

APPROVED  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING**  
**June 13, 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, Clay, New York on June 13, 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
	Mark Smith	Member
	Vivian Mason	Secretary
	Robert Germain	Attorney

ABSENT:	Karen Liebi	Member
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**MOTION** made by Mr. Young that the Minutes of the meeting of May 9, 2011 be accepted. Motion was seconded by Deputy Chairman Fennhahn. *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. *Carried.*

**OLD BUSINESS:**

NONE.

**NEW BUSINESS:**

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

**Case #1410 - USE VARIANCE - Jim Nichols (Sharkey's), 7260 Oswego Road (Tax map #114.-01-32.00):**

The applicant is seeking a use variance pursuant to Sections 230-16 B.(2) and 230-25 D.(2)(a)[2] to allow volleyball court/parking. The Use Variance is required when proposed land use activity is not permitted in the zone district. (Highway Commercial, HC-1 Zoning District)

The proof of publication was read by the Secretary.

Chairman Mangan noted that the Board received a letter from the Onondaga County Planning Board regarding the Use Variance request. Also, the applicant has requested an adjournment.

**MOTION** was made by Chairman Mangan to adjourn this hearing to July 11, 2011. Motion was seconded by Deputy Chairman Fennhahn.

**Case #1411 - AREA VARIANCE - Thomas J. Brown, 9580 Horseshoe Island Road (Tax map #013.-02-01.0):**

The applicant is seeking an area variance pursuant to Sections 230-13 A.(4) and 230-23 C.(2) to allow a reduction in the front yard setback from 75 feet to 21 feet; a reduction in the side yard setback from 25 feet to 14 feet; and allow for a modification to a non-conforming structure. The applicant wants to put in a carport. (Residential Agricultural, RA-100 Zoning District)

The proof of publication was read by the secretary.

Chairman Mangan noted that the applicant's request will actually make the property less non-conforming.

Thomas Brown explained that Phase 1 is almost complete and he wants to proceed with Phase 2 the construction of a carport to replace a closed collapsing structure to an open one, the carport.

Deputy Chairman Fennhahn asked Mr. Brown if it was going to be built in the same place as the closed structure and Mr. Brown said the same general location, but three feet from the ditch line.

Mr. Brown addressed the standards of proof:

1. He absolutely feels the carport will change the character of the neighborhood. He feels it will improve it.
2. He feels there is no other place to put it except the proposed location.
3. The current structure is dangerous and he absolutely feels the variance request is substantial.
4. He believes there will be no environmental or adverse impact on the neighborhood. The carport will actually permit better water flow.
5. Because he bought the property without a home inspection, the need for the variance is self-created.

Deputy Chairman Fennhahn asked when he expected to finish the construction and Mr. Brown replied by Christmas.

Chairman Mangan said he spoke to the owner of the neighboring parcel and he is for it.

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 there was one (the neighbor noted earlier). Chairman Mangan asked for those opposed to granting the variance and there were none.

Chairman Mangan closed the hearing.

**MOTION** was made by Mr. Smith in Case #1411 to grant the variance with the condition that construction be in substantial compliance with the submitted 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	- absent	
	Mr. Smith	- in favor	<i>Carried.</i>

The variance request in Case #1411 is granted.

**Case #1412 - AREA VARIANCE - Matthew Scalisi, 8145 Rapallo Way (Tax map #075.-03-25):**

The applicant is seeking an area variance pursuant to Section 230-13 E.(4)(b)[2] to reduce the side yard setback from 7.3 feet to 5 feet to add an 8 foot by 20 foot addition to the right side of his house for an exercise room. (One-Family Residential, R-7.5 Zoning District)

The proof of publication was read by the secretary.

Mr. Scalisi stated that he would like to put on an addition to be used as a home office and exercise room.

Mr. Scalisi addressed the standards of proof:

1. He feels this will not change the character of the neighborhood. There will still be five feet between the addition and the property line.
2. The right side is the only feasible place for the addition as the side deck and air conditioner unit is on the other side of the house.
3. He does not feel the variance is substantial.
4. He believes there will be no environmental or adverse impact on the neighborhood.
5. Because he wants an office, he believes that the need for the variance is not self-created.

Deputy Chairman Fennhahn commented that it's his opinion that Mr. Brown's need for the variance is self-created.

Deputy Chairman Fennhahn asked if it would have an outdoor exit and Mr. Scalisi said it would be connected to a rec room.

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 Deputy Chairman Fennhahn in Case #1412 to grant the variance with the condition that construction be in substantial compliance with the submitted Exhibit "A" and "A-1". Motion was seconded by Mr. Young.

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

The variance request in Case #1412 is granted.

**Case #1413 - AREA VARIANCE - Joe Cecero, 4245 Gemini Path, (Tax map #081.-10-16):**

The applicant is seeking an area variance pursuant to Sections 230-13 C.(4) (b)[1] and 230-20 B.(1) to allow for a reduction in the front yard setback from 25 feet to 13.5 feet and to allow intrusion into the front yard setback beyond the allowable 6 feet for stairs and a landing. (One-Family Residential, R-7.5 Zoning District)

The proof of publication was read by the secretary.

Mr. Cecero was present as representative of the owner of the property.

Chairman Mangan commented that Mr. Cecero plans to replace the landing and the stairs.

Mr. Cecero explained that his client is a small person who needs a lower rise, so he needs more room to redirect the stairs. They need shorter stairs. The stairs and landing will be 15 feet from the house.

Mr. Cecero addressed the standards of proof:

1. They feel the stairs and landing will not change the character of the neighborhood.
2. It's the entrance to the house and they feel there is no other feasible method to achieve this request.
3. They do not feel the variance is substantial.
4. They believe there will be no environmental or adverse impact on the neighborhood.
5. They don't believe that the need for the variance is self-created.

Deputy Chairman Fennhahn commented that the owner moved in as the property was, so the need for the variance really is self-created.

Chairman Mangan noted that the stairs and landing would be closer to the road than the other houses on the street.

Chairman Fennhahn asked when the construction would be completed and Mr. Cecero said two

weeks.

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 #1413 to grant the variance with the condition that construction be in substantial compliance with the submitted 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	- absent	
	Mr. Smith	- in favor	<i>Carried.</i>

The variance request in Case #1413 is granted.

**Case #1414 - AREA VARIANCE - Bergman Associates on behalf of Sunoco, 7653 Morgan Road (Tax map #095.-01-02.0):**

The applicant is seeking an area variance pursuant to Sections 230-19 A.(5) to reduce the designated highway setback from 140 feet to 65 feet for an addition to the building. (Limited Use District for Gasoline Services, LuC-1 Zoning District)

The proof of publication was read by the secretary.

Brian Burri, Project Manager for Bergman Associates represented the applicant.

Chairman Mangan noted that the Board had received a letter from the Onondaga County Planning Board.

Mr. Burri explained that they would like to construct a small addition to the existing building for storage only. There will be no window, only a door on the south side for access.

Mr. Young asked if they would be changing the existing footprint of the concrete, and Mr. Burri said they would be going two feet beyond to the canopy edge.

Mr. Burri addressed the standards of proof:

1. They feel the addition will not be very noticeable so there will not be an undesirable change to the character of the neighborhood.
2. Because of the rear yard setback and the utilities also located there, they feel there is no other feasible place for the addition.
3. They do not feel the variance is substantial.
4. They believe there will be no environmental or adverse impact on the neighborhood.
5. They believe that because the arterial setback is so large the need for the variance is not self-created.

Mr. Smith asked if the new sidewalk will be past the edge of the canopy, and Mr. Burri replied that the addition and sidewalk will be ten and one-half feet from the building. The sidewalk is there for pedestrians.

Chairman Mangan asked Commissioner Territo if he had any comments and he said that if the variance is granted the applicant will need an amended site plan. Any new signage would need a Building permit.

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 #1414 to grant the variance with the condition that construction be in substantial compliance with the submitted Exhibit "A" and no new signage. Motion was seconded by Deputy Chairman Fennhahn.

Roll call:	Chairman Mangan	- in favor
	Deputy Chairman Fennhahn	- in favor
	Mr. Young	- in favor
	Mrs. Liebi	- absent

Mr. Smith - in favor *Carried.*

The variance request in Case #1414 is granted.

**Case #1415 - AREA VARIANCE - Matt & Kari Henry, 4351 Luna Course, (Tax map #081.-06-39.0):**

The applicant is seeking an area variance pursuant to Sections 230-13 C.(4)(b)[1] and 230-20 B.(1) requesting an Area Variance to allow for a reduction in the front yard setback from 25 feet to 13.5 feet and to allow intrusion into the front yard setback beyond the allowable 6 feet. (One-Family Residential R-7.5 Zoning District)

The proof of publication was read by the secretary.

Matt Henry explained that they would like to put up a new fence and replace some of the existing fence.

Mr. Henry addressed the standards of proof:

1. They believe there will be no undesirable change to the character of the neighborhood. They feel the completion of the fence will be an improvement. The fence already in existence has been there for 15 years with no negative effects on the character of the neighborhood. They plan to match the new section to the existing fence for continuity and aesthetics.
2. They believe there is no other feasible method to achieve their request because installing a two foot fence outside the building line does not provide privacy or safety for their young children and pets. To remove the existing fence and rebuilding it inside the building line is not a feasible option because of the cost.
3. They do not feel the variance is substantial, as it does not encroach on any existing utility easement or any adjacent neighboring properties.
4. They do not believe there will be any environmental or adverse impact on the neighborhood, as they only want to complete the existing fence.
5. They believe that the need for the variance was self-created by the previous owners when they removed a portion of the existing fence and failed to replace it.

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 #1415 to grant the variance as requested, with the condition construction be in substantial compliance with Exhibit "A" (applicant's Exhibit "3"). Motion was seconded by Mr. Smith.

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

The variance request in Case #1415 is granted.

There being no further business, Chairman Mangan adjourned the meeting at 8:20 P.M.

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