

Village of Baldwinsville
Zoning Board of Appeal Meeting Minutes
Monday April 13, 2015
Approved 5/11/2015

PRESENT: Brian Corrigan, Chairman
Connie Taft
John Rutkowski
Kevin Beverine
George LePorte

ALSO PRESENT: Robert Baldwin, Zoning Board Attorney
Stephen Darcangelo, Village Engineer
Gregg Humphrey, Code Enforcement Officer
Mary Augustus, Codes Clerk/ Zoning Board Secretary

GUESTS: Dick Clarke-Mayor
Marilyn L. Buschle-13 Downer Street
Charles Marshall-Stewart's
Rush Pond-First Presbyterian Church
Mary & Walt Butler-Stewart's
Amanda Delcostello-Stewart's
Nick Delcostello-Stewart's
Richard S. Doran-13 Downer Street
Pat McFall-Stewart's
Frank Papalia-Stewart's
Billy & Deb Simmons-(Big Mama's)-Stewart's
Sue McManus-regarding 120 Oswego Street
Ed McManus-regarding 120 Oswego Street
Warren Beck-19 Charlotte Street
Steve Bochino-Stewart's
Dave Muraco-120 Oswego Street
Dave Arthur-120 Oswego Street

Pledge of Allegiance

Meeting opened @ 7:01

Upon **Motion** by Connie Taft, second by John Ruthkowski the Zoning Board of Appeals Minutes for March 9, 2015 were corrected and approved as submitted. **Motion Carried**
George LePorte abstained

Open public hearing

13 Downer St. Area variance-Chapter 345-9 (B & C)

Mr. Brian Corrigan read the Public Notice as posted in the Messenger on April 1, 2015. R-1 District.

Mr. Brian Corrigan read the code.

Ms. Buschle stated that her house was the only house on Downer Street that does not have a porch. Ms. Buschle presented a signed list of fifteen neighbors that are in favor. Chairman Corrigan requested this list be part of the minutes. (see attached) There is a cement patio already in place. Ms. Buschle said that she would be very content with the porch being 6 ½' instead of the 8' she asked for. The original application requested the porch to be 20x8'. If the porch was 6 ½' it would make the frontage 10 ½'. The house was built in the 1940's and is a Cape Cod structure and the porch would fit to the surrounding area. Ms. Buschle showed a picture to the board of what the construction would look like when finished. Mr. Richard Doran from 53 Downer Street was present and is in favor of the porch for Ms. Buschle. He remarked every house should have a porch. Mr. Corrigan asked applicant if she would like to amend her original application, changing the width of the porch from 8' to 6'. The depth of the property is 66'. The cost of the construction is \$7,000.00; the material will be treated lumber for the deck and rails, using shingles for the roof. Mr. Brian Corrigan asked if there was any present against the porch, there was not. Onondaga County Planning Board review dated March 25, 2015 has determined that said referral will have no significant adverse inter-community or county-wide implications. (Filed with Village Clerk). All Board members have visited the site. Mr. Brian Corrigan asked Mr. Steven Darcangelo if he had any concerns, he did not see any issues. If there is any damage to the sidewalk during construction of the porch Mr. Steven Darcangelo stated it would have to be repaired.

Ms. Buschle explained the house was owned by her father and after his death the house fell in disrepair. Ms. Buschle bought the house in November of 2013 and has fixed it up. The surrounding neighbors were notified by mail regarding this evening Public Hearing regarding 13 Downer Street. One neighbor, Ms. Dianne Vrotny stopped by the office and stated she was unable to attend the meeting tonight but was in favor of giving the Area variance to the applicant. The Finding and Facts for 13 Downer Street are attached to the minutes. The Board member discussed the setbacks.

Motion by Mr. Kevin Beverine, second by Mr. George LePorte to close public hearing.

Hold Resolution until next month.

60-64 Oswego Street-Area Variance-First Presbyterian Church

Mr. Brian Corrigan opened Public Hearing. Mr. Kevin Beverine read the Finding of Fact. The Finding and Facts are attached to the minutes as requested. The sign is 24 square feet. Mr. Calkins was present for the meeting last meeting. Ms. Connie Taft wanted to know if present sign would be removed, but there is no sign there at the present. The old signs on adjoining property will be removed. Mr. Brian Corrigan requested that it be recorded that there is a prohibition in the village against rolling signs. The sign will be lit until 9:00 p.m.

Mr. George LePorte abstained, for he is an Elder at the First Presbyterian Church

Motion to accept the Finding and Facts by Mr. John Rutkowski, second by Ms. Connie Taft.

Resolution to allow the variance as requested for a sign 24 square feet each side that will include a portion of LED area of lighting to include the name of the church and other activities by the applicant as noted in the signage. I state the variance will not include any change in charter in the neighborhood. Based on the individuals that were present spoke in favor and there is no adverse change to the nearby property. There is no other feasible method available to achieve the benefit the applicant is trying to

achieve except this for variance. That the requested variance all though it is substantial should not be paramount to allow request that the variance would not have an adverse impact physical or environmental impact on the surrounding neighborhood. And last, thought self-created and not a sole governing factor not granting the variance.

Mr. Brian Corrigan would like to add this Resolution that the sign would not remain lit in the overnight period as stated by the applicant.

Public hearing is closed per Mr. Brian Corrigan, there cannot be any more questions.

Motion to accept the Resolution as set Mr. Kevin Beverine, second by Ms. Connie Taft

All in favor to accept the Resolution. Mr. George LePorte abstained

Motion to grant the Area variance; all in favor. Mr. George LePorte abstained.

Short Environmental Assessment Form for the First Presbyterian Church is filed with the Clerk.

26 River Street-Area variance

Mr. Beck addressed the Board.

Public Hearing remains open.

Mr. George LePorte reviewed the application, he can vote.

A new Survey was done on April 9, 2015 for 26 River Street. Mr. Beck relayed comments made by the surveyor that there are numerous inconsistencies regarding property lines on River Street. From the survey he could guarantee that Mr. Beck owned into the road. But without surveying each property on the street it would be impossible to know each property line. There is 2.3' marked as the distance to the closest property line to the road. This is on the Southwest corner of the property. Mr. Steven Darcangelo there are many houses in the village that are in the street line. Mr. Steven Darcangelo asked Mr. Beck if his request to build the exact square footage of the house or use the same footprint. Mr. Beck explained the foot print and square footage are not exact. The West side of the house is going to be straight instead of the in and out of the original house. The house probably had additions built on it throughout the years. Mr. Beck would like the top and bottom of the house to have the same square footage. Mr. Beck would like the length of the house to be the same. He has presented the Board with a drawing of his plan for a new house. Mr. Brian Corrigan recalled there will not be a car port. Mr. Beck agreed. The tenant upstairs lived in the house for 9 years and the downstairs was in the house for 19 years. Mr. Brian Corrigan asked Mr. Beck besides the one car in the car port where did the other tenant park? Mr. Beck allowed one tenant to park in his drive way of his personal residence. Mr. Brian Corrigan asked if that had been deeded to the rental property. There are two public parking lots close to this property. Mr. Brian Corrigan questioned Mr. Steven Darcangelo as to how many parking spaces were available, there are 7 spaces. Mr. Steven Darcangelo stated that the park is not for public parking, just for people enjoying the park. There is no overnight parking. Mr. Steven Darcangelo stated from a personal and safety stand point that the variance not be allow so close to the road. The porch is 5 feet. Living space is 8-9 feet away from the road. Mr. Beck would like both floors have a front porch, using the upstairs porch as a second escape in case of a fire. Mr. Steven Darcangelo said if that was the intent there would have to be excess to the ground level. Mr. Gregg Humphrey said per code for parking is 1.5 per unit. There was no one present at the meeting for or against the variance request. He also stated there are some residences with this same issue of parking in the Village. They have been allowed with a written agreement to allow parking on owner's property. Mr. Brian Corrigan concern is that if Mr. Beck ever sells his own residence that the tenants could no longer park in the private driveway. Mr. Beck stated he has never had an issue with parking in the past. Mr. Baldwin suggested a parking easement could be created.

Mr. Gregg Humphrey stated the original square footage of the house was 1,281 with porch and car port. Mr. Steven Darcangelo stated the lot coverage is 48-50%. Mr. Steven Darcangelo added that the square footage of the house may not be accurate because the surveys are different. Mr. Brian Corrigan question Mr. Beck about moving the new structure back, Mr. Beck stated the backyard is only 14' deep. Mr. Beck feels by moving the house back, both the front and back yards will not be of any use. The backyard barely has room now for table and chairs. He also believes that the tenants are safer in a back yard than sitting in the front yard and that the tenants should have a place to have activities. Mr. Steven Darcangelo stated that River Street has been a "one way" street for the past 9 years. Traffic flow is relatively low unless park volume increases. He believes it is a safe road. Mr. Steven Darcangelo explaining that 10' from the road to the structure is not much room and would suggest a house not be any closer to the street than 10' which would include the front porch. Although the porch is not living space it attracts people either stand on or next to, which put them in danger. Mr. Beck stated with a 10' set back this house would be set back further than any street on the street. The proposed new house is 54' long, leaving an 8' back yard. Mr. Steven Darcangelo suggested making the house less than 54' to give the tenants the back yard Mr. Beck wants.

As read by Mr. Brian Corrigan, Onondaga County Planning Board review dated March 25, 2015 for 26 River Street has determined that said referral will have no significant adverse inter-community or county-wide implications. (Filed with Village Clerk).

Mr. John Rutkowski asked what the set back to the other homes on River Street are, Mr. Gregg Humphrey stated that he has not measured them, but they are all about the same as Mr. Beck's. Mr. Gregg Humphrey stated that all the properties on River Street would need to be surveyed in order to give accurate measurements and setbacks. Ms. Connie Taft asked if the street line has changed on River Street and the answer was no. Mr. Beck explained that there was original a sidewalk on that side of River Street but in the 1980's it was paved over. In 1996 a sidewalk was built on the river side of the street. The chain link fence in front of Mr. Beck's house was installed in 1950's or prior. He has always left that fence in the front of the house, fearing the Village would pave up to the house. Mr. Steven Darcangelo asked Mr. Beck if he realized the house was non-conforming to Village Code, Mr. Beck stated he knew the lot was small, but most of the houses in the Village are non-conforming to current Code. The current Code set back is 40' in an R-1 district. Mr. Beck was asked by the Board on how far he would be willing to moved the house back, Mr. Beck said he would consider 5' from the street line in order to preserve some of the backyard. Mr. Brian Corrigan stated the application submitted would have to be modified. Mr. Baldwin explained there are options regarding parking; the Board could grant a variance for off street parking for the tenants. Mr. Baldwin continued to say that Mr. Beck is providing parking for his tenants in his personal driveway and a written agreement could be in place. Mr. Beck stated he has always provided 3 parking spaces for the tenants. Mr. Beck added that many of the residence in the area park on the river bank or in the street, and he does not find that appropriate.

Mr. Brian Corrigan read from codes book **Section 345-28, Parking spaces required**

Motion to close the Public Hearing Mr. George LePorte, second by Kevin Beverine

All in favor

Mr. Brian Corrigan would like to hold the Finding and Facts until the next meeting as well as the Resolution in order to give the Board time to review.

120 Oswego street-Stewart's-USE Variance

Mr. Chuck Marshall was present to continuing Public Hearing from the last meeting.

Mayor Dick Clarke was present to address the Board. Mr. Clarke as a resident of the area walks down that strip 3-4 times a week. He believes there is nothing more discouraging to see a vacant lot. He continued to explain when he became Mayor, residents of Candlewick continually asked when there would be business in this area. Mayor Clarke spoke to super market chain in which he encouraged them to come out and look at the area. Due to traffic flow the super market chain could not warrant building in this area. Mayor Clarke stated after that he realized the mall was a hard ship and in a bad way. The business that were there left for the same reason, low traffic volume. Mayor Clarke explained he has heard wonderful things regarding Stewart's Shop. Stewart's ice cream is the best. It was nice when there was a store in that area and it would be nice to have a store there again. The Mayor continued to say he knows there is concern from the residences that the mall will stay empty. Mayor Clarke feels that Stewart's would be a benefit to the people of this are and from his point of view he gives his support to the project.

Mr. Steve Bochino, 89 Smokey Hollow Rd. addressed the Board. Mr. Bochino lives directly behind Mr. Muraco's mall. Mr. Bochino agrees with Mr. Clarke, he does not want an empty lot. The previous business in the area was an asset to the area. Mr. Bochino is not against Stewart's; his concern is egress/ingress out onto Smokey Hollow Road. He believes the curb cut that is already there should be blocked off. The traffic on Oswego Rd. is busy and dangerous. Mr. Bochino can see there will be a problem. He is concerned about the residence walking and the school children. Mr. Bochino hopes Stewart's builds there; he just wants the traffic flow to be re-routed differently for safety issues. Mr. Bochino's would like to not have any exits on to Smokey Hollow Rd.

Mr. Will Butler resident of the area, he is retired Director of DOT, he noted that the sidewalks on Oswego Street have never been plowed and the kids were walking in the road. He has plowed the area himself for several years. Mr. Butler stated there are 25-30 kids walking to school. If a gas station opens up on that corner where are the kids going to walk when the sidewalks are not clear. His concern is the safety of the kids.

Mr. Frank Papalia is in favor of Stewart's but not the gas station. Mr. Papalia stated that the truck will use Hinkle Blvd, but they will have to enter the gas station via Smokey Hollow Rd. The children in the area use Smokey Hollow Rd. to go to the park. Mr. Papalia asked a truck driver how easy it was to make that turn from Hinkle Blvd. onto Smokey Hollow Rd. The Driver said it was difficult; he had to back up a couple of times to make the turn. He believes taxes will go up to maintain that road. Gas station is a terrible idea. Mr. Papalia thinks that residents do not have a problem with Stewart's it is the gas station. Mr. Brian Corrigan cannot tell a truck to use any road. Mr. Brian Corrigan believes Mr. Steven Darcangelo spoke to Stewart's regarding the truck route and their intent was to use Route 48.

Ms. Pat McFall addressed the Board stated this area is not a good use for a gas station. She stated that there are at least 3 gas stations in close proximity to this site. Ms. McFall feels they would be giving up a lot of charter for little convenience.

Mr. Papalia addressed the Board state he had been a residence for over 40 years. He is pleased with the small businesses in the Village and his fear is that Stewart's will have an impact on these local businesses. Mr. Papalia suggested a movie theater or something like that would be nice in the area.

Ms. Deb Simmons owner of Big Mama's Restaurant is all in favor of Stewart's. She is the "little guy" that Stewart's will shove out. Ms. Simmons picked this area for her restaurant because she loves that corner and the area. She services 100-150 people on Friday and has never had a traffic problem. The car wash next door is an eye sore. Ms. Simmons believes Stewart's will enhance the area. My business will be fine; we are working with Mr. Murco to re-locate my restaurant. Mr. Simmons truly believes the area warrants a place like Stewart's.

Ms. Sue McManus stood to address the Board. She reminded the Board there was a gas station at that location that opened in 1962 and closed in 1967. She believes the Code was amended against allowing a gas station in this area. Ms. McManus stated permitted uses of a B-1 District; retail stores, shops, banks business office, personal service establishments (including coin operated laundry) restaurants (excluding drive in), mortuaries and undertaking establishments, Hotels, motel, theatres and recreation establishments. Ms. McManus stated that a gas station was not on the list of permitted uses. Ms. McManus questions that other permitted uses for this district has been reviewed and determined that these uses are not feasible. She would like to see the area used for apartments for they are permitted. Mr. Robert Baldwin stated that in order for an applicant to obtain a USE variance they have to prove in dollars and cents that there is a hardship. The applicant again would have to prove that the approved uses would not be economy beneficial. Mr. Baldwin believes the documentation has been submitted to prove this hardship. The Exhibits presents to the Board has proven the applicant's hardship. Mr. Brian Corrigan stated he had asked the applicant for the financials and the applicant has complied. Ms. McManus requested a copy. Mr. Brian Corrigan stated the Ms. Manus could fill-out a FOIL form and submitted to the Village Clerk for a copy.

Mr. David Arthur, 85 Chaucer Circle, addressed the Board. Chaucer Circle is just North of Route 48 and Smokey Hollow Rd. Mr. Arthur is a Planning Board member for 11-12 years. He is also a member of the ARB. He also has concerns. He applauds Ms. McManus for her intent research on this application. The purpose of Zoning Board of Appeals is to grant or not the Use variance. If the Use permit is passed, Stewart's will still have to go in front of other Boards and all issues will be addressed. Mr. Baldwin reminded the Board that there would have to be a dual SEQR between the two Boards. This would be an unlisted action. The site plan would be determined by the Planning Board. Mr. Dave Arthur stated the Planning Board would be lead agency. Mr. Brian Corrigan said it had not been decided who would be lead agency. Mr. Dave Arthur has lived in the area for 12 year and two children walking to school presently. Mr. Dave Arthur is in full support of this project. He understands Mr. Muraco's problems and the blight of the area.

Mr. Brian Corrigan read the Onondaga County Planning Board Determination dated March 25, 2015. (Filed with Village Clerk)

Mr. Marshall reviewed the following:

Exhibit 1 is the same as Exhibit 1 that Stewart's original submitted-permitted uses. Traffic flow is not feasible for permitted uses. There is not a reasonable return on applicant's investment. There has been no interest of this site by any big stores.

Exhibit 2 shows an increase on project cost from \$816,000.00 to \$916,000.00 with the exclusion of the fuel pumps for an additional \$600,000.00. The reason for the extra \$100,000.00 is for the purchase of additional land to comply with the DOT curb cuts.

Exhibit 3 is just historical overview of 120 Oswego Street. This exhibit clear lays out the dollar and cent Mr. Muraco experienced from 2007-2013.

Exhibit 4 is a traffic impact analysis from DOT dated 2009 for the proposed project. DOT only monitors Oswego Street. The peak times are from 8:00-9:00a.m.and 5:00-6:00 pm
There will be 40 new trips in the morning; resulting in a 17% increase in traffic.
There will be 30 new trips in the evening; resulting in a 9% increase in traffic
This is based on 6 days of traffic.

Exhibit 5 is regarding gas installation narrative and gas tank details. The spec is that Stewart's use a double wall tank. An alarm system which has an electronic monitoring system that runs 24 hour a day. If there is a leak to contacts the shop and main headquarters. The law does not require the electronic monitoring system but Stewart's installs them.

Mr. Brian Corrigan moved to discuss the financials. Mr. Muraco broke down the properties separately as the Board requested. The Board review Mr. Muraco's financials presented to the Board. Mr. Brian Corrigan asked Mr. Muraco when Stewart's approached him to purchase the property. Mr. Muraco stated it was a year ago. In 2013 Mr. Muraco approached 10 different business owners to purchase the abandoned car wash at this site. No one was interested due to the fact in car wash was out of date, the equipment was broken, and the building would have to be rebuilt. This car wash is 18 years old and back then the yearly income was about \$100,000.00. Any new tenants that had approached Mr. Muraco wanted him to fix it up or rebuild.

Mr. Marshall informed the Board that Stewart's owns 332 stores, the 275 with gas stations and only 1 has a car wash. It is not economical for Stewart's to own a car wash for the same reason Mr. Muraco had issues; they are very expensive to maintain.

Motion to close the Public Hearing by Mr. Kevin Beverine, second by Ms. Connie Taft.

Mr. Baldwin reminded the Board that if the Use variance is granted, the applicant submits an application for a gas station. The application will be submitted to the Village Board to review a special permit. The Village Board if they grant the special permit can impose special conditions association with that permit. They cannot regulate the business hours and truck deliveries, but some conditions may be set with the special permit.

Meeting closed @ 9:36