

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
April 8, 2019

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 Clay Town Hall, 4401 New York State Route 31, Clay, New York on April 8, 2019. 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
	Edward Wisnowski, Jr	Deputy Chairman
	Karen Liebi	Member
	Nicholas Layou	Member
	Luella Miller-Allgaier	Member
	Vivian Mason	Secretary
	John Marzocchi	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: None

MOTION made by Mrs. Liebi that the Minutes of the meeting of March 11, 2019 be accepted as submitted. Motion was seconded by Mrs. Miller-Allgaier. *Unanimously 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 a Type II, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Mrs. Liebi. *Unanimously carried*

OLD BUSINESS:

Case #1741- James Farella, 7842 Orion Path, Tax Map #081.-29-27.0:

MOTION was made by Chairman Mangan to reopen Case #1741. Motion was seconded by Deputy Chairman Wisnowski. 5-0 in favor. *Unanimously carried.*

1The applicant is requesting an Area Variance per Section 230-19 A.(5) for a reduction in the Highway Overlay from the allowed 65 feet to 43 feet, (*to be effective March 11, 2019*) for construction of a shed. The property is located in the R-7.5 One-Family Residential District.

The Secretary read the proof of publication.

CORRECTION – This variance case was inadvertently advertised as a reduction to 55 feet and should have been to 43 feet.

Chairman Mangan asked if there were any comments or questions and there were none.

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

Chairman Mangan asked if anyone in the audience had any questions and there were none.

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

Chairman Mangan closed the hearing.

MOTION was made by Chairman Mangan in Case #1741 to approve the request with the condition that it be in substantial compliance with Exhibit "A", and that it be effective March 11, 2019. The motion was seconded by Mrs. Liebi.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layout	- in favor	
	Mrs. Miller-Alligaier	- in favor	<i>Unanimously carried</i>

The correction in the Area Variance for Case #1741 is **approved**.

NEW BUSINESS:

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

Case #1743 – David Stoutenger/Cornerstone Church, 8137 Morgan Road, Tax Map #069.-01-04.1:

The applicant is requesting an Area Variance per Section 230-13 D.(4)(b)[4] for an increase in the allowable height of an attached accessory structure with a total height of 43 feet, (30 feet for the church building and 13 feet for the steeple) when 30 feet is allowed. The property is located in the R-10 One-Family Residential District.

The secretary read the proof of publication.

Robert Abbott, Jr. Architect represented the applicant. He explained that the church would like to add a 13 foot steeple to the church.

Mr. Abbott addressed the Standards of Proof:

1. He believes the steeple will enhance the architectural identity of the church and produce no undesirable change to the character of the neighborhood.
2. He believes that because a steeple sits atop of the roof, there isn't any other feasible location to present such an architectural element and an Area Variance is necessary.
3. He doesn't feel the Area Variance request is substantial as it is only a decorative architectural element that expresses the building's identity.
4. He believes the proposed Area Variance will have no effect on the physical environment as it is merely a vertical steeple for church identity..
5. He feels alleged difficulty is self-created. This Area Variance is minor and does not impede any setbacks or physical restrictions relative to the site.

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

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

Chairman Mangan asked if anyone in the audience had any further questions and there were none.

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

Chairman Mangan closed the hearing.

MOTION was made by Mr. Layou in Case #1743 to approve the request with the condition that it be in substantial compliance with Exhibit "A". The motion was seconded by Mrs. Liebi.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layou	- in favor	
	Mrs. Miller-Alligaier	- in favor	<i>Unanimously carried</i>

The Area Variance in Case #1743 is **approved**.

Case #1744 – Nicholas LD, LLC/Sharkey’s, 7240 Oswego Road, Tax Map #114.-01-31.0:

The applicant is requesting an Area Variance per Section 230-16 E.(5)(a) & (b) for a reduction of the perimeter landscape strip from the required 45 feet to 15 feet to allow for a pavilion (open-air structure). The property is located in the LuC-2 Limited Use District for Restaurants.

The secretary read the proof of publication.

Michael Frateschi of Calocerinos Engineering and Jim Nichols were present.

Mr. Frateschi explained that the applicant would like a cover (pavilion) for events, open frame construction, to be near the stage.

Chairman Mangan gave him correspondence from the Town of Salina expressing their concern for noise as there have been problems in the past.

Mr. Frateschi addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. The adjoining parcel to the south is commercial in nature, however legacy zoning is RA-100, The surrounding properties are commercial in nature and an existing perimeter strip will continue to be maintained.
2. They don't believe there is any other feasible method than to obtain Area Variances as the proposed structure is intended to provide shelter from weather conditions during scheduled events.

3. They don't feel the Area Variance request is substantial. The reduction is only necessitated due to existing legacy zoning of adjoining parcel (RA-100). The surrounding development and anticipated parcel development will likely be commercial.
4. They don't believe there will be any physical or environmental impact to the neighborhood. The district is commercial in nature.
5. They don't feel the need for the Area Variance is self-created because zoning of the adjoining parcel has never been changed to be consistent with surrounding zoning or land uses, the applicable setback exists.

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

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

Chairman Mangan asked if anyone in the audience had any further questions and there were none.

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

Chairman Mangan closed the hearing.

MOTION was made by Mrs. Miller-Alligaier in Case #1744 to approve the request with the condition that it be in substantial compliance with Exhibit "A", a Site Plan dated 2/20/2019. The motion was seconded by Mr. Layou.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layou	- in favor	
	Mrs. Miller-Alligaier	- in favor	<i>Unanimously carried</i>

The Area Variance in Case #1744 is **approved**.

Case #1745 – Bridgestone Retail Operations/Scot Dever, Director Design & Construction, 7570 Oswego Road:

The applicant is requesting an Interpretation per Section 230-11 for the definition of "Gasoline Service Station" and Section 230-16 D.(2)[1] does a LuC-1 allow a gasoline service station when gasoline is not being dispensed. This is to allow an automobile service facility to provide services (tires, brakes, oil change, etc.) and not to include sale of gasoline. The property is located in an NC-1 Neighborhood Commercial District, and would next seek a Zone Change to an LuC-1 Limited Use District for Gasoline Services.

The secretary read the proof of publication.

Matthew Kerwin of Barclay Damon represented the applicant. He feels they can have a repair business without selling gasoline because there are other similar businesses that don't sell gas, i.e. Bayberry Service Center and Mavis Discount Tire.

Chairman Mangan explained that at one time gas was sold at those premises and that is why they were permitted to repair vehicles and not sell gas.

Mr. Kerwin said that if the definition would allow repairs but not a required sale of gasoline, they will seek a zone change from the NC-1 to a LuC-1. Otherwise they will need to look at other properties.

Deputy Chairman Wisnowski commented that even under the LuC-1 gas has to be dispensed and that this site would start without it when and if the zone change is done. So at this point, it looks as though gas will have to be dispensed in a LuC-1.

Chairman Mangan said the question is, if it's a brand new LuC-1, does it need to dispense gas.

Mr. Kerwin noted that Mavis Tire was built recently and does not dispense gas.

Deputy Chairman Wisnowski, said the reason Mavis was allowed to go there is because that site had once had gasoline sales.

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

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

Chairman Mangan asked if anyone in the audience had any further questions or comments and Ken Barrows from the Bayberry community stated that he didn't want gas tanks there. James Mann, also from Bayberry, said he felt there were too many tire stores already.

MOTION was made by Deputy Chairman Wisnowski to adjourn Case #1745 to May 13, 2019. The motion was seconded by Mr. Layou.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layou	- in favor	
	Mrs. Miller-Alligaier	- in favor	<i>Unanimously carried</i>

The Interpretation in Case #1745 is **adjourned** to May 13, 2019.

Case #1746 – Aaron Bullis, 4115 Wafer Ash Way, Tax Map #055.-05-04.0:

The applicant is requesting an Area Variance per Section 230-13 E.(4)(b)[2] for a reduction in the side yard setback from 10 feet to 7 feet for construction of an attached garage The property is located in the R-7.5 One-Family Residential District.

The secretary read the proof of publication.

Aaron Bullis explained that he plans on taking down the car port and also plans on getting rid of the shed and would like to have an attached garage instead to store his things. He spoke to his neighbor

and he had no problem with him adding a garage.

Mr. Bullis addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. It will be an improvement and make it possible to store things inside out of sight.
2. He doesn't believe there is any other feasible method than to obtain Area Variances. The only other location would be in the middle of his yard or to be made smaller, but that wouldn't provide enough storage room for his pontoon boat and trailer. This attached garage seemed like the best solution.
3. He doesn't feel the Area Variance request is substantial.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood. It will help clean up the property with the ability to store things out of sight.
5. He feels the need for the Area Variance is self-created.

Mrs. Liebi commented that it appears to be a pole structure and Mr. Bullis said yes, but it would be done in a way that will look good.

Mrs. Miller-Allgaier asked if it lined up with the shed and Mr. Bullis said yes.

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

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

Chairman Mangan asked if anyone in the audience had any further questions and there were none.

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

Chairman Mangan closed the hearing.

MOTION was made by Mrs. Miller-Allgaier in Case #1746 to approve the request with the condition that it be in substantial compliance with Exhibit "A". The motion was seconded by Deputy Chairman Wisnowski.

Roll call:	Chairman Mangan	- in favor
	Deputy Chairman Wisnowski, Jr.	- in favor
	Mrs. Liebi	- in favor
	Mr. Layou	- recused himself as he knows the applicant
	Mrs. Miller-Allgaier	- in favor <i>Carried</i>

The Area Variance in Case #1746 is **approved**.

Case #1747 – Noal Edick and Summer Edick, 7607 Aster Drive, Tax Map #096.-21-04.0:

The applicant is requesting per Sections 230-27 I.(2)(a) and 230-13 E.(2)(d)[1] for an “In Home Occupation” for dog grooming.

The secretary read the proof of publication.

Chairman Mangan presented a copy of a letter from one of their neighbors who is opposed to their request.

Summer Edick said she would like to groom dogs in an area that will be partitioned off on one side of their garage. They will not be changing the footprint of their home and she only plans on grooming about 3 dogs a day, with a 5 to 10 minute dropping off and pick up time.

Chairman Mangan asked if they planned on having air conditioning and Mr. Edick stated they have a unit to keep this area cool

Deputy Chairman Wisnowski asked if it was by appointment only. Mrs. Edick said yes, one at a time Tuesday through Friday between 9:00 AM and 4:00 PM.

Mr. Edick stated that it will not be a kennel.

Mr. Layou noted that they have a two car garage, and dividing it would leave one car in one car outside, and Mr. Edick said he leaves for work early so his wife parks in the garage.

Mrs. Liebi cautioned the applicant that only family members can work there and Mrs. Edick said it would only be herself. Mrs. Liebi further noted that she could have one sign, 3 feet by 4 feet.

Mr. Layou asked the applicants if they had any dogs and Mr. Edick said they had two and that they were quiet.

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

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

Chairman Mangan asked if anyone in the audience had any further questions and there were none.

Chairman Mangan asked for those in favor and those opposed to granting the Special Permit request and there was only one in opposition, a submitted letter from a neighbor, Mark Leskoske.

Chairman Mangan closed the hearing.

MOTION was made by Mrs. Liebi in Case #1747 to approve the Special Permit with the condition that it be in substantial compliance with Exhibit “A”. The motion was seconded by Mr. Layou.

Roll call:	Chairman Mangan	- against	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layou	- in favor	
	Mrs. Miller-Alligaier	- in favor	<i>Carried</i>

The Special Permit in Case #1747 is **approved**.

There being no further business, Chairman Mangan adjourned the meeting at 8:23 P.M.



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