

ZONING BOARD OF APPEALS
Official Minutes
Thursday, September 28, 2023
6:00 pm
Council Board Room
One Batavia City Centre, Batavia, NY

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

Members absent: Jim Russell

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

I. Roll Call

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

II. Call to Order

Mr. McCarthy called the meeting to order at 6:00 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 August 24, 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 5' x 5' accessibility lift adjacent to the southeast corner of the front entry porch. This new equipment will be located within the front yard clear space

Address: *19 Porter Avenue*

Applicant: Janice Cotto, owner

- Actions: 1. Review proposal
 2. Public hearing and discussion
 3. 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. Harris, and on roll call, was approved 4-0.

RESULT: Public hearing opened at 6:05 pm.

Ms. Cotto explained that her husband has been in the hospital and has become disabled. She would like to bring him home but he cannot make it up the stairs and there is not enough room in the front yard space for a ramp. She has decided to install a lift instead.

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 4-0.

RESULT: Public hearing closed at 6:06 pm.

The board agreed there is no problem with installing the lift. It takes up less space than a ramp.

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, there is not enough room for a ramp
- Substantiality: not substantial, smaller than a ramp would be
- Adverse effect or impact on neighborhood/community: no
- Self-created: no, the front yard space is small

MOTION: Mr. Gillard moved to approve the proposal with one year to obtain the permit; the motion was seconded by Mr. Harris, and on roll call, was approved 4-0.

RESULT: Area Variance approved.

B. Area Variance: remove an existing 21'-wide asphalt driveway and place 36' of Portland cement in the front yard to create a new driveway

Address: 7 Hillside Drive

Applicant: Daniel Koladzinski, 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. She 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. Harris, and on roll call, was approved 4-0.

RESULT: Public hearing opened at 6:10 pm.

Mr. Koladzinski said that his truck takes up a lot of space and he would like to increase the size of the driveway.

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

Mr. Gillard noted that there are other properties with the same size driveway that Mr. Koladzinski has requested.

MOTION: Mr. McCarthy moved to close the public hearing; the motion was seconded by Mr. Harris, and on roll call, was approved 4-0.

RESULT: Public hearing closed at 6:11 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: yes

MOTION: Mr. McCarthy moved to approve the variance; the motion was seconded by Ms. Moma, and on roll call, was approved 4-0.

RESULT: Area Variance approved.

- C. Area Variance: reduction in required off-street parking and an increase in the maximum height of the building (construction of a 3,140 sq. restaurant with drive-through service

Address: *301-305 West Main Street*

Applicant: Peter Sorgi, Esq., attorney for owner

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

1. Review Application

Ms. Moma read the summary of the proposal. She reported that the PDC recommended approval of the project.

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 4-0.

RESULT: Public hearing opened at 6:16 pm.

Mr. Sorgi explained that the PDC had requested more landscaping in the plan. The amount of off-street parking had to be reduced to make room for more green space, resulting in the need for a variance. Ms. Moma said that she is always in favor of more landscaping and Mr. Harris agreed.

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 4-0.

RESULT: Public hearing closed at 6:20 pm.

3. SEQR

Mr. McCarthy asked if the board had reviewed part one of the SEQR application and they indicated they had. The board went through the questions for part two.

MOTION: Mr. McCarthy moved to approve a negative declaration of SEQR; the motion was seconded by Mr. Harris, and on roll call, was approved 4-0.

RESULT: Negative declaration of SEQR

4. 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 a 14-month time limit to obtain the permit; the motion was seconded by Ms. Moma, and on roll call, was approved 4-0.

RESULT: Area Variance approved.

VII. Setting of Next Meeting: October 26, 2023

VIII. Adjournment

Mr. McCarthy adjourned the meeting at 6:30 pm.



Meg Chilano
Recording Secretary