

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
August 11, 2014

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 New York State Route 31, Clay, New York on August 11, 2014.

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
	Karen Liebi	Member
	Brian Hall	Member
	Anne Stenham	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark Territo	Commissioner of Planning

ABSENT: Mark Smith Deputy Chairman

MOTION made by Mrs. Liebi that the Minutes of the meeting of July 14, 2014 be accepted as submitted. Motion was seconded by Mr. Hall. (Chairman Mangan abstained, as he was absent at the July 14th 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 Type II actions, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Mrs. Liebi. *Carried.*

OLD BUSINESS:

Case #1499 – AREA VARIANCES - Rudolph DiRubbo, Jr.- Basil Leaf, 3920 Brewerton Road. Tax Map #118.-01-01.1:

The applicant is requesting Area Variances, pursuant to Sections 230-16 E.(5)(a); 230-16 E.(4)(b)[2][a]; 230-21 E.; and 230-19 A.(5) to reduce the perimeter landscape strip from 15 feet to 5 feet; reduce the side yard setback from 25 feet to 5 feet; to reduce the number of required parking spaces from 238 to 70; and to reduce the highway overlay from 140 feet to 52 feet for the construction of a patio. The property is located in the LuC-2, Limited Use District for Restaurants zoning district.

(The proof of publication was read by the Secretary at the July 14, 2014 meeting.)

Rudy DiRubbo explained that he would like to add a patio to the restaurant so that he can encourage more customers to eat there during the summer months to compete with the festivals that occur during those months. The patio will not take up any parking spaces.

Mr. DiRubbo addressed the Standards of Proof:

1. He believes there will be no change to the character of the neighborhood. He feels it would add character and be aesthetically pleasing.
2. He doesn't believe there is any other feasible method, than to obtain an Area Variance. This is the only spot on the property available to add a patio.
3. He does not believe the Area Variance requests are substantial. What seems substantial, the decrease in parking spaces from 238 to 70 is actually not substantial as the 70 parking spaces already exist and would remain as such, whether the Area Variance to allow the patio are granted or not. (It's a pre-existing, non-conforming, legal condition.)
4. He believes there will be no physical or environmental impact to the neighborhood. .
5. The need for the variance is self-created.

Chairman Mangan commented that he had gone there to check out the restaurant at noon and that it was jammed with customers.

Mr. DiRubbo explained that it's the summer festivals that limit his business and he wants to encourage more customers to come there during the summer months.

Mrs. Liebi asked what months he was referring to, and Mr. DiRubbo said May through September.

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 advised Mr. DiRubbo that a site plan is still required for the Planning Board to review.

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 variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mrs. Stenham in Case #1499 to **grant** the Area Variances as requested with the condition that it is in substantial compliance with Exhibit "A" . Motion was seconded by Mr. Hall.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Smith	- absent	
	Mrs. Liebi	- in favor	
	Mr. Hall	- in favor	
	Mrs. Stenham	- in favor	<i>Carried.</i>

The Area Variance request for Case #1499 is **granted**.

Case #1529 – AREA VARIANCE - Daniel T. Ladd, 9373 Horseshoe Island Road, Tax Map #014.-01-04.1:

The applicant is requesting an Area Variance, pursuant to Section 230-13 A.(6) to allow for farm animals on property with 2.59 acres, when 5 acres is required. The property is located in the RA-100, One-Family Residential Agricultural zoning district.

(The proof of publication was read by the Secretary at the July 14, 2014 meeting. Standards of proof were also presented at that time.)

Chairman Mangan asked the applicant if he was prepared to address the county's concerns, and Mr. Ladd said he had no data for run off. He said he could put in a compost pile. He further explained that the mini pigs have the footprint of a dog.

Chairman Mangan expressed concern for the neighbors that would be near the pigs. He stated that he was also concerned with the fact that granting the request would enable anyone to operate a farm and felt the Area Variance request is very substantial when reducing the required acreage in half.

Mrs. Liebi asked if they go in the house and Mr. Ladd said that they have a kennel inside.

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 variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mrs. Liebi in Case #1529 to **grant** the Area Variance as requested. Motion was seconded by Chairman Mangan.

Roll call:	Chairman Mangan	- against
	Deputy Chairman Smith	- absent
	Mrs. Liebi	- in favor
	Mr. Hall	- against
	Mrs. Stenham	- against

The Area Variance request for Case #1529 was not carried by a majority, so the *motion failed*.

NEW BUSINESS:

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

Case #1534 – SPECIAL PERMIT - Christine Marks, 5255 West Taft Road, Tax Map #112-06-12.0:

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

The Secretary read the proof of publication.

Christine Marks explained that she does spiritual counseling, or a life coach one on one. They have a graveled area where a customer can back up into to exit the home.

Mrs. Liebi asked where they planned on putting the snow in the winter. Mrs. Marks said they plow the snow back to the garage and then to the side.

Chairman Mangan expressed concern for the parking for customers, stating that he considered it very difficult to exit onto Taft Road due to the traffic even without snow.

Mrs. Marks noted she can also do Skyping and readings over the phone.

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 to granting the Special Permit and their landlord, Melvin Miller said he was in favor. He said he has revamped the house and the snow can be moved back into the side yard. Chairman asked for those opposed to granting the Special Permit and no one present was opposed, but an email was received from Ms. Fuller opposing the request.

Chairman Mangan closed the hearing.

MOTION made by Mr. Hall in Case #1534 to **deny** the Special Permit. Motion was seconded by Mrs. Liebi.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Smith	- absent	
	Mrs. Liebi	- in favor	
	Mr. Hall	- in favor	
	Mrs. Stenham	- in favor	<i>Carried.</i>

The Special Permit request for Case #1534 is **denied**.

Case #1535 – AREA VARIANCES - Steve Krisak, 4182 State Route 31, Tax Map #055.-01-08.3:

The applicant is requesting Area Variances pursuant to Sections 230-16 C.(4)(a)[2][b] and 230-16 C.(4)(a)[2][c] to reduce the side yard setback from 75 feet to 16.2 feet, and to reduce the rear yard setback from 75 feet to 2.8 feet, to allow for two existing sheds. The property is located in the RC-1, Regional Commercial zoning district.

The Secretary read the proof of publication.

Gerald A. Petro, owner of the property explained that for about 3 ½ years he has operated a gold exchange business. They have used the two sheds for storage. They were there before he owned the property. The sheds are pre-existing and it would be difficult to move them because of their size.

Mr. Petro addressed the Standards of Proof:

1. He doesn't believe there will be any detriment to the character of the neighborhood. They have been there for years.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance as they are too big and old to move.
3. He does not believe the variance request is substantial.
4. He believes there will be no physical or environmental impact to the neighborhood. .
5. They already exist, but the need for the variance would be considered self-created.

Mrs. Liebi noted that the property backs up to the Metropolitan Water Board property.

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 variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mrs. Liebi in Case #1535 to **grant** the Area Variance as requested. Motion was seconded by Mrs. Stenham.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Smith	- absent	
	Mrs. Liebi	- in favor	
	Mr. Hall	- in favor	
	Mrs. Stenham	- in favor	<i>Carried.</i>

The Area Variance request for Case #1535 is **granted**.

Case #1536 – AREA VARIANCE - Charles Goldschmidt, 4783 Black Oak Drive, Tax Map #096.-05-38.0:

The applicant is requesting an Area Variance pursuant to Section 230-13E.(4)(c)[4] to allow for an increase in the detached accessory structure maximum height of 12 feet, to 15 feet to allow for the construction of a garage. The property is located in the R-7.5 One-Family Residential zoning district.

The Secretary read the proof of publication.

Charles Goldschmidt said he would like to build a garage that would accommodate the height of a boat if he purchased one.

Mr. Goldschmidt addressed the Standards of Proof:

1. He doesn't believe there will be any detriment to the character of the neighborhood.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance since he would like a 9 foot clearance.
3. He does not believe the variance request is substantial.
4. He believes there will be no physical or environmental impact to the neighborhood. He stated that his neighbor is not opposed to his request.
5. The need for the variance is self-created.

Mr. Hall asked if he planned on siding it and Mr. Goldschmidt replied that it would look better than the house.

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 variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mrs. Stenham in Case #1536 to **grant** the Area Variance as requested with the condition that it is in substantial compliance with Exhibit "A" and the plans (three) supplied to the Board . Motion was seconded by Mr. Hall.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Smith	- absent	
	Mrs. Liebi	- in favor	
	Mr. Hall	- in favor	
	Mrs. Stenham	- in favor	<i>Carried.</i>

The Area Variance request for Case #1536 is **granted**.

There being no further business, Chairman Mangan closed the hearing. adjourned the meeting at 8:10 P.M.

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