

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
September 8, 2014

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 September 8, 2014.

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
	Mark Smith	Deputy Chairman
	Brian Hall	Member
	Anne Stenham	Member
	Vivian Mason	Secretary
	John Marzocchi	Attorney
	Mark Territo	Commissioner of Planning & Development

ABSENT: Karen Liebi Member

MOTION made by Deputy Chairman Smith that the Minutes of the meeting of August 11, 2014 be accepted as submitted. Motion was seconded by Mr. Hall. *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 Mrs. Stenham. *Carried.*

OLD BUSINESS:

None.

NEW BUSINESS:

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

Case #1537 – AREA VARIANCES – McFarland Development, LLC, 7386 Oswego Road, Tax Map #104-03-06.0:

The applicant is requesting Area Variances pursuant to Sections 230-16 A.(4)(b)[2][a] and 230-16 A. (4)(c)[2] to reduce the side yard setback from 25 feet to 10 feet to allow for a principal structure and to reduce the side yard setback from 25 feet to 12.5 feet to allow for an accessory structure (dumpster). The property is located in the NC-1 Neighborhood Commercial zoning district.

The Secretary read the proof of publication.

Alex Wisniewski, President of L.J.R. Engineering explained that Kirby's, the former restaurant, will be demolished; McFarland Development, LLC wishes to construct an Advanced Auto Parts store. The NC-1 requires a 25 foot rear yard setback, which they will adhere to, but to gain parking they had to move the building further back on the parcel.

Chairman Mangan noted that County Planning would prefer the building closer to the road, but Mr. Wisniewski said that to gain parking and for safety reasons they would like to move the building further back on the parcel.

Mr. Wisniewski addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance as they are trying to maintain the driveway at the signal light and shifting the building back further to maintain the parking requirements.
3. He does not believe the variance request is substantial.
4. He believes there will be no physical or environmental impact to the neighborhood. .
5. The Area Variances are needed to construct the store on the parcel, so the request would be considered self-created.

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

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

Chairman Mangan asked if anyone in the audience had any questions and there were none.

Chairman Mangan asked for those in favor and those opposed to granting the Area Variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Smith in Case #1537 to grant the Area Variances as requested, with the condition that it be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Hall.

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

The Area Variance requests for Case #1537 are **granted**.

Case #1538 – INTERPRETATION - Lauren Lovette, 206 Windwood Road, Tax Map #098.-13-08.0:

The applicant is requesting an Interpretation, pursuant to Section 230-11 C., as to whether a Vietnamese pot bellied pig be defined as a Domestic Animal or a Farm Animal. The property is located in the R-7.5 One-Family Residential zoning district.

The Secretary read the proof of publication.

Lauren Lovette presented information that a potbellied pig is considered a pet and she feels that it is equivalent to having a dog. It is crated; it is allowed to roam, and it is not your standard pig. It is a stunted breed and will not grow above 25 pounds.

Chairman Mangan noted that the Town Code defines a pig as a Farm Animal. Is your animal a pig?

Ms. Lovette said yes, but many now consider this type of pig a Domesticated Animal.

Mr. Hall asked where she obtained it and she said at an exotic pet store in Cicero. Mr. Hall then asked if she was advised at the time to check with her town as to whether they were allowed in a residential zoning district, and she said no, she was not advised by anyone at the time of purchase.

In support of Chairman Mangan's earlier question Mrs. Stenham again asked Ms. Lovette what kind of animal her pet actually is and Ms. Lovette said a swine, a pig.

Mary Conte, of North Glencove Road in North Syracuse, stated that it is a domesticated pet, you play with it, rub its belly just like you would a dog and why should you need 5 acres for a pet.

(The Town Zoning Code states that in order to have Farm Animals, the parcel has to be zoned Residential Agricultural, and must consist of at least 5 acres.)

Chairman Mangan explained that the Board has been asked to interpret the code and the Zoning Code under definitions clearly states that a pig is a Farm Animal. To define it otherwise would require a change in the code by the Town Board. The Zoning Board cannot rewrite the code; they can only be asked to interpret it.

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

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

Chairman Mangan asked if anyone in the audience had any questions and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Hall in Case #1538 that the Board's Interpretation is as defined in the Town Code, that a pig is a Farm Animal. Motion was seconded by Deputy Chairman Smith.

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

In Case #1538 the definition in the Zoning Code that a pig is a Farm Animal is upheld.

Case #1540 – AREA VARIANCES - Susan Smillie, 4974 Nestling Duck, Tax Map #089.-12-01.0:

The applicant is requesting Area Variances pursuant to Sections 230-13 E.(4)(c)[1] and 230-20 B.(2)(b) to reduce the front yard setback from 25 feet to 3.6 feet, and to increase the height of a fence to 6 feet when only 2 ½ feet is allowed in a front yard (corner lot) in order to construct a fence. The property is located in the R-7.5 One-Family Residential zoning district.

The Secretary read the proof of publication.

Susan Smillie explained that she has an existing fence but she would like to put up a taller one as she has dogs, and she wants to keep them contained in her yard so they can't get out onto the road. It will be a cedar fence similar to a neighbor's. Another reason she wants it is because she has a pool and has found that kids are stacking up chairs to get into her yard.

Ms. Smillie addressed the Standards of Proof:

1. She doesn't believe there will be any detriment to the character of the neighborhood. It is similar to the neighbor's fence.
2. She doesn't believe there is any other feasible method than to obtain an Area Variance since she wants to keep her dogs safe and prevent children from climbing over and getting into her pool.
3. She does not believe the variance request is substantial.
4. She believes there will be no physical or environmental impact to the neighborhood.
5. The need for the variance is self-created.

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

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

Chairman Mangan asked if anyone in the audience had any questions and there were none.

Chairman Mangan asked for those in favor and those opposed to granting the variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mrs. Stenham in Case #1540 to **grant** the Area Variances as requested with the condition that it be in substantial compliance with Exhibit "A" a survey dated 2-25-1999 Motion was seconded by Mr. Hall.

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

The Area Variance requests for Case #1540 are **granted**.

Case #1541 – AREA VARIANCES - Wayne Stackpoole, 5317 Fortuna Parkway, Tax Map #077.-03-21.0:

The applicant is requesting Area Variances, pursuant to Section 230-18 H.(1) and 230-20 B.(2)(b) to reduce the front yard setback from 25 feet to 12 feet, and to increase the height of a fence to 5 feet when only 2 ½ feet is allowed in a front yard (corner lot) in order to construct a fence. The property is located in the PDD Planned Development District.

The secretary read the proof of publication.

Antoinette Stackpoole explained that they have a fence around their pool, but would like to extend it. They have grandchildren and they want to keep them safe.

Ms. Stackpoole addressed the Standards of Proof:

1. She doesn't believe there will be any detriment to the character of the neighborhood.
2. She doesn't believe there is any other feasible method than to obtain an Area Variance since she wants to keep her grandchildren safe.
3. She does not believe the variance request is substantial.
4. She believes there will be no physical or environmental impact to the neighborhood. It will be a chain link fence so it will not obstruct the view.
5. The need for the variance is self-created.

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

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

Chairman Mangan asked if anyone in the audience had any questions and there were none.

Chairman Mangan asked for those in favor and those opposed to granting the variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Deputy Chairman Smith in Case #1541 to **grant** the Area Variances as requested with the condition that it be in substantial compliance with Exhibit "A" a survey dated 8-28-1985 Motion was seconded by Mrs. Stenham.

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

The Area Variance requests for Case #1541 are **granted**.

Case #1542 – AREA VARIANCE - Jules Maderos, 9677 Black Creek Road, Tax Map #038.-01-45.0:

The applicant is requesting an Area Variance, pursuant to Section 230-13 A.(4), to reduce the front yard setback from 75 feet to 50 feet to construct a third bay to the existing two bay garage, part of it to house a geothermal heating/cooling system. The property is located in the RA-100 Residential Agricultural zoning district.

The Secretary read the proof of publication.

Mr. Maderos explained that he would like to add an additional bay to his garage as they have three cars and he would also like a place for his geothermal heating/cooling system.

Mr. Maderos addressed the Standards of Proof:

1. He doesn't believe there will be any detriment to the character of the neighborhood. There are multi detached and attached garages in the neighborhood.
2. He doesn't believe there is any other feasible method than to obtain an Area Variance. He looked at other locations, but it wouldn't be as good of a configuration for the house.
3. He does not believe the variance request is substantial. He has asked for a little more feet than he needs, just to allow for a margin of error.
4. Visually there won't be much change so he believes there will be no physical or environmental impact to the neighborhood.
5. The need for the variance is self-created.

Deputy Chairman Smith asked if the geothermal system would be only for his own use and not a business, and Mr. Maderos said yes is only to heat and cool his house.

Chairman Mangan asked if there were any further comments or questions and Kathy Stott asked exactly where his property was compared to some property she owns nearby, and Mr. Maderos showed her just where their properties were.

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

Chairman Mangan asked if anyone in the audience had any questions and there were none.

Chairman Mangan asked for those in favor and Mrs. Stott said she was in favor of granting the variance. Chairman Mangan asked for those opposed to granting the variances and there were none.

Chairman Mangan closed the hearing.

MOTION made by Mr. Hall in Case #1542 to **grant** the Area Variance as requested with the condition that it be in substantial compliance with Exhibit "A" dated 9-12-2013 Motion was seconded by Deputy Chairman Smith.

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

The Area Variance request for Case #1542 is **granted**.

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

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