

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
June 12, 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 June 12, 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
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: None

MOTION made by Deputy Chairman Wisnowski that the Minutes of the meeting of May 8, 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 Mrs. Liebi. *Unanimously carried.*

OLD BUSINESS:

None

NEW BUSINESS:

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

Chairman Mangan announced that Case #1667 (America Stores It), which is last on the agenda, will be handled first, due to the number of residents present to hear the additional Area Variance requests the applicant is now seeking.

Case #1667 – AREA VARIANCES – America Stores It/Kurt Filkins, Oswego Road, Tax Map #053.-01-02.0, #053.-01-03.1, and #053.-01-04.1:

The applicant is requesting Area Variances pursuant to Section 230-16 C.(4)(a)[1][b] for a reduction in the front yard landscape buffer strip from 30 feet to 5 feet; Section 230-16 C.(4)(a)[1] [b] for a

reduction in the side yard landscape buffer strip from 30 feet to 5 feet (west side); Section 230-16 C.(4)(a)[2] [b] for a reduction of the side yard structure setback from 75 feet to 50 feet; Section 230-16 C.(4)(a)[1] [b] & [c] for a reduction of the rear yard landscape buffer strip from 80 feet to 50 feet; and Section 230-16 C.(4)(a)[2] [b] for a reduction in the side yard structure setback from 75 feet to 50 feet (Hall property), for site development. The property is located in the RC-1 Regional Commercial zoning district.

The Secretary read the proof of Publication.

Attorney Joseph Pozzi and Engineer Joseph Mastroianni represented the applicant.

Chairman Mangan noted that the applicant has been before the Board previously and some of their Area Variance requests were approved and some denied.

Joesph Mastroianni began by informing the Board that Sandra Hall is not opposed to their additional requests and he presented her letter stating such. He further explained that there would be no storm water pond in the rear landscape perimeter strip, but they plan on putting a gravel drive there so that vehicles and fire trucks can maneuver around the storage units.

Chairman Mangan asked where they intended to put the storm water pond and Mr. Mastroianni said to the north side of the property near the Carey and Daley Physical Therapy building, and that it will be kidney shaped.

Mr. Mastroianni 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, since they cannot put the detention pond in the rear of the property.
3. They believe the Area Variance requests are not substantial, that the request for the reduction of the side yard setback borders a commercial business.
4. They don't believe there will be any physical or environmental impact to the neighborhood.
5. The need for the Area Variances are self-created as they need them to complete the project.

Mr. Pleskach asked if they were keeping all their previous Area Variances that the Board approved and Mr. Mastroianni said yes.

Nancy Platz asked how close the stormwater pond would be to her home and Mr. Mastroianni said 80 feet from the property line.

Ron Reed explained that water backs up onto his property from Route 57 and that he is in opposition to the request for a reduction in the front landscape buffer strip from 30 feet to 5 feet.

Mr. Mastroianni explained that the reduction would be from the property line not the edge of the

road.

Linda Daley owner of the physical therapy business next to their parcel also voiced concern with regard to drainage.

Mr. Mastroianni explained that her property is a lower elevation and that they can't let water flow to her parcel. They will also larvacide the stormwater pond for mosquitoes. Water will flow slowly to ditches on Route 57. The stormwater pond will be deep.

Helen Baird asked what guarantee was there that they would control the mosquitoes year after year.

Chairman Mangan said that this Board or the Planning Board could make it a condition.

Mr. Mastroianni noted that the water flow has to be less than before.

Lawrence Oberacker asked for clarification that they are withdrawing their request for the rear yard setback and Mr. Mastroianni said yes, they are withdrawing that request. They plan on putting trees or fencing along the rear property line.

Charles Edgar also voiced opposition for the front yard landscape buffer strip reduction and thinks it would be a hazard. He also complained about the site and the lack of cleanup.

Mr. Mastroianni said the rain slowed them down. They have been cited, and have until the end of June to clean up the site.

Pat Howe said someone had been taking the wood.

Mr. Layou asked what the depth of the pond would be and Mr. Mastroianni said 4 feet in the middle. Mr. Layou then inquired about the fencing and Mr. Mastroianni said there would be fencing around the property, and across the front as a barrier for security purposes.

Another resident asked about lighting and Mr. Mastroianni said that none would go off the property.

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 four said they were opposed to the front yard setback.

Chairman Mangan closed the hearing.

MOTION made by Mr. Pleskach to **adjourn** Case #1667 to the July 10, 2017 meeting. Motion was seconded by Mrs. Liebi.

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.*

The Area Variance in Case #1667 is **adjourned**.

Case #1664 – AREA VARIANCES – Gerald Frost, 8415 Henry Clay Boulevard, Tax Map #060.-02-09.0:

The applicant is requesting Area Variances pursuant to Section 230-13 A.(4) to allow for a reduction in the side yard setback from 25 feet to 2 1/2 feet and Section 230-13 A.(4) to allow for a reduction in the rear yard setback from 25 feet to 10 feet. This is to allow for construction of a garage. The property is located in the RA-100 Residential Agricultural zoning district.

The secretary read the proof of publication.

Gerald Frost explained that he would like to construct a garage in the back corner of his property as he doesn't want to have it interfere with his leach fields.

Mr. Frost addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance because moving it would mean having to take down a large tree.

Chairman Mangan suggested that he could move the garage over five feet.

Mr. Frost said he couldn't because of the location of his septic system and leach fields. He wasn't quite sure how much area they took up.

3. He believes the Area Variance request is substantial.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood
5. He does feel the Area Variance is self-created.

Mr. Layou asked what the abstract 16 notation on his survey meant.

Attorney Germain explained that it meant the title was in two pieces and put together before Mr. Frost bought it.

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 Edward and Robin Bloss said they were in favor.

MOTION was made by Mr. Layou to **approve** the Area Variance to allow for a reduction in the rear yard setback from 25 feet to 10 feet. 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>

MOTION made by Mr. Pleskach in Case #1664 to **deny** the Area Variance to allow for a reduction in the side yard setback from 25 feet to 2 1/2 feet. Motion was seconded by Mrs. Liebi.

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>

One Area Variance in Case #1664 **approved** and one **denied**.

Case #1665 – AREA VARIANCES – Brian J. Arlukiewicz, 9041 Oneida River Park Drive, Tax Map #033.-01.10.1:

The applicant is requesting Area Variances pursuant to Section 230-13 A.(4) for a reduction in the front yard setback from 75 feet to 4 feet and Section 230-20 B.(2)(b) for an increase in the height of a fence in a front yard from 2 ½ feet to 6 feet for construction of a fence. The property is located in the RA-100 Residential Agricultural zoning district.

The secretary read the proof of publication.

Brian Arlukiewicz explained that he has two young children and the river is in his back yard. He wants to install a fence for the safety of his children. He plans on a wooden fence in front and a 6 foot chain link one in the back. His property is unusually shaped, long and narrow.

Chairman Mangan asked if Oneida River Park Drive is a town road and Mr. Arlukiewicz said that it is now. He added that he has had no problem with snow when their road is plowed.

Mr. Arlukiewicz addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. He feels it will be aesthetically pleasing.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance. The dimensions of his property make it difficult to ensure the safety of his children because it's long and narrow.
3. He believes the Area Variance request is substantial.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood.
5. The Area Variance is self-created.

Chairman Mangan voiced concern that the fence would be so close to the road.

Deputy Chairman Wisnowski asked how much traffic there is on his road.

Mr. Arlukiewicz answered not a lot, there are about 8 to 10 houses on his road, but the problem is that some people drive pretty fast.

Bruce Tanner said he had no problem with the Area Variances as long as Mr. Arlukiewicz doesn't put any of it on his property or affect his view.

Chairman Mangan noted that protecting a view is not a reason to deny an Area Variance.

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 Deputy Chairman Wisnowski in Case #1665 to approve the Area Variance. Motion was seconded by Mr. Layout.

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

The Area Variances in Case #1665 are **approved**.

Case #1666 – AREA VARIANCES – Market Fair, LLC, 4100-4160 NYS Route 31, Tax Map #055.-01-06.1:

The applicant is requesting Area Variances pursuant to Section 230-22 C.(1) for an increase in the square footage of a freestanding sign from 128 feet to 283.5 square feet (existing sign is 203 square feet) and Section 230-22 C.(1) for an increase in the height of a freestanding sign from 25 feet to 32 feet 4 inches (existing sign is 29 feet). This is for the reconstruction of an existing freestanding sign. The property is located in the RC-1 Regional Commercial zoning district.

The secretary read the proof of publication.

Brian Bouchard, of CHA Consulting, explained that they have modified the sign and there will no longer be split signs. They'll use the same pylon, but will be increasing the height, reconstruct the top cap so that they can provide advertising for other tenants.

Also representing the applicant were Nick Corteze of Costello, Cooney and Fearon law office and Eric Stropp, an appraiser.

Mr. Bouchard 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's a commercial area of NYS Route 31.
2. They don't believe there is any other feasible method than to obtain an Area Variance. There isn't much road frontage and this is the only place a sign can go.
3. They believe the Area Variance request is substantial, but it is a highly commercial area.
4. They don't believe there will be any physical or environmental impact to the neighborhood. They're using the same footing, just increasing the size of the sign.
5. They don't feel the Area Variance is self-created, because of the unusual shape of the property. Internet sales have hurt businesses and there is poor visibility of the tenants to the rear of the property.

Attorney Corteze further explained that because of the unique shape of the shopping center, the stores in the back are not easily seen and the tenants want their name on the sign so that people would know they were there. They have asked for an increase in the sign to allow them to add more tenants names without making it look too busy.

Chairman Mangan asked what is the purpose of the sign? In order to read it, you have to be in the turning lane to the shopping center. He suggested that the real reason they want it is to appease the tenants by including their name on the sign. Chairman Mangan acknowledged that their parcel is unlike COR's where the stores in back can be seen from Route 31, but the stores in Market Fair are not easily seen.

Mr. Pleskach said he didn't feel the sign would have any effect on internet sales.

Attorney Corteze explained that businesses are trying to succeed and need to have their name on the

sign.

Mr. Layou pointed out that they have created a client based plaza with more tenants than can fit on the sign, so he feels their need for the Area Variances is self-created.

Mr. Stropp argued that the market has caused the need for the increase in the number of names that need to be on the sign.

Mrs. Liebi noted that there will never be enough room for all the tenants' names.

Mr. Bouchard agreed, but pointed out that hopefully this will help.

Mr. Pleskach asked how many tenants there are on the sign and Mr. Bouchard said there will be 5 new placards.

Mrs. Liebi asked if there are more tenants in the future, will they be back for even a larger one and Mr. Bouchard said they tried to take that into account, but doesn't know what the future will bring.

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.

There was no longer any audience present.

Chairman Mangan closed the hearing.

MOTION made by Mr. Pleskach in Case #1666 to approve the Area Variances with the condition they be in substantial compliance with Exhibit "A" dated 2/16/2017. Motion was seconded by Mrs. Liebi.

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 #1666 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