

BALDWINSVILLE ZONING BOARD OF APPEALS
16 WEST GENESEE STREET, BALDWINSVILLE, NEW YORK
APPROVED 1/11/2016

The regular meeting and public hearing of the Baldwinsville Zoning Board of Appeals was called to order on November 9, 2015 at 7:00 p.m. by Chairman, Jim Zuccolotto.

Present: Jim Zuccolotto Chairman; Kevin Beverine; George LePorte; Connie Taft

Also Present: Bob Baldwin, Village Attorney; Steve Darcangelo, Village Engineer; Gregg Humphrey, CEO; Susan LaQuay, Secretary

Guests: Pastor Claude Valdes (on behalf of Applicant for 12 East Oneida); Mr. Harlow Kisselstein, Ms. Lisa Trumble (regarding 12 East Oneida), Mr. Paul DeFelice, Ms. Luann DeFelice, Ms. Mary Arthur, Mr. Charles Duggan

Chairman Zuccolotto stated he is turning over the meeting to K. Beverine, who will be Acting Chairman for the remainder of the hearing for 7-13 Elizabeth Street, which was opened at the October meeting.

Acting Chairman Beverine called for approval of the minutes from October 19, 2015. Upon *motion* by G. LePorte and second by J. Zuccolotto to approve the minutes with revisions.

Carried.

OLD BUSINESS

Public Hearing/action regarding 12 East Oneida Street (7-13 Elizabeth Street) Word of Life/Assembly of God Church - sign

The public hearing for this application was opened on October 19, 2015 and is continued this evening. Pastor Claude Valdes is present on behalf of the Applicant. Acting Chairman Beverine asked if there is anyone present in favor of the sign for Word of Life. There is no public present in favor of this application. Acting Chairman Beverine asked if there was any public present to speak against the proposed sign. Mr. Harlow Kisselstein of 13 East Genesee Street is present. His home is directly across the street from the church. He stated he had sent the Village a letter regarding this variance request, which Acting Chairman Beverine stated he is in possession of and will read into record later in the meeting. Mr. Kisselstein stated the former resident of his home had lived in that house for 33 years and allowed her shrubbery to overgrow in order to block her view of the parking lot. He also stated he drove by the church on Buckley Road, which has a similar sign. This church is located on a busier road with a higher speed limit. He believes 18 square feet is large enough for the new sign as this would be located on a Village residential street. Based on his experience, he does not believe people are unable to locate the church with the smaller sign.

Mr. Paul DeFelice of 17 East Oneida Street is present to speak against the requested variance. He also submitted a letter, which Acting Chairman Beverine stated will be submitted to the record. He will not be reading it into record in its entirety as much of it does not pertain to what is being discussed this evening. Mr. DeFelice stated he and his neighbors are concerned because the church had obtained a previous variance and an approved site plan with very little input from the neighborhood. He stated the church had not followed through with what they

had agreed to in 2003, some of those agreements being made at a meeting. Mr. DeFelice stated he would like the current motion to request this variance be denied until the spirit of the previous agreements made with the neighborhood are adhered to. He stated that since the meetings in 2003, the church is bigger than anticipated. The parking lot is in use more than anticipated as the public school uses the parking lot for student parking and he counted 106 student vehicles in the parking lot recently. There are buses for the church's private school in and out of the site daily. The parking lights are left on at night even though the neighbors were promised that they would go off at 9 pm. It is his understanding that the police department did not request that the lights be left on until 10:30 pm as was stated at the October meeting. Mr. DeFelice stated he feels the church has stretched the spirit of what was anticipated when the church moved into the neighborhood. He does not feel the church has been a good neighbor. They have not planted shrubbery as promised at a Board meeting and also at a side meeting with Reverend Czyz, which Mr. DeFelice stated he has personally asked for three times since. Shrubby would obstruct the view of the large parking lot and block the heat that comes off the lot. Because of these issues, Mr. DeFelice stated he would oppose the Board granting the church a variance until they comply with their prior agreements to turn off the parking lot lights at 9 pm, plant some shrubs, etc. He also would like to see more specifics about the proposed sign, not just the size. Acting Chairman Beverine stated that G. Humphrey can provide Mr. DeFelice with information regarding code violations or any agreements between the Planning, Village, or Zoning Board that would need to be adhered to. Mr. DeFelice stated they had received very little notice about the site plan application in 2003 and it is likely not part of the Board minutes that Reverend Czyz agreed to a "living hedge" as it was an agreement made with the neighborhood. He had asked for the minutes from June 24, 2003 meeting and had not received them. He would like the church to adhere to the spirit of the agreement. Acting Chairman Beverine stated if an agreement was not part of a Village Board discussion then the Village will not have a record of that. G. Humphrey stated he does not have a site plan that speaks to plans for landscaping. Mr. DeFelice stated that he is asking the Board to delay a decision regarding the variance so they can talk about the landscaping from a previous agreement. Acting Chairman Beverine reminded those present that this application does not pertain to landscaping.

Ms. Lisa Trumble of 11 East Oneida Street is present to oppose the sign. She is especially opposed to any sign that includes lighting. She stated the current sign is sufficient. The parking lot lights are on all night and the church can accomplish what they need to with the sign they have now and maybe they should consider just turning the existing sign perpendicular to the road for better visibility.

Acting Chairman Beverine submitted into record a letter from Mr. Paul DeFelice. He noted many of the comments in the letter were addressed in discussion with Mr. DeFelice this evening. Acting Chairman Beverine read into record an email from Ms. Michelle Arthur of 15 East Oneida Street stating her opposition to the variance request, a copy of which has been made a part of the record. Acting Chairman Beverine read into record a letter from Mr. Harlow Kisselstein of 13 East Oneida Street stating his opposition to the variance request, a copy of which has been made part of the record. Acting Chairman Beverine also read into record a response from Steve Darcangelo, the Village Engineer, regarding the statement that the Baldwinsville Police Department had requested that the parking lot lights be left on until 10:30 pm. S. Darcangelo sent an email dated October 20, 2015 stating he had spoken to Police Chief Lefancheck regarding this and the Chief stated he was not aware of any request made for this. However, he did state that the police department does prefer lighted areas over dark areas and

it is possible a comment to this effect was made in the past. However, no formal request was made to the church from the Village Police Department.

Pastor Claude Valdes stated the church is in compliance with the site plan and past variances from the Village. He cannot speak to any personal conversations between neighbors and Reverend Czyz. However, he can speak to the fact that once the church addition was done there were several things that were left out due to financial constraints. Mr. DeFelice noted that the church was able to donate \$2000 to the Village for the entrance landscaping and should have instead spent it on the church landscaping. Pastor Valdes stated the church prioritizes the community, including the neighborhood, over their own property. Acting Chairman Beverine reminded the audience again that the discussion should be limited to the signage. Comments regarding other issues are taken seriously and have been entered into record; however, the focus needs to be on the sign variance request.

Pastor Valdes agreed that the parking lot lights do indeed stay on all night and he was mistaken when he stated they go off at 10:30. He stated he spoke with Chief Lefancheck on October 19, 2015 regarding the possible request from the Police Department to leave the parking lot lights on and Pastor Valdes stated he was not sure if the request came from the Police to the church or from the church to the Police department. However, at that time Pastor Valdes did clarify to the Chief that the lights were being left on all night. Pastor Valdes stated the lights are left on all night for safety purposes as neighbors park in the lot at night. Their lawyer has told them the lights should be left on. He noted the school lights are left on all night as well. Pastor Valdes also stated that on October 21, 2015 a motorist cutting through their parking lot collided with a light post because the lights had not yet come on. The police officer who responded stated the lights should be turned on earlier because dusk is at 6 pm and the lights do not come on until 7 pm. Having the lights turned off at night increases the church's liability. Because of this, they will continue to leave the lights on throughout the night. Pastor Valdes stated the parking lot lights do not cast any lumens onto the street so, although visible from the homes across the street, they do not shine onto neighboring property. G. Humphrey stated that there is no Village Code that dictates when parking lot signs must be turned off. However, the ZBA can make a shut-off time part of the resolution if desired, which was done with the Presbyterian Church sign.

He stated the church had a test done by Kassis Signs at the request of the Board and this study showed that as long as the requested sign is 1 foot inside of the sidewalk it will cast between 0 and 0.01 lumen cast onto the road if it is perpendicular. If the sign cannot be reoriented and remains parallel to the road, it will like cast more lumens into the road. The current sign is 15' from the sidewalk. Kassis also stated they had selected an 8 foot x 3 foot sign because with a speed limit of 30 mph, letters smaller than 4 inches tall are not visible. With a letter height of 4 inches, the sign should be 8 feet x 3 feet. Kassis did not provide a plan or a cost for a sign smaller than this because they stated they are not willing to make the sign smaller because the text and logo will be distorted. Pastor Valdes provided elevations of a smaller sign to show the Board, which would not accommodate the 4 inch letters required for 100-foot visibility. The sign will be internally lit and there will be no neon or scrolling or flashing text.

Pastor Valdes stated it is critical that the sign have "Assembly of God" on it to differentiate the church from the Word of Life Church in New Hartford, which recently was involved in a serious crime. He noted that the existing sign is outdated. Ms. Trumble and Mr. Charles Dugan of 21 East Oneida Street both asked Pastor Valdes if the larger illuminated sign is necessary so

people will be able to find their church. Pastor Valdes stated that is one reason, but also the sign needs to be the size they are requesting to accommodate the text. Also, the existing sign is old and outdated and they would like their new sign to include the new logo. Discussion was had about changing the sizes of the text and Pastor Valdes stated that "Assembly of God" is part of the logo itself and the dimensions need to be maintained. He submitted signs plans that show more details than what was submitted previously, including more dimensions. Pastor Valdes stated he will not be amending the variance request and would like to continue with the original request for the larger sign based on the recommendations from Kassis Signs, which is "Option 1" in the materials provided this evening.

G. LePorte stated that the, although he understands the issue up for discussion is the sign, much has been said about the parking lot lights and, as the issue was raised several times, he would like to address it. G. LePorte stated he lives at 72 Oswego Street and the church property borders his backyard. In the past before the church was in this location, there were no parking lot lights and, as a neighbor, he noticed a lot of problems with people loitering on the site. Since the parking lot lights were installed and have been on at night, he has noted this is no longer an issue.

C. Taft asked Pastor Valdes to clarify what parts of the sign will actually be illuminated. Pastor Valdes states that the logo, but not the band, will be illuminated. The lighting itself will not be bright white, but a muted bronze color. The swirls will also be illuminated in bronze, maroon, and gray. The sign will be the same on both sides. C. Taft noted that she does not believe the sign will be able to cast any light across the street as it will be perpendicular. The proposed sign will not have any lettering on the base. The current sign is approximately 5 feet tall.

Ms. Trumble asked why the sign will need to be illuminated if they parking lot lights will be on. Pastor Valdes explained that the parking lot lights are LED lights and do not shine on the sign location, only on the ground beneath the light posts.

Ms. Luann DeFelice asked if the church would be able to alter their sign to include motion or flashing text in the future if they are granted this variance request. Acting Chairman Beverine stated the Board, if granting the request, would include language in the resolution to limit what can be placed on the sign.

Mr. Kisselstein asked if the base is included when calculating sign dimensions. G. Humphrey stated it is not.

Acting Chairman Beverine asked if there were any more questions from the Board. Hearing none, upon **motion** by G. LePorte and second by C. Taft, the public hearing for 12 East Oneida Street (7-13 Elizabeth Street) was closed.

Acting Chairman Beverine asked if the Board would like to have further discussion prior to the Findings of Fact. He noted that had he considered the structure, the materials, illumination, and positioning of the proposed sign and does not believe that the sign illumination will cast any light off site. He feels, however, that the purpose of the sign can be achieved with a smaller sign as it is his experience that lettering and logos can be modified and adjusted as needed to

accommodate the branding and stay within Code. He noted that a new sign, however, will be an improvement over the existing sign.

G. LePorte stated he does not see that a new sign perpendicular to the road will inconvenience neighbors and it seems their problems are with the parking lot lights, not with the sign in question.

J. Zuccolotto stated he shares Acting Chairman Beverine's thoughts about the size of the sign and with G. LePorte's assessment that much of the discussion in opposition has been unrelated to the sign issue. He also does not think the sign illumination will affect the neighboring properties. He struggles with the requested size and it is his opinion that "Word of Life" will still be visible on smaller sign as the letters will still be 4 inches. He believes the new sign will be an improvement and the perpendicular orientation is appropriate.

C. Taft agreed with the other Board members and stated that she thinks the logo is an attractive one.

J. Zuccolotto noted the following Findings of Fact for the property located at 12 East Oneida Street (7-13 Elizabeth Street):

- The area variance request is for 12 East Oneida Street located in an R1 Zone.
- The area variance is to § 268-3 for a 2-sided 48' square foot sign (24 feet per side).
- The proposed sign will be in the same location as the existing sign but will be oriented perpendicular to the road.
- The cost of the sign is approximately \$4000.
- The sign will be made of fiberglass.
- The requested sign is shown as Option 1 on the newly-submitted materials at tonight's meeting.
- The sign will include tan and bronze letters with certain letters being gray and the logo in the middle will be maroon, gray, and bronze.
- The existing sign is 18 square feet (one side).
- The purpose of the new sign is to display the new logo and to provide direction and instruction to people as to where to go.
- Lighting has been an issue in the past according to the public present and, therefore, the Board had requested that the Applicant provide information about the lighting that will be cast from the proposed sign, which was submitted, and this information determined that the sign will cast 0 (zero) lumens of light onto the street in the perpendicular position.
- According to testimony by the Applicant, the 4-inch text cannot be seen at 100 feet. 4 inches is the smallest text on the sign.
- The sign will be internally lit.

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

Acting Chairman Beverine noted the following resolution based upon the foregoing findings of fact to grant the area variance for a 48 square foot sign (24 square feet per side) at 12 East Oneida Street requested by Word of Life/ Assembly of God Church at a public hearing opened on October 19, 2015 and closed on November 9, 2015 with the *conditions* that, 1) *the sign will include the Word of Life/Assembly of God logo;* 2) *the sign will be installed perpendicular to the road so*

there will be no glow aimed at neighboring properties; 3) the sign lighting will be shut off at 9 pm; 4) there will be no additional menus, scrolling signage, or any additional signs or banners adhered to the sign now or in the future; 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 based upon the individuals present who spoke in favor of the application.
- 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, should not be paramount to disallowing the request.
- The proposed variance would not have an adverse effect or impact on the physical and environmental conditions of the neighborhood or district.
- Though this variance request is self-created it should not be the sole-governing factor to not grant the variance as submitted and requested to this Board.

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

Acting Chairman Beverine 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 -

C. Taft - YES
G. LePorte - YES
K. Beverine - NO
J. Zuccolotto - YES

Acting Chairman Beverine noted that the variance is **granted**. 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 and to work with the Code Enforcement Officer.

B. Baldwin noted this variance request will require SEQR Type 2 action.

Upon motion by K. Beverine and second by J. Zuccolotto, this area variance request is declared a SEQR Type 2 action.

The meeting was adjourned at 8:20 p.m.

The next meeting is scheduled for Monday, December 14, 2015 at 7 pm.

Respectfully submitted,

Susan A. LaQuay

Zoning Board of Appeals Secretary