

**ZONING BOARD OF APPEALS**  
***Official Minutes***  
**Thursday, July 27, 2025**  
**6:00 pm**  
**Council Board Room**  
**One Batavia City Centre, Batavia, NY**

Members present: *Jeff Gillard, Nick Harris, Leslie Moma, Dave McCarthy, Jim Russell*

Members absent: none

Others present: Meg Chilano – Recording Secretary, Doug Randall – Code Enforcement Officer

**I. Roll Call**

Roll call of the members was conducted. Five members were present and Chair Dave McCarthy declared a quorum.

**II. Call to Order**

Mr. McCarthy called the meeting to order at 6:02 pm.

**III. Pledge of Allegiance**

**IV. Approval of Minutes**

There were no corrections to the minutes. Mr. McCarthy assumed the motion and the minutes were approved by unanimous consent.

**RESULT: Approval of May 25, 2023 minutes.**

**V. Zoning Board of Appeals statement**

Mr. McCarthy explained the role of the Zoning Board of Appeals and the procedures it follows.

**VI. Variance Requests**

- A. Area Variance: place a gas-fired electric generator within the required side yard clear space on the south side of the dwelling. An existing generator will be removed and the new equipment will be installed in the same location

Address: *111 North Spruce Street*  
Applicant: William and Diane Cox, owners

Actions: 1. Review proposal  
2. Public hearing and discussion  
5. Action by the board

### 1. Review Application

Vice Chair, Leslie Moma, read the summary of the proposal.

### 2. Public Hearing and Discussion

**MOTION:** Mr. McCarthy moved to open the public hearing; the motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Public hearing opened at 6:06 pm.**

Mr. Cox said that the generator was already in place when he and his wife moved into the house in 2016. They did not realize that a permit had not been issued for installation of the generator and that it was not in compliance. The generator needs to be replaced. Mr. Cox is asking for a variance so the new generator can be installed in the same place as existing one.

There were no calls, letters, or email concerning the proposal, and no one present who wished to speak.

**MOTION:** Mr. McCarthy moved to close the public hearing; the motion was seconded by Mr. Harris, and on roll call, was approved 5-0.

**RESULT: Public hearing closed at 6:09 pm.**

The board agreed there was no problem with putting the new generator in the same place as the previous one.

### 3. Action by the Board

Mr. McCarthy went through the list of supporting criteria for the variance:

- Undesirable change in neighborhood character: no
- Alternative cure sought: no, it is going in the same place
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. Gillard moved to approve the proposal with 60 days to obtain the permit; the motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Area Variance approved.**

B. Area Variance: construct a pressure treated wood-frame deck in the northeast side yard of this property. The deck will be located within the required side yard clear space

Address: 107 Grandview Terrace

Applicant: Bert Earl, owner

Actions: 1. Review application  
2. Public hearing and discussion  
3. Action by the board

### 1. Review Application

Ms. Moma read the summary of the proposal.

### 2. Public Hearing and Discussion

**MOTION:** Mr. McCarthy moved to open the public hearing; the motion was seconded by Mr. Harris, and on roll call, was approved 5-0.

**RESULT: Public hearing opened at 6:12 pm.**

Mr. Earl told the board that the deck had been in place for a long time and needed some repairs. It turned out that the repairs needed were more substantial than he had realized and that he needed a variance.

There were no calls, letters, or email concerning the proposal, and no one present who wished to speak.

**MOTION:** Mr. McCarthy moved to close the public hearing; the motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Public hearing closed at 6:14 pm.**

Ms. Moma noted that the new construction will be located in the same place and is the same size as the previous deck.

### 3. Action by the Board

Mr. McCarthy went through the list of supporting criteria for the variance:

- Undesirable change in neighborhood character: no
- Alternative cure sought: no
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. Russell moved to approve the variance with 60 days to obtain the permit. The motion was seconded by Mr. Mr. Gillard, and on roll call, was approved 5-0.

**RESULT: Area Variance approved.**

C. Area Variance: construct a 12' x 10' pressure treated wood-frame deck in the rear yard of this property. The deck will be constructed to adjoin an existing entry porch and will be located within the side and rear yard clear spaces

Address: 210 Ross Street

Applicant: Susan Davis, owner

Actions: 1. Review application  
2. Public hearing and discussion  
3. Action by the board

### 1. Review Application

Ms. Moma read the summary of the proposal.

### 2. Public Hearing and Discussion

**MOTION:** Mr. McCarthy moved to open the public hearing; the motion was seconded by Mr. Harris, and on roll call, was approved 5-0.

**RESULT: Public hearing opened at 6:16 pm.**

Ms. Davis told the board that without a variance, the deck would be split in the middle.

Mr. McCarthy pointed out that the side of the house is closer to the property line than the new deck would be.

There were no calls, letters, or email concerning the proposal, and no one present who wished to speak.

**MOTION:** Mr. McCarthy moved to close the public hearing; the motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Public hearing closed at 6:18 pm.**

### 3. Action by the Board

Mr. McCarthy went through the list of supporting criteria for the variance:

- Undesirable change in neighborhood character: no
- Alternative cure sought: no
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. McCarthy moved to approve the variance with a 60-day time limit to obtain the permit; the motion was seconded by Mr. Harris, and on roll call, was approved 5-0.

**RESULT: Area Variance approved.**

D.            Area Variance: place a portion of the front entry stairs within the front yard clear space

Address:        *113 South Main Street*

Applicant:     Paul Riner, agent for Habitat for Humanity

- Actions:        1. Review application  
                    2. Public hearing and discussion  
                    3. Action by the board

### 1. Review Application

Ms. Moma read the summary of the proposal.

## 2. Public Hearing and Discussion

**MOTION:** Mr. McCarthy moved to open the public hearing; the motion was seconded by Ms. Moma, and on roll call, was approved 5-0.

**RESULT: Public hearing opened at 6:21 pm.**

Mr. Riner explained that originally there were only steps leading up to the front door, which resulted in a violation. When Mr. Riner constructed a landing and corrected the violation, he discovered that the extension of the stairs required a variance.

There were no calls, letters, or email concerning the proposal, and no one present who wished to speak regarding the project.

**MOTION:** Mr. McCarthy moved to close the public hearing; the motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Public hearing closed at 6:22 pm.**

## 3. Action by the Board

Mr. McCarthy went through the list of supporting criteria for the variance:

- Undesirable change in neighborhood character: no
- Alternative cure sought: no
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. McCarthy moved to approve the proposal with 60 days to obtain the permit; the motion was seconded by Mr. Harris, and on roll call, was approved 5-0.

**RESULT: Application approved.**

- E.        Area Variance: construct a portion of a building within the front yard clear spaces in the north and east yards of this corner lot parcel

Address:        *20 Howard Street*

Applicant:     Andrew Schmieder, PE, engineer for the owner

- Actions:        1. Review application  
                    2. Public hearing and discussion  
                    3. Action by the board

### 1. Review Application

[Mr. Gillard needed to leave the meeting. He excused himself at 6:24 p.m.] Ms. Moma read the summary of the proposal.

## 2. Public Hearing and Discussion

**MOTION:** Mr. McCarthy moved to open the public hearing; the motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Public hearing opened at 6:25 pm.**

Mr. Schmieder explained that the intent is to demolish the existing building, which is in bad shape and not worth refurbishing, and construct a new one. The footprint of the new building will be slightly smaller than the current one.

There were no calls, letters, or email concerning the proposal, and no one present who wished to speak regarding the project.

**MOTION:** Mr. McCarthy moved to close the public hearing; the motion was seconded by Mr. Harris, and on roll call, was approved 5-0.

**RESULT: Public hearing closed at 6:29 pm.**

### **3. Action by the Board**

Mr. McCarthy went through the list of supporting criteria for the variance:

- Undesirable change in neighborhood character: no
- Alternative cure sought: no
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. Harris moved to approve the variance with 10 months to obtain the permit. The motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Area Variance approved.**

F.           Area Variance: relief for parking and distance separation requirements for the construction of a 1,324 sq.' one-story automobile service station / public garage for the servicing (oil change) of automobiles

Address:       *425A West Main Street*

Applicant:     Evan Gefell (agent for Quattro Batavia LLC)

- Actions:       1. Review application  
                  2. Public hearing and discussion  
                  3. Action by the board

#### **1. Review Application**

Ms. Moma read the summary of the proposal. Mr. Randall reported that the Planning and Development Committee recommended approval of the project.

#### **2. Public Hearing and Discussion**

**MOTION:** Mr. McCarthy moved to open the public hearing; the motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Public hearing opened at 6:36 pm.**

Mr. Gefell told the board that the project is a re-development consisting of removing the existing building and constructing a two-bay oil change facility. Mr. Gefell pointed out that

there is a large amount of existing pavement and that the PDC requested more landscape development. Mr. Gefell noted that the new plan calls for an increase of 47% green space.

Mr. Gefell explained that only the employees need parking spaces. The way the model works is that the oil change is performed in ten minutes while the driver remains in the vehicle.

Mr. Gefell said that the business is a low traffic generator and should not disrupt adjacent businesses. Fume should not affect local restaurants because only oil changes, wipers, and air filters are involved.

There were no calls, letters, or email concerning the proposal, and no one present who wished to speak.

**MOTION:** Mr. McCarthy moved to close the public hearing; the motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Public hearing closed at 6:39 pm.**

Mr. McCarthy said that he thinks it is a good use for the awkward space on the corner, especially since it involves a large amount of green space.

### **3. Action by the Board**

Mr. McCarthy went through the list of supporting criteria for the variance:

- Undesirable change in neighborhood character: no
- Alternative cure sought: no
- Substantiality: not substantial because it will improve the corner
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. McCarthy moved to approve the variances with the stipulation that the business does not turn into an auto repair shop, with 10 months to obtain the permit; the motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Area Variance approved.**

## **VII. Setting of Next Meeting: August 24, 2023**

## **VIII. Adjournment**

Mr. McCarthy adjourned the meeting at 6:44 pm.



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Meg Chilano  
Recording Secretary