

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
October 12, 2020

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 October 12, 2020. 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 Margaro-Dolan	Member
	Dennis Lyons	Member
	Robert Germain	Attorney
	Vivian Mason	Secretary
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: None

MOTION made by Mrs. Liebi that the Minutes of the meeting of September 14, 2020 be accepted as submitted. Motion was seconded by Mrs. Magaro-Dolan. *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 #1783 – Benjamin Kaye/Superior Self Storage, 4356 State Route 31, Tax Map #059.-01-13.1:

The applicant is requesting an Area Variance per Section 230-21 E. (required parking spaces) to allow for 10 parking spaces instead of 16, because a portion of the site is now being used for retail (1,000 square feet). The property is located in the HC-1 Highway Commercial District.

(The Secretary read the Proof of Publication at the July 13, 2020 meeting)

Once again, neither the applicant or a representative was present,

MOTION was made by Mr. Lyons to deny the Area Variance request in Case #1783. Motion was seconded by Deputy Chairperson Miller-Allgaier.

Roll call:	Chairman Wisnowski, Jr.	- 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>

The Area Variance in Case #1783 is **denied**.

Case #1801 – Mary Cooper, 3462 Horseshoe Island Road, Tax Map #012.-01-12.0:

The applicant is requesting Area Variances pursuant to Section 230-13 A.(4) for a reduction in the front yard setback from 75 feet to 8 feet, and Section 230-20 B.(2)(b) for an increase in the height of a fence in a front yard from the allowed 2 1/2 feet to 3 1/2 feet. This is to allow for an existing fence. This property is located in the RA-100 Residential Agricultural District.

(The Secretary read the Proof of Publication at the September 14, 2020 meeting.)

Mary Cooper explained that she is replacing part of the fence and is adding a section.

Mary Cooper addressed the Standards of Proof:

1. She believes there will not be any negative or undesirable change to the character of the neighborhood. The fence has been there a long time, before 1975, and is visually pleasing to the eye.
2. She believes there is not any other feasible method than to obtain Area Variances.
3. She feels the Area Variance requests are not substantial since it's been there since 1975 and has not caused any issues.
4. She believes there won't be any physical or environmental impact to the neighborhood.
5. She believes the need for the Area Variances is self-created.

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

Chairman Wisnowski asked Commissioner Territo if he had any comments and he had none.

Chairman Wisnowski asked if anyone in the audience had any questions and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variance requests and those opposed to granting the Area Variance requests and there were none.

Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Liebi in Case #1801 to approve the Area Variances as requested with the condition they be in substantial compliance with Exhibit "A". Motion was seconded by Mrs. Magaro-Dolan.

Roll call:	Chairman Wisnowski, Jr.	- 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>

The Area Variances in Case #1801 are **approved**.

Case #1806 – Sandra and Nancy Radecki, 3537 Bonstead Road, Tax Map #016.-01-07.1:

This case was withdrawn.

NEW BUSINESS:

Case #1807 – Jason Roberts, 5405 Amalfi Drive, Tax Map #078.-06-23.0:

The applicant is requesting an Area Variance pursuant to Section 230-11 C. for a reduction in the side yard setback from 10 feet to 6 feet (the definition of a three-sided lot requires a 10-foot side yard setback) to allow for an above ground pool. The property is located in the R-7.5 One-Family Residential District.

The proof of publication was read by the Secretary.

The pool is already existing. Jason Roberts and his wife Nicole were present. Mr. Roberts explained that they had to put the pool where it is now because of a stump.

Nicole Roberts addressed the Standards of Proof:

1. They believe there will not be any negative or undesirable change to the character of the neighborhood as many homes in the neighborhood have pools.
2. They believe there is not any other feasible method than to obtain an Area Variance as other than the current location would have required extensive excavation of compromised soil.
3. They feel the Area Variance request is not substantial. The request is for just 3.33% of the property width.
4. They believe there won't be any physical or environmental impact to the neighborhood because there will be no change in the area elevation.
5. Yes, the need for the Area Variance is self-created. They wanted a pool for many years. There was a pool on the intended site but that site was compromised by a rotting stump that required the new pool be moved to avoid the compromised area.

Mrs. Liebi questioned the stump compromising the area and Jeffrey LeMon explained that the rotting soil was a problem so they had to move it.

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

Chairman Wisnowski asked Commissioner Territo if he had any comments and he had none.

Chairman Wisnowski asked if anyone in the audience had any questions and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variance request and those opposed to granting the Area Variance request and there were none.

Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Magaro-Dolan in Case #1807 to approve the Area Variance as requested with the condition it be in substantial compliance with Exhibit “A”. Motion was seconded by Mrs. Liebi.

Roll call:	Chairman Wisnowski, Jr.	- 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>

The Area Variance in Case #1807 is **approved**.

Case #1808 – Joel Proegler/Sola Salon Studios, 3837-3853 State Route 31 (3845), Tax Map #021.-01-16.1:

The applicant is requesting an Area Variance pursuant to Section 230-22 C.(1) to increase the square footage of a sign from the allowed 62.2 square feet to 81.27 square feet to allow for better business recognition in the plaza, sized for general appearance for the facade with respect to the neighboring business/plaza. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the Secretary.

Joel Proegler, 4952 Hillcrest Drive, Canandaigua, NY explained that his request for the increase in the size of the signage for Sola Studios is because he wants recognition and that the logo is what is causing the sign to be larger.

Mr. Proegler addressed the Standards of Proof:

1. He believes there will not be any negative or undesirable change to the character of the neighborhood. The sign will be similar to others in the plaza and will be proportionate to the sign façade.
2. He believes there is not any other feasible method than to obtain an Area Variance. The location of the business is in a plaza with various sized businesses and he believes a smaller sign would make business recognition difficult.
3. He believes the Area Variance request is not substantial. The business is similar to existing signage in the plaza and would be the same or smaller than the average signage in the plaza.
4. He believes there won't be any physical or environmental impact to the neighborhood.
5. Yes, the need for the Area Variance is self-created.

Deputy Chairperson Miller-Allgaier asked what kind of services were offered, and Mr. Proegler said there are separate cubicles where each renter would provide their own salon type business.

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

Chairman Wisnowski asked Commissioner Territo if he had any comments and he had none.

Chairman Wisnowski asked if anyone in the audience had any questions and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variance request and those opposed to granting the Area Variance request and there were none.

Chairman Wisnowski closed the hearing.

MOTION was made by Deputy Chairperson Miller-Allgaier in Case #1808 to approve the Area Variance as requested with the condition it be in substantial compliance with Exhibit “A”. Motion was seconded by Mr. Lyons.

Roll call:	Chairman Wisnowski, Jr.	- 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>

The Area Variance in Case #1808 is **approved**.

Case #1809 – Jeanette Scott, 7402 Jessica Drive, Tax Map #107.-07-01.0:

The applicant is requesting an Area Variance pursuant to Section 230-11 C. for a reduction in the side yard setback from 10 feet to 8 feet (the definition of a three-sided lot requires a 10-foot side yard setback) to allow for an existing pool. The property is located in the R-10 One-Family Residential District.

The proof of publication was read by the Secretary.

Jeanette Scott explained that they wanted a pool for the grandchildren and hired a man to do it and he never finished the job, and they had to do it. He did not place it in the correct spot, per zoning.

Mrs. Scott addressed the Standards of Proof:

1. She believes there will not be any negative or undesirable change to the character of the neighborhood because the neighbors don’t care and are never in their back yard.
2. She believes there is not any other feasible method than to obtain an Area Variance. As the pool has been up for two years.
3. She believes the Area Variance request is not substantial. It is only 12 inches.
4. She believes there won’t be any physical or environmental impact to the neighborhood. It’s in the back yard and there is plenty of room to walk and mow.
5. Yes, the need for the Area Variance is self-created.

Mrs. Liebi asked if it was two feet or one foot. Mrs. Scott said she asked for two feet to be on the safe side.

Chairman Wisnowski asked who finished the installation of the pool and Mrs. Scott said her brother-in-law. He then asked why not ask for the 12 inches and Commissioner Territo explained that she wasn’t sure of the measurements so she asked for the two feet to be on the safe side.

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

Chairman Wisnowski asked Commissioner Territo if he had any comments and he had none.

Chairman Wisnowski asked if anyone in the audience had any questions and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variance request and those opposed to granting the Area Variance request and there were none.

Chairman Wisnowski closed the hearing.

MOTION was made by Mr. Lyons in Case #1809 to deny the Area Variance. Motion was seconded by Deputy Chairperson Miller-Allgaier.

Roll call:	Chairman Wisnowski, Jr.	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- against	
	Mrs. Magaro-Dolan	- against	
	Mr. Lyons	- in favor	<i>Carried.</i>

The Area Variance in Case #1809 is **denied**.

Case #1810 – George & Teresa Clonan, 8284 Justin Drive, Tax Map #074.-12-27.0:

The applicant is requesting an Area Variance pursuant to Section 230-13 D.(4)(b)[1] for a reduction in the front yard setback from 25 feet to 17 feet (corner lots have two front yards) to allow for a third garage stall. The property is located in the R-10 One-Family Residential District.

The proof of publication was read by the Secretary.

Teresa Clonan and Bruce Tibbits, an architect who works with JMG who built the house, were present.

Mrs. Clonan explained that her husband is disabled and their daughter has moved home, and they would like another bay so she can park her car inside.

Mrs. Clonan addressed the Standards of Proof:

1. She believes there will not be any negative or undesirable change to the character of the neighborhood. There are many three car garages in the neighborhood. Mr. Tibbits added a comment explaining that Fuchsia Path will not have an obstructed view and that Mrs. Clonan plans on landscaping.
2. She believes there is not any other feasible method than to obtain an Area Variance.
3. She believes the Area Variance request is not substantial. She feels they have plenty of room.
4. She believes there won't be any physical or environmental impact to the neighborhood.
5. Yes, the need for the Area Variance is self-created.

Mrs. Magaro-Dolan asked if they had a plow service and Mrs. Clonan said yes.

Chairman Wisnowski asked if the driveway for the third bay was already there and Mr. Tibbits said it flares out at the top.

Mrs. Magaro-Dolan asked if the neighbor doesn't mind if the bay juts out as the house will no longer be in a straight line with the others on the street, and Mrs. Clonan said that they are not moving out that far. Mr. Tibbits added that it won't be obtrusive and that it lines up okay as there are no front yards on Fuchsia Path.

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

Chairman Wisnowski asked Commissioner Territo if he had any comments and he had none.

Chairman Wisnowski asked if anyone in the audience had any questions and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variance request and Mr. Tibbits was in favor. Chairman Wisnowski asked for those opposed to granting the Area Variance request and there were none.

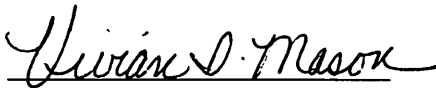
Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Magaro-Dolan in Case #1810 to approve the Area Variance 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, Jr.	- 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>

The Area Variance in Case #1810 is **approved**.

There being no further business, Chairman Wisnowski adjourned the meeting at 8:08 P.M.


Vivian I. Mason, Secretary
Zoning Board of Appeals
Town of Clay