

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
December 9, 2013

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 Town Hall of Clay, 4401 State Route 31, New York on December 9, 2013.

Chairman Mangan called the meeting to order at 7:30 P.M. and upon the roll being called the following were:

PRESENT:	Charles V. Mangan	Chairman
	Karen Liebi	Member
	Mark Smith	Member
	Brian Hall	Member
	Anne Stenham	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney
	Cindy Beckhusen	Assistant Commissioner of Planning
ABSENT:	Arthur Fennhahn	Deputy Chairman

MOTION made by Ms. Liebi that the Minutes of the meeting of November 11, 2013 be accepted as submitted. Motion was seconded by Ms. Stenham. *Carried.*

MOTION made by Chairman Mangan for the purpose of the New York State Environmental Quality Review (SEQR) all new actions tonight will be determined to be Type II actions, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Ms. Liebi. *Carried.*

OLD BUSINESS:

Case #1498 – AREA VARIANCE - Donald Wehrung, (5346 Guy Young Road), Lot 4, Ethel Road, Tax Map #038.-01-04.0:

The applicant is requesting Area Variance pursuant to Sections 230-13 A.(4) to allow for a reduction in the front yard setback from 75 feet to 60 feet to allow for the construction of a single family house and garage. The property is located in the RA-100 Residential Agricultural zoning district.

(The secretary read the proof of publication at the September 9, 2013 meeting.)

Chairman Mangan announced that this hearing is being adjourned to the January 13, 2014 at the applicant's request.

NEW BUSINESS:

Case #1508 – SPECIAL PERMIT - Barbara Rogers, 5417 Bear Road, Tax Map #092.-01-01.0:

The applicant is requesting a Special Permit, pursuant to Section 230-13 D.(2)(d)[1] and 230-27 I.(2)(a), to allow for a home occupation to sell merchandise. The property is located in the R-10 One-Family Residential zoning district.

The secretary read the proof of publication.

Barbara Rogers, the applicant, and her brother John Wheeler were present.

Chairman Mangan noted that the applicant has been doing this for some time and Barbara Rogers said that she has been selling embroidered, crocheted, knitted and sewed items and part of the profit goes to the Gallisano babies. She sells out of the house, and also on the internet.

Chairman Mangan asked her if she was aware that she needed a Special Permit to do that and she said no, they thought they were in a proper zoning area because of the hairdresser next door to them.

Chairman Mangan pointed out that they can't sell on the driveway. He asked how many cars there would be parking there for business reasons, and Ms. Rogers said she never knows, but there are usually only two customers at a time.

Attorney Germain asked her how people get out of the driveway and Ms. Rogers said there is room enough for them to turn around, as they have an extra paved area.

Chairman Mangan explained that the County Planning Board commented that they may need a commercial driveway permit, and they need to check with the county. If there is more than one car in the driveway, they may have trouble turning around.

Barbara Rogers said they only park one vehicle in the driveway and they tell their customers to not back out. She presented letters from her neighbors, Dean Drake, and Brittnie and Matt Dygert. They are the neighbors to the east and west.

Chairman Mangan stated that he had traffic concerns.

Mark Smith asked how often they have sold things in their driveway and Ms. Rogers said only a couple of times and that it didn't work.

Assistant Commissioner Beckhusen asked if they had any employees and Ms. Rogers said no.

Chairman Mangan asked if there were any further comments or questions and there were none.

Chairman Mangan asked Assistant Commissioner Beckhusen if she had any comments and she noted that they have had traffic complaints in their office. She advised the applicant that should she be approved for the Special Permit, they could only have a 2 foot square identification sign,

would only be able to use 25% of the first floor of their home for this business, and employees have to be residents. Egress must also be handicap accessible. The applicant also has to contact the county as a commercial driveway permit may be required.

Chairman Mangan asked the audience if they had any comments or questions and they had none.

Chairman Mangan asked for those in favor to granting the Special Permit, and there were two, represented by the letters the applicant presented. Chairman Mangan asked for those opposed to granting the Special Permit, and there were none.

MOTION made by Mr. Smith in Case #1508 to adjourn the hearing for the Special Permit to a later date and also to refer the request to the Town Planning Board for their review and their traffic concerns. Motion was seconded by Mr. Hall.

Roll call:

Chairman Mangan	- in favor
Deputy Chairman Fennhahn	- absent
Mrs. Liebi	- in favor
Mr. Smith	- in favor
Mr. Hall	- in favor
Ms. Stenham	- in favor

Carried.

Case #1509 – AREA VARIANCE - Steve Cornell, 9065 Henry Clay Boulevard, Tax Map #032.-01-03.4:

The applicant is requesting an Area Variance pursuant to Section 230-13 A.(4), to reduce the front yard setback from 75 feet to 68.7 feet, for the construction of a modular house and garage. The property is located in the RA-100 Residential Agricultural district.

The secretary read the proof of publication.

Attorney Frank Vavonese, of Melvin and Melvin, was representing the applicant. He explained that Mr. Cornell had a modular home and stick built garage constructed, but they measured from the edge of the pavement, when they should have measured from the edge of the right of way, so the house is too near to the road. They thought they were right in their calculations.

Attorney Vavonese addressed the Standards of Proof:

1. They don't believe there will be any change to the character of the neighborhood. The modular house and garage are already built and there are other houses close to the road in the neighborhood.
2. They don't believe there is any other feasible method than to obtain an Area Variance. The only alternative would be to demolish and/or move all, or a portion of both structures, expand the pad for the garage and dig additional basement and filling in the part vacated by the move of the structure.
3. They do not believe the variance request is substantial, as the setback request is less than 10%.
4. They believe there will be no adverse impact to the physical or environmental conditions in the neighborhood.
5. They believe the need for the variance is self-created, since an error was made in the interpretation of the survey, but it was unintentional.

Chairman Mangan asked if there were any further comments or questions and there were none.

Chairman Mangan asked Assistant Commissioner Beckhusen if she had any comments and she had none.

Chairman Mangan asked the audience if they had any comments or questions and there were none.

Chairman Mangan asked for those in favor and those opposed to granting the variances, and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Hall in Case #1509 to **grant** the Area Variance request as requested. Motion was seconded by Deputy Chairman Fennhahn.

Roll call:

Chairman Mangan	- in favor
Deputy Chairman Fennhahn	- absent
Mrs. Liebi	- in favor
Mr. Smith	- in favor
Mr. Hall	- in favor
Ms. Stenham	- in favor

Carried.

The Area Variance request for Case #1509 is granted.

Case #1510 – AREA VARIANCE - 3 i Graphics and Signs (Moe's Southwest Grill), 7558 Oswego Road, Tax Map #094.-21-15.1:

The applicant is requesting an Area Variance pursuant to Section 230-22 C.(1) to increase the number of wall signs from 2 to 4. The property is located in the LuC-2 Limited Use District for Restaurants zoning district.

The secretary read the proof of publication.

Eric Olsen, from 3 i Graphics stated that the signs that say welcome on the building are okay, but the silhouettes above it adds two signs, and won't meet town code.

Mr. Olsen addressed the Standards of Proof:

1. They don't believe there will be any change to the character of the neighborhood. Allowing awnings to be branded will be in keeping with the commercial zoning and other businesses in the area along Oswego Road/Rt. 57.
2. They believe there is no other feasible method than to obtain an Area Variance. The branding on each awning is required by Moe's Corporate. The actual square footage of the awning signage does not exceed the square footage allowed for each façade of the building by town code.
3. They do believe the variance request is substantial.

4. They believe there will be no adverse impact to the neighborhood. The awning design and materials are consistent with other nearby commercial structures.
5. They believe the need for the variance is self-created. The franchise owner is mandated to comply with Corporate branding standards.

Chairman Mangan said he wasn't concerned with corporate branding. He is concerned with town code requirements.

Mr. Smith questioned awning signs as compared to wall signs, and that it should be called a wall sign. There is a limit to signs on the awning.

Assistant Commissioner Beckhusen noted that the Area Variance request was advertised as wall signs.

Attorney Robert Germain said approval for a lesser request than advertised is okay.

Chairman Mangan asked if there were any further comments or questions and Joyce Cirrito asked if the signs were going to be lit and Mr. Olsen said only the silhouette above it. The additional two signs are on the awning only.

Chairman Mangan asked Assistant Commissioner Beckhusen if she had any comments and she had none.

Chairman Mangan asked the audience if they had any comments or questions and they had none.

Chairman Mangan asked for those in favor and those opposed to granting the variances, and there were none.

Chairman Mangan closed the hearing.

MOTION made by Ms. Stenham in Case #1510 to **grant** the Area Variance as requested with the condition that the additional two signs will be placed on the awnings only and be in substantial compliance with Exhibit "A". Motion was seconded by Ms. Liebi.

Roll call:	Chairman Mangan	- in favor
	Deputy Chairman Fennhahn	- absent
	Mrs. Liebi	- in favor
	Mr. Smith	- in favor
	Mr. Hall	- in favor
	Ms. Stenham	- in favor <i>Carried.</i>

The Area Variance request for Case #1510 is granted.

There being no further business, Chairman Mangan adjourned the meeting at 8:10 P.M.