

**ZONING BOARD of APPEALS
Town of Geddes
1000 Woods Road
Solvay, New York 13209**

July 13, 2016

Members Present:

Dave Balcer
Frank Smolen
David Tortora
Vincent Scarantino
Dominick Episcopo

Chairman Balcer calls the meeting to order at 7:00 pm and asks for all cell phones to be turned off or placed on vibrate. He recognizes all members are present.

First order of business was to approve the June 8th, 2016 ZBA minutes. He asked for corrections or changes.

Motion to approve: Mr. Episcopo
Second: Mr. Scarantino
All in Favor: Smolen/Scarantino/Episcopo/Tortora/Balcer

Chairman Balcer opens the meeting to members and the public stating all matters heard by this Zoning Board of Appeals are in the form of a Public Hearing. Everyone who wants to be heard will be heard. Before speaking, we ask that you clearly state your name and address for the record. He asked if the members had visited the mentioned site and all said yes.

The meeting will start with the cases adjourned from last month.

Case #601 – At the request of Daniel Carrol & Shana Lewis 1001 West High Terrace Syracuse, New York 13219 (T.M. #046.-11-05.0) located in a Residential A: Zoning District, for Area Variances to erect 6' high cedar stockade fence in the required 30' front yard on a corner lot with two front yards where a 4' high 50% opaque fence is only allowed. On the West High Terrace front yard side is a variance from 30' to 23.03' and on the Haywood Road side is a variance from 30' to 15.08'.

None of the applicants are present tonight at this meeting. Chairman Balcer says he is in receipt of an email from another neighbor on Haywood and has passed out copies to the Board. And he reads as follows:

Dear Board Members:

I reside at 109 Haywood Road and want to express my concern for the six foot high stockade fence being proposed. My husband and I, Steven and Susan Koegel are in complete agreement with Scelena Hammerle of 104 Haywood Road. Her letter of concern is our exact sentiment. Please consider approving a shorter fence so as to keep visibility clear at that corner. That stop sign on West High Terrace and Haywood Road is frequently being rolled right through and a large high fence would already exacerbate the situation. I understand their need for privacy on a very public corner and a very tiny yard, but unfortunately it's the reality and the neighborhood would like to keep Haywood Road well groomed and safe above all.

Balcer asks again if anyone is in the audience for this case. He will table this case temporarily to see if anyone comes in before the end of the meeting.

At this time, Shana Lewis the property owner arrives to the meeting.

Balcer goes over again the email from above. He reiterates that at the last meeting, this Board wanted them to reconsider a smaller fence from the originally proposed 6 foot fence. Shana Lewis says that one of the board members suggested a 5 foot high fence so they put up a fake 5 foot high structure at their home to see the result and if it would block the view. She presented photos. She says to them it doesn't seem to block any visibility. They are willing to do a 5 foot fence with some sort of mixture of high and low fence that would allow for more visibility. Balcer wanted to clarify that on the drawing that was submitted, it says 14 feet from the corner of sunroom. We had a board member tape it off and you have it out much farther than that 14 foot marking. She said the Code Enforcer came out and marked the spot where they did it. Balcer insists the plywood marking is out much farther. Mr. Tortora said the marking is out 15 feet from where the corner of the house is. She again says the Code Enforcer marked it out. They all look at pictures and explain the different footage.

She asks to see the fence pictures and says she wants the fence going around the tree. She said where the Code Enforcer marked is where she could have a higher fence. And the second marking was for the smaller height. Balcer asks if the Code Enforcer marked where she "wanted" the fence. Ms. Lewis said to the best of her knowledge, she believed he was marking the fence where she could have it and how far from the road her fence could be. Balcer and Tortora state the plywood is an extra 12 foot from the marking. She disagrees. Balcer is only concerned with the distance from her house out. Balcer and Ms. Lewis go back and forth interrupting each other and the conversation is extremely hard to follow. Ms. Lewis says she just wants the fence where Mr. Albrigo says she can have it. So she asks Balcer that Mr. Albrigo didn't do it correctly? Balcer again tries to explain and she says that this is news to her. So he says that the variance she is asking for is that 7 foot encroachment towards West High Terrace. She is adamant that Mr., Albrigo never mentioned anything about the West High Terrace side. Balcer says that's what he told him. Balcer says there are 2 setbacks – West High Terrace and Haywood. Haywood can have 15 feet but West High cannot. Balcer says she is confused and she claims it was never explained like this to her by Mr. Albrigo. Balcer said what you're asking for and what is out there are two different things. She just said she asked Peter Albrigo to come out who never mentioned anything about a variance to even put up a fence. He said she could have a 4 foot fence, measured where it could be and she had fence companies come and give her estimates on. More interruptions during conversations go on. Balcer tells her she is not listening. He again is pointing to an unknown picture and she agrees she sees it.

Balcer again states she needs a variance going from West High Terrace. He asks her if she wants to postpone again. She says no. She wanted a higher fence so that was the whole point in her coming to the ZBA. And then Mr. Albrigo came out, measured and said just apply for a variance for a high fence and never mentioned anything else. Ms. Lewis wants the fence where Peter Albrigo marked it off and Balcer says no. He said she can't tell him how long that is. She said it what was the Code Enforcer marked off and said she could have. Mr. Tortora speaks again to try and make it clear again. He said he measured it with her husband being there. She says she understands and that Mr. Albrigo marked "2" places and that's where the confusion is. She said he told her she could have 2 sizes of fence. He said she could come out 15 feet from her house with a 6 foot fence and then it would have to slope into a 4 foot fence to the second marking he made. And then Balcer says it can't be an opaque fence either. But now Balcer says she has then coming out 14 feet in a drawing. Again, Ms. Lewis said Peter Albrigo came out and marked and told her where the fence could be without needing a variance. That is what she is going by. Again, everyone is talking over each other. All is repetitive. Mr. Tortora believes she is not understanding the road right-a-way. Balcer continues to explain.

Ms. Lewis is truly upset by being told one thing by the Code Enforcer and now being told something different. She says she is infuriated. She wants to know why Peter Albrigo doesn't know the rules. She just wanted a fence to keep her children safe. Balcer said she isn't telling the ZBA what she wants as a fence and she said yes she did with Peter who helped her with his markings and what she could have. Balcer reads section 240.11 that Peter gave him – on a corner lot, on a side lot only 15 feet can be provided. And she agreed he measured that out from her porch. The Mr. Albrigo said she could have a 6 foot fence that then graduated to a 4 foot opaque fence. Agreed. Then Mr. Albrigo measured the other side, past the tree and marked where the fence could go. And then on the West High Terrace side, Peter never said anything about that needing a variance. Balcer tells her the drawing from her husband is what the ZBA is going by. And it needs a variance. But now is not representing what she is saying now.

This goes on and on again with both Balcer and Ms. Lewis talking over each other. Finally Balcer decides to postpone this case to the next meeting. Ms. Lewis says okay. Balcer believes she is confused. Balcer asks if anyone in the room would like to speak on this and Tracey Baum-Wicks of West Genesee Street/Terry Road speaks up and says she had the same request and found it to be as equally frustrating and confusing as Ms. Lewis. She had Mr. Albrigo come and recommend what she could do and it was unfathomable. Balcer says he has worked in two other municipalities and was a Town Planner in Clay and a Codes Officer in Cicero and neither of those municipalities allow this 15 foot allowance and it has to do with the ascetics of the neighborhood. He continues to explain the codes of Cicero. They are stricter than Geddes so be glad this Town isn't with a corner lot.

Mr. Scarantino asks how long that temporary fence will be allowed to stay up and it's agreed that it has to come down. Balcer said the two residents that sent in emails before, sent another saying they thought Ms. Lewis was skipping the idea of the fence and just going with plywood. She will have it taken down.

Motion to postpone to next month's meeting. Mr. Tortora

Seconded By: Mr. Smolen

All In Favor: Smolen/Scarantino/Episcopo/Tortora/Balcer

Case #602: At the request of Michael Kempisty of 1187 State Fair Blvd. (TM# 019.-01-09.0) located in a Commercial C: Heavy Commercial Zoning District for an Interpretation of Section 240-39A., B & C. and the I-690 Billboard Overlay District in the Town of Geddes.

Mr. Kempisty has asked to postpone his case until next month due to a medical condition with a written letter.

Case #604 and Case #605 were also postponed due to the same interpretation needed regarding the I-690 Billboard Overlay with Mr. Kempisty.

Case #603 - The request of Daniel Kaszubinski at 216 Cowan Avenue Syracuse, New York 13209 (T.M. #046.-11-05.0) located in a Residential A: Zoning District, for Area Variances to construct an entry foyer addition on the front of the house and a third bay garage addition to the right side of the house encroaching 7 feet into the required 30 foot required front yard setback, reducing the required setback to 23 feet pursuant to 240-11 C.(2)(a) of the Zoning Code of the Town of Geddes.

The ZBA will take lead agency status for the purpose of SEQR and I would like to motion that for the purpose of the New York State Quality Review (SEQR) this case will be determined to be an Unlisted Action, and will be given a negative declaration, unless otherwise advised by our council.

Seconded By: Mr. Scarantino
All in Favor: Smolen/Scarantino/Episcopo/Tortora/Balcer

Mr. Kaszubinski speaks and questioned the 15 foot corner lot fence issue. And when it comes to the neighbors signing off, he says he isn't close to anyone around him and the ones that signed off are seniors and the paper street ends with farm land so no one is affected. And he interprets from the map that there wouldn't be any more houses going up there. He feels it will work well in the neighborhood. He said they went with making it a very pleasing aesthetic. While working with the architect we came up with three different designs for the porch and were overall looking for the best appeal from the curb. He doesn't feel there is any visual hindrance with it. Balcer adds that with his application, he attached 7 letters that he wrote to the neighbors and presented his ideas. He read one letter being in favor of his project.

Standards of Proof:

1. Will an undesirable change in the character be produced in the neighborhood? No
The bump out area will be closed off to create a mud room. The door will be brought out to the brick line.

2. Can the applicant achieve their goals in another reasonable alternative so as not to require the variance? No
3. Is the variance substantial? No
4. Will the variance have an adverse impact on the physical or environmental conditions in the neighborhood? No
5. Is this a self created difficulty? Yes

Balcer asks the Board if they have any questions. Mr. Smolen refers to the mud room being constructed where the existing porch is now. Yes there will be a small closed in there and a small window seat. The entry will be at the left side window seat where the bump out is to create a passage there. The rendering shows that the steps are going to be hidden facing the driveway. So there will be no more extension in the front. In theory, we won't be going out more. On the proposed garage will be 24 x 42 and 2 foot step – 5 feet behind the front foyer area. Balcer adds that the bump out contains area for the columns being there.

Tracey Baum-Wicks of West Genesee Street again understand the issue of keeping in tune with the rest of the area but she believes Mr. Kaszubinski should be commended for using ideas to save energy. She believes companies should be working towards making buildings more energy efficient and believes that for that alone, the ZBA Board should consider him and his appeal.

Motion made to end this public hearing and to approve or deny this appeal.

Mr. Episcopo approves as submitted.

Seconded By: Mr. Smolen

All In Favor: Smolen/Scarantino/Episcopo/Tortora/Balcer

Case #606: The request of Adnan Khawaja of 96 Grandview Ave., Nanuet, New York 10954 for a “Special Permit” for a ‘Gas Station and Convenience Store’ at 3111 West Genesee Street Syracuse, NY (T.M. #037.-01-01.1) located in the Professional and Office Overlay District – Incentive District pursuant to Section 240-XX.X I. (2) e. of the Zoning Ordinance of the Town of Geddes.

The Town Board took Lead Agency status on this case and will handle the matter of SEQRA.

Balcer makes the announcement that this is the first application in the Town’s newly adopted “Professional and Office Overlay District” and furthermore this property is in the “Incentive District”. In March 2016 this parcel denied its continuation of the “Use Variance” to continue as a gas station; however the Town Board did adopt the new Overlay and Incentive District which included this parcel. That means this parcel now starts on a blank slate to open and operate a gas station/convenience store and has to meet Site Plan Approval and a Special Permit to operate.

We are looking for this area to be the gateway to the new Overlay District. We are looking for a referral from the Planning Board to improvement recommendations to the Site Plan and the aesthetic look of the building to be a more “residential look” for the neighborhood.

As the Town Board did last night, it is our policy to refer you to the Geddes Planning Board. When they are done reviewing it and come up with an acceptable option, the referral will come to us and you will come back to the ZBA to approve or deny the Special Use Permit.

Balcer hands out the recommendations from Onondaga County and reads the information that applies.

He now invites Mr. Tom Pisiak to speak. He is the Civil Engineer for Mr. Adnan Khawaja and describes what the plans are for the mini mart. The proposed plans are to redo the building, get rid of the old and the mechanics bays, refurbish the interior and exterior of the building, remove the existing pavement that is failing and replace it, redo and install new landscaping and sidewalks in front of the building and access, provide handicapped accessibility, provide new LED lighting for the building and under the existing canopy and a new sign. We will try to keep the disturbance to the building and area to a minimum. We have submitted a set of documents to the Town for review for this Special Use Permit. Adnan Khawaja proceeds to hand out photos of his other buildings to the Board. Balcer asks him about leasing or buying and he says contract to buy.

Balcer advises that there is a group who was not happy with the Board passing the Overlay District and that they may possibly filing an Article 78 and have sent the ZBA a letter stating that if they are successful, that anything that might be approved now could be an issue. Balcer suggested that if Mr. Khawaja wants a copy of the letter, to file a F.O.I.L. request with the Geddes Town Clerk to obtain a copy. Mr. Dan Austin of Melvin and Melvin attorneys speaks up and advises that they are Mr. Khawaja’s counsel and have been made aware of the June letter and the Article 78 potentially pending.

Balcer points out there is no parking in the front for deliveries. There are not a lot of parking spaces. As a former landscape architect, Balcer says this is horrible but is leaving it up to the Planning Board for recommendations. It is this Board’s policy to follow what the Planning Board says.

Tracey Baum-Wicks again speaks up to ask the definition of a Special Use Permit and what qualifies a business for one. Balcer replies it was put in the Code that way that if they wanted a gas station/convenience store then they need that permit in this Overlay District. And as far as the referral from SOCPA is because West Genesee Street is in the Town but a State road. So as a resident who lives across the street from 3111 West Genesee Street and wants to make sure the building is constructed in a residential-looking manner, who does she go to, to make sure that happens? Balcer replies at the meetings that are presenting like the next meeting will be with the Planning Board. He says the proposal is known to be that in the plans. The Planning Board meeting is on the last Wednesday of every month. This Public Hearing will be kept open until recommendation from the Planning Board.

Balcer makes a motion to refer to the Geddes Planning Board for their recommendations.

Seconded By: Mr. Tortora

All In Favor: Smolen/Scarantino/Episcopo/Tortora/Balcer

Mr. Episcopo motions to close the meeting.

Seconded By: Mr. Scarantino

All In Favor: Smolen/Scarantino/Episcopo/Tortora/Balcer

The time is 8:15 p.m.