

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

Approved 11/12/2019

The regular meeting of the Baldwinsville Zoning Board of Appeals was called to order on July 8, 2019 at 7:00 p.m. by Chairman, Jim Zuccolotto

Present: Jim Zuccolotto, Chairman
Eric Reinagel
Fred Thomas

Also Present: Steve Darcangelo, Village Engineer
Gregg Humphrey, Code Enforcement Officer
Bob Baldwin, Village Attorney
Mary Augustus, ZBA Secretary

Guests: Chad Stewart – 60 Curtis Ave
Telisa Stewart – 60 Curtis Ave
Larry Schuler – 1166 Lamson Rd., Phoenix

Pledge of Allegiance

Motion by Mr. Reinagel to approve the minutes from June 10, 2019 as submitted, second by Mr. Thomas
Motion carried 3:0

60 Curtis Ave. – AREA variance

Mrs. Telisa Stewart was in attendance to address the board this evening.

Chairman Mr. Zuccolotto requested the Public Notice be read, as follows:

Village of Baldwinsville

FOR PUBLICATION IN THE MESSENGER ON JUNE 26, 2019

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, July 8, 2019 at 7:00 pm (local time) at 16 West Genesee Street, Baldwinsville, New York. To be considered is the application of Telisa Stewart of 60 Curtis Avenue, Baldwinsville, New York, requesting an AREA variance for the said property (tax map #007.-03-33.0),

A building permit has been applied for to allow the construction of a 6-foot tall privacy fence, 168 feet in length, to be installed at the sides and back of the house. The applicant is looking for an AREA variance of 60-feet on the East side of the house.

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

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

The **AREA** variance is of, Section 166-6 Materials and composition.

Section A. states that, Any fence, wall or similar structure, as well as shrubbery, which unduly cuts off light or air, which may cause a nuisance, a fire hazard or a dangerous condition to men and equipment for combatting fires or which may affect public safety is hereby expressly prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than 50% solid.

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

The following residence neighboring 60 Curtis Ave., Baldwinsville have been notified by mail regarding the Public Notice by Ms. Stewart for an AREA variance

Curtis Ave.

50 Audrey Peach
52 Amanda Reed
54 Louis & Violet Nagy
56 Sean Mackinzie & Abigail Murry
59 Jeffrey & Megan Schuler
55 Kris & Karen Hackenfort
53 Greater Syracuse Property Development Corp.-431 E. Fayette St., Syracuse
51 Margaret Newcomb
49 John Krivda

Salina St.

60 Illerom, Inc-8855 Center pointe De., Baldwinsville
69 Matthew Johnson

Multi-properties

Larry Schular-57 Curtis Ave,65 & 57 Salina St.-1166 Lamson Rd. Phoenix
Baldwinsville Town Center LLC-53 & 55 Salina St.-45 Oswego St., Baldwinsville

And: property owner 60 Curtis Ave.-Telisa Stewart

Mr. Lois Nagy called the Code Enforcement on July 8, 2019 around 11:45 am to have it noted that he has no problem with the Stewart's having the fence/AREA variance they have requested. Mr. Nagy would have attended the ZBA meeting this evening but just recently had surgery and is unable.

Ms. Stewart reviewed the following paperwork with the Board members:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties.

Statement: This is an older neighborhood and with the proposed change the character of the neighborhood would remain the same. There are two properties on Curtis Ave. that have a variance and a 6-foot fence.

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance.
3. Statement: The space cannot be utilized by others in the neighborhood. There is no feasible alternative for privacy and safety concerns.
4. Whether the requested variance is substantial.

Statement: The request is not substantial compared to other properties in the neighborhood that contain a similar setback and fence height as requested

5. Would the variance have an adverse impact on the physical or environmental conditions of the neighborhood

Statement: There would not be an adverse impact on the conditions of the neighborhood as much as the requested variance would improve the safety and privacy of the residence.

6. Whether the alleged difficulty was self-created.

Statement: The code recurrently requires a variance of which others have been granted.

Safety and Privacy Concerns:

- A. Sex offenders in local area. Several individuals listed on the sex offender registry are in walking distance to my house. Safety concern for my children.
- B. Rapist in local area. Safety concern for my children.
- C. Local abutting properties and properties adjacent to us have had law enforcement issues and needed police intervention. Safety concern for my children
- D. As stated before, we are on a cut through road between 31 and 370. There are routine traffic violations for speed.
- E. We are requesting the 6-foot fence and variance for safety and privacy concerns.

An application was submitted and granted for 168 square feet of 6' privacy fence around the dwelling. Ms. Stewart lives on a corner lot; our code defines a "corner lot" as having two (2) front yards. In order to complete this proposed project, it was necessary to submit an application requesting an AREA variance for the remaining feet that extend beyond the front of the house. The Code as stated only permits a 4-foot fence and 50 percent coverage in a front yard. Ms. Stewart has explained his need for the fence is for the protection of his children, all under the age of 10, pets and property. She also stated there are already two existing 6-foot fences located on Curtis Avenue, one at 104 Curtis Avenue and another at 106 Curtis Avenue.

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

 X Type II Action

III. **Findings of Fact:**

1. The fence under consideration is 6' in height and 150' in length as set forth on the survey drawing supplied to the Board. The location of the fence is in what normally would be a rear yard but due to the fact that the property is a corner lot, it is located on what is a front yard for zoning purposes.
2. All neighbors were notified of the hearing as required. One letter was received from a Mr. Nagy indicating no objection to the relief requested.
3. The fence to be installed is a solid wood panel fence, and the solid panel is required because of privacy issues related to the fact that the fence abuts a private roadway. It will set off the back yard for use of the applicant's children and prevent intrusion into the back yard and roaming off of the back yard into hazardous traffic conditions.
4. The neighborhood is an older neighborhood and similar variances have been granted in the past for the same relief requested.
5. There have been repeated incidents of criminal incidents in the past in the vicinity as well as speeding cars using the adjacent Curtis Ave. as a "cut through lane" and therefore the concern of the applicants for safety and privacy of their children is justified.
6. The height of 6' is needed because of the location of the lot next to the roadway and the allowed height of 4' would allow those walking through to view the children in the back yard.
7. A compliant fence would reduce the applicable usable area of the backyard by 600 square feet, causing a detriment to the applicant.
8. The fence as proposed will not obstruct visibility for drivers on either street adjacent to the property.
9. The fence as installed would be 15'6" from the street line and 6" from the property line.
10. All members of the Board present are familiar with the property and noted their familiarity for the record.

IV. **Factors Considered:**

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

Reasons: There are other existing structures on Curtis Avenue that have similar front yard fences. There would be no change in the visual aesthetics of the neighborhood as a whole.

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

Reasons: The fence could be pushed back, however this would reduce the usable space in the back yard by 600 square feet.

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

Reasons: The amount of property involved is not substantial and the overall effect on the property and the neighborhood is not substantial due to the fact that other and similar fences exist and the height increase is not substantial.

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

Reasons: Various other properties have similar fences.

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

Reasons: The regulations regarding the setback, design and height of fences were in effect when the applicants acquired the property.

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 6' in the height of the fence and the allowance of a solid fence 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 approves the requested variance on the condition that the fence be placed one foot back from the lot line, making the setback Code compliant.

RECORD OF VOTE

Member Name	Aye	Nay
E. Reinagel	X	
J. Zuccolotto	X	
F. Thomas	X	

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 July 8, 2019, a quorum being present.

CLERK

Motion by Mr. Reinagel to adjourn the meeting at 8:13pm, second by Mr. Thomas

Motion carried 3:0

Next meeting scheduled for August 12, 2019 submission date of July 29, 2019.

Respectfully submitted,

Mary E. Augustus

ZBA Secretary

