

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
May 12, 2014

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, Clay, New York on May 12, 2014.

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
	Mark Smith	Deputy Chairman
	Karen Liebi	Member
	Brian Hall	Member
	Anne Stenham	Member
	Vivian Mason	Secretary
	John Marzocchi	Attorney
	Mark Territo	Commissioner of Planning

ABSENT: NONE

MOTION made by Mrs. Liebi that the Minutes of the meeting of April 14, 2014 be accepted as submitted. Motion was seconded by Deputy Chairman Smith. *Unanimously 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 Mrs. Stenham. *Unanimously 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 an 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 reread the proof of publication, which had been read at a previous meeting.)

Mr. Wehrung stated that he is withdrawing this request.

Case #1516 - 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 side yard setback from 25 feet to 10 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 reread the proof of publication, which had been read at a previous meeting.)

Mr. Wehrung presented the approved site plan that has been signed by the county for the proposed septic system.

Mr. Wehrung addressed the Standards of Proof:

1. He doesn't believe there will be any detriment to the character of the neighborhood. It's a vacant lot with poor drainage.
2. Because of the setback requirements he doesn't believe there is any other feasible method. It will also fall in line with the other houses.
3. He does not believe the variance request is substantial; it's simply a single family home.
4. He believes there will be no physical or environmental impact to the neighborhood.
5. The need for the variance is self-created.

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

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

Chairman Mangan asked if anyone in the audience had any 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 Mrs. Stenham in Case #1516 to **grant** the Area Variance as requested with the condition be in substantial compliance with Exhibit "A", the site plan, revision date 4/5/2014. Motion was seconded by Mrs. Liebi.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Smith	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Hall	- in favor	
	Mrs. Stenham	- in favor	<i>Unanimously carried.</i>

The Area Variance request for Case #1516 is granted.

NEW BUSINESS:

Chairman Mangan asked if all the members had visited the sites and all said they had.

Case #1523 – AREA VARIANCES – David Chrostowski, 7258 Willow Road, Tax Map #117.-08-01.0:

The applicant is requesting Area Variances, pursuant to Section 230-13 D.(4)(c)[1] and 230-20 B.(2)(b) to allow for a reduction in the front yard setback from 20 feet to 4 feet for a fence, and to allow for a 6 foot fence in a front yard when only a 2.5 foot fence is allowed. The property is located in the R-10, One-Family Residential zoning district.

Mr. Chrostowski said he has a chain link fence, part of which is on Town property. He explained that the man next door to them is frightening his children, by yelling at them, and they are too afraid to even play in their own yard. They have tried every avenue to stop him, but the police, and other agencies say they cannot do anything unless he commits an illegal act. He would like to put up the 6 foot fence so that his children can be separated from this man.

A privacy fence, questioned Chairman Mangan and Mr. Chrostowski said yes, a six foot one.

Mr. Chrostowski addressed the Standards of Proof:

1. He doesn't believe the fence will change the character of the neighborhood. The existing fence was actually 16 feet into Town property. It was only 4 feet high chain link, but so overgrown with weeds and vines that they were well above the 6 foot high fence he is requesting. It was also an eyesore. The existing fence is only 7 feet from Willow Road and the new fence will be 27 feet from Willow Road and 116 feet from Taft Road.
2. He doesn't believe there is any other feasible method. He'll be losing some of his yard, but he is more concerned with his children being able to go out in their own yard. The neighbor is mentally disabled, under the supervision of his father, but his father doesn't speak English well and does not keep watch on his son very well. The man has destroyed some of his property, but the police can do nothing because of his disability. The Department of Child and Family services just say it's a law enforcement issue. The man has frightened his son to the point that his daughter will not go out into the yard even if his parents are with him.
3. He does not feel the Area Variance request is substantial, because there is really no change from what exists now.
4. They believe neither of the Area Variances will have a physical or environmental impact to the neighborhood. There will no longer be a fence in disrepair.
5. They believe the need for the variance is self-created, but it is an attempt to resolve the issue with his neighbor. The fence will allow his children to play in their yard.

Chairman Mangan commented that he didn't think putting up the fence would resolve the problem.

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

Chairman Mangan asked Commissioner Territo if he had any comments and he said the only legal thing would be to place the fence at the building line if the variance is not obtained.

Chairman Mangan asked if anyone in the audience had any 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 Deputy Chairman Smith in Case #1523 to **deny** the Area Variances. Motion was seconded by Mrs. Liebi.

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

The Area Variance request for Case #1523 is **denied**.

Case #1524 – AREA VARIANCE – Stewart’s Shops. 7769 Morgan Road, Tax Map #089.-19-06.1:

The applicant is requesting Area Variances, pursuant to Section 230-16 D.(5)(b); 230-16 D.(5)(a); and 230-22 C.(1) to revise the reduction of the side yard setback, where abutting residential from 50 feet to 16.1 feet; to revise the reduction of the perimeter strip from 20 feet to 16.1 feet; and to increase the allowable square footage of a freestanding sign from 32 square feet to 69 square feet to allow improvements for a Stewart’s Shops convenience store, gas station, and auto repair. The property is located in the LuC-1 Limited Use District for Gasoline Services zoning district.

The secretary read the proof of publication.

Addressing the Board: Charles Marshall of Stewart’s Shops, Corp.

Chairman Mangan explained that the applicant is actually reducing the setback from 17 feet to 16.1 as they obtained the reduction from 50 feet to 17 feet at a previous meeting. (There was an error on the site plan.) He added that he would like to see how the other signs in the neighborhood compared to the ones the applicant is proposing.

Mr. Marshall stated the there is an increase in their square footage, but the appearance is an improvement and is actually a shorter sign than what is already there.

Mr. Marshall addressed the Standards of Proof:

6. They don’t believe there will be any detriment to the character of the neighborhood. The sign is a standard size.
7. They don’t believe there is any other feasible method
8. They do not believe the variance request is substantial, as it is shorter than the one being replaced.
9. They believe there will be no physical or environmental impact to the neighborhood.
10. They don’t believe with regards to a standard sized sign that the need for the variance is self-created.

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

Chairman Mangan asked Commissioner Territo if he had any comments and he reminded the applicant that they still need to get a sign permit and get approval from the Planning Board.

Chairman Mangan asked if anyone in the audience had any 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 #1524 to grant the Area Variances as requested, with the condition they be in substantial compliance with Exhibit "A", a site plan last dated 5-12-14. Motion was seconded by Deputy Chairman Smith.

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

The Area Variances for Case #1524 are **granted**.

There being no further business, Deputy Chairman Smith adjourned the meeting at 8:05 P.M.

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