

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
August 11, 2025

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 August 11, 2025. Chairperson Mason called the meeting to order at 6:00 P.M. and upon the roll being called the following were:

PRESENT:	Vivian Mason	Chairperson
	Karen Liebi	Member
	Ryan Frantzis	Member
	David Porter	Member

ABSENT: None

OTHERS

PRESENT:	Robert Germain	Attorney
	Chelsea Clark	Secretary
	Pamela DiCarlo-Schermerhorn	Code Enforcement Officer
	Russ Mithcell	Clay Planning Board Chair

All present participated in the Pledge of Allegiance.

MOTION made by Chairperson Mason that the Minutes of the meeting of July 14, 2025, be accepted as submitted. Motion was seconded by Mr. Frantzis. *Unanimously carried.*

MOTION made by Chairperson Mason 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 #1979 – Russ Mitchell, Town of Clay Planning Board, Chairman, requesting an Interpretation of a definition pursuant to Section 230-16 B.(2) – Highway Commercial Uses Allowed and Interpretation of a definition pursuant to Section 230-11 C. – Definitions (Shopping Center). The Interpretation concerns use in an HC-1 Highway Commercial Zoning District.:

MOTION made by Mr. Frantzis, whereas the Town of Clay Planning Board requested an interpretation of the Town Code to determine if, according to the Clay Town Code, a gasoline service center is an allowed use in the HC-1 Zone classification if it is part of a proposed Shopping Center, and,

Whereas we heard from the representatives of the Town of Clay Planning Board and Mirabito Energy on July 14, 2025, and also considered written materials presented by Mirabito, and we hereby find and rule as follows:

1. Section 230-16 B(2)(B)(6) of the Code states Highway Commercial-Uses Allowed include a “Shopping Center.” The code then refers to the definition section of the Town Code to determine how a Shopping Center is defined.
2. The relevant portion of the definition of a Shopping Center contained in the code is “Land planned, improved and managed to accommodate a grouping of two or more commercial uses in one of more buildings designed to share parking, access, signage and other site services: uses commonly included within a shopping center are: retail stores, restaurants, drive-in services, gasoline service stations, indoor recreation of office.”
3. The plain language of the definition of a Shopping Center contained in the Code lists “gasoline service stations” as a use commonly included within a shopping center.
4. Applying the rules of strict construction and ambiguity interpretation against the drafter, we find a gasoline service center is an allowed use in the HC-1 zone if it is part of a shopping center.
5. If the Town Board wishes to change or amend the code to remove any ambiguity or allowed use change, it is encouraged to do so.

Issue: The Town of Clay Planning Board requested an interpretation of the Town Code to determine if, according to the Clay Town Code, a gasoline service center is an allowed use in the HC-1 Zoning District, if it is a part of a proposed Shopping Center.

The property is located in a Highway Commercial (HC-1) Zoning District. The interpretation requested was heard before the Zoning Board of Appeals on July 14, 2025, in the form of a Public Hearing. Both representatives of the Town Planning Board and Mirabito Energy were present and submitted evidence for their respective positions. In addition, the representative for Mirabito Energy submitted a letter dated July 25th, 2025, for consideration which is made part of the record.

Findings of Facts:

1. NYS Town Law Sections 267-A and Town Code Section 230-25B(3) grant the Zoning Board of Appeals authority to interpret zoning regulations or an appeal of a decision of a Code Officer.
2. The Board determined the interpretation request was classified as a Type II action for the purpose of SEQRA compliance.
3. Section 230-16B(2)(b)(6) of the Code states Highway Commercial Uses Allowed include a “Shopping Center.” The Code then refers to the Definition section of the Town Code to determine how a Shopping Center is defined.
4. The relevant portion of the definition of a Shopping Center contained in the Code is “Land planned, improved and managed to accommodate a grouping of two or more commercial uses in one of more buildings designed to share parking, access, signage and other site services: uses commonly included within a shopping center are: retail stores, restaurants, drive-in services, gasoline service stations, indoor recreation and office.”

Conclusions:

1. Although the Mirabito representative raised the objection that the appeal was untimely due to the expiration of an applicable Statute of Limitations, we make no determination regarding that point and believe that is a legal issue for Court determination.
2. The plain language of the definition of a Shopping Center contained in the Code lists “gasoline service stations” as a use commonly included within a shopping center.
3. Applying the rules of strict construction and ambiguity interpretation against the drafter, we find gasoline service center is an allowed use in the HC-1 Highway Commercial Zoning District, if its is a part of a Shopping Center.
4. If the Town Board wishes to change or amend the Code to remove any ambiguity or allowed use change, it is encouraged to do so.

Motion was seconded by Mr. Porter.

Roll Call:	Mr. Frantzis	- in favor	
	Mr. Porter	- in favor	
	Chairperson Mason	- opposed	<i>Motion Failed.</i>

NEW BUSINESS:

Case #1981 – Kirby Dar Dar, 7917 Morgan Road, Tax Map #081.-29-11.2.:

The applicant is seeking an Area Variance pursuant to Section 230-13 C.(4)(c)[3] – Side Yard Minimum – for a reduction in the rear yard setback from the required 10 feet to 6 feet to allow installation of an inground pool. The property location is in the R-15 One-Family Residential Zoning District.

The proof of publication was read by the secretary.

The applicant was present.

Chairperson Mason asked the applicant to explain his request for an Area Variance.

Mr. Dar Dar explained he would like the Area Variance to allow for installation of an inground pool for he and his family to enjoy.

Chairperson Mason asked the applicant to address the Standards of Proof.

Mr. Dar Dar 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 the property is surrounded by farmland.
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 as it will be an environmentally friendly saltwater pool.
5. Yes, the need for an Area Variance is self-created.

Chairperson Mason asked if there were any further comments or questions from the Board and there were none.

Chairperson Mason asked Pamela DiCarlo-Schermerhorn of Code Enforcement if she had any questions or comments, and she had none.

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

Chairperson Mason asked for those in favor of granting the Area Variance and there were none.

Chairperson Mason asked for those opposed to granting the Area Variance and there were none.

The hearing was closed.

MOTION was made by Mr. Frantzis in Case #1981 to **approve** the Area Variance as requested with the condition they be in substantial compliance with Exhibit “A”. Motion was seconded by Mr. Porter.

Roll Call:	Mr. Frantzis	- in favor	
	Mr. Porter	- in favor	
	Deputy Chairperson Liebi	- in favor	
	Chairperson Mason	- in favor	<i>Unanimously Carried.</i>

Case #1982 – Joseph Grispino, 706 Shaver Avenue, Tax Map #101.-02-22.0.:

The applicant is seeking Area Variances pursuant to Section 230-13 D.(4)(b)[2] – Lot and Structure Dimensional Requirements (side yard) – for a reduction in the east side yard setback from 8.5 feet to 3 feet to allow construction of a 20 x 30 garage, and Section 230-13 D.(4)(b)[3] – Lot and Structure Dimensional Requirements (rear yard) – for a reduction in the north rear yard setback from 10 feet to 3 feet for the relocation of existing 12 x 26 shed. The property location is in the R-10 One-Family Residential Zoning District.

The proof of publication was read by the secretary.

The applicant was present.

Chairperson Mason asked the applicant to explain his request for Area Variances.

Mr. Grispingo explained he is looking to build a 2-car attached garage and relocate the existing shed to the rear yard.

Chairperson Mason asked the applicant to address the Standards of Proof.

Mr. Grispingo 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 other ranch properties in the area have attached garages or living spaces.
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 in the rear, but not substantial in the side yard.
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.

Chairperson Mason asked if there were any further comments or questions from the Board and there were none.

Chairperson Mason asked Pamela DiCarlo-Schermerhorn of Code Enforcement if she had any questions or comments, and she had none.

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

Chairperson Mason asked for those in favor of granting the Area Variances and there was one.

Chairperson Mason asked for those opposed to granting the Area Variances and there were none.

The hearing was closed.

MOTION was made by Mrs. Liebi in Case #1982 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:	Mr. Frantzis	- in favor	
	Mr. Porter	- in favor	
	Deputy Chairperson Liebi	- in favor	
	Chairperson Mason	- in favor	<i>Unanimously Carried.</i>

Case #1983 – Pack Rat Storage (Chad Parks), Tax Map #082.-01-04.1.:

The applicant is seeking an Area Variance pursuant to Section 230-20 B.(2)(b) – Structures – for an increase in height of front yard trees from code limits of 2.5 feet up to 70 feet tall to allow planting of trees between the storage facility and the public roads for screening. The property location is in the I-1 Industrial 1 Zoning District.

The proof of publication was read by the secretary.

Pat Reynolds of Ianuzzi & Romans was present on behalf of the applicant.

Chairperson Mason asked Mr. Reynolds to explain the applicants request for an Area Variance.

Mr. Reynolds stated the applicant is looking to plant trees along Henry Clay Boulevard as the original trees were removed and the Town of Clay Planning Board asked the applicant to replant the trees.

Chairperson Mason asked the Mr. Reynolds to address the Standards of Proof.

Mr. Reynolds 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 they will help shield the view of the storage facility.
2. The applicant does not believe there is any feasible method other than the requested Area Variance as the Planning Board asked the applicant to plant the trees for screening purposes.
3. The applicant does believe the requested Area Variance to be substantial as they are asking for thirty-five times the allowable height.
4. The applicant does not believe there will be any adverse effect to the neighborhood. They believe it will improve the property and enhance the view.
5. Yes, the need for an Area Variance is self-created.

Chairperson Mason asked if there were any further comments or questions from the Board.

Mr. Porter asked what kind of trees they will be planting.

Mr. Reynolds stated they will plant Red Maple and White Spruce with scattered placement to keep a natural look.

Chairperson Mason asked Pamela DiCarlo-Schermerhorn of Code Enforcement if she had any questions or comments, and she had none.

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

Chairperson Mason asked for those in favor of granting the Area Variance and there was one.

Janet Rathburn, 4760 Freestone Road, stated the applicant removed brush and believes that the trees will reduce noise. She is in favor of granting the Area Variance.

Chairperson Mason asked for those opposed to granting the Area Variance and there were none.

The hearing was closed.

MOTION was made by Mr. Porter in Case #1983 to **approve** the Area Variance as requested with the condition they be in substantial compliance with Exhibit “A”. Motion was seconded by Mr. Frantzis.

Roll Call:	Mr. Frantzis	- in favor	
	Mr. Porter	- in favor	
	Deputy Chairperson Liebi	- in favor	
	Chairperson Mason	- in favor	<i>Unanimously Carried.</i>

Case #1984 – Northern Credit Union, Tax Map #052.-02-11.3.:

The applicant is seeking Area Variances pursuant to Section 230-19 A.(5) – Principal Structure Setback – for a reduction in designated highway from 165 feet to 128.6 feet, and Section 230-22 C.(1) – Major Sign Standards – for an increase in the maximum allowable number of freestanding signs from one (1) sign to two (2) signs for construction of bank/credit union with drive-in service. The property location is in the RC-1 Regional Commercial Zoning District.

The proof of publication was read by the secretary.

Brody Smith of Bond, Schoeneck and King, was present on behalf of the applicant.

Chairperson Mason asked Mr. Smith to explain the applicants request for Area Variances.

Mr. Smith noted the applicant, “Northern Credit Union,” was also present. Mr. Smtih explained the applicant is requesting Area Variances to allow for installation of two signs from the allowable one sign. Mr. Smith added that the applicant would be in the currently vacant portion of Kimbrook Square and would like the signage to be visible to passing traffic from the road. Mr. Smith stated that the applicant had a previous application in with the Town, however, withdrew the application to redesign per Onondaga County Planning Board suggestions.

Chairperson Mason asked the Mr. Smith to address the Standards of Proof.

Mr. Smith 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 the property is located in a commercial area.
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 mathematically.
4. The applicant does not believe there will be any adverse effect to the neighborhood as it would be similar to neighboring properties in the commercial district.
5. Yes, the need for Area Variances is self-created.

Chairperson Mason asked if there were any further comments or questions from the Board.

Mrs. Liebi asked why the applicant didn't purchase the existing building that Walgreens was previously in.

Mr. Smith stated the applicant was looking to build a new building that was fresh and fits with their brand.

Mrs. Liebi stated why is the proposed new building closer to Route 31 when the neighboring properties are further away from the road.

Mr. Smith stated the front canopy of the proposed building will be in line with the three buildings to the East of the parcel to create order and alignment.

Chairperson Mason asked Pamela DiCarlo-Schermerhorn of Code Enforcement if she had any questions or comments, and she had none.

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

Chairperson Mason asked for those in favor of granting the Area Variances and there were three.

Chairperson Mason asked for those opposed to granting the Area Variances and there were none.

The hearing was closed.

MOTION was made by Mr. Frantzis in Case #1984 to **approve** the Area Variances as requested with the condition they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Porter.

Roll Call:	Mr. Frantzis	- in favor	
	Mr. Porter	- in favor	
	Deputy Chairperson Liebi	- in favor	
	Chairperson Mason	- in favor	<i>Unanimously Carried.</i>

Case #1985 – Carl Hibbard, Jr., Tax Map #019.-01-11.1.:

The applicant is seeking Area Variances pursuant to Section 230-13 D.(4)(c)[1] – Accessory Structures, detached – for a reduction in front yard setback from 55 feet to 3.5 feet, and Section 230-13 D.(4)(c)[2] – Accessory Structures, detached – for a reduction in the side yard setback from 18 feet to 5 feet to allow construction of a 20 x 22 unattached garage.

The proof of publication was read by the secretary.

The applicant was present.

Chairperson Mason asked the applicant to explain his request for Area Variances.

Mr. Hibbard stated he is requesting Area Variances to build a detached garage for storage.

Chairperson Mason asked the Mr. Hibbard to address the Standards of Proof.

Mr. Hibbard 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 there are many detached garages in the area.
2. The applicant does not believe there is any feasible method other than the requested Area Variances as there is a culvert on one side and leech field and driveway on the other.
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 as trees border both sides.
5. Yes, the need for Area Variances is self-created.

Chairperson Mason stated there were two e-mails regarding the application, for the record.

Chairperson Mason asked if there were any further comments or questions from the Board and there were none.

Chairperson Mason asked Pamela DiCarlo-Schermerhorn of Code Enforcement if she had any questions or comments, and she had none.

Chairperson Mason asked if anyone in the audience had any questions or comments.

Lisa Campagna, 8419 Gaskin Road, stated she is one of the residents who e-mailed regarding the application, she just wanted to see where the proposed garage was going to be located. Mr. Hibbard showed Ms. Campagna, and she had no concerns.

Chairperson Mason asked for those in favor of granting the Area Variances and there were none.

Chairperson Mason asked for those opposed to granting the Area Variance and there were none.

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The hearing was closed.

MOTION was made by Mr. Porter in Case #1985 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:	Mr. Frantzis	- in favor	
	Mr. Porter	- in favor	
	Deputy Chairperson Liebi	- in favor	
	Chairperson Mason	- in favor	<i>Unanimously Carried.</i>

There being no further business, Chairperson Mason adjourned the meeting at 6:52 P.M.



Chelsea Clark, Secretary
Zoning Board of Appeals
Town of Clay