

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
JUNE 12, 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 June 12, 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:	John Marzocchi	Attorney
	Chelsea Clark	Secretary
	Mark Territo	Commissioner of Planning & Development

ABSENT: None

All present participated in the Pledge of Allegiance.

MOTION made by Deputy Chairperson Miller that the Minutes of the meeting of May 8, 2023, 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 #1915 – Splash Car Wash 4S-Buckley LLC, 7190-7092 Buckley Road, Tax Map #117.-02-47.0.:

The proof of publication was read by the secretary at the April 10, 2023, meeting.

MOTION made by Chairman Wisnowski to withdraw the application, per the applicant request. Motion was seconded by Mr. Frantzis. *Unanimously carried.*

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 at the April 10, 2023, meeting.

Scott Freeman of Keplinger Freeman Associates was present on behalf of the applicant.

Mr. Freeman stated the owner of the private drive is not open to allowing access to the applicant, therefore the applicant provided a new plan showing no access to the private drive, in which the access to the proposed diner would enter and exit onto Route 31. The applicant has removed the outdoor patio and seating from the plan.

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 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 Variances and those opposed to granting the Area Variances and there were none.

MOTION was made by Mrs. Liebi in Case #1916 to approve the Area Variances as requested with the condition it be in substantial compliance with Exhibit “A”. Motion was seconded by Mrs. Mason.

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 #1917 – Amerco Real Estate, 8015 Oswego Road, Tax Map #080.-01-01.0.:

The applicant is seeking an Area Variance, pursuant to Section 230-16 C.(5)(b)[4][b] – Maximum Height, for an increase in the height of a structure from the allowed 35 feet to 41 feet 10 inches. This is to allow for expansion of the existing UBox operation to help provide a service to upcoming businesses and residences moving to our area. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the secretary at the May 8, 2023, meeting.

MOTION made by Chairman Wisnowski to adjourn Case #1917 to the July 10, 2023, meeting, per the applicant’s request. Motion was seconded by Mrs. Mason. *Unanimously carried.*

NEW BUSINESS:

Case #1919 – David Stern, 7818 Morgan Road, Tax Map #087.-01-45.1.:

The applicant is seeking a Use Variance pursuant to Section 230-17 C.(2) - Uses allowed: Residential Use and Photo Studio on the property (mixed use). This is to allow for a Photo Studio (in a detached garage) and residential use on one property (mixed use). The property is located in the I-1 Industrial 1 District.

The proof of publication was read by the secretary.

Chairman Wisnowski stated that Case #1919 is an unlisted action, as advised by our attorney.

Pamela Stern, wife of the applicant, was present.

Mrs. Stern stated she has owned her own photography business for a few years, which include senior portraits, and is looking to have an indoor studio which would be beneficial to her business. Mrs. Stern noted they are on approximately two acres of property, with two connecting driveways. Photo sessions would be by appointment only and bring in approximately one to two clients per week.

Chairman Wisnowski asked Mr. Lindsey to address the four Use Variance questions.

Mrs. Stern addressed the Use Variance questions:

1. The applicant finds that adverse weather in Upstate New York challenges photography business.
2. The applicant states the Use Variance would not apply to a substantial portion of the district or neighborhood, adding that she does not live in a neighborhood and the properties to each side of her home is businesses.
3. The applicant does not believe the Use Variance would alter the character of the neighborhood.
4. Yes, the hardship is self-created.

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

Mrs. Liebi stated the signage is too large as shown on Exhibit A.

Mrs. Stern stated she is aware and needed to speak to someone regarding what is allowed.

Mrs. Liebi advised that a two-foot by two-foot sign is allowed.

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 Use Variance and those opposed to granting the Use Variance and there were none.

MOTION was made by Mr. Frantzis in Case #1919 to approve the Use Variance as requested with the condition it be in substantial compliance with Exhibit “A”. Motion was seconded by Mrs. Mason.

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 #1920 - Thomas Femano for Gerard Lowe, 5068 Hackberry Lane, Tax Map #074.-06-09.0.:

The applicant is seeking an Area Variance pursuant to Section 230-13 E.(4)(b)[1] – Front Yard Minimum, for a reduction in the front yard setback from 25 feet to 19 feet to allow for construction of an addition/3-Season Room. The property is located in the R-7.5 One-Family Residential District.

The proof of publication was read by the secretary.

Thomas Femano was present for Gerard Lowe.

Mr. Femano explained the applicant is looking to add a covered, 3-Season room/porch onto the front of the house, matching the existing look of the home as closely as possible.

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

Mr. Femano 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 match the existing appearance.
2. The applicant does not believe there is any feasible method 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 Area Variance is self-created.

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

Deputy Chairperson Miller asked if there is currently a partial enclosure where the applicant is looking to add a 3-Season room.

Mr. Femano stated there is currently a deck with a retractable awning.

Deputy Chairperson Miller asked what the size of the 3-Season room would be compared to the current deck and awning.

Mr. Femano stated it would be the same size as the existing deck, 8x16, just enclosed.

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.

MOTION was made by Mrs. Mason in Case #1920 to approve the Area Variances as requested with the condition it be in substantial compliance with Exhibit “A”. Motion was seconded by Mrs. Liebi.

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 #1921 – Kelly Salanger, 104 Williams Street, Tax Map #099.-02-33.0.:

The applicant is seeking Area Variances pursuant to Section 230-13 D.(4)(b)[1] – Front Yard Minimum, for a reduction in the front yard setback from 25 feet to 1.5 feet, and Section 230-20 B.(2)(b) – Height of a Fence in a Front Yard, for an increase in the height of a fence in a front yard from the allowed 2 ½ feet to 6 feet (corner lots have 2 front yards) This is to allow for construction of a fence. The property is located in the R-10 One-Family Residential District.

The proof of publication was read by the secretary.

The applicant and his wife, Kaitlyn were present.

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

Mrs. Salanger explained they are looking to install a privacy fence on their corner lot to ensure safety and privacy for their child and dog. The current bushes on the property would be on the outside of the proposed fencing.

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

Mrs. Salanger 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 as neighboring properties have similar fencing.
2. The applicant does not believe there is any feasible method 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 Area Variances is self-created.

Chairman Wisnowski stated for the record that the board did receive a letter from a neighbor with concerns regarding the applicants request for Area Variances and fencing.

Chairman Wisnowski also advised the applicant that the board needs a map or survey showing where the location of the proposed fencing would be.

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 and he had none.

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

Ron Powell, 100 Williams Street, was present and stated he is the resident who wrote the letter of concern to the board. Mr. Powell stated he would like to see a copy of the map or survey showing where the fence would be installed, adding that he believes the allowed 2 ½ feet should be allowed but not the 6 feet. Mr. Powell added he is not opposed to the fencing but would like to see its location first.

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

MOTION was made by Chairman Wisnowski to adjourn Case #1921 to the July 10, 2023, meeting. 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>

Case #1922 – Shana Richards, 99 Bayberry Circle, Tax Map #094.-08-09.0.:

The applicant is seeking Area Variances pursuant to Section 230-16 E.(4)(b)[1] – Front Yard Minimum, for a reduction in the front yard setback from 25 feet to 9 feet and Section 230-20 B.(2)(b) – Fences, for an increase in the height of a fence in a front yard from the allowed 2 ½ feet to 6 feet (corner lots have 2 front yards). The property is located in the R-7.5 One-Family Residential District.

The proof of publication was read by the secretary.

The applicant was present.

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

Ms. Richards explained she purchased this home approximately six months ago and the existing fencing has been in place for over twenty years. The fence currently has missing slats, leaning board, exposed nails and is an eyesore and safety hazard. Ms. Richards added that when consulting with the fencing company, it was brought to her attention that the fencing was in the wrong place and she would need the variances to bring the fence and existing shed up to code.

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

Ms. Richards 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 as it would improve the look of the property.
2. The applicant does not believe there is any feasible method 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 Area Variances is self-created.

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 stated that the variances would correct the existing shed and the proposed fence, bringing those items up to code.

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 those opposed to granting the Area Variances and there were none.

MOTION was made by Mr. Frantzis in Case #1922 to approve the Area Variances as requested with the condition it be in substantial compliance with Exhibit “A”. Motion was seconded by Deputy Chairperson 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>

There being no further business, Chairman Wisnowski adjourned the meeting at 6:38 P.M.



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