

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
August 12, 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 August 12, 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
	Luella Miller-Allgaier	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: Nicholas Layou Member

MOTION made by Mrs. Liebi that the Minutes of the meeting of July 8, 2019 be accepted as submitted. Motion was seconded by Mrs. Miller-Allgaier. *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. *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 #1759 –Thomas Medaj, 10210 Manhattan Drive, Tax Map #039.-02-02.0:

The applicant is seeking Area Variances per Section 230-13 A.(4) for a reduction in the front yard setback from 75 feet to 46.8 feet and a reduction in the side yard setback from 25 feet to 2.4 feet, to allow for construction of a garage replacement. The property is located in the RA-100 Residential Agricultural District.

The Secretary read the proof of publication.

Thomas Medaj explained that the garage is in rough shape and he would like to replace it using the same footprint.

Mr. Medaj addressed the Standards of Proof:

1. He believes there will not be any negative or undesirable change to the character of the neighborhood as he is replacing the garage using the same footprint.

2. He believes there is not any other feasible method than to obtain an Area Variance, since it is the only space available. The remainder of the yard is needed for the septic system.
3. He feels the Area Variance requests are substantial.
4. He believes there won't be any physical or environmental impact to the neighborhood.
5. He believes the need for the Area Variances is self-created.

Mr. Medaj added that it will be similar in style to the garage next door.

Chairman Wisnowski informed Mr. Medaj that the Board cannot approve of the reduction in the side yard setback to 2.4 feet as the State Building Code dictates there has to be 2.5 feet as the least accepted setback. Mr. Medaj said that would be okay and could accommodate it.

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 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 #1759 to approve their request with the modification that the Area Variance for a reduction in the side yard setback from 25 feet to 2.4 feet be amended to be **25 feet to 2.5 feet**, and with the condition that it be in substantial compliance with Exhibit "A". The motion was seconded by Mrs. Miller-Allgaier.

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

The Area Variance in Case #1759 is **approved with a modification**.

Case #1760 – Cassey Gacek, 8041 Evesborough Drive, Tax Map #078.-07-20.0:

The applicant is seeking Area Variances per Section 230-13 D.(4)(b)[1] for a reduction in the front yard setback from 25 feet to 6 feet and Section 230-20 B.(2)(b) for an increase in the height of a fence in a front yard from 2.5 feet to 6 feet. The property is located in the R-7.5 One-Family Residential District.

The Secretary read the proof of publication.

The applicant was not present, but neighbors present wished to speak.

Christine Taggert of 8033 Evesborough Drive said she lives next door and that the fence would block the bend in the road and she wouldn't be able to see cars coming through. If Ms. Gacek was willing to compromise, she would agree.

Tim and Jacqueline Foss of 8036 Evesborough Drive said they live across the street and that a six foot fence would block the driveway and have an impact. There is already a problem sight wise.

Maureen Kenyon of 8040 Evesborough Drive voiced concern for the kids in the neighborhood and their safety as she too felt it would cause a sight problem for cars that come through the neighborhood.

Chairman Wisnowski noted that a letter was received from Lindsey Willis of 8041 Evesborough Drive who also is opposed to the six foot privacy fence.

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 closed the hearing.

MOTION was made by Chairman Wisnowski in Case #1760 to **deny** the request. The motion was seconded by Mrs. Miller-Allgaier.

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

The Area Variances in Case #1760 are **denied**.

Case #1761 – Chao Lee & Mousa Lee, 7548 Florian Way, Tax Map #096.-10-13.0:

The applicant is seeking Area Variances per Section 230-13 E(4)(b)[1] for a reduction in the front yard setback from 25 feet to 15 feet and Section 230-20 B.(2)(b) and for an increase in the height of a fence in a front yard (corner lots have two front yards) from 2 1/2 feet to 6 feet, to allow for construction of a fence. The property is located in the R-7.5 One-Family Residential District.

The Secretary read the proof of publication.

Mousa Lee explained that they purchased the house three years ago and the fence is falling down and they need to replace it. Upon inquiring about a permit they discovered that the fence is beyond the building line and that they need Area Variances.

Mr. Lee addressed the Standards of Proof:

1. They believe there will not be any negative or undesirable change to the character of the neighborhood. They are simply replacing the fence.

2. They believe there is not any other feasible method than to obtain Area Variances.
3. They feel the Area Variance requests are not substantial.
4. They believe there won't be any physical or environmental impact to the neighborhood.
5. Yes, the need for the Area Variances is 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 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-Allgaier in Case #1761 to approve their requests with the condition that it be in substantial compliance with Exhibit "A" dated 6/27/2019. The motion was seconded by Mrs. Liebi.

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

The Area Variances in Case #1761 are **approved**.

Case #1762 – Americo Real Estate Company/U-Haul, 8015 Oswego Road, Tax Map #080.-01-01.0:

The applicant is seeking an Area Variance per Section 230-22 C.(1) for an increase in the number of wall signs to six wall signs when only two are allowed. The property is located in the RC-1 Regional Commercial District.

The Secretary read the proof of publication.

Brett Lindsay represented Americo Real Estate Company/U-Haul. He explained that they have three climate control rooms and they need additional signs so that people will be able to know what is located in each part of the building. The building is also going to get a facelift.

Mr. Lindsay addressed the Standards of Proof:

1. They believe there will not be any negative or undesirable change to the character of the neighborhood. The building is set way back from the road.
2. They believe there is not any other feasible method than to obtain an Area Variance. The signs will identify the area in the store.
3. They feel the Area Variance request is not substantial.

- 4. They believe there won't 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 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 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 #1762 to approve their request with the condition that it be in substantial compliance with the plans of the signage, Exhibit "A". The motion was seconded by Mrs. Miller-Allgaier.

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

The Area Variance in Case #1762 is **approved**.

OTHER BUSINESS:

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

MOTION was made by Chairman Wisnowski to approve the following resolution:

**TOWN OF CLAY ZONING BOARD OF APPEALS RESOLUTION
RATIFYING AND REAFFIRMING THE APPROVAL OF CASE NO. 1758**

WHEREAS, on June 26, 2019, Chenega IH, LLC has made an application to the Town of Clay Zoning Board of Appeals ("Zoning Board") for a variance from Section 230-21E of the Town of Clay Zoning Law for a reduction in the parking spaces from the required 116 to the proposed 66 to allow for the construction of a restaurant (family dining type) on property located as an out parcel at Great Northern Mall, known as Tax Map No. 028.-01-45.1 (the "Project"); and

WHEREAS, on July 8, 2019, the Zoning Board held a public hearing on the application where all those desirous to speak on behalf of the Project were given the opportunity;

WHEREAS, the proposed Project was deemed to be a SEQRA Type II action requiring no further environmental review; and

WHEREAS, the Zoning Board carefully considered and discussed the application and applicable criteria set forth in the Town Zoning Law and State Law and, with unanimous vote, approved the variance application on July 8, 2019;

WHEREAS, the application was submitted to the Onondaga County Planning Board in advance of the meeting, however, the County Planning Board did not respond to the request for advisory opinion by July 8, 2019; and

WHEREAS, the County Planning Board has now responded with a favorable determination that there are no County-wide impacts of the Project, and

WHEREAS, all the deliberation, information and circumstances as set forth in the minutes of the original variance approval of July 8, 2019 still apply and shall be incorporated herein.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board ratifies and reaffirms approval of the variance application submitted by Chenega IH, LLC on the same grounds and for the same reasons and findings as set forth on July 8, 2019.

Motion was seconded by Mrs. Liebi.

Duly adopted this 12th day of August, 2019, by the following vote: Ayes-3, Nays-0, Absentee-1

There being no further business, Chairman Wisnowski adjourned the meeting at 7:58 P.M.



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