

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
AUGUST 8, 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 August 8, 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
	Karen Liebi	Member
	Vivian Mason	Member
	Chelsea Clark	Secretary
	Robert Germain	Attorney
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: None

All participated in the Pledge of Allegiance.

MOTION made by Mrs. Mason that the Minutes of the meeting of July 11, 2022 be accepted as submitted. Motion was seconded by Mr. Frantzis. 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 Deputy Chairperson Miller-Allgaier. *Unanimously carried.*

OLD 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 at the May 9, 2022 meeting.

Chairman Wisnowski made a motion to adjourn Case #1868 to the September 12, 2022, Zoning Board of Appeals meeting, per the applicant's request.

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

Case #1877 – Douglas Seib, 3738 Theodolite Drive, Tax Map #052.-14-14.0.:

The applicant is seeking an Area Variance pursuant to Section 230-18 I.(2) - Dimensional Controls, for a reduction in the front yard setback from 25 feet to 20 feet to allow for a porch addition in a front yard. The property is located in the PDD Planned Development District.

The proof of publication was read by the secretary at the June 13, 2022 meeting.

The applicant was present.

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

Mr. Seib explained he is requesting the Area Variance in order to add a front porch to his property.

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

Mr. Seib 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.
2. The applicant does not believe there is any feasible method other than the requested Area Variance.
3. The applicant does not believe the requested Area Variance to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
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.

Mrs. Liebi asked the applicant if he would be enclosing the porch.

Mr. Seib stated he would not be enclosing the porch.

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. Liebi in Case #1877 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	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1882 – Melissa Disano, 8519 Sextant Drive, Tax Map #052.1-28-01.1.:

The applicant is seeking an Area Variance pursuant to Section 230-18 I.(2) Dimensional Controls, for a reduction in the side yard setback from 20 feet to 15 feet, to allow for a three season room. The property is located in the PDD Planned Development District.

The proof of publication was read by the secretary at the July 11, 2022 meeting.

The applicant was not present.

Chairman Wisnowski closed the hearing.

MOTION was made by Mrs. Mason in Case #1882 to deny the Area Variance without prejudice. Motion was seconded Deputy Chairperson Miller-Allgaier.

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

NEW BUSINESS:

Case #1888 – Cabin Cove Development, LLC, Horseshoe Island Road, Tax Map #'s 014.-01-14.1, 014.-02-14.0, 014.-02-16.0, and 014.-02-17.0.:

The applicant is seeking the following Area Variances pursuant to Section 230-13 A.(4) – Dimensional Requirements – Lot Area: a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 74,052 square feet for Lot #5 and Lot #6 (1.7 acres each); – a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 69,696 square feet for Lot #7 and Lot # 8 (1.6 acres each); – a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 56,628 square feet for Lot #9 (1.3 acres); a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 65,340 square feet for Lot #11 (1.5 acres) and Section 230-13 A.(4) – Dimensional Requirements – Lot Width: a reduction in the required minimum required 250 feet to 222.36 feet for Lot #5; a reduction in the required minimum required 250 feet to 137.95 feet for Lot #6; a reduction in the required minimum required 250 feet to 126.18 feet for Lot #7; a reduction in the required minimum required 250 feet to 235.7 feet for Lot #8; and a reduction in the required minimum required 250 feet to 199.85 for Lot #32. This is to allow for a sub-division to create 30 residential building lots. The properties are located in the RA-100 Residential Agricultural District.

The proof of publication was read by the secretary.

Chairman Wisnowski made a motion to adjourn Case #1888 to the September 12, 2022, Zoning Board of Appeals meeting, per the applicant’s request.

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

Case #1889 – Karlene Liranzo & Andrew St. Laurent, 224 Fay Park Drive, Tax Map #117.-07-11.0.:

The applicant is seeking Area Variances pursuant to Section 230-13 D.(4)(b)[1] for a reduction in the front yard setback from 25 feet to 3 feet and Section 230-20 B.(2)(b) for an increase in the height of a fence from the allowed 2 1/2 feet to a maximum of 7 feet in a front yard, to allow for a fence. The property is located in the R-10 One-Family Residential District.

The proof of publication was read by the secretary.

Applicant, Karlene Liranzo was present.

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

Ms. Liranzo explained they are requesting the Area Variances because they are located on a corner lot of a busy street and are looking to create a safe yard space for their two dogs and potential future children.

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

Ms. Liranzo 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 and believes it will add value and safety to the property.
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.
5. Yes, the need for the Area Variances is self-created.

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

Deputy Chairperson Miller-Allgaier added that the requested Area Variances are substantial and asked the applicant if they would be willing to accept a less substantial variance.

Ms. Liranzo stated she is willing to negotiate.

Mrs. Liebi noted that three-feet would be in the Town right-of-way and may interfere with snow removal. Mrs. Liebi asked if six feet would be possible as opposed to the requested three feet.

Ms. Liranzo said yes, six feet would be possible.

Chairman Wisnowski asked the applicant if the measurement was from the road or from the house.

Ms. Liranzo said it was measured from the road.

Chairman Wisnowski asked how far the fence was currently from the house and asked the applicant if there is a fence currently behind the house.

Ms. Liranzo was unsure how far the fence was from the house and confirmed there is a fence existing behind the house.

Chairman Wisnowski noted one panel is eight feet, anything larger could cause an obstruction of vision.

Ms. Liranzo noted a reduction in panels would be fine.

Chairman Wisnowski informed the applicant that a half-panel is expensive and asked the applicant if she would like to go back and check if they would need one panel or a half panel.

Mrs. Liebi noted it would be best for the applicant to speak with the fencing company.

Ms. Liranzo agreed she would like to speak with the fencing company and mail in a new plan.

MOTION was made by Chairman Wisnowski to adjourn Case #1889 to the September 12, 2022, Zoning Board of Appeals meeting, per the applicant's request.

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

Case #1890 – Eric & Lindsay Jones, 8237 Justin Drive, Tax Map #074.-21-09.0.:

The applicant is seeking an Area Variance pursuant to Section 230-13 D.(4)(b)[1] for a reduction in the front yard setback from 12 1/2 feet to 4 1/2 feet. This Area Variance is to bring the existing fence into compliance. (An Area Variance was previously granted for a reduction in the front yard setback from 25 feet to 12 ½ feet on July 13, 2020, Case #1787.) The property is located in the R-10 One-Family Residential District.

The proof of publication was read by the secretary.

The applicants were present.

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

Mrs. Jones explained when they previously requested an Area Variance (Case #1787 in 2020) she measured from the road instead of from the house. They are now looking to remove one panel of fencing instead of removing one and a half panels to bring them into compliance with what was approved in Case #1787. She noted if they were to remove one and half panels it would be directly on top of the sewer vent. They are also hoping to not have to move the swing set and removing only one panel would allow the swing set to remain in its current location.

Mr. Jones added that this was a mistake by the contractor who installed the fencing.

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

Mrs. Jones addressed the Standards of Proof:

1. The applicants do not believe the requested Area Variance will create an undesirable change to the character of the neighborhood.
2. The applicants do not believe there is any feasible method other than the requested Area Variance.
3. The applicants do not believe the requested Area Variance to be substantial.
4. The applicants do not believe there will be any adverse effect to the neighborhood.
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.

Mrs. Liebi asked the applicants, when the Area Variance, Case #1787 was first granted, did it include enclosing the swing set.

Mrs. Jones stated it did however she measured incorrectly from the road instead of from the house.

Mrs. Mason asked how many feet from the foundation to the fence.

Mrs. Jones stated 48 ½ feet from the foundation.

Mrs. Mason asked if they were or were not asking for the requested 4 ½ feet.

Mr. Territo advised the applicants are requesting the 4 ½ feet.

Mrs. Liebi noted that it would be great to keep the swing set in the backyard but it should be in compliance with what was previously granted in Case #1787.

Mrs. Jones noted that if they were to be in compliance with the previously granted variance, that it would be directly covering the sewer pole and believes removing only one panel is a reasonable request.

Deputy Chairperson Miller-Allgaier asked the applicants why the sewer vent did not come up during the previous application.

Mrs. Jones stated it was not shown on the survey.

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

Mr. Territo asked the applicant as of now, how many eight foot panels are coming out from the house.

Mrs. Jones was unsure as there is a four foot gate included.

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 there were none.

Chairman Wisnowski asked for those opposed to granting the Area Variance and there were two.

Joshua Werbeck of Bousquet Holstein, PLLC., was present on behalf of neighbor Joe Shirino of 4341 Silvia Path, who is opposed to granting the Area Variance.

Mr. Werbeck asked the board to deny the request for an Area Variance as the existing fence is twice as high as and two times closer to the road than other fences in the area. He noted the fence is opaque and blocks view to a nearby bus stop. Additionally, this is a very substantial request as the applicants have previously had an Area Variance granted and they did not comply with what was approved, they are asking the board to have the applicant comply with the previously granted Area Variance.

Neighbor, Joan Keller of 8305 Silvia Path, also spoke in opposition to granting the requested Area Variance, noting she agrees with Attorney Werbeck adding that the fence is extremely large and blocks views to the stop sign at the corner.

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

MOTION was made by Mr. Frantzis in Case #1890 to deny the Area Variance without prejudice. Motion was seconded by Deputy Chairperson Miller-Allgaier.

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

There being no further business, Chairman Wisnowski adjourned the meeting at 6:46 P.M.



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