

BALDWINVILLE ZONING BOARD OF APPEALS
16 WEST GENESEE STREET, BALDWINVILLE, NEW YORK
APPROVED 12/12/2016

The regular meeting and public hearing of the Baldwinsville Zoning Board of Appeals was called to order on September 12, 2016 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: Scott Michel (representing the Applicant for 29 Lock Street); David Sullivan (Applicant, 1 Tappan Street); Naomi Whitebean (regarding 29 Lock Street)

Chairman Zuccolotto called for approval of the minutes from June 13, 2016. Upon *motion* by C. Taft and second by G. LePorte to approve the minutes as submitted. **Carried.**

NEW BUSINESS

Public Hearing/action regarding 1 Tappan Street (Area Variance for shed/Sullivan)

Chairman Zuccolotto opened the public hearing for 1 Tappan Street regarding the request for an area variance. He read into record the Public Notice, which was published in the *Syracuse Newspapers* on September 6, 2016 and read into record the applicable code section (Article IV, Section 345-9(G)).

Mr. David Sullivan, the Applicant, is present to address the Board. He stated both the house and the property are very small. The home was built in 1820 and he has owned the property for two years. There was an existing one-car garage that was beyond repair when he purchased the property so it was removed. He would like to place a shed in the same corner of the property one (1) foot off the side and rear property lines to maximize the yard. There will be an 8 x 10 foot patio in the back yard as well. Mr. Sullivan stated if he were to use the code-compliant setbacks for the shed the rear yard would not be useful and the shed may even block the exit door of the house. Chairman Zuccolotto asked if that door is new. Mr. Sullivan stated the door is an existing door. He noted the shed will be for garden tools. The parking lot for Beacon Baptist Church borders the back yard. He stated another neighbor has a large 2-car garage very close to the property line.

Notification letters were sent to three neighboring property owners. No correspondence was received for or against the application.

C. Taft noted that the plan also includes 24 feet of fence located from the corner of the house to the corner of the shed. The fence is code compliant and is not part of the variance application. The shed will act as a portion of the fence. Mr. Sullivan stated this will be a double-sided cedar fence 6 feet in height. The shed will be sided with smart siding and painted the same color as the house. Chairman Zuccolotto asked what the added cost would be to continue the fence to the property line rather than utilizing the shed as a part of the fence. Mr. Sullivan was unsure. The shed and fence as planned will cost a maximum of \$1500.

S. Darcangelo stated he is concerned about the ability to maintain the shed without trespassing onto neighboring properties. Mr. Sullivan noted that the shed is very small and could be pulled further onto the property when maintenance is needed. G. Humphrey stated that all eaves need to be within the property line.

Chairman Zuccolotto asked if there were any more questions from the Board. Hearing none, upon **motion** by K. Beverine and second by C. Taft, the public hearing for 1 Tappan Street was closed.

Chairman Zuccolotto asked if the Board wished to discuss the application. Kb stated he also is concerned about the ability to maintain the shed. However, he noted that the house itself is only 4 feet from the property line in the back anyway.

S. Darcangelo stated he is generally against any nonconforming buildings. However, he stated he understands the need for the variance process. He stated he would prefer that the fence continue along the property line to enclose the shed within the property. He would like to see it as a condition of the No problem with variance if the fence is continuous to enclose the shed within the property. B. Baldwin noted that could be made a condition of any approval granted. Mr. Sullivan stated he would agree to extend the fence to enclose the shed and appreciated the compromise.

C. Taft noted the following Findings of Fact for the property located at 1 Tappan Street:

- The application is for an area variance for the property located at 1 Tappan Street in Baldwinsville, NY located in an R1 zone and owned by Mr. David Sullivan.
- The variance is of article IV section 345-9(G) to allow for construction of a 6 x 8 foot shed in a location 1 foot from side and rear property lines.
- The shed will replace a freestanding one car garage, which the Applicant has removed.
- The former garage was 1 foot off side and rear property lines.
- The requested variance would allow for a 1 foot setback rather than the 5-foot required setback.
- The home was built in 1820 and purchased by the Applicant approximately two years ago.
- The owner will be doing all the work.
- The shed will be used for storage for garden tools.
- The estimated cost of materials is \$1500, including the fence.
- The shed will be sided with smart siding and painted to match house.
- The 24-foot long, 6-foot tall fence will be installed by the owner and will be double-sided cedar.
- All Board Members are familiar with the property.
- There was no public present for or against the request.
- Notifications were sent to three neighboring property owners. No comments were received for or against.
- A survey of the property was included with the application.
- The shed will not be affixed to the ground and will be portable.
- The Applicant has agreed to continue the fence to the SE corner of the property to enclose the shed.

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

Motion carried.

Chairman Zuccolotto made the following resolution to grant the area variance of Article IV, Section 345-9(G) for the side and rear yard setbacks at 1 Tappan Street, Baldwinsville, New York (tax map # 020.-03-11.0) as requested by Mr. David Sullivan, with the **condition** that the shed not be affixed to the ground, and with the **condition** that a fence will be constructed and maintained to enclose the SE corner of the property.

Upon a motion by Member Connie Taft seconded by Member Kevin Beverine, the Zoning Board of Appeals passed the following resolution:

WHEREAS, the applicant, Mr. David Sullivan as owner of 1 Tappan Street (tax map # 020.-03-11.0) came before the Zoning Board of Appeals on September 12, 2016 for a use variance to allow for construction of a 6 foot x 8 foot shed in a location 1 foot from the side and rear yard property lines.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals, after review of all exhibits brought before it, adopts the following findings and decision:

Applicant:	David Sullivan
Zoning District:	R1
Published Notice on:	September 6, 2016 in the Syracuse Newspapers
Property Location:	1 Tappan Street
Use for which Variance is Requested:	variance to side and rear yard setbacks
Applicable Sections of Village Zoning Code:	Article IV, Section 345-9(G)
Permitted Uses of Property:	Residential
Tax Map No.:	020.-03-11.0

I. Notice Sent to the County Planning Board:

Not applicable in this case.

II. SEQRA (State Environmental Quality Review Act)

Type II Action

III. Factors Considered:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: NO

Reasons: The adjoining neighboring properties are commercial in nature and the improvement is actually replacing an prior existing structure but in a smaller form.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance: NO

Reasons: In order to utilize existing space between the existing house and the property lines, the applicant needs to move the shed to the furthest point possible to allow for room for a patio.

3. Whether the requested variance is substantial: NO

Reasons: The existing house is already on the requested 1-foot setback.
The shed will not be affixed to the ground and will be movable.

4. Would the variance have an adverse impact on the physical or environmental conditions of the neighborhood: NO

Reasons: The adjoining properties are commercial and nature and there is no detrimental effect of the shed.

5. Whether the alleged difficulty was self-created: NO

Reasons: The configuration of the lot and the location of the house confines the space that will be utilized for the shed and was existing when the property was purchased.

IV. DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, finds that:

The benefit to the application **DOES** outweigh the Detriment to the Neighborhood or Community.

The requested variance will not produce an undesirable change to the characteristics of the neighborhood.

No substantial detriment will be created to the nearby properties.

There is no other feasible method available to achieve the benefit sought other than the requested area variance.

The requested area variance is not substantial.

The proposed variance will not have an adverse impact on the physical or environmental conditions of the neighborhood or district.

The ZBA further finds that a variance for 1 Tappan Street, Baldwinsville, New York, owned by David Sullivan, under Article IV, Section 345-9(G) of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The ZBA further **GRANTS** the variance subject to the following conditions:

The shed will not be affixed to the ground.

The fence will be extended to the SE corner of the property.

RECORD OF VOTE

Vote to **grant** the area variance for 1 Tappan Street, Baldwinsville, NY:

K. Beverine Aye
G. LePorte - Aye
C. Taft Aye
J. Zuccolotto Aye

I, Susan LaQuay, CLERK OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF BALDWINSVILLE, hereby certify that the foregoing is a true and correct excerpt from the minutes of a meeting of said Board duly convened and held on September 12, 2016, a quorum being present.

The Area Variance request of Article IV, Section 345-9 (G) for 1 Tappan Street, Baldwinsville, New York, 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.

Public Hearing/action regarding 29 Lock Street (USE Variance/Raymond Properties)

Chairman Zuccolotto opened the public hearing for 29 Lock Street, Baldwinsville, New York, owned by Raymond Properties, LLC (Ray Davis) regarding the request for a USE variance. He read into record the Public Notice, which was published in the *Syracuse Newspapers* on September 6, 2016 and read into record the applicable code section (Article IV, Section 345-8). Chairman Zuccolotto also read into record the letter of notification of public hearing, which was sent to 30 neighboring property owners (a list is part of the record).

Mr. Scott Michel is present on behalf of Applicant, Mr. Ray Davis. He stated Mr. Davis purchased the property at auction approximately two years ago with the understanding that it was a commercial use building. Mr. Davis updated the building for future commercial use and was then notified that the use had reverted back to residential because the building had been vacant for a long period of time.

Chairman Zuccolotto asked what the proposed use for the building will be. Mr. Michel stated it will be a small business, likely warehouse/storage with office space. They have a prospective buyer for the property. Mr. Davis plans to sell it as a commercial use building.

Chairman Zuccolotto stated the Board will need to see the financial implications if the building cannot be used for the use the owner intends and will need to be advised of the actual use. He stated he does not feel the Board has been provided with enough information and would like to table the Public Hearing pending more information.

G. Humphrey confirmed that the surrounding properties are residential properties.

B. Baldwin stated that a variance always grants the minimum relief necessary and the Board could place conditions on the variance as to what is allowed in the residential neighborhood. He noted he still will need to see a SEQR or EAF and the application needs to be reviewed by SOCPA. Technically this application is incomplete and cannot be referred to SOCPA until it is completed.

B. Baldwin asked how much it would cost to convert the building into a residence. Mr. Michel stated it cannot be done without tearing down the existing building. B. Baldwin asked that the Applicant provide proof of this.

Ms. Naomi Whitebean of 39 Lock Street is present. She asked if other neighbors would be able to use their houses as businesses as well. Chairman Zuccolotto clarified that the Applicant is asking for a variance that will be specific to this property. This will not be a zone change. Because this building was used commercially in the past, the property is unique.

B. Baldwin suggested adjourning the hearing, but not closing it and continuing the hearing at the October meeting.

Mr. Michel stated that the building was once a roofing company, a landscaper, and a detailer at separate times. It is his understanding that the intended use is as a warehouse and office space. There is an existing parking lot in the back.

S. Darcangelo stated he will provide his concerns to the Board in writing. He would suggest limiting the size of delivery trucks, limiting the hours of operation for business activities, and limit signage, on vehicles as well.

G. LePorte stated he is concerned about the impact this may have on the neighborhood.

K. Beverine asked if the Applicant contacted G. Humphrey prior to upgrading the building for continued commercial use. Mr. Michel stated they had spoken to G. Humphrey and G. Humphrey did inform them that the use was residential. However, Mr. Davis believed they would be able to maintain the commercial use.

Upon a motion by Member Connie Taft seconded by Member Kevin Beverine, the Zoning Board of Appeals passed the following resolution:

Upon a motion by Member George LePorte and seconded by Member Connie Taft, the Public Hearing for 29 Lock Street, Baldwinsville, New York is adjourned and held open. The applicant or representative will return in October. MOTION CARRIED.

The ZBA secretary will provide Mr. Michel with a list of items the Board would like to see at the next meeting, which includes an updated survey of the property, a completed SEQR form, proof of hardship in creating a residence (converting to a residence), and the anticipated type of business (preferably on with limited staff and no customer activity).

The meeting was adjourned at 8:35 p.m.

The next meeting is scheduled for Monday, October 10, 2016 at 7 pm.

Respectfully submitted,

Susan A. LaQuay
Zoning Board of Appeals Secretary

**VILLAGE OF BALDWINSVILLE
ZONING BOARD OF APPEALS**

AREA VARIANCE FINDINGS & DECISION

UPON A MOTION BY MEMBER CONNIE TAFT SECONDED BY MEMBER KEVIN BEVERINE, THE ZONING BOARD OF APPEALS PASSED THE FOLLOWING RESOLUTION:

WHEREAS, The applicant, Mr. David Sullivan as owner of 1 Tappan Street (tax map # 020.-03-11.0) came before the Zoning Board of Appeals on September 12, 2016 for a use variance to allow for construction of a 6 foot x 8 foot shed in a location 1 foot from the side and rear yard property lines.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals, after review of all exhibits brought before it, adopts the following findings and decision:

Applicant: David Sullivan
Zoning District: R1
Published Notice on: September 6, 2016 in the Syracuse Newspapers

Property Location: 1 Tappan Street
Use for which Variance is Requested: variance to side and rear yard setbacks
Applicable Sections of
Village Zoning Code: Article IV, Section 345-9(G)
Permitted Uses of Property: Residential
Tax Map No.: 020.-03-11.0

I. Notice Sent to the County Planning Board:

Not applicable in this case.

II. SEQRA (State Environmental Quality Review Act)

Type II Action

III. Factors Considered:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: NO

Reasons: The adjoining neighboring properties are commercial in nature and the improvement is actually replacing an prior existing structure but in a smaller form.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance: NO

Reasons: In order to utilize existing space between the existing house and the property lines, the applicant needs to move the shed to the furthest point possible to allow for room for a patio.

3. Whether the requested variance is substantial: NO

Reasons: The existing house is already on the requested 1-foot setback.
The shed will not be affixed to the ground and will be movable.

4. Would the variance have an adverse impact on the physical or environmental conditions of the neighborhood: NO

Reasons: The adjoining properties are commercial and nature and there is no detrimental effect of the shed.

5. Whether the alleged difficulty was self-created: NO

Reasons: The configuration of the lot and the location of the house confines the space that will be utilized for the shed and was existing when the property was purchased.

IV. DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, finds that:

The benefit to the application **DOES** outweigh the Detriment to the Neighborhood or Community.

The requested variance will not produce an undesirable change to the characteristics of the neighborhood.

No substantial detriment will be created to the nearby properties.

There is no other feasible method available to achieve the benefit sought other than the requested area variance.

The requested area variance is not substantial.

The proposed variance will not have an adverse impact on the physical or environmental conditions of the neighborhood or district.

The ZBA further finds that a variance for 1 Tappan Street, Baldwinsville, New York, owned by David Sullivan, under Article IV, Section 345-9(G) of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The ZBA further **GRANTS** the variance subject to the following conditions:

The shed will not be affixed to the ground.

The fence will be extended to the SE corner of the property.

RECORD OF VOTE

Vote to ***grant*** the area variance for 1 Tappan Street, Baldwinsville, NY:

K. Beverine Aye
G. LePorte - Aye
C. Taft Aye
J. Zuccolotto Aye

I, Susan LaQuay, CLERK OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF BALDWINSVILLE, hereby certify that the foregoing is a true and correct excerpt from the minutes of a meeting of said Board duly convened and held on September 12, 2016, a quorum being present.



Susan A. LaQuay
Secretary, Zoning Board of Appeals
Village of Baldwinsville