

APPROVED  
ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
May 9, 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 May 9, 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
	Ryan Pleskach	Member
	Nicholas Layou	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development
ABSENT:	Karen Liebi	Member

**MOTION** made by Mr. Pleskach that the Minutes of the meeting of April 11, 2016 be accepted as submitted. Motion was seconded by Mr. Layou. Chairman Mangan abstained, as he was not at the April meeting. *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 Wisnowski. *Carried.*

**OLD BUSINESS:**

Chairman Mangan noted that in addition to Case #1601, the Board still also has Case #1575 from July 5, 2015 for Verizon Wireless. Their request is for a cell tower near Route 31, but it will be at a future meeting. At this time it is in litigation.

**Case #1601 – AREA VARIANCE - Anne and Kevin Kelly, 8514 Newbury Place, Tax Map #061.-05-15.0:**

The applicant is requesting an Area Variance pursuant to Section 230-13 B.(4)(c)[3] to allow for a reduction in the rear yard setback from 15 feet to 4 feet for a shed and roof overhang. The property is located in the R-40 One-Family Residential zoning district.

*(The Secretary read the proof of Publication at the March 14, 2016 meeting. Standards of Proof were also given at that time.)*

Chairman Mangan explained that this Area Variance request was adjourned because the applicant had made a request to the Town Board to abandon a portion of a Town easement. Their request has since been approved. He asked Kevin McCloud of Bond Schoeneck and King, who was representing the applicant, to give a brief explanation of what they want and address the Standards of Proof again. Chairman Mangan also noted that there was an email received from a neighbor, who is opposed to the granting of an Area Variance.

Mr. McCloud stated that the Kelly's want to construct a shed on a concrete pad that is already in place.

Mr. McCloud 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 is similar to others on the street.
2. They don't believe there is any other feasible method than to obtain an Area Variance. The concrete pad is there already.

*Chairman Mangan noted that they could build a smaller shed.*

3. They believe the Area Variance request is not substantial. There was a miscalculation in the placement of the pad.
4. They don't believe there will be any physical or environmental impact to the neighborhood. The Town Board released a portion of the easement.
5. They believe 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 was one opposed, the email from a neighbor.

MOTION was made by Deputy Chairman Wisnowski in Case #1601 to approve the Area Variance as requested with the condition that it 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	- absent	
	Mr. Pleskach	- in favor	
	Mr. Layou	- against	<i>Carried.</i>

The Area Variance in Case #1601 is approved.

**NEW BUSINESS:**

Chairman Mangan announced that the applicant in Case #1605, Nick's Barber Shop, has requested that their case be heard last.

**Case #1607 – AREA VARIANCES – Joseph Vannelli, 134 Red Barn Circle, Tax Map #117.-13-01.0:**

The applicant is requesting Area Variances pursuant to Section 230-13 D.(4)(c)[1] and 230-20 B.(2)(b) to allow for a reduction in the front yard setback from 25 feet to 21 feet; and an increase in the height of a fence in a front yard from the allowed 2 ½ feet to 6 feet (corner lots have two front yards) to allow installation of a fence. The property is located in the R-10 One-Family Residential zoning district.

The Secretary read the proof of Publication.

Chairman Mangan explained that corner lots are considered as having two front yards.

Joseph Vannelli explained that they want to construct a fence around the pool, however they don't actually need a six foot fence, a four and one half is sufficient.

Mr. Vannelli addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. The open ornamental pool fence will not obstruct view and will be screened with plantings.
2. Because of the site limitations with regard to the easement he doesn't believe there is any other feasible method than to obtain an Area Variance.
3. He believes the Area Variance request is not substantial as it is for a very small area, .003 acres.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood, that it will be barely noticed.
5. The need for the Area Variance is self-created, but the intent is to allow for green planting space to screen the pool area. The additional 4 feet is needed to maintain screening plantings along hardscape.

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. Layout in Case #1607 to **approve** the Area Variances as requested 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	- absent	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Carried.</i>

The Area Variance in Case #1607 is **approved**.

**Case #1608 – AREA VARIANCES – Nichols LD, LLC./James Nichols (Liverpool Sports Complex), 7258 Oswego Road, Tax Map #114.-01-31.0:**

The applicant is requesting Area Variances pursuant to Section 230-14 A.(5)(b) and 230-14 A.(4)(b)[4] to allow for a reduction of the side yard setback from 100 feet to 75 feet and to increase the height of a structure from the allowed 35 feet to 45 feet to allow for construction of a 84,000 square foot building and site improvements. The property is located in the Rec-1 Recreation zoning district.

The Secretary read the proof of Publication.

Engineer Steve Calcerinos represented the applicant. They would like to increase the height of the building and reduce the side yard setback to accommodate the north east corner for the placement of the sports complex, which will be used for volleyball, wrestling, basketball, and general fitness activities. There will be a small “juice bar” and 4,000 square feet will be set aside for a small restaurant.

Mr. Calcerinos 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 land is presently vacant except for residential on one corner of the parcel. Landscaping will be a visible barrier. The height is needed only for the peak of the roof, not the rest of the roof.
2. They don't believe there is any other feasible method than to obtain an Area Variance.
3. They don't believe the Area Variance request is substantial. They need the height for the peak only and the reduction of the side yard setback affects only one corner of the parcel.
4. They don't believe there will be any physical or environmental impact to the neighborhood
5. They believe the Area Variance is not self-created.

*Chairman Mangan pointed out that they don't have to do what they are doing, so he feels it 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. Pleskach in Case #1608 to **approve** the Area Variances with the condition that they be in substantial compliance with Exhibit "A" (site plan). Motion was seconded by Mr. Layou.

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

The Area Variance in Case #1608 is **approved**.

**Case #1609 – AREA VARIANCE – Barbara Caza, 8236 Caughdenoy Road, Tax Map #074.-02-07.0:**

The applicant is requesting an Area Variance to allow horses on 4.7 acres when 5 acres minimum is allowed. The property is located in the RA-100 Residential Agricultural zoning district.

The Secretary read the proof of Publication.

Barbara Caza explained that she would like to fix up the barn, clear two acres of brush and trees, and put up fencing so that she can have horses. She also commented that the acreage on her survey shows a little more acreage.

Chairman Mangan explained that her survey and what the County has on record for acreage is slightly different so the decision was made to go for the lesser acreage just to cover any discrepancy. Ms. Caza said that now she understood the difference.

Ms. Caza addressed the Standards of Proof:

1. She doesn't believe there will be any negative or undesirable change to the character of the neighborhood.
2. In order to have a horse there is no other feasible method than to obtain an Area Variance.
3. She believes the Area Variance request is substantial. She believes there will be plenty of room for the horses.
4. She doesn't believe there will be any physical or environmental impact to the neighborhood
5. She acknowledges the Area Variance is self-created.

Mr. Pleskach asked how many horses she planned on having and Ms. Caz said three.

Mr. Layou asked if there would be enough room for that many and Ms. Caza 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 an adjacent neighbor, Tom Ward, stated that he was in favor of her request.

Chairman Mangan closed the hearing.

**MOTION** made by Mr. Layou in Case #1609 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Deputy Chairman Wisnowski.

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

The Area Variance in Case #1609 is **approved**.

**Case #1610 – AREA VARIANCE - John Anthony Gallo, 5233 Potenza Drive, Tax Map #075.-09-24.0:**

The applicant is requesting an Area Variance pursuant to Section 230-13 E.(4)(b)[1] for a reduction of the front yard setback from 25 feet to 18 feet to allow for an addition. The property is located in the R-7.5 One-Family Residential zoning district.

The Secretary read the proof of Publication.

John Gallo explained that he wants to put an overhang over his porch.

Mr. Gallo addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. The front porch is already there.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance. He would have to move the house further back which cannot be done.
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 believes the Area Variance is self-created.

Chairman Mangan noted that the porch will extend out further than any other house on the street.

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 #1610 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Layou.

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

The Area Variance in Case #1610 is **approved**.

**Case #1611 – AREA VARIANCE - William & Heidi Burchill, 4418 Riverview Road, Tax Map #038.-01-29.0:**

The applicant is requesting an Area Variance pursuant to Section 230-13 A.(4) for a reduction of the front yard setback from 75 feet to 61 and a reduction of the side yard setback from 25 feet to 12 feet to allow for a garage. The property is located in the RA-100 Residential/Agricultural zoning district.

The Secretary read the proof of Publication.

William Burchill said they would like to build a garage.

Mr. Burchill addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. The garage will be professionally built and will be consistent with others in the neighborhood.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance. If built in accordance with the code it would put the garage in the middle of his property. The drive would have to be moved, causing a great expense and considerable alteration

of the property, the view from the road and their home would be a detriment to the character of the neighborhood.

3. He believes the Area Variance request is substantial, as it will provide a large separation of the two properties. There would be easy access to the rear of the garage and would not infringe on access to the adjoining property line. Access to each property line is not compromised.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood. What was a garage at one time is a shabby white shed that will be removed. The ground will be landscaped which will enhance the property.
5. He believes the Area Variance is self-created.

Mr. Pleskach noted that the survey shows that they might not need as much of a setback and Mr. Burchill said he wants the extra room just in case. Mr. Pleskach then asked why they couldn't move the garage back further, and Mr. Burchill said they couldn't because of the power line

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 #1611 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A", a survey dated April 26, 2016. Motion was seconded by Mr. Layout.

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

The Area Variance in Case #1611 is **approved**.

**Case #1612 – AREA VARIANCE– Nicholas Eldred, 8651 Oswego Road. Tax Map #018.-02-09.0:**

The applicant requesting an Area Variance pursuant to Section 230-13 A.(4) for a reduction of the side yard setback from 25 feet to 15 feet to allow for a pole barn. The property is located in the RA-100 Residential/Agricultural zoning district.

The Secretary read the proof of Publication.

Nicholas Eldred explained that he would like a 40 foot by 60 foot pole barn.

Mr. Eldred addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. Other properties have buildings that are bigger.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance.
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 believes 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. Layout in Case #1612 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Deputy Chairman Wisnowski.

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

The Area Variance in Case #1612 is **approved**.

**Case #1605 – AREA VARIANCES - Nick's Barber Shop, 7717 (7719) Oswego Road, Tax Map #085.-02-02.0:**

The applicant requesting Area Variances pursuant to Section 230-15 A.(5)(a); 230-15 A.(5)(a); 230-15 A.(5)(b); 230-15 A.(5)(b); and 230-15 A.(1) to reduce the landscape perimeter strip on the south side from 15 feet to 1.8 feet; to reduce the landscape perimeter strip on the north side from 15 feet to 1 foot; to reduce the landscape perimeter strip on the north side where it abuts residential property from 25 feet to 0 feet; to reduce the landscape perimeter strip where it abuts residential property from 25 feet to 23 feet; and to reduce the 20 feet required driving aisle to 17.3 feet to allow for parking lot expansion. The property is located in the O-1 Neighborhood Office zoning district.

The Secretary read the proof of Publication.

Tim Coyer of Ianuzzi and Romans was there to represent the applicant. The owner, Dan Carrino and the manager of Nick's Barber Shop, Dave Gittion were also present.

Mr. Coyer explained that the applicant purchased the property and installed gravel, and added 16 parking spaces to the rear of the building for their employees, but were unaware at the time that a site plan was required.

Chairman Mangan noted that if the Area Variances are approved they will still need to go up before the Planning Board for approval.

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. It is a compact site.
2. They don't believe there is any other feasible method than to obtain an Area Variance due to the size of the site.

*Chairman Mangan commented that there are two businesses in their building.*

*Mr. Coyer said yes, the barber shop and a salon.*

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. They will make sure there are no drainage issues.
5. The Area Variance is self-created.

Chairman Mangan asked when they put down gravel for the employee parking in the back and Mr. Coyer said October 2015.

Mr. Pleskach asked how many employees they had and Mr. Carrino said 15.

Deputy Chairman Wisnowski voiced concern for emergency access to the rear of the building.

Chairman Mangan noted that was something the Planning Board would have to address and said he wants to make sure they address that issue.

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 asked if they planned to pave the area and Mr. Carrino said no, just the gravel. Commissioner Territo asked if they had talked to the county about driveway access onto Oswego Road and Mr. Coyer said yes.

Chairman Mangan asked if anyone in the audience had any questions and Joy Grey of Ensign Drive said her main concern was that she would like a privacy fence on the north side and she said she had no other problem other than snow.

Chairman Mangan explained that the Planning Board would cover that

Russ Mitchell, a Planning Board member stated that it was on the agenda for Wednesday

Dan Burrows mentioned a gas meter that sticks out and Chairman Mangan noted that Planning Board member Mr. Mitchell attends the Zoning Board meetings and will undoubtedly take the concerns to their meeting. He encouraged those in the audience who are interested to attend that meeting to voice their concerns.

Chairman Mangan asked for those in favor and those opposed to granting the Area Variance requests and Tony Ori of Ensign Drive stated that they have a perpetual easement on the back of the barber shop's property. He added that Mr. Carrino has been very cordial to work with.

Chairman Mangan closed the hearing.

**MOTION** made by Deputy Chairman Wisnowski in Case #1605 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Layou.

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

The Area Variance in Case #1605 is **approved**.

There being no further business, Chairman Mangan adjourned the meeting at 8:50 P.M.



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