

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
NOVEMBER 14, 2022

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 November 14, 2022. Chairman Wisnowski called the meeting to order at 6:00 P.M. and upon the roll being called the following were:

PRESENT:	Edward Wisnowski, Jr	Chairman
	Luella Miller-Allgaier	Deputy Chairperson
	Ryan Frantzis	Member
	Vivian Mason	Member
	Karen Liebi	Member
	Dennis Lyons	Alternate Member
	Chelsea Clark	Secretary
	Robert Germain	Attorney

ABSENT: Mark V. Territo Commissioner of Planning & Development

All present participated in the Pledge of Allegiance.

MOTION made by Mrs. Liebi that the Minutes of the meeting of October 10, 2022 be accepted as submitted. Motion was seconded by Mrs. Mason. *Unanimously carried.*

MOTION made by Chairman Wisnowski for the purpose of the New York State Environmental Quality Review (SEQR) all new actions tonight will be determined to be a Type II, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Mrs. Liebi. *Unanimously carried.*

OLD BUSINESS:

Case #1868 – Chick-fil-A, Inc., 3920 Brewerton Road and 110 East Taft Road, Tax Map #118.-01-01.1 and 118.-01-02.0.:

The applicant is requesting the following Area Variances pursuant to Sections: 230-16 E.(4)(b)[1] Front Yard - a reduction in the front yard setback from the property line from 50 feet to 8.5 feet, to allow for the principal structure; 230-19 A.(5) Principal Structure - a reduction in the highway overlay on Route 11, for a principal structure, from 140 feet to 64.8 feet to allow for a Chick-fil-A restaurant building; 230-19 A.(5) Parking Area - a reduction in the highway overlay on South Bay Road from the required 70 feet to 55.3 feet to allow for parking; 230-16 E.(5)(a) Perimeter Landscape - a reduction in the south perimeter landscape strip from 15 feet to 8.9 feet for a canopy; 230-16 E.(4)(b)[2][a] Side Yard Minimum - a reduction in the north side yard setback from 25 feet to 4.8 feet for the principal structure; 230-16 E.(5)(a) Perimeter Landscape Strip - a reduction in the north perimeter landscape strip from 15 feet to 0 feet; 230-16 E.(5)(a) Perimeter Landscape Strip - a reduction in the south perimeter landscape strip from 15 feet to 0 feet; and 230-16 E.(4)(b)[2][b] Total Both Sides - a 50 foot combining of both sides required with 34.2 feet proposed. The property is located in a LuC-2 Limited Use District for Restaurants.

The proof of publication was read by the secretary at the May 9, 2022 meeting.

Chairman Wisnowski made a motion to adjourn Case #1868 to the December 12, 2022, Zoning Board of Appeals meeting, per the applicant’s request.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1888 – Cabin Cove Development. LLC, Horseshoe Island Road, Tax Map #'s 014.-01-14.1, 014.-02-14.0, 014.-02-16.0, and 014.-02-17.0.:

The applicant is seeking the following Area Variances pursuant to Section 230-13 A.(4) – Dimensional Requirements – Lot Area: a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 74,052 square feet for Lot #5 and Lot #6 (1.7 acres each); – a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 69,696 square feet for Lot #7 and Lot # 8 (1.6 acres each); – a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 56,628 square feet for Lot #9 (1.3 acres); a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 65,340 square feet for Lot #11 (1.5 acres) and Section 230-13 A.(4) – Dimensional Requirements – Lot Width: a reduction in the required minimum required 250 feet to 222.36 feet for Lot #5; a reduction in the required minimum required 250 feet to 137.95 feet for Lot #6; a reduction in the required minimum required 250 feet to 126.18 feet for Lot #7; a reduction in the required minimum required 250 feet to 235.7 feet for Lot #8; and a reduction in the required minimum required 250 feet to 199.85 for Lot #32. This is to allow for a sub-division to create 30 residential building lots. The properties are located in the RA-100 Residential Agricultural District.

The proof of publication was read by the secretary at the August 8, 2022 meeting.

Chairman Wisnowski made a motion to adjourn Case #1888 to the December 12, 2022, Zoning Board of Appeals meeting, per the applicant’s request.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1894 – Jacques Bourdon, 7982 Morgan Road, Tax Map #082.-01-42.1.:

The applicant is seeking an Area Variance pursuant to Section 230-17 C.(4)(b)[1][a] – Front Yard Minimum, for a reduction in the front yard setback from 200 feet to 50 feet to allow for a covered porch addition. The property is located in the I-1 Industrial 1 District.

The proof of publication was read by the secretary at the September 12, 2022 meeting.

The applicant was present.

Chairman Wisnowski asked the applicant to explain his request for an Area Variance.

Mr. Bourdon explained he removed the old steps and wants to replace with a deck.

Chairman Wisnowski asked the applicant to address the Standards of Proof.

Mr. Bourdon addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variance will create an undesirable change to the character of the neighborhood.
2. The applicant does not believe there are feasible methods other than the requested Area Variance.
3. The applicant does not believe the requested Area Variance to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. Yes, the need for the Area Variance is self-created.

Chairman Wisnowski asked if there were any further comments or questions from the Board and there were none.

Chairman Wisnowski asked if anyone in the audience had any questions or comments and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variance and there were none.

Chairman Wisnowski asked for those opposed to granting the Area Variance and there were none.

There being no further comments, Chairman Wisnowski closed the hearing.

MOTION was made by Mr. Frantzis in Case #1894 to approve the Area Variance as requested with the condition it be in substantial compliance with Exhibit "A." Motion was seconded by Deputy Chairperson Miller-Allgaier.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

NEW BUSINESS:

Case #1899 – Nicholas Eldred, 8651 Oswego Road, Tax Map #018.-02-09.0:

The applicant is requesting Area Variances, pursuant to Section 230-13 A.(4) - Lot and Structural Dimensional Requirements, for a reduction of the side yard setback on the north side from 25 feet to 15 feet and Section 230-19 A.(5) - Principal Structure Designated Highway Setback for a reduction in the Designated Highway Overlay from 140 feet to 80 feet. This is to allow a carport to be turned into a bedroom and living space with a basement. The property is located in the RA-100 Residential Agricultural District.

The proof of publication was read by the secretary.

The applicant was present.

Chairman Wisnowski asked the applicant to explain his request for Area Variances.

Mr. Eldred explained he is looking to add a nine foot by sixteen foot addition on the back of his house for a bedroom.

Chairman Wisnowski asked the applicant to address the Standards of Proof.

Mr. Eldred addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variances will create an undesirable change to the character of the neighborhood.
2. The applicant does not believe there are feasible methods other than the requested Area Variances.
3. The applicant does not believe the requested Area Variances to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. Yes, the need for the Area Variances is self-created.

Chairman Wisnowski asked if there were any further comments or questions from the Board and there were none.

Mrs. Liebi asked the applicant if he was adding the addition to the back of the house or the East side of the house.

Mr. Eldred stated he is adding another corner to the house.

Chairman Wisnowski asked the applicant if the addition would square-out the house.

Mr. Eldred confirmed.

Mrs. Liebi asked where his septic was.

Mr. Eldred stated it is behind the barn.

Chairman Wisnowski asked if anyone in the audience had any questions or comments.

Chairman Wisnowski asked for those in favor of granting the Area Variances and there were none.

Chairman Wisnowski asked for those opposed to granting the Area Variances and there were none.

There being no further comments, Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Liebi in Case #1899 to approve the Area Variances as requested with the condition they be in substantial compliance with Exhibit “A.” Motion was seconded by Deputy Chairperson Miller-Allgaier.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1900 - Michael W. Fallon IV, 5291 West Taft Road, Tax Map #112.-01-53.0.:

The applicant is seeking an Area Variance, pursuant to Section 230-22 C.(1) Major Sign Standards, for an increase in the size of a wall sign from the allowed 16 square to the proposed 50 square feet. This is to allow a Wall Sign for a dental office. The property is located in the R-10 One-Family Residential District.

The proof of publication was read by the secretary.

The applicant was present.

Chairman Wisnowski asked the applicant to explain his request for an Area Variance.

Mr. Fallon explained they are looking to add signage for the Dental Office located in the building. The current sign post is from the previous owner and visibility is covered by trees. He wished to add signage directly to the building.

Chairman Wisnowski asked the applicant to address the Standards of Proof.

Mr. Fallon addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variance will create an undesirable change to the character of the neighborhood.
2. The applicant does not believe there are feasible methods other than the requested Area Variance.
3. The applicant does believe the requested Area Variance to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. Yes, the need for the Area Variance is self-created.

Chairman Wisnowski asked if there were any further comments or questions from the Board.

Mrs. Liebi asked the applicant if the proposed sign would be larger than the current banner.

Mr. Fallon said yes.

Mrs. Liebi asked if he would consider smaller signage, stating that the proposed signage seemed large for the building size.

Mr. Fallon stated they did consider smaller signage, however they wish to add the business name and phone number and in order for it to be legible from the road it needs to be the size requested.

Chairman Wisnowski asked if anyone in the audience had any questions or comments and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variance and there were none.

Chairman Wisnowski asked for those opposed to granting the Area Variance and there were none.

There being no further comments, Chairman Wisnowski closed the hearing.

MOTION was made by Deputy Chairperson Miller-Allgaier in Case #1900 to approve the Area Variance as requested with the condition it be in substantial compliance with Exhibit "A." Motion was seconded by Mr. Frantzis.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1901 – Train Hard Fitness/Chin Okigbo-Ariella, Inc., 8180 Oswego Road, Tax Map #067.-01-03.1.:

The applicant is seeking Area Variances, pursuant to Section 230-22 C.(1) Major Sign Standards, for a reduction in the front yard setback from 25 feet to 15 feet and an increase in the square footage of a freestanding sign from 24 square feet to 45 square feet to allow for a new freestanding sign. The property is located in the NC-1 Neighborhood Commercial District.

Chin Okigbo of Ariella, Inc. was present on behalf of the applicant.

The proof of publication was read by the secretary.

Chairman Wisnowski asked Mr. Okigbo to explain their request for Area Variances.

Mr. Okigbo stated the facilities current signage cannot be seen from passing traffic in either direction, making it easy to drive by and hard to promote the small business. He added they are looking to move the sign across the driveway and closer to the road to mirror surrounding businesses.

Chairman Wisnowski asked Mr. Okigbo to address the Standards of Proof.

Mr. Okigbo addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variances will create an undesirable change to the character of the neighborhood.
2. The applicant does not believe there are feasible methods other than the requested Area Variances.
3. The applicant does not believe the requested Area Variances to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. Yes, the need for the Area Variances is self-created.

Chairman Wisnowski asked if there were any further comments or questions from the Board.

Mrs. Mason commented that this application was denied in 2019.

Mr. Okigbo stated he was made aware of that after the application was submitted and he believed that the previous application was wrongfully presented.

Mrs. Mason asked the Mr. Okigbo if they would consider a sign smaller than 45 square feet.

Mr. Okigbo said yes, it wasn't the size of the sign that mattered but the location did.

Mr. Frantzis asked if the applicant would be fully replacing the existing sign.

Mr. Okigbo confirmed, yes they would be replacing the current sign with a new sign.

Chairman Wisnowski asked Mr. Okigbo what the size of the current sign is.

Mr. Okigbo stated approximately 12 to 16 square feet, adding they are looking to raise the sign to eye level to make it easy to see from the road.

Chairman Wisnowski stated he isn't opposed to moving the sign but the applicant is asking for a large increase in the square footage.

Mr. Okigbo stated their main focus was moving the sign and changing the height, not focusing so much on the size of the sign.

Mrs. Liebi stated the allowed 24 square feet to the requested 45 square feet is a significant increase.

Mr. Okigbo stated the applicant would like as much visibility as possible, however they are not stuck on the size of the sign.

Mrs. Mason asked Mr. Okigbo if they would accept moving the sign but leaving the square footage at 24 square feet.

Mr. Okigbo said yes.

Chairman Wisnowski asked if anyone in the audience had any questions or comments and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variances and there were none.

Chairman Wisnowski asked for those opposed to granting the Area Variances and there were none.

There being no further comments, Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Mason in Case #1901 to approve the Area Variance for a reduction in the front yard setback from 25 feet to 15 feet as requested with the condition they be in substantial compliance with Exhibit "A." Motion was seconded by Deputy Chairperson Miller-Allgaier.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

MOTION was made by Mrs. Mason in Case #1901 to deny the Area Variance for an increase in the square footage of a freestanding sign from 24 square feet to 45 square feet. Motion was seconded by Deputy Chairperson Miller-Allgaier.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1902 – American Steel & Aluminum II, 4601 Crown Road , Tax Map #114.-02-03.2.:

The applicant is seeking an Area Variance pursuant to Section 230-21 E. - Required Parking and Loading Spaces for a reduction in the total number of parking spaces from the required 153 spaces to 73 parking spaces. This is to allow a reduction in the required number of parking spaces. The property is located in the I-1 Industrial 1 District.

The proof of publication was read by the secretary.

The applicant, John Baker and Neal Zinsmeyer of Napierala Consulting were present.

Chairman Wisnowski asked Mr. Zinsmeyer to explain the request for an Area Variance.

Mr. Zinsmeyer stated the applicant is proposing a building expansion, the current building was built in 1978 under full warehouse conditions and the applicant is seeking parking relief.

Chairman Wisnowski asked the applicant to address the Standards of Proof.

Mr. Zinsmeyer addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variance will create an undesirable change to the character of the neighborhood.
2. The applicant does believe there are feasible methods other than the requested Area Variance, however they do not wish to take up the existing greenspace.
3. The applicant does not believe the requested Area Variance to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. Yes, the need for the Area Variance is self-created.

Chairman Wisnowski asked if there were any further comments or questions from the Board.

Mrs. Liebi asked where the trucks and flatbeds go.

Mr. Zinsmeyer explained they need to wait to unload, then pull into the building. The traffic circulation path will remain unchanged, noting there are typically a max of five trucks per day.

Mrs. Liebi asked about the existing nitrogen tanks outside of the building.

Mr. Zinsmeyer explained the nitrogen is used for their welding equipment.

Chairman Wisnowski asked if anyone in the audience had any questions or comments and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variance and there were none.

Chairman Wisnowski asked for those opposed to granting the Area Variance and there were none.

There being no further comments, Chairman Wisnowski closed the hearing.

MOTION was made by Mr. Frantzis in Case #1902 to approve the Area Variance as requested with the condition it be in substantial compliance with Exhibit “A.” Motion was seconded by Deputy Chairperson Miller-Allgaier.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1903 - CNY Property Holdings/Robert Fortino, 9017 Mud Mill Road, Tax Map #042.-01-08.2.:

The applicant is seeking a Use Variance pursuant to Section 230-13 A.(2) – Uses Allowed, to allow a public self-storage and office facility which is not allowed in an RA-100 Residential Agricultural District.

The proof of publication was read by the secretary.

Mr. Germain noted this application is not a Type II action; it is an Unlisted action.

Nolan Kokkoris of Bond Schoeneck & King was present on behalf of the applicant.

Chairman Wisnowski asked Mr. Kokkoris to explain the applicants request for a Use Variance.

Mr. Kokkoris explained the property is located next to the White Plains Commerce Park and none of the current allowed uses for the parcel are a good fit to be next to the Micron Chip Plant. The applicant would like self-storage and office building space on the parcel.

Chairman Wisnowski asked Mr. Kokkoris to address the Use Variance Standards of Proof.

Mr. Kokkoris referred the Zoning Board to the provided affidavit.

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence – based on the broker price and tax assessment.
2. The alleged hardship relating to the property in question is unique, and does not apply to a substation portion of the district of the neighborhood.
3. The requested Use Variance, if granted, will not alter the essential character of the neighborhood.
4. The alleged hardship has not been self-created. When the property was purchased, there was no Micron/Commerce site.

Chairman Wisnowski asked if there were any further comments or questions from the Board.

Mrs. Mason asked Mr. Kokkoris if he was aware that Onondaga County is opposed to granting the Use Variance and recommended denial.

Mr. Kokkoris stated he was unaware.

Chairman Wisnowski stated the Zoning Board does not like to grant Use Variances, adding that the Clay Town Board denied the Zone Change.

Chairman Wisnowski asked if anyone in the audience had any questions or comments and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variance and there were none.

Chairman Wisnowski asked for those opposed to granting the Area Variance.

Chairman Wisnowski stated we received an email from Judy Paduana, 9145 Mud Mill Road, opposed to granting the Use Variance.

Jonathan Lewis, 9100 Caughdenoy Road, was opposed to granting the Use Variance.

Jim Wheeler, 9146 Mud Mill Road, was opposed to granting the Use Variance.

There being no further comments, Chairman Wisnowski closed the hearing.

MOTION was made by Deputy Chairperson Miller-Allgaier in Case #1903 to deny the Use Variance. Motion was seconded by Mr. Frantzis.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1904 – Target/William Slater, 3857 NYS Route 31, Tax Map #021.-01-15.1.:

The applicant is seeking Area Variances Pursuant to Section 230-22 C.(1) - Major Sign Standards: to increase the number of signs from the two allowed to five; to increase the size of sign #3 from zero to 24.59 square feet ("Order Pick-Up"); to increase the size of sign #4 from zero to 77.1 square feet ("Drive Up"); and to increase the size of sign #5 from zero to 63.6 square feet ("Bullseye") This is to allow additional signage. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the secretary.

The applicant was present.

Chairman Wisnowski asked the applicant to explain his request for Area Variances.

Mr. Slater said they have been in collaboration with the Planning Board over the last month and are looking to add drive up and pick up signage to assist guiding customers.

Chairman Wisnowski asked the applicant to address the Standards of Proof.

Mr. Slater addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variances will create an undesirable change to the character of the neighborhood.
2. The applicant does not believe there are feasible methods other than the requested Area Variances.
3. The applicant does believe the requested Area Variances to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. Yes, the need for the Area Variances is self-created.

Chairman Wisnowski asked if there were any further comments or questions from the Board.

Mrs. Liebi asked why they needed to add the bullseye sign.

Mr. Slater said Targets nationwide are looking to update their imaging with all stores and help promote their logo.

Chairman Wisnowski asked if anyone in the audience had any questions or comments and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variances and there were none.

Chairman Wisnowski asked for those opposed to granting the Area Variances and there were none.

There being no further comments, Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Liebi in Case #1904 to approve the Area Variances as requested with the condition they be in substantial compliance with Exhibit “A.” Motion was seconded by Mr. Frantzis.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

There being no further business, Chairman Wisnowski adjourned the meeting at 7:00 P.M.



Chelsea L. Clark, Secretary
Zoning Board of Appeals
Town of Clay