

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
September 12, 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 September 12, 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 Layout	Member
	Luella Miller-Allgaier	Alternate Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: Karen Liebi Member

MOTION made by Mr. Layout that the Minutes of the meeting of August 8, 2016 be accepted as submitted. Motion was seconded by Deputy Chairman Wisnowski, Jr. *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 Mr. Layout. *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.

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 at the August 8th meeting, Standards of Proof were also covered at August meeting.)

(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.)

Chairman Mangan explained that the applicant had not been able to acquire the ownership to the strip of land along the parcel and is waiting for an abandonment issue to be settled. They have requested an adjournment.

MOTION was made by Chairman Mangan to adjourn this hearing to October 10, 2016. Motion was seconded by Mr. Layout. *Unanimously carried.*

NEW BUSINESS:

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

Chairman Mangan announced that Case #1628 will be heard last.

Case #1624 – Area Variance - James M. Donegan, NY State Route 31, Tax map #020.-01-14.5:

The applicant is requesting an Area Variance pursuant to Section 230-16 A.(4)(a)[1] to decrease the lot area from 40,000 square feet to 34,050 square feet to allow for a zone change to NC-1 to meet minimum lot area. The property is located in the RA-100 Residential Agricultural zoning district.

The Secretary read the proof of Publication.

Brian Sinsabaugh, an attorney with Curtin and DeJoseph, represented the applicant. He explained that Mr. Donegan would like to decrease the required lot area of this parcel so that he could market it for a small retail use.

Mr. Sinsabaugh 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 an Area Variance as a small retail use requires a larger parcel.
3. They don't believe the Area Variance requests are substantial.
4. They don't believe there will be any physical or environmental impact to the neighborhood. It is a retail area.
5. They believe the Area Variances are self-created.

Chairman Mangan took issue with their belief that it is not self-created. The applicant is applying for an NC-1 Neighborhood Commercial District before the Town Board, knowing the parcel is too small for that classification.

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 #1624 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	- against	
	Deputy Chairman Wisnowski, Jr.	- against	
	Mrs. Miller-Allgaier	- in favor	
	(Mrs. Liebi	- absent)	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Carried.</i>

The Area Variance in Case #1624 is **approved**.

Case #1629 – Area Variance - Jay A. Seitz, Jr. – 8201 Caughdenoy Road, Tax Map #074.-01-12.3:

The applicant is requesting an Area Variance pursuant to Section 230-13 A.(4) to reduce the front yard setback from 75 feet to 26.3 feet to allow for construction of a garage. The property is located in the RA-100 Residential Agricultural zoning district.

The Secretary read the proof of Publication.

Jay Seitz, Jr. explained that he would like a stand alone garage parallel to the fence.

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 fits with the neighborhood.
2. He doesn't believe there is any other feasible method than to obtain Area Variances.
3. He believes the Area Variance request is not substantial. He has already received an Area Variance for an addition on the house.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood.
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. Miller-Allgairi in Case #1629 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. Miller-Allgaier	- in favor	
	(Mrs. Liebi	- absent)	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Unanimously carried.</i>

The Area Variance in Case #1629 is **approved**.

Case #1631 – Area Variances - Chris DiMaggio – 4101 Wafer Ash Way, Tax Map #055.-05-07.0:

The applicant is requesting Area Variances pursuant to Section 230-13 E.(4)(b)[1] and 230-20 B.(2)(b) to reduce the front yard setback from 25 feet to 11 feet, and to increase the height of a fence in a front yard from the allowed 2 1/2 feet to 6 feet (corner lots have more than one front yard) to allow for installation of a fence. The property is located in the R-7.5 One-Family Residential zoning district.

The Secretary read the proof of Publication.

Chris DiMaggio and Joe Kiselica of Arrow Fence were present.

Mr. Kiselica explained that the applicant is replacing his fence.

Chairman Mangan asked if it would be in the same place as the old fence and Mr. Kiselica said yes.

Mr. Kiselica 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. They are putting it in the same location as the old fence.
3. They believe the Area Variance request is not substantial.
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.

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 #1631 to **approve** the Area Variance as requested with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Deputy Chairman Wisnowski, Jr.

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

The Area Variance in Case #1631 is **approved**.

Case #1633 – Daniel Tagliamonte (for Charles D. Middleton) 9067 Ashley Landing Drive, Tax Map #032.-01-18.0:

The applicant is requesting an Area Variance pursuant to Section 230-22. C.(1) to reduce the front yard setback from 25 feet to 13 feet, to allow for a freestanding sign. The property is located in the RA-100 Residential Agricultural zoning district.

The Secretary read the proof of Publication.

Chairman Mangan noted that the sign is already in place.

Daniel Tagliamonte said it was placed closer to make it visible.

Mr. Tagliamonte 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. The sign is already in place.
3. He believes the Area Variance request is not substantial. It's there to mark the subdivision.
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 Mr. Pleskach said he thought it was a monument sign not a freestanding sign and Commissioner Territo said that freestanding is a catchall category.

Chairman Mangan asked Commissioner Territo if he had any comments and he asked if the owner of the property is aware of being responsible for any repairs.

Mr. Tagliamonte said he had a verbal agreement with the owner, but that there were no guarantees if the house changed owners.

Commissioner Territo advised Mr. Tagliamonte that he still needs to apply for a building permit for the sign.

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 #1633 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. Allgaier	- in favor	
	(Mrs. Liebi	- absent)	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Unanimously carried.</i>

The Area Variance in Case #1633 is **approved**.

Case #1628 – Area Variances - Hidden Lake Woods, LLC – Guy Young Road, Tax Map #041.-03-41.1:

The applicant is requesting Area Variances pursuant to Section 230-11 C. to reduce the minimum width of 4 flag lots from 30 feet to 22 feet to allow for a 4 (four) lot subdivision. The property is located in the RA-100 Residential Agricultural zoning district.

The Secretary read the proof of Publication.

Tim Coyer of Ianuzzi and Romans explained that the applicant would like to divide this property into four lots. They do not want to build a public road. Eventually when the parcel next to them develops they will join their private road with the public road. They are committing their intention to connect to the public road if one is created, and this intent will be on their filed map.

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.
2. They don't believe there is any other feasible. They don't want to construct a public road as these lots will be private single family homes.
3. They believe the Area Variance request is substantial
4. He doesn't believe there will be any physical or environmental impact to the neighborhood.
5. They the Area Variance is self-created.

Chairman Mangan asked if anyone in the audience had any questions and William Aitken asked to see the plan. Mr. Coyer gave him a copy.

Chairman Mangan asked for those in favor of granting the Area Variance requests and Mr. Lotito of Guy Young Road said he was in favor, that he likes the large parcels. Chairman Mangan asked for those opposed to granting the Area Variance requests and there were none.

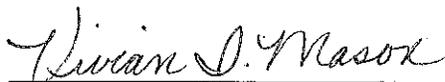
Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Wisnowski, Jr. in Case #1628 to approve the Area Variance with the condition that it 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. Miller-Allgaier	- in favor	
	(Mrs. Liebi	- absent	
	Mr. Pleskach	- in favor	
	Mr. Layou	- in favor	<i>Unanimously carried.</i>

The Area Variance in Case #1628 is **approved**.

There being no further business, Chairman Mangan adjourned the meeting at 8:15 P.M.



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