

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
August 8, 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 August 8, 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 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 July 11, 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 noted that the Board still has an old 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 as it is in litigation.

NEW BUSINESS:

Chairman Mangan announced that Case #1625 will be heard last.

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

Case #1622 – AREA VARIANCE - Goddard Development (Mavis Discount Tire) - 7435 Oswego Road, Tax map #104.-01-06.0:

The applicant is requesting Area Variances pursuant to Sections 230-16 D.(5)(a); 230-16 D.(5)(a); and 230-19 A.(5) for a reduction in the south side perimeter landscape strip from 20 feet to 11.1 feet; a reduction in the north side perimeter landscape strip from 20 feet to 14.4 feet; and a reduction of the designate highway arterial setback from 140 feet to 120.5 feet to allow for an auto repair building

with associated parking. The property is located in the LuC-1 Limited Use District for Gasoline Services zoning district.

The Secretary read the proof of Publication.

Chairman Mangan noted that the applicant is working with the County so the Board will hear their case, but not make a decision with regard to the Area Variances sought.

A portion of the property for which Goddard Development is seeking one of the Area Variances is not owned by the applicant (in all probability it is owned by the County of Onondaga) and that needs to be cleared up before the Board can make a decision.

Brian Burri of Bergman Associates represented the applicant. He explained that the property is the former site of a gas station. They would like to build a Mavis Discount Tire for retail sales and miscellaneous repairs.

Chairman Mangan noted that the site has been abandoned for years.

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, as there are other nearby properties that are closer than a 140 foot setback from the centerline of Oswego Road.
2. They don't believe there is any other feasible method than to obtain Area Variances, because of the configuration of the property.
3. They believe the Area Variance requests are not substantial, as they are seeking the minimum relief to allow for the necessary parking spaces and to situate the building.
4. They don't believe there will be any physical or environmental impact to the neighborhood, since it is a commercial area.
5. They believe the Area Variances are not self-created, because of the significant setback requirements in an overlay district, but then admitted it was self-created, since they wanted to build Mavis Discount Tire there.

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 Dan Burrows on behalf of the pwner of the car wash noted that there is a gasoline pipeline on the property and there was concern about snow removal.

Chairman Mangan encouraged him to attend the Planning Board meeting should this project go forward and address snow removal then.

Chairman Mangan asked for those in favor and those opposed to granting the Area Variance requests and there were none.

Chairman Mangan adjourned Case #1622 to the September 12, 2016 meeting.

**Case #1623 – AREA VARIANCE – Walk of Faith Free Methodist Church - 4617 Wetzel Road,
Tax Map #082.-01-08.0:**

The applicant is requesting Area Variances pursuant to Sections 230-17 C.(4)(b)[1][a] and 230-17 C.(5)(a) for a reduction of the front yard setback from 200 feet to 60 feet and a reduction of the perimeter landscape strip from 100 feet to 60 feet for the construction of a canopy outside of an existing building. The property is located in the I-1 Industrial 1 zoning district.

The Secretary read the proof of Publication.

John Museums, a Trustee of the church, explained that they would like to construct a canopy at the center of the building.

Chairman Mangan noted that it would protect people during inclement weather.

Mr. Museums addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. They feel it will enhance the building.
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 requests are substantial. It will only be a 20 foot by 40 foot freestanding structure.
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.

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 #1623 to **approve** the Area Variances as requested with the condition that they be in substantial compliance with Exhibit "A". 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 #1623 is **approved**.

Case #1626 – AREA VARIANCE – Chris Kovacs and Patricia Tifft - 4951 Bear Road, Tax Map #096.-12-10.1:

The applicant is requesting an Area Variance pursuant to Section 230-13 D.(4)(c)[2] to reduce the side yard setback from 10 feet to 0.2 feet for the replacement of a shed. The property is located in the R-10 One-Family Residential zoning district.

The Secretary read the proof of Publication.

Chairman Mangan noted that Planning received a phone call from a neighbor who is against their request.

Chris Kovacs and Patricia Tifft explained that they want to replace a shed on the original foundation that has been there since 1975.

Chairman Mangan asked what foundation and Mr. Kovacs said cinder blocks.

Mr. Kovacs 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 going the same size and is going on the same foundation that has been there since 1975.
2. They don't believe there is any other feasible place to put the shed so that they can have access all year long. On the other side of the driveway there are steps leading down to the grassy area. They would need to extend the concrete slab and there is not enough space.

Chairman Mangan asked what they used it for and Mr. Kovacs said to store tools. Chairman Mangan noted that they have a large building on the property, why did they need the shed. Mr. Kovacs said he uses that building for other things.

3. They don't believe the Area Variance request is substantial. It's a replacement and no additional space will be required.

Chairman Mangan stated that he thought 3 inches was quite substantial.

4. He doesn't believe there will be any physical or environmental impact to the neighborhood. The shed has been there since 1975.
5. They don't believe the Area Variance is self-created.

Chairman Mangan asked if there were any further comments or questions and Mr. Pleskach asked why they couldn't move the shed elsewhere on the property.

Mr. Kovacs said they would have to put more cement down.

Mr. Layou felt there was sufficient room to move the shed three feet over and still allow enough room to allow access. It would just narrow the drive through a bit.

Mr. Kovacs said he wouldn't have room to turn the corner to park his truck.

Mr. Layout said he had a problem with the shed being nearly on the property line.

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 Steve Foulkrod who lives across the street said he had no objection. Chairman Mangan asked for those opposed to granting the Area Variance requests and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Pleskach in Case #1626 to **deny** the Area Variance because it will negatively impact 4949 Bear Road. 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	<i>Unanimously carried.</i>

The Area Variance in Case #1626 is **denied**.

Case #1627 – AREA VARIANCE – Daniel Colasanti, Jr. - 8536 Long Leaf Trail, Tax Map #056,-13-25.0:

The applicant is requesting Area Variances pursuant to Section 230-13 E.(4)(c)[1] and 230-20 B.(2)(b) to reduce the front yard setback from 25 feet to 13 and to increase the height of a fence in a front yard from 2 1/2 feet to 6 feet (corner lots have 2 front yards) for the installation of a fence to go around a pool. The property is located in the R-7.5 One-Family Residential zoning district.

The Secretary read the proof of Publication.

Daniel Colasanti, Jr. explained that they are having a pool installed and they want the 6 foot fence to go around it. He added that the property is on the corner of a curve and actually has three front yards.

Mr. Colasanti 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 Area Variances. The odd shape of the lot and the location of the round patio that intersects with the building line makes it impossible to enclose the side yard and round patio without exceeding the building line.
3. He believes the Area Variance requests are technically substantial in that it will exceed the building line on the side of the house by many feet and increase the allowed height of the fence, but due to the shape of the lot, it will most substantially improve the usefulness and attractiveness of the property.

4. He doesn't believe there will be any physical or environmental impact to the neighborhood. It will not obstruct line of sight on the road for drivers or pedestrians approaching from either direction. It is also far enough from the road to not impede snow removal from it.
5. Since he wants the fence and pool he believes 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.

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 Mrs. Liebi in Case #1627 to **approve** the Area Variances as requested 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	- in favor	
	Mrs. Allgaier	- in favor	
	Mr. Layou	- in favor	<i>Unanimously carried.</i>

Mr. Pleskach recused himself as he shares a lot line with the applicant.

The Area Variance in Case #1627 is **approved**.

Case #1625 – AREA VARIANCE – Tom Pirro, 7531 Mill Brook Road, Tax Map #097.-01-01.2:

The applicant is requesting an Area Variance pursuant to Section 230-13 D.(4)(c)[4] for an increase in the height of a detached structure from 12 feet to 32 feet (an Area Variance was granted on November 9, 2015 for an increase in height from 12 feet to 29 feet) to construct a detached garage.. The property is located in the R-10 One-Family Residential zoning district.

The Secretary read the proof of Publication.

Chairman Mangan noted that this increase is actually asking for an additional three foot increase.

Tim Coyer of Ianuzi and Romans Land Surveying, P.C. represented the applicant. He explained that the chimney is 36 inches and it was an oversight when they originally asked for a height variance in November.

Mr. Coyer 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 exists and neighbors won't see it.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance. The garage is already constructed.
3. He believes the Area Variance request was substantial initially, but now they are only asking for three feet.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood. The garage is in the back and there are trees.
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 #1625 to **approve** the Area Variance 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	- in favor	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Unanimously carried.</i>

The Area Variance in Case #1625 is **approved**.

There being no further business, Chairman Mangan adjourned the meeting at 8:20 P.M.



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