

APPROVED  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING**  
**JANUARY 9, 2023**

The Organizational and 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 January 9, 2023. Chairman Wisnowski called the meeting to order at 6:00 P.M. and upon the roll being called the following were:

PRESENT:	Edward Wisnowski, Jr	Chairman
	Karen Liebi	Member
	Ryan Frantzis	Member
	Vivian Mason	Member
	Robert Germain	Attorney
	Chelsea Clark	Secretary
	Mark V. Territo	Commissioner of Planning & Development

ABSENT: Luella Miller-Allgaier Deputy Chairperson

All present participated in the Pledge of Allegiance.

**MOTION** made by Mrs. Liebi that the Minutes of the meeting of November 14, 2022 and the minutes of cancelled December 13, 2021 meeting be accepted as submitted. Motion was seconded by Mrs. Mason. *Unanimously carried.*

**MOTION** made by Chairman Wisnowski for the purpose of the New York State Environmental Quality Review (SEQR) all new actions tonight will be determined to be a Type II, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Mrs. Liebi. *Unanimously carried.*

**ORGANIZATIONAL ITEMS FOR 2023:**

**MOTION** made by Chairman Wisnowski accepting the 2023 Scheduling Calendar, which states the filing dates of when a completed application is to be received from an applicant; the designation that the second Monday of each month will be the regular meeting of the Zoning Board of Appeals; appointment of Luella Miller-Allgaier as Deputy Chairperson; appointment of Chelsea Clark as the Secretary to the Zoning Board of Appeals; the acknowledgement that Robert Germain of Germain & Germain was appointed by the Town Board as the Zoning Board of Appeals Attorney; and that Proofs of Publication will be in the Tuesday edition of the Post Standard the week before the Zoning Board of Appeals meeting. Motion was seconded by Mr. Frantzis. *Unanimously carried.*

**OLD BUSINESS:**

**Case #1868 – Chick-fil-A, Inc., 3920 Brewerton Road and 110 East Taft Road, Tax Map #118.-01-01.1 and 118.-01-02.0.:**

The applicant is requesting the following Area Variances pursuant to Sections: 230-16 E.(4)(b)[1] Front Yard - a reduction in the front yard setback from the property line from 50 feet to 8.5 feet, to allow for the principal structure; 230-19 A.(5) Principal Structure - a reduction in the highway overlay on Route 11, for a principal structure, from 140 feet to 64.8 feet to allow for a Chick-fil-A restaurant building; 230-19 A.(5) Parking Area - a reduction in the highway overlay on South Bay Road from the required 70 feet to 55.3 feet to allow for parking; 230-16 E.(5)(a) Perimeter Landscape - a reduction in the south perimeter landscape strip from 15 feet to 8.9 feet for a canopy; 230-16 E.(4)(b)[2][a] Side Yard Minimum - a reduction in the north side yard setback from 25 feet to 4.8 feet for the principal structure; 230-16 E.(5)(a) Perimeter Landscape Strip - a reduction in the north perimeter landscape strip from 15 feet to 0 feet; 230-16 E.(5)(a) Perimeter Landscape Strip - a reduction in the south perimeter landscape strip from 15 feet to 0 feet; and 230-16 E.(4)(b)[2][b] Total Both Sides - a 50 foot combining of both sides required with 34.2 feet proposed. The property is located in a LuC-2 Limited Use District for Restaurants.

The proof of publication was read by the secretary at the May 9, 2022 meeting.

Chairman Wisnowski made a motion to adjourn Case #1868 to the February 13, 2023, Zoning Board of Appeals meeting, per the applicant's request.

Roll Call:	Chairman Wisnowski	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

**Case #1888 – Cabin Cove Development. LLC, Horseshoe Island Road, Tax Map #'s 014.-01-14.1, 014.-02-14.0, 014.-02-16.0, and 014.-02-17.0.:**

The applicant is seeking the following Area Variances pursuant to Section 230-13 A.(4) – Dimensional Requirements – Lot Area: a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 74,052 square feet for Lot #5 and Lot #6 (1.7 acres each); – a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 69,696 square feet for Lot #7 and Lot # 8 (1.6 acres each); – a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 56,628 square feet for Lot #9 (1.3 acres); a reduction in the required minimum lot size of 100,000 square feet (2.29 acres) to 65,340 square feet for Lot #11 (1.5 acres) and Section 230-13 A.(4) – Dimensional Requirements – Lot Width: a reduction in the required minimum required 250 feet to 222.36 feet for Lot #5; a reduction in the required minimum required 250 feet to 137.95 feet for Lot #6; a reduction in the required minimum required 250 feet to 126.18 feet for Lot #7; a reduction in the required minimum required 250 feet to 235.7 feet for Lot #8; and a reduction in the required minimum required 250 feet to 199.85 for Lot #32. This is to allow for a sub-division to create 30 residential building lots. The properties are located in the RA-100 Residential Agricultural District.

The proof of publication was read by the secretary at the August 8, 2022 meeting.

Chairman Wisnowski made a motion to adjourn Case #1888 to the March 13, 2023, Zoning Board of Appeals meeting, per the applicant’s request.

Roll Call:	Chairman Wisnowski	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

**NEW BUSINESS:**

**Case #1906 – Liberty Restaurants, Inc./Popeyes, 7379 Oswego Road, Tax Map #104.-02-13.1.:**

The applicant is seeking Area Variances pursuant to Section 230-19 A.(5) - Highway Over Zone District, for a reduction in the highway overlay from the required 140 feet to the proposed 101.6 feet and Section 230-16 C.(4)(a)[1][b] - Site Perimeter Landscape Strip, for a reduction in the Site Perimeter Landscape Strip from the required 30 feet to the proposed 15.1 feet for a Drive Through Lane The property is located the RC-1 Regional Commercial District.

The proof of publication was read by the secretary.

Brett Steenburgh of Brett L. Steenburgh PE, PLLC and Rick Ruggarber of PEMCO Properties were present on behalf of the applicant.

Chairman Wisnowski asked Mr. Steenburgh to explain the applicants request for Area Variances.

Mr. Steenburgh explained the applicant is seeking Area Variances in order to build a double drive-thru restaurant with an exit on the North Side. The applicant is looking to build the structure sixteen feet closer than the current building, which is similar to other businesses in the area.

Chairman Wisnowski asked Mr. Steenburgh to address the Standards of Proof.

Mr. Steenburgh addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variances will create an undesirable change to the character of the neighborhood as their request is similar to neighboring properties.
2. The applicant does not believe there is any feasible method other than the requested Area Variances due to the configuration of the parcel.
3. The applicant does not believe the requested Area Variances to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood as it is similar to other properties in the area.
5. Yes, the need for Area Variances are self-created.

Chairman Wisnowski asked if there were any further comments or questions from the Board.

Mrs. Liebi asked Mr. Steenburgh where the customers would pick-up their food with the two lane drive through.

Mr. Steenburgh advised the two lanes merge into one and pick-up for both traffic would be collected at the same window. Additionally, their research shows that back-ups do not happen at the pick-up window, back-ups happen in the ordering line during peak hours.

Mrs. Liebi asked who owned the lot beside the parcel.

Mr. Ruggaber stated PEMCO Properties owns all the neighboring properties.

Mrs. Liebi asked why the applicant didn't think of expanding lengthwise, combining the two lots.

Mr. Ruggaber stated that while PEMCO Properties owns the nearby properties, the parcels all have separate ownerships.

Chairman Wisnowski asked Commissioner Territo if he had any comments or questions and he had none.

Chairman Wisnowski asked if anyone in the audience had any questions or comments and there were none.

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

There being no further comments, Chairman Wisnowski closed the hearing.

**MOTION** was made by Mrs. Liebi in Case #1906 to deny the Area Variances as requested. Motion was seconded by Mr. Frantzis.

Roll Call:	Chairman Wisnowski	- against	
	Mr. Frantzis	- against	
	Mrs. Liebi	- in favor	
	Mrs. Mason	- against	<i>Motion Failed.</i>

**MOTION** was made by Mrs. Mason in Case #1906 to approve the Area Variances as requested with the condition it be in substantial compliance with Exhibit "A." Motion was seconded by Mr. Frantzis.

Roll Call:	Chairman Wisnowski	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- against	
	Mrs. Mason	- in favor	<i>Motion Carried.</i>

There being no further business, Chairman Wisnowski adjourned the meeting at 6:08 P.M.

A handwritten signature in blue ink that reads "Chelsea Clark". The signature is written in a cursive, flowing style.

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Chelsea L. Clark, Secretary  
Zoning Board of Appeals  
Town of Clay