

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING

August 9, 2010

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 Town Hall of Clay, 4401 State Route 31, New York on August 9, 2010.

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
	Arthur Fennhahn	Deputy Chairman
	Eugene Young	Member
	Karen Liebi	Member
	Mark Smith	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	David Balcer	Town Planner

MOTION made by Mr. Young that the Minutes of the meeting of July 12, 2010 be accepted. 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 Type II actions, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Deputy Chairman Fennhahn. *Unanimously carried.*

OLD BUSINESS:

Case # 1368 - VARIANCE - Loretto Oswego Realty Corp, East side of Burnett Road (Tax map #049.-01-12.2);

Case # 1369 - INTERPRETATION - Loretto Oswego Realty Corp, East side of Burnett Road (Tax map #049.-01-12.2) and:

Case # 1373 - USE VARIANCE - Loretto Oswego Realty Corp, East side of Burnett Road (Tax map #049.-01-12.2) :

(Proofs of publications were read at the July 12 meeting)

Case #1369: The applicant is seeking an interpretation that applicants proposed use of Lot #2 is an allowable use pursuant to the zoning code.

David Norcross of Pioneer Companies, 250 South Clinton, representing the applicant, stated that they have gone back to the owners of the property and have obtained an agreement to purchase additional land.

Chairman Mangan asked if they were committed to an access and Mr. Norcross said yes, Jamboree Road.

Chairman Mangan asked if there were further questions and there were none. He then asked Town Planner David Balcer if he had any comments and Mr. Balcer said his only concern was who would maintain the retention area. Mr. Norcross said Lorretto.

MOTION was made by Mr. Young in case #1369, that pursuant to the application of LORETTO OSWEGO REALTY CORP. for an interpretation of Town Code Section 231-13, this Board rules that the development of the land Zoned RA-100 to accommodate storm water management facilities as an accessory use for the development of structures located in the Town of Cicero is an allowable use, with the specific understanding this interpretation only applies to property located on the border of the lands of the Town of Clay, and that no general interpretation of Section 230-13 applicable to lands not located on a border has been made. Further, the storm water facilities are to be in compliance with Exhibit "A". Motion was seconded by Deputy Chairman Fennhahn.

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

Mr. Norcross stated that he is withdrawing Case #1368 and Case #1373.

Case #1368: The applicant is seeking an area variance to allow for a reduction in the required 100,000 square foot minimum lot area. The proposed lot area is 82,415 square feet. Secondly, the proposed Lot #2 does not meet the definition of a "Lot" because it does not have "Frontage" on a public or private right-of-way or an officially approved "right-of-way".

(Standards of proof were given at the July 12, 2010 meeting.)

The applicant made adjustments to his submitted plan that addressed the issues and therefore it will not require a variance.

The applicant withdrew his request.

Case #1373: The applicant is seeking a use variance to allow Lot #2 to be used as a Retention/Detention Pond without a principal use.

(Standards of proof were given at the July 12, 2010 meeting.)

Because of the interpretation, the use variance was not needed.

The applicant withdrew his request.

NEW BUSINESS:

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

Case #1374 - VARIANCE - Robert Fancher, 8453 Gaskin Road (Tax map #049.-01-12.0) :

The applicant is seeking a variance to allow for a reduction in the side yard setback from 10 feet to 5 feet and to allow the expansion and modification of an existing non-conforming deck.

The secretary read the proof of publication.

Jim Fancher, the son of the applicant, explained that they want to enclose an existing deck. (Since the deck is presently non-comforming, a variance is needed.)

Jim Fancher addressed the standards of proof:

1. They believe the improvement will be a desirable change to the character of the neighborhood.
2. There is no other feasible method since the existing deck is what they want to enclose.
3. They do not feel the variance is substantial.

Chairman Mangan commented that as it is an existing non-conforming structure, 10 feet to 5 feet seems to him that it is quite a substantial increase.

4. They believe there will be no adverse of environmental impact on the neighborhood.
5. They believe the need for the variance is self-created.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said the deck is no closer than the two car garage so the Planning office has no problem with this application.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor of granting the variance and there was one, Mark Fancher. Chairman Mangan asked for those opposed to granting the variance and there were none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Smith in Case #1374 to grant the variance with the condition that construction be in substantial compliance with Exhibit "A". Motion was seconded by Mrs. Liebi.

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

The variance request in Case #1374 is granted.

Case #1375 - VARIANCE - Janet Guhin, 8391 Gaskin Road (Tax map #019.-01-27.1) :

The applicant is seeking a variance to allow for an increase in the maximum allowable height for an accessory structure from 12 feet 0 inches (12'-0") to 13 feet 2 inches (13'-2") tall.

The secretary read the proof of publication.

Janet Guhin explained that they have a shed that her late husband started years ago. It has since been finished and added on to. Because it was already existing, she didn't realize she needed a building permit. However, they increased the height, and found they exceeded the code requirement and are now seeking a variance.

Ms. Guhin addressed the standards of proof:

1. She does not believe there will a change in the character of the neighborhood.
2. She feels there is no other feasible method since it has already been built.
3. She does not feel the variance is substantial.
4. She believes there will be no adverse of environmental impact on the neighborhood.
5. She stated the need for the variance is self-created.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he had none.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and those opposed to granting the variance and there was none.

Chairman Mangan closed the hearing.

MOTION was made by Deputy Chairman Fennhahn in Case #1375 to grant the variance with the condition that the shed be limited in height as to what it is now, 13 feet 2 inches. Motion was seconded by Mr. Smith.

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

The variance request in Case #1375 is granted.

Case #1376 - VARIANCE - Gary Graham, 3424 State Route 31, (Tax map #052.-02-03.1) :

The applicant is seeking a variance to allow for an increase in the maximum allowable gross floor area, from 15,000 square feet to 19,948 square feet, an increase of 4,480 square feet. The applicant is proposing to combine two abutting tax parcels giving the new parcel 268.15 feet of frontage. The minimum required in the Highway Overlay Zone District is 300 feet, which still will be 31.85 feet short. The applicant is proposing to improve, expand and modify an existing non-conforming lot

that does not meet all dimensional requirements of the zoning code. Combining the lots makes it less non-conforming.

The secretary read the proof of publication.

Hal Romans, Planner, Surveyor and representative to the applicant, explained that they are combining the two parcels on State Route 31, but still will need a variance to increase the allowable gross floor area in order to construct the size of the building the applicant needs for his business, Liverpool Pool and Spa. Mr. Graham has a business on Oswego Road (Route 57) but the lease is running out so he would like his State Route 31 business to be reconstructed to accommodate an increase of 4,480 square feet to his floor area.

Deputy Chairman Fennhahn asked when the building would be completed and Mr. Romans said this year. Deputy Chairman Fennhahn then asked when the lease would be running out on the Route 57 building and Mr. Graham said February 2011.

Mr. Romans addressed the standards of proof:

1. They believe the change will be more architecturally pleasing to neighborhood.
2. Even if they could expand the width of the property, they would still need a variance, so they feel there is no other feasible method to accomplish Mr. Graham's needs for his business.
3. They do not feel the variance is substantial.
4. They believe there will be no adverse environmental impact on the neighborhood. During the Planning Board process, the Town engineer will be looking into any drainage issues and the applicant will take care of them.
5. It will be an improvement to the property, but they believe the need for the variance is self-created.

Mr. Young voiced his concern as to whether the new building will meet the needs of the applicant. He stated that he had a problem with a further request years later for more. Mr. Young said he feels the property will be at maximum usage and that he would be opposed to any future expansion.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said that since the building will not be any closer to the property to the west, the Planning office is not opposed to the variance request, but he also agrees with Mr. Young's concern regarding an future expansion.

Don Turley to the east of this parcel said he wants to be assured that there will be no increased drainage to his property.

Mr. Balcer explained that Mr. Turley should go to the Planning Board meeting to address his concern, as that is their jurisdiction.

Mr. Romans said the applicant will make sure that concern is taken care of. Since gravel parking will be replaced with pavement, that should be an improvement.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and those opposed to granting the variance and there was none.

Chairman Mangan closed the hearing.

MOTION was made by Mrs. Liebi in Case #1376 to grant the variance with the condition that construction be in substantial compliance with Exhibit "A", dated June 2, 2010. Motion was seconded by Mr. Smith.

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

The variance request in Case #1376 is granted.

Case #1377 - VARIANCE - Michael Cross, 4131 Wetzel Road, (Tax map #018.-16-31.0):

The applicant is seeking an area variance to allow for a reduction in the Highway Overlay Zone District principal structure setback from 115 feet from the centerline of the road to 57 feet, a reduction of 58 feet. This would be an expansion of an existing non-conforming structure.

The secretary read the proof of publication.

Michael Cross of Comfort Windows, 60 John Glenn Boulevard, stated that presently the home has an existing four foot by nineteen foot slab and they would like to replace it.

Mr. Cross addressed the standards of proof:

1. He doesn't believe there will be any undesirable change in the character of the neighborhood. The porch will be an improvement.
2. He feels there is no other place for the porch, so there is no other feasible method.
3. He does not feel the variance is substantial. It will be compatible to other structures.
4. He believes there will be no adverse or environmental impact on the neighborhood.
5. He stated that the porch will be the same size as what is being replaced, but the need for the variance is self-created.

Chairman Mangan asked if they would be using the same footprint and Mr. Cross said yes.

Mr. Young asked if they planned to enclose it and Mr. Cross said no, just new posts.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said he had none.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and those opposed to granting the variance and there was none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1377 to grant the variance with two conditions: 1 } that it be constructed in substantial compliance with Exhibit “A” and 2 } that it not be enclosed. Motion was seconded by Deputy Chairman Fennhahn.

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

The variance request in Case #1377 is granted.

Case #1378 - VARIANCE - Bruce Hunter, 9148 Henry Clay Boulevard, (Tax map #034.-01-13.0):

The applicant is seeking an area variance to allow for a reduction in the front yard setback from 75 feet to 36.14 feet, a reduction of 38.86 feet, and to allow for the expansion of a non-conforming structure.

The secretary read the proof of publication.

Mr. Hunter explained that he is connecting the existing house to the garage with a breezeway.

Mr. Hunter addressed the standards of proof:

1. He doesn't believe there will be any undesirable change in the character of the neighborhood. It is just a connection to the garage and will be an improvement to the property.
2. He feels there is no other feasible method.
3. He feels the variance is substantial.
4. He believes there will be no adverse or environmental impact on the neighborhood.
5. He stated that the need for the variance is self-created.

Deputy Chairman Fennhahn asked if it would be totally enclosed and Mr. Hunter said yes. Deputy Fennhahn noted that if the height of the upper portion exceeds the allowable height, the Planning Office will let Mr. Hunter know.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said the Planning office had no problem with the applicant's request.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and those opposed to granting the variance and there was none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Smith in Case #1378 to grant the variance as requested. Motion was seconded by Mrs. Liebi.

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

The variance request in Case #1378 is granted.

Case #1379 - VARIANCE - Victory Signs (Smokey Bones), 4000 State Route 31,(Tax map #):

The applicant is seeking an area variance to allow the installation of three wall signs where only two are allowed per code.

The secretary read the proof of publication.

Anthony DePerno, 8915 Old Route 31, Canestota, representing the applicant, stated the business has been bought out and the new owner wants a new logo.

Chairman Mangan noted that presently the business has four signs and that now they will be reducing that to three signs.

Mr. DePerno answered yes, adding that they will be half the size of the existing signs.

Mr. DePerno addressed the standards of proof:

1. He doesn't believe there will be any undesirable change in the character of the neighborhood, since it is a commercial area.
2. He feels there is no other feasible method.
3. Although three signs is an increased number of allowed signs under the code, they are reducing the four present ones with three, so he does not feel the variance is substantial.
4. He believes there will be no adverse impact on the neighborhood.
5. He stated that the need for the variance is self-created.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said the Planning office is pleased to see one sign going away and a reduction in the others.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and those opposed to granting the variance and there was none.

Chairman Mangan closed the hearing.

MOTION was made by Mrs. Liebi in Case #1379 to grant the variance with the condition that the signs be in substantial compliance with Exhibit "A" and Exhibit "B". Motion was seconded by Mr. Young.

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

The variance request in Case #1379 is granted.

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