DRAFT/UNAPPROVED

ZONING BOARD OF APPEALS
MINUTES OF MEETING
October 12, 2026

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 October 12, 2026. Chairperson Mason called the meeting to order at 6:00 P.M. and upon the roll being called the following were:

PRESENT:	Vivian Mason	Chairperson
	Karen Liebi	Deputy Chairperson
	Ryan Frantzis	Member
	David Porter	Member
	Michael Becker	Member
	Mary Lou DesRosier	Alternate Member
ABSENT:	None	
OTHERS PRESENT:	Robert Germain	Attorney
	Brian Bender	Planning & Development Commissioner
	Charlie Metott	Code Enforcement Officer
	Chelsea Clark	Zoning Board Secretary

All present participated in the Pledge of Allegiance.

MOTION made by Mr. Frantzis that the Minutes of the meeting of September 14, 2026, be accepted as submitted. Motion was seconded by Deputy Chairperson Liebi. Unanimously carried.

MOTION made by Chairperson Mason 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. Mr. Frantzis seconded motion. Unanimously carried.

OLD BUSINESS:

Case #2018 – John Anthony Properties LLC, 8285 Oswego Rd., Tax Map ID# 054.-02-08.1.:

The applicant is seeking an Area Variance pursuant to Section 230-13D(4)(c)[4]- Lot and Structure Dimensional Requirements, for an increase in maximum height of an accessory structure from 12 feet to 26.3 feet. The property is in the One-Family Residential (R-10) Zoning District.

The secretary read the proof of publication at the September 14, 2026, Zoning Board of Appeals Meeting.

The applicant and Steve Calocerinos of Calocerinos engineering were present.

Mr. Frantzis read the following General and SEQRA findings for the record:

TOWN OF CLAY ZONING BOARD OF APPEALS

Case #: **2018-Tax Map No. 054.-02-08.1**
Applicant: **John Anthony Properties, LLC**
Type: **Area Variance Pursuant to Section 230-13D(4)(c)(4)**
Property: **8285 Oswego Road**

GENERAL AND SEQRA RELATED FINDINGS OF FACT IN SUPPORT OF DECISION

General Issue Summary:

The owner is seeking an Area Variance pursuant to Section 230-13D(4)(c)(4) of the Town Code to allow for the construction of a new building that would be 26.3 feet in height where the maximum height allowed by code is 12 feet. The property is zoned R-10 Residential.

The applicant is seeking to build a new garage/pole barn type structure that is 26.3 feet in height pursuant to the plans, specifications and elevations contained in the file and labeled "Exhibit A."

Public Hearing Conducted:

On September 14th, 2026, the Town of Clay ZBA conducted a public hearing addressing the application for a height variance. In addition to the written evidence submitted in the Application, the Applicant's engineer described the project and proposal and addressed the standards of proof.

1. Will the granting of the variance produce an undesirable change in the character of the neighborhood or nearby properties?

2. Could the benefit sought be achieved by any other means?

3. Is the request substantial?

4. Will the request have an adverse physical or environmental effect?

5. Is the alleged difficulty self-created?

FINDINGS AND DECISION

Findings:

1. This application seeking area variances is properly classified as a Type II Action for the purpose of SEQRA compliance. No further SEQRA compliance action is required.

2. We find the Application, if granted would in fact create an undesirable change in the character of the neighborhood. The property is zoned for Residential Use (R-10) and we find the large building size and plan to be inconsistent with the neighborhood. The large second floor area is unlike the few other similar accessory structures in the area.

3. We find the benefit of an accessory structure/garage could be achieved by simply building a smaller single-story garage. The applicant's engineer testified that the applicant wants to store a boat in the garage. We believe he could in fact store a boat in a single-story garage less than the requested 26.3 feet in height.

4. The applicant's engineer testified that the requested variance is not substantial. We disagree. The requested increase in height from 12 to 26.3 feet is approximately a 220% increase. We believe and find the requested variance is certainly substantial.

5. We find the proposal, if granted, could have an adverse effect on the local environment. The size, height and design of the requested building does not fit with the neighborhood.

6. We find the alleged difficulties is clearly self-created.

DECISION:

The Zoning Board of Appeals hereby adopts these findings and finds the application before the Board failed to prove the legal requirements necessary to grant the variance requested. Accordingly, this board moves the adoption of a resolution denying the variance requested.

MOTION was made by Mr. Frantzis in Case #2018 to deny the Area Variance as requested. Motion was seconded by Mr. Porter.

Roll Call:	Mr. Becker	- in favor
	Mr. Porter	- in favor
	Mr. Frantzis	- in favor
	Mrs. Liebi	- in favor
	Chairperson Mason	- in favor

Unanimously Carried, Application Denied.

NEW BUSINESS:

Case #2014 – Walmart Inc., 8770 Dell Center Drive, Tax Map ID #021.-01-03.3.:

The applicant is seeking four Area Variances pursuant to Section 230-16C(4)(a)[2][c] and Section 230-16C(4)(a)[1][b] – Lot and Structure Dimensional Requirements, for a reduction in the rear yard setback from 75 feet to 70.7 for a principal building, 75 feet to 50.5 feet for an accessory structure, a reduction in the site perimeter landscape strip from 30 feet to 19.5, and Section 230-21E- Required Parking and Loading Spaces, for a reduction in required parking spaces from 619 to 536 spaces for a new convenience store and gas station in the southeast parking lot. The current retail store requires 4 spaces/1,000 square feet, and the new convenience store and gas station require 5 spaces/acre, and 6 spaces/1,000 square feet of retail space. The property is in the Regional Commercial (RC-1) Zoning District.

The secretary read the proof of publication.

Randy Debout of Bohler Engineering was present on behalf of the applicant.

Chairperson Mason asked Mr. Debout to explain the request for Area Variances.

Mr. Debout explained the applicant is requesting the Area Variances to allow for construction of a new Convenience Store as well as a Gas Station with 8 fuel dispensers, these Variances are the first step they need before moving forward with the proposed project. Mr. Debout added that this would not be a membership only gas station and would be open to the public.

Chairperson Mason asked Mr. Debout to address the Standards of Proof.

Mr. Debout offered the following responses:

1. The applicant does not believe the requested Area Variances will create an undesirable change to the character of the neighborhood as the parcel is in a Commercial Zoning District with other retail stores nearby.
2. The applicant does not believe there are other feasible methods other than the requested Area Variances as they would not be functional.
3. The applicant does not believe the requested Area Variances are substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. The need for the Variances is self-created.

Chairperson Mason asked if there were any further comments or questions from the Board and there were none.

Chairperson Mason asked Planning Commissioner Bender if he had any questions or comments.

Commissioner Bender added that the applicant has worked with staff and reviewed the traffic study and parking and believes it to be sufficient to move forward.

Chairperson Mason asked Codes Officer Metott if he had any questions or comments and he had none.

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

Chairperson Mason asked for those who would like to speak in favor of granting the Area Variances and there were none.

Chairperson Mason asked for those who would like to speak against granting the Area Variances and there were none.

Chairperson Mason closed the hearing.

MOTION was made by Mrs. Liebi in Case #2014 to approve the Area Variances as requested with the condition they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Frantzis.

Roll Call:	Mr. Becker	- in favor	
	Mr. Porter	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Chairperson Mason	- in favor	*Unanimously Carried*.

Case #2019- Paul Licari, 8894 Caughdenoy Road, Tax Map ID #048.-01-06.0.:

The applicant is seeking three Area Variances pursuant to Section 230-17D(4)(b)[1][a] and Section 230-17D(4)(b)[3] Lot and Structure Dimensional Requirements, for a reduction in the front yard setback from 200 feet to 50 feet and a reduction in the rear yard setback from 25 feet to 20 feet, and Section 230-19A(5)-Highway Overlay Zone District, for a reduction in Highway Overlay Type C setback from 115 feet to 74 feet to permit construction of a warehouse and accessory parking. The property is in the Industrial 2 (I-2) Zoning District.

The secretary read the proof of publication.

Pat Reynolds of Ianuzi and Romans was present on behalf of the applicant.

Chairperson Mason asked Mr. Reynolds to explain the request for Area Variances.

Mr. Reynolds explained they took the Zoning Boards comments on their previously denied application into consideration and re-worked their plan to reduce the ask. The applicant removed the blacktop that was proposed in the rear of the building and pushed the proposed building back to allow for more available space in the front of the proposed building.

Chairperson Mason asked Mr. Reynolds to address the Standards of Proof.

Mr. Reynolds offered the following responses:

1. The applicant does not believe the requested Area Variances will create an undesirable change to the character of the neighborhood as the parcel is in an Industrial Zoning District.
2. The applicant does not believe there are other feasible methods other than the requested Area Variances.
3. The applicant does believe the requested Area Variances are substantial overall but does not believe the Highway Overlay requested Area Variance is not substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. The need for the Variances is self-created.

Chairperson Mason asked if there were any further comments or questions from the Board.

Mr. Frantzis expressed his appreciation of the rework made by the applicant from the old application to this application.

Chairperson Mason asked Planning Commissioner Bender if he had any questions or comments.

Commissioner Bender stated that the lot is undersized for the I-2 Zoning District it is in.

Chairperson Mason asked Codes Officer Metott if he had any questions or comments and he had none.

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

Chairperson Mason asked for those who would like to speak in favor of granting the Area Variances and there were none.

Chairperson Mason asked for those who would like to speak against granting the Area Variances and there were none.

Chairperson Mason closed the hearing.

MOTION was made by Mr. Porter in Case #2019 to approve the Area Variances as requested with the condition they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Frantzis.

Roll Call:	Mr. Becker	- in favor	
	Mr. Porter	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Chairperson Mason	- in favor	*Unanimously Carried*.

Case #2020 – Louis Pennacchia Jr., 110 Fletcher Drive, Tax Map ID #111.-05-06.0.:

The applicant is seeking two Area Variances pursuant to Section 230-13D(4)(c)[1] – Lot and Structure Dimensional Requirements, for a reduction in the front yard setback from 25 feet to 7 feet; and Section 230-20B(2)(b) to have a fence height of 6 feet between the street line and setback line. The property is in the One-Family Residential (R-10) Zoning District.

The secretary read the proof of publication.

The applicant was present.

Chairperson Mason asked the applicant to explain his request for Area Variances.

Mr. Pennacchia explained he is looking to replace an existing chain-link fence with a privacy fence, following the existing fence line.

Chairperson Mason asked the applicant to address the Standards of Proof.

Mr. Pennacchia offered the following responses:

1. The applicant does not believe the requested Area Variances will create an undesirable change to the character of the neighborhood.
2. The applicant does not believe there are other feasible methods other than the requested Area Variances.
3. The applicant does not believe the requested Area Variances are substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. The need for the Variances is self-created.

Chairperson Mason asked if there were any further comments or questions from the Board and there were none.

Chairperson Mason asked Planning Commissioner Bender if he had any questions or comments and he had none.

Chairperson Mason asked Codes Officer Metott if he had any questions or comments and he had none.

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

Chairperson Mason asked for those who would like to speak in favor of granting the Area Variances and there were none.

Chairperson Mason asked for those who would like to speak against granting the Area Variances and there were none.

Chairperson Mason closed the hearing.

MOTION was made by Mr. Becker in Case #2020 to approve the Area Variances as requested with the condition they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Frantzis.

Roll Call:	Mr. Becker	- in favor	
	Mr. Porter	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Chairperson Mason	- in favor	*Unanimously Carried*.

Case #2021- Nicholas T. Cicolini, 8413 Sugar Pine Circle, Tax Map ID #056.-02-67.0.:

The applicant is seeking an Area Variance pursuant to Section 230-13E(4)(c)[4] - Lot and Structure Dimensional Requirements, for an increase in maximum height of an accessory structure from 12 feet to 14 feet. The property is the One-Family Residential (R-7.5) Zoning District.

The secretary read the proof of publication.

The applicant was present.

Chairperson Mason asked the applicant to explain his request for an Area Variance.

Mr. Cicolini is requesting an additional two feet in height for a proposed garage for storage purposes.

Chairperson Mason asked the applicant to address the Standards of Proof.

Mr. Cicolini offered the following responses:

1. The applicant does not believe the requested Area Variance will create an undesirable change to the character of the neighborhood.
2. The applicant does not believe there are other feasible methods other than the requested Area Variance as the proposed garage is pre-fabricated and only comes in certain dimensions.
3. The applicant does not believe the requested Area Variance is substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. The need for the Variance is self-created.

Chairperson Mason asked if there were any further comments or questions from the Board and there were none.

Chairperson Mason asked Planning Commissioner Bender if he had any questions or comments and he had none.

Chairperson Mason asked Codes Officer Metott if he had any questions or comments and he had none.

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

Chairperson Mason asked for those who would like to speak in favor of granting the Area Variances and there were none.

Chairperson Mason asked for those who would like to speak against granting the Area Variances and there were none.

Chairperson Mason closed the hearing.

MOTION was made by Mr. Porter in Case #2021 to approve the Area Variance as requested with the condition they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Frantzis.

Roll Call:	Mr. Becker	- in favor	
	Mr. Porter	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Chairperson Mason	- in favor	*Unanimously Carried*.

Case #2022- David Elbert/Craig Gould, 4831 Lepinske Farm Place, Tax Map ID #063.-11-02.0.:

The applicant is seeking an Area Variance pursuant to Section 230-13C(4)(c)[4] - Lot and Structure Dimensional Requirements, for an increase in maximum height of an accessory structure from 12 feet to 15.4 feet. The property is the One-Family Residential (R-15) Zoning District.

The secretary read the proof of publication.

There was no applicant or representative present.

MOTION was made by Chairperson Mason to adjourn Case #2022 to the November 9, 2026, Zoning Board of appeals Meeting. Motion was seconded by Mr. Frantzis.

Roll Call:	Mr. Becker	- in favor	
	Mr. Porter	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Chairperson Mason	- in favor	*Unanimously Carried*.

Case #2023- Todd Fritzen/Wetzel Storage LLC, 4664 Wetzel Road, Tax Map ID #087.-01-12.0.:

The applicant is seeking four Area Variances pursuant to Section 230-17C(4)(b)[1][a], Section 230-17C(4)(b)[1][b], and Section 230-17C(4)(b)[2]—Lot and Structure Dimensional Requirements. The requested variances would allow for a reduction in the front yard setback along Wetzel Road from 200 feet to 10.3 feet; a reduction in the front yard setback along Maltage Drive from 50 feet to 20 feet; and a reduction in the side yard setback from 25 feet to 19.1 feet; and pursuant to Section 230-19A—Highway Overlay Type C, to reduce the required setback from 115 feet to 10.3 feet for the development of BESS equipment. The property is located within the Industrial 1 (I-1) Zoning District.

The secretary read the proof of publication.

Olivia Sproviero of Nexamp was present on behalf of the applicant.

Chairperson Mason asked Ms. Sproviero to explain the request for Area Variances.

Ms. Sproviero explained they are requesting Area Variances to allow for construction of a Tier 3 Battery Energy Storage System. Ms. Sproviero then asked the board to consider this application under the public utility variance standard established by the New York Court of Appeals. The proposed property is one of the few locations in the I-1 and I-2 Zoning Districts whose distance to the National Grid substation would allow for feasible connection. When choosing a location, other potential sites had similar constraints. Ms. Sprovierdo explained they have engaged with the NYSDEC as wetlands are a large portion of the parcel. They have configured the site as best fits with the NYSDEC requirements to create as much of a barrier as possible and reduce overall footprint. Noise studies have determined they would be within the limit of 60 decibel noise ordinance. The project would have no lighting, except for approximately during the five site visits per year for maintenance and inspection purposes.

While the applicant asked to be governed under the Public Utility Variance Standard, they also addressed the following:

1. The applicant does not believe the requested Area Variances will create an undesirable change to the character of the neighborhood as the proposed project is consistent with I1 Zoning District characteristics and would produce less day-to-day activity than other conventional uses involving occupied buildings.
2. The applicant does not believe there are other feasible methods other than the requested Area Variances as properties with feasible interconnection is limited.
3. The applicant does believe the front-yard, second side-yard and designated highway setback variances are numerically substantial, however does not believe it to be substantial when evaluated in land-use context.
4. The applicant does not believe there will be any adverse effect to the neighborhood and believes granting of the Area Variances would be the least environmentally disruptive layout that remains technically and safely feasible.
5. The need for the Variances is self-created.

Chairperson Mason asked if there were any further comments or questions from the Board and there were none.

Chairperson Mason asked Planning Commissioner Bender if he had any questions or comments.

Commissioner Bender explained that the Town Board put together the Battery Energy Storage System ordinance with very specific location requirements and if the site cannot accommodate without Area Variances, it should not be allowed.

Chairperson Mason asked Codes Officer Metott if he had any questions or comments and he had none.

Chairperson Mason asked if anyone in the audience had any questions or comments.

Cliff Knickerbocker, 4676 Wetzel Road, stated the nearby creek often floods three to four feet when it rains and voiced concerns about toxic waste draining to the Hamilton Marsh and a neighbor who could suffer severe physical harm from toxic fumes. Mr. Knickerbocker is opposed to granting of the Area Variances.

Shawn Perry, 4061 Elaine Circle, stated he agrees with Mr. Knickerbocker and is opposed to granting the Area Variances, adding that there are homes, parks, a nursery school facility and YMCA within a quarter mile of the proposed facility. Mr. Perry also added these facilities proposed extreme fire hazards.

Janet Rathburn, 4760 Freestone Road, voiced that if an applicant is requesting this number of Area Variances, it should be their first clue that the parcel is not a good fit for their requested use and added that their request is extremely substantial.

Chairperson Mason asked for those who would like to speak in favor of granting the Area Variances and there were none.

Chairperson Mason asked for those who would like to speak against granting the Area Variances and there were three.

MOTION was made by Chairperson Mason in Case #2023 to **close** the hearing and present Findings at the **November 9, 2026**, Zoning Board of Appeals meeting. Motion was seconded by Mr. Frantzis.

Roll Call:	Mr. Becker	- in favor	
	Mr. Porter	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Chairperson Mason	- in favor	*Unanimously Carried*.

Case #2024 – Michael & Karen Cusano, 9481 Horseshoe Island Road, Tax ID #013.-03-02.0.:

The applicant is seeking an Area Variance pursuant to Section 230-13A(4) – Lot and Structure Dimensional Requirements, for a reduction in the front yard setback from 75 feet to 52 feet for a principal structure addition. The property is in the Residential Agricultural (RA-100) Zoning District.

The secretary read the proof of publication.

The applicant was present.

Chairperson Mason asked the applicant to explain his request for an Area Variance.

Mr. Cusano stated he is looking to build a new construction 32'x48' residence and would like to remain in the FEMA Zone X classification.

Chairperson Mason asked the applicant to address the Standards of Proof.

Mr. Cusano offered the following responses:

1. The applicant does not believe the requested Area Variance will create an undesirable change to the character of the neighborhood.
2. The applicant does not believe there are other feasible methods other than the requested Area Variance.
3. The applicant does believe the requested Area Variance is substantial numerically, but not substantial in comparison to neighboring properties.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. The need for the Variance is self-created.

Chairperson Mason asked the applicant if he had confirmation from WEP in regard sewer services.

The applicant stated he has been working with Steven Mearon at C&S Engineering and has a grinder pump for this parcel.

Chairperson Mason asked if there were any further comments or questions from the Board and there were none.

Chairperson Mason asked Planning Commissioner Bender if he had any questions or comments.

Commissioner Bender asked if he confirmed with Mr. Mearon that the grinder pump had capacity for a new build home.

Mr. Cusano stated he did not specifically ask but was told there was a grinder pump for this property.

Chairperson Mason asked Codes Officer Metott if he had any questions or comments and he had none.

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

Chairperson Mason asked for those who would like to speak in favor of granting the Area Variance and there were none.

Chairperson Mason asked for those who would like to speak against granting the Area Variance and there were none.

Chairperson Mason closed the hearing.

MOTION was made by Mr. Frantzis in Case #2024 to approve the Area Variance as requested with the condition they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Porter.

Roll Call:	Mr. Becker	- in favor	
	Mr. Porter	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Chairperson Mason	- in favor	*Unanimously Carried*.

Case #2025 – Kimbrook Route 31 Development LLC./Stewarts Shop Corp., 3566 State Route 31, Tax ID #052.-02-11.1.:

The applicant is seeking an Area Variance pursuant to Section 230-19A(5) -Highway Overlay Zone District, for a reduction in the Highway Overlay Type A setback from 115 feet to 94 feet for the development of a gas fueling station. The property is in the Regional Commercial (RC-1) Zoning District.

The secretary read the proof of publication.

Chuck Marshall of Stewarts Shop Corporation was present.

Chairperson Mason asked the applicant to explain the request for an Area Variance.

Mr. Marshall explained Steward Shops is looking for their third location in the area and keeps it consistent with their existing locations, all having six (6) fueling stations. They are looking to push the canopy North and use the elevation to their advantage for visibility.

Chairperson Mason asked the applicant to address the Standards of Proof.

Mr. Marshall offered the following responses:

1. The applicant does not believe the requested Area Variance will create an undesirable change to the character of the neighborhood as this is an underdeveloped parcel and would be similar to others in the area.
2. The applicant does not believe there are other feasible methods other than the requested Area Variance as the elevation drives the design.
3. The applicant does not believe the requested Area Variance is substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. The need for the Variance is self-created.

Chairperson Mason asked if there were any further comments or questions from the Board.

Deputy Chairperson Liebi asked what the operating hours would be.

Mr. Marshall stated they would open at 5 A.M. and close at 11 P.M.

Deputy Chairperson Liebi asked if there would be lighting.

Mr. Marshall said the property would be lit by LED lights.

Chairperson Mason asked Planning Commissioner Bender if he had any questions or comments and he had none.

Chairperson Mason asked Codes Officer Metott if he had any questions or comments and he had none.

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

Chairperson Mason asked for those who would like to speak in favor of granting the Area Variance and there were none.

Chairperson Mason asked for those who would like to speak against granting the Area Variance and there were none.

Chairperson Mason closed the hearing.

MOTION was made by Deputy Chairperson Liebi in Case #2025 to approve the Area Variance as requested with the condition they be in substantial compliance with Exhibit "A". Motion was seconded by Mr. Frantzis.

Roll Call:	Mr. Becker	- in favor	
	Mr. Porter	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Liebi	- in favor	
	Chairperson Mason	- in favor	*Unanimously Carried*.

There being no further business, Chairperson Mason adjourned the meeting at 7:01 P.M.

Chelsea Clark, Secretary
Zoning Board of Appeals
Town of Clay