

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
September 12, 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, New York on September 12, 2011.

Chairman Mangan called the meeting to order at 7:30 P.M. and upon the roll being called the following were:

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| PRESENT: | Charles V. Mangan | Chairman |
| | Arthur Fennhahn | Deputy Chairman |
| | Eugene Young | Member |
| | Karen Liebi | Member |
| | Mark Smith | Member |
| | Vivian Mason | Secretary |
| | Robert Germain | Attorney |

MOTION made by Ms. Liebi that the Minutes of the meeting of August 8, 2011 be accepted. Motion was seconded by Mr. Smith. *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 Type II actions, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Deputy Chairman Fennhahn. *Unanimously carried.*

OLD BUSINESS:

None.

NEW BUSINESS:

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

Case #1426 – AREA VARIANCE – Miguel Fonseca, 3 Apple Tree Lane, Tax Map #086.-35-05.0:

The applicant is requesting an area variance pursuant to Section 230-13 E.(4)(b)[1] to allow for a reduction in the front yard setback from 25 feet to 22 feet to allow for the construction of a covered porch. The property is located in the R-7.5, One-Family Residential zoning district.

The secretary read the proof of publication.

Mr. Fonseca explained that the entrance to his home is low and that icicles form and touch the ground, making it dangerous. He would like to put a roof over it.

Mr. Fonseca addressed the standards of proof:

1. He believes there will not be any undesirable change to the character of the neighborhood. It will be an improvement.
2. In order to prevent the icicles he feels the only feasible method is a covered porch.
3. He feels the variance is minimal and not substantial.
4. He believes there will be no adverse or environmental impact on the neighborhood.
5. The need for the variance is self-created.

Chairman Mangan asked for any comments and there were none.

Chairman Mangan asked for those in favor of granting the Area Variance and there was one, Gail Bowman. Chairman Mangan asked for those opposed to granting the Area Variance and there were none.

Chairman Mangan closed the hearing.

MOTION was made by Ms. Liebi in Case #1426 to grant the Area Variance as requested with the condition that it be constructed in substantial compliance with Exhibit "A" and "B". Motion was seconded by Mr. Smith.

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

The Area Variance request in Case #1426 is granted.

Case #1427 - AREA VARIANCE - Nathan R. Hacker, 22 Oriole Path, Tax Map #094.-08-21.0:

The applicant is requesting area variances pursuant to Sections 230-13 E.(4)(b)[1] and 230-13 E.(4)(b)[2] to allow for a reduction in the front yard setback from 25 feet to 22 feet and the reduction in the side yard setback from 10 feet to 6 feet, for the construction of a garage addition. The property is located in the R-7.5, One-Family Residential zoning district.

Chairman Mangan announced that the applicant gave notification that he is withdrawing his request.

Case #1428 - AREA VARIANCE - Denise L. Smith, 7419 Muench Road, Tax Map #107.-01-10.0:

The applicant is requesting an area variance pursuant to Section 230-13 E.(4)(c)[4] to allow an increase in height from the maximum of 12 feet for an accessory structure to a height of 14.9 feet for the construction of a Gazebo. The property is in the R-7.5, One-Family Residential zoning district.

The secretary read the proof of publication .

Chairman Mangan asked if the Gazebo is already built, and Denise Smith said yes. She explained that she had submitted plans for a building permit, which was approved. However, she did not know there was a height limit for the structure. The cupola on the top took the structure over the allowed height. When the code officer made the final inspection he realized it was in violation.

Ms. Smith addressed the standards of proof:

1. She believes there will not be any undesirable change to the character of the neighborhood. It does not obscure anyone's view.
2. Due to the design of the Gazebo, modifying would change the structure, because of the middle post. She believes to maintain the integrity of the design this is the only feasible method which means the request for an Area Variance.
3. She feels the variance is not substantial.
4. She believes there will be no adverse or environmental impact on the neighborhood.
5. The need for the variance is self-created.

Chairman Mangan asked for any comments and there were none.

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

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1428 to grant the Area Variance as constructed. Motion was seconded by Ms. Liebi.

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

The Area Variance request in Case #1428 is granted.

Case #1429 - AREA VARIANCE - Terrance B. Morse, 5274 Caughdenoy Road, Tax Map #076.-01-12.3:

The applicant is requesting area variances pursuant to Sections 230-13 A.(4) and 230-23C(2), to allow a reduction of the 75 foot front yard setback to 56 feet, and to expand the non-conformity of the existing structure, for construction of a residential deck. The property is located in the RA-100, Residential Agricultural zoning district.

The secretary read the proof of publication.

Chairman Mangan noted that the major part of the deck is already done.

Mr. Morse stated that he needs to finish the rail and steps. It is located between the house and the pole barn. The front yard setback requirement changed, making the house a nonconforming structure.

Mr. Morse addressed the standards of proof:

1. He believes there will not be any undesirable change to the character of the neighborhood.
2. It is between the house and the pole bard, and he believes this is the most feasible location, thus requiring an Area Variance.
3. He feels the variance is not substantial. The house is in front of it.
4. He believes there will be no adverse or environmental impact on the neighborhood. There is a commercial business next door.
5. The need for the variance is self-created.

Chairman Mangan asked for any comments and there were none.

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

Chairman Mangan closed the hearing.

MOTION was made by Deputy Chairman Fennhahn in Case #1429 to grant the Area Variance as requested, expanding the non-conformity of the existing structure, with the condition that it be constructed in substantial compliance with the Exhibit "A" plans. Motion was seconded by Mr. Young.

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

The Area Variance request in Case #1429 is granted.

**Case #1430 - AREA VARIANCE - Syracuse Signage, Inc. (JOANN Fabrics and Crafts),
4154 Route 31, Tax Map #055.-01-06.1:**

The applicant is requesting an area variance pursuant to Section 230-22 C.(1) to allow for 2 additional signs; one 38.9 square foot boxed-in sign and one 56 square foot sign. The property is located in an RC-1, Regional Commercial zoning district.

The secretary read the proof of publication .

Chairman Mangan noted that two signs have already been approved, and Rich Hubeny, who is representing the applicant, said yes. They have two facing the parking lot, and they want one on the front of the front of the building so that it will be visible from Route 31.

Mr. Hubeny addressed the standards of proof:

1. They believe there will not be any undesirable change to the character of the neighborhood. It's a commercial property and there are signs there already.
2. They believe for business success and this is the only feasible location.
3. They feel the variance is not substantial. They are not over the square footage allowed with the four signs; they are just spreading them out.
4. They believe there will be no adverse or environmental impact on the neighborhood.
5. They don't feel the need for the variance is self-created.

Chairman Mangan commented that if someone is looking for a place to eat he could see the need for the extra signs, but he questioned the need for the signs for this type of store.

Mr. Hubeny said that he had questioned it also and JOANN's feel that their success depends on the additional signage.

Chairman Mangan asked for any comments and there were none.

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

Chairman Mangan closed the hearing.

MOTION was made by Mr. Smith in Case #1430 to grant the Area Variance as requested with the condition that it be constructed in substantial compliance with Exhibit "A" (submitted package). Motion was seconded by Ms. Liebi.

Roll call: Chairman Mangan - in favor
Deputy Chairman Fennhahn - in favor
Mr. Young - in favor
Mrs. Liebi - in favor
Mr. Smith - in favor *Unanimously carried.*

The Area Variance request in Case #1430 is granted.

Case #1431 - AREA VARIANCE - Marion S. Korzeniewski, 4223 Wetzel Road, Tax Map #081.-22-16.0:

The applicant is requesting an area variance pursuant to Section 230-19 A.(5) to decrease the required highway overlay setback from 115 feet from the center line of the road to 48 feet, for the construction of stairs/deck attached to a principal structure. The property is located in the R-7.5, One-Family Residential zoning district.

The secretary read the proof of publication .

Mr. Korzeniewski explained that the concrete steps to the entrance of his house are deteriorating.

Mr. Korzeniewski addressed the standards of proof:

1. He is simply replacing the front steps so there will not be any undesirable change to the character of the neighborhood. It will be an improvement.
2. Since it is the entrance to his home, this is the only feasible location.
3. He feels the variance is not substantial.
4. He believes there will be no adverse or environmental impact on the neighborhood.
5. He does not believe the need for the variance is self-created; the steps fell apart and need to be replaced.

Chairman Mangan explained that the house was built before the highway overlay was changed.

Deputy Chairman Fennhahn asked Mr. Korzeniewski if he was removing the concrete and Mr. Korzeniewski said yes. Deputy Chairman Fennhahn told the applicant that he can't go out of the current footprint and Mr. Korzeniewski said he knew that.

Chairman Mangan asked for any comments and there were none.

Chairman Mangan asked for those in favor of granting the Area Variance and Russ Mitchell said he was in favor. Chairman Mangan asked for those opposed to granting the Area Variance and there were none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1431 to grant the Area Variance as requested with the condition that it be constructed in substantial compliance with Exhibit "A". Motion was seconded by Mr. Smith.

Roll call: Chairman Mangan - in favor
 Deputy Chairman Fennhahn - in favor
 Mr. Young - in favor
 Mrs. Liebi - in favor
 Mr. Smith - in favor *Unanimously carried.*

The Area Variance request in Case #1431 is granted.

Case #1432 - AREA VARIANCE - Joseph C. Guiffrida, 7592 Aster Drive, Tax Map #096.-20-01.0:

The applicant is requesting area variances, pursuant to Section 230-13 E.(4)(c)[1] and Section 230-20 B.(2)(b) to allow for a reduction in the minimum front yard setback of 25 feet to 17 feet, and to allow for an increase in the allowable fence height in a front yard for the purpose of constructing a fence. The property is located in the R-7.5, One-Family Residential zoning district.

The secretary read the proof of publication .

Joseph Guiffrida explained that his house is on a corner lot. They are replacing a current part of the fence. The house sits on the property line.

Mr. Guiffrida addressed the standards of proof:

1. He believes there will not be any undesirable change to the character of the neighborhood. They are replacing rotten fence and a replacement fence will be an enhancement.
2. The house is on the building line, so the can't construct the fence without an Area Variance.
3. He feels the variance is not substantial.
4. He believes there will be no adverse or environmental impact on the neighborhood.
5. The need for the variance is self-created.

Chairman Mangan asked for any comments and there were none.

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

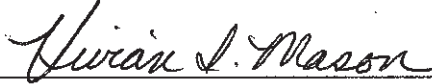
Chairman Mangan closed the hearing.

MOTION was made by Mr. Smith in Case #1432 to grant the Area Variance as requested with the condition that the height of the fence not exceed six feet in height. Motion was seconded by Ms. Liebi.

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

The Area Variance request in Case #1432 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