

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
JULY 11, 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 July 11, 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
	Ryan Frantzis	Member
	Karen Liebi	Member
	Vivian Mason	Member
	Chelsea Clark	Secretary
	John Marzocchi	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: Luella Miller-Allgaier Deputy Chairperson

MOTION made by Mrs. Liebi that the Minutes of the meeting of June 13, 2022 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 August 8, 2022, Zoning Board of Appeals meeting, per the applicant’s request.

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

Case #1877 – Douglas Seib, 3738 Theodolite Drive, Tax Map #052.-14-14.0.:

The applicant is seeking an Area Variance pursuant to Section 230-18 I.(2) - Dimensional Controls, for a reduction in the front yard setback from 25 feet to 20 feet to allow for a porch addition in a front yard. The property is located in the PDD Planned Development District.

The proof of publication was read by the secretary at the June 13, 2022 meeting.

Chairman Wisnowski made a motion to adjourn Case #1877 to the August 8, 2022, Zoning Board of Appeals meeting, per the applicant’s request.

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

NEW BUSINESS:

Case #1880 – Collin Donahue/B & C Storage (Bruce Pollock), 4600 Weller Canning Street, Tax Map #046.-01-17.1.:

The applicant is seeking the following Area Variances pursuant to Section 230-17 D.(4)(b)[1][b] – Town Highway - for a reduction in the front yard setback from 50 feet to 25 feet; Section 230-17 D.(4)(b)[2] – Side Yard - for a reduction in the side yard setback from 25 feet to 0 feet; Section 230-17 D.(5)(b) – Additional side yard where abutting non-Industrial - for a reduction in the second side yard setback from 125 feet to 25 feet; and Section 230-17 D.(4)(b)[3] – Rear Yard - for a reduction in the rear yard setback from 25 feet to 0 feet. This will bring the existing buildings and site into compliance. The property is located in the I-2 Industrial 2 District.

The proof of publication was read by the secretary.

Collin Donahue was present on behalf of B & C Storage.

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

Mr. Donahue explained they are looking to bring the property into compliance with Town Code since they have acquired the building and this was not done by the previous owner.

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

Mr. Donahue 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 will remain unchanged.
2. The applicant does not believe there is any feasible method other than the requested Area Variances as the buildings are already existing.
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 are 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 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.

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

MOTION was made by Mr. Frantzis in Case #1880 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	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1881 – The Daniele Family Companies/Royal Car Wash, 7376 Oswego Road, Tax Map #104.-03-14.1.:

The applicant is seeking an Area Variance pursuant to Section 230-22 C.(1) – Major Sign Standards, to allow for an increase in the number of wall signs from the two allowed to three. The property is located in the HC-1 Highway Commercial District.

The proof of publication was read by the secretary.

Austin Goodwin of Passero Associates was present on behalf of the applicant.

Chairman Wisnowski asked Mr. Goodwin to explain their request for an Area Variance.

Mr. Goodwin explained the applicant is looking to have three (3) signs instead of the allowed two (2) to keep consistent with their other locations. The applicant wants to ensure signs are visible to all passing traffic.

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

Mr. Goodwin 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 is in a commercial location.
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 the Area Variance is self-created.

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

Mrs. Liebi asked why the additional sign was needed when there is a freestanding sign with nothing blocking view to passing traffic.

Mr. Goodwin stated they are trying to keep their look consistent with their other locations which all have one (1) large freestanding sign and three (3) smaller wall signs.

Mrs. Liebi noted that nothing is blocking passing traffic's view to the freestanding sign and Town Code only allows for two (2) signs. Additionally, the building sits closer to the road than other buildings in the area.

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 Mrs. Liebi in Case #1881 to deny the Area Variance, allowing for only two (2) wall signs per Town Code. Motion was seconded by Mrs. Mason.

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

Case #1882 – Melissa Disano, 8519 Sextant Drive, Tax Map #052.1-28-01.1.:

The applicant is seeking an Area Variance pursuant to Section 230-18 I.(2) Dimensional Controls, for a reduction in the side yard setback from 20 feet to 15 feet, to allow for a three season room. The property is located in the PDD Planned Development District.

The proof of publication was read by the secretary.

Spouse of the applicant, Ryan Lafave, was present.

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

Mr. LaFave explained he thinks there was a miscommunication and that an Area Variance is not needed. He was not prepared to speak on this matter and requested it be adjourned to the next meeting.

Chairman Wisnowski made a motion to adjourn Case #1882 to the August 8, 2022, Zoning Board of Appeals meeting, per the applicant’s request.

Roll Call:	Chairman Wisnowski	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Motion Carried.</i>

Case #1883 – Vito & Teresa Barletta, 7421 Buckley Road, Tax Map #107.-05-01.1.:

The applicant is seeking an Area Variance pursuant to Section 230-13 K.(5)(c)[2][d] – Maximum Height, for an increase in the height of a building from the allowed 35 feet to 49 feet 7 inches. This is to allow a three story Senior Multi-Family Dwelling. The property is located in the R-SR Senior Residence District.

The proof of publication was read by the secretary.

Patrick Donnelly of Fogel & Brown was present on behalf of the applicant.

Chairman Wisnowski asked Mr. Donnelly to explain the applicant’s request for an Area Variance.

Mr. Donnelly stated the applicant is looking to build a three (3) story senior living complex.

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

Mr. Donnelly 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 and noted the three story concept was previously approved by Town Board and Planning Board.
2. The applicant does not believe there is any feasible method other than the requested Area Variance as the cost to build outward instead of upward is too expensive.
3. The applicant does not believe the requested Area Variance to be substantial as brush and landscaping would screen the project.
4. The applicant does not believe there will be any adverse effect to the neighborhood and noted that Planning Board stated it would be a “good fit.”
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 Mr. Donnelly why they were requesting 49 feet again when it has been previously denied by the Zoning Board of Appeals.

Mr. Donnelly stated it was denied once in 2013.

Mrs. Liebi agreed it would be cheaper to build upward however the Town of Clay Senior Housing Ordinance only allows for two (2) stories, because that was the intent of the ordinance.

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 Mrs. Liebi in Case #1883 to deny the Area Variance as it would not comply with the Town of Clay’s Senior Citizen Housing Ordinance. Motion was seconded by Mr. Frantzis.

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

Case #1884 – Jenifer L. Mazur & Sigmund Mazur, 7855 and 7859 Morgan Road, Tax Map #081.-29-17.1.:

The applicants are seeking Area Variances pursuant to the following Sections: Section 230-13 A.(4) and 230-19 A.(4)(b) [1] - Lot Area – for a reduction in the lot area from 175,000 square feet to 23,440 square feet for Lot 1 and a reduction in the lot area from 175,000 square feet to 22,281 square feet for Lot 2; Section 230-13 A.(4) – Lot Width – for a reduction in the lot width from 250 feet to 124.69 feet for Lot 1 and a reduction in the lot width from 250 feet to 111.85 feet for Lot 2; Section 230-13 A.(4) – Principal Structure – for a reduction in the front yard setback from 75 feet to 32 feet for Lot 1 and a reduction in the front yard setback from 75 feet to 38.1 feet for Lot 2; Section 230-13 A.(4) – Side Yard – for a reduction in the side yard setback from 25 feet to 23.4 feet to allow for the existing house on Lot 1, a reduction in the side yard setback from 25 feet to 5 feet to allow for the existing garage on Lot 1, a reduction in the side yard setback from 25 feet to 13 feet to allow for the existing house on Lot 2; a reduction in the side yard setback from 25 feet to 23.9 feet to allow for the existing garage on Lot 2; and Section 230-19 A.(5) – Designated Highway Setback – for a reduction in the Highway Overlay from 140 feet to 76 feet to allow for the existing house for Lot 1 and a reduction in the Highway Overlay from 140 feet to 82.85 feet to allow for the existing house on Lot 2. This is to allow for a subdivision of the parcel into two lots. The property is located in the RA-100 Residential Agricultural District.

The proof of publication was read by the secretary.

Jeffrey Fasoldt of Bousquet Holstein was present on behalf of the applicant.

Chairman Wisnowski asked Mr. Fasoldt to explain the applicant's request for Area Variances.

Mr. Fasoldt explained the applicant is requesting a subdivision to create two (2) separate residences that are currently on one Tax Map lot. They would like to create two (2) mailing addresses and split the property down the middle.

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

Mr. Fasoldt 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 they are existing structures.
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 as there is no new work planned.
4. The applicant does not believe there will be any adverse effect to the neighborhood as there will be no change, the structures are already existing.
5. Yes, the need for the Area Variances is self-created.

Chairman Wisnowski asked Mr. Fasoldt if the applicant's goal was to create a subdivision.

Mr. Fasoldt confirmed that was their intent and they are scheduled to go in front of the Planning Board at their next meeting.

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.

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

MOTION was made by Mrs. Mason in Case #1884 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	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1885 – Diane Winn, 36 Homeland Road, Tax Map #111.-10-14.0.:

The applicant is seeking Area Variances pursuant to Section 230-13 E.(4)(b)[1] - Front Yard Minimum – for a reduction in the front yard setback from 25 feet to 23 feet and Section 230-13 E.(4)(b)[2][a] - Side Yard Minimum – for a reduction in the side yard setback from 6 feet to 3 feet. This is to allow for construction of a covered porch and a carport. 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. Winn explained that her porch is deteriorating and needs to be redone and she is looking to extend the porch to where the concrete ends. The contractor informed Ms. Winn that they would need to extend one (1) foot past the edge of the concrete. She is also looking to put up a car port to reduce removing snow in the winter.

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

Ms. Winn 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.
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. Liebi asked the applicant if she planned on enclosing the porch.

Ms. Winn stated she is not looking to enclose the porch nor the car port.

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.

Patricia Kliphon, 39 Waterbury Drive, expressed her concern of snow melt runoff causing flooding in the neighbor's yards. Her concern was that if the board approves this application that her neighbors will follow suit and she will have more water in her yard.

Chairman Wisnowski informed Ms. Kliphon that this application is for this parcel only and that if Ms. Kliphon's neighbor were to apply, she would be notified and could speak her concerns at that time.

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 being no further comments, Chairman Wisnowski closed the hearing.

MOTION was made by Mr. Frantzis in Case #1885 to approve the Area Variances as requested with the condition they be in substantial compliance with Exhibit "A." Motion was seconded by Mrs. Liebi.

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

**Case #1886 – VP Road Solar, LLC, 4914 VerPlank Road, Tax Map #047.-01-09.1; and
Case #1887 – VP Road Solar, LLC, 4912 VerPlank Road, Tax Map #047.-01-07.0.:**

Case #1886 - The applicant is seeking Area Variances pursuant to Section 230-20 H.(10)(b)[1] – Setbacks - for a reduction in the north side yard setback from 100 feet to 75 feet and a reduction in the south side yard setback from 100 feet to 75 feet to allow for a solar energy system. The property is located in the I-2 Industrial 2 District.

Case #1887 - The applicant is seeking Area Variances pursuant to Section 230-20 H.(10)(b)[1] – Setbacks - for a reduction in the side yard setback from 100 feet to 80 feet; a reduction in the front yard setback from 100 feet to 49 feet; a reduction in the rear yard setback from 100 feet to 44 feet; and Section 230-20 H.(10)(d)[2] – Setbacks - for an increase in the allowable lot coverage from 50% to 61% to allow for a solar energy system. The property is located in the I-2 Industrial 2 District.

The proof of publications were read by the secretary.

Mark Sweeney of Sweeney Law Firm, Pedro Rodriguez of Seaboard Solar and Caryn Mlodzianowski of Bohler Engineering were present on behalf of the applicant.

Chairman Wisnowski asked the representatives to explain the applicant's request for Area Variances.

Mr. Rodriguez explained the applicant started this project last year and had agreements approved with the School District, Town and County and the requested variances are needed to move forward with the project.

Ms. Mlodzianowski added that both projects in Case #1886 and #1887 were previously approved but since the previous approval, the code has changed and they now need the requested area variances to be in compliance with the code. Nothing in their project plan has changed.

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

Mr. Sweeney 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 is located in an Industrial Zone and the landscaping will provide a buffer.
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 as the project is consistent with Industrial use, SEQR reviews have been completed and any concerns addressed.
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.

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

Mr. Territo asked Mr. Marzocchi if the application is Type 2.

Mr. Marzocchi confirmed it is Type 2.

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.

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

MOTION was made by Mrs. Mason in Case #1886 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	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

MOTION was made by Mrs. Mason in Case #1887 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	
	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 7:00 P.M.



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