

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
April 11, 2011

The regular meeting of the Zoning Board of Appeals of the Town of Clay, County of Onondaga, and State of New York was held at the Town Hall of Clay, 4401 State Route 31, New York on April 11, 2011.

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
	Arthur Fennhahn	Deputy Chairman
	Eugene Young	Member
	Karen Liebi	Member
	Mark Smith	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney

ABSENT: None

MOTION made by Deputy Chairman Fennhahn that the Minutes of the meeting of March 14, 2011 be accepted. Motion was seconded by Mr. Young. *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 Mr. Deputy Chairman Fennhahn. *Unanimously carried.*

OLD BUSINESS:

Case #1399 - INTERPRETATION - NOCO Distribution, LLC, 4480 Steelway Boulevard (Tax map #105.-01-06):

The applicant is seeking an interpretation of Section 230-17 C. (2) of the Zoning Code; the applicant is requesting a quantitative definition of "large quantities of material".

(The proof of publication was read at the February 14, 2011 meeting.)

Paul Melanson, 4480 Steelway Boulevard South, representing the applicant, stated that they considered bulk storage to be large tanks. They want a small quantity of cylinders.

Chairman Mangan noted that what they actually asking for is a change in the Town's zoning code and the Zoning Board of Appeals does not do that. He encouraged the applicant to seek a change through the Town Board, who has the authority to amend or change the code.

Chairman Mangan asked if there were any questions and Janet Rathburn asked if the cylinders would be visible from the street and Chairman Mangan said no. Chairman Mangan asked Commissioner Territo if he had any comments and he had none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young that the definition of “large quantities of material” is as follows: large quantities of materials are quantities of materials in large enough amounts to be stored and distributed, Section 230-17 C (2) of the Town of Clay Zoning Code is interpreted to disallow bulk storage in an I-1 Industrial Zoning District. Motion was seconded by Deputy Chairman Fennhahn.

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

The Commissioners interpretation is upheld.

NEW BUSINESS:

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

Case #1402 - AREA VARIANCE - Linda Olivia, 3453 Gaskin Road (Tax map #052.-02-26.0):

The applicant is seeking an area variance to allow for a reduction in the front and side yard setbacks for the construction of a deck.

The proof of publication was read by the Secretary.

Kenneth Olivia explained that they want to build a deck to the side and out to the back of the house.

Mr. Olivia addressed the standards of proof:

1. They feel the deck is nice looking and will not change the character of the neighborhood.
2. They believe there is no other feasible method without obtaining a variance.
3. They do feel the variance is substantial.
4. They believe there will be no adverse impact on the neighborhood.
5. They believe that the need for the variance is self-created.

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

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and for those opposed to granting the variance and there were none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Smith in Case #1402 to grant the variance with the condition that construction be in substantial compliance with Exhibit "A" (the survey), and no roof or enclosure shall be constructed as part of this deck. Motion was seconded by Ms. Liebi.

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

The variance request in Case #1402 is granted.

Case #1403 - AREA VARIANCE -Charles & Donna Rogers, 5159 Comstock Road (Tax map #041.1-02-22):

The applicant is seeking an area variance to allow for a reduction in the mean water level setback, and the side yard setback to construct a deck.

The proof of publication was read by the Secretary.

Charles and Donna Rogers of Chittenango, explained that the deck was built 20 years ago. Due to a complaint, they applied for a building permit. The house has been sold, and they are seeking the variance in behalf of the new owner, Gerald Jenks. Mr. Jenks was present and affirmed that he has joined in their request for the variance. Mr. Rogers added that the main entrance is where the deck is built.

Mr. Rogers addressed the standards of proof:

1. They feel the deck is well built and does not change the character of the neighborhood.
2. They believe there is no other feasible method without obtaining a variance, since the deck was built twenty years ago.

Chairman Mangan noted that the applicant could tear it down and stairs could be used.

3. They do feel the variance is substantial.

4. They believe there will be no adverse impact on the neighborhood. It is a raised deck and the water flows around it.
5. They believe that the need for the variance is self-created.

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

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor of granting the variance and Patty Tracey the realtor said she was in favor. She noted that Mr. Jenks is a Vietnam vet, just out of a wheelchair and that he needs the deck.

Chairman Mangan asked for those opposed and Karen Kraft of 5157 Comstock Road said she was opposed. She noted that the Town of Clay is very strict and the others in the neighborhood have met the Town's restrictions. She feels it is an injustice when they have to follow the codes and comply. Deborah Sniper of 5163 Comstock Road said their lot borders the property. She argued that they all had to get permits and that they did everything by the rules. They complained two years ago and nothing was done about it. Walter Reis of 5163 Comstock Road said he has concerns regarding the deck. He complained twice before and he thinks they should have to follow the rules and regulations that he and his neighbors have complied with. Their first complaint was given to Commissioner Keeler and nothing was done.

Chairman Mangan closed the hearing.

MOTION was made by Ms. Liebi in Case #1403 to grant the variance with the condition that the deck remains as built (no roof or enclosure shall be constructed as part of this deck). Motion was seconded by Mr. Young.

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

The variance request in Case #1403 is granted.

Case #1404 - AREA VARIANCE - Bergmann Associates (Sunoco), 4744 Buckley Road (Tax map #096.-11-01.0):

The applicant is seeking an area variance to allow for an increase in the allowable number of wall signs, and increase in the allowable square footage of wall signs, and an increase in the allowable area for a canopy sign to accommodate the re-imaging of the existing signage.

The proof of publication was read by the Secretary.

Brian Burri of Bergman Associates explained that they want to replace the free standing signs; these will be slightly smaller and re-brand the canopy sign.

Mr. Burri addressed the standards of proof:

1. They feel the signs do not change the character of the neighborhood. It's a gas station and it is in a commercial area.
2. They believe there is no other feasible method without obtaining a variance.
3. They do not feel the variance is substantial.
4. They believe there will be no adverse impact on the neighborhood.
5. They believe that the need for the variance is self-created.

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

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and for those opposed to granting the variance and there were none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1404 to grant the variance with the condition that variances be limited to the plans on Exhibit "A". Motion was seconded by Ms. Liebi.

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

The variance request in Case #1404 is granted.

Case #1405 - AREA VARIANCE - Bergmann Associates (Sunoco), 8450 Oswego Road (Tax map #053.-01-08.2):

The applicant is seeking an area variance to allow for an increase in the allowable number of wall signs, and increase in the allowable square footage of wall signs, and an increase in the allowable area for a canopy sign to accommodate the re-imaging of the existing signage.

The proof of publication was read by the Secretary.

Brian Burri of Bergman Associates, explained that again they want to replace the free standing signs, these will be slightly smaller and re-brand the canopy sign.

Mr. Burri addressed the standards of proof:

1. They feel the signs do not change the character of the neighborhood. It's a gas station and again it is in a commercial area.
2. They believe there is no other feasible method without obtaining a variance.

3. They do not feel the variance is substantial.
4. They believe there will be no adverse impact on the neighborhood.
5. They believe that the need for the variance is self-created.

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

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and for those opposed to granting the variance and there were none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1405 to grant the variance with the condition that variances be limited to the plans on Exhibit "A". Motion was seconded by Mr. Smith.

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

The variance request in Case #1405 is granted.

Case #1406 - AREA VARIANCE - Bergmann Associates (Sunoco), 7549 Oswego Road (Tax map #093.-04-07):

The applicant is seeking an area variance to allow for an increase in the allowable area for a canopy sign to accommodate the re-imaging of the existing signage.

The proof of publication was read by the Secretary.

Brian Burri of Bergman Associates, explained that again they want to replace the free standing signs, these will be slightly smaller and re-brand the canopy sign.

Mr. Burri addressed the standards of proof:

1. They feel the signs do not change the character of the neighborhood. It's a gas station and again it is in a commercial area.
2. They believe there is no other feasible method without obtaining a variance.
3. They do not feel the variance is substantial.
4. They believe there will be no adverse impact on the neighborhood.
5. They believe that the need for the variance is self-created.

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

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and for those opposed to granting the variance and there were none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1406 to grant the variance with the condition that variances be limited to the plans on Exhibit "A". Motion was seconded by Mr. Smith.

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

The variance request in Case #1406 is granted.

Case #1407 - AREA VARIANCE - Russell Griffo, 147 Crystal Drive (Tax map #112.-03-02.0):

The applicant is seeking an area variance to allow for a reduction in the front yard setback for the construction of a deck.

The proof of publication was read by the Secretary.

Neither the applicant nor a representative was present.

Chairman Mangan adjourned the hearing to May 9, 2011.

There being no further business, Chairman Mangan adjourned the meeting at 8:27 P.M.

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