

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
November 14, 2011

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, New York on November 14, 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 October 10, 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 Deputy Chairman Fennhahn. *Unanimously carried.*

OLD BUSINESS:

None.

NEW BUSINESS:

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

Case #1438 – AREA VARIANCE – Bernard Mahoney, 7635 Edgecomb Drive, Tax Map #095.-02-14.1:

The applicant is requesting an Area Variance, pursuant to Section 230-17 C.(5)(a) to reduce the perimeter landscape strip from 25 feet to 21 feet for the purpose of expansion of the parking lot. The property is located in the I-1 Industrial zoning district.

The secretary read the proof of publication.

Land Surveyor Hal Romans, representing the applicant explained that they would like to add a

row of parking along Edgecomb Drive in the Industrial Park.

Mr. Romans addressed the standards of proof:

1. The expanded parking will blend in with the Industrial Park, so they feel there will not be any undesirable change to the character of the neighborhood.
2. Because of the location of the air conditioning units they believe this is the best place to add a row of parking.
3. They do not feel the variance is substantial.
4. There will still be 625 square feet of green space, so they believe there will be no adverse or environmental impact on the neighborhood.
5. The need for the variance is self-created.

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 Area Variance and there were none.

MOTION was made by Mr. Young in Case #1438 to grant the Area Variance with the condition that construction be in substantial compliance with 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 Area Variance request in Case #1438 is granted.

Case #1439 – AREA VARIANCES – Pat Burdick, 132 Hazlehurst Avenue, Tax map #113.-03-09.0:

The applicant is requesting Area Variances, pursuant to Section 230-13 D.(4)(b)[2][a] for a reduction in side yard setback from 7.5 feet to 6 feet, for the purpose of the construction of an addition. The property is located in the R-10 One-Family Residential district.

The secretary read the proof of publication.

Pat Burdick explained that he would like to put an addition on the back of his house which abuts the North Syracuse Junior High School.

Chairman Mangan noted the garage is already at a 6 foot setback.

Mr. Burdick addressed the standards of proof:

1. It will be on the back of the house and cannot be seen, so he does not feel there will be any undesirable change to the character of the neighborhood.
2. Since the expansion is for the garage and kitchen area there isn't any other feasible and reasonable method without obtaining a variance.
3. Since he's only asking for 1.5 feet he believes the variance request is not substantial.
4. He believes there will be no adverse or environmental impact on the neighborhood.
5. The need for the variance is self-created.

Chairman Mangan asked Commissioner Territo if he had any comments and 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 Area Variance and there were none.

MOTION was made by Ms. Liebi in Case #1439 to grant the Area Variance with the condition that construction be in substantial compliance with Exhibit "A". 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 Area Variance request in Case #1439 is granted.

Case #1440 – AREA VARIANCES – Norman & Nancy Ferguson, 3997 Maider Road, Tax map #024.-01-17.0:

The applicant is requesting Area Variances, pursuant to Section 230-13 A.(4) for a reduction in the lot width from 250 feet to 213 feet; a reduction in the side yard setback from 25 feet to 19.4 feet and a reduction in the front yard setback from 75 feet to 15.6 feet for the purpose of a subdivision to allow for the creation of a new lot. The property is located in the R-100 One-Family Residential district.

The secretary read the proof of publication.

Nancy Ferguson explained that they would like to subdivide the property, which is an old farm, with a garage and a barn. Two hundred and fifty feet of frontage will remain with the barn. The subdivided portion would meet the total square feet need to be a legal lot.

Chairman Mangan commented that the applicant wants to keep the barn.
Mrs. Ferguson addressed the standards of proof:

1. The buildings have been there for fifty years, so they do not feel there will be any undesirable change to the character of the neighborhood.
2. As it would be difficult to move the existing buildings in order to sell some of the land, so they believe there is any other feasible and reasonable method without obtaining a variance.
3. They feel the variance is not substantial, as the square footage of the new lot would meet the requirements.
4. They believe there will be no adverse or environmental impact on the neighborhood.
5. As they were not there when the buildings were constructed, they do not feel the need for the variance is self-created.

Chairman Mangan pointed out the fact that the existing buildings were there before the setbacks were put in place.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor granting the Area Variance and Scott Duerr of Maider Road said he was in favor. Chairman Mangan asked for those opposed to granting the Area Variance and there were none.

MOTION was made by Mr. Smith in Case #1440 to grant the Area Variance with the condition that it is in substantial compliance with Exhibit "A". 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 Area Variance request in Case #1440 is granted.

Case #1441 – INTERPRETATION – Town Board, Townwide:

The applicant is requesting an Interpretation, pursuant to Section 230-11 C. for a definition, as to whether a Solar Photovoltaic System is a Utility Substation. [If a Solar Photovoltaic System is a Utility Substation, a Special Permit shall be required as per Section 230-27.]

The secretary read the proof of publication.

Kurt Stroman of Werner energy spoke with regard to Aldi's, who would like to install solar panels in there store.

Chairman Mangan asked if excess power would go back to the power company.

Mr. Stroman explained that Aldi's can only produce a little more power than they need, and if there is excess, it does go back to the power company and they would write a check to the store.

He added that there will be no visual impact of the panels.

Chairman Mangan asked if the primary purpose for the solar panels is to provide energy for the store and Mr. Stroman said yes.

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

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

MOTION made by Mr. Young in Case #1441: the Board defines Section 230-11 of Town Code, "Utility Substation", as to not include Solar Photovoltaic Systems, so long as the owner of such a system does not sell a substantial portion of the energy to a third party; if so, the owner would then be considered a "Utility Substation" as defined in Section 230-11. 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>

Case #1443 - USE VARIANCE - NOVA - Chinedu Okigbo, 4425 Buckley Road, Tax map #086.-19-04.2:

The applicant is seeking a Use Variance pursuant to Section 230-22 E.(2)(j) to allow for an Electronic Message Board Sign, when it is prohibited, for the purpose of erecting a free standing sign.

The secretary read the proof of publication.

Chinedu Okigbo, representing NOVA explained that the Ambulance Service would like to erect an Electronic Message Board Sign.

Chairman Mangan noted that financial hardship is difficult to prove.

Mr. Okigbo said they feel the proposed sign will fit in with the neighborhood. NOVA serves the community, the Town of Clay, and they are located at the intersection of Morgan Road and Buckley Road, and they want the sign so that people will be able to know where they are and could go there.

Chairman Mangan asked who would go there? If he needed an ambulance, he would not drive around looking for one.

Mr. Okigbo replied that it is comforting to know that there's an ambulance in their community and that they could go there for help.

Chairman Mangan asked why it needed to be an electronic sign.

Mr. Okigbo explained that their electronic sign would be different than others, as it would be off white text on a black background. It would be aesthetically appealing and be clear to read. Maintenance would be easier than with a sign they had to keep changing the letters in all kinds of weather. He feels an exception should be made for medical and educational requests.

Chairman Mangan commented that the Town can't regulate the schools.

Mr. Okigbo addressed the standards of proof:

1. *Competent financial evidence* - With the sign they could advertize CPR classes and information. It would be a way to let the community know.
2. *Hardship unique and does not apply to substantial portion of district/neighborhood* - He believes medical and educational request should be an exception to the rules.
3. *Will not alter essential character of neighborhood* - They feel the Electronic Board Sign will not alter the character of the neighborhood. There are other signs at that intersection. He feels NOVA's would be better looking than the others.
4. *Hardship not self created* - He feels since the building has been there 10-12 years and is tucked in the hardship is not self created.

Chairman Mangan commented that he felt it was a self-created hardship since they want the sign.

Chairman Mangan asked Mr. Okigbo how big a financial difference will it be if they don't get an Electronic Message Board Sign and only had a regular sign?

Deputy Chairman Fennhahn asked if there would be remote control of the lettering and Mr. Okigbo said yes.

Ms. Liebi asked if the date and time would be distracting on the sign and Mr. Okigbo said there would be no movable signage.

Mr. Young commented that he felt they did need a sign, but feels the purpose can be served without the electronics.

Chairman Mangan asked Commissioner Territo if he had any comments and 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 Use Variance and there were none.

MOTION was made by Mr. Smith in Case #1443 to deny the Use Variance. 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 *Unanimously carried.*

The Area Variance request in Case #1443 is **denied**.

There being no further business, Chairman Mangan adjourned the meeting at 8:40 P.M.

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