

Poulomi Sen

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From: Samuel Morreale  
Sent: Tuesday, November 30, 2021 12:53 PM  
To: Poulomi Sen  
Subject: Fw: 82 Euclid; Interpretation of USDO  
Attachments: House Side of Wall for BZA.pdf

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From: Jeffrey L. Zimring <jeff@zimringlaw.com>  
Sent: Friday, November 5, 2021 1:14 PM  
To: Samuel Morreale <smorreale@albanyny.gov>  
Cc: Martha Mahoney <mmahoney@albanyny.gov>; BZA <bza@albanyny.gov>; Eileen Halloran <ehalloran@albanyny.gov>  
Subject: 82 Euclid; Interpretation of USDO

To the Board of Zoning Appeals:

In an email dated 10-25-21, Bradley Glass (see below) stated that a proposed retaining wall requires an area variance because there is a portion of the wall that is 6 feet above the walkway protected by the retaining wall. This position is an incorrect interpretation of section 375-406 (8) of the USDO. Mr. Glass is applying the standard applicable to a fence that encloses all or a portion of the front yard of a structure. In such an instance, the wall or fence may not exceed 4 feet in height. The proposed retaining wall at 82 Euclid does not extend more than 4 feet above the grade when viewed from the front yard of the property. I am advised, that the Planning Department has interpreted the 4 foot height limitation as being measured from the level of the sidewalk. The lawn in front of 82 Euclid rises approximately 8 feet from the sidewalk to the point where the lawn meets the house. There will be no point along the proposed retaining wall on the lawn side of the wall that exceeds 4 feet in height above the intersection of the lawn and the retaining wall. A drawing representing the proposed retaining wall as viewed from the lawn of 82 Euclid is attached to this email.

Mr. Glass' interpretation of the term "grade" as being the level of the sidewalk is not supported by the USDO. The USDO defines the "finished grade" as the "natural surface of the ground, or surface of the ground after completion of any change in contour, abutting building or premises." Accepting an interpreting that a fence or wall cannot be more than 4 feet above the grade, the height would necessarily be measured along the intersection of the ground and the fence. In other words, as long as the fence does not exceed 4 feet above the ground at any point along the length of the fence when viewed from the law that the fence encloses, the fence would not require a variance from the requirements of the USDO.

The proposed retaining wall will extend a few inches above the ground when viewed from the law of the house. There will also be 3 foot high guard rail along the portion of the retaining wall where the drop to the adjacent sidewalk will exceed 30 inches. There will be no point along the lawn side of the fence, however, that is more than 4 feet above the ground when viewed from the lawn of the property.

I ask that the Board reject the Planning Department department's interpretation of section 375-406 (8) of the USDO and adopt an interpretation consistent with the one set forth herein.

Thank you for your consideration.

Jeff Zimring

RE: 82 Euclid Ave permit application



Bradley Glass <[bglass@albanyny.gov](mailto:bglass@albanyny.gov)>

To:  Eileen Halloran

Cc:  Richard LaJoy;  Valerie Scott;  Jeffrey L. Zimring

 You replied to this message on 10/26/2021 11:38 PM.

Eileen,

The City right-of-way extends approximately 20 feet back from the curb line. An easement or licensing agreement will be required to allow portions of the wall or fence a 12" sewer main and a 6" water main within this area, and the wall cannot be built on top of it.

Additionally, the combined wall and fence exceed 7 feet in height. The maximum allowance in a front yard is 4 feet. This would require an area variance.

**Bradley Glass**

Director

City of Albany

Department of Planning and Development

200 Henry Johnson Boulevard | Albany, New York 12210

(518) 445-0754

[bglass@albanyny.gov](mailto:bglass@albanyny.gov)

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**From:** Eileen Halloran

**Sent:** Friday, October 22, 2021 3:32 PM

**To:** Bradley Glass <[bglass@albanyny.gov](mailto:bglass@albanyny.gov)>

**Cc:** Richard LaJoy <[rlajoy@albanyny.gov](mailto:rlajoy@albanyny.gov)>; Valerie Scott <[vsconfig@albanyny.gov](mailto:vsconfig@albanyny.gov)>; Jeffrey L. Zimring <[jeff@zimringlaw.com](mailto:jeff@zimringlaw.com)>

**Subject:** RE: 82 Euclid Ave permit application



LAW OFFICE OF

JEFFREY L. ZIMRING

563 NEW SCOTLAND AVENUE #8480

ALBANY, NEW YORK 12208

(518) 218-0307 (518) 375-3334 FAX

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