

BALDWINSVILLE ZONING BOARD OF APPEALS
16 WEST GENESEE STREET, BALDWINSVILLE, NEW YORK
APPROVED 7/13/2015

The regular meeting and public hearing of the Baldwinsville Zoning Board of Appeals was called to order on June 8, 2015 at 7:00 p.m. by Chairman Corrigan.

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

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

Guests: Mr. and Mrs. Christopher and Tessa Ordway (Applicants, 3 Phillips Street); Mr. Alan Dristle (resident of 5 Phillips Street regarding 3 Phillips Street)

Chairman Corrigan called for approval of the May 11, 2015 meeting minutes. Upon motion by C. Taft and second by K. Beverine to approve the minutes as submitted. **Carried.**

Chairman Corrigan called for approval of the resolution regarding 13 Downer Street (dated May 11, 2015). Upon motion by G. LePorte and second by Chairman Corrigan to approve the resolution as submitted. **Carried.**

Chairman Corrigan called for approval of the resolution regarding 26 River Street dated May 11, 2015. Upon motion by G. LePorte and second by C. Taft to approve the resolution as submitted. **Carried.**

Chairman Corrigan called for approval of the resolution regarding the USE variance for 120 Oswego Street May 11, 2015. Upon motion by K. Beverine and second by C. Taft to approve the resolution as submitted. **Carried.**

OLD BUSINESS

Continuation of discussion/decision regarding 120 Oswego Street - Stewart's Shops AREA VARIANCE

Chairman Corrigan noted the public hearing was closed except in regard to the size/placement of the monument sign. He stated that the ZBA had asked Planning Board members for their opinions regarding an 8 foot x 8 foot mock sign, which was placed by the Applicant to give a visual representation of how the sign of the requested size would look. All ZBA members were able to visit the site to view the mock sign. Feedback was received from the Village Planning Board and Chairman Corrigan received emails from Mike Mazoway, Planning Board Alternate, Joe Saraceni, Dave Arthur, Bob Scherfling, Carl Pelcher, and Mace Markham. The variance request is in regard to the size of the sign. Bob Baldwin noted that the process works better when Planning provides a formal recommendation and it is a good idea to wait for a memorandum of understanding. He stated there is no rush on this variance as the signage is part of the site plan review.

Chairman Corrigan stated he had received an email from S. Darcangelo stating that he had looked at the mock sign and did not have any concerns regarding visibility at the stop sign at the corner of Oswego Street and Smokey Hollow Road.

Bob Baldwin stated that if a Board member who was not present at the initial meeting/public hearing acquaints themselves with the application and submissions and feels qualified to vote on the variance request, they are able to participate in that vote.

Chairman Corrigan stated the vote on the area variance request by Stewarts Shops will be tabled until the July 13th meeting. He stated he will be asking the Chairman of the Planning Board to submit an official memorandum regarding the size and location. It is his understanding that the ZBA can place conditions on any variance they grant.

NEW BUSINESS

Public Hearing regarding 3 Phillips Street (Ordway) regarding variance for fence

Chairman Corrigan opened the public hearing for 3 Phillips Street, Baldwinsville, New York, located in a R1 Zone. Chairman Corrigan read into record the public notice as published in the *Messenger* on June 3, 2015. Chairman Corrigan read into record the applicable code sections. The area variances are of §166-4(B) and §166-6(A) to allow for construction of a 6-foot tall privacy fence between the house and East Genesee Street. The home is on a corner lot. Notices dated June 1, 2015 were sent to 44 nearby property owners, as entered into record.

Mr. and Mrs. Chris and Tessa Ordway are present to address the Board. Mr. Ordway stated he understands the property is a corner lot and noted their actual front yard is on Phillips Street. The "other front yard" is along East Genesee Street. Mr. Ordway stated their house is approximately 60 feet off the corner. He purposely did not want to put the fence close to the street. The proposed fence would be approximately 45 feet off the road and 35 feet from their property line and would not impair visibility. It would also be 10 feet behind the front building line of the neighboring property at 113 East Genesee Street. Mr. Ordway noted that his neighbor, whose property is not a corner lot, would be allowed to erect the same fence in this location as it would be technically in that neighbor's side yard. Mr. Ordway submitted a photo (labeled #2) showing this neighboring property. He stated he would like to fence the yard (which he considers to be his backyard) for privacy purposes as the whole yard is visible from East Genesee Street and he frequently has family children visiting.

Chairman Corrigan stated that this is not the only corner lot in the Village and all corner lots are considered to have two front yards. He noted from the survey presented that if the back yard were to be fenced according to code the fenced area would be 57 feet x 50 feet.

Chairman Corrigan reviewed the application. The 6-foot tall fence would be made primarily of red cedar with pressure treated posts. A portion of the fence would be vinyl chain link which will be off of the north back corner of the house to connect to a shed. Mr. Ordway stated this chain link fence will be temporary until they build the garage. The closest portion of the fence will be approximately 34 feet from East Genesee Street, 30 feet to the edge of the sidewalk. Chairman Corrigan noted that the Board has two copies of the same survey conducted by George Venditti and dated January 12, 2012. However, one is noted to have a measurement 35

feet from the back of the concrete walk and the other says 30 feet. Mr. Ordway stated where he measured from it is 35 feet from the north side of the sidewalk.

Chairman Corrigan asked how close the proposed fence would be to East Genesee Street. Mr. Ordway stated it will be 34 feet, approximately 30 feet from the back of the sidewalk and 34 feet including the sidewalk.

Chairman Corrigan noted that the Board has two copies of the same survey conducted by George Venditti and dated January 12, 2012. However, one is noted to have a measurement 35 feet from the back of the concrete walk and the other says 30 feet. Mr. Ordway stated where he measured from it is 35 feet from the north side of the sidewalk. The discrepancy is with the CEO notation on the other copy. Chairman Corrigan added 4 feet for the sidewalk and stated it would be 39 feet from the street right of way. The measurement the Board will use is 35 feet from the back of the concrete walk.

Chairman Corrigan noted this property is somewhat unique in this area as most have properties in the area have less road frontage. Mr. Ordway stated his property may have been a double lot at one point. Mr. Ordway noted that his neighbor had given him permission to tie into the existing fence and he may eventually sell that neighbor this portion of their property onto which the neighbor's driveway encroaches.

The property was purchased on February 14, 2012. The fence will cost approximately \$5000.⁰⁰ and will be installed by Arrow Fence. The Applicant is aware that the "good" sign should face out. The style will be vertical dog ear 1 x 4 planks, Western Red Cedar. Mrs. Ordway showed a picture on her phone from Arrow Fence's website. Mr. Ordway stated he will seal the fence.

Chairman Corrigan asked if there was any public present in favor of granting the variance request. Mr. Alan Dristle of 5 Phillips Street expressed that he is in favor.

Chairman Corrigan asked if there was any public against this application. There was none.

Chairman Corrigan stated for the record that notifications dated June 1, 2015 were sent to 44 nearby property owners on Brooks Place, Phillips Street, Curtis Avenue, Travers Street, Pine Street, East Genesee Street, and East Oneida Street. No responses were received.

J. Rutkowski noted the fence will tie into the back of the C & R Baker property. Mr. Ordway noted that the way the fence is drawn on the survey, his proposed fence will go all the way to the corner of the Baker's fence. He indicated the proper placement on the survey. J. Rutkowski asked how much space is between the fences and asked if it's mowable. Mr. Ordway stated it is not, but he trims it.

Chairman Corrigan noted the fence will run from the SW corner of the home 36 feet southerly, then turn at an angle of approximately 120-degrees and run 16 feet in a southwesterly direction and then turn at an angle of greater than 90-degrees and less than 120-degrees and run 40 feet towards the west and then in a northwesterly direction for 36 feet at about a 100-degree angle.

Chairman Corrigan noted the property is somewhat unique in that it was likely a double lot at one time. The Board is able to put conditions on any variance they grant. One variance

Chairman Corrigan feels is important is that the fence, if it needs to be repaired or replaced, should be repaired or replaced with same or better quality materials.

Chairman Corrigan asked if there were any more question from the Board. Hearing none, upon **motion** by J. Rutkowski and second by G. LePorte, the public hearing for 3 Phillips Street was closed.

C. Taft noted the following Findings of Fact for the property located at 26 River Street, Baldwinsville, New York:

- Christopher and Tessa Ordway of 3 Phillips Street in Baldwinsville are seeking two area variances of § 166-4b and § 166-6a concerning a proposed front yard fence, the height of which will exceed 4 feet in height and will be greater than 50% composition.
- The property is unique in that it may have been two properties at one time and is located on a corner lot which is considered to have two front yards.
- The proposed change is to erect a 6 foot-high privacy fence from the house to East Genesee Street 35' from the back of the concrete walk.
- As submitted with the application, many neighbors in the area have 6 foot high fences.
- The purpose of the fence is to provide privacy from Route 31 for the safety of his dogs and family members, including young nieces and nephews.
- The Applicant has asked Arrow Fence to construct the fence for an approximate total of \$5000.
- The fence would be constructed of Western red cedar with pressure treated posts and vinyl chain link.
- A survey was provided with the application from George Vendetti dated January 12, 2012.
- Mr. Alan Dristle of 5 Phillips Street spoke in favor of the variance.
- The house was purchased in 2012.
- Notifications were sent to 44 property owners in the area with no answer received either for or against.
- As noted during testimony, the Applicant did advise that the fence will run from the SE corner of the home from a porch 36 feet in a southerly direction, then turn at approximately 120 degrees to the SW and run for 16 feet and then turn once again for approximately 110 degrees in a westerly direction and will run for 40 feet and again turn approximately 110 degrees and run 36 feet until it terminates with a neighbor's fence
- The Applicant indicated that he has received approval from that landowner to tie into that fence (house #113).
- The Applicant advised that the fence is comprised of Western red cedar and 6 feet in height. It is a staggered finish at made up of approximately 1 x 4 planks in a vertical fashion, which, per the documents submitted, is then attached to pressure treated wooden posts.
- All Board Members are familiar with the property and the location.

Moved by G. LePorte and second by K. Beverine to accept the findings of fact as stated.

Carried.

Chairman Corrigan noted the following resolution to grant the area variance for 3 Phillips Street as requested by Mr. and Mrs. Christopher and Tessa Ordway at the public hearing dated June 8, 2015 with the *conditions* that, 1) the fence be no closer than 35 feet from the East Genesee Street street line, and 2) if the fence needs to be repaired or replaced in the future that it is repaired with the same quality material or replaced with same or better quality material and/or fencing, 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 uniqueness of this property, 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 regard to composition and height, this should not be the reason to deny 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 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 asked if the Board wanted to discuss the issue further prior to voting. Hearing none, he 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
- J. Rutkowski - 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, July 13, 2015 at 7 pm.

Respectfully submitted,

Susan A. La Quay
Zoning Board of Appeals Secretary