

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

*Approved September 10, 2018*

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The regular meeting of the Baldwinsville Zoning Board of Appeals was called to order on August 13, 2018 at 7:00 p.m. by Chairman, Jim Zuccolotto

**Present:** Jim Zuccolotto, Chairman  
Danielle Whelsky  
John Rutkowski  
Connie Taft  
Fred Thomas

**Also Present:** Steve Darcangelo, Village Engineer  
Gregg Humphrey, Code Enforcement Officer  
Bob Baldwin, Village Attorney  
Eric Reinagel-Alternate  
Mary Augustus, Secretary

**Guests:** Steven Hunsberger-Allstate Insurance – 3 Mechanic Street  
Dick Clarke-Mayor  
Heather Panek-66 E. Oneida Street  
Dave Demarko-66 ½ Oneida Street

Pledge of Allegiance

There was a brief intermission from the meeting while Mr. Clarke, Village Mayor presented Ms. Connie Taft with a plaque for seventeen years of service on two Boards. Ms. Taft's has resigned from her position as a board member from the Zoning Board of Appeals and the Architectural Review Board.

**Motion** by Mr. Rutkowski to accept the Minutes from June 11, 2018 as written, second by Ms. Taft.  
*Carried 4:0*

**Motion** by Mr. Thomas to accept the Minutes with the correction of the misspelling of the word "track", second by Mr. Zuccolotto  
*Carried 3:0*

**66 E. Oneida Street – AREA variance 8’6” fence**

**Public Hearing opened at 7:17pm**

## *Village of Baldwinsville*

FOR PUBLICATION IN THE MESSENGER ON JULY 25, 2018

ZONING BOARD OF APPEALS  
VILLAGE OF BALDWINSVILLE, NEW YORK  
NOTICE OF HEARING

A Public Hearing before the Zoning Board of Appeals of the Village of Baldwinsville will be held on Monday, August 13, 2018 at 7:00 pm (local time) at 16 West Genesee Street, Baldwinsville, New York.

To be considered is the application of Heather M. Panek of 66 Oneida Street, Baldwinsville, New York, requesting an AREA variance for the said property (tax map #010.-04-07.0),

The AREA variance is of, Section 166-4 Height limitations.

A. A fence shall not exceed a maximum height of six feet for any residential property and 10 feet for all other uses.

Furthermore, Section B. states that, “Fences located in front yards shall not exceed a maximum height of four feet.”

A building permit has been applied for to allow the construction of an 8’6” tall fence, 24-32 feet in length, to be installed at the west side of the house adjacent to the CSX railroad tracks. The applicant is looking for an AREA variance of 2 feet 6 inches.

Persons wishing to appear at such hearing may do so in person or by attorney or other representative. Communication in writing in relation thereto may be filed with the Board or presented at such hearing.

Mary E. Augustus  
Secretary, Zoning Board of Appeals

Ms. Heather Panek owner of the property at 66 East Oneida Street is at this evening's meeting to address the Board. Ms. Panek has submitted an application for the construction for an 8' 6" fence. Village Code only allows up to 6' fences, anything over 6' applicant would have to request an AREA variance. The property is zoned R-1 and is a single-family home.

Ms. Panek bought this property through a tax sale auction about 4 years ago, the house and property were in disarray and over the years the house and yard has been completely re-done. This property runs parallel to the CXS railway. Ms. Panek would like to construct an 8'6" fence for privacy and delineate the property line from the railroad property. People are walking down the railroad to Byrne Dairy as well as through her yard and across her driveway as a short cut. The railroad sprays a weed killer twice a year down each side of the tracks. Ms. Panek felt this would kill any trees or scrubs she would plant along this strip for privacy. The rail road track grade is at least 2' higher than her yard, this is the reason for her requesting the 8'6" fence.

**Neighbors notified regarding Public hearing are as follows:**

Dennis & Naomi LaQuay  
68 E. Oneida St.  
Baldwinsville, NY 13027

Judy Colone  
73 E. Oneida St.  
Baldwinsville, NY 13027

Alex P.W. Misuroka  
70 E. Oneida St.  
Baldwinsville, NY 13027

Michael & Catherine Rice  
79 E. Oneida St.  
Baldwinsville, NY 13027

Toomey Res. & Comm.  
1654 W. Onondaga St.  
Syracuse, NY 13204

Gordon & Henrietta Payne  
78 E. Oneida St.  
Baldwinsville, NY 13027

David & Ann Maria Demko  
66 1/2 E. Oneida St.  
Baldwinsville, NY 13027

Alice & Cynthia Dunn  
64 E. Oneida St.  
Baldwinsville, NY 13027

Wisley & Ronda Maria Wittcop  
67 E. Oneida St.  
Baldwinsville, NY 13027

Baldwinsville Fire Dept.  
7911 Crego Rd.  
Baldwinsville, NY 13027

Alison Guido  
Daniel Meninger  
65 E. Oneida St.  
Baldwinsville, NY 13027

Debra Tomsa  
59 E. Oneida St.  
Baldwinsville, NY 13027

Joseph Prietti  
60 E. Oneida St.  
Baldwinsville, NY 13027

Chris & Laura Hillmans  
57 E. Oneida St.  
Baldwinsville, NY 13027

Jean O'Brien  
22 Spruce St.  
Baldwinsville, NY 13027

Heather Panek  
66 E. Oneida St.  
Baldwinsville, NY 13027

**VILLAGE OF BALDWINSVILLE  
ZONING BOARD OF APPEALS  
AREA VARIANCE FINDINGS & DECISION**

**UPON A MOTION BY Mr. Rutkowski AND SECONDED BY Mr. Thomas, THE ZONING BOARD OF APPEALS PASSED THE FOLLOWING RESOLUTION:**

**WHEREAS**, the applicant, Heather Panek, came before the Zoning Board of Appeals on August 13, 2018, for a variance of the provisions of Village Code §166-4, to allow the side yard installation of a fence at the premises located at 66 East Oneida Street in the Village of Baldwinsville.

**NOW, THEREFORE, BE IT RESOLVED**, that the Zoning Board of Appeals adopts the following findings and decisions:

Applicant: Heather Panek  
Zoning District: R1  
Published Notice on:

Property Location: 66 East Oneida Street  
Use for which Variance is Requested: Installation of an 8'6" fence  
Applicable Sections of Town Zoning Code: §166-4  
Permitted Uses of Property: Residential  
Tax Map No. 010-04-07.0

**I. Notice Sent to the County Planning Board:**

\_\_\_\_\_ X \_\_\_\_\_ Not Applicable

**II. SEORA (State Environmental Quality Review Act)**

\_\_\_\_\_ X \_\_\_\_\_ Type II Action

**III. Findings of Fact:**

- The application is for an area variance for the property located at 66 Oneida Street in Baldwinsville, NY located in an R1 zone and owned by Heather N. Panek.
- The nature of the request is to build an 8' 6" fence in the southwest corner of the property, which is above the Code limit of 6'.
- The request is pursuant to §166-4 of the Code of the Village of Baldwinsville.
- The property line is adjacent to a railroad line and is downhill approximately 22" to 28". The reason for the additional height is the elevated land on the railroad adjacent to the lot.

- The entire fence will be solid with lattice on the top 12" as shown in Exhibit "A" to this Resolution.
- The proposed location of the fence is far enough removed from the tracks so that the operators of the railroad can access the tracks at the crossing, thereby not presenting an accessibility problem.
- The fence will be 6' from the side of the house going towards the rear lot line a total of 24' as shown on Exhibit "A".
- The approximate cost of the fence is \$5,000 and is vinyl in material.
- The elevated track remains elevated throughout the westerly lot line of the parcel involved and does not become lowered until it meets Route 31.
- The railroad line frequently sprays weed and grass killing chemicals in the area of its tracks and any large trees or bushes planted on the property line might be affected.

**Motion** by Ms. Taft to accept the Finding of Fact, second by Mr. Rutkowski

*Carried 5:0*

**IV. Factors Considered:**

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Yes \_\_\_\_\_ No X

Reasons: The unique characteristics of the property and adjacent railroad line has created a need for a slightly higher fence. There would be no change in the character of the neighborhood since this fence adjoins a railroad line and does not affect adjacent properties otherwise.

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes \_\_\_\_\_ No X

Reasons: The only other alternative would be to plant trees or bushes, and this is not an alternative due to the chemicals sprayed by the railroad which might negatively affect any higher trees or bushes.

3. Whether the request variance is substantial: Yes \_\_\_\_\_ No X

Reasons: The variance is only slightly over 2 feet and due to the elevated adjoining property, it is not substantial.

4. Would the variance have an adverse impact on the physical or environmental conditions of the neighborhood: Yes \_\_\_\_\_ No X

Reasons: There would be no adverse impact on the neighborhood, since this is a fence. In fact, the visual impact on the neighborhood would be positive.

5. Whether the alleged difficulty was self-created: Yes  X  No

Reasons: The property was acquired with the fence height rules in place.

**III. DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:**

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

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

The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is denied.

The ZBA further finds that a variance for an 8' 6" fence under §166-4 of the 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.

**RECORD OF VOTE**

Member Name	Aye	Nay
J. Rutkowski	Yes	
D. Whelsky	Yes	
C. Taft		
F. Thomas	Yes	
J. Zuccolotto	Yes	

Chairman Zuccolotto then declared the Resolution duly adopted.

I, Mary Augustus, 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 August 13, 2018, a quorum being present.

\_\_\_\_\_  
CLERK

**24 Salina Street-Amended Variance**

Mr. McAuliffe of 24 Salina Street was granted a variance by the Zoning Board of Appeals on June 12, 2017 for a 3-foot setback for a detached 24' x 32' garage on his property. The variance was granted with the condition Mr. McAuliffe would have a 9' x 18' area for a one car parking space and remove the remaining asphalt at the rear of the house. Mr. McAuliffe addressed the Board this evening explaining he has a three-car wide driveway at his home and he was with the

understanding the board request he remove just one 9' x 18' area of asphalt. The Resolution states he was to remove all asphalt but one parking space. Mr. McAuliffe believes the wording in the motion was transposed incorrectly. Mr. Baldwin agreed the condition should be modified to correct the typographical error.

**Motion** by Mr. Rutkowski to modify the Resolution as original intended. To accepted to amend this Resolution to correct a typographical error, that only one parking space (9' x 18") in the rear will be removed, second by Mr. Thomas.

*Carried 5:0*

#### **47 E. Genesee Street – AREA variance/sign-Allstate Insurance**

Mr. Steven Hunsberger was present this evening to address the Board regarding an AREA variance. This is in the Over-lay District. The application proposed to remove existing B'ville Sports sign at current location. The proposed sign is one freestanding double-sided pylon sign, 13' 8" in height, 27.52 square feet per side. Total square footage is 55.04 sq. feet. The new sign will include B-ville Sports Bowl, Brian's One Day Cleaners and Allstate Insurance. The sign will have no power running to it.

The Village Board voted to give the power back to the Zoning Board of Appeals to review this application and decide to grant or deny this proposed variance. Mr. Zuccolotto is concerned regarding this type of variance and plans on researching and reviewing with this with other Boards. Mr. Zuccolotto wants to consider the effect this proposed sign will have to other business in the Over-lay District.

**Motion** by Mr. Rutkowski to publish and schedule a Public Hearing Notice for September 10, 2018 for the application of an AREA variance requested by Mr. Steven Hunsberger, owner of Allstate Insurance, second by Ms. Taft.

*Carried 5:0*

**Motion** by Ms. Whelsky to declare this a Type II Action under SEQRA, second by Ms. Taft.

*Carried 5:0*

**Motion** by Mr. Thomas to adjourn the meeting at 8:45pm, seconded by Mr. Rutkowski.

*Carried 5:0*

Next meeting scheduled for September 10, 2018 submission date of August 27, 2018.

Respectfully submitted,

*Mary E. Augustus*

ZBA Secretary