

BALDWINSVILLE ZONING BOARD OF APPEALS
16 WEST GENESEE STREET, BALDWINSVILLE, NEW YORK
APPROVED 6/13/2016

The regular meeting and public hearing of the Baldwinsville Zoning Board of Appeals was called to order on April 11, 2016 at 7:00 p.m. by Chairman, Jim Zuccolotto.

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

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

Guests: Jeffrey Eckhardt (Applicant); Neal Eckhardt, Mary Endel, Mike Bishoff, Dan Gee, and Frank Cutie, all regarding 6-8 Division Street

Chairman Zuccolotto called for approval of the minutes from February 8, 2016. Upon *motion* by G. LePorte and second by K. Beverine to approve the minutes as submitted. **Carried.**

NEW BUSINESS

Public Hearing/action regarding 6-8 Division Street (wheelchair ramp Eckhardt/Cutie)

Chairman Zuccolotto opened the public hearing for 6-8 Division Street regarding their request to install a wheelchair ramp. He read into record the Public Notice, which was published in the *Messenger* on April 6, 2016 and read into record the applicable code section (Article IV, Section 345-9(C)). Chairman Zuccolotto also read into record the letter of notification of public hearing, which was sent to nine neighboring property owners. Rod and Nancy Kellar of 13 Division Street visited the Codes office on April 11, 2016 at 2 pm to express their support of the application. Mr. Frank Cutie provided a signed letter from Mr. and Mrs. Goodrow of 4 Division Street expressing their support.

Mr. Jeffrey Eckardt, the Applicant, is present to address the Board. He is a member of Boy Scout Troop 114 and this wheelchair ramp is part of his Eagle Scout project. This ramp is to provide Frankie Cutie of 6 Division Street access to his family home. Mr. Eckhardt stated that the proposed ramp will encroach onto the required 40-foot setback, as does the existing structure. He provided the following responses to the Area Variance Requirements:

- 1) The requested area variance will not produce an undesirable change in the character of the neighborhood.
"We will be utilizing common building materials in a standard design. The wheelchair ramp will not be detrimental to the safety of the neighbors."
- 2) No substantial detriment will be created to nearby properties.
"There is an empty lot to the left of the house and a house to the right. The wheelchair ramp will not be detrimental to the safety of the neighbors."
- 3) There was no other feasible method available to achieve the benefit sought other than the requested variance.
"There is no other method to build this access ramp for Frankie Cutie other than this wheelchair access ramp in the front yard. Without this ramp there is no reasonable way for Frankie Cutie to access his home."

- 4) The requested variance is not substantial.
"While this ramp is a substantial structure, the ramp will be temporary and can be removed when there is no further use for this ramp. The ramp will then be repurposed for anyone who may require it."
- 5) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
"There is no need for environmental remediation for this project."

Mr. Eckhardt noted that the ramp will be in place on this property temporarily and will, when no longer needed by Mr. Cutie, be given to St. Mary's Church. Mr. Eckhardt will provide the Board with a letter from the Church stating this. Mr. Eckhardt stated the ramp will be ADA compliant. He stated there is no alternative reasonable access point for this ramp.

Mr. Frank Cutie (Frankie Cutie's father) is the owner of 6-8 Division Street and is present to address the Board. He stated his son, who is 27 years old, was being treated for a brain tumor and suffered from a stroke. He cannot walk, has a tracheotomy in place, and is nonverbal.

Mr. Eckhardt stated that 20 to 30 scouts will be working on this project under the supervision of Douglas Gee, Assistant Scout Master.

G. Humphrey noted that this ramp will not interfere with any pedestrian walkways. There are homes on the same side of this street in the immediate vicinity that are located 8 feet from the road.

K. Beverine expressed his concern that there is no time-frame for how long this ramp will be in place.

Chairman Zuccolotto asked if there is any public present who wished to speak for or against this application. Mrs. Mary Hendel of 11 Division Street wished to express her support of this application. She stated she is concerned, however, that the Cutie's needed to go through this process and believed that the ADA required the Village to allow a ramp for access. Chairman Zuccolotto noted that the permit process, and consequently the appeal to the ZBA, is still necessary. Any facility needing access still must either meet the Code or obtain a variance. G. LePorte noted that he is a disabled Veteran himself and this concerned him as well. He spoke with the Attorney General's Office and was told there are no laws superseding Village Code. Bob Baldwin, Village Attorney, explained that the ADA legislation is mainly for retail establishments or multi-family structures. However, situational factors will be considered. G. Humphrey note that there are other ways to provide access other than allowing this wheelchair ramp to be constructed, such as installing a lift, which would not encroach further into the setback. However, this would be cost-prohibitive.

Mr. Michael Bishoff of 56 Chaucer Circle is present to voice his support of the application and stated he would like to see the ZBA make reasonable accommodations for this family given the circumstances they are in. He also credited Jeffrey Eckardt for a job well done in preparing this variance application.

There was no one present who wished to speak against the application.

G. LePorte advised the Applicant to consider the climate and be sure to choose materials that will withstand the winters. G. Humphrey stated he will review the specs and materials with the Applicant.

Chairman Zuccolotto asked Bob Baldwin if the Board has the ability to waive the application fee given the fact that this application has been made as part of an Eagle Scout project. B. Baldwin suggested the ZBA make a recommendation to the Village Board of Trustees to waive the fee.

Chairman Zuccolotto asked if all Board Members are familiar with the property. All confirmed that they are.

Chairman Zuccolotto asked if there were any more questions from the Board. Hearing none, upon **motion** by K. Beverine and second by G. LePorte, the public hearing for 6-8 Division Street was closed.

Collaboratively the Board noted the following Findings of Fact for the property located at 6-8 Division Street:

- The application is for an area variance for the property located at 6 Division Street in Baldwinsville, NY located in an R1 zone and owned by Francis and Michele Cutie.
- The nature of the request is to build a temporary wheelchair accessible ramp.
- The request is pursuant to Article IV, Section 345-9 (C) of the Code of the Village of Baldwinsville.
- The home was purchased in 1990 for \$87,000.
- The reason for the request according to the applicant is to provide access to the home to the homeowner's son.
- There was no one present against the application.
- There were several members of the public present in favor of the request.
- There were two responses received in favor to the application, one received by the Codes Enforcement Office and one provided in writing during the hearing.
- All Board Members are familiar with the property.
- A notification letter was sent to neighboring property owners and this was read into record by the Chairman.
- The cost of materials for the ramp is \$897.34.
- St. Mary's Church funded the cost of the ramp through donations.
- The ramp will be constructed of pressure-treated wood, carriage and lag bolts.
- The length of time for which the ramp will be needed is uncertain.
- The construction of this ramp will take approximately two to three days.
- The ramp will be ADA compliant.
- The ramp project is being undertaken by Jeffrey Eckhardt as his Eagle Scout project.
- Doug Gee, Assistant Scout Master of Troop 114 of Baldwinsville, New York will supervise the project.
- There are other existing structures within 300 feet of this property that have similar or closer setbacks than what is being sought by this variance request.
- When the wheelchair ramp is no longer needed by Frankie Cutie, it will be returned to St. Mary's Church and a letter will be provided to the Codes Office from St. Mary's Church stating this.
- The Zoning Board will recommend to the Village Board of Trustees that the Zoning Board application fee of \$150.00 be waived given the hardship nature of this request.

Moved by Connie Taft and second by George LePorte to accept the Findings of Fact as stated.
Motion carried.

C. Taft stated she is pleased that this project is being undertaken by Jeffrey Eckhardt as part of an Eagle Scout project and he has done a great job. G. LePorte stated that he was a Silver Beaver, Commissioner and Boy Scout Master for several years and he commended Mr. Eckhardt for a job well done. He feels it was very astute of him to recognize the need by the Cutie Family and to undertake this process on their behalf. Chairman Zuccolotto also applauded his effort and his willingness to stick with the process and see it through.

Chairman Zuccolotto made the following resolution to grant the area variance of Article IV, Section 345-9(C) for 6-8 Division Street, Baldwinsville, New York as requested by Mr. Jeffrey Eckhardt, with the **condition** that the ramp will be removed when no longer needed by Mr. Frankie Cutie, at which time the ramp will be turned over the St. Mary's Church, and with the **condition** that if the property transfers ownership then the ramp will be removed, 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 is not substantial.
- The proposed variance would not have an adverse effect or impact on the physical and environmental conditions of the neighborhood or district.
- This issue is not self-created.

Moved by John Rutkowski and second by Kevin Beverine to accept the wording of the Resolution. **Motion carried.**

Vote to **grant** the area variance for 6-8 Division Street, Baldwinsville, NY:

J. Rutkowski Yes

K. Beverine Yes

G. LePorte - Yes

C. Taft Yes

J. Zuccolotto Yes

The Area Variance Article IV, Section 345-9 (C) for 6-8 Division Street is approved.

Chairman Zuccolotto 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.

OTHER BUSINESS

Administrative Matters

Chairman Zuccolotto asked if they Board will need to formalize the procedures they have been discussing. B. Baldwin stated they will eventually want to formalize the ZBA rules via the Village Board to give it the force of law. The Board Members will review the documents sent out by Chairman Zuccolotto and will return with their comments/recommendations.

G. Humphrey wanted to discuss possible deadlines for variances to be implemented. He explained there are a number of variances that have been obtained and never utilized, for example, an instance where a sign variance was received but the larger sign was never erected. The variance is still in effect and, therefore, decades later the sign can be erected even though circumstances may have changed and the larger sign may no longer be appropriate. Permits and site plans all have sunset clauses.

The meeting was adjourned at 8:45 p.m.

The next meeting is scheduled for Monday, June 13, 2016 at 7 pm.

Respectfully submitted,

Susan A. La Quay

Zoning Board of Appeals Secretary