

**Village of Baldwinsville**  
**Zoning Board of Appeal Meeting Minutes**  
Monday March 9, 2015  
Approved

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

**ALSO PRESENT:** Dave Jones, Zoning Board of Appeal Attorney  
Stephen Darcangelo, Village Engineer  
Gregg Humphrey, Code Enforcement Officer  
Mary Augustus, Codes Clerk/Zoning Board of Appeal Secretary

**GUESTS:** Mayor Dick Clarke  
Lee Calkins-First Presbyterian Church  
Frank Papalia-regarding 120 Oswego Street  
Chuck Marshall-Stewart's Shop  
Dave Muraco-owner of 120 Oswego Street  
Ms. Stevens-First Presbyterian Church  
Freida Mason-First Presbyterian Church  
Billy & Deb-Big Mama's  
Arthur J. Licourt-regarding 120 Oswego Street  
Sue McManus-regarding 120 Oswego Street  
Mr. McManus-regarding 120 Oswego Street  
Warren Beck-19 Charlotte Street  
David Arthur-85 Chaucer Circle  
Joseph Saraceni-59 Oswego Street

Pledge of Allegiance  
Open meeting @ 7:02

Upon **motion** by Ms. Connie Taft and second by Mr. John Ruthkowski the Zoning Board of Appeals minutes for November 10, 2014 are approved as submitted.

**Motion Carried**

Mr. Brian Corrigan announced that this is a formal public hearing. Mr. Corrigan explained the guide lines of a public hearing to those in attendance tonight. Individuals in attendance will have the opportunity to speak, but must keep comments limited. There will be time for questions to be addressed to the Village Engineer, Mr. Steven Darcangelo and Village attorney Mr. Dave Jones.

Mr. Brian Corrigan announced that there would be a change to the Agenda this evening. The first public hearing is for 60-64 Oswego Street, second public hearing will be for 26 River Street and last would be 120 Oswego Street.

## ***New Business***

### **64 Oswego St.-AREA variance**

Mr. Brian Corrigan called a public hearing. Mr. Corrigan read the Notice from the Messenger dated March 4, 2015.

SOCPA does not apply per Mr. Dave Jones. Mr. Brian Corrigan read the Village code to the audience as follows:

#### **Chapter 268. SIGNS**

##### **§ 268-3. General regulations.**

The regulations contained in this section shall apply to all signs in all use districts in the Village. No sign shall be erected, maintained or altered in any district except in conformity with the provisions of this section.

B. Signs permitted in all districts without a sign permit. The following signs are permitted in any district without a sign permit:

(5) Signs or bulletin boards customarily incident to places of worship, libraries, museums, social clubs or societies, which signs or bulletin boards shall not exceed 18 square feet in area and shall be located on the premises of such institutions.

Mr. Lee Calkins, a member of the First Presbyterian Church was present. Mr. Brian Corrigan asked the applicant to address the Board with his case. Mr. Calkins explained that the past 3-4 years the church attendance has been at decline. After outside consultation, it was suggested the church have a larger sign to advertise. The campus has the nursery school. The Boy Scouts, Cub Scout and Girl Scouts have their meeting at the church. The Theater Guild uses the church along with many activities. Currently there are two sign on the property, one that reads the First Presbyterian Church; the second is for the Theater Guild. Both of these signs will be removed. We need an upgrade to the church campus. The church has weddings, dinners and services that can be posted on a new sign. Mr. Calkins took the liberty to review the other signs for churches in the Village. St. Mary's has a sign one sided 3x6, the Methodist Church has a two sided sign that is 4x6, the Baptist across the river 4x2½ and Grace Episcopal has a sign 5x6, all bigger than the First Presbyterian Church.

Mr. Brian Corrigan asked if there were any questions from the Board. Mr. John Rutkowski asked if it would be an electric sign. Mr. Calkins stated the sign would be a LED sign. Mr. Rutkowski asked if it would be like the school sign that turns off at 9:00 or at least not all night lighting. Educational intuitions are not subjected to Village sign code. Is the nursery school classified as an educational intuition? Mr. Gregg Humphrey explained that only public schools, this would not include St. Mary's School or the nursery school at the First Presbyterian Church.

The new sign design would be similar to the Baldwinsville School, but not as large. The sign would have LED lighting with two parts. The upper section would be stationary, fixed to a banner through the middle. Mr. Gregg Humphrey stated the sign was more updated sign than that of the school's from the ligature given to him by Mr. Rush Pond, Chairman of the church committee. Mr. Calkins did not know if the banner would be rolling. The sign has the capability but the Village has a prohibition on this type of sign. Prohibition is something the Zoning Board cannot change.

Mr. Brian Corrigan read the code as follows:

**Chapter 268. SIGNS§ 268-3. General regulations.**

The regulations contained in this section shall apply to all signs in all use districts in the Village. No sign shall be erected, maintained or altered in any district except in conformity with the provisions of this section.

**Prohibitions.**

Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated or lighting device so be placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

Mr. Gregg Humphrey stated the top of the sign with black back ground and white letter would be like the Village of Baldwinsville sign on the corner of East Oneida Street and East Genesee Street. The church will remove the two existing signs. Mr. Humphrey stated this would not be a sign that advertised real estate or a business. There is another sign on the property that reads “one way”, it will not be removed.

Ms. Connie Taft asked if there will be brick supports. Mr. Calkins stated that they would match the design of the church. There will be brick columns on both sides with a slate roof over the sign. The message will be the same on both sides. Mr. Brian Corrigan asked the cost of the sign. Mr. Calkins said it would be \$13,000. The erection would be done by the church volunteers. The members have not progressed to the exact installation of the sign. The placement of the sign is 5’ behind the sidewalk in the grass area. The placement would not interfere with cars or the parking area. The sign will be visible from north and south. Mr. Brian Corrigan stated again that this cannot be a rolling sign. The Board asked if the sign will be lit all night. Ms. Mason spoke from the audience and said the members hadn’t gotten that far yet; first they wanted to know if they can have the sign installed. The Minister lives across the street; he could turn it off at night.

Mr. Brian Corrigan asked if there was anyone in attendance to speak in favor of the variance. Martha Stevens and Frieda Mason are in favor to grant the variance to the church. No one against granting the variance was present. There were no further questions from the board.

The neighbor letter was mailed February 22, 2015 reads as following:

60 Oswego	Timothy J. Nobles	8410 Vermillion Circle
66 Oswego	Brian V. Burmeister	same
68 Oswego	Kenneth & Gail Fitzpatrick	same
58 ½ Oswego	Glen & Teresa C. Huegel	60 Oswego St.
43, 45, 49 Oswego	Coholan Family LLC	45 Oswego St. Suite 200
51 Oswego	Stuart D. & Jill G. Hayes	same
55 Oswego	Edward & Patricia B. Connell	same
57 Oswego	Chris & Blake Ann Sheehan	same
59 Oswego	Joseph P. & Theresa T. Saraceni	same
61 Oswego	Benton D. & Nicole M. Schlater	same

2 Elizabeth	Dennis Sick-Marble Island Inc.	3 Marble St.
4 Elizabeth	Michael E. Sick	3 Marble St.
6 Elizabeth	Ron J. & Erin Enochs	same
8 Elizabeth	Mark & Melinda J. Shimer	same
10 Elizabeth	Joseph DiSano	2535 Country Lane
	Word of Life Assembly of God	P.O. Box 86

As noted no correspondence back.

Upon **motion** by Mr. Brian Corrigan called the public hearing to a close by Ms. Connie Taft and second by Mr. John Rutkowski. **Motion carried.**

Mr. Brian Corrigan explained to Mr. Calkins due to the full schedule tonight the Resolution will be determined at a later time, if time allows it will be this evening or possibly the next meeting.

Mr. Brian Corrigan thanked Mr. Calkins for his time tonight.

**26 River Street-AREA Variance**

Mr. Brian Corrigan read the Public Notice dated March 4, 2015 from the Messenger. The applicant is requesting an AREA variance to rebuild a structure loss to a fire. Mr. Brian Corrigan read the code as follows: **Chapter 345, Article 4, Section 345-9 A, B, C, D, and E.**

**Chapter 345. ZONING**

**Article IV. Residential R-1 Districts**

**§ 345-9. District regulations.**

In Residential R-1 Districts, all structures and uses shall be subject to the following regulations:

- A. Required lot area. Lots shall be not less than 7,500 square feet in area, and the minimum lot width at the front building line shall be 75 feet. The required lot area for two-family dwellings shall be not less than 15,000 square feet.
- B. Percentage of lot coverage. All buildings, including accessory buildings, shall not cover more than 25% of the area of the lot.
- C. Front yards. Each lot shall have a front yard with a minimum depth of 40 feet, except that if there are principal structures fronting on the same street within 300 feet of either or both of the side lines of the lot, the front yard depth shall be equal to the average of the setbacks of the nearest of such structures on each side, or to the average of such setback and 50 feet if there is such a structure on one side only, but not less than 20 feet in any case. In the case of a corner lot, there shall be provided on each street a yard equal in depth to the required front yard depth on such street.
- D. Rear yards. There shall be a rear yard not less than 40 feet deep.
- E. Side yards. Each lot shall have two side yards with a total width of not less than 16 feet, neither one of which may be less than six feet in width at the front and rear building line. When a lot less than 75 feet in width exists in separate ownership on the date this chapter becomes effective, the total width of the two side yards may be reduced by one foot for each foot of lot width less than 70 feet, but not to a total width of less than 10 feet. When the total side yard width becomes less than 12 feet, the two side yards shall be of equal width.

Mr. Warren Beck was present to address the board. Mr. Beck resides at 19 Charlotte Street and is the owner of 26 River Street. Mr. Beck passed out picture of the recent house lost to a fire and adjoining neighbors.

Mr. Beck informed the Board that in 1993 he was entering his freshman in college. On a visit home from school, he noticed a house for sale on River Street. The house was involved in an Estate and had been for sale about ten months. Mr. Beck's father suggested he buy the house. He went to look at the house and the Estate was in agreement to hold the mortgage. A day later, Mr. Beck was the owner of a house. Mr. Beck stated that that home at 26 River Street gave him the opportunity to get a college education as comfortable as possible. Fast forward 22 years, he is married with two children, a 6 year and a 8 year old. Mr. Beck explained that his wife works part time. This house gives them the financial ability for his wife to be home with the children. On February 11<sup>th</sup> Mr. Beck received a call that there was a house on fire in the area, but decided what chance it would be his house. Soon he found out it was his house on 26 River Street that was on fire. The house is a total loss. He is now waiting for the insurance company to release it back to him for demolition. The reason Mr. Beck is in front of the Board this evening is to explain that for 22 years this house has help support his family. He cared and took pride in this house as though it was his own residence. And through no fault of his own the house is gone. The house was deemed with no structural or mechanical issues. The cause of the fire was result of the down stair tenant accidentally put something near the wall furnace.

Mr. Beck met with Mr. Humphrey to discuss the possibly to re-build. Mr. Beck depends on this income to help support his family. At first we thought it would be "grandfather" in, but it is not. I am here tonight in front of the Board to say it is a small lot. It will not meet the standards of today's codes. I am asking permission to use the same lay out to re-build a new house. The house was built in 1890. The house made it 125 years before there was a problem. And, again it was not structural.

Mr. Brian Corrigan asked Mr. Jones since this house is close to the river will it require a SOCPA. Is the river a county channel defined by County Planning? It was determined that a SOCPA would have to be submitted. County highway and middle of the river to be within 500 ft. SOCPA is required. Mr. Jones stated the deadline is March 13, 2015 to submit the paper work. He will make sure it is done".

Mr. Brian Corrigan asked Mr. Steven Darcangelo after review the survey that the porch of the previous house extends into the street line. Mr. Beck shows a survey done by the Village in 2006. Three houses in a row show property extending in to the street line. The house was built in 1890 but the survey is dated 1905 that establishes where the street lines are. Mr. Beck questions how the house was built before the street lines were determined. Mr. Beck measured from the porch of the house to the fence and it is 42". From Mr. Beck's survey it shows 2 iron pipes, the pipes are further in to the street than the street line shows. Mr. Beck refers to picture #5 that was given to the Board, the porch in question on the survey shows it is in the street line. But, as the Board can see from the picture it actually sits back further than the other houses on River Street. The gray house next door sets forward of his house. Also, referring to the survey, number 22 River Street shows the pine tree is in the road. The pine tree is shown in pictures 9 & 10 and is not in the street. The Surveyor, Stephen Sehnert used the 1905 to basic the current distance for the 1993 survey. Mr. Beck stated after speaking to Mr. Sehnert, he was made to believe the 1905 survey possibly was not accurate. Mr. Sehnert has agreed to survey that property again, but the weather prohibits a survey to be done now. Mr. Beck did admit from reviewing the survey that the house was in the street. The fence is 42" from the porch and water shut off is 4 ft. from

the fence. Mr. Brian Corrigan asked Mr. Beck if the original house was on the same foot print and was there any addition on the house. Mr. Beck stated the whole house seemed original and from the same time period. Mr. Brian Corrigan inquired how much the house was bought for in 1993. Mr. Beck he paid \$40,000.00 and there is no mortgage on this house. Mr. Beck confirmed he resided at 19 Charlotte Street and this house on River Street was always income property. The upper apartment was rented for \$650.00 per month and the bottom apartment was \$675.00. Mr. Beck paid utilities, which averaged about \$200.00 per month. There is no debt on this house.

Mr. Beck informed the Board that the insurance that is on the house is a re-placement policy. Mr. Beck stated the problem for him is he has two options, one is to re-build and the other is to walk away. He has been lead to believe the walk away price will be much less. The insurance adjuster that came to look at the house was using a formula to take in account lost revenue. Mr. Beck's insurance company rejected this. The cost of the demolition will come out of policy. The coverage on the house is \$206,200.00. Mr. Beck stated he has never resided at this location. The square footage of the house is between 1,600 to 1,700 square feet. Mr. Beck clarified to the Board that his intent is not to use the same foundation of the original house just the foot print. Mr. Beck wants the porch to be part of the house as it originally was. Mr. Beck does not want to include the carport; there is not enough distance to the property line to meet code. Mr. Beck referred to picture #16 that shows the picture window. The window extends 11", eliminating the window would bring the front of the house within the 3' needed. Mr. Brian Corrigan asked if there had been any offers on the house, Mr. Beck said, "no". Mr. Beck has not advertised to sell the property since the fire. Ms. Connie Taft asked if the house would still be a 2 family residence. Mr. Beck confirmed it would be. Mr. Gregg Humphrey stated the distance to the river was a just under 250 feet. Mr. Humphrey added that the front porch would not comply with State code if it was rebuilt exactly where it is now. State code requires 3' from each property line. The iron pipes are about 4' from the front porch. If the iron pipes and the street line were the same the distance the porch would be in compliance. The survey has never come to light until now. Mr. Steven Darcangelo asked if there is anything that precludes a building of the same square footage to be moved back on the property. Mr. Beck said that he could move the house back. If the house was moved back the front would meet required set back. Mr. Steven Darcangelo stated that from the Village's view point it is not recommended that the house is built that close to the street line. Mr. Darcangelo admits that there are houses in the village that are in that category. The structures created in the street line could be a long term concern for the future utilities, etc.

Mr. Brian Corrigan asked Mr. Dave Jones if he has seen land disputes such as this. Mr. Jones stated he has, all the time. Mr. Jones noted that you'd be hard pressed to find a house in Oswego that in not on a street line. In 1979 the City of Oswego passed a resolution stating that those houses would be "grandfather" in. Mr. Jones was surprised that in 1993 when the house was purchased by Mr. Beck that council would have not caught this matter. Mr. Brian Corrigan asked Mr. Beck when estate held mortgage was not required to purchase title insurance. Mr. Beck did not; it was never discussed at the time of purchase. Mr. Beck stated that 26 River Street is less in the street line than any other house on Street. Mr. Beck went to the Courthouse to do research, but did find much information that would help. The description was very vague. Mr. Dave Jones reviewed the abstract given to him by Mr. Beck. Mr. Beck will invest the insurance money into rebuilding the house minus the demolition cost. Mr. Beck informed the Board the problem is the money the insurance company has offered if he is not able to rebuild. Mr. John Rutkowski asked Mr. Humphrey if there were other issues related to the set back and also asked if Mr. Humphrey has had a chance to measure. Mr. Humphrey stated he does not have actual measurements. Mr. Beck said there is 15' of property in the back yard. If he is required to move the house back when it is rebuilt, it will sit further back than any house on the street. Mr. Brian Corrigan

asked if there was anyone to speak in favor or against the variance. Mr. Frank Papalia from the audience stood to address the Board. Mr. Papalia stated that Mr. Beck is a stand up person and everything he does he does well. The Board asked about measurements and Mr. Humphrey state the survey was not to scale. After reviewing the abstract Mr. Jones stated the lot description was colloquial at best. There is no explanation why the iron pipes are where they are.

Mr. Beck plans to rebuild the house as close to the original as possible. It will be a wooden structure with vinyl siding. The roof was only a year old on the house when it burned. The water to the house has been shut off as well as National grid. There are no underground power lines. Mr. Beck applied for a permit last year to install a fence and it was determined then that no lines were underground.

Mr. Brian Corrigan asked if there were any further questions from the Board, there were not.

Mr. Dave Jones suggested that the abstract be updated possibly for clarification. Mr. Jones also told Mr. Beck to refer questions to an attorney that handles real estate. He might want to look into "Act to quiete Title". It is important to have a new survey done to clarify exactly where the house will be placed. This will determine how great the variance will be. Mr. Beck feels he will have to make a choice regarding his discussion for the insurance company. Mr. Brian Corrigan asked Mr. Beck if the insurance company had him sign a "Proof of Loss", Mr. Beck has not signed such document. Mr. Beck has just signed a non-waiver.

The Board will hold open the Public hearing. All prior issues that have been discussed this evening will have to be addressed. The Board will need clarification before resolution is done.

Mr. Brian Corrigan read the land owners that were notified regarding 26 River Street

24 ½ River St.	Susan E. & Bruce Allen	7199 W. Dead Creek Rd, B'ville
22 River	Phillip H. Plew III	7627 Pico Lane, B'ville
20 River	Bank of America Nat'l	475 Crosspoint Pkwy Getzville, NY 14068
18 River	Florence C. Leir	same
14-16 River	Female Charitable	Bonnie Kisselstine 10 River St.
12 River	Carl M. Mills	2156 Kellogg Rd., B'ville
9 Charlotte St.	David S. Partor	same
11 Charlotte	Prof Ethel H. Fine	PO Box 35134, Syracuse 13235
13 Charlotte	Benjamin & Lisa M. Heitman	same
17 Charlotte	Michael J. Pidgeon	same
21 Charlotte	Michael & Amanda Fenlon	2532 Country Lane
15 Charlotte	Dorothy R. Rose	same
23 Charlotte	Lois J. Williams	319 Sixth Ave. Pelham, NY 10803
25 Charlotte	Karen M. Mayo	same
20 Charlotte	Robert & Christine Lostinger	same
21 Charlotte	Village Home Apts, LLC	106 Metropolitan Park Dr. L'pool 13088
17 W. Genesee St.	First United Methodist Church	same

**Discussion/ action regarding 120 Oswego St. – Stewart’s Shops LLC-USE variance**

Mr. Brian Corrigan opened the public hearing and read the notice in the Messenger

**Article VII, Section 345-14-Permitted structures and uses.**

In Business B-1 Districts, only the following structures and uses shall be permitted.

- A. All structures and uses permitted in Residence R-2 Districts.
- B. Retail stores, shops, banks, business offices, personal services establishments (including coin-operated laundrettes), restaurants (excluding drive-in restaurants), mortuaries and undertaking establishments.
- C. Hotels, motels, theaters and recreation establishments.

Mr. Chuck Marshall from Stewart's Shops LLC was present to address the Board. Mr. Marshall explained that Stewart's was a convenience store with gas pumps. It is 60 % family owned and 40% owned by employees. Stewart's current have 320 store; 270 has gas pumps. Stewart's first store opened in Onondaga County is on the corner of Buckley Rd. and Bear Rd. Stewart's is pursuing more property in Onondaga County. All of the new stores have gas, customers want one stop shopping. Stewart's has a large ice cream sale. In the Village of Baldwinsville only commercial zone can be used for gas stations. 90% of our ice cream goes to our stores unlike Byrne Dairy 90% goes to schools. Mr. Marshall continued saying that there would be one gas pump that would be for diesel, but not for the of tractor trailers use. The diesel is for cars and small trucks. Stewart's is proposing 2,700 square foot store with four gas pumps. Mr. Marshall realizes that there will not be a determination tonight but wants to goes through the explanations and questions. Mr. Marshall states that Mr. Dave Muraco is the owner of the property at 120 Oswego Street. Stewart's represents Mr. Muraco, if this project is not approved, Stewart's will not purchase the property. Mr. Muraco has experienced some hardships with this property. This project includes the location of Big Mama's and the non-occupied car wash. Mr. Marshall explained that the original proposal was not accepted by the County DOT. The location of the current proposal encumbers a different section of Mr. Muraco's property. Stewart's site will be now taking part of Towne Square's parking. There are two separate tax map numbers; both properties are the same ownership. Mr. Marshall continued to say that attached to application are exhibits; Exhibit 2 is the development cost, Exhibit 3 goes through Mr. Muraco's history of the two properties and the hardship created is unique, Exhibit 4 is Mr. Muraco, owner of Empire Management Company LLC a leasing contract with Pyramid Brokerage Company, Inc. and finally Exhibit I is a zoning map and permitted uses in B-1 zone and why B1 zone does not apply.

Mr. Marshall confirmed there is a diner on the corner of this property and it will have the option to relocate in to the mall area. Stewart's is a wood frame construction very similar to residential area. This convenience store is no different than a Kinney's Drugs with the exception that Stewart's offers fuel service on the outside. Mr. Marshall said when fueling station were created in many zoning areas the presentation was there would be cars outside lifts inside for repairs. Stewart's is considered to be retail, they sell gas.

Mr. Brian Corrigan asked about Exhibit #5, a financial from 2006-2013. Mr. Marshall said it was with regards to Mr. Muraco's property at Towne Square Center. Mr. Muraco was present and addressed the Board. He explained the property in question is a car wash that is not in use and the diner. Mr. Brian Corrigan asked Mr. Muraco if he can provide financials for this specific property. The Board needs to know the financial impact on the property. The request is for a USE variance for a certain area, not the entire Towne Square.

Mr. Brian Corrigan addressed Mr. Marshall to question that Stewart's is not purchasing all of Towne Center. Mr. Marshall said that was correct. The only area that the Board has a concern is the property for Stewart's. The financial return is for the just the area that Stewart's is going to purchase. Mr. Brian

Corrigan confirmed that the two properties are tied together. Mr. Brian Corrigan also questioned Mr. Marshall that it is not self-created. What is not self-created about the situation asked Mr. Corrigan, beside economic conditions that have fallen on central New York? Mr. Marshall stated this is a B-1 district, an isolated area surrounding by residential housing. This area is not conducive to a large chain store. Mr. Marshall stated this area will not be of interest to hotels or theaters; they are located on main highways such as Route 31. Mr. Brian Corrigan agreed that the permitted use of this area is for hotels and such, but they would not be interested in this location. The traffic flow for this area is best suited for a convenience store. Mr. Brian Corrigan stated that when the Village Board original zone this area is was not to be used for gas filling stations.

Mr. Brian Corrigan addressed Mr. Steven Darcangelo regarding sewer line. Mr. Darcangelo stated the lines were 6' deep and they are owned by the Village. Mr. Steven Darcangelo does not have a concern based on the lay out. Mr. Steven Darcangelo stated the owner would have to have an understanding of the easement with the Village. The building is slightly a skewed on the property, but will not interfere with any easement.

Mr. John Rutkowski is concerned about the underground storage of the gas holding tanks. Mr. Marshall assured the Board that Stewart's is responsible for all New York DEC regulations. Stewart's uses double wall fiber glass tank with a brine solution around the tank. Stewart's is a self-insured company, so when we do something we do it right the first time. There is an alarm system underground to notify the store and corporate office if there is a leakage of gas from the tank. Mr. Dave Jones added this will be also reviewed by the Village Board prior to an approval.

Ms. Connie Taft asked if Stewart's building would take up entire area and will be a buffer behind the building. Mr. Marshall informed the Board they would do landscaping, a grassy area with large trees between Stewart's and the rest of the plaza. Big Mama's would relocate in the mall and the car wash would be torn down.

Mr. Brian Corrigan asked Mr. Muraco what the yearly income for the current tenants is, he replied it is \$15,000.00. Mr. Muraco explained the car wash is gone and it will never return to the area. The car wash was 2/3 of the income of that property. Mr. Muraco has spoken to a dozen prospects regarding the car wash to be again occupied, but there is no interest. Mr. Muraco stated the only way to make a profit again is with Stewart's proposal. The purchase price is \$600,000.00. The original mortgage for this property and its construction was 3.2 million dollars. Mr. Muraco has no explanation why there are two parcels to this area. Mr. Muraco believes this area needs a place like Stewart's. There were other tenants in these building, but they either closed the business or moved from this location. Mr. Muraco has pursued many anchor stores; none are interested to this location. Originally this was Mr. Muraco's father's business but he died in 1997. Mr. Brian Corrigan asked if anyone shown interest in the property or has there been any offers on the property. Mr. Muraco stated, "there has not."

Mr. Marshall explained the cost of this site plan in front of the Board would be \$816,700.00, with the additional land it will be \$916,700.00. Mr. Gregg Humphrey reminded the Board that there was a full service gas station and an ice cream shop in 1965 or 1967 at this location. Mr. Brian Corrigan requested to see a hardcopy of the financial that has been discussed. Mr. Marshall stated that the "Ma & Pa" business is non-existing in today's' times. The general public wants to stop one place for eggs, milk and gas. Mr. Marshall explained that this is the void Stewart's will provide for the consumer. This location is a B1 surrounded by residential, Stewart's would not alter the appearance of the neighborhood. Mr. Marshall stated to the Board if there were not intent to change or altered the zoning; there would not be a process such as this. The zoning could be changed. When the zoning was original defined there were not any Best Buys or Staples, there were possibly a local printing shop. The times have changes due to retail. Mr. Marshall stated that if he were buying for Sunoco, he would be here before the Board

for a USE variance also. Mr. Dave Jones stated that in 1993 the law was altered to change from filling station to gas station, the law was made to be stricter. Mr. Arthur explained it was necessary to review the minutes from that time period to see what the intent was of our fore-fathers. Mr. Brian Corrigan asked the Codes Officer to look-up these minutes and also the amended resolution from 2002.

Mr. Brian Corrigan suggested that they discuss the third aspect which is the West side of Oswego Street traffic flow. Mr. Marshall can provide a traffic analyst to the Board. Mr. Marshall believes the Oswego Street traffic flow per day is about 7,500 cars. Mr. Steven Darcangelo agreed that he thinks that is right. Stewart's produces an increase of 80 cars per day. This would be a 10% increase in ADT (average daily trips) Mr. Marshall stated this may increase during busy hours.

Mr. Marshall explained that the LED lighting that is used by Stewart's is unlike other gas station. Stewart's will install minimum lights so it will not disturb the neighbors. Mr. Brian Corrigan states that the present lighting at that location is dark, with the exception of Big Mama's. There are only street lights present at this time. Mr. Dave Jones under this prong, changes in the neighborhood could be viewed as a negative effect, but change in the neighborhood could be a positive. Mr. Steven Darcangelo asked Mr. Marshall if the intent of Stewart's is to attract customers to this location or do they rely on existing traffic. Mr. Marshall explained that 65% of Stewart's customers are already on the road, 35% will come from their house to stop at Stewart's. Stewart's does not consider themselves a trip generator. Mr. Marshall stated when you switch from the current use to the proposed plan it goes from a destination to a pass by location.

The Board inquired how the location at Buckley Rd. is doing. Mr. Marshall said it has been open for about a year and it is 10% less in performance level than expected. Stewart's believes it will take a new location 2 years to reach its full maturity. The Buckley Rd. location also has a Nice and Easy across the road. Mr. Marshall hopes that this will be Stewart's second location in Onondaga County. Mr. Brian Corrigan asked Mr. Muraco what other business is in Towne Center currently. Mr. Muraco states there is a church, bottle redemption center, a hair salon and the Trading Post. Big Mama's will be the only business moving into the mall. Mr. Muraco said there is 58,000 square feet available in the mall. Mr. Brian Corrigan stated if Stewart's is successful it will draw more business to the area. The Big M that was there did 35-38,000.00 dollars a week in sales. Mr. Muraco believes the Nice and Easy, Fast Track and Stewart's are the new industry. Mr. Muraco has worked for the past 13 years to have a large grocery store at this location, but knows this will never happen. Mr. Muraco even tried to donate the area to the YMCA. He believes Big Mama's will have a better opportunity if they are in the mall. Mr. Arthur will file the SOPA G239 referral prior to April 13, 2015 dead line. Mr. Brian Corrigan declared the Zoning Board of Appeals Lead Agency. Mr. Brian Corrigan will hold the public hearing open.

### **AREA Variance**

#### **Section 268-3 D (1)- to allow for a larger free standing sign**

#### **Chapter 268. SIGNS§ 268-3. General regulations.**

The regulations contained in this section shall apply to all signs in all use districts in the Village. No sign shall be erected, maintained or altered in any district except in conformity with the provisions of this section.

D. Signs permitted in nonresidential districts with a sign permit. In the Business, Commercial and Industrial Zoning Districts the following signs are permitted but require a sign permit as provided in this section:

(1) One freestanding sign which advertises only the name(s) of the owner(s) or occupant(s), trade name(s), trademark(s), product(s) sold or the business(es) or activities conducted on the property whereon such sign is located. Such sign shall be set back at least four feet from the right-of-way line of a public highway or street; however, in no event shall any part of any sign extend over a sidewalk. The sign shall not exceed 12 square feet in area on any side nor be more than 20 feet above ground level. The total area of all faces of a sign designed to be viewed from more than one direction shall not exceed 24 square feet.

[Amended 12-16-1991 by L.L. No. 6-1991]

Mr. Marshall explained, in the original application Stewart's submitted they requested a 15' metal sign. Stewart's has changed to a standard sign with goose neck lighting. The sign is not be lit from behind. Mr. Marshall said there would still be LED lighting for the gas. The LED was considered for safety also when shopping for gas. The gas price lighting is on photo cell which will dim with natural lighting. Mr. Marshall said the sign would be placed on the South West corner of the property. It is visible from both sides. Mr. Marshall stated the reason for the variance is the sign will be the total of 35 square feet. He is aware that zoning allows the total of 24 square feet. Mr. Marshall described the sign as having just a white canopy with trim molding over the gas light. Mr. Gregg Humphrey commented that since Stewart's is on a corner, zoning allows a 10% sign facing Smokey Hollow, this is the South side. Mr. Marshall told the Board this would be a custom sign designed just for Baldwinsville. There will be no lighting for ingress or egress. This will be a Stewart's corner, developed just for a residential area. Stewart's business hours will be from 5:00am to 11:00pm. There will be no delivery before 5:00am. The loudest delivery is the dumpster pick-up. Mr. Marshall continued to explain that the only restriction he is not willing to give up is the gas delivery. The gas delivery is very quiet; the gas is unloaded on the passenger side of the vehicle 30' away from the pumps. The safest time to make gas deliveries is in the overnight hours because the lot is empty. Mr. Marshall states that Stewart's delivers 65% of its own products including gas. Stewart's trucks deliveries every 3 days. The products received at the store will be day deliveries due to the fact someone has to be present to sign for the product. Stewart's do have outside vendors that do deliver products to the store such as Pepsi for example. Stewart's does deliver its own beer. Mr. Steven Darcangelo stated that the Village is trying to control truck traffic. Mr. Steven Darcangelo continued to explain that the Village especially the Stewart's trucks come from the East using Route 690 through Hencle Blvd. up Route 48. Anything coming up East would use the 631 bypass up Hencle Blvd. Mr. Steven Darcangelo would like a discussion with your delivery trucks to keep them off Smokey Hollow Road and use Hencle Blvd. as the DOT intended for commercial use trucking.

Mr. Brian Corrigan stated that upon approval by the Board, Stewart's would agree not to send their trucks through the four corners. Mr. Steven Darcangelo stated that these are public roads but ask for Stewart's co-operation.

Joe Saraceni, 59 Oswego Street asked Mr. Marshall is there would be separate vendor for food located inside the store such as a Subway. Mr. Marshall stated there would not, all of Stewart's products are

made at their distribution center and shipped. There will be no fryers or grills on site. Stewart's will have own made to order pizza and subs at this store.

Mr. Brian Corrigan asked if there was anyone present tonight to speak in favor of the AREA Variance.

Mr. Brian Corrigan asked if there was anyone present to speak regarding the USE variance

Mrs. Sue McManus, 78 Oswego Street stood to address the Board. She has a couple of concerns and issues regarding the request. The hardship discussed sounded like Stewart's did not have anywhere else to go, but she realizes that more information is forth coming. Mrs. McManus believes people are concerned about gas stations, there is potential for oil spills, fumes from petroleum products, order attached to gas products and definitely traffic spill-over to the area. First, Mrs. McManus would like to discuss the zone, indeed there was a gas station at that location in the 960's. At that time there was not the residential build up as there is today. Today there are many more dwellings since the revision of the zoning law. The Village Board saw fit not to have a gas station in that area. Mrs. McManus reminded the Board about the children walking by that area to school daily. Mrs. McManus stated that a large number of people use the sidewalks on Oswego Street and Smokey Hollow. Mrs. McManus herself walks that route. Mrs. McManus stresses just how many people walk their dogs, push baby strollers and ride their bikes through this area. There has been increase foot traffic through these past years to this area and now there will be an increase on vehicle traffic if Stewart's opens there. She believes having Stewart's Shop will have an impact on the neighborhood. Mrs. McManus suggested the area be turned into apartments. Mrs. McManus questions if every allowable use been taking into consideration.

Mr. Frank Papalia stood to address the Board. He also has concerns; his biggest concern is for the student walking to and from school. The increase number of cars pulling out of Stewart's makes him very nervous. Mr. Papalia remembers the gas station and recalls they had a tank leak. He reminds the Board there is a senior center and they also walk the same area. This is just another group of people we have to watch out for. Mr. Papalia spoke of the wet lands in the area and how it would effect if there was a gas spill. Mr. Papalia finds it hard to believe the lighting from Stewart's will not distribute the neighborhood residences. The house across the street will be looking down on the gas station with lights. He believes that the homes in the area will lose their value with the addition of a gas station to the neighborhood. The houses were there first and we own them and to a sure them the value of their homes are not decreased. Mr. Papalia thinks the students will be going to Stewart's during the day when they should be in school. He is concerned about the big change and the effect on the neighborhood. Mr. Papalia has concerns on how Stewart's will affect the small business in the Village such as the sub shops and the pizza parlors. Mr. Papalia is pro Baldwinsville and wants the Village to keep its image. He is not anti-business, but hopes the Board does not grant this variance.

Mr. Brian Corrigan thanked Mr. Papalia.

Mr. Brian Corrigan asked if there were any comments on the AREA Variance for the sign. Mrs. McManus asked if the USE variance was not granted she assumed the USE variance would not be granted ether. Mr. Brian Corrigan explained it was two separate requests, one could be granted without the other. Mrs. McManus did say she thought the modification and design of the sign was nice; just don't put it inside the village.

Mr. Marshall as the applicant would like to address some of these concerns. Mr. Brian Corrigan granted him the floor. Mr. Marshall addressed the sidewalks and curb cuts that were discussed. He agrees that there will be people walking throughout the area, hopefully some to the store. Stewart's will provide

new sidewalks. They will not alter two of the existing curb cuts. The curb cut on Smokey Hollow will be moved down a bit, not much. It is desirable to locate the curb cut away from an intersection. Mr. Marshall reminds those with concerns that Mr. Muraco has tried for years to market the property for the permitted use. Mr. Marshall explained that their gas tank installation is regulated by the DEC and Stewart's is in compliance with all regulations. Mr. Marshall is hopeful that Stewart's will help Mr. Mauro with bringing new business to the mall, and will bolster the economy. Ed McManus, 78 Oswego Street stood to address the Board. He is concerned about the filling station aspect of this project. The Village Board set up the use to prohibit filling station and he believes it should remain that way.

Mr. Steven Darcangelo does not see a reference to wetlands.

Mr. Papalia stood to confirm his concern about the environmental impact. The way people pull out onto Smokey Hollow it could be potential dangerous. Mr. Marshall stated the curb cut location now is more dangerous than if Stewart's is developed.

Mr. Brian Corrigan stated this Board heard a USE variance for this location before regarding parking space. There will have to be a traffic flow study done, possibly a solution would be a "turn right only" onto Smokey Hollow.

Mr. Brian Corrigan stated this Public Hearing will remain open.

Mr. Brian Corrigan thanked for attending and your input.

Mr. Marshall addressed the Board; he believes the curb cut would be regulated by the DOT. Mr. Marshall informed the Board that he would prepare a trip plan, which consists of the current traffic flow compared to the submitted proposal. He will have that ready for the next meeting.

Mr. Brian Corrigan stated that on February 24, 2015 a letter was mailed to the surrounding neighbors regarding these 2 variances and the Public Notice the list goes as follows:

John P. Erardi & Genevieve L. Bielshi Furman	8163 Oswego Rd.
Mr. & Mrs. Walter T. Butler	8175 Oswego Rd.
Elton Garvin	8183 Oswego Rd.
Arthur J. Licourt, David M. Licourt,	30 Battery Terrace
Brian M. Licourt & Christine Ann Hirsh	
Mr. & Mrs. Bruce C. Quimby	32 Battery Terrace
Kenneth Cook, Jr. & Cameron Tully Cook	33 Battery Terrace
Daniel M. & Mary E. Doyle	35 Battery Terrace
NU-60 Smokey Hollow Rd. LLC	318 First St., Liverpool, NY 13088
Town Square Holdings, LLC	55 Old Nyack Turnpike, suite 210, Nanuet NY 10954
Steven A. Bochino	89 Smokey Hollow Rd.
Grace Episcopal Church	110 Oswego St.

Mr. Gregg Humphrey personally spoke to Debbie the owner of Big Mama's; she is in favor of this proposal. She would be moving to the mall, it is a larger area and one of her interest is catering events. The large space will give her that opportunity.

Mr. Brian Corrigan will keep this public hearing open.

Mr. Brian Corrigan closed the meeting at 10:03.

Mr. Gregg Humphrey asked if the Board would make a Resolution this evening regarding 46 Oswego Streets. Mr. Brian Corrigan said it was too late; they would make a decision at the next meeting.

The meet was adjourned at 10:03. The next meeting is scheduled for Monday, **April 13, 2015**

Respectfully,

*Mary E. Augustus*

Mary E. Augustus, Secretary

Village of Baldwinsville Planning Board