

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
March 13, 2017

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 March 13, 2017. 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
	Ryan Pleskach	Member
	Nicholas Layou	Member
	Luella Miller-Allgaier	Alternate 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 February 13, 2017 be accepted as submitted. Motion was seconded by Mr. Pleskach. *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 Mr. Layou. *Unanimously carried*

OLD BUSINESS:

Case #1575 - Verizon Wireless - Chairman Mangan noted that this one old case from July 5, 2015, regarding Verizon Wireless, requesting Area Variances for construction of a cell tower near Route 31 is still open and will be addressed at a future meeting. At this time it is in litigation.

Case #1649 – INTERPRETATION - Filkins Acquisitions, LLC (America Stores It), 8370-8380 Oswego Road, Tax Map #053.-01-03.1:

The applicant is requesting an Interpretation pursuant to 1. Sections 230-16 C.(4)[1][c]; 230-12 A & B; 230-13; and 230-18; to allow development and use of the Subject Property without the requirement of an additional site perimeter landscape strip 50 feet, because the Subject Property abuts a Planned Development District and not a Residential District; and 2. Section 230-11; to allow for the inclusion of ponds within a Perimeter Landscape Strip. The property is in the RC-1 Regional Commercial zoning district.

The secretary read the proof of Publication.

Attorney Joe Pozzi represented the applicant. Their Engineer, Joseph Mastroianni, was also present.

Chairman Mangan asked their attorney if the wording of the legal notice conformed and satisfied him and he said yes.

Chairman Mangan noted that the code does not include a detention pond in a perimeter landscape strip.

Attorney Pozzi flipping through the information on his phone, read the definition of a perimeter landscape strip and posed the question, what is normally allowed? They feel nothing yet precludes a pond. The code states things not allowable, structures, parking, for example, but there is no mention that retention ponds are not allowed, otherwise the code would state it.

Chairman Mangan suggested that he look under “Yard, Required” where it separates snow/storage and drainage from a perimeter landscape strip.

Attorney Pozzi argued that the code does not state a pond is not allowed, and that they have been permitted in the past in other developments.

Chairman Mangan explained that a resident asked the Board for an Interpretation, and the Board determined that perimeter landscape strips did not allow a retention pond. Because no one had ever asked that question before, so retention ponds prior to the Board’s recent interpretation have been in perimeter landscape strips.

Attorney Pozzi said he did not agree with their interpretation.

Chairman Mangan noted, that what you’re saying is that if perimeter landscape strips do not include retention ponds, therefore they are not excluded.

Attorney Pozzi further argued that their property does not abut residential property. It is a PDD district, and because they believe that is an alternative district it is different from a residential or commercial district.

Chairman Mangan noted that when the townhouses were built it was a residential district.

Deputy Chairman Wisnowski commented that in 1994 it was an R-8 residential district.

Mr. Pleskash added that on the County website these structures are shown as townhouses.

Attorney Pozzi reiterated that the development is PDD a Planned Development District not residential, and feels it is an alternative district from other districts.

Lawrence Oberacker stated that he feels they should be afforded the same buffer as a residential district.

Charles Edgar said that when they bought the townhouse they had no clue he was not in a residential area and further, the storage facility property is an eyesore.

Nancy Platz asked what was happening, that they were told there would not be a pond in a perimeter landscape strip. She feels the worth of her home will be affected by the proposed development.

Attorney Pozzi stated that they were here for an Interpretation, not the development of their property. He said the applicant relied on what was stated in the code and invested a lot of money.

Chairman Mangan noted that the applicant's investment is no more important than the homeowner's investments.

Attorney Pozzi said they would be going further with regard to this.

Chairman Mangan asked if that was meant to be a threat, to which Attorney Pozzi said he took offense to that.

Joe Durand argued that a water feature is part of a perimeter landscape strip, that water drainage has a 34 to 48 hour dissipation, just exactly what they want to do.

Nancy Platz noted that there is ankle deep water on their property and they are concerned with standing water and disease.

Joe Mastroianni said the code stated buffer strips should not be used for drainage. How can a parcel function and drain?

Motion made by Mr. Pleskach to adjourn Case #1649 to April 10, 2017. Motion was seconded by Deputy Chairman Wisnowski.

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

Case #1649 is adjourned to the April 10, 2017 meeting.

NEW BUSINESS:

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

Case #1650 – AREA VARIANCES - Goddard Development, 7435 Oswego Road, Tax Map #104.-01-06.0:

The applicant is requesting Area Variances pursuant to Section 230-16 D.(5)(a) - a reduction of the perimeter landscape strip along John Glen Boulevard Right-of-Way from 20 feet to 4.66 feet; Section 230-16 D.(5)(a) - a reduction of the perimeter landscape strip along Longbranch Road Right-of-Way from 20 feet to 2.6 feet; Section 230-16 D.(5)(a) - a reduction of the perimeter landscape

strip along Oswego Road Right-of-Way from 20 feet to 3.0 feet; Section 230-16 D.(5)(a) - a reduction of the perimeter landscape strip along the west property line from 20 feet to 16.38 feet; Section 230-16 D.(4)(b)[3] - a reduction of the rear building setback from 25 feet to 16.38 feet; 230-19 A.(5) - a reduction in the building setback from the centerline of Oswego Road from 140 feet to 95.54 feet; Section 230-16 D.(4)(b)[2][a] - a reduction of the building setback from the Lonbranch Road Right-of-Way from 25 feet to 17.11; Section 230-16 D.(5)(a) - a reduction of the perimeter landscape strip along Longbranch Road Right-of-Way for the accessory structure from 20 feet to 2.6 feet; Section 230-22 C.(1) - a reduction of setback from John Glen Boulevard Right-of-Way from 25 feet to 19 feet for a sign; and Section 230-22 C.(1) - a reduction of setback from Oswego Road Right-of-Way from 25 feet to 19 feet for a sign to allow for construction of a 6,697 square foot retail/repair building with associated utilities and paved parking. The property is in the LuC-1 Limited Use District for Gasoline Services.

The Secretary read the proof of Publication.

Brian Burri of Bergman Associates represented the applicant. He explained that they couldn't get ownership of the portion of the abandoned road which belongs to the county, so they had to redesign their site. Also because of a high pressure petroleum line they had to come up with a new layout. It is their intent to abandon their previous approved Area Variances granted by the Zoning Board at the November 14, 2016 meeting, Case #1622.

Chairman Mangan asked if the Board could state that and Mr. Burri said yes.

Mr. Burri addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. There are similar encroachments in other properties.
2. They don't believe there is any other feasible method than to obtain an Area Variance. The configuration of the lot is small.
3. They believe the Area Variance request is not substantial. They are seeking the minimal possible in their requests.
4. They don't believe there will be any physical or environmental impact to the neighborhood.
5. They believe the Area Variances are self-created, however they didn't realize the pipeline was there before.

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 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. Pleskach in Case #1650 to **approve** the Applicant's voluntary request to abandon/void the Area Variances which were approved for Case #1622 at the November 14, 2016 meeting. Motion was seconded by Mr. Layout.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layout - in favor *Unanimously carried*

MOTION made by Mr. Pleskach in Case #1650 to **approve** the Area Variance for a reduction of the perimeter landscape strip along John Glen Boulevard Right-of-Way from 20 feet to 4.66 feet with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017. Motion was seconded by Mr. Layout.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layout - in favor *Unanimously carried*

MOTION made by Mr. Pleskach in Case #1650 to **approve** the Area Variance for a reduction of the perimeter landscape strip along Longbranch Road Right-of-Way from 20 feet to 2.6 feet with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017. Motion was seconded by Mr. Layout.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layout - in favor *Unanimously carried*

MOTION made by Mr. Pleskach in Case #1650 to **approve** the Area Variance for a reduction of the perimeter landscape strip along Oswego Road Right-of-Way from 20 feet to 3.0 feet with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017. Motion was seconded by Mr. Layout.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layout - in favor *Unanimously carried*

MOTION made by Mr. Pleskach in Case #1650 to **approve** the Area Variance for a reduction of the perimeter landscape strip along the west property line from 20 feet to 16.38 feet with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017. Motion was seconded by Mr. Layou.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layou - in favor *Unanimously carried*

MOTION made by Mr. Pleskach in Case #1650 to **approve** the Area Variance for a reduction of the rear building setback from 25 feet to 16.38 feet with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017. Motion was seconded by Mr. Layou.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layou - in favor *Unanimously carried*

MOTION made by Mr. Pleskach in Case #1650 to **approve** the Area Variance for a reduction in the building setback from the centerline of Oswego Road from 140 feet to 95.54 feet with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017. Motion was seconded by Mr. Layou.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layou - in favor *Unanimously carried*

MOTION made by Mr. Pleskach in Case #1650 to **approve** the Area Variance for a reduction of the building setback from the Lonbranch Road Right-of-Way from 25 feet to 17.11 with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017. Motion was seconded by Mr. Layou.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layou - in favor *Unanimously carried*

MOTION made by Mr. Pleskach in Case #1650 to **approve** the Area Variance for a a reduction of the perimeter landscape strip along Longbranch Road Right-of-Way for the accessory structure from

20 feet to 2.6 feet with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017. Motion was seconded by Mr. Layout.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layout - in favor *Unanimously carried*

MOTION made by Mr. Pleskach in Case #1650 to **approve** the Area Variance for a reduction of setback from John Glen Boulevard Right-of-Way from 25 feet to 19 feet for a sign with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017. Motion was seconded by Mr. Layout.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layout - in favor *Unanimously carried*

MOTION made by Mr. Pleskach in Case #1650 to **approve** the Area Variance for a reduction of setback from Oswego Road Right-of-Way from 25 feet to 19 feet for a sign with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017. Motion was seconded by Mr. Layout.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Pleskach - in favor
Mr. Layout - in favor *Unanimously carried*

The Area Variances in Case #1650 are **approved** with the condition that they all be in substantial compliance with Exhibit "A" a Site Plan dated 2/10/2017.

Case #1651 – AREA VARIANCES - Environmental Design & Research, 7641 & 7645 Henry Clay Boulevard, Tax Map #095.-02-13.1 & #095.-02-14.2:

The applicant is requesting Area Variances pursuant to Section 230-17 C.(4)(b)[1][a] – a reduction in the front yard setback from 200 feet to 111 feet and Section 230-17 C.(5)(a) – a front perimeter landscape strip reduction from 100 feet to 46 feet to allow for construction of an addition to the existing building for café and parking expansion. The property is located in the I-1 Industrial 1 district.

The Secretary read the proof of Publication.

Chairman Mangan noted they were previously before the Board for Area Variances where they wanted to keep the buildings in line, was that still the case?

Carolyn Bean of Environmental Design said yes, they want to keep in line with adjacent properties.

Ms. Bean addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood.
2. They don't believe there is any other feasible method than to obtain an Area Variance. The expansion of the café and alignment enhancement will keep them consistent with the other properties.
3. They believe the Area Variance request is substantial.
4. They don't believe there will be any physical or environmental impact to the neighborhood
5. They believe the Area Variance is self-created.

Mr. Layou asked if the café was for employees only and Ms. Bean 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 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 #1651 to **approve** the Area Variance with the condition that it be in substantial compliance with Exhibit "A" a Site Plan dated 2/13/2017. Motion was seconded by Mr. Pleskach.

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

The Area Variances in Case #1651 are **approved**.

Case #1652 – AREA VARIANCES - Store America (Spring Storage Park). 7739 Henry Clay Boulevard, Tax Map #087.-01-21.1:

The applicant is requesting Area Variances pursuant to Section 230-17 C.(4)(b)[1][a] – a reduction in the front yard setback from 200 feet to 70 feet and Section 230-17 C.(5)(a) - reduction in the front perimeter landscape strip from 100 feet to 70 feet, for the purpose of installation of a 20 foot by 280 foot single storage building. The property is located in the I-1 Industrial 1 district.

(Attorney Marchozzi stepped down from the Board, as Germain and Germain have a business interest with the applicant. Joe Frateschi replaced him for this case.)

The Secretary read the proof of Publication.

Steve Calocerinos represented the applicant. He explained that Spring Storage has been acquired by Tim Mahoney from Gary Spring.

Chairman Mangan asked if there were other buildings planned within the site and Mr. Calocerinos said yes, that there will be no impact to the trees and the fence will not be moving. Half of the building will be on existing asphalt. It will provide a visual buffer with no visible overhead doors.

Mr. Calocerinos addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood.
2. They don't believe there is any other feasible method, not without modification than to obtain an Area Variance.
3. They believe the Area Variance request is substantial.

Chairman Mangan asked if he didn't think the reduction in the perimeter landscape was substantial.

4. They don't believe there will be any physical or environmental impact to the neighborhood.
5. They believe the Area Variance is self-created, but also believe there will be an overall improvement to the site.

Mr. Layou asked if the lighting would be less intrusive, and Tim Mahoney stated that the lighting would be a decrease for the homeowners.

Janet Rathburn said she is not opposed, just leery. The site looked shabby for a long time and when the previous owner made promises he did not deliver. Also, the fire department said they had a problem with the width between the buildings.

Mr. Calocerinos assured her the 25 foot width between the buildings is standard.

Tim Mahoney stated that they are a premier self-storage building facility, and its appearance is being addressed to make it less intrusive to the neighborhood. They want to be good neighbors. Building the single building is more expensive, but it will reduce the impact with regard to lighting and visual appearance, no sight of overhead doors.

Mrs. Liebi asked of they would be updating the current units and Mr. Mahoney said yes they are starting the improvements.

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 questions and there were none.

Chairman Mangan asked for those in favor granting the Area Variance requests and. Chairman Mangan asked for those opposed to granting the Area Variance requests 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 #1652 to **approve** the Area Variances as requested with the condition that they be in substantial compliance with Exhibit "A" an Amended Overall Site Plan dated February 10, 2017. Motion was seconded by Deputy Chairman Wisnowski.

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

The Area Variances in Case #1652 are **approved**.

There being no further business, Chairman Mangan adjourned the meeting at 9:20 P.M.


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