

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
December 14, 2015

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 December 14, 2015. 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
	Mark Smith	Deputy Chairman
	Karen Liebi	Member
	Edward Wisnowski	Member
	Ryan Pleskach	Member
	Vivian Mason	Secretary
	John Marzocchi	Acting Attorney
	Mark V. Territo	Commissioner of Planning & Development
	Code Enforcement Officer	Joe Grispino

ABSENT: None

MOTION made by Mrs. Liebi that the Minutes of the meeting of November 9, 2015 be accepted as submitted. Motion was seconded by Mr. Wisnowski. *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 Deputy Chairman Smith. *Unanimously carried.*

OLD BUSINESS:

Chairman Mangan noted that the Board still has one old case regarding Verizon Wireless for a cell tower, but it will be at a future meeting.

NEW BUSINESS:

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

Case #1589 – AREA VARIANCES - Kenneth McFadden, 4242 Orion Path Tax Map #081.-08-03.0:

The applicant is requesting Area Variances pursuant to Sections 230-13 E.(4)(c)[1]; 230-20 B.(2)(b); and 230-13 E.(4)(c)[2] to allow for a reduction in the front yard setback from 25 feet to 12; an increase in the height of a fence in a front yard from 2.5 feet to 6 feet; and a reduction in the side yard setback from 10 feet to 2.5 feet (corner lots are considered as having 2 front yards) to allow for construction of a deck and fence. The property is located in the R-7.5 One-Family Residential zoning district.

The Secretary read the proof of Publication.

Chairman Mangan asked if the deck and fence were already in place and Kenneth McFadden said yes, since July. They put the first part of the fence in a year ago and didn't know it wasn't in compliance.

Code Enforcement Officer Joe Grispino clarified that the plan submitted was in compliance, but built different.

Mr. McFadden 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.
3. He doesn't believe 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

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. Wisnowski in Case #1589 to **approve** the Area Variances with the condition that they be in substantial compliance with Exhibit "A" (survey), and to clarify that the chain link fence drawn on the survey is wood. Motion was seconded by Deputy Chairman Smith.

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

The Area Variance in Case #1589 is **approved**.

Case #1590 – AREA VARIANCES - Alan Dombrowski, 7475 Thunderbird Road, Tax Map #096.-14-34.0:

The applicant is requesting Area Variances pursuant to Section 230-20 A.(1)(e)[1], and 230-13 D.(4)(c)[3] to reduce the side yard setback from 3 feet to 0.1 feet and to reduce the rear yard setback

from 10 feet to 1 foot to allow the existing and proposed accessory structures. The property is located in the R-10 One-Family Residential zoning district.

The secretary read the Proof of Publication.

Diana Sleiertin of 980 Schaap Road, Jordan, New York represented the applicant.

Chairman Mangan said when he visited the site, he was confused with the language of the request.

Commissioner Territo explained that the smallest shed doesn't need a building permit but needs to be moved. The middle shed also needs to be repositioned to meet the setbacks. The shed they want to replace was constructed in non-compliance to the required setbacks.

Ms. Sleiertin explained that the middle shed was put there in 1985 and they felt it should be grandfathered in.

Chairman Mangan advised her to address the one that had the fire that they want to rebuild.

Ms. Sleiertin further explained that the concrete pad that was put in in 2004 is off 3 inches.

Ms. Sleiertin addressed the Standards of Proof:

1. She feels that because the previous building had existed since 2004 a replacement will have no adverse change to the character of the neighborhood.
2. She doesn't believe there is any other feasible method than to obtain an Area Variance. The existing 16 feet by 32 feet concrete pad and footers are already in place, and moving it would be detrimental to the owner.
3. She doesn't believe the variance request is substantial. The request is for only about 4 inches.
4. She doesn't believe there will be any physical or environmental impact to the neighborhood. They are merely replacing a shed that had been there for 10 plus years.
5. She doesn't believe the request for an Area Variance is self-created, as the original shed was approved by the Town in 2004.

Code Enforcement Officer Grispino explained that even though a mistake was made in the placement of the shed, the approval by the Town for its construction doesn't make it legal if the setbacks aren't met.

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 Smith in Case #1590 to **deny** the Area Variance for the reduction of the side yard setback from 3 feet to 0.1 feet. Motion was seconded by Mrs. Liebi.

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

MOTION made by Deputy Chairman Smith in Case #1590 to **approve** the Area Variance for the reduction of the rear yard setback from 10 feet to 9 feet for the proposed structure only. Motion was seconded by Mr. Wisnowski.

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

The Area Variance in Case #1590 for the side yard setback is **denied**, and the Area Variance for the rear yard setback for the proposed structure is **approved**.

**Case #1591 – AREA VARIANCE - Davidson Management Group, Inc., 3712 State Route 31.
Tax Map #053.-01-13.1:**

The applicant is requesting an Area Variance pursuant to Section 230-16 C.(4)(a)[1][b] & [c] to allow for a reduction in the perimeter landscape strip from 80 feet to 32.4 feet to allow for a realignment of the proposed internal driveway with the entrance with Route 31. The property is located in the RC-1 Regional Commercial zoning district.

The secretary read the Proof of Publication.

James Trasher of CHA Engineers represented the applicant.

Chairman Mangan noted that the reason for this Area Variance request is to satisfy three agencies, the Town Board, the Town Planning Board and the New York State Department of Transportation.

James Trashed further explained that he met with these agencies and all agreed that the driveway should be repositioned a little to the east to line up with a signalized light on State Route 31.

Mr. Trasher addressed the Standards of Proof:

1. They believe the proposed landscape buffer strip there will not be a detriment to nearby properties as the overall New York State Route 31 corridor is commercial in character.

The nearby lots will most likely be converted to RC-1 Regional Commercial once the properties are sold.

2. They don't believe there is any other feasible method than to obtain an Area Variance. The location of the proposed driveway was determined by meetings with the New York State Department of Transportation and property owners to the north side of New York State Route 31. The New York State Department of Transportation wanted driveway and access ways aligned with the intersection. The Town Planning Board also desired alignment with the rear access road with the proposed driveway.
3. They do not believe the variance request is substantial as they believe nearby lots will most likely be converted to RC-1 Regional Commercial in the future.
4. They believe there will be no physical or environmental impact to the neighborhood. It's a commercial corridor.
5. They feel the request for an Area Variance is not self-created, because of the New York State Department of Transportation requirements for the signalized intersection location, and the coordination with the properties on the north side of New York State Route 31.

Mr. Pleskach noted the Onondaga County Planning Board's recommendations which are part of the Town Planning Board's process.

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 Mr. Golanka of Junko Trail voiced concerns over changes being made which might bring the development closer to his home. He's apprehensive about that there may be continuing changes.

Chairman Mangan stated that he didn't feel this Area Variance will affect his property.

Chairman Mangan asked for those in favor and those opposed to granting the Area Variance requests and Mr. Golanka was opposed.

Chairman Mangan closed the hearing.

MOTION made by Mr. Pleskach in Case #1591 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A" dated 9-14-2015, revised 10-15-15. Motion was seconded by Mr. Wisnowski.

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

The Area Variance in Case #1591 is **approved**.

Case #1592 – North Onondaga Volunteer Ambulance (NOVA), 4425 Buckley Road, Tax Map #086.-19-04.2:

The applicant is requesting an Area Variance per Section 230-22 C.(1) to allow for a 46 square foot wall sign when 4 square feet is allowed. The property is located in the R-APT Residential Apartment zoning district.

The secretary read the Proof of Publication.

Steven Werner represented the applicant.

Chairman Mangan noted that there was correspondence from a neighbor, Ms. Fleishmann, who is opposed to the sign. She also has an objection to their lighting as it shines into her house. He also noted that NOVA had received an Area Variance previously for a monument sign he thought had looked good.

Chairman Mangan asked why they wanted the wall sign. He knows they do training sessions, but what is the necessity for such a large sign?

Mr. Werner said the sign is for identification and they have a smooth spot on the wall where they intend to place it. They feel that for it to be legible from a distance they need the larger sign.

Mr. Werner 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 sign is typical of neighboring property.
2. They don't believe there is any other feasible method than to obtain an Area Variance. Their property is in an Apartment zone, which only allows a 4 square foot sign.
3. They do believe the variance request is substantial. The Apartment zoning signage is too small. To be legible for identification they need a larger sign than 4 square feet.
4. They believe there will be no physical or environmental impact to the neighborhood.
5. They don't believe the request for an Area Variance is self-created. The monument sign was in the way in the driveway and was a problem for drainage.

Mr. Pleskach asked who would need to read it other than for training sessions and fund raising. Couldn't it be smaller?

Mr. Werner explained that because of the word Ambulance, which is a long word, in order for the sign to be legible at a distance, the sign needs to be larger.

Mrs. Liebi commented that they must have planned for the big sign because of the expanse of smooth wall which they had designed that way.

Mr. Wisnowski asked if the sign would be internally illuminated and bright at the spot, but dull to everyone else and Mr. Werner said yes to both questions.

Deputy Chairman Smith asked why they just didn't put in a new monument sign and Mr. Werner answered that where they would have to place it was not feasible now.

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 Nick Layou asked about the lighting that affects houses on Treeline Drive and whether they addressed that. John Marko, Executive Director of NOVA said they talked to Ms. Fleishmann and they have repositioned their lights.

Chairman Mangan did not ask for those in favor and those opposed to granting the Area Variance requests as there was no one in the audience.

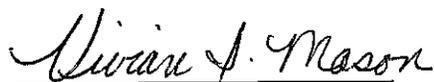
Chairman Mangan closed the hearing.

MOTION made by Mrs. Liebi in Case #1592 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A" dated 11-13-2015, page 1 and 2. Motion was seconded by Mr. Wisnowski.

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

The Area Variance in Case #1592 is **approved**.

There being no further business, Chairman Mangan adjourned the meeting at 8:25 P.M.



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