

APPROVED  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING**  
**June 11, 2018**

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 June 11, 2018. 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
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: None

**MOTION** made by Mrs. Liebi that the Minutes of the meeting of May 14, 2018 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 Unlisted actions, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Mrs Liebi. *Unanimously carried.*

**OLD BUSINESS:**

**Case #1693 (Amended) – Widewaters Farrell Road II Company, LLC, Route 31, Tax Map #020.-01-05.1 and #020.-01-05.2:**

The applicant is requesting Area Variances per Section 230-19 A.(5) for a reduction in the highway overlay setback from 165 feet to 160 feet; Section 230-16 C.(4)(a)[1][b] for a reduction in the perimeter landscape strip from 30 feet to 2 feet (varying from 2 feet to 27 feet) (Lot # 4); Section 230-22 C.(1)(b) for an increase in the number of free standing signs from the allowed two to three (Lot #2); and Section 230-22 C.(1)(b) for an increase in the total square footage of the third free standing sign from 0 to 24 square feet (Lot # 2), to allow for a commercial development, including a plaza-style development and three out-parcel retail units. The property is located in the RC-1 Regional Commercial District.

*(Proof of Publication was read by the Secretary at the April 9, 2018 meeting.)*

Chairman Mangan announced that the applicant has requested another adjournment. Action may be determined at the next meeting as this case has been adjourned multiple times.

**MOTION** made by Chairman Mangan to adjourn Case #1693 to July 9, 2018. 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-Allgaier	- in favor	<i>Unanimously carried.</i>

Case #1693 is adjourned to July 9, 2018.

**Case #1707 - Train Hard Fitness I, LLC, 8180 Oswego Road, Tax Map #067.-01-03.1:**

The applicant is requesting an Interpretation per Section 230-11 C. of an *Instructional Facility* compared to *Indoor Recreation-Participant* as it applies to the applicant’s proposed use for “Train Hard Fitness” in a NC-1, Neighborhood Commercial District.

*(Proof of Publication was read by the Secretary at the May 14, 2018 meeting.)*

Tim Coyer from Ianuzi and Romans Land Surveying, P.C. represented the applicant.

Chairman Mangan asked for those for and those against and there were none.

Chairman Mangan closed the hearing.

**MOTION** made by Deputy Chairman Wisnowski in Case #1707 that a small fitness facility designed for individuals and group training falls under the definition of *Instructional Facility* and not *Indoor Recreation-Participant* and is allowed on an NC-1 Neighborhood Commercial zoning district. Motion was seconded by Mrs. Miller Allgaier.

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

**Case #1703 – Train Hard Fitness/Jay Fiorini, 8180 Oswego Road, Tax Map #067.-01-03.1:**

The applicant is requesting an Area Variance per Section #230-16 A.(5)(a)(b) for a reduction of the additional Perimeter Landscape Strip when abutting a Residential District from 35 feet to zero feet. The property is located in NC-1 Neighborhood Commercial zoning district.

*(Proof of Publication was read by the Secretary at the May 14, 2018 meeting.)*

Tim Coyer from Ianuzi and Romans Land Surveying, P.C. represented the applicant. He explained that they need a reduction in the additional landscape perimeter landscape strip to allow for drainage in the left hand corner of the parcel.

Deputy Chairman Wisnowski noted that the reduction from 35 feet to 0 is only needed in that one northern corner and Mr. Coyer said yes.

Mr. Coyer addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. It will ultimately lead to the cleanup of a vacant property.
2. They don't believe there is any other feasible method than to obtain an Area Variance and maintain the required parking.
3. They feel the Area Variance request is substantial. The area in question will be used for drainage which will provide a fine buffer. The residentially zoned property in question is currently being used as a salon.
4. They don't believe there will be any physical or environmental impact to the neighborhood. The required 10 foot buffer will remain and the proposed detention facility will act as a buffer as well.
5. The need for the Area Variance is self-created.

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 request and there were none.

Chairman Mangan closed the hearing.

**MOTION** made by Deputy Chairman Wisnowski in Case #1703 to approve the Area Variance as requested. Motion was seconded by Mrs. Miller-Allgaier.

Roll call:	Chairman Mangan	- in favor	
	Deputy 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 #1703 was approved.

**Case #1704 – Sharon Chevrolet/Kirk Wright (Nelson Associates, LLC), 3687 NYS Route 31, Tax Map #020.-01-06.1:**

The applicant is requesting Area Variances per Section 230-22 C.(1) to allow three signs on the building where the code only allows for two and Section 230-22 C.(1) to allow a 21.31 square foot sign on the third wall when zero square feet is allowed. The property is located in the HC-1 Highway Commercial zoning district.

*(Proof of Publication was read by the Secretary at the May 14, 2018 meeting.)*

Kirk Wright representing Sharon Chevrolet said they are seeking a third sign for their dealership building.

Chairman Mangan asked how far back the building is from NYS Route 31, as they have to meet the arterial setback and Commissioner Territo stated that it is at least 140 feet.

Mr. Kirk noted that other commercial properties in the area also have three wall signs.

Mr. Layou pointed out that those other businesses have also had to come before this board to get approval and that the Board considers each one on its on merit.

Mr, Wright addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. It is a commercial property and the building sets back from the highway at least 140 feet. Others in the area also have three signs,
2. They don't believe there is any other feasible method than to obtain an Area Variance. They want the name "Sharon Chevrolet" on the building.
3. They feel the Area Variance request is substantial. It is a brand new facility and General Motors has a sign program that requires the name on the building.
4. They don't believe there will be any physical or environmental impact to the neighborhood, since it is a commercial area.
5. The need for the Area Variance is self-created, but it is also a General Motors requirement.

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** made by Mrs. Liebi in Case #1704 to approve the Area Variance as requested with the condition that it be in substantial compliance with Exhibit “A”. 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	- in favor	
	Mrs. Miller-Allgaier	- in favor	<i>Unanimously carried.</i>

The Area Variance in Case #1704 was approved.

**Case #1706 – Fadi Abdallah, Buckley Road at Red Barn Circle. Tax Map #117.-12-14.0:**

The applicant is requesting an Interpretation per Section 230-11 C. of an *Instructional Facility* compared to *Indoor Recreation-Participant* as it applies to the applicant’s proposed use for “Anytime Fitness” in a NC-1, Neighborhood Commercial District.

*(Proof of Publication was read by the Secretary at the May 14, 2018 meeting.)*

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 for and those against and there were none.

Chairman Mangan closed the hearing.

**MOTION** made by Deputy Chairman Wisnowski in Case #1706 that a small fitness facility designed for individuals and group training falls under the definition of *Instructional Facility* and not *Indoor Recreation-Participant* and is allowed on an NC-1 Neighborhood Commercial zoning district. Motion was seconded by Mrs. Miller Allgaier.

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

**NEW BUSINESS:**

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

**Case #1705 – Laker Development Group, LLC/North End Commons, 3820-3848 NYS Route 31, Tax Map #053.-01-19.1:**

The applicant is requesting Area Variances per Section 230-16 C.(4)(a)[2][b] to reduce the side yard setback from 75 feet to 63 feet and per Section 230-21 E. to reduce the number of parking spaces from the required 329 to 258 spaces, a 71 space reduction. This is for the purpose of revising the proposed size of building “A” from 2,500 square feet to 3,360 square feet and from retail use to Family Style Restaurant Use. The previously approved plan for Lot 1 required 15 spaces per Town Code. The proposed additional square footage for Building A and the change to Family Style Restaurant will require 84 spaces per Town Code. This property is located in the RC-1 Regional Commercial District.

Proof of Publication was read by the Secretary.

Devin Dal Pos and Ed Keplinger represented the applicant.

Chairman Mangan noted that the applicant has been before this Board before and had been approved a reduction in parking to 275 spaces.

Mr. Keplinger stated that during Site Plan approval before the Planning Board they did not have needed Area Variances. If they can't get the additional 17 parking spaces they can't go with the new tenant. A 3306 square foot building requires 45 parking spaces. They feel that since the proposed tenant will only be open for breakfast and lunch it shouldn't impact other businesses parking.

Chairman Mangan stated that his concern is that if this proposed restaurant leaves, a new business would require more parking that isn't there.

Mr. Keplinger addressed the Standards of Proof:

1. They don't believe the reduction in the side yard setback, nor the reduction in parking spaces, will have any negative or undesirable change to the character of the neighborhood. With regard to the parking spaces, they feel that since this business would have different hours of operation it will not fully use the parking shown.
2. They don't believe there is any other feasible method than to obtain an Area Variance. The applicant could reduce the square footage of the building, but it would also limit many potential tenants.
3. They don't feel the Area Variance request for the reduction in the side yard setback is substantial, as it is only a 12 foot difference. They do feel the reduction in parking spaces is substantial.
4. They don't believe there will be any physical or environmental impact to the neighborhood for either Area Variance request.
5. The need for the Area Variances is self-created.

Chairman Mangan commented that it is a tight site and they do have the Area Variance for 275 spaces.

Mr. Dal Pos explained that the restaurant doesn't really need the required spaces the code requires.

Mr. Layou asked where they planned to put all the snow during the winter months. Mr. Keplinger said they have a place for it. Mr. Layou inquired about space for fire vehicle access, to which Mr. Keplinger explained that they had given the plans to the fire department and that they approved it.

Deputy Chairman Wisnowski voiced concern for the holidays and winter months and also for the medical facility and shared parking. Mr. Dal Pos said that the medical facility requirements is ten spaces and they have them.

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** made by Mr. Layou in Case #1705 to approve the Area Variance to reduce the side yard setback from 75 feet to 63 feet as requested with the condition that it be in substantial compliance with Exhibit "A" (a Site Layout Plan dated 10-30-2017. Motion was seconded by Mrs. Miller-Allgaier.

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

**MOTION** made by Mr. Layou in Case #1705 to deny the Area Variance to reduce the number of parking spaces from the required 329 to 258 spaces. 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-Allgaier	- in favor	<i>Unanimously carried.</i>

Chairman Mangan reminded the applicants that they still have the Area Variance for 275 parking spaces.

The Area Variances in Case #1705, one approved one denied.

Chairman Mangan announced that the next two cases will be handled together as they are neighbors making the same requests.

**Case #1708 – John H. Porter, 113 Newport Drive, Tax Map #098.-10-23.0:**

The applicant is requesting Area Variances per Section 230-13 E.(4)(c)[1] for a reduction in the front yard setback from 25 feet to 0 feet and per Section 230-20 B.(2)(b) for an increase in the height of a fence in a front yard from the allowed 2.5 feet to 6 feet, for an installation of a fence. This property is located in the R 7.5 One-Family Residential District; and

**Case #1709 – Christopher & Susan Corlyon, 115 Newport Drive, Tax Map #098.-10-22.0:**

The applicant is requesting Area Variances per Section 230-13 E.(4)(c)[1] for a reduction in the front yard setback from 25 feet to 0 feet and per Section 230-20 B.(2)(b) for an increase in the height of a fence in a front yard from the allowed 2.5 feet to 6 feet, for an installation of a fence. This property is located in the R 7.5 One-Family Residential District.

Proofs of Publication were read by the Secretary.

Mr. Porter explained that he currently has a chain link fence and he wants to replace it and they want the new fence to go behind the cedars and meet up with his neighbors. His neighbors Christopher and Susan Corlyon's are replacing a fence which was there for several years, prior to their purchase of the property. It is up already but it is not yet set in concrete. They believe neither of their fences will obstruct anyone's view.

Mr. Porter addressed the Standards of Proof for both cases:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. The Corlyon's are replacing their fence. Neither fence will obstruct sight.
2. They don't believe there is any other feasible method than to obtain an Area Variance.
3. They don't feel the Area Variance request is substantial.
4. They don't believe there will be any physical or environmental impact to the neighborhood.
5. The need for the Area Variance is self-created.

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 hearings.

**MOTION** made by Mrs. Miller-Allgaier in Case #1708 to approve the Area Variance as requested with the condition that it be in substantial compliance with Exhibit “A” dated 10/5/1990. 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-Allgaier                                       - in favor                                *Unanimously carried.*

The Area Variance in Case #1708 was approved.

**MOTION** made by Mrs. Miller-Allgaier in Case #1709 to approve the Area Variances as requested with the condition that it be in substantial compliance with Exhibit “A”, revised 7/7/2009. 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-Allgaier                                       - in favor                                *Unanimously carried.*

The Area Variance in Case #1709 was approved.

**Case #1710 – Thomas & Florence Drago, 4775 Black Oak Drive, Tax Map #096.-05-40.0:**

The applicant is requesting Area Variances per Section 230-13 E.(4)(c)[2] for a reduction in the side yard setback from 7.5 feet to 3 feet and per Section 230-13 E.(4)(c)[3] for a reduction in the rear yard setback from 10 feet to 6 feet. This property is located in the R-7.5 One-Family Residential District.

Proof of Publication was read by the Secretary.

Thomas and Florence Drago were present.

Mr. Drago explained that he would like to construct a garage to house cars and a motorcycle. He said there is a gate to the rear of his property because they own three feet on the other side and use it for access.

Mr. Drago addressed the Standards of Proof:

1. They don’t believe there will be any negative or undesirable change to the character of the neighborhood. It is similar to the garage two doors down.
2. They could move the garage to the center of the back yard, but that would put it in the middle. It would be very awkward, would look out of place and it would be difficult to get a car back there.

3. They don't feel the Area Variance request is substantial. It is only a few feet of deviation. There is already an 8 by 12 foot storage shed in the location. The garage will replace the shed.
4. They don't believe there will be any physical or environmental impact to the neighborhood.
5. The need for the Area Variance is self-created.

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, there was one, and those opposed, there was none, to granting the Area Variance requests.

Chairman Mangan closed the hearing.

**MOTION** made by Mr. Layout in Case #1710 to approve the Area Variances as requested with the condition that it be in substantial compliance with Exhibit "A", a survey dated 3/28/1994. Motion was seconded by Mrs. Miller-Allgaier.

Roll call:	Chairman Mangan	- in favor	
	Deputy 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 #1710 was approved.

There being no further business, Chairman Mangan adjourned the meeting at 8:28 P.M.



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