

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
August 8, 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 August 8, 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

MOTION made by Deputy Chairman Fennhahn that the Minutes of the meeting of July 11, 2011 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. Young. *Carried.*

OLD BUSINESS:

Case #1410 - USE VARIANCE – Jim Nichols, 7240 Oswego Road, Tax map #114.-01-32.0:

The applicant is requesting a Use Variance pursuant to Sections 230-16 B.(2) and 230-25 D.(2)(a)[2] to allow volleyball court/parking. The Use Variance is required when proposed land use activity is not permitted in the zone district. The property is an HC-1, Highway Commercial district.

Neither a representative nor the applicant was present. Chairman Mangan noted that no one had been there for any of the three meetings.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young that the Use Variance be denied. 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 Use Variance request for Case #1410 is **denied**.

Case #1419 – AREA VARIANCE – Julie D. Hilbert, 103 Butterfield Circle, Tax Map # 110.-01-22.0:

The applicant is requesting Area Variances, pursuant to Sections 230-20 B.(2)(a,b) and 230-13 D.(4)(b)[1], to increase the height of a fence from 2 1/2 feet to a 7 foot privacy fence, and reduce the front yard setback from 25 feet to 20 feet for a deck and a fence. The property is located in the R-10 One-Family Residential district.

The secretary read the proof of publication (re-advertisement). (*Standards of proof were given at the July 11, 2011 meeting.*)

Chairman Mangan explained that this case had to be re-advertised due to an omission of the word “fence” which was also part also part of the variance request.

Chairman Mangan asked for any comments and there were none.

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

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1419 to grant the Area Variance as requested with the condition that it be constructed in substantial compliance with Exhibit “A” and “B”. 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 *Carried.*

The Area Variance request in Case #1419 is granted.

NEW BUSINESS:

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

Case #1424 – Mary C. Mayer, 4594 Wetzel Road, Tax Map #087.-01-07.0:

The applicant is seeking area variances, pursuant to Sections 230-23 C.(2) and 230-17 C.(4)(b)[2], to allow for modification and expansion of a non-conforming structure, and a reduction in the side yard setback from 25 feet to 3.5 feet for an addition. The property is located in an I-1 Industrial district.

The secretary read the proof of publication.

David Sullivan, 18 Grove Street, Baldwinsville, NY was there to represent the applicant.

Chairman Mangan noted for the record that the Town received a letter from the owner of the abutting property, Barrett Paving, stating that they had no objection to the Area Variance request.

Mr. Sullivan explained that the residence is located in an Industrial Park district. The owner would like to put on an addition to the right side of her home.

Chairman Mangan commented that where they want to build this addition is close to the line between Ms. Mayer's property and that of Barrett Paving.

Mr. Sullivan explained that Ms. Mayer wants the addition on the right side of the house, as she would like to put a garage on the left side. She wants the addition so that she can have people stay with her. The addition cannot go to the back of the house, because that is where the septic system is located.

Chairman Mangan asked if the utilities were located on the left side and Mr. Sullivan said that they were and that it would be costly to move them.

Mr. Sullivan addressed the standards of proof:

1. They believe there will not be any undesirable change to the character of the neighborhood. There are no other structures nearby.
2. To move the utilities on the left side of the house would be costly and due to the septic system being to the rear of the house they believe this is the only feasible location for the addition, thus requiring an Area Variance.
3. It is a small addition and because this is a non-conforming structure, and are already 15 feet from the property line, they feel the variance is not substantial.
4. The property is zoned Industrial so they believe there will be no adverse impact on the neighborhood. Nor will there be any adverse environmental impact.

5. 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 questions and there were none. Chairman Mangan asked for those in favor and for those opposed to granting the Area Variance and there were none.

MOTION was made by Mr. Smith in Case #1424 to grant the Area Variances as requested, with the condition that construction be in substantial compliance with Exhibit "A" (three pages). 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 Area Variance requests in Case #1424 are granted.

Case # 1425 – Morgan Clay Apartments, LLC, Dell Center and Laser Drive, Tax Map #021.-01-02.3:

The applicant is seeking Area Variances, pursuant to Sections 230-13 H.(4)(c)[1]; 230-13 H.(4)(c)[2]; and 230-13 H.(4)(c)[4] to allow an accessory structure (garage) beyond the principal structure front line, to reduce the side yard setback from 43 feet to 15 feet to allow for the construction of garages, and to increase the allowable height of a structure (garage) from 15 feet to 19 feet 4 inches. The property is in an R-APT Apartment zoning district.

The secretary read the proof of publication.

Attorney Karl Essler, representative for the applicant, went over their request for variances. There will be 16 garages and a utility garage that require variances for height and a variance for a reduction in the side yard setback to allow construction of the garages. Also one garage requires a variance to allow its construction beyond the principal structure's front line.

Mr. Essler explained that the one garage is located on the entry yard and is in front of the main apartment building.

Chairman Mangan asked what the distance was to the garage from the entrance to this development and Mr. Essler said it was about 743 feet to the lot line from Laser Drive. Mr. Essler also noted that this project backs up to the shopping center on State Route 31 and is hidden by these commercial buildings.

Mr. Essler addressed the standards of proof:

1. They believe that increasing the height of the garages and the utility garage adds to their appearance and making them look more structurally attractive. Because they will be located behind the shopping center, they do not feel there will be any undesirable change to the character of the neighborhood.
2. They feel the height increase they are requesting for the garages and utility garage makes them more aesthetically appealing. With regard to the one garage going beyond the principal structure line, they believe there is no other way to construct one for that apartment building other than at this location. Therefore, they do not believe there is any other feasible and reasonable method without obtaining the variances.
3. They do not feel the variance requests are substantial. The apartment project is behind the shopping center, so there is low visibility and the garage frontage for the one going beyond the principal structure is not substantial either.
4. They believe there will be no adverse or environmental impact on the neighborhood. The storm water system is adequate.
5. The need for the variance is self-created, but they took over a project that had already been designed. To make the apartment complex attractive, they need the area variances.
6. Chairman Mangan asked Commissioner Territo 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 for those opposed to granting the Area Variance and there were none.

MOTION was made by Deputy Chairman Fennhahn in Case #1425 to grant the Area Variances as requested with the condition that construction be in substantial compliance with Exhibit "A" - Map and Exhibit "B" - Plan. 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 Area Variances requested in Case #1425 are granted.

There being no further business, Chairman Mangan adjourned the meeting at 8:15 P.M.

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