

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
January 9, 2017

The organizational and 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 January 9, 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
	John Marzocchi	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: None

ORGANIZATIONAL MEETING:

MOTION made by Chairman Mangan to accept the 2017 Scheduling Calendar, which states the filing dates of when a completed application is to be submitted by an applicant to the Planning Department. Motion seconded by Mr. Layou. *Unanimously carried.*

MOTION made by Chairman Mangan designating the second Monday of each month as the regular meeting of the Zoning Board of Appeals. Motion seconded by Deputy Chairman Wisnowski. *Unanimously carried.*

MOTION made by Chairman Mangan appointing Edward Wisnowski, Jr. as Deputy Chairman. Motion seconded by Mrs. Liebi. *Unanimously carried.*

MOTION made by Chairman Mangan appointing Vivian Mason as Secretary to the Zoning Board of Appeals. Motion seconded by Mr. Layou. *Unanimously carried.*

Chairman Mangan acknowledged that Robert Germain was appointed by the Town Board as the attorney for the Zoning Board of Appeals.

Chairman Mangan also noted that the Proofs of Publication for the Zoning Board of Appeals cases will be in the Tuesday edition of the Post Standard, the week prior to the meeting.

REGULAR MEETING:

MOTION made by Mr. Pleskach that the Minutes of the meeting of December 12, 2016 be accepted as submitted. Motion was seconded by Mrs. Liebi. *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:

Case #1575 - Verizon Wireless

Chairman Mangan noted that this one old case from July 5, 2015, regarding Verizon Wireless, requesting Area Variances for construction of a cell tower near Route 31 is still open and will be addressed at a future meeting. At this time it is in litigation.

NEW BUSINESS:

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

Case #1643 – SPECIAL PERMIT – Frederick and Karen McClary, 7411 Donegal Way, Tax Map #106.-03-19.0:

The applicant is requesting a Special Permit, pursuant to Section 230-13 D.(2)(d)[1], to allow for a home occupation to sell firearms. The property is located in the R-10 One-Family Residential zoning district.

Mr. McClary explained that he applied to the ATF to be able to sell guns. The purpose is not to go into the gun business, but to be able to facilitate the transfer of guns for the three gun clubs he belongs to, to help in disposal of guns from estates. He does background checks on all recipients of the transferred or purchased guns. He does not store many firearms, but those he has are secure in a safe.

Chairman Mangan explained that the Towns never used to be involved, but the Federal government decided the Towns should get involved with approving this type of business.

Mr. Layou asked Mr. McClary how many guns he transfers in a month and Mr. McClary said maybe a half dozen a year, and some more for the sport clubs. Mr. Layou inquired about security cameras and asked if the guns and ammo were secure and Mr. McClary said yes he has cameras and the guns are secured in a safe.

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 comments or questions.

Ms. Ciciarelli said she was against approval.

Mr. Colasanti asked about traffic, and Mr. Layou commented that guns are usually shipped to be picked up at the Northern Boulevard UPS office.

Mr. Verone asked if they were tied in directly with the police and Mr. McClary said no he was not. Mr. Verone then asked if ammunition was kept separately and Mr. McClary said yes. Mr. Verone suggested that the applicant tie into the police.

Mr. Kinnehan questioned the transfer of guns and Mr. McClary said it is not done without background checks.

Chairman Mangan asked for those in favor and those opposed to granting the Special Permit and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Layou in Case #1643 to **approve** the Special Permit. 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 Special Permit in Case #1643 is **approved**.

Case #1644 – AREA VARIANCE - Moyers Corners Fire Department #3, Fred Sears, 7200 Henry Clay Boulevard, Tax Map #106.-04-07.2:

The applicant is requesting an Area Variance pursuant to Section 230-19 A.(5), for a reduction of the highway arterial setback from the required 140 feet to 117 feet, for construction of two additions to the building, parking lot expansion and renovations, sidewalk improvements, utility upgrades, stormwater management facilities and landscaping. The property is in the RA-100 Residential Agricultural (Government) zoning district.

Chairman Mangan noted that the arterial setbacks have been expanded and the state and county set them.

Brian Manthey, the Architect for the applicant, explained that the existing dispatch room at the fire department already encroaches the required arterial setback but they need to expand it so that the dispatcher can see the fire engines exit the building.

Mr. Manthey 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 they are small additions and will line up better and have a better appearance.
2. They don't believe there is any other feasible method than to obtain an Area Variance, as they need additional room and the dispatcher needs to be at the southwest corner of the building in order to view dispatched fire trucks.
3. They don't believe the Area Variance request is substantial. They are small additions.
4. They don't believe there will be any physical or environmental impact to the neighborhood.
5. The Area Variance is self-created.

Mr. Layout commented that Moyers Corners contributes an outstanding service to the community.

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 comments or questions.

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 #1644 to **approve** the Area Variance with the condition that they be in substantial compliance with Exhibit "A", dated 12-17-2016. Motion was seconded by Mr. Layout.

Deputy Chairman Wisnowski recused himself from voting as he is a member of the Moyers Corners Fire Department.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- recused	
	Mrs. Liebi	- in favor	
	Mr. Pleskach	- in favor	
	Mr. Layout	- in favor	
	Mrs. Miller-Allgaier (alternate member)	- in favor	<i>Unanimously carried.</i>

The Area Variance in Case #1644 was **approved**.

Case #1645 – INTERPRETATION - Lawrence Oberacker (and other interested parties):

The applicant is requesting an Interpretation, pursuant to Section 230-11 C., of the definition of a Perimeter Landscape Strip, specifically if stormwater ponds are allowed in them. The property in

question is on Oswego Road, Tax Map numbers 053.-01-03.1, 053.-01-02.0, and 053.-01-04.0, just north of Canvasback Drive, and is in the RC-1 Regional Commercial zoning district.

Lawrence Oberacker of Black Brant Drive said he is also representing 18 property owners that are concerned as to whether a stormwater pond is allowed in a perimeter landscape strip. He explained that they asked about it at the Town Planning Board and Commissioner Territo suggested that they ask for an interpretation of the definition from the Zoning Board of Appeals. He noted that the code does not include a stormwater pond under "Perimeter Landscape Strip".

Deputy Chairman Wisnowski explained the definition of "Perimeter Landscape Strip" as it appears in the Town Zoning Code, that it is "--solely designed and used for buffering--"; it will not be used for parking"; "Driveways and walks are permitted to transverse a perimeter strip"; and "It is intended that such perimeter strip be used for planting of trees, shrubs, flowers, and evergreens to provide neighborhood beautification." Water & ponds are *NOT* mentioned. The "Yards Required" definition differentiates between "--perimeter landscape strips--" and "--snow storage and drainage--". Deputy Chairman Wisnowski concluded that he believes the definition "Perimeter Landscape Strip" doesn't expressly allow stormwater ponds and in the latter definition it differentiates between the perimeter landscape strip and water.

Ms. Platz of Black Brant Drive said she faces the site and that's what she considers her front yard. She doesn't like the fact that they cut down the trees and what she will now have to look at.

Ms. Shaw mentioned back in March the residents asked that the 80 foot buffer be respected.

Engineer Joe Mastroianni, who is representing the storage facility, which is to be constructed there on Oswego Road, said they presented their plans in April and they have some green space already. The main concern was mosquitoes.

Chairman Mangan reiterated that drainage ponds are not defined as being allowed in a "Perimeter Landscape Strip".

Mr. Mastroianni asked why they were allowed in other projects.

Chairman Mangan explained that that has never been brought up before. The ZBA interprets the ordinance and the "Perimeter Landscape Strip" definition doesn't state that stormwater ponds are allowed. The ZBA is responsible for interpreting the code as it is written.

Mr. Mastroianni asked when the zoning ordinance was updated and Commissioner Territo said June of 2005.

Mr. Mastroianni asked how to get it changed and Chairman Mangan said it was up to the Town Board, that the Zoning Board is looking at what is allowed by definition.

Mr. Layou noted that in March, when seven Area Variances were requested, the Board made it clear as to what was allowed.

Mr. Reed stated that the water table is high on Oswego Road in the spring and he has concerns.

Chairman Mangan noted that this project is scheduled for the Wednesday night Planning Board meeting.

Ms. Gould said the storage company had all the trees cut down and until then her sump pump never had problems.

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 comments or questions.

Chairman Mangan asked for those in favor and those opposed to granting the Interpretation request and there were none.

Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Wisnowski in Case #1645 that the Zoning Board of Appeals accept the definition "Perimeter Landscape Strip" as it is written and has determined **stormwater ponds** are not included as allowable. 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 Interpretation in Case #1645 is that **stormwater ponds** are not included in the definition and not allowed.

Case #1647 – INTERPRETATION - New Court Street, LLC, 8531 Oswego Road, Tax Map #019.-02-18.3:

The applicant is requesting an Interpretation, pursuant to Section 230-11 C., of the definition of "Manufacturing" to see if it will allow for the retail sales of pre-manufactured storage sheds in an I-1 Industrial zone. (Applicant is stating that this is an accessory use to a Contractor's Service Yard.

Brian Bouchard of CHA Consulting explained that the applicant received a zone change from an NC-1 Neighborhood Commercial District to an I-1 Industrial 1 District. They have a tile and masonry business, store materials and operate a contractor's service yard. The family wants to maintain the retail of sheds at this site.

Chairman Mangan noted their change of use from commercial to industrial, and that the question

before the Board is if retail sales are allowed.

Mr. Bouchard said they feel the sheds are kits and could be an accessory use, that manufacturing has an accessory use of retail sales.

Deputy Chairman Wisnowski noted the definition of "Manufacturing" in the Zoning Code, that it states "--distribution of those materials to other manufactures and/or wholesale or retail businesses--". Therefore, **NOT** directly as retail sales. Neighborhood Commercial **DOES** allow retail sales. The applicant asked for and received a zone change to I-1 for a "Contractor Service Yard", and this "--excludes on-site retail -- sales--".

Chairman Mangan said they could sell the sheds to a retail business but could not sell retail.

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 comments or questions.

Chairman Mangan asked for those in favor that retail sales are allowed, there was one, and those opposed to retail sales being allowed, and there were none .

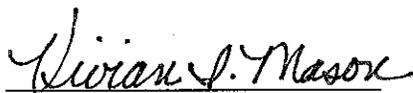
Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Wisnowski in Case #1647 that the Zoning Board of Appeals accept the definition of "Manufacturing" as it is written and has determined **retail sales** are not allowable in an I-1 Industrial 1 District. 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 Interpretation in Case #1647 is that the definition of "Manufacturing" does **not** allow **retail sales** in an I-1 Industrial 1 District.

There being no further business, Chairman Mangan adjourned the meeting at 8:37 P.M.



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