

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
July 10, 2017

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 July 10, 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
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: Luella Miller-Allgaier Alternate Member

MOTION made by Mrs. Liebi that the Minutes of the meeting of June 12, 2017 be accepted as submitted. Motion was seconded by Mr. Pleskach. *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 #1667 – AREA VARIANCES – America Stores It/Kurt Filkins, Oswego Road, Tax Map #053.-01-02.0, #053.-01-03.1, and #053.-01-04.1:

The applicant is requesting Area Variances pursuant to Section 230-16 C.(4)(a)[1][b] for a reduction in the front yard landscape buffer strip from 30 feet to 5 feet; Section 230-16 C.(4)(a)[1][b] for a reduction in the side yard landscape buffer strip from 30 feet to 5 feet (west side); Section 230-16 C.(4)(a)[2][b] for a reduction of the side yard structure setback from 75 feet to 50 feet; (Section 230-16 C.(4)(a)[1][b] & [c] for a reduction of the rear yard landscape buffer strip from 80 feet to 50 feet – *withdrawn at June 12th meeting*); and Section 230-16 C.(4)(a)[2][b] for a reduction in the side yard structure setback from 75 feet to 50 feet (Hall property), for site development. The property is located in the RC-1 Regional Commercial zoning district.

(This case was adjourned at the June 12, 2017 meeting. Proof of publication was read by the secretary at that time.)

Mr. Pleskach read the **Findings**:

1. The Board has determined these Interpretation requests are Type II actions for the purpose of SEQRA compliance, and no further action is required.
2. The Subject Property is Zoned Regional Commercial-1 (RC-1). According to Code Section 230-16C(4)(1)(c), an Additional Site Perimeter Landscape Strip of fifty (50) feet is required when a development takes place adjacent to a residential district.
3. According to Section 230 A&B of the Town Code (as amended in 2010), the Town zoning designations are defined as conventional and Specialized Districts. Conventional zone districts are defined in Section 230 A as areas where lots, structures and uses are uniformly regulated to fulfill a common purpose.
4. This body finds there is a neighborhood and properties located immediately adjacent to the south of the Subject Property
5. The Code Section 320-11 defines a Perimeter Landscape Strip as:

“The land adjacent to front, side and rear lot lines, included within the same space for required setbacks but solely designed and used for buffering and transition between lots. Irrespective of allowable structures or uses within such required setbacks, the perimeter strip shall not be used for parking. Driveways and walks are permitted to transverse a perimeter strip to allow for necessary vehicle and pedestrian movements. It is intended that such perimeter strip be used for planting of trees, shrubs, flowers, and evergreens to provide neighborhood beautification.”
6. The general purpose of a Perimeter Landscape Strip is to provide a buffer for residential or other properties located adjacent to a proposed development. This Board previously ruled that Section 230-16 C.(4)(1)(c) of the Code apply to the Applicant, and an Additional Perimeter Landscape Strip of fifty (50) feet is required.
7. At the Public Hearing, the applicant addressed the standards of proof for each of the requested variances.
8. Neighboring residents raised issues of the proposed building being too close to their property lines if the variances are approved, the buildings being located too near the main road if the front yard setback was altered, and other environmental concerns such as drainage, traffic flow in the property, lighting, etc.

Decisions:

MOTION made by Mr. Pleskach in Case #1667 to deny the Area Variance for the reduction in the front yard landscape buffer strip from 30 feet to 5 feet. 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 *Unanimously carried.*

MOTION made by Mr. Pleskach in Case #1667 to approve the Area Variance for the reduction in the side yard landscape buffer strip from 30 feet to 5 feet (west side). Motion was seconded by Mr. Layout.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - against
Mr. Pleskach - in favor
Mr. Layout - in favor *Carried.*

MOTION made by Mr. Pleskach in Case #1667 to approve the Area Variance for the reduction of the side yard structure setback from 75 feet to 50 feet. 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 *Unanimously carried.*

MOTION made by Mr. Pleskach in Case #1667 to approve the Area Variance for the reduction in the side yard structure setback from 75 feet to 50 feet (Hall property). 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 *Unanimously carried.*

The Area Variances in Case #1667 have one denial and three approvals.

NEW BUSINESS:

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

Case #1668 – AREA VARIANCES – Westminster SIHP LLC/Naomi Storch, 7475 Morgan Road, Tax Map #104.-03-13.2:

The applicant is requesting Area Variances pursuant to Section 230-22 C.(1) to allow for an increase in the square footage of a sign from 25 square feet to 32 max square feet and Section 230-22 C.(1)

to allow for a reduction in the front yard setback from 25 feet to 21 feet for a sign replacement at entrance of property. The property is located in the R-APT Residential Apartment

The secretary read the proof of publication.

Samantha Kidder and Joseph Stockdom represented Westminster Place Apartments. Ms. Kidder explained that they would like to update their sign but they will keep the current posts.

Ms. Kidder addressed the Standards of Proof:

1. She doesn't believe there will be any negative or undesirable change to the character of the neighborhood. There will be a slight change in the size but will be smaller than the existing one.
2. She doesn't believe there is any other feasible method than to obtain an Area Variance.
3. She believes the Area Variance request is not substantial. It's only slightly larger than the code allows and the setback request is only for a few feet.
4. She doesn't believe there will be any physical or environmental impact to the neighborhood
5. She understands that the Area Variance is self-created.

Mr. Layou commented that he has been in law enforcement for 15 years and that Westminster Place is kept up well.

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 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 was made by Mrs. Liebi in Case #1668 to **approve** the Area Variances with the condition that they be in substantial compliance with Exhibit "A". Motion was seconded by Deputy Chairman Wisnowski.

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 #1668 was **approved**.

Case #1669 – AREA VARIANCES – Lorraine Van Luven, 5292 Taft Road West, Tax Map #117.-09-22.0:

The applicant is requesting Area Variances pursuant to Section 230-13 D.(4)(b)[1 for a reduction in the front yard setback from 25 feet to 15 feet and Section 230-20 B.(2)(b) for an increase in the height of a fence in a front yard from 2 1/2 feet to 3 1/2 feet for construction of a fence.

The secretary read the proof of publication.

Ms. Van Luven wants to put in a picket fence to meet the chain link fence. She is next to Hinerwadels and people not only cut through her yard but also look in her windows.

Ms. Van Luven addressed the Standards of Proof:

1. She doesn't believe there will be any negative or undesirable change to the character of the neighborhood. She feels the picket fence will enhance the property, thereby benefiting nearby properties.
2. She doesn't believe there is any other feasible method than to obtain an Area Variance. Fencing in the area is the only way she can achieve privacy.
3. She believes the Area Variance request is substantial to her, because installing a fence will prevent people, pets and bicycles from using her front yard as an expressway.
4. She doesn't believe there will be any physical or environmental impact to the neighborhood. It will be an improvement.
5. She feels the Area Variance is not self-created, because it is the use of her front lawn as a cut through and a place to toss their garbage that created the problem. They knock on her windows and disrupt her privacy.

Mr. Layou said he wanted to clarify that the fence cannot go in an easement.

Mr. Pleskach asked if the fence would be on the house side or tree side, and Ms. Van Luven said the fence will go in front of the trees, enclosing them.

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 questions and Ms. Pirro voiced concern about the fence impeding vision for vehicles and said she'd rather see a chainlink fence.

Mr. Layou noted that he took height of the fence into consideration.

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 was made by Mr. Layou in Case #1669 to **approve** the Area Variances 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	- against	
	Mr. Layou	- in favor	<i>Carried.</i>

The Area Variance in Case #1669 was **approved**.

Case #1670 – AREA VARIANCE – The Summit Federal Credit Union, 5201 W. Taft Road, Tax Map #112.-07-11.3:

The applicant is requesting an Area Variance pursuant to Section 230-22 C.(1) to allow for an increase in the size of a wall sign from the maximum allowed of 16 square feet to 54 square feet, for the placement of a sign over the existing bank building's ATM's. The property is located in the NC-1 Neighborhood Commercial zoning district.

The secretary read the proof of publication.

Nicholas Neabel of Summit Federal Credit Union, Attorney John Tantillo and James Peacock with Premier Sign Systems were the representatives for this request.

Attorney Tantillo explained that they want to increase the square footage as the name is long and would be too small to be visibly seen by customers. They want to spread it out to show their full name, as they do a lot of business.

Chairman Mangan asked if this was for the side that faces Taft Road and he said yes.

Attorney Tantillo addressed the Standards of Proof:

1. They don't believe there will be any negative or undesirable change to the character of the neighborhood. The wall sign will be going on an existing structure and the additional lettering to this roof poses little to no additional effect. Large commercial signage in the area is plentiful.
2. They don't believe there is any other feasible method than to obtain an Area Variance. There are other Summit businesses in the area and they need the full name is essential to differentiate the business.
3. They believe the Area Variance request is not substantial, as the proposed sign is consistent with the size of the existing ATM roof, so the impact of the additional square footage is minimized.
4. They don't believe there will be any physical or environmental impact to the neighborhood

5. Though it may be self-created as they want the sign, they feel the Area Variance is also not self-created considering there are other Summit businesses in the area they need to differentiate from.

Mr. Pleskach asked if they would be back in the future for signs on other sides of the building and Attorney Tantillo said they had small signs on them.

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 questions and there were none.

Chairman Mangan asked for those in favor of granting the Area Variance request and Hafner Realty, LLC had sent a letter in favor. Chairman Mangan asked for those opposed to granting the Area Variance request and there were none.

Chairman Mangan closed the hearing.

MOTION was made by Deputy Chairman Wisnowski in Case #1670 to **approve** the Area with the condition that it 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 #1670 was **approved**.

Case #1672 – AREA VARIANCES – Richard Briant, 5177 Comstock Road, Tax Map #041.1-02-13.0:

The applicant is requesting Area Variances pursuant to Section 230-13 J.(4)(a) for a reduction in the rear yard setback from 40 feet to 29 feet to allow for a 3 season room (screened).

The secretary read the proof of publication.

Richard and Peggy Briant were present.

Mr. Briant explained that they would like to put a three season room on their home. Mrs. Briant noted that it will be going on an existing pad.

Mrs. Briant 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 will enhance the existing pad.
2. They doesn't believe there is any other feasible method than to obtain an Area Variance.
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 feel the Area Variance is self-created.

Mr. Pleskach asked if they had inquired about being in a flood plain and if they used the current information, and Mr. Briant said they had checked with the Town.

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 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 was made by Mrs. Liebi in Case #1672 to **approve** the Area Variance with the condition that it be in substantial compliance with Exhibit "A", a plot plan final date 6/23/2017. Motion was seconded by Deputy Chairman Wisnowski.

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 #1672 was **approved**.

Case #1673 – AREA VARIANCE – Jamie Rawleigh (Chili's), 3954 NYS Route 31, Tax Map #055.-01-01.2:

The applicant is requesting an Area Variance pursuant to Section 230-22 C.(1) to allow for an increase in the allowable number of wall signs from 2 to 4. The property is located in the RC-1 Regional Commercial zoning district.

James Peaco of Premier Sign Systems represented the applicant. He explained that because of national rebranding they want to replace four signs and update the building.

The secretary read the proof of publication.

Mr. Peacock addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. They are enhancing the aesthetics.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance. It is due to national rebranding.
3. He believes the Area Variance request is substantial, as they are replacing like for like.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood
5. He does feel 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 further 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.

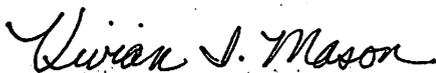
Chairman Mangan closed the hearing.

MOTION was made by Mr. Layou in Case #1673 to **approve** the Area Variance with the condition that it be in substantial compliance with Exhibit "A". a sign schedule dated 5/23/2017 (7 pages). 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 #1673 was **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