

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
August 13, 2018

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 August 13, 2018. 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
	Edward Wisnowski, Jr	Deputy Chairman
	Karen Liebi	Member
	Nicholas Layou	Member
	Luella Miller-Allgaier	Member
	Mark V. Territo	Commissioner of Planning /Acting secretary
	John Marzocchi	Attorney

ABSENT: Vivian Mason Secretary

MOTION made by Mrs. Liebi that the Minutes of the meeting of July 9, 2018 be accepted as submitted. Motion was seconded by Mr. Layou. *Unanimously 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 Unlisted actions, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Mrs. Liebi. *Unanimously carried.*

OLD BUSINESS:

Case #1693 (Amended) – Widewaters Farrell Road II Company, LLC, Route 31, Tax Map #020.-01-05.1 and #020.-01-05.2:

The applicant is requesting Area Variances per Section 230-19 A.(5) for a reduction in the highway overlay setback from 165 feet to 160 feet; Section 230-16 C.(4)(a)[1][b] for a reduction in the perimeter landscape strip from 30 feet to 2 feet (varying from 2 feet to 27 feet) (Lot # 4); Section 230-22 C.(1)(b) for an increase in the number of free standing signs from the allowed two to three (Lot #2); and Section 230-22 C.(1)(b) for an increase in the total square footage of the third free standing sign from 0 to 24 square feet (Lot # 2), to allow for a commercial development, including a plaza-style development and three out-parcel retail units. The property is located in the RC-1 Regional Commercial District.

(Proof of Publication was read by the Secretary at the April 9, 2018 meeting and re-read and tonight's meeting.)

Marco Marzocchi was present to go over the requested variances. He first submitted exhibits to the Board. He located the project by producing a rendering of the proposed multi-tenant structure within the parcel and fronted by three out parcels. The site perimeter reductions are for bio retention areas on the west side and the east side. The eastern site perimeter is minimal and abuts the former Key

Bank parcel. The reduction of the highway overlay is for the tenant's need for a particular sized building.

Mr. Marzocchi addressed the Standards of Proof for the perimeter landscape strip reduction:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. Due to the distance from NYS Route 31 and the fact that it abuts the railroad tracks, it is consistent with the character of NYS Route 31.
2. He doesn't believe there is any other feasible method than to obtain Area Variances. They are required to have Stormwater management areas and before the Interpretation of these not being allowed in the perimeter landscape strip, the Town was allowing these to be located within these areas. Also, the topography of the site limits where these can go.
3. He doesn't feel the Area Variance requests are substantial, it is a very small per-cent, less than 1% pavement and 5% of Stormwater will encroach into these areas. Mr. Marzocchi also stated that driveways/pavement can encroach into these areas. Mr. Layout corrected that they can transverse only.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood due to the increased pavement for parking.
5. He believes the need for the Area Variance is not self-created because of the recent Interpretation that has changed the way the Town looks at Stormwater ponds and where they can be allowed. He does believe that the parking portion of the variance is self-created.

Mr. Marzocchi next presented each Area Variance that was requested. He oriented the audience to the site, and its proximity to other businesses on NYS 31 and described how the railroad tracks bisect the parcel. Because of this division, the need for a perimeter landscape strip was created that would not have been if this parcel was not bisected by the railroad tracks. There is some pavement and some of the Stormwater retention area that encroach into this area creating the need for the variances.

Mr. Marzocchi addressed the Standards of Proof for the sign Area Variances:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. This is a heavily traveled area of NYS 31 and would be consistent with the area.
2. He doesn't believe there is any other feasible method than to obtain Area Variances.
3. He doesn't feel the Area Variance requests are substantial, he is requesting half of what is currently allowed.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood, the signs are consistent with others along NYS 31.
5. He believes the need for the Area Variances is not self-created due to the lateral layout of the property as dictated by the NYS DOT. This variance is needed for a sign on the middle parcel.

Mr. Marzocchi next presented the need for the sign variance, and stated that the third sign they are asking for is only a 9-foot-high monument sign, and this sign is 60 square feet in area. The other 2 signs are what the code allows: 128 square feet and 25 feet high. Mr. Layout asked if the applicant is proposing a portion of the sign to be an electronic message board, and Mr. Marzocchi stated that it is. Mr. Layout reminded him that these require separate approvals, a Special Permit issued by the

Planning Board.

Mr. Marzocchi next presented his case for the remaining variance of a reduction in the highway overlay. He stated that his submittals have changed and wishes to present them to the Board at this time. He submitted a letter from Chazen Companies dated July 9, 2018 lending support to the standards of proof. A second letter/report from Thurston, Casale & Ryan, LLC Real Estate Appraisal and Consulting was also submitted. This was in regard to their review of the ZBA application. A third email from the real estate agent for Dunkin' Donuts was submitted and this stated that a smaller configuration would not suit their client. Mr. Marzocchi gave an overview of these findings and discussed other variances that were granted in this vicinity.

Chairman Mangan stated that this Board will act independently of what had been done in the past.

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

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

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

Hearing no further comments, the Chairman CLOSED the public hearing.

MOTION made by Mrs. Miller-Allgaier in Case #1693 by to deny the Area Variance for a reduction in the highway overlay setback from 165 feet to 160 feet with the condition that it be in substantial compliance with Exhibit "A", Site Plan dated October 30, 2017. Motion was seconded by Mrs. Liebi.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layou	- in favor	
	Mrs. Miller-Allgaier	- in favor	<i>Unanimously carried.</i>

MOTION made in Case #1693 by Mrs. Miller-Allgaier to approve the Area Variance for a reduction in the perimeter landscape strip from 30 feet to 2 feet (varying from 2 feet to 27 feet) (Lot # 4) with the condition that it be in substantial compliance with Exhibit "A", Site Plan dated October 30, 2017. Motion was seconded by Mr. Layou.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layou	- in favor	
	Mrs. Miller-Allgaier	- in favor	<i>Unanimously carried.</i>

MOTION made in Case #1693 by Mrs. Miller-Allgaier to approve the Area Variance for an increase in the number of free standing signs from the allowed two to three (Lot #2) with the condition that

it be in substantial compliance with Exhibit "A", Site Plan dated October 30, 2017. Motion was seconded by Mr. Layou.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Layou - in favor
Mrs. Miller-Allgaier - in favor *Unanimously carried.*

MOTION made in Case #1693 by Mrs. Miller-Allgaier to approve the Area Variance for an increase in the total square footage of the third free standing sign from 0 to 24 square feet (Lot # 2) with the condition that it be in substantial compliance with Exhibit "A", Site Plan dated October 30, 2017. Motion was seconded by Mr. Layou.

Roll call: Chairman Mangan - in favor
Deputy Chairman Wisnowski, Jr. - in favor
Mrs. Liebi - in favor
Mr. Layou - in favor
Mrs. Miller-Allgaier - in favor *Unanimously carried.*

The Area Variances in Case #1693: one denial/three approved as recorded.

NEW BUSINESS:

Case #1716 – Melissa Mueller – 90 Richardson Drive, Tax Map #102.-04-15.0:

The applicant is requesting a Special Permit per Section 230-13 D.(2)(d)[1] for a Home Occupation for a single operator Hair Salon. The property is located in an R-10 One-Family Residential District.

Commissioner Territo read the Proof of Publication.

Melissa and Jeremy Mueller of 90 Richardson Drive presented their request to the Board. Mrs. Mueller explained that this will be a single booth operator hair salon. This will utilize a separate entrance to the house and consist of approximately 200 square feet. Ms. Mueller has been a hair dresser for over 16 years. There will be no signage on the property. The salon will accommodate only 1 to 2 persons at a time. There is room for 4 cars in the driveway and there is also a 2-car garage. The hours will be on Monday/Wednesday/Friday.

The applicants stated that this location of Richardson and Bear contains many similar small businesses.

Mrs. Liebi asked if there is 1 chair and 1 chair for waiting and the applicant said that is correct. She also stated that there is room to park side by side in the driveway.

Chairman Mangan stated that there is to be NO parking on the street. The applicant agreed. Deputy Chairman Wisnowski stated that the Board is trying to look out for the residents and neighborhood as a whole and not singling out the applicant. The Chairman asked if they also intend to live in the

house, and the applicants stated that they will.

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 further questions and there were none.

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

Hearing nothing further the Chairman CLOSED the public hearing.

MOTION made by Mrs. Liebi in Case #1716 by to approve the Special Permit for a single operator hair salon, with the condition that they be in substantial compliance with Exhibit "A", a survey dated July 6, 1992 last revised May 24, 2012. Motion was seconded by Mrs. Miller-Allgaier.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layou	- in favor	
	Mrs. Miller-Allgaier	- in favor	<i>Unanimously carried.</i>

The Special Permit in Case #1716 was approved.

Case #1717 – Charles J. Delaney, Jr. – 108 Standish Drive, Tax Map #098.-07-11.0:

The applicant is requesting a Special Permit per Section 230-13 E.(2)(d)[1] for a Home Occupation as a Firearm Dealer to sell out of home and online. The property is located in an R-7.5 One-Family Residential District.

Commissioner Territo read the Proof of Publication.

Mr. Charles Delaney, Jr. of 108 Standish Drive presented his request to the Board. Mr. Delaney is proposing to be a firearms dealer and in order for the ATF to approve his request, he needs permission from the local municipality. Mr. Delaney plans to sell strictly online. These sales are by appointment only, and background checks are done. There will be no signage on the property. There will be no address on his website that would link people to his home address, a P.O. Box will be used to conduct the business. He has had security cameras installed on his house, as well as a security system. Within the house will be 2 safes for the long guns, 1 safe for handguns and 1 safe for personal guns. The weapons must come to his house before being sold.

Mr. Layou explained to the audience that he is also a firearms dealer and appeared before this Board for the same approvals. He explained the safety measures that are in place, and the different types of websites where people search for these firearms to purchase.

Mr. Delaney stated that he will not be advertising on Buds Guns or other such popular websites. He

also stated that he will not stock inventory. Gun shops typically get hit more than residences. Due to the popularity of online sales, this has created a need for a middleman to distribute these firearms.

The Board acknowledged the receipt of letters from area residences. One neighbor asked if this would negatively impact property values. The Zoning Board does not have expertise on this. One neighbor expressed his concern about the ability to sell from his home. Chairman Mangan explained that many people have been doing this for many years, and it was only recently that the Feds have changed the rules, and now dealers need an additional layer of approval from the local municipalities, which is how people are now made aware.

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 further questions and there were none.

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

Hearing nothing further the Chairman CLOSED the public hearing.

MOTION made by Mr. Layout in Case #1717 to approve the Special Permit to allow for a Home Occupation as a Firearm Dealer to sell out of home and online with the condition that they be in substantial compliance with Exhibit "A", a survey dated July 30, 2013. Motion was seconded by Mrs. Miller-Allgaier.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layout	- in favor	
	Mrs. Miller-Allgaier	- in favor	<i>Unanimously carried.</i>

The Special Permit in Case #1717 was approved.

Case #1718 – Michael Judd – 2 Mango Lane, Tax Map #094.-13-03.0:

The applicant is requesting Area Variances per Section 230-13 E.(4)(b)[1] for a reduction of the front yard setback from 25 feet to 14 feet, and Section 230-20 B.(2)(b) for an increase in the allowable height of a fence in a front yard from 2 ½ feet to 6 feet, for construction of a fence. The property is located in an R-7.5 One-Family Residential District.

Commissioner Territo read the Proof of Publication.

Mr. Michael Judd of 2 Mango Lane presented his request to the Board. Mr. Judd is proposing to replace an old fence that has gone into disrepair with a new cedar fence and the location of it on a corner lot, front yard, creates the need for a variance since he would like it beyond the building line. He would like to better utilize this side portion of his front yard for his family and dog.

Mr. Judd addressed the Standards of Proof:

1. He doesn't believe there will be any negative or undesirable change to the character of the neighborhood. The new fence will look nicer.
2. He doesn't believe there is any other feasible method than to obtain Area Variances, if he wants to give his children more area to utilize.
3. He does feel the Area Variance requests are substantial because the fence will go beyond the building line.
4. He doesn't believe there will be any physical or environmental impact to the neighborhood. He has checked visibility as you approach the corner and feels this fence will not impact the site visibility.
5. The need for the Area Variance is self-created, but the previous owner left him with this condition.

Mrs. Liebi thanked the applicant and stated he presented his case very well to the Board.

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 further questions and there were none.

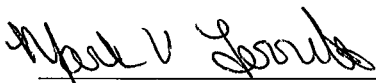
Chairman Mangan asked for those in favor and those opposed to granting the Area Variance requests and there were none. Hearing nothing further the Chairman CLOSED the public hearing.

MOTION made by Deputy Chairman Wisnowski in Case #1718 by to approve the Area Variances as requested with the condition that they be in substantial compliance with Exhibit "A" dated April 19, 2017. Motion was seconded by Mrs. Liebi.

Roll call:	Chairman Mangan	- in favor	
	Deputy Chairman Wisnowski, Jr.	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Layou	- in favor	
	Mrs. Miller-Allgaier	- in favor	<i>Unanimously carried.</i>

The Area Variances in Case #1718 were approved.

There being no further business, Chairman Mangan adjourned the meeting at 8:45 P.M. Motion Seconded by Deputy Chairman Wisnowski.



Mark V. Territo
Zoning Board of Appeals
Town of Clay