

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
APRIL 12, 2021**

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 April 12, 2021. Chairman Wisnowski called the meeting to order at 7:30 P.M. and upon the roll being called the following were:

PRESENT:	Edward Wisnowski, Jr	Chairman
	Luella Miller-Allgaier	Deputy Chairperson
	Karen Liebi	Member
	Deborah Magaro-Dolan	Member
	Dennis Lyons	Member
	Robert Germain	Attorney
	Chelsea Clark	Secretary
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: None

MOTION made by Chairman Wisnowski that the Minutes of the meeting of March 8, 2021 be accepted as submitted. Motion was seconded by Mrs. Miller-Allgaier. *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 #1632 – Eric Gaines, 3456 Horseshoe Island Road, Tax Map No. 012.-01-14.0:

The applicant is seeking Area Variances pursuant to Section 230-13 A.(4) for a reduction in the front yard setback from the required 75 feet to 19 feet to allow for a fence; Section 230-20 B.(2)(b) for an increase in the allowable height of a fence in a front yard from 2 1/2 feet to 4 feet; Section 230-13 A.(4) for a reduction in front yard setback from the required 75 feet to 37 feet to allow for a porch; Section 230-13 A.(4) for a reduction in front yard setback from the required 75 feet to 38 feet to allow for a garage; Section 230-13 A.(4) for a reduction in side yard setback from the required 25 feet to 9.5 feet to allow for a garage; Section 230-13 A.(4) for a reduction in side yard setback from the required 25 feet to 10 feet to allow for an existing shed; Section 230-13 A.(4) for a reduction in rear yard setback from the required 25 feet to 1.0 feet to allow for an existing shed; and Section 230-13 A.(4) for a reduction in rear yard setback from the required 25 feet to 7.0 feet to allow for a porch. The property is located in the RA-100 Residential Agricultural District.

Proof of publication was read by the secretary.

The applicant was present.

Chairman Wisnowski asked Mr. Gaines if he had anything new to add to his requests.

Mr. Gaines had nothing new to add.

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.

Chairman Wisnowski closed the hearing.

MOTION was made by Mr. Lyons in Case #1632 to grant the request for a reduction in the front yard setback from the required 75 feet to 19 feet to allow for a fence (with the condition it be in compliance with Exhibit “A”). Motion was seconded by Mrs. Magaro-Dolan.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Magaro-Dolan	- in favor	
	Mr. Lyons	- in favor	<i>Unanimously Carried.</i>

MOTION was made by Mr. Lyons in Case #1632 to grant the request for an increase in the allowable height of a fence in a front yard from 2.5 feet to 4 feet (with the condition it be in compliance with Exhibit “A”). Motion was seconded by Mrs. Magaro-Dolan.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Magaro-Dolan	- in favor	
	Mr. Lyons	- in favor	<i>Unanimously Carried.</i>

MOTION was made by Mr. Lyons in Case #1632 to grant the request for a reduction in the front yard setback from the required 75 feet to 19 feet to allow for a fence (with the condition it be in compliance with Exhibit “A”). Motion was seconded by Mrs. Magaro-Dolan.

Roll Call: Chairman Wisnowski - in favor
Deputy Chairperson Miller-Allgaier - in favor
Mrs. Liebi - in favor
Mrs. Magaro-Dolan - in favor
Mr. Lyons - in favor *Unanimously Carried.*

MOTION was made by Mr. Lyons in Case #1632 to grant the request for a reduction in side yard setback from the required 25 feet to 9.5 feet to allow for a garage (with the condition it be in compliance with Exhibit “A”). Motion was seconded by Mrs. Magaro-Dolan.

Roll Call: Chairman Wisnowski - in favor
Deputy Chairperson Miller-Allgaier - in favor
Mrs. Liebi - in favor
Mrs. Magaro-Dolan - in favor
Mr. Lyons - in favor *Unanimously Carried.*

MOTION was made by Mr. Lyons in Case #1632 to grant the request for a reduction in side yard setback from the required 25 feet to 10 feet to allow for an existing shed (with the condition it be in compliance with Exhibit “A”). Motion was seconded by Mrs. Magaro-Dolan.

Roll Call: Chairman Wisnowski - in favor
Deputy Chairperson Miller-Allgaier - in favor
Mrs. Liebi - in favor
Mrs. Magaro-Dolan - in favor
Mr. Lyons - in favor *Unanimously Carried.*

MOTION was made by Mr. Lyons in Case #1632 to grant the request for a reduction in rear yard setback from the required 25 feet to 1.0 feet to allow for an existing shed (with the condition it be in compliance with Exhibit “A,” and the temporary portion of the existing shed be removed). Motion was seconded by Mrs. Magaro-Dolan.

Roll Call: Chairman Wisnowski - in favor
Deputy Chairperson Miller-Allgaier - in favor
Mrs. Liebi - in favor
Mrs. Magaro-Dolan - in favor
Mr. Lyons - in favor *Unanimously Carried.*

MOTION was made by Mr. Lyons in Case #1632 to grant the request for a reduction in rear yard setback from the required 25 feet to 7.0 feet to allow for a porch (with the condition it be in compliance with Exhibit “A”). Motion was seconded by Mrs. Magaro-Dolan.

Roll Call: Chairman Wisnowski - in favor
Deputy Chairperson Miller-Allgaier - in favor
Mrs. Liebi - in favor
Mrs. Magaro-Dolan - in favor
Mr. Lyons - in favor *Unanimously Carried.*

Case #1827 – Terry and Nicole Roehm, 4991 Windgate Road, Tax Map No: 107.-01-43.0:

The applicant is seeking an Area Variance pursuant to Section 230-11 C. for a reduction in the side yard setback from 10 feet to 7 feet. This Area Variance falls under definitions, a lot three sided. This is to allow for an above ground pool.

The proof of publication was read by the secretary.

The applicants, Terry and Nicole Roehm were present.

Chairman Wisnowski asked that the applicants explain their request for an Area Variance.

Mr. Roehm explained they have an attached garage so they would need an Area Variance to be able to fit and build a pool.

Chairman Wisnowski asked the applicants to confirm they are looking to install a pool in the back yard.

Mr. Roehm confirmed the pool would be in the back yard.

Mr. Roehm addressed the Standards of Proof:

1. They do not believe it to be an undesirable change to the character of the neighborhood.
2. They believe there is no feasible method other than an Area Variance.
3. They do believe the Area Variance would be substantial.
4. They do not believe there will be any adverse effect to the neighborhood or environment.
5. Yes, the need for an Area Variance 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 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.

Chairman Wisnowski closed the hearing.

MOTION was made by Deputy Chairperson Miller-Allgaier in Case #1827 to approve the Area Variance as requested with the condition it be in substantial compliance with Exhibit "A." Motion was seconded by Mrs. Magaro-Dolan.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Magaro-Dolan	- in favor	
	Mr. Lyons	- in favor	<i>Unanimously Carried.</i>

NEW BUSINESS:

Case #1828 – Robert Kayne, 3528 Gaskin Road, Tax Map #065.-01-04.0.:

The applicant is seeking Area Variances pursuant to Section 230-13 A.(4) for a reduction in the side yard setback (southern side of property) from 25 feet to 12 feet for a sunroom, and Section 230-13 A.(4) for a reduction in the side yard setback (northern side of property) from 25 feet to 5.7 feet for construction of a sunroom addition and a deck. The property is located in the RA-100 Residential Agricultural District.

The proof of publication was read by the secretary.

The applicant was present.

Chairman Wisnowski asked that the applicant explain his request for Area Variances.

Mr. Kayne explained the property is 50 feet wide with 25 feet on each side of the house. Since the home was built in 1955, it does not comply with today's zoning requirements, requiring a need for Area Variances.

Chairman Wisnowski asked Mr. Kayne if he was only enclosing the deck that is currently on the home.

Mr. Kayne confirmed he is only enclosing the existing deck.

Mr. Kayne addressed the Standards of Proof:

1. He does not believe it to be an undesirable change to the character of the neighborhood.
2. He does not believe there is any feasible method other than Area Variances.
3. He does not believe the requested Area Variances to be substantial.
4. He does not believe there will be any adverse effect to the neighborhood or environment.
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 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.

Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Magaro-Dolan in Case #1828 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-Allgaier.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Magaro-Dolan	- in favor	
	Mr. Lyons	- in favor	<i>Unanimously Carried.</i>

Case #1829 – Matthew Caves, 4608 VerPlank Road, Tax Map #044.-01-10.0.:

The applicant is seeking Area Variances pursuant to Section 230-13 A.(4) for a reduction in the front yard setback from 75 feet to 50 feet and Section 230-13 A.(4) for a reduction in the west side yard setback from 25 feet to 14 feet for construction of a Pole Barn. The property is located in the RA-100 Residential Agricultural District.

The proof of publication was read by the secretary.

The applicant and his wife, Kim Caves, were present.

Chairman Wisnowski asked that the applicant explain his request for Area Variances.

Mr. Caves stated the Area Variances are needed to build a pole barn.

Mr. Caves addressed the Standards of Proof:

1. They do not believe it to be an undesirable change to the character of the neighborhood.
2. They do not believe there is any feasible method other than Area Variances.
3. They do not believe the requested Area Variances to be substantial.
4. They do not believe there will be any adverse effect to the neighborhood or environment.
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 asked how tall the pole barn would be as 25 feet is what is allowed.

Mr. Caves stated the pole barn would have 14 foot ceilings.

Mr. Territo had no further questions.

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.

Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Liebi in Case #1829 to approve the Area Variances as requested with the condition it be in substantial compliance with Exhibit “A.” Motion was seconded by Mrs. Magaro-Dolan.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Magaro-Dolan	- in favor	
	Mr. Lyons	- in favor	<i>Unanimously Carried.</i>

Case #1830 – Jiffy Lube/Hafner Developers, Inc., 5229 West Taft Road, Tax Map #112.-06-14.0.:

The applicant is seeking Area Variances pursuant to Section 230-16 C.(4)(a)[2][b] for a reduction in the west side yard setback from 75 feet to 39 feet; Section 230-16 C.(4)(a)[2][b] for a reduction in the east side yard setback from 75 feet to 53 feet; and Section 230-16 C.(4)(a)[1][b] for a reduction in the required landscape buffer abutting a residential district from 80 feet to 31 feet to allow for construction of a Jiffy Lube. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the secretary.

Caryn Mlodzianowski from Bohler Engineering was present on behalf of the applicant.

Chairman Wisnowski asked that the applicant explain their request for Area Variances.

Ms. Mlodzianowski stated this parcel is the last remaining piece of vacant commercial property in the area. The applicant will plant evergreen trees in the buffer to reduce noise. The applicant will not be proposing a curb cut, keeping traffic out of the front thus reducing traffic at residential properties. The applicant's hours of operation would be from 8:00 AM to 6:00 PM, reducing headlights at neighboring properties.

Ms. Mlodzianowski addressed the Standards of Proof:

1. They do not believe it to be an undesirable change to the character of the neighborhood as the neighboring properties are commercial.
2. They do not believe there is any feasible method other than Area Variances.
3. They do not believe the requested Area Variances to be substantial.
4. They do not believe there will be any adverse effect to the neighborhood or environment. They will provide a landscape buffer larger than adjacent residence.
5. Yes, the need for Area Variances is self-created.

Chairman Wisnowski asked Mr. Territo if the applicant would need an Area Variance for the dumpster.

Mr. Territo stated that since these are all individual parcels and this parcel will not have direct access onto W. Taft Road, a Variance is not needed.

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

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

Mr. Territo asked if there would be access to enter from Taft Road.

Ms. Mlodzianowski stated there would be no access to enter from Taft Road.

Mr. Territo had no further questions.

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

Jennifer Higgens of 110 Pine Tree Drive wanted to voice her concern for how the property would be maintained.

Heather Poli of 5255 W. Taft Road, stated her concern for noise, traffic congestion and garbage that she feels this applicant would bring to the area.

Chairman Wisnowski noted that this property is commercial and would be developed as such at some point.

Ms. Mlodzianowski suggested that the applicant may install a fence instead of or in addition to trees to help mitigate noise and reiterated that hours of operation would be during daylight.

Mrs. Magaro-Dolan asked if there were four bays in the garage and approximately how many customers would they see per day.

Ms. Mlodzianowski confirmed there would be four bays, approximately twenty customers per day. They are not a high volume applicant nor do they preform body or collision work.

Mrs. Magaro-Dolan asked Ms. Mlodzianowski to show the Board where the cars would enter and exit.

Ms. Mlodzianowski showed the Board that the vehicles would enter to the West of the property and exit toward W. Taft Road.

Mrs. Magaro-Dolan asked residents, Jennifer Higgins and Heather Poli to show the Board where their houses were located in conjunction with the property.

Ms. Higgins and Ms. Poli pointed to the location of their homes on the map provided by Ms. Mlodzianowski.

Chairman Wisnowski asked for those in favor of granting the Area Variances and those opposed to granting the Area Variances.

Resident, Heather Poli (5255 W. Taft Road) was opposed.

Chairman Wisnowski closed the hearing.

MOTION was made by Mr. Lyons in Case #1830 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-Allgaier.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Magaro-Dolan	- in favor	
	Mr. Lyons	- in favor	<i>Unanimously Carried.</i>

Case #1831 – Jason Premo/Randy Cramer, 3552 State Route 31, Tax Map #052.-02-08.1.:

The applicant is seeking Area Variances pursuant to Section 230-16 C.(4)(a)[2][b] for a reduction in the west side yard setback from 65 feet to 25 feet (an Area Variance, Case #1766, was granted to allow a west side yard setback from 75 feet to 65 feet on October 14, 2019) and Section 230-16 C.(5)(c)[4] for an increase in the height of the building from 22 feet to 24 feet (an Area Variance, Case #1766, was granted to allow an increase in the height of a building from the 14 1/2 feet to 22 feet on October 14, 2019), for construction of a pole barn. The property is located in the RC-1 Regional Commercial District.

Applicant, Jason Premo was present.

Chairman Wisnowski asked that the applicant explain his request for Area Variances.

Mr. Premo stated that prior to their first season, they owned a pole-barn at different locations and have since closed other locations to merge into this space. They wish to build a pole barn to store their equipment.

Mr. Premo addressed the Standards of Proof:

1. He does not believe requested Area Variances to be an undesirable change to the character of the neighborhood and that the pole barn would be barely visible.
2. He does not believe there is any feasible method other than Area Variances. The current lack of storage means they would need to cover their equipment with tarps.
3. He does not believe the requested Area Variances to be substantial.
4. He does not believe there will be any adverse effect to the neighborhood or environment.
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.

Mrs. Liebi asked if the applicant would be eliminating the current sheds at the property.

Mr. Premo said they would most likely move the sheds for aesthetic purposes.

Mrs. Liebi asked why the applicant needs the sheds if they are requesting to build a pole barn.

Mr. Premo stated that since the sheds are already there he does not want to destroy them.

Mrs. Liebi asked the applicant to clarify how the pole barn would barely be visible.

Mr. Premo stated that if you are driving on Route 31, there are tree-lines on each side that would hide the pole barn and there is very limited traffic going by the rear of the property.

Chairman Wisnowski asked the applicant if they would be storing trucks there and if they would be used daily.

Mr. Premo stated the trucks would be stored there as they are primarily a snow plow company and the trucks are used for the winter season.

Chairman Wisnowski asked the applicant if the pole barn would be used for more storage.

Mr. Premo confirmed the pole barn would be primarily for storage and the rest of the property would be used for administrative/office purposes.

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.

Tom Fritz, 8480 Bubbling Springs Road, would like to vote in favor of the Area Variances. He stated he has never had an issue with the applicant and said business is quiet.

Chairman Wisnowski closed the hearing.

MOTION was made by Deputy Chairperson Miller-Allgaier in Case #1831 to approve the Area Variances as requested with the condition it be in substantial compliance with Exhibit “A.” Motion was seconded by Mr. Lyons.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Magaro-Dolan	- in favor	
	Mr. Lyons	- in favor	<i>Unanimously Carried.</i>

Case #1832 – David Cirillo, 5403 Bear Road, Tax Map #091.-01-31.1.:

The applicant is seeking an Area Variance pursuant to Section 230-13 A.(4) for a reduction in the front yard setback from 75 feet to 35 feet for construction of a Pole Barn on a flag lot. The property is located in the RA-100 Residential Agricultural District.

The applicant was present.

Chairman Wisnowski asked that the applicant explain his request for an Area Variance.

Mr. Cirillo explained that he would like a pole barn to store tractors, lawn mowers and other equipment used on his seven acres of land.

Mr. Cirillo addressed the Standards of Proof:

1. He does not believe requested Area Variance to be an undesirable change to the character of the neighborhood as the pole barn would not be visible from the road.
2. He does not believe there is any other feasible method than an Area Variance.
3. He does not believe the requested Area Variance to be substantial.
4. He does not believe there will be any adverse effect to the neighborhood or environment as neighboring homes have pole barns in similar locations.
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 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.

Chairman Wisnowski closed the hearing.

MOTION was made by Deputy Chairperson Miller-Allgaier in Case #1832 to approve the Area Variance as requested with the condition it be in substantial compliance with Exhibit “A.” Motion was seconded by Mrs. Magaro-Dolan.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Magaro-Dolan	- in favor	
	Mr. Lyons	- in favor	<i>Unanimously Carried.</i>

Case #1833 – Greg Fishel/Rite Aid, 5380 West Taft Road, Tax Map #117.-10-20.1.:

The applicant is seeking Area Variances pursuant to Section 230-22 C.(1) for an increase of the number of wall signs to five, when only two are allowed, as follows: Sign #3] zero square feet to 59.4 square feet; Sign #4] zero feet to 59.4 square feet; and Sign #5] zero square feet to 17.9 square feet, to allow for updated signage. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the secretary.

The applicant, Greg Fishel, was present.

Chairman Wisnowski asked that the applicant explain his request for Area Variances.

Mr. Fishel stated that Rite Aid is rebranding its signage at all locations, updating to a slimmer more modern look. They are also removing front signage and changing the face with the new logo.

Chairman Wisnowski asked if they would be reducing signage.

Mr. Fishel advised they would have one less sign.

Mr. Fishel addressed the Standards of Proof:

1. They do not believe it to be an undesirable change to the character of the neighborhood.
2. They do not believe there is any feasible method other than Area Variances as the new signage will be standard for all locations.
3. They do not believe the requested Area Variances to be substantial as the new signage would be less square footage than the previous.
4. They do not believe there will be any adverse effect to the neighborhood or environment.
5. Yes, the need for Area Variances is self-created.

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

Deputy Chairperson Miller-Allgaier asked who placed the sign advertising the Flu Shot below Sweetheart Corners.

Mr. Fishel stated that was zip-tied by the store employees.

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.

Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Liebi in Case #1833 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-Allgaier.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Magaro-Dolan	- in favor	
	Mr. Lyons	- in favor	<i>Unanimously Carried.</i>

There being no further business, Chairman Wisnowski adjourned the meeting at 8:30 P.M.



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