

APPROVED  
ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
May 14, 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 May 14, 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
	Luella Miller-Allgaier	Member
	Vivian Mason	Secretary
	John Marzocchi	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: Nicholas Layou Member

**MOTION** made by Mrs. Liebi that the Minutes of the meeting of April 9, 2018 be accepted as submitted. Motion was seconded by Mrs. Miller-Allgaier. *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. *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.)*

Mrs. Miller Allgaier read input from the Planning Board Chairman Russ Mitchell regarding the applicant's request for a reduction of the highway overlay from 165 feet to 160 feet to allow for a portion of the building to go on it. The Board Members consensus is that the applicant knew from the start where the highway overlay line existed and that and they feel the building can be moved back and removed from the overlay area.

Chairman Mangan explained that the applicant has requested an adjournment to next month. Chairman Mangan adjourned Case #1693 to June 11, 2018.

**Case #1697 – JOLU Development Co. (Joe Alberici)/Laurel Springs Assisted Living Facility, West Taft Road, Tax Map #107.-18-12.0:**

The applicant is requesting Area Variances per Section 230-16 B.(4)(a)[6] to increase the Maximum Gross Floor Area from 30,000 square feet to 90,000 square feet; Section 230-16 B.(4)(b)[2][a] & 230-16 B.(5)(b) for a reduction in the east side yard setback where it abuts residential from 80 feet to 55.75 feet; Section 230-16 B.(4)(b)[2][a] & 230-16 B.(5)(b) for a reduction in the west side yard setback where it abuts residential from 80 feet to 78.34 feet; Section 230-16 B.(4)(b)[4] for an increase in the height of a structure from the allowed 35 feet to 38.67 feet; Section 230-16 B.(4)(b)[5] for an increase in the number of floors from 2 to 3; Section 230-21 E. for a reduction in the number of required parking spaces from 144 to 84; and Section 230-16 B.(5)(a) to reduce the Perimeter Landscape Strip from 50 feet to a minimum of 6 feet, to allow for completion of construction of previously approved assisted living facility. The property is located in the HC-1, Highway Commercial District.

*(Proof of Publication was read by the Secretary at the April 9, 2018 meeting. Standards of Proof were also given at that time.)*

Brian Bouchard of CHA Consulting, Inc. represented the applicant. He said they revised the Perimeter Landscape Strip, shifting the bio-retention area away from the residents. He explained that they need the Area Variances so that they can continue construction of the assisted living facility. The pond already exists and they made changes to the rear of the property, and filled in a portion of the pond. They will provide plantings in the 50 foot buffer. They also connected their part of the pond to the pond abutting their property.

A resident questioned screening and Mr. Bouchard said they would be screening the driveway and perhaps some plantings, but this would be discussed at the Planning Board.

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.

MOTION made by Mrs. Miller-Allgaier in Case #1697 to approve the request for an Area Variance to increase the Maximum Gross Floor Area from 30,000 square feet to 90,000 square feet with the condition that it be in substantial compliance with Exhibit "A", a Site Plan Layout and Exhibit "B" a Landscape Plan both with a revision date of 4/23/18. 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 - absent  
Mrs. Miller-Allgaier - in favor *Carried.*

MOTION made by Mrs. Miller-Allgaier in Case #1697 to approve the request for an Area Variance for a reduction in the east side yard setback where it abuts residential from 80 feet to 55.75 feet with the condition that it be in substantial compliance with Exhibit "A", a Site Plan Layout and Exhibit "B" a Landscape Plan both with a revision date of 4/23/18. Motion was seconded by Mrs. Liebi.

Roll call: Chairman Mangan - in favor  
Deputy Chairman Wisnowski, Jr. - in favor  
Mrs. Liebi - in favor  
Mr. Layou - absent  
Mrs. Miller-Allgaier - in favor *Carried.*

MOTION made by Mrs. Miller-Allgaier in Case #1697 to approve the request for an Area Variance for a reduction in the west side yard setback where it abuts residential from 80 feet to 78.34 feet with the condition that it be in substantial compliance with Exhibit "A", a Site Plan Layout and Exhibit "B" a Landscape Plan both with a revision date of 4/23/18. Motion was seconded by Mrs. Liebi.

Roll call: Chairman Mangan - in favor  
Deputy Chairman Wisnowski, Jr. - in favor  
Mrs. Liebi - in favor  
Mr. Layou - absent  
Mrs. Miller-Allgaier - in favor *Carried.*

MOTION made by Mrs. Miller-Allgaier in Case #1697 to approve the request for an Area Variance for an increase in the height of a structure from the allowed 35 feet to 38.67 feet with the condition that it be in substantial compliance with Exhibit "A", a Site Plan Layout and Exhibit "B" a Landscape Plan both with a revision date of 4/23/18. 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 - absent  
Mrs. Miller-Allgaier - in favor *Carried.*

MOTION made by Mrs. Miller-Allgaier in Case #1697 to approve the request for an Area Variance for an increase in the number of floors from 2 to 3 with the condition that it be in substantial compliance with Exhibit "A", a Site Plan Layout and Exhibit "B" a Landscape Plan both with a revision date of 4/23/18. Motion was seconded by Mrs. Liebi.

Roll call: Chairman Mangan - in favor  
Deputy Chairman Wisnowski, Jr. - in favor  
Mrs. Liebi - in favor  
Mr. Layou - absent  
Mrs. Miller-Allgaier - in favor *Carried.*

MOTION made by Mrs. Miller-Allgaier in Case #1697 to approve the request for an Area Variance for a reduction in the number of required parking spaces from 144 to 84 with the condition that it be in substantial compliance with Exhibit "A", a Site Plan Layout and Exhibit "B" a Landscape Plan both with a revision date of 4/23/18. 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 - absent  
Mrs. Miller-Allgaier - in favor *Carried.*

MOTION made by Mrs. Miller-Allgaier in Case #1697 to approve the request for an Area Variance to reduce the Perimeter Landscape Strip from 50 feet to a minimum of 6 feet with the condition that it be in substantial compliance with Exhibit "A", a Site Plan Layout and Exhibit "B" a Landscape Plan both with a revision date of 4/23/18. Motion was seconded by Mrs. Liebi.

Roll call: Chairman Mangan - in favor  
Deputy Chairman Wisnowski, Jr. - in favor  
Mrs. Liebi - in favor  
Mr. Layou - absent  
Mrs. Miller-Allgaier - in favor *Carried.*

The Area Variances in Case #1697 are approved.

**NEW BUSINESS:**

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

**Case #1702 – Charles Hafner, 7265 Buckley Road, Tax Map #107.-12-32.2:**

The applicant is requesting an Area Variance per Section 230-16 C.(4)(a)[2][b] for a reduction in the side yard setback from 75 feet to 30 feet to allow for adding a dumpster enclosure that matches the existing building. The property is located in the RC-1 Regional Commercial district.

Proof of Publication was read by the Secretary.

Tim Coyer of Ianuzi and Romans Land Surveying P.C. said they want to enclose a dumpster for the Core Restaurant. They want to keep it off the pavement.

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. Blue Spruce trees shield the dumpster.
2. They don't believe there is any other feasible method than to obtain an Area Variance. This is the easiest spot for the refuse collector.
3. They feel the Area Variance request is substantial, as it is a 60% reduction.
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.

**MOTION** made by Mrs. Liebi in Case #1702 to approve the Area Variance as requested with the condition that it be in substantial compliance with Exhibit "A" dated 2/26/2018. 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	- absent	
	Mrs. Miller-Allgaier	- in favor	<i>Carried.</i>

The Area Variance in Case #1702 was approved.

**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.

Tim Coyer of Ianuzi and Romans Land Surveyors P.C. explained that this facility would not be your typical gym. They will be selling a service. Train Hard Fitness is a *lifestyle*, a place for people to improve themselves. They do a health study and a plan. They will have personal trainers for

individuals and groups. There will be no freestyle weights, no athletic clubs like other fitness facilities. It will be tailored to personal training or specific training, like martial arts etc.

Attorney Gary Collison added that it is similar to a dance studio, or kickboxing. They feel this facility is an *Instructional Facility* and provides a personal training service.

Jay Fiorini of Train Hard Fitness explained that there will be a floating trainer.

Deputy Chairman Wisnowski commented that the business is falling more under the scope of personal service and Mr. Fiorini said yes.

Mrs. Miller-Allgaier asked what the hours would be and Mr. Fiorini said 24 hours. People would go to the facility for instruction, then go by themselves whenever their schedule allowed during the day or night.

Commissioner Mark Territo asked what size the building would be and Mr. Coyer said 100 feet by 100 feet.

Mark Harrington of Dampier Circle voiced concern for lighting noise. Mr. Coyer noted that that would be addressed at the Planning Board meeting.

Mr. Fiorini said he could change the hours to 6:00 a.m. to 10:00 p.m.

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

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

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

Chairman Mangan said he felt the Board needed time to think about the Interpretation.

**MOTION** made by Chairman Mangan in Case #1707 that it be adjourned to June 11, 2018. Motion was seconded by Mrs. Liebi.

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

Case #1707 was adjourned to June 11, 2018.

**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 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.

Chairman Mangan adjourned this case to June 11, 2018 in lieu of a pending decision regarding the Interpretation.

Case #1703 is adjourned to June 11, 2018.

**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.

No one was present to represent the applicant.

Chairman Mangan adjourned Case #1704 to June 11, 2018.

**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.

Attorney Thomas Fucillo of Mentor Law Firm represented the applicant.

Chairman Mangan asked him to tell the Board what he thinks the Interpretation should be.

Attorney Fucillo explained that this is a small fitness studio, no locker room or pool. They feel the facility is a good transition of Neighborhood Commercial to residential. They do not need a large parking area. It will be a 24 hour facility. They will have small groups and individual instruction. It will not be a large gym complex.

William Camperlino said he believes it will fit well in the neighborhood. It will be instructional and

a place for practice. Attorney Fucillo added that it is of studio nature.

Deputy Chairman Wisnowski asked how often monitoring of participants would be and how much involvement with a trainer.

Mr. Camperlino said the concept is that people will be trained on how to use the equipment. People will have card access. Instructors will be there from morning to late afternoon. The facility is within walking distance of the residential homes in the area.

Commissioner Territo asked what size building they planned on having and Mr. Camperlino said 5000 square feet with 33 parking spaces.

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.

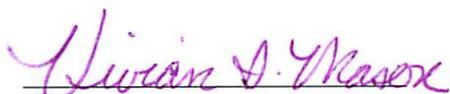
Like the previous Interpretation in Case #1707, the Board needs time to consider the presentations of each applicant, and decided to adjourn this case also.

**MOTION** made by Chairman Mangan in Case #1706 that it be adjourned to June 11, 2018. 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	- absent	
	Mrs. Miller-Allgaier	- in favor	<i>Carried.</i>

Case #1706 was adjourned to June 11, 2018.

There being no further business, Chairman Mangan adjourned the meeting at 8:30 P.M.



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