

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
NOVEMBER 8, 2021**

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 November 8, 2021. 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
	Luella Miller-Allgaier	Deputy Chairperson
	Karen Liebi	Member
	Deborah Magaro-Dolan	Member
	John Marzocchi	Attorney
	Chelsea Clark	Secretary
	Mark V. Territo	Commissioner of Planning & Development
ABSENT:	Ryan Frantzis	Member

MOTION made by Chairman Wisnowski that the Minutes of the meeting of October 11, 2021 be accepted as submitted. Motion was seconded by Deputy Chairperson Miller-Allgaier. *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.*

OLD BUSINESS:

Case # 1852 – David M. Caggy and Ashalee N. Caggy, 4258 Steppingstone Lane, Tax Map #068.-17-05.0.:

The applicants are seeking an Interpretation pursuant to Section 230-11 C. (Definitions) and Section 230-20 A.(3)(b) to permit honeybees to live in a beehive on the owner’s property. The property is located in the R-7.5 One-Family Residential District.

Attorney Joshua Werbeck of Bosquet Holstein, PLLC was present on behalf of the applicants.

Chairman Wisnowski noted the Zoning Board of Appeals received a note from Bousquet Holstein, PLLC asking the board to not consider honeybees as farm animals.

Chairman Wisnowski read the Findings and Decision as follows:

Case No: 1852
Applicant: David M. Caggy and Ashalee N. Caggy
Address: 4258 Steppingstone Lane
Type: Interpretation

Issue Summary: David Caggy and Ashalee N. Caggy applied to the Zoning Board of Appeals for an interpretation of the existing Town of Clay Zoning Code Sections 230-11C (Definitions) and 230-20.A (3) (b) for the raising/keeping of bees to harvest honey in a residential zone classification R-7.5. Honey bees are not directly addressed or classified in the Code. The issue is the proper classification of honey bees kept for harvesting honey. Specifically whether or not the honey bee keeping operation described by the applicant classifies the bees as Domestic Animals (allowed in residential zones with restrictions) or Farm Animals (not generally allowed unless an exception applies).

The applicant’s attorney presented the Board with an argument similar to that contained in the letter to the Town from Bousquet Holstein, PLLC dated September 3rd, 2021. The applicant argued honey bees are not farm animals, and in fact fit the definition of domestic animals under the Code. A copy of the Letter Brief is attached hereto and labeled “Exhibit A.”

FINDINGS AND DECISION

Findings:

1. The Board has determined these interpretation requests are Type II actions for the purpose of SEQRA compliance, and no further action is required.
2. The Subject Property is Zoned R-7.5. This is a residential zone that permits “Domestic” animals as defined in the Code, but prohibits most Farm Animals.
3. According to the Code, the definitions are as follows:

ANIMALS

This chapter recognizes and addresses three basic categories of animal that are relevant to control within the scope and purpose of this chapter: domestic, farm and exotic or wild animals.

(1)

DOMESTIC ANIMALS

Those species that have historically been bred to live with people and are commonly trained and associated with people's homes or places of work as pets or as (nonfarm) working companions; these are dogs and cats. Other animals that have an historical presence as pets are some non-domesticated species that are maintained within glass tanks, cages or similar display containers and include tropical fish, birds, small reptiles (turtles, frogs, lizards), and small rodents (hamsters, gerbils, mice and rats). Note: These nondomesticated animals are commonly available from retail pet stores, and supplies and food for their care are generally available in general merchandise outlets, such as grocery or department stores.

(2)

FARM ANIMALS

Those species that have historically and commonly been associated with agricultural uses as the production product (food, hides, fur, etc.) or as work animals directly related to agricultural process (hauling, plowing, etc.). Typical farm animals include horses, cows, chickens, sheep and pigs. Some species of fish are also raised in aquatic farms, such as: salmon, catfish and trout. An agricultural use may be devoted solely to animal breeding for sale and end use by others, such as horses that are used for recreational purposes (racing, riding or show).

3. The applicant stated he was using the bees to produce honey for his family.
4. We considered the definitions contained in the Town Code. We also considered the fact the Federal Government defines honey bees as livestock for farming. According to the American Veterinarian Medical Association “honey bees are classified as livestock/food producing animals because products from their apiculture enter the human food chain.”
 - A. We find bees do not fit the definition of “domestic” animals. They clearly do not live in the home, and were not “bred to live with people” or commonly trained as defined in the Code. By the applicant’s admission, the insects are wild and exist naturally, and neither the bees nor their food are commonly available at a pet store.
 - B. We find the raising of bees fits the definition of farm animals. The honey is being produced as an agricultural product. The bees and keeping described is clearly an agricultural use for the production of food.

Decision:

MOTION made by Chairman Wisnowski that this Board hereby decides and interprets Code Sections 230-11C (Definitions) and 230-20.A (3) (b) to classify the raising of honey bees as an agricultural use by farm animals. Motion was seconded by Deputy Chairperson Miller-Allgaier. *Unanimously carried.*

NEW BUSINESS:

Case #1857 – Kia Matthews/Clay Quad West, LLC, 3863 State Route 31, Tax Map #021.-01-03.7.:

The applicant is seeking an Area Variance pursuant to Section 230-16 C.(4)(a)[1][d] for an increase in the cumulative coverage structure and pavement from the maximal allowable 75% to 83.4%. This is to allow for a subdivision and a Site Plan for Kia Matthews dealership expansion. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the secretary.

James Trasher pf CHA Consulting was present on behalf of the applicant.

Chairman Wisnowski asked Mr. Trasher to explain the applicants request for an Area Variance.

Mr. Trasher explained the parcel is currently owned by PetSmart and the applicant is looking to acquire this property for additional vehicle storage. The applicant wishes to have all of their current vehicle inventory on one lot, instead of the current inventory overflow being stored at Great Northern Mall.

Mr. Trasher addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variance will create an undesirable change to the character of the neighborhood as it matched the character of the neighborhood.
2. The applicant does not believe there is any feasible method other than the requested Area Variance as the existing lot is non-conforming.
3. The applicant does not believe the requested Area Variance to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood and would instead provide relief to developing project.
5. Yes, the need for Area Variances is self-created.

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

Deputy Chairperson Miller-Allgaier asked if the applicant would be parking cars at PetSmart.

Mr. Trasher advised the applicant would not and is requesting this Area Variance to reduce dependency on other properties, i.e. Great Northern Mall.

Deputy Chairperson Miller-Allgaier asked if they would have 30 feet of green space.

Mr. Trasher confirmed they would keep green space wrapping around the property.

Deputy Chairperson Miller-Allgaier asked if there would be a road between the two car dealerships.

Mr. Trasher noted there is currently a road between the two dealerships and noted the second driveway to Nissan to allow for better traffic and inventory stacking.

Mrs. Magaro-Dolan asked if the light green area on the proposed plan is asphalt and if so, how many cars would be stored in this area.

Mr. Trasher confirmed it would be asphalt and the amount of cars stored would depend on what the planning board decides, the current allotment is 70 vehicles.

Mrs. Liebi asked if bringing the vehicles currently stored at Great Northern mall would interfere with the expansion of the building.

Mr. Trasher said they would only lose about 10 spaces with expansion and it would not interfere.

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 Variance and those opposed to granting the Area Variance and there were none.

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

MOTION was made by Deputy Chairperson Miller-Allgaier in Case #1857 to approve the Area Variance as requested with the condition it be in substantial compliance with Exhibit “A.” Motion was seconded by Mrs. Liebi.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller-Allgaier	- in favor	
	Mrs. Liebi	- in favor	
	Mrs. Magaro-Dolan	- in favor	<i>Unanimously Carried.</i>

Case #1858 – Ryan McBride, 5127 Picnic Basket Place, Tax Map #074.-09-07.0.:

The applicant is seeking Area Variances pursuant to Section 230-13 D.(4)(b)[1] for a reduction in the front yard setback from 25 feet to 0 feet [an Area Variance, Case #1842, was granted to allow a reduction in the front yard setback from 25 feet to 14 feet] and Section 230-20 B.(2)(b) for an increase of the height of a fence in a front yard from the allowed 2 1/2 feet to no taller than 7 feet [an Area Variance, Case #1842, was granted to allow an increase in the height of a fence in a front yard from the allowed 2 1/2 feet to no taller than 7 feet] (a corner lot has two front yards). This is to allow construction of a privacy fence on a corner lot. The property is located in the R-10 One-Family Residential District.

The proof of publication was read by the secretary.

Applicant, Ryan McBride was present.

Chairman Wisnowski asked the applicant to explain his request for Area Variances.

Mr. McBride explained he was previously approved Area Variances for a fence on his corner lot, however when the fencing company came to stake out the line they realized it would be too close to the jungle gym and he would like more space for the children to play.

Mr. McBride 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 it is similar to other fences in the area.
2. The applicant does not believe there is any feasible method other than the requested Area Variances.
3. The applicant does not believe the requested Area Variances to be substantial as it would still be 15 feet from the curb and leave adequate visibility to the corner.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. Yes, the need for Area Variances is self-created.

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

Mrs. Magaro-Dolan asked if the trees on the property would be enclosed in the fencing and noted there is no survey provided showing the proposed location of the fence so it is difficult to know where he is requesting.

Mr. McBride stated the trees would not be enclosed in the fencing and the property is marked with white flags as stakes of where the fencing would go. The fencing would stop approximately 10 feet before the trees.

Mrs. Liebi stated the neighbor behind Mr. McBride has a fence and Mr. McBride's shed butts up to the neighbor's fence and asked if the shed would be enclosed in the fence.

Mr. McBride said the shed would not be enclosed.

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.

Steve Sawicki, 5143 Old Barn Road, asked how close the fence would be to the utility easement and right of way since there is no survey.

Chairman Wisnowski acknowledge Mr. Sawicki's question and advised the applicant, Mr. McBride that the board typically does not approve 0 foot setbacks, however, the board would need an updated survey to properly vote on this request.

Chairman Wisnowski adjourned Case #1858 until December 13th, 2021.

Case #1859 – Syracuse Lawn Maintenance/Todd Fritzen, 4664 Wetzel Road, Tax Map #087.-01-12.0.:

The applicant is seeking Area Variances pursuant to Section 230-17 C.(4)(b)[1][b] for a reduction in the front yard setback from 50 feet to 30 feet (Maltage Drive); Section 230-17 C.(4)(b)[2] for a reduction in the east side yard setback from 25 feet to 10 feet; and Section 230-17 C.(4)(b)[2] for a reduction in the south side yard setback from 25 feet to 10 feet, to allow for construction of a 60' x 80' building. The property is located in the I-1 Industrial 1 District

The proof of publication was read by the secretary.

Applicant, Todd Fritzen was present.

Chairman Wisnowski asked the applicant to explain their request for Area Variances.

Mr. Fritzen noted he just realized the architect's plans showed the wrong setbacks.

Mr. Territo noted that the Area Variances would need to be advertised with the correct setbacks.

Chairman Wisnowski adjourned Case #1859 until December 13th, 2021.

There being no further business, Chairman Wisnowski adjourned the meeting at 6:37 P.M.



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