

BALDWINSVILLE ZONING BOARD OF APPEALS
16 WEST GENESEE STREET, BALDWINSVILLE, NEW YORK

Approved 1/12/07

The regular meeting and public hearing of the Baldwinsville Zoning Board of Appeals was called to order on Monday, December 11, 2006 at 7:00 p.m. by J. Rutkowski, Acting Chairman.

Present: J. Rutkowski, Acting Chairman; C. Taft; K. Beverine; M. Read; J. C. Engelbrecht, Village Attorney; R. Beckhusen, CEO; Susan LaQuay, Board Secretary

Not Present: B. Corrigan, Chairman

Guests: Mrs. Margaret Rellos (regarding 8 ½ Phillips Street); Mr. Daniel Case (regarding 8 ½ Phillips Street)

The meeting was opened by reciting the Pledge of Allegiance.

OTHER BUSINESS

J. Rutkowski called for approval of the November 20, 2006 meeting minutes. C. Taft noted a correction in the Findings of Fact on page 3. The 8th bullet point should indicate the shed will be located 1' from the edge of the pool rather than 2'. C. Taft noted that on page 1, the first sentence of the second paragraph under the public hearing for 53 Athena Drive should note the front yard rather than the side yard. Upon motion by C. Taft and second by J. Rutkowski to approve the minutes as corrected. Carried.

Approval of the resolution for 53 Athena Drive will be held until the next meeting.

OLD BUSINESS

Continuation of Public Hearing for 8 ½ Phillips Street – Mr. Kenneth Rellos

This hearing was opened on November 14, 2006. The public notice and appropriate code sections were read into record at that time. The meeting was continued and held open again on November 20, 2006 awaiting further information.

Mr. Case and Mrs. Rellos are present to address the Board. Mr. Case noted that there was a discrepancy regarding the location of the fence in the drawing submitted by his son-in-law. The drawing shows the fence coming off of the house rather than off of the edge of the garage. The permit received for the fence was based on this inaccurate drawing.

Mr. Case submitted photographs as requested of the fence in relation to the house across the street (Karpinski). The photo shows the front porch and the fence on that property. J.C. Engelbrecht asked if the Applicant's fence is further forward on the property than the house across the street is. Mr. Case stated it is not. He also submitted a photograph showing another fence in the area that is closer to the road than the Applicant's fence. R. Beckhusen noted that this particular fence is not within 300' of the Applicant's property.

The submitted photos were marked with corresponding addresses by J. Rutkowski for reference.

J.C. Engelbrecht asked R. Beckhusen is there has ever been a fence 6' in height approved for placement in a front yard. R. Beckhusen stated there has not. J. C. Engelbrecht stated this would be precedent setting. He noted there are unique circumstances to justify this; however, the Board would need to understand that this would set a precedent for the future.

Mr. Case stated he did not understand why the Board keeps referring to the yard in question as a front yard when it is the side yard. J. C. Engelbrecht explained that this yard is considered to be a front yard because the property is a corner lot.

J. Rutkowski noted that page 1 has a photo that is looking towards 97 East Oneida Street and shows the distance of how close that house is to the sidewalk. Another photo is a view west from on top of the fence post on 8 ½ Phillips Street to 97 East Oneida Street. This looks down across the front of the garage west to 97 East Oneida Street. Page 2 shows another picture looking west to 97 East Oneida Street to show that how that house sits in relationship to the road. The other photo shows a view from 97 East Oneida Street to 8 ½ Phillips Street. Page 3 has 2 photos looking towards 8 ½ Phillips Street from the sidewalk.

J. Rutkowski referred to the survey to locate the house, driveway, and fence on the property and sketched the fence as it is currently located, which is 4' out towards East Oneida Street and runs 16' towards the back property line. Mr. Case stated the shed shown on the survey is no longer there.

C. Taft asked what the distance from the edge of the deck to the property line is. Mr. Case stated it is under 10'.

J. Rutkowski sketched the fence as it is planned. He noted there are 2 issues. The first is that the fence will be 4' in front of the building line and the fence is 6' tall with more than 50% composition. C. Taft noted again that there has never been a 6' fence approved for a front yard.

J. C. Engelbrecht asked if it would be possible to shorten the fence. Mr. Case stated they cannot as the panels are pre-made and are made of plastic. M. Read noted the Applicant would have to purchase new fencing.

Mr. Case stated that he wanted to remind the Board that the purpose of the fence is to make room for a handicapped child to run and also to protect her from cars, etc. He stated that dropping the height to 4' would be problematic. He stated they also want privacy as well. M. Read suggested that they could have the fence along the backyard at 6' and angle it down to 4' for the portion that will be in the side front yard. J. C. Engelbrecht noted they can go from the edge of the garage back on the property with a 6' fence, so there are two options: 1) bring the fence in to come off of the corner of the garage and keep the 6' height; and 2) keep the fence at 6' in the backyard and angle it down to 4' in the side front yard. R. Beckhusen stated that these options still do not address the 50% composition requirement. J. C. Engelbrecht stated that if the Applicant agrees to take the fence height from 6' to 4' then the Board may be more willing to consider a variance for the composition of the fence.

M. Read suggested the Applicant make the side front yard fence 4' and then amend their application to apply for a variance regarding the fence composition.

Mr. Case stated he feels that having the fence 4' off the garage towards East Oneida Street should be acceptable because his photos show that the home and porch across the street come out further towards the road than his fence. R. Beckhusen stated that is a house and not a fence. Mr. Case stated that the porch on this house is new construction. Mr. Case stated that same property has a fence of 100% composition further out towards the road as well. Mrs. Rellos stated it is the same fence that she wants to install. Mr. Case asked why he would still have to move the proposed fence in 4' to the corner of the garage when the neighbor has a fence closer to the road. J. Rutkowski stated it may depend on whether the fence was a preexisting condition on the property. R. Beckhusen stated that the fence permit and survey dated back to 1987 show the front porch in question on the Karpinski property. K. Beverine noted that the Applicant is really talking about extending his own building line to a location where it was not previously located and is planning on putting up a fence that was not there previously.

C. Taft asked Mrs. Rellos how she feels about potentially having a fence with 2 different heights. Mrs. Rellos stated she thinks aesthetically she would not like it.

Mr. Case showed where the fence on the Karpinski property is located to demonstrate that it is closer to the street than the Applicants fence. He stated the Karpinski fence is 6' tall and is of solid composition. R. Beckhusen stated that according to the photos this fence is flush with the house and is back behind the front of the porch. J. C. Engelbrecht stated that the fence at the Karpinski property comes off of the house, not off of the porch, and does not go beyond the front of the house and the Applicant's fence cannot either. He stated that even if the fence on the Karpinski property is closer to the road than the Applicant's, it still stays in line with their house and the Applicant's must as well.

J. C. Engelbrecht suggested the Applicant amend the application to show that the fence will be off the corner of the garage and ask for a variance regarding the 50% composition only. He stated the 6' height will be taken care of with the 300' rule.

J. Rutkowski asked the Applicant to amend the application to show that the fence will be moved back to the building line and have more than 50% composition. The fence will maintain the 6' height as referenced to 97 East Oneida Street and code 72-9 (C) in which the 300' rule takes effect. Therefore, the Applicant will be asking

for a variance of Section 35A-6 for a composition of greater than 50%. Mrs. Rellos agreed to amend the application accordingly. J. C. Engelbrecht stated this would be consistent with what has been done in the past.

J. Rutkowski stated the Applicant has submitted 3 pages of photos depicting the neighborhood and where their building line is when looking west towards 97 East Oneida Street. Page 1 shows the corner of East Oneida and Phillips Street and clearly shows that the fence on 97 East Oneida Street is even to the building line and is 6' in height and more than 50% composition. R. Beckhusen has pulled the permit to verify the location and composition of the fence at 97 East Oneida Street.

J. Rutkowski asked if there were further questions. Hearing none:

Upon motion by M. Read and second by C. Taft, J. Rutkowski closed the public hearing for 8 ½ Phillips Street, Baldwinsville, NY.

M. Read noted the following Findings of Fact for the property located at 8 ½ Phillips Street, Baldwinsville, New York:

- The application is for an area variance for the property located at 8 ½ Phillips Street located in an R-1 zoning district of Baldwinsville, New York and owned by Kenneth Rellos.
- The request is pursuant to Section 35A-6 to build a 6' poly vinyl fence with greater than 50% composition.
- The application was amended this evening to request a fence of greater than 50% composition and to have the fence 6' in height.
- The property at 97 East Oneida Street has a 6' fence at the building line which, when applying the 300' rule per 72-9(C), allows the Applicant's fence to be 6' in height.
- The Applicant had already begun construction of the fence, but stopped at the request of the CEO as there was a complaint.
- Two letters from other property owners were submitted voicing approval for the variance to be granted.
- The house was purchased in 1996 and the garage was built in 2005.
- The cost of the fence is approximately \$2000.
- The owner will be installing the fence himself.
- The purpose of the fence is to provide a safe area for a disabled child.
- The Applicant stated they have a permit for the fence and the deck.
- The fence will be partially reusable if it has to be removed. The only parts that could not be reused are the posts.
- The Applicant submitted photographs representing the fence at 97 East Oneida Street to verify the 300' rule.
- The Applicant has agreed to remove the fence from its current location within a reasonable time as determined by the CEO.

Moved by C. Taft and second by K. Beverine to accept the findings of fact as stated. **Carried.**

J. Rutkowski noted the following resolution to approve the variance request as submitted and amended by Mr. Daniel Case, the Applicant's duly authorized agent this evening, for the property located at 8 ½ Phillips Street, Baldwinsville, New York in regards to a fence 6' tall with greater than 50% composition in that the property is unique in nature and also has a property across the street (97 East Oneida Street) that also has a similar fence and based on that uniqueness and the surrounding fences in the area and with the **condition**, as understood and agreed to by the Applicant, as follows: *the Applicant will remove the portion of the fence that has already been installed in violation of the code in a timely manner as determined by the Codes Enforcement Officer;* as:

- The requested variance would not produce an undesirable change in the character of the neighborhood.
- There would be no substantial detriment created to nearby properties.
- There are no other feasible methods available to pursue the benefit being sought by the Applicant, which is the protection of the property and the safety of the children, other than seeking this variance.
- The requested area variance, though as indicated is substantially over code, this should not be the sole governing reason not to grant the variance.
- The proposed variance would not have an adverse effect or impact on the physical and environmental conditions of the neighborhood or district.
- Though this request is self-created, this should not be a sole reason to not grant the variance as requested and amended this evening.

- This resolution is conditioned upon the portion of fence already built in violation of the Code being removed in a timely manner as determined by the CEO, as was agreed to by the Applicant this evening.

Moved by C. Taft and second by M. Read to accept the resolution as stated. **Carried**.

J. Rutkowski noted a “yes” vote would be to approve the variance request and a “no” vote would be to deny the variance request.

Vote -

C. Taft - Yes J. Rutkowski - Yes M. Read - Yes K. Beverine - Yes

J. Rutkowski noted this variance request has been approved. He stated the Applicant will have to work closely with the CEO.

Discussion regarding 106 East Genesee sign

J. C. Engelbrecht asked R. Beckhusen to address the Board regarding this property. R. Beckhusen stated the Applicant originally came with a plan for herself and two employees. He stated he granted this permit not realizing that the code stated this is not allowed for hairdressers. He stated she is now renting out chairs instead and the other hairdressers are not technically employees as was originally intended.

J. Rutkowski stated his opinion is that this is a residential neighborhood and, as such, the Applicant can only have a small sign. He stated he feels that there is a difference if one is a professional working in a neighborhood vs. working in a business district and the type of sign she is requesting is inappropriate for the front yard of a residential neighborhood. He stated he would be inclined to deny the request as submitted and feels the code should be enforced as to the size of the sign. He stated he is not in favor of a sign in a front yard.

R. Beckhusen noted that the Applicant informed him last week that she does not intend to have a sign on the canopy and will just have a plain canopy over the door with no sign on it.

Upon motion by K. Beverine and second by C. Taft, J. Rutkowski called to order Executive Session at 8:25 pm. Carried.

Upon motion by K. Beverine and second by C. Taft, J. Rutkowski ended Executive Session at 8:30 pm. Carried.

The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Susan A. LaQuay
Zoning Board of Appeals Secretary