

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
APRIL 10, 2023

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 April 10, 2023. 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	Deputy Chairperson
	Karen Liebi	Member
	Ryan Frantzis	Member
	Vivian Mason	Member

OTHERS

PRESENT:	Robert Germain	Attorney
	Chelsea Clark	Secretary
	Mark Territo	Commissioner of Planning & Development

ABSENT: None

All present participated in the Pledge of Allegiance.

MOTION made by Mrs. Mason that the Minutes of the meeting of March 13, 2023 be accepted as submitted. Motion was seconded by Mr. Frantzis. *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 May 8, 2023, Zoning Board of Appeals meeting, per the applicant’s request.

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

NEW BUSINESS:

Case #1912 – O’Reilly Auto Enterprises, LLC, 3906 Brewerton Road, Tax Map #118.-01-07.1.:

The applicant is seeking an Area Variance, pursuant to Section 230-21 E. – Required Parking and Loading Spaces, for a reduction in the number of the required 102 parking and loading spaces to 94 parking and loading spaces. This is to allow for a reduction in the required number of parking and loading spaces. The property is located the HC-1 Highway Commercial District.

The proof of publication was read by the secretary.

Tiffany Lawson from O’Reilly Auto Enterprises, LLC., corporate office was present.

Chairman Wisnowski asked Ms. Lawson to explain the applicants request for an Area Variance.

Ms. Lawson explained the applicant is looking to keep the existing parking spaces that is has had for the last several years. She noted there will be multiple tenants in the same building and they are looking to keep the current 94 sparking spaces as no additional spaces can fit on the property, and that the required 102 parking spaces are not necessary.

Chairman Wisnowski asked Ms. Lawson to address the Standards of Proof.

Ms. Lawson 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 as their request is to keep the existing parking.
2. The applicant does not believe there is any feasible method other than the requested Area Variance as the lot would not allow for additional parking spaces.
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 as it will remain as it has existed for several years and patrons do not spend long periods of time in the building.
5. Yes, the need for Area Variance is self-created.

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

Mrs. Mason asked if they had received the comments from Onondaga County Planning Board regarding suggested modifications.

Ms. Lawson said no she did not believe so.

Mrs. Mason provided the applicant with a copy of Onondaga County Planning Board’s comments and recommendations to take into consideration.

Chairman Wisnowski asked if there would be two or three additional tenants.

Ms. Lawson stated she was unsure. O’Reilly uses approximately half of the building size so there is about 10,000 square feet for additional tenant(s).

Chairman Wisnowski asked Commissioner Territo if he had any comments or questions and he had 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 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 #1912 to approve the Area Variance as requested with the condition it be in substantial compliance with Exhibit “A”. Motion was seconded by Ms. Miller.

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

Case #1914 – Stanley J. Moskal, 4089 Sweet Gum Lane, Tax Map #055.-11-13.0.:

The applicant is seeking an Area Variance, pursuant to Section 230-13 E.(4)(b)[2] – Side Yard Minimum, for a reduction in the right/north side yard setback from 10 feet to 6 feet to allow for an attached garage addition. The property is located the R-7.5 One-Family Residential District.

The proof of publication was read by the secretary.

The applicant was present.

Chairman Wisnowski asked Mr. Moskal to explain his request for an Area Variance.

Mr. Moskal stated he was looking to build a garage with a workshop and to store his travel van when not in use. His proposed garage would match the existing house visually. Mr. Moskal added that the drainage would run underground into an open sewer space in his backyard to try to prevent any drainage issues for his neighbors.

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

Mr. Moskal 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 as it would be consistent with the look of the existing house.
2. The applicant does not believe there is any feasible method other than the requested Area Variance as there is no other location on the property for the garage.
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 as he would install gutters and piping for drainage concerns.
5. Yes, the need for Area Variance is self-created.

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

Mrs. Liebi asked what size Mr. Moskal's travel van is.

Mr. Moskal stated it is a 20 foot van that he is looking to store out of public view.

Mrs. Liebi asked what the metal piping was that was located on the side of Mr. Moskal's house.

Mr. Moskal stated he wasn't aware of any metal piping along his house, adding that the van does have solar panels.

Mrs. Liebi stated she saw a metal looking frame along side of his property.

Mr. Moskal stated that is an ATV trailer parked on his property he is going to use to move a shed for his daughter.

Chairman Wisnowski asked Commissioner Territo if he had any comments or questions and he had 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.

Tammy Lizzio, 4087 Sweet Gum Lane, provided photos and a written letter of opposition to granting the Area Variance stating it would negatively impact her property and surrounding neighbors, stating the overhand would cross the current fencing, and the garage would be large and out of place with the surroundings of the neighborhood. Ms. Lizzio added that the proposed garage would completely shade her yard and could potentially cause drainage issues and ultimately lower the value of her home.

Steve Frass, 4244 Steelhead Drive, stated he frequently walks through the Pine Gate development and stated he is against granting the Area Variance due to the size and location relevant to the neighboring houses.

Greg Wood, representing Tammy Lizzio, stated the building would create privacy concerns for Ms. Lizzio, cause natural light obstruction, excess noise from the proposed workshop that would be located inside the garage and potential drainage issues. Mr. Wood was opposed to granting the Area Variance.

Joanne Patrick, 4070 Sweet Gum Lane, stated she is concerned if this Area Variance is granted, that other neighbors in the area will follow suit and expressed her concern that the proposed building is too close to neighboring properties. Ms. Patrick is opposed to granting the Area Variance.

Chairman Wisnowski stated the Zoning Board received a written letter from Basil Dillon-Malone, 4083 Sweet Gum Lane, stating she is opposed to granting the Area Variance, for the record.

Chairman Wisnowski stated the Zoning Board received a written letter from Susan Lyndon, 8390 Golden Larch Lane, stating she is opposed to granting the Area Variance, for the record.

Chairman Wisnowski stated the Zoning Board received a written letter from Darlene Van Marter, 4086 Sweet Gum Lane, stating her opposition to granting the Area Variance, for the record.

There were no further comments.

MOTION was made by Chairman Wisnowski in Case #1914 to close the public hearing. Decision will be made at a later date. *Motion was unanimously carried.*

Case #1915 – Splash Car Wash 4S-Buckley LLC, 7190-7092 Buckley Road, Tax Map #117.-02-47.0.:

The applicant is seeking Area Variances, pursuant to Section 230-16 C.(4)(a)[2][a] for a reduction in the front yard setback from 100 feet to 65 feet; Section 230-16 C.(4)(a)[1][b] for a reduction in the front Perimeter Landscape Strip from 30 feet to 1 foot; and Section 230-16 C.(4)(a)[1][b] for a reduction in the rear Perimeter Landscape Strip from 30 feet to 19 feet. This is to allow for demolition of 3 existing buildings and development of a new Splash Car Wash facility with drive aisles and pay island lane. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the secretary.

Chairman Wisnowski made a motion to adjourn Case #1915 to the May 8, 2023, Zoning Board of Appeals meeting, per the applicant’s request.

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

Case #1916 – Gardenview Diner/Nik Loannidis, 3564 Route 31, Tax Map #052.-02-09.1.:

The applicant is seeking Area Variances, pursuant to Section 230-19 A.(5) - Designated Highway Setback - a reduction in the front yard setback from 165 feet to 137 feet; Section 230-16 C.(4)(a)[2][b] - Side Yard Setback - a reduction in the east side yard setback from 75 feet to 70 feet; Section 230-16 C.(4)(a)[2][b] - Side Yard Setback - a reduction in the west side yard setback from 75 feet to 22 feet; Section 230-21 E.- Required Parking - a reduction in the required 75 parking spaces to 60 parking spaces; Section 230-19 A.(5) - Designated Highway Setback - a reduction in the front yard setback from 90 feet to 59 feet; and Section 230-16 C.(4)(a)[1][b] - Site Perimeter Landscape Strip – a reduction in the Perimeter Landscape Strip from 30 feet to 12 feet. This is to allow construction of a 3,200 square foot diner and associated parking. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the secretary.

The applicant was present as well as Scott Freeman of Keplinger Freeman Associates.

Chairman Wisnowski asked Mr. Freeman to explain the applicants request for an Area Variances.

Mr. Freeman stated the applicant is looking for Area Variances to ensure a viable project location for the building and opening of a Gardenview Diner.

Mr. Loannidis stated he has been in business over 32 years and is currently renting space for his second diner location in Kimbrook Plaza. He is looking to relocate this location to the Route 31 parcel and keep it roughly the same square footage as his first location on Old Liverpool Road, approximately 2,700 square feet. Mr. Loannidis is looking to add an outdoor patio with seating to this location.

Mr. Freeman stated they are working with an architect for this project and have cut down the building size to the minimum square footage needed to function and allow for handicap accessibility. The diner would seat approximately 92-94 customers; however, the diner is a quick in and out style restaurant and no alcohol is served at either location. Mr. Freeman added 60 parking lots are sufficient for the needs of the restaurant.

Mr. Loannidis stated traffic would enter and exit on the private road within Kimbrook Plaza and that traffic during the weekdays would be easy-going, with a traffic increasing slightly on weekends. They are also proposing an access onto Route 31.

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

Mr. Freeman 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 is any feasible method other than the requested Area Variances as the variances are necessary to build on the parcel.
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 Area Variances are self-created.

Chairman Wisnowski asked if the applicant has access to the private road at the back of the property.

Mr. Loannidis stated they did reach out to the owner of the private road and would request access.

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

Chairman Wisnowski asked Commissioner Territo if he had any comments or questions.

Mr. Territo asked if the proposed outdoor patio square footage was factored into the total square footage as this would impact the number of parking spaces needed. Mr. Territo added, if they are unsure if it was initially included, he would suggest that the applicant request an adjournment to confirm, otherwise they would need to reapply.

The applicant and Mr. Freeman were unsure if the patio square footage was included in the total square footage of the property and would like to request an adjournment to the next meeting.

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

Darlene Fritz, 8480 Bubbling Springs, asked when the construction would begin.

Mr. Freeman stated they still need to go through the process with the Town Board and Planning Board but they are hoping to start construction in September, taking around one-year to complete.

Mrs. Fritz asked if the fence would remain.

Mr. Freeman stated yes, the fence does not belong to the property owned by the applicant, therefore it would remain as it is not theirs to remove.

Mrs. Fritz asked if there would be a driveway off the access road.

Mr. Freeman stated yes.

Mr. Loannidis added there would be dirt road access and they planned to add dirt, making the road straight as opposed to its current condition. Mr. Loannidis added the building would be a flat roof ranch, similar to IHOP.

Mrs. Fritz mentioned the area is notorious for dumping.

Mr. Loannidis stated the parking lot would be lighted, hopefully deterring any unwanted dumping and littering in the area.


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

There were no further comments.

Motion was made by Mrs. Liebi to adjourn Case #1916 to the May 8, 2023, Zoning Board of Appeals meeting, per the applicant's request. Motion was seconded by Mr. Frantzis.

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

There being no further business, Chairman Wisnowski adjourned the meeting at 7:05 P.M.



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