

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
November 14, 2016

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 November 14, 2016. 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 Mrs. Liebi that the Minutes of the meeting of October 10, 2016 be accepted as submitted. Motion was seconded by Mr. Layou. *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:

Chairman Mangan commented that there are two cases under Old Business.

Case #1575 - Verizon Wireless from July 5, 2015. Their request is for Area Variances regarding a cell tower near Route 31. The case has been in litigation and will be discussed at a future meeting.

Case #1622 – AREA VARIANCES - Goddard Development (Mavis Discount Tire) [Amended], 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 on John Glenn Boulevard from 20 feet to 4.8 feet; Section 230-16 D.(5)(a): a reduction in the perimeter landscape strip on Longbranch Road from 20 feet to 2.2 feet; Section 230-16 D.(4)[3]: a reduction in the building setback on John Glenn Boulevard from 25 feet to 4.8 feet; Section 230-19 A.(5): a reduction of the highway overlay setback from the centerline of Oswego Road from 140 feet to 120.5 feet; Section 230-16 D.(4)(b)[2]: a reduction in the building setback from Longbranch Road from 25 feet to 19.79 feet; Section 230-16 D.(5)(a): a reduction in the perimeter landscape strip on Longbranch Road from 20 feet to 2.6 feet to allow for a dumpster;

and Section 230-22 C.(1): a reduction of the setback from John Glenn Boulevard from 25 feet to 8.4 feet for a sign. All the above Area Variances are to allow for an auto repair building with associated parking (amendment of Area Variance requests from three to seven). The property is located in the LuC-1 Limited Use District for Gasoline Services zoning district.

The Secretary read the proof of Publication.

Tom Bolt of Bergmann Associates represented the applicant.

This case was presented in August, and the applicant has been trying to resolve the abandonment issue abutting the parcel, but has had no success yet.

Mr. Bolt stated that they have revised their plans to not include that portion and have pushed the building further north.

Mr. Bolt 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.
2. They don't believe there is any other feasible method than to obtain Area Variances due to the limiting size of the parcel.
3. They believe the Area Variance requests are minimal and not substantial.
4. They don't believe there will be any physical or environmental impact to the neighborhood.
5. They don't believe the Area Variances are self-created.

Mrs. Liebi inquired as to why they felt the need for a variance is not self-created. They knew the limitations of the parcel when they bought it.

Mr. Bolt said for the parcel to be viable the building needs to be this size.

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 #1622 to **approve** the Area Variance for a reduction of the perimeter landscape strip on John Glenn Boulevard from 20 feet to 4.8 feet. 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. Layou - in favor *Unanimously carried.*

MOTION made by Mr. Pleskach in Case #1622 to **approve** the Area Variance a reduction in the perimeter landscape strip on Longbranch Road from 20 feet to 2.2 feet. 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 #1622 to **approve** the Area Variance a reduction in the building setback on John Glenn Boulevard from 25 feet to 4.8 feet. 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 #1622 to **approve** the Area Variance a reduction of the highway overlay setback from the centerline of Oswego Road from 140 feet to 120.5 feet. 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 #1622 to **approve** the Area Variance a reduction in the building setback from Longbranch Road from 25 feet to 19.79 feet. 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.*

Tim Coyer from Ianuzi and Romans explained that the parcel consists of 1.3 acres and had been owned for years by the Stevers. Carol Stever would like to sub-divided the parcel. Since the highway overlay requires 250 feet they need an Area Variance to reduce it in order to sub-divide.

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. There are no similar sized properties in the area. The others are smaller lots.
2. They don't believe there is any other feasible method than to obtain an Area Variance due to the highway overlay requirements.
3. They believe the Area Variance request is somewhat substantial.
4. They don't believe there will be any physical or environmental impact to the neighborhood. The abutting parcels are residential and this would simply allow another residential lot.
5. They believe the Area Variances are self-created.

Chairman Mangan commented that the parcel is at a busy intersection and has concerns regarding traffic.

Mr. Pleskach asked if the additional parcel would be big enough for another house and Mr. Coyer said yes and they would have to adhere to the building restrictions.

Mrs. Liebe asked why they didn't divide it a little differently and Mr. Coyer said they didn't want to push for more Area Variances.

Anne Hanley, who lives along that corridor voiced concern about another driveway. This would make 9 driveways along that stretch of highway. She said she has a difficult time now getting out of her driveway.

Chairman Mangan asked is she would rather see the driveway placed on Bear Road?

Ms. Hanley inquired as to whether the parcel could be divided differently with the driveway on Bear Road.

Mr. Coyer stated that no matter where they divide the parcel, they still need the Area Variance.

Mr. Pleskach commented that there is a history of a lot of accidents in that area. Ms. Hanley said not since the stop light was put in.

Chairman Mangan asked Mr. Coyer if the applicant would commit to changing the driveway and Mr. Coyer said he would have to contact Mrs. Stever.

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

MOTION made by Chairman Mangan in Case #1634 to adjourn the hearing. 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>

Case #1634 is adjourned to December 12, 2016.

Case #1636 – AREA VARIANCE – North Syracuse Lodging Group, LLC/Towneplace Suites – New York State Route 31/Pepperidge Way – Tax Map #055.-01-01.1:

The applicant is requesting an Area Variance pursuant to Section 230-21 E., for a reduction in the required number of parking spaces from 164 to 119. The property is located in the RC-1 Regional Commercial zoning district.

The Secretary read the proof of Publication.

Brian Bouchard of CHA Consulting represented the applicant.

Chairman Mangan asked why they want the reduction and noted that the Planning Board is not in favor of their request.

Mr. Bouchard argued that the applicant operates many hotels in the state and that they have found they do not need as many as the code requires and can manage with less parking spaces. They would like to put in a pool and patio instead.

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.
2. They don't believe there is any other feasible method than to obtain an Area Variance if they want to construct a pool and patio.
3. They believe the Area Variance request is not substantial. As the hotel does not have a convention center or have banquets, they don't feel they need the required parking.
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.

Deputy Chairman Wisnowski noted that they have 109 rooms, and if at capacity where do the employees park?

Mr. Bouchard replied that there are nine employees, that's why the request is for 119 parking spaces.

Mrs. Liebi commented that it is also an extended stay hotel.

Mr. Bouchard said the full capacity is a very small percentage.

Mr. Pleskach asked why they just don't build a smaller hotel and Mr. Bouchard said the applicant wants this size.

Commssioner Territo commented that if they plan on a pool, they will need a new site plan, but that would depend on whether they receive the Area Variance.

Mrs. Liebi inquired as to whether it would be an outdoor pool and Mr. Bouchard said no, an indoor pool with a barbeque area.

Terry McCormick asked where the snow would go and Mr. Bouchard said to the rear of the hotel where there is a green area allowing plenty of space.

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 Deputy Chairman Wisnowski in Case #1636 to **deny** the Area Variance. 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 Variance in Case #1636 is **denied**.

Case #1637 – AREA VARIANCE - Smokey Bones (Robert Stamm) - 4036 NYS Route 31 – Tax Map #055.-01-03.1:

The applicant is requesting an Area Variance pursuant to Section 230-22 C.(1) to increase the number of allowed wall signs from two to four, allowing for an additional sign as a variance was previously granted for a third sign. The property is located in the RC-1 Regional Commercial zoning district.

The Secretary read the proof of Publication.

Dee Fullerton of Smokey Bones explained that they would like to update the Route 31 side to the right of the entrance with a lighted flame sconce sign.

Ms. Fullerton addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. The lighted flame sconce fixture is an accessory to the building enhancing the building's aesthetics from the highway and aligns with Smokey Bones' new branding image.
2. They don't believe there is any other feasible method than to obtain an Area Variance. There are no current alternatives that can emulate the flame sconce fixture, which represents the Smokey Bones brand.
3. They believe the Area Variance request is substantial. It represents the Smokey Bones Bar and Fire Grill, as evidenced by the flame logo.
4. They don't believe there will be any physical or environmental impact to the neighborhood. It will illuminate the building along the highway.
5. 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 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 #1637 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A". 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 Variance in Case #1637 is **approved**.

**Case #1639 – AREA VARIANCES - Marketfair Fee, LLC (Madison Ave Realities) - 4100-4160
NYS Route 31 – Tax Map #055.-01-06.1:**

The applicant is requesting Area Variances pursuant to Sections 230-22 C.(1) to increase the square footage of a pylon sign from 128 square feet to a proposed 256 square feet (the existing square footage is 203) and to increase the height of a pylon sign from 25 feet to 32 feet 4 inches (the height of the existing sign is 29 feet) for the purpose of remodeling and increasing the height and square footage of a pylon 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 represented the applicant.

Chairman Mangan commented that the applicant was before the Board in June.

Mr. Bouchard said they have reduced the height and are presenting a smaller sign than they previously proposed. They feel Marketfair plaza is a unique situation.

Chairman Mangan disagreed, saying he did not think it was a unique situation.

Mr. Bouchard explained that they feel the property is unique having a road frontage hardship for the smaller businesses who lease space, but don't have any identification on the sign. They would like to be able to add their names on the sign.

Chairman Mangan pointed out that in order to read the names you would have to be in the turning lane and if not, would have to go down the road and turn around. He said he understands that tenants that lease want it.

Mr. Bouchard stated that they could put 5 more business's names on it. He advised the applicant that the sign request had to be a reduction of their previous request. He pointed out that COR has a giant sign, but you can see the stores from the road. The uniqueness of Marketfair is that smaller tenants stores cannot be seen from the road.

Chairman Mangan said he took issue with the comparison.

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. The added height of 3 feet 4 inches would largely be unnoticeable. The corridor is commercial and many large plazas have comparable freestanding signs despite large wall signs that are already visible from the roadway to identify the same stores.
2. They don't believe there is any other feasible method than to obtain an Area Variance. The benefit of the increasing signage will allow the owner to add additional retail spaces to the freestanding sign. This would provide many of the small businesses the only identification for their small retail areas within the plaza.

3. They believe the Area Variance request is not substantial. It would add 53 square feet of additional sign area for multiple tenant signs. The proposed height is comparable to other neighborhood freestanding signs within the corridor.
4. They don't believe there will be any physical or environmental impact to the neighborhood. The freestanding sign will not impair visibility for motorists.
5. They believe the request is self-created.

Deputy Chairman Wisnowski commented that the number of units was different before, that have since chopped it up to have smaller tenants, and that their sign increase request is to make leasing more feasible.

Mr. Bouchard noted that they have to include "Town of Clay" on the sign, which takes up space.

Mrs. Liebi pointed out that Great Northern Mall is not branded and that you need to know the store before you turn. They can't possibly list all their stores.

Mr. Pleskach said he was torn with decision, because where will the line be drawn. Will there be another request for increases in the future.

Chairman Mangan asked Commissioner Territo if he had any comments and he said "Town of Clay" may not be required, unless it was stipulated by the Planning Board.

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

There was nobody left in the audience so Chairman Mangan did not ask if they had any questions, or if anyone was in favor or those opposed to granting the Area Variance requests.

Chairman Mangan closed the hearing.

MOTION made by Mrs. Liebi in Case #1639 to **deny** the Area Variances. 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	- against	
	Mr. Layou	- against	<i>Carried.</i>

The Area Variances in Case #1639 are **denied**.

Case #1640 – AREA VARIANCES - Terry McCormick – 7612 Fitzpatrick Drive – Tax Map #096.-25-07.0:

The applicant is requesting Area Variances pursuant Section 230-13 E.(4)(c)[2] to reduce the side yard setback from 7 feet to 3 feet and Section 230-13 E.(4)(c)[4]to increase the height of a detached

accessory structure from the allowable 12 feet to 16 feet for the construction of a shed. The property is located in the R-7.5 One-Family Residential zoning district.

The Secretary read the proof of Publication.

Terry McCormick explained that he needs the shed for storage, pool supplies etc.

Mr. McCormick 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 an improvement.
2. He doesn't believe there is any other feasible method than to obtain Area Variances. Because of the 20 foot easement, the only other option would put the shed in the middle of his yard.
3. He doesn't believe the Area Variance requests are substantial.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood. His neighbor is not opposed to it.
5. The Area Variances are 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.

There was nobody left in the audience so Chairman Mangan did not ask if they had any questions, or if anyone was in favor or those opposed to granting the Area Variance requests.

Chairman Mangan closed the hearing.

MOTION made by Mr. Layou in Case #1640 to **approve** the Area Variances with the condition that they be in substantial compliance with Exhibit "A". 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 #1640 are **approved**.

There being no further business, Chairman Mangan adjourned the meeting at 8:47 P.M.


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