

BALDWINSVILLE ZONING BOARD OF APPEALS
16 WEST GENESEE STREET, BALDWINSVILLE, NEW YORK

Approved 8/11/14

The regular meeting and public hearing of the Baldwinsville Zoning Board of Appeals was called to order on April 14, 2014 at 7:00 p.m. by Chairman Corrigan.

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

Also Present: Susan LaQuay, Board Secretary

Guests: Mrs. Sarah Baker

Upon **motion** by G. LePorte and second by C. Taft that the minutes of January 13, 2014 be approved as submitted. **Carried.**

Upon **motion** by Chairman Corrigan and second by C. Taft that the minutes of February 10, 2014 be approved as submitted. **Carried.**

Chairman Corrigan asked S. LaQuay to check if K. Beverine's new Code Book is in the office. She checked and stated she believes she hand-delivered them to the Board Members homes. K. Beverine stated he will check at home.

OTHER BUSINESS

Discussion/Recommendations to Village Board regarding revision to ZBA fees

Chairman Corrigan asked if everyone received the correspondence dated April 14, 2014 from G. Humphrey to the ZBA Members. They all had received this memo. G. LePorte asked if it is within G. Humphrey's purview to have the fees revised. He stated he was not happy with the memo. Chairman Corrigan stated the memo noted that the Code allows for the Planning Board to modify fees but the Code does not address the ZBA doing the same. ZBA fees are discussed, for example Zoning Code Section 345-100 states that an applicant "...shall pay a nonrefundable application fee, as set by resolution of the Board of Trustees, to the Village." Chairman Corrigan stated that within the Village Code it does not state that the ZBA has the power to set fees, which makes sense as the ZBA is an appellate board. Therefore, as far as this Board making any changes in the language of the Code he thinks it is contrary to what this Board does. C. Taft and G. LePorte agreed. However, Chairman Corrigan believes the Board can make recommendations to the Village Board. He stated he gave it some thought and is of the opinion that for a residential application the fee should be nominal because those applicants are here in the Village year in and year out paying taxes. Part of those taxes pays to run the Village and by law there must be a Zoning Board of Appeals. He would like to make a recommendation to the Board of Trustees to reduce the fee for residential applications to \$50.00 for all variances. Taxpayers are already paying for ZBA services. He also believes that a fee reduction will encourage residents to apply for variances where needed. He believes this will further encourage the CEO to inform residents that something on their property is out of code or something they want to do is out of code. Chairman Corrigan stated the codes on the books need to be enforced to preserve the integrity of the Village and if the codes are circumnavigate the character of the Village is reduced.

C. Taft agreed. She stated she first heard about the fee changes and thought the increase was

too much. The Architectural Review Board now has a \$75.00 application fee and did not have any fee when it was started. She does not think ARB should have a fee at all unless it is necessary to pay for the expenses of having the Board, including paying for a secretary. The ARB members are all volunteers and do not receive payment. Chairman Corrigan stated he believes tax dollars should already cover any expenses of the Board. C. Taft stated when she saw that the ZBA fees were being revised as well, she grew concerned and does not feel she can support any increase. She questioned if there is a need for the money. She wondered if G. Humphrey initiate this fee review on his own or if it was tasked to him. Specifically regarding the ZBA fees, she thinks they should be kept nominal.

G. LePorte stated he does not disagree, but wanted to share the other side of the coin. He stated perhaps with the fee as it is now it reduces the number of frivolous applications and would act as a deterrent except for those who are serious about obtaining a variance for something that is meaningful. He can see where frivolity could take up a lot of time and he believes the fees are really not that exorbitant. Again, however, he questions if it is in the purview of G. Humphrey's position as CEO to present fee changes and believes a trustee should put this forward rather than tasking it to G. Humphrey. G. LePorte stated he understands the concerns regarding fees. However, he believes, as the saying goes, "if it isn't broke, don't fix it."

Chairman Corrigan stated the ZBA fees used to be lower, a fee of \$75.00 for both residential and commercial applications. The commercial fee was raised to \$300.00 because the level of scrutiny a commercial variance requires is much more than most residential requests. He stated he understands G. LePorte's point about the fee discouraging frivolous applications, but is concerned that people who want to seek a variance may consider it cost-prohibitive, especially since they have no guarantee a variance will be granted. His recommendation would be that the CEO should supply his boss with the number of times an applicant comes into the Codes office seeking a permit for something that will need a variance and the number of times they actually seek the variance. This will show if the cost is prohibiting potential applicants from following through with the application process.

K. Beverine stated that he believes these are all valid points and added if he is running a business and would like to grow activity and also raises prices, but then activity does not grow and, therefore, the raise in price really accomplished nothing. He is looking back at his time on this Board and he sees a huge drop off in activity. The Board goes several months at a time without meeting due to a lack of applications. He stated this Board used to be very active and he has not seen this much inactivity since he has started here. If the fees are being raised to generate revenue they this isn't going to work given the lack of applications. However, maybe fees increases are being proposed based on due diligence on the part of G. Humphrey in comparing Baldwinsville ZBA fees to other municipalities. He would like to see how many people are coming in to the Codes office with projects that may require a variance and how many of those people are actually making that application. To be effective, this Board must keep the integrity of the Village. He would appreciate seeing more people come in with fence or shed requests. He does not think lowering the fee will bring in frivolous applications because those potential applicants will be aware that the Board will uphold the integrity of the Code. He is concerned that there may be the appearance that this Board is unnecessary except for the fact that its existence is required by law. More activity also provides Board Members with learning opportunities as well as opportunities to have open discussion with the public. He also believes the cost of the secretary should be handled by the Village Board. He is concerned that rates are being raised for the sake of raising rates.

G. LePorte asked if the lull is seasonal. K. Beverine stated some lull is seasonal, but this lack of activity has been very excessive. Chairman Corrigan stated the Board use to have two to three applications a month except for the winter months. However, commercial applicants would come in during the winter in preparation for building season. G. LePorte suggested the lack of applications may be indicative of the slowing economy. K. Beverine noted that the 2008/2009 recession was worse and there was still activity on this Board. There is a lot of building going on in the Village right now and he would have expected more ZBA activity. Chairman Corrigan noted that with new developments there are not typically zoning issues. The last major development Zoning was involved with was with Festa Fairway where multiple lots needed variances. Also Aspen Springs required some setback variances.

Chairman Corrigan noted that G. Humphrey also provided the revised fee schedule and he is proposing fee increases for all the Boards. The recommendations are in red. S. LaQuay noted all the fees are based on and supported by Code and, therefore, code sections are cited on the fee schedule, with the exception of the ZBA and ARB fees. There is no mention in the Code as to who is responsible for setting those fees.

G. LePorte stated he received a different impression from the homebuilders at the symposium. He believed they were having a lot of discussion with zoning boards for many different reasons in order to keep up with the current attitudes towards the environment, but apparently this is not being borne out here.

K. Beverine asked when our last application was. S. LaQuay stated the last application was for a garage on Wilkinson Place, which was denied. This was several months ago in late 2013.

Chairman Corrigan stated he has not been able to find anything in the Code Book that grants the right for any board to set the fees and, therefore, it must be stated elsewhere in the Village law. He is not sure why this is in the purview of the CEO. However, the Board is willing to provide a recommendation. S. LaQuay stated the other Boards have provided a recommendation to the Board of Trustees to either keep the fees the same or agree with the proposed increases. She will provide the Board of Trustees with a memo outlining the ZBA recommendations. G. LePorte stated it is his understanding of the memo from G. Humphrey that G. Humphrey would like to see the Code changed to require the ZBA to set fees. Chairman Corrigan stated like it sounds like G. Humphrey wants to invest the authority in this Board, which he does not feel is appropriate given the ZBA is an appellate board.

C. Taft stated she would recommend that there be no fee at all for ARB and, regarding the ZBA, she would like to state that the ZBA is an appellate board is not created to set fees and, after thorough discussion, the Board believes the fee should be reduced to \$50.00.

Chairman Corrigan suggested making a resolution to the Village Board as follows:

“After due consideration, the Zoning Board of Appeals hereby recognizes the appellate nature of the Board and, as such, should not be involved with setting any application fees that would have to be adhered to by law. However, regarding recommendations, this Board agrees that a residential fee for variance request might be reduced to \$50.00 or data should be kept for a period of one (1) year as to the number of variance discussion the Codes Enforcement Officer has with residents of the Village to determine if the current fee structure is a hindrance or deterrent for seeing variances. “

Vote to approve the above resolution:

Chairman Corrigan – yes C. Taft – yes G. LePorte – yes K. Beverine – yes

Upon motion by C. Taft and second by G. LePorte that the resolution regarding ZBA fees be put forward to the Board of Trustees. **Carried.**

Vote to approve the resolution to the Village Board of Trustees:

Chairman Corrigan – yes C. Taft – yes G. LePorte – yes K. Beverine – yes

C. Taft asked if the ZBA has the power to make a resolution regarding ARB fees. She suggested the following resolution:

“The Zoning Board of Appeals recommends that the fees now in place for the Architectural Review Board be reduced to *zero* and there should be no fee for any application made to that Board, noting that the Board, including the architects, are volunteers and recognizing that the ZBA has no power to set those fees.”

Vote to approve the above resolution:

Chairman Corrigan – yes C. Taft – yes G. LePorte – yes K. Beverine – yes

Upon motion by C. Taft and second by K. Beverine that the resolution regarding ARB fees be put forward to the Board of Trustees. **Carried.**

Vote to approve the resolution to the Village Board of Trustees:

Chairman Corrigan – yes C. Taft – yes G. LePorte – yes K. Beverine – yes

K. Beverine asked how the rest of the ARB reacted to the fee increase. C. Taft stated they didn't have much of a reaction.

Review of ZBA Budget regarding training

Chairman Corrigan stated he thinks budgeting is outside the purview of the Codes Enforcement Officer's duties as this is not within his job description. It is for the Chair of the Board to make recommendations to the Village Clerk's office as to the yearly budget needs. Regarding training, the budget is there and is to be used by members of the ZBA for training needs. There are a number of Board Members who are not free during the day, which makes attending seminars difficult. However, those who do attend can bring information back to the other Board Members. G. LePorte noted that Chairman Corrigan has judiciously determined other avenues of training. For example, they have done take-home training using books and online options. There are also training opportunities provided by the County. He believes the ZBA has explored other avenues rather than spending a great deal of taxpayer money.

C. Taft mentioned that she was unable to attend the Onondaga County training session in March due to the terrible weather and road conditions.

Chairman Corrigan stated he will continue to update the Board on training opportunities as they arise.

Review of other Board costs

Chairman Corrigan stated G. Humphrey had suggested they review the secretary's per-meeting salary. He noted there is time spent sending public notification of the meeting, sending additional correspondence regarding the applications, transcribing the minutes of the meetings, as well as time spent in the meeting. He noted the secretary's salary in the past was lower when the Board was busier. He stated he is not sure why G. Humphrey wanted this issue reviewed and thought maybe it was to point out the cost per meeting. He stated he has no comment about the secretary's salary.

Other business

Chairman Corrigan noted the Board Members are in receipt of notifications regarding changes in the healthcare plans as well as a list of employee pay dates.

Chairman Corrigan reviewed the budget he received in the ZBA inbox. Budgeted for this calendar year (March 2013 – February 28, 2014) is the following:

Zoning Board salaries:	\$4725.00 (includes secretary's salary of \$75.00/meeting)
Variance fees:	\$ 400.00 (as of 1/31/14)

Chairman Corrigan noted there have been hearings in the 2013/2014 fiscal year and is wondering why this is only \$400.00. He asked that S. LaQuay find out where those fees go after they are submitted to the Village Clerk's office.

C. Taft noted that in green under Planning Board Filing and Examination it is listed as \$250 for site plan and changes to site plan is \$150. She asked if the Planning Board voted on this and it appears they have lowered fees. S. LaQuay stated the Planning Board did vote on these fees. She explained that the fees C. Taft is referring to is a different kind of fee – the \$250 fee is for a subdivision and has not changed. The site plan application fee has been increased from \$150 to \$250. The resubmission fee of \$150 is new. S. LaQuay explained this fee was implemented to address site plans that are returning to the Planning Board having a change or having allowed a set amount of time to lapse before implementing the approved plan.

Chairman Corrigan asked how many applications have been heard this year. S. LaQuay stated she has a spreadsheet that details the applications for each year. She provided the Board Members with copies. This showed that 2011 is when the number of applications dropped significantly.

The meeting was adjourned at 8:10 p.m. The next meeting is scheduled for Monday, March 10, 2014.

Respectfully submitted,

Susan A. LaQuay

Zoning Board of Appeals Secretary