

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
MAY 9, 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 May 9, 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
	Chelsea Clark	Secretary
	Neil Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: Karen Liebi Member

MOTION made by Deputy Chairperson Miller-Allgaier that the Minutes of the meeting of April 11, 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. Mason. *Unanimously carried.*

OLD BUSINESS:

None

NEW 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.

The applicant, Clint Mattson, Tim Freitag of Bohler Engineering and Paul Vancott of Whiteman Osterman & Hanna, LLP., were present.

Chairman Wisnowski asked Mr. Freitag to explain the applicant's requests for Area Variances.

Mr. Freitag explained they are looking to replace the current Basil Leaf restaurant with a Chick-fil-A which will be a drive-thru only style restaurant. There will be no dining in the building. There will be a pick-up window for Grubhub or App orders and approximately 4-5 outdoor tables for customers who wish to eat outside. Mr. Freitag explained the parcel has a municipal boundary line through the middle of the property which requires them to request Area Variances.

Area Variance #1.) Applicant is requesting front yard setback to be 8½ feet to the canopy, 16½ feet to the building

Area Variance #2.) Applicant is requesting 140 feet from the road centerline from 66 feet to the existing building to 64.8 feet due to the proposed canopy

Area Variance #3.) Applicant is requesting a reduction in required Highway overlay to allow for staff parking and landscaping

Area Variance #4.) Applicant is requesting reduction in the perimeter to allow for a canopy, there will be no landscaping as there will be a sidewalk between the canopy and building

Area Variance #5.) Applicant is requesting setback due to the existing boundary line to allow for the building of a Chick-fil-A restaurant

Area Variance #6.) Applicant is requesting variance as it would be in the middle of the staff parking lot and cannot have a landscape strip in this area

Area Variance #7.) Applicant is requesting reduction to allow for a paved drive-thru with no landscaping, maintaining current condition

Area Variance #8.) Applicant is requesting a reduction to allow for staff parking

Mrs. Mason asked Mr. Freitag where traffic would enter and exit the parcel.

Mr. Freitag stated as of today it is curb cut, they are looking to remove the residential structure and remove the corner driveways resulting in right turn, in and out, and a left turn lane to enter from South Bay road allowing for full access movement.

Mr. Freitag also added Chick-fil-A did not purchase the parcel but would be leasing it from the current Basil Leaf owner.

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

Mr. Vancott 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 surrounding properties are commercial use and variances are consistent with other commercial properties in the area.
2. The applicant does not believe there is any feasible method other than the requested Area Variances due to the drive-thru nature of the building.
3. The applicant does not believe the requested Area Variances to be substantial and believes they are relatively modest.
4. The applicant does not believe there will be any adverse effect to the neighborhood as it is in a commercial area.
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 adjourned the meeting to June 13, 2022.

Case #1873 – John & Sandra Ditro, 9588 Horseshoe Island Road, Tax Map #013.-01-37.5.:

The applicant is seeking Area Variances pursuant to Section 230-13 A.(4) for a reduction in the south side yard setback from 25 feet to 12.1 feet (expansion of existing building), a reduction in the south side yard setback from 25 feet to 15 feet (garage) to allow for a building expansion and construction of a garage. The property is located in the RA-100 Residential Agricultural District.

The proof of publication was read by the secretary.

The applicant, John Ditro, was present.

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

Mr. Ditro stated he is looking to extend the existing deck and build a garage for storage purposes.

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

Mr. Ditro 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 as it is similar to others in the area.
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.

Neighbor, Robert Duclose of 9590 Horseshoe Island, was present and spoke in favor of granting the area variances.

Neighbors, Selma and David Adydan of 9586 Horseshoe Island, were present and spoke in favor of granting the area variances.

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

MOTION was made by Deputy Chairperson Miller-Allgaier in Case #1873 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-Allgaier	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1874 – Robert Aluzzo, 8302 Oswego Road, Tax Map #054.-01-03.1.:

The applicant is seeking an Area Variance pursuant to Section 230-22 C.(1) for a reduction of the minimum front yard setback from the required 25 feet to 4 feet to allow for a freestanding sign. The property is located in the O-1 Neighborhood Office District.

The proof of publication was read by the secretary.

Steve Calocerinos of Calocerinos Engineering, PLLC was present on behalf of the applicant.

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

Mr. Calocerinos explained that the parcel is currently vacant and the applicant would like to put a sign in that is visible to passing traffic.

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

Mr. Calocerinos 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 parcel is currently vacant and is similar to other uses in the area.
2. The applicant does not believe there is another feasible method other than the requested Area Variance.
3. The applicant does not believe the requested Area Variance to be substantial as the land is residual and the building appearance is now improved.
4. The applicant does not believe there will be any adverse effect to the neighborhood as it is similar to others in the area.
5. Yes, the need for the Area Variance is self-created.

Chairman Wisnowski noted that when he drove by the property, there was a metal pole sticking out of the ground and asked if that was for an electric sign.

Mr. Calocerinos did not believe so, he explained the applicant initially was interested in a partial electric sign but the cost was too high.

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 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. Mason in Case #1874 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. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1875 – Robert Aluzzo, 8258 Oswego Road, Tax Map #054.-01-11.2.:

The applicant is seeking Area Variances pursuant to Section 230230-15 A.(4)(b)[2][a] for a reduction in the side yard setback from 6 feet to 2.5 feet and Section 230-15 A.(5)(a) for a reduction of the perimeter landscape strip from 15 feet to 2.5 feet, to allow for an attached garage bay addition to provide indoor/enclosed vehicle parking for elderly veteran neighbor. The property is located in the O-1 Neighborhood Office District.

The proof of publication was read by the secretary.

Steve Calocerinos of Calocerinos Engineering, PLLC was present on behalf of the applicant.

Chairman Wisnowski asked the applicant to explain the requests for the Area Variances.

Mr. Calocerinos explained that he noticed another Area Variance needs to be added to this application.

Mr. Territo advised the case would need to be advertised with the additional Area Variance.

Chairman Wisnowski adjourned Case #1875 to the June 13, 2022 meeting.

There being no further business, Chairman Wisnowski adjourned the meeting at 6:49 P.M.



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