

APPROVED  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING**  
July 9, 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 July 9, 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
	Karen Liebi	Member
	Brian Hall	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: Mark Smith Member

**MOTION** made by Mrs. Liebi that the Minutes of the meeting of June 11, 2012 be accepted. Motion was seconded by Mr. Hall. *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 Mrs. Liebi. *Carried.*

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

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

**Case #1456 – INTERPRETATION (Townwide) - Matthew Rahalski :**

The applicant is requesting an Interpretation pursuant to Sections 230-16 D.(2)(b)[1] and 230-11 of a definition of gasoline service station and retail service of automobiles as an accessory use related to a gasoline service station. This is regarding the LuC-1 Limited Use District for Gasoline Services.

The secretary read the proof of publication.

Mr. Rahalski stated that his business is 7459 Morgan Road and has always been an auto related business. Thirty-five years ago it had also been a gasoline station, but the gas pumps have been gone for a long time.

Chairman Mangan commented that the town had done some rezoning making this a Limited Use District for Gasoline Services.

Mr. Rahalski noted that this auto service business is across from an Industrial zoning district but also near some residential properties.

Deputy Chairman Fennhahn asked what kind of auto service does he propose to conduct and Mr. Rahalski said diagnostics, brakes etc, body work and painting.

Attorney Robert Germain explained that body work and painting requires a Special Permit from the Town Board.

Chairman Mangan further explained that another definition covers body work and painting.

Mr. Hall asked the applicant if he wanted a full range of automobile service and Mr. Rahalski said yes and to include body work and painting of autos.

Chairman Mangan asked if there were any further questions and there were none.

Chairman Mangan closed the hearing.

**MOTION** was made by Mr. Hall in Case #1456 that the Board defines Section 230-11 of Town Code, "Gasoline Service Station" to include facilities for the retail sale and dispensing of motor fuels and petroleum products, goods and services generally required in the operation and maintenance of motor vehicles, sale and servicing of tires, batteries, automotive accessories and replacement items; lubrication services and the performance of routine automotive maintenance and repairs. It is **not** to include auto body/collision repair. Motion was seconded by Mrs. Liebi.

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

**Case #1457 - AREA VARIANCE - James Razza, 8501 Long Leaf Trail, Tax Map #056.-12-33.0:**

The applicant is requesting Area Variances pursuant to Sections. 230-13 E.(4)(b)[1] and 230-20 B.(2)(b) to allow for a reduction in the front yard setback from 25 feet to 9 feet, and a variance to increase the allowable front yard fence height from 30 inches to 6 feet, to allow for the construction of a fence. The property is located in the R-7.5 Residential One-Family Residential zoning district.

The secretary read the proof of publication.

Chairman Mangan noted that this is a corner lot, that a side yard is also considered a front yard by zoning code regulations. He also noted that the survey shows the fence going to the front of the house, but when they visited the site the stakes were placed in a different place.

Matthew Razza noted that the drawing on the Butler fence paperwork is where the fence is supposed to be, and that the survey is incorrect. He explained that they want the fence and the height for safety, protection and privacy reasons.

Mr. Razza addressed the standards of proof:

1. A fence has been there for the past 5 years. These variances are to allow the fence to be moved closer to the side of the road. It will not affect the existing tree line, so they don't feel there will be an undesirable change the character of the neighborhood.
2. For safety, privacy and protection issues, they believe there is no other feasible method.
3. They feel the variances are substantial because of the code.
4. Since a fence has been there for 5 years already, they believe there will be no adverse environmental or negative effect on the neighborhood.
5. Technically, they feel the need for the variance is self-created, but feel a 3 feet fence will not provide the safety a 5 foot or 6 foot fence will for their children's safety. Being near a town park, erected after they bought their home, has also invited mischievous vandals and they want the fence higher for security reasons.

Chairman Mangan noted that while it is a corner lot, he didn't feel the increase in the height of the fence being a problem vision-wise.

Mr. Razza said he had also spoken to his neighbors and they had said they saw no problem with the fence either.

Chairman Mangan asked Commissioner Territo 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 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. Liebi in Case #1457 to grant the variance with the condition that construction be in substantial compliance with the Butler Fence paperwork. Motion was seconded by Deputy Chairman Fennhahn.

Roll call:      Chairman Mangan                      - in favor  
                    Deputy Chairman Fennhahn           - in favor  
                    Karen Liebi                                - in favor  
                    Mark Smith                                - absent  
                    Brian Hall                                 - in favor                      *Carried.*

The variance request in Case #1457 is granted.

**Case #1458 - AREA VARIANCES - Fuccillo Nissan, Inc., 3893 State Route 31, Tax Map #021.-01-03.2:**

The applicant is requesting Area Variances pursuant to Section 230-22 C.(1) to increase the allowable number of wall signs from two to four; and to allow for an increase in the allowable height of a freestanding sign from 25 feet to 30 feet, to allow for the construction of new signage. The property is located in the RC-1 Regional Commercial zoning district.

The secretary read the proof of publication.

Robert Scalione of the Melvin and Melvin law firm represented the applicant. He explained that the Fuccillo Holding Company looked for a manufacturer's dealership and found that a dealership turned in their franchise for Nissan. Fuccillo sought the franchise and this facility on Route 31 was approved by Nissan. The building will be renovated, but will not increase in square footage. He gave an overall view of the project. They are proposing changes to the freestanding sign and are requesting four wall signs as opposed to the two allowed. One of the four wall signs is a little over the allowed size.

Chairman Mangan pointed out that overall, the four signs together, do not exceed the allowed square footage.

Attorney Scalione further explained that the height request for the freestanding sign is due to the sight line and more height is needed to make it visible.

Chairman Mangan noted that the square footage of the freestanding sign is still less than what's allowed under the Town code, even though it is taller, and Attorney Scalione agreed.

Attorney Scalione addressed the standards of proof:

1. It's a business in a commercial area, so they don't feel there will be an undesirable change in the character of the neighborhood. It will be an improvement as they are taking a vacated building, renovating it and will be putting 50 people to work.
2. In order to adhere to the branding requirements for a Nissan dealership they believe there is no other feasible method without the variances.
3. They do not feel the variances are substantial as they are seeking less square footage than allowed for the wall signs and the freestanding signs.
4. They believe there will be no adverse environmental or negative effect on the neighborhood. They will be legally compliant to zoning code requirements.
5. They do not feel the need for the variance is self-created, because to relocate a Nissan dealership franchise they have to meet the branding requirements.

Deputy Chairman Fennhahn asked if the signs would be lighted and Attorney Scalione said only the freestanding sign, not the wall signs.

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 those opposed to granting the variance and there was none.

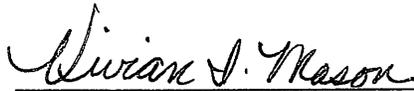
Chairman Mangan closed the hearing.

**MOTION** was made by Deputy Chairman Fennhahn in Case #1458 to grant the variances as requested with the condition that the signs be constructed in substantial compliance with the exhibits and that the total square footage of the wall signs not exceed 173 square feet. Motion was seconded by Mrs. Liebi.

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

The variance requests in Case #1458 are granted.

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



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

