

BALDWINSVILLE ZONING BOARD OF APPEALS
16 WEST GENESEE STREET, BALDWINSVILLE, NEW YORK
APPROVED 10/19/2015

The regular meeting and public hearing of the Baldwinsville Zoning Board of Appeals was called to order on July 13, 2015 at 7:00 p.m. by Chairman Corrigan.

Present: Brian Corrigan, Chairman; Kevin Beverine; George LePorte; Connie Taft

Also Present: Bob Baldwin, Village Attorney; Susan LaQuay, Secretary

Guests: Mr. Chuck Marshall, Stewarts Shops (120 Oswego Street)

Chairman Corrigan called for approval of the June 8, 2015 meeting minutes. Upon motion by G. LePorte and second by Chairman Corrigan to approve the minutes as submitted. **Carried.**

Chairman Corrigan called for approval of the resolution regarding 3 Phillips Street (dated June 8, 2015). Upon motion by G. LePorte and second by Chairman Corrigan to approve the resolution as submitted. **Carried.**

OLD BUSINESS

Continuation of discussion/decision regarding 120 Oswego Street – Stewart’s Shops AREA VARIANCE

Mr. Chuck Marshall is present on behalf of the Applicant. He stated the Planning Board has granted conditional approval for site plan and the location of the sign in question. He noted that a “mock” 8 foot x 8 foot sign was erected to help the ZBA and Planning Board to visualize what the proposed sign would look like and how it will impact the site and surrounding properties. He submitted photos of this mock sign for the record. He also submitted pictures of other signs on that portion of Oswego Street with their dimensions indicated. He stated the proposed sign is a 48 square foot sign, 24 square feet per side. Code allows for a sign 24 square feet total in size, or 12 square feet per side. Mr. Marshall noted there is ambiguity regarding how signs are measured. Does the measurement include or exclude the sign base, finials, etc. or just include the sign portion of the structure itself? If the base is to be included in the measurement, then the sign as proposed is 112 square feet, which would be a variance of 88 square feet. The Planning Board also did not like the gooseneck lighting, but would like the sign externally illuminated, not internally illuminated, and would like the LED pricing on the freestanding sign rather than the canopy. Mr. Marshall stated that gas pricing is a component of the business and it is his opinion that a sign that is more easily read from a car is safer. He suggested eliminating the gooseneck lights and instead utilizing lighting in the soffit or eaves. The total square footage can be decreased by changing the LED size from 12 inches to 10 inches while maintaining a 2-foot monument base.

Mr. Marshall stated that Stewart’s stocks 90 to 95% of their own materials and, therefore, maintains their own signs. For this reason, it is important to maintain continuity with other Stewart’s signs. Of the 330 Stewart’s stores, 300 of them have standardized signs.

Chairman Corrigan noted that the Applicant has decreased the height of the sign from the original application by 1 foot and maintained the width. Therefore, the Applicant is proposing to amend the application to reflect a new sign with an ultimate height to the top of the roof of 8 feet 2 inches with a 2 feet 2 inch monumental base with a stone veneer with the actual signage denoting Stewart's Shops and the price of fuel being 4 feet x 6 feet for a total of 24 square feet per side, which is a total of 48 square feet because it is a double-sided sign. This total size is double what is allowed by Village Code.

Chairman Corrigan agreed there is some discrepancy of opinion regarding what components of a sign factor into the dimensions. He noted the definition of "freestanding sign" in section 268-2 of the Village Code, which reads as follows:

"FREESTANDING SIGN

Any sign which shall not be attached to any building or structure and which is self-supported by being anchored permanently to the ground by one or more members."

He noted his first question is if the monumental base should be considered a structure? For example, could someone build a 15-foot tall wall 4-feet in length and place a 3 foot x 4 foot sign on top and call it a freestanding sign? He believes this code should be looked at by the Village Board and potentially be updated.

Furthermore, the definition of "sign" in section 268-2 is as follows:

"SIGN

Any structure or part thereof or any device, including but not limited to frames which shall display or include any letter, word, symbol, light, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement designed to attract the attention of the public, which shall be located out-of-doors or on any building or structure, including window signs visible from the exterior, illuminated signs, billboards, sign boards, painted wall signs, projecting signs, freestanding signs and signs painted or used to advertise or promote the interest of any person or business. A sign does not include the flag, pennant or insignia of any nation or group of nations or any state, city or other governmental unit."

Lastly, the definition of "sign area" in section 268-2 is as follows:

"SIGN AREA

The entire area within a single, continuous perimeter enclosing the extreme limits of writing, representation, emblem or any figure or similar character, as included within the definition of a sign, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. The total area of all faces of signs designed to be viewed from more than one direction shall be computed and considered as one area."

Chairman Corrigan questioned if the monumental base should be excluded in the dimensions based on the definition of "sign area?" He noted the Planning Board does interpret this code to

exclude the monumental base but includes the roof in the calculations. However, the roof does not fit with the definition of "sign area," which talks about the perimeter enclosing the extreme limits of writing, which would end at the soffit line of the roof and not the roof itself. Therefore, in the most liberal interpretation to the Applicant, which is what the ZBA is supposed to consider, the Board is looking at a sign that is in essence 4 feet x 6 feet on one side, 48 square feet total with both sides, which is twice the size allowed by the Code.

Mr. Marshall stated he was able to find 10" LED lights and this is the smallest size they can use. He believes this is appropriate for this location as the speed limit is 30 MPH. Chairman Corrigan agreed this is a reasonable size.

Chairman Corrigan noted this Board is charged with addressing the size of the sign and the location of the sign is to be determined by the Applicant as long as it is compliant with the Village Code and also considers the opinion of the Planning Board. He appreciated that the Applicant took the time to place an 8 foot x 8 foot mock sign and noted he did not notice any sight line issues. Mr. Marshall stated the Planning Board's contingent approval did not have an issue with the location of the sign. He noted the 2nd or 3rd car turning off of Smokey Hollow has a sight line issue, but there are no sight line issues at the stop bar.

Chairman Corrigan stated that he and Carl Pelcher, Chairman of the Planning Board, exchanged emails beginning with an email from G. Humphrey to Chairman Pelcher and Mr. Marshall on March 9, 2015. On July 13, 2015 at 10:02 am (today) Chairman Corrigan received an email from Chairman Pelcher regarding this application, stating that the Planning Board had determined the sign would not present a safety issue and requested they had asked the Applicant to attempt to reduce the overall sign size. The Applicant would then return to the ZBA. Chairman Pelcher felt that G. Humphrey should have included the roof in the dimensions but not the base. Chairman Corrigan agreed with this in an emailed reply to Chairman Pelcher, but has since changed his mind and does not consider the roof part of the extreme boundary of the lettering and it should, therefore, not be included. The Planning Board recommendations will be typed up and submitted to the record as a Memorandum of Understanding to the ZBA.

Chairman Corrigan noted the application has been amended this evening and the prior Findings of Fact have been accepted and will be added to them this evening. The Board is considering a 48 square foot sign (24 square feet per side).

Chairman Corrigan noted that this Board has granted signs larger than what is allowed by Code in the past. (i.e. Byrne Dairy, Sunoco, etc.) Each property is considered individually. He stated the resolution can be worded to apply specifically to Stewart's Shops and, therefore, a future owner of this property would need to seek their own variance.

No public is present for or against this application.

Chairman Corrigan asked if there were any further questions from the Board Members or from the Applicant. Hearing none, upon motion by G. LePorte and second by C. Taft the public hearing for the AREA VARIANCE portion of the application from 120 Oswego Street is closed. *Motion carried.*

Chairman Corrigan noted the following AMENDED Findings of Fact for the property located at 120 Oswego Street, Baldwinsville, New York:

- The Findings of Fact will include all Findings as before as to ownership, plan, etc.
- The Applicant has amended the application this evening. The request is for a Stewart's Shops sign built on a 2 feet 2 inch in height monumental base 6' in length. The signage area, which will include "Stewart's Shops" "Regular" and the price per gallon, "Diesel" with the price per gallon, as amended and will be 4 feet x 6 feet and the sign will be capped with a roof-like structure with no writing or identifying colors or insignia (on the roof structure) and the roof structure will be 2 feet tall x 7 feet in length.
- The roof structure will contain, as submitted this evening, LED lights in the soffit to illuminate "Stewart's Shops" and there will be no internal illumination within the sign itself, which will be in character with signage in the surrounding area as there are no internally lit signs in this area.
- The roof structure will be constructed with roof shingles to match the building design.
- The sign area is 4 feet x 6 feet per side for a total of 48 square feet.
- Further, this request is double what the Code allows (which would be a total of 24 square feet).
- There are other filling stations in the Village which have been grated signage beyond the allowed 24 square feet.
- Furthermore, the Planning Board Chairman, via email communication, has informed the Chairman of the Zoning Board that the Planning Board has no concerns with the placement of the sign as to interference with sight lines at the intersection of Route 48 (Oswego Street) and Smokey Hollow Road and left the issue as to the area variance for the sign to the ZBA's decision.

Moved by Chairman Corrigan and second by K. Beverine to accept the Amended Findings of Fact as stated. *Motion carried.*

Chairman Corrigan noted the following resolution to grant the Application from Stewart's Shops requesting an area variance for the freestanding sign square footage limitation of 24 square feet total to an amount of 48 square feet for the specific writings of "Stewart's Shops" and displaying the words "Regular" with the price per gallon for regular gasoline and "Diesel" with the price per gallon of diesel fuel, and the application as requested and amended this evening be granted, as:

- The requested area 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 the Applicant to pursue to achieve the benefit being sought other than to seek the requested variance.
- The requested area variance, although substantial in that it is 100% greater than that allowed under Village Code, it is not out of character with other filling stations and the signage granted to them inside the Village of Baldwinsville.
- The proposed variance would not have an adverse effect or impact on the physical and/or environmental conditions of the neighborhood or district.

- Granting of this variance is predicated on various conditions, including the following:
 - No other signs or displays, banners, or advertising of any kind shall be attached, displayed, or tied to the proposed sign.
 - The area variance as granted will run to the benefit of Stewart's Shops and Stewart's Shops only. If this property is sold or transferred by lease or other means to another entity, this sign area will not transfer and any new owner will have to come to the Zoning Board of Appeals to seek a new area variance.
 - As stated, there will be no sales advertisement or banners allowed on this sign and, furthermore, the proposed monumental base as well as the roof structure will not have any lettering, insignias, words, characters, corporate colors and/or logos, or anything of the like.
- Though this variance request is self-created it should not be the sole-governing factor to not grant the request.

Moved by K. Beverine and second by C. Taft to accept the wording of the resolution as stated.
Carried.

Chairman Corrigan called for a vote to approve the resolution and, therefore, grant the variance as requested.

Vote to accept the resolution and **APPROVE** the variance request with noted conditions -
B. Corrigan - YES
C. Taft - YES
G. LePorte - YES
K. Beverine - YES

Chairman Corrigan noted that the variance is **granted**. The Code Enforcement Officer will be made aware that the variance was granted and a draft of the resolution will be filed with the Village Clerk's office. He reminded the Applicant to be mindful of the conditions of the variance.

The meeting was adjourned at 8:10 p.m.

The next meeting is scheduled for Monday, August 3, 2015 at 7 pm.

Respectfully submitted,

Susan A. LaQuay
Zoning Board of Appeals Secretary

RESOLUTION REQUESTING VARIANCE OF
§ 268-3D (1)
OF THE LOCAL ZONING ORDINANCE HAVE THE VILLAGE OF BALDWINSVILLE
Approved July 13, 2015

WHEREAS, there has been an application for a hearing, presented to the Zoning Board of Appeals of the Village of Baldwinsville (the "Board of Appeals") an application from Sedgewick Properties/Stewart's Shops Corp. ("the Applicant") requesting, that the Board grant an AREA variance for the property located at 120 Oswego Street, Baldwinsville, New York, located in a B-1 Zone. The AREA variance is of §268-3D (1) to allow for a freestanding sign larger than what is allowed by the Code.

WHEREAS, to gather testimony relative to the granting of the request, the Board of Appeals called a public hearing to be held at 16 West Genesee Street on Monday, March 9, 2015 at 7:00 P.M to hear all persons who desired to offer information relative to the questions; and

WHEREAS, the Board of Appeals received testimony from the Applicant on March 9, 2015, April 13, 2015, and again on May 11, 2015; and

WHEREAS, the public hearing was thereupon closed on July 13, 2015; and

WHEREAS, the Board of Appeals made the following Findings of Fact based upon evidence received at the hearing and amended these findings on July 13, 2015 (in order to include additional testimony):

- Chuck Marshall, Real Estate Agent, is present representing the Applicant.
- Stewart's Shops currently has 330 stores in the area.
- The first store in Onondaga County is located at Buckley and Morgan Road in the Town of Clay.
- The cost of the building was discussed.
- The approximate cost of the project \$816,000 to \$916,000.
- The purchase price for the property was \$600,000 originally.
- The original mortgage was \$1.2 million for the property.
- Oswego Street traffic is approximately 7,500 cars per day.
- Less than 10% of traffic is during peak hours.
- 65% of the traffic at Stewart's was already on the road.
- 35% of the traffic is specific for Stewart's Shops only.
- Letters were sent on February 26, 2015 to existing neighbors.
- Chuck Marshall provided exhibits, as follows:
 - Exhibit 1
 - copies of traffic flow through Baldwinsville. The traffic through the area was approximately 4,341 cars.
 - Exhibit 2 -
 - project cost increase of \$100,000 from original plans submitted
 - cost increase was to accommodate NYS DOT curb cuts
 - Exhibit 3
 - Pictures of 120 Oswego Street and indicates a loss of \$9,866.84 in 2014 –see example. These were submitted Profit/Loss for the property and tax plans.
 - Exhibit 4
 - Traffic survey, which estimates AM cars = 40 (17%); PM cars = 33 (9%)
 - Exhibit 9

- Specs for fuel tank details
- Stewart's Shops approached Mr. Muraco in 2013.
- Mr. Muraco contacted 10 prospective car washes to utilize the existing property with no success.
- Chuck Marshall – Rebuttal – no alteration of curbs (from proposed plan)
- Smokey Hollow Road curb cut will be moved down away from the corner
- The building of the Stewart's Shops will help the local economy and bolster business around town center.
- This Board did ask the Applicant for further substantial financial records in regards to the individual property (120 Oswego Street) and those documents were supplied for this Board to review and consider in their deliberations as to a financial hardship.
- Testimony was provided by Mr. Muraco as to contact with other businesses and advised that none were interested in resuming use of the building as it was.
- Mayor Dick Clark also testified that he had contacted other businesses, specifically supermarket chains, in attempts to revitalize that area and there were no interested parties.
- The Onondaga County Planning Board (OCPB) provided their determination dated March 25, 2015. Their concerns had to do with curb cuts and that the sidewalks remain through the driveway portions of any entrances or exits to the property in question.
- All members of the Board are familiar with the property.
- Also submitted as part of the application process were the draft drawings and schematics as to the location.
- Notification were sent to adjacent property owners and based on the turnout at the hearing there has been quite a bit of discussion for and against the variance request.
- The Applicant has amended the application this evening. The request is for a Stewart's Shops sign built on a 2 feet 2 inch in height monumental base 6' in length. The signage area, which will include "Stewart's Shops" "Regular" and the price per gallon, "Diesel" with the price per gallon, as amended and will be 4 feet x 6 feet and the sign will be capped with a roof-like structure with no writing or identifying colors or insignia (on the roof structure) and the roof structure will be 2 feet tall x 7 feet in length.
- The roof structure will contain, as submitted this evening, LED lights in the soffit to illuminate "Stewart's Shops" and there will be no internal illumination within the sign itself, which will be in character with signage in the surrounding area as there are no internally lit signs in this area.
- The roof structure will be constructed with roof shingles to match the building design.
- The sign area is 4 feet x 6 feet per side for a total of 48 square feet.
- Further, this request is double what the Code allows (which would be a total of 24 square feet).
- There are other filling stations in the Village which have been grated signage beyond the allowed 24 square feet.
- Furthermore, the Planning Board Chairman, via email communication, has informed the Chairman of the Zoning Board that the Planning Board has no concerns with the placement of the sign as to interference with sight lines at the intersection of Route 48 (Oswego Street) and Smokey Hollow Road and left the issue as to the area variance for the sign to the ZBA's decision.

WHEREAS, based upon the foregoing Findings of Fact the Board of Appeals made the following **resolution** to grant the Application from Stewart's Shops requesting an area variance for the freestanding sign square footage limitation of 24 square feet total to an amount of 48 square feet for the specific writings of "Stewart's Shops" and displaying the words "Regular" with the

price per gallon for regular gasoline and “Diesel” with the price per gallon of diesel fuel, and the application as requested and amended this evening be granted, as:

- The requested area 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 the Applicant to pursue to achieve the benefit being sought other than to seek the requested variance.
- The requested area variance, although substantial in that it is 100% greater than that allowed under Village Code, it is not out of character with other filling stations and the signage granted to them inside the Village of Baldwinsville.
- The proposed variance would not have an adverse effect or impact on the physical and/or environmental conditions of the neighborhood or district.
- Granting of this variance is predicated on various conditions, including the following:
 - No other signs or displays, banners, or advertising of any kind shall be attached, displayed, or tied to the proposed sign.
 - The area variance as granted will run to the benefit of Stewart’s Shops and Stewart’s Shops only. If this property is sold or transferred by lease or other means to another entity, this sign area will not transfer and any new owner will have to come to the Zoning Board of Appeals to seek a new area variance.
 - As stated, there will be no sales advertisement or banners allowed on this sign and, furthermore, the proposed monumental base as well as the roof structure will not have any lettering, insignias, words, characters, corporate colors and/or logos, or anything of the like.
- Though this variance request is self-created it should not be the sole-governing factor to not grant the request.

Vote to grant the AREA variance for 120 Oswego Street, Baldwinsville, NY:

B. Corrigan	Yes
C. Taft	Yes
K. Beverine	Yes
G. LePorte	Yes

The AREA variance 120 Oswego Street is approved.