

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
July 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 July 8, 2019. Chairman Wisnowski called the meeting to order at 7:30 P.M. and upon the roll being called the following were:

PRESENT:	Edward Wisnowski, Jr	Chairman
	Karen Liebi	Member
	Nicholas Layou	Member
	Luella Miller-Allgaier	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: None

MOTION made by Mrs. Liebi that the Minutes of the meeting of June 10, 2019 be accepted as submitted. Motion was seconded by Mr. Layou. *Unanimously carried*

MOTION made by Chairman Wisnowski 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: None

NEW BUSINESS:

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

Case #1754 – Jen Wilderman, 7628 Anne Terrace, Tax Map #090.-05-16.0:

The applicant is seeking Area Variances per Section 230-19 A.(5) for a reduction in the highway overlay from 65 feet to 38.2 feet; Section 230-13 D.(4)(b)[1] for a reduction in the front yard setback from 25 feet to 7 feet; Section 230-13 D.(4)(b)[1] for a reduction in the front yard setback from 25 feet to 0 feet; and Section 230-20 B.(2)(b) for an increase in the height of a fence in a front yard from the allowed 2 ½ feet to 6 feet (a corner lot has two front yards) to allow for a fence and a shed. The property is located in the R-10 One-Family Residential District.

The Secretary read the proof of publication.

Tim Coyer of Ianuzi and Romans represented the applicant. He explained that Ms. Wilderman would like to replace the stockyade fence and the Area Variances are needed to put a shed in compliance.

Mr. Coyer addressed the Standards of Proof:

1. They believe there will not be any negative or undesirable change to the character of the neighborhood.
2. They believe there is not any other feasible method than to obtain an Area Variance otherwise Ms. Wilderman will lose yard area.
3. They feel the Area Variance requests are substantial.
4. They believe there won't be any physical or environmental impact to the neighborhood.
5. They believe the need for the Area Variances is self-created.

Chairman Wisnowski asked if there were any further comments or questions and Mrs. Miller-Algaier asked if the front yard setback could be altered to 25 feet to 5 feet instead of 0 feet.

Mr. Coyer explained that it wasn't the whole length of the front yard, just the point at the end.

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

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

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

Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Miller-Algaier in Case #1754 to approve their request with the condition that it be in substantial compliance with Exhibit "A" (a survey dated 5/9/2018). The motion was seconded by Mrs. Liebi.

Roll call:	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 #1754 is **approved**.

Case #1755 – Bahrudin Mujic, 7860 Oswego Road, Tax Map #081.-13-02.0:

The applicant is seeking an Area Variance per Section 230-19 A.(5) for a reduction in the front yard highway overlay from the allowed 140 feet to 77 feet to allow for a covered porch. The property is located in the R-7.5 One-Family Residential District.

The Secretary read the proof of publication.

Bahrudin Mujic and Melisa Mujic appeared before the Board. Mr. Mujic said he would like to cover the front steps of the front porch with a roof to protect them from the rain and snow.

Mr. Majic addressed the Standards of Proof:

1. He believes there will not be any negative or undesirable change to the character of the neighborhood. The only change is an exterior portion of display of house.
2. He believes there is not any other feasible method than to obtain an Area Variance they are just covering the front steps.
3. He believes the Area Variance request is substantial.
4. He believes there will not be any physical or environmental impact to the neighborhood.
5. The need for the Area Variance is self-created.

Chairman Wisnowski asked if there were any further comments or questions and Mrs. Liebi asked the applicants if they planned on enclosing it and Mrs. Majic said yes, although it was not shown that way on the survey. Mrs. Liebi questioned whether they could enclose it and Commissioner Territo informed them that they could, provided the Area Variance is granted.

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

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

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

Chairman Wisnowski closed the hearing.

MOTION was made by Mr. Layout in Case #1755 to approve their request with the condition that it be in substantial compliance with Exhibit "A" (a survey dated 11/11/1951). The motion was seconded by Mrs. Miller-Allgaier.

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

The Area Variance in Case #1755 is **approved**.

Case #1756 – John Marko/NOVA, 4425 Buckley Road, Tax Map #086.-19-04.2:

The applicant is seeking an Area Variance per Section 230-13 H.(5)(b)[2][b] for a reduction in the side yard setback from 40 feet to 29 feet 6 inches to allow for an addition to the existing building. The property is located in the R-APT Apartment District.

The Secretary read the proof of publication.

Ed Keplinger of Keplinger Freeman Associates gave an overview of their plans to construct an addition to house equipment. This a culmination of a 10 year plan. The first phase was an addition in 2014. The second phase is this addition. They are limited due to a Town drainage easement.

Mrs. Liebi noted that the plan shows shrubs and pavement that is eliminated and was concerned about parking spaces being eliminated. Mr. Keplinger explained that training takes up some of the spaces but there is still enough parking.

John Marko reiterated that they don't have enough room for their equipment.

Chairman Wisnowski commented that if the Area Variance is approved they may need to seek a variance in the future for reduced parking.

Mr. Keplinger addressed the Standards of Proof:

1. They believe there will not be any negative or undesirable change to the character of the neighborhood. The existing building is isolated from most adjoining properties except for the Stewart's Shop's property. The proposed building façade will be compatible with the existing building façade.
2. They believe there is not any other feasible method than to obtain an Area Variance. The building addition will provide space for two additional ambulances. The additional ambulances are necessary to provide adequate ambulance coverage. The addition location works well with the existing building layout keeping all emergency vehicle garages on the east side of the building.
3. They don't feel the Area Variance request is substantial. The side yard setback for this district is substantial, especially for this specific use. The variance is only 25% of the overall side yard setback width of 40 feet.
4. They believe there will be any physical or environmental impact to the neighborhood. The granting of the variance will allow for a building that is slightly larger and wider than the existing building. The proposed building façade will be compatible with the existing building façade.
5. Yes, the need for the Area Variance is self-created. The project could be constructed without the second ambulance garage bay that requires the variance, however, NOVA has determined that both garage bays are necessary for the proper and safe operation of the organization.

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

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

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

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

Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Liebi in Case #1756 to approve their request with the condition that it be in substantial compliance with Exhibit "A" (a Plan Layout dated 6/10/2019). The motion was seconded by Mr. Layout.

Roll call:	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 #1756 is **approved**.

Case #1757 – Eugene M. Lorenz, 2 Ilex Lane, Tax Map #086.-23-25.0:

The applicant is seeking an Area Variance per Section 230-13 E.(4)(c)[4] for an increase in the height of an accessory structure from the allowed 12 feet to 14 feet to allow 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.

Eugene Lorenz explained that he is building a shed. He contracted it and the plans were drawn up. A permit was approved, but he discovered that it was 14 feet high when the Town Code only allows 12 feet.

Mr. Lorenz addressed the Standards of Proof:

1. He believes there will not be any negative or undesirable change to the character of the neighborhood. It matches the style and colors of the house. It adds to the property's appearance and has only elicited compliments from neighbors.
2. He believes there is not any other feasible method than to obtain an Area Variance.
3. He doesn't feel the Area Variance request is substantial. It is only for a height variance from 12 to 14 feet.
4. He believes there will not be any physical or environmental impact to the neighborhood. He feels it adds to the appearance of the neighborhood.
5. He doesn't believe the need for the Area Variance is self-created, however the original design included the loft.

Mr. Layou questioned the no on the fifth Standard of Proof. Since Mr. Lorenz wants the shed, it is really self-created.

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

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

Chairman Wisnowski asked if anyone in the audience had any further questions Hubert Hanks asked why the 2 feet is necessary and Mr. Lorenz said for storage. Andrea Hanks asked if the shed would stay the same and was assured that it would.

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

Chairman Wisnowski closed the hearing.

MOTION was made by Mr. Layou in Case #1757 to approve the Area Variance and the shed as built. The motion was seconded by Mrs. Miller-Allgaier.

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

The Area Variance in Case #1757 is **approved**.

Case #1758 – Jonathan Friedlander, CEO, Chenega IH, LLC, an out parcel at Great Northern Mall, Tax Map #028.-01-45.1:

The applicant is seeking an Area Variance per Section 230-21 E. for a reduction in the parking spaces from the required 116 to 66 to allow for construction of a restaurant (family dining type). The property is located in the RC-1 Regional Commercial District

The Secretary read the proof of publication.

Christian Hill of Napierala Consulting and Justin Grassi of Jones Steves represented the applicant. Mr. Hill explained that IHOP has forty years of experience in the business. It is family dining so less cars are using parking spaces, so they don't need the required parking. Sixty-six spaces which they believe are above and beyond what they need. There is overflow parking at the mall, but they don't feel they will need it.

Attorney Grassi addressed the Standards of Proof:

1. They believe there will not be any negative or undesirable change to the character of the neighborhood. There is ample parking for the needs of the proposed restaurant use on the site and an abundance of overflow parking spaces in the directly adjacent shopping mall. They believe that the proposed restaurant will produce a desirable change in the character of the neighborhood by developing a vacant and neglected site, driving additional business to the mall, creating 75-100 jobs for the community, and providing additional tax revenue.
2. They believe there is not any other feasible method than to obtain an Area Variance. No other options pursued within the timeframe that the seller of the property has provided for within our purchase agreement. Any other method would require approval and signed agreements of all other tenants of the mall, most of whom are not able to be contracted or would be unwilling to permanently give up a portion of their property. The available property will have as many parking spaces as possible.
3. They don't feel the Area Variance request is substantial. The restaurant will have substantial parking on site. Parking will be at a ratio greater than 1 parking space for every 3 seats, which is the parking ratio consistently used for similar restaurants they own and operate throughout the country.

4. They believe there will not be any physical or environmental impact to the neighborhood. The property is located within the mall property, and substantial mall parking is available adjacent to their property.
5. They believe the need for the Area Variance is partially self-created, as it was subdivided 30 years ago.

Chairman Wisnowski asked if there were any further comments or questions and Mr. Layou asked if they would have an IHOP express and Mr. Grassi said he didn't know what was planned.

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

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

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

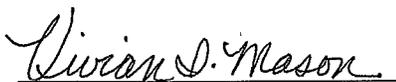
Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Miller-Alligaier in Case #1758 to approve their request with the condition that it be in substantial compliance with Exhibit "A" (dated 6/24/2019). The motion was seconded by Mr. Layou.

Roll call:	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 #1758 is **approved**.

There being no further business, Chairman Wisnowski adjourned the meeting at 8:10 P.M.


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

