

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
May 9th, 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 Clay Town Hall, 4401 State Route 31, New York on May 9, 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
	Vivian Mason	Secretary
	Robert Germain	Attorney

ABSENT:	Mark Smith	Member
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MOTION made by Mr. Young that the Minutes of the meeting of April 11, 2011 be accepted. Motion was seconded by Ms. Liebi. *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. *Carried.*

OLD BUSINESS:

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, pursuant to Sections 230-13 D(4)(b)[1] and 230-20 B(1). (R-10 Zoning District)

(The proof of publication was read by the Secretary at the April 11, 2011 meeting.)

Mr. Griffo explained that he sold the home and is seeking the area variance for the new owner. Fortunately the new owner, Tammy Rueppel, was present and signed a form giving Mr. Griffo permission to seek the area variance on her behalf.

He explained that he bought the house fourteen years ago and the deck was already on the house. It started to rot, so he tore down the old one and rebuilt it to code, however the Code Enforcement Officer told him he had constructed it in a setback.

Mr. Griffo addressed the standards of proof:

1. There have been no complaints from any neighbors, and he feels the deck is an upgrade to the character of the neighborhood.
2. It is already built, so there is no other feasible and reasonable method without obtaining the variance.
3. He does not feel the variance is substantial, since he is only seeking three feet.
4. He believes there will be no adverse environmental impact on the neighborhood.
5. He believes that the need for the variance is self-created.

Chairman Mangan noted that the neighbor's fence next door extends beyond, blocking the view of the deck.

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 area variance and there were none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1407 to grant the variance with the following conditions: that deck remains as built and that there will be no roof and not be enclosed. 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	- absent	<i>Carried.</i>

The variance request in Case #1407 is granted.

NEW BUSINESS:

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

Case #1408 - AREA VARIANCE - Gary Haas, 1 Juneberry Lane (tax map #052.-02-26.0):

The applicant is seeking an area variance to allow for a five foot reduction in the front yard setback, and a five foot side yard setback reduction, to allow for the construction of a pool and a fence, pursuant to Section 230-13 E(4)(c)[1] and 230-11. (R-7.5 Zoning District)

The proof of publication was read by the secretary.

Mr. Haas explained that he wants to put in a 30 foot above ground pool. The previous pool is gone and he wants to have a new one in the same spot. They put it up, not knowing they needed an area variance. He is also replacing the existing fence.

Mr. Haas addressed the standards of proof:

1. He feels the pool and fence do not change the character of the neighborhood. His neighbor is also putting up a fence that will match his.
2. He wants to keep the pool where it is, so it can be accessed from all sides and won't be directly against his houses. He doesn't want to move it to another part of the yard because of the trees that drop their leaves into the pool. As for the fence, he would like to retain as much of his lawn as possible. He has a narrow yard.
3. It's only five feet, so he does not feel the variance is substantial.
4. He believes there will be no adverse impact on the neighborhood. Traffic wise, it doesn't block anyone's view.
5. He believes that the need for the variance is self-created.

Chairman Mangan noted that Mr. Haas' neighbor's fence goes beyond his.

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 Ms. Liebi in Case #1408 to grant the variance with the condition that construction be in substantial compliance with the submitted Exhibit "A" dated August 21, 1971. 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	- absent	<i>Carried.</i>

The variance request in Case #1408 is granted.

Case #1409 - AREA VARIANCE - Mark Weiss, 4913 New York State Route 31 (tax map 041.1-02-22):

The applicant is seeking an area variance to allow for a reduction in the front yard setback from 25 feet to 1 foot to allow for the installation of a sign, pursuant to Sections 230-22 C(1) . (I-2 Zoning District)

The proof of publication was read by the secretary.

Chairman Mangan noted that the Board received a letter from the New York State Department of Transportation stating they entrust the matter to the Town. He added that he was pleased the Town had amended its Zoning Code to allow for the sale of plants.

Mr. Weiss explained that to comply with the regulations of the Sign Ordinance the sign would be in the middle of his yard. There is also a concrete pipe in the way, plus putting the sign where it's allowed would mean they would have to remove some pine trees, and they would like to keep them.

Mr. Weiss addressed the standards of proof:

1. There are several signs along the road, which are located the same distance from the road as theirs would be. He believes their sign is designed tastefully and will not detract from the character of the neighborhood.
2. He believes there is no other feasible method except cutting down the pine trees.
3. He does feel the variance is substantial.
4. He believes there will be no adverse or environmental impact on the neighborhood.
5. He doesn't believe that the need for the variance is self-created, because the trees were already there when he purchased the property.

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 area variance and Russ Mitchell said he was in favor. Chairman Mangan asked for those opposed to granting the variance and there were none.

Chairman Mangan closed the hearing.

MOTION was made by Deputy Chairman Fennhahn in Case #14 to grant the variance with the condition that it be constructed in substantial compliance with the drawing dated April 20, 2011. 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	- absent	<i>Carried.</i>

The variance request in Case #1409 is granted.

There being no further business, Chairman Mangan adjourned the meeting at 8:02 P.M.

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