrease in a three-sided lot minimum side yard setback of 10 feet to 6.1 feet to allow for the construction of a fence and a pool. The property is located in the R-7.5 zoning district.

The Secretary read the proof of publication.

Mr. Licari explained they want to put up a fence that would be in line with their neighbor's fence. It will be behind their existing landscaping.

Chairman Mangan asked if the fence would be "screened" by the landscaping and Mr. Licari said yes.

Paul Licari addressed the standards of proof:

1. They believe that there will not be any undesirable change to the character of the neighborhood and their fence would be in line with their neighbor's fence.
2. They believe there is no other feasible method. The fence cannot be in line with their neighbor's fence without the variance.
3. They do not believe the variance requests are substantial.
4. They believe there will be no environmental impact on the neighborhood.
5. They believe the need for the variances are self created.

Chairman Mangan asked Commissioner Territo if he had any comments, and he had none.

Chairman Mangan asked if there were any further comments or questions and there were none. Chairman Mangan asked for those in favor and those opposed to the granting of the Area Variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Hall in Case #1459 to grant the Area Variances 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 Area Variances in Case #1459 are granted.

Case #1460 – AREA VARIANCES - Sam's Real Estate Business Trust/Walmart Real Estate Business, 8770 Dell Drive (f.k.a. 3895 Route 31), Tax Map # 021.-01-03.3:

The applicant is requesting Area Variances pursuant to Section 230-22 C.(1) to allow for an increase in allowable height of a freestanding sign from 25 feet to 45 feet and to allow for five wall signs when a maximum of two are allowed. The property is located in the RC-1 Regional Commercial district.

The Secretary read the proof of publication.

Glenn Harvey of Bergmann Associates, represented the applicant.

Chairman Mangan noted that they received a resolution the applicant had prepared for the Board. He told Mr. Bergmann that the Zoning Board of Appeals has their own attorney and that he does an outstanding job and they don't need theirs.

Mr. Harvey explained that the site for Sam's is a considerable distance back from State Route 31 and they feel a taller sign is needed so that customers will know where they are located. They do not have frontage on State Route 31. They also want more wall signage so that customers know where the different components of the store are located also.

Mr. Harvey addressed the standards of proof:

1. The store is located in a commercial district and they believe the taller freestanding sign and the extra wall signage will not create any detrimental change to the character of the neighborhood or nearby properties.
2. They believe there is no other feasible method. In order to alert both pedestrian and vehicular traffic to the location and existence of the wide array of services offered by the Supercenter they need more than two wall signs and a taller freestanding sign.
3. They do not believe the request for three more wall signs and a taller freestanding sign is a very substantial variance request.
4. They believe there will be no environmental impact on the neighborhood, as they are only requesting changes in signage.
5. They believe the need for the variances are self created.

Chairman Mangan asked Commissioner Territo if he had any comments, and he had none.

Chairman Mangan asked if there were any further comments or questions and there were none. Chairman Mangan asked for those in favor and those opposed to the granting of the Area Variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Smith in Case #1460 to grant the Area Variances with the condition that construction be in substantial compliance with Exhibit "A" and photo. 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 Area Variances in Case #1460 are granted.

Case # 1461 – AREA VARIANCE - Willard & Gail Jones, 7605 Fitzpatrick Drive, Tax Map Number 096.-27-17.0:

The applicant is requesting an Area Variance pursuant to Section 230-13E.(4)(b)[1] to allow for a reduction in the front yard setback from 25 feet to 19.8 feet to allow for the expansion of a porch. The property is located in the R-7.5 zoning district.

The Secretary read the proof of publication.

Willard Jones explained that they would like to build a porch.

Deputy Chairman Fennhahn asked if they intended to have it enclosed and Willard Jones said no. Gail Jones added that it would only have a railing.

Mr. Jones addressed the standards of proof:

1. They believe that the porch will be an improvement to their home, so they believe there will not be any detrimental change to the character of the neighborhood.
2. A front porch without a roof would not require a variance, but they also want a roof on it to protect them from the elements, so they believe there is no other feasible method.
3. They do not believe the variance requests is substantial.
4. They believe there will be no environmental impact on the neighborhood.
5. They believe the need for the variance is self created.

Chairman Mangan asked Commissioner Territo if he had any comments, and he had none.

Chairman Mangan asked if there were any further comments or questions and there were none. Chairman Mangan asked for those in favor of granting the Area Variance and the President of the Clairmount Four Seasons Homeowners Association was in favor. Chairman Mangan asked for those opposed to the granting of the Area Variance and there were none.

Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Fennhahn in Case #1461 to grant the Area Variance with the condition that construction be in substantial compliance with Exhibit "A" dated 8/6/12 and that the porch not be enclosed. 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 in Case #1461 is granted.

Case #1462 – AREA VARIANCES - Ray Nasoni, for the Trinity Assembly of God, 4398 State Route 31, Tax Map # 059.-01-16.2:

The applicant is requesting Area Variances pursuant to Section 230-22 C.(1) to allow for an increase in allowable height of a freestanding sign from 6 feet to 7 feet, an increase in allowable square footage from 24 to 32, and a reduction in the front yard setback from 25 feet to 0. The property is located in the RA-100 Residential Agricultural district.

The Secretary read the proof of publication.

Ray Nasoni of Sign-A-Rama, represented the Trinity Assembly of God church. He explained that they have a 4 foot by 8 foot sign and they would like to replace it and move the new one back.

Chairman Mangan noted that the present sign is the same size they are requesting and that even though it is presently in the new York State Route 31 right-of-way they are going to move it back further so that it will now be on their property.

Mr. Nasoni addressed the standards of proof:

1. They believe the new sign will be an improvement so there will not be a detrimental change to the character of the neighborhood.
2. Without the Area Variances the sign would be too far back off the road to be seen well, so they believe there is no other feasible method for the placement of the sign and the square footage of the is what they presently have.
3. They do believe the variance requests are substantial.
4. They believe there will be no environmental impact on the neighborhood. It's just a sign.
5. They believe the need for the variances are self created.

Chairman Mangan asked Commissioner Territo if he had any comments, and he had none.

Chairman Mangan asked if there were any further comments or questions and there were none. Chairman Mangan asked for those in favor and those opposed to the granting of the Area Variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Fennhahn in Case #1462 to grant the Area Variances with the condition that construction be in substantial compliance with Exhibit "A" and the sign content. 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 Variances in Case #1462 are granted.

Case # 1463 – AREA VARIANCE - Richard Lawrence, 5451 Congelton Circle, Tax Map Number 077.-27-31.0:

The applicant is requesting an Area Variance pursuant to Section 230-13E.(4)(b)[2] to allow for a reduction in the side yard setback from 13.5 feet to 10 feet to allow for the construction of an addition. The property is located in the R-7.5 zoning district.

The Secretary read the proof of publication.

Richard Lawrence explained that he needed a shed and he built it so that it is attached to his house; he tried to make its impact as little as possible. He did not, however, pull a building permit before he constructed it.

Mr. Lawrence addressed the standards of proof:

1. He believes that the shed blends in with the house and that there will not be any detrimental change to the character of the neighborhood.
2. The only other feasible method would be to plop one in his back yard, so he believes there was no other feasible method than to attach it to his house.

Chairman Mangan commented that normally sheds are in the back corner of the yard.

Commissioner Territo explained that if the variance is approved the applicant will have to apply for a building permit, and submit an architectural drawing. Also a fire wall may be required since it is attached to the house.

3. He does not believe the variance request is substantial.
4. He believes there will be no environmental impact on the neighborhood.
5. The need for the variance is self-created, but he tried to make its impact as small as possible.

Chairman Mangan asked Commissioner Territo if he had any further comments, and he had none.

Chairman Mangan asked if there were any further comments or questions and there were several neighbors who spoke. Jim Nistico said he didn't feel the shed addition was up to code. He feels it sets a precedent and is not up to standard with the other houses in the neighborhood.

One neighbor asked if it needed to be insulated.

Commissioner Territo commented that as a shed it would not need insulation, but as an addition, it would.

Mr. Smith added that it would be part of the code review when the applicant applies for the building permit.

Mr. Nistico added that the shed also does not match the roofline of the house.

Suzanne McDonald commented that the addition is not pleasing to the eye and it doesn't look like it belongs.

Wanda Frey commented that it sets a precedent in the neighborhood for people to do willy-nilly with their houses.

Chairman Mangan asked for those in favor of granting the Area Variance and there were none. Chairman Mangan asked for those opposed to the granting of the Area Variance, and there were eight: Jim & Cindy Nistico, Wanda and Dave Frey, Frank and Sue Mirache, and Tom and Suzanne McDonald.

MOTION was made by Mr. Smith to adjourn Case #1463 to September 10, 2012 to allow the Board additional time to review the applicant's request. Motion was seconded by Deputy Chairman Fennhahn. Ayes-4, Noes-0. *Carried.*

Case # 1464 - AREA VARIANCES - Mary C. Mayer, 4594 Wetzel Road, Tax Map #087.-01-07.0:

The applicant is requesting an area variance pursuant to Section 230-17 C.(4)(b)[1][a] to allow for a reduction in the front yard setback from 200 feet to 31.9 feet for a front porch addition. The property is located in the I-1, Industrial district.

The Secretary read the proof of publication.

David Sullivan, Mary Mayer's nephew, explained that they want to put porch on the front of the house. The property is surrounded by Barrett Paving and is a non-compliance structure in an I-1 Industrial zoning district.

Mr. Sullivan addressed the standards of proof:

1. They believe that there will not be any detrimental change to the character of the neighborhood. There are few residences there.
2. There is a septic system in the back and they would eventually like to add a garage so they believe there is no other feasible method than to build the porch on the front of the house.
3. They do not believe the variance requests are substantial.
4. It's a commercial area, so they believe there will be no environmental impact on the neighborhood.
5. They are a victim of re-zoning, but feel the need for the variance is self-created.

Chairman Mangan asked Commissioner Territo if he had any comments, and he had none.

Chairman Mangan asked if there were any further comments or questions and there were none. Chairman Mangan asked for those in favor and those opposed to the granting of the Area Variance

and there were none.

Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Fennhahn in Case #1464 to grant the Area Variance with the condition that construction be in substantial compliance with Exhibit "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 Area Variance in Case #1464 is granted.

There being no further business, Chairman Mangan adjourned the meeting at 8:25 P.M.



Vivian I. Mason
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Zoning Board of Appeals
Town of Clay