### **ZONING BOARD OF APPEALS**

### Thursday, June 30, 2016

6:00 pm

Council Board Room One Batavia City Centre, Batavia, NY

### **AGENDA**

- I. Roll Call
- II. Call to order
- III. Pledge of Allegiance
- IV. Approval of May 26, 2015 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

59 Lyon Street

Randy White, owner

Area Variance:

Addition of a driveway to the southeast portion of this property by placing pavers and loose stone to form a 16' wide x 60' long area for parking. This would be in addition to the existing 12' wide asphalt driveway in the northeast portion of this property

- 1. Review application
- 2. Public hearing and discussion
- 3. Action by the board
- VII. New Business
- VIII. Setting of Next Meeting: July 28, 2016
- IX. Adjournment

### **ZONING BOARD OF APPEALS**

### Draft Minutes Thursday, May 26, 2016 6:00 pm Council Board Room One Batavia City Centre, Batavia, NY

Members present: Nicholas Harris, Lee Hyatt, Deborah Kerr-Rosenbeck, Sandra Licata,

Paul McCarthy

Members absent: Emma Morrill

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

### I. Roll Call

Roll call of the members was conducted. Five members were present and Chairman 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

**MOTION**: Ms. Kerr-Rosenbeck moved to approve the minutes as written; the motion was seconded by Mr. Hyatt, and on roll call, was approved 5-0.

RESULT: Approval of April 28, 2016 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. <u>Area Variance: Placement of a 6' tall privacy fence 12.25' west of the east property line on this corner lot parcel</u>

Address: 124 East Avenue
Applicant: James Pacino, owner

Actions: 1. Review application

2. Public hearing and discussion

3. Action by the board

### 1. Review Application

Dr. Licata, acting as Vice Chair, read the proposal summary for the board. Mr. McCarthy reported that the Genesee County Planning Board recommended approval of this variance.

### 2. Public Hearing and Discussion

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

**RESULT:** Public hearing opened at 6:07 pm.

Mr. Pacino told the board that he wanted to put the fence even with his house and noted that by placing it in this position, the meter and wires would be avoided. He also pointed out that the fence would not obstruct the view of the street or the corner lot.

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

RESULT: Public hearing closed at 6:11 pm.

Ms. Kerr-Rosenbeck and Mr. Harris agreed that the fence would not obstruct vision in any way.

Mr. McCarthy asked if the purpose of the fence is for privacy and Mr. Pacino explained the he has small grandchildren he would like to keep safe inside the fence.

There was no one else present who wished to speak and no calls or correspondence

### 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**: Ms. Kerr-Rosenbeck moved to approve the variance as requested with 60 days to obtain the permit. The motion was seconded by Dr. Licata, and on roll call, was approved 5-0.

### **RESULT:** Approval of Area Variance

B. <u>Area Variance: Placement of a 6' tall vinyl privacy fence parallel to the west property line within 15' of the front property line</u>

Address: 10 LaCrosse Avenue

Applicant: Richard and Betty Ahl, owners

Actions: 1. Review application

2. Public hearing and discussion

3. Action by the board

### 1. Review Application

Dr. Licata 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.

Mrs. Ahl stated that the fence was already in place 48 years ago when she and her husband purchased the property. She said that 23 years ago they were granted a variance to install a new fence. The fence is deteriorating and now needs to be replaced. Mr. and Mrs. Ahl would like to replace the existing fence with a vinyl one.

Dr. Licata asked about the height of the fence. Mrs. Ahl said that they would like the new fence to be as maintenance free as possible and vinyl fences only come in 6' high panels.

Mr. Hyatt asked if the neighbor has experienced difficulty when backing out of his driveway. Mrs. Ahl answered that the fence is back far enough that it does not obstruct the view.

Mr. McCarthy reported that the Genesee County Planning Board took no action on the variance request.

There was no one else present who wished to speak and no calls or correspondence.

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

RESULT: Public hearing closed at 6:17 pm.

Mr. Hyatt asked about amount of distance between the pavement and the fence. Mrs. Ahl answered that it is 15' from the pavement to the fence. Mrs. Ahl noted that when the last variance was granted the board set the condition that the fence must be 15' back from the pavement.

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; there is already a fence in the same place
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

### 3. Action by the Board

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

**RESULT:** Approval of Area Variance

C. <u>Area Variance: Construction of a pressure treated wood frame deck in the rear yard within the rear yard clear space</u>

Address: 2 Madison Avenue

Applicant: Donald H. Morris, agent for the owner

Actions: 1. Review application

2. Public hearing and discussion

3. Action by the board

### 1. Review Application

Dr. Licata read the summary of the proposal. Mr. McCarthy reported that the Genesee County Planning Board recommended approval.

### 2. Public Hearing and Discussion

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

RESULT: Public hearing opened at 6:22 pm.

Mr. Morris was unable to attend the meeting. Mrs. Morris explained that the resident of the property needs a ramp in order to come home from the nursing home; she has a broken leg and must use a walker.

There was no one else present who wished to speak and no calls or correspondence

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

RESULT: Public hearing closed at 6:24 pm.

### 3. Action by the Board

Mr. McCarthy pointed out that the ramp extends quite a distance into the yard but noted that the slope must comply with ADA regulations. He observed that according to the application, the ramp will not be attached to the house.

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**: Dr. Licata moved to approve the variance as written with 60 days to obtain the permit. The motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 5-0.

### **RESULT: Approval of Area Variance**

VII. New Business: none

VIII. Setting of Next Meeting: June 30, 2016

### IX. Adjournment

Mr. McCarthy moved to adjourn the meeting at 6:31 pm; Dr. Licata seconded. All voted in favor.

Meg Chilano Bureau of Inspection Clerk



### **GENESEE COUNTY PLANNING BOARD**

DO TO DA		LS NOTICE OF FINAL CTION
SEAL	GCDP Referral ID	C-13-BAT-6-16
W YOU	Review Date	6/16/2016
Municipality	BATAVIA, C.	
<b>Board Name</b>	ZONING BOARD OF A	PPEALS
Applicant's Name	Randy White	
Referral Type		
Variance(s)	Area Variance(s)	
Description:	Width of Driveway Maximum allowed: 25% of Existing: 17% (12.5 ft.) Proposed: 38.6% (29 ft.)	
Location		
Zoning District	Residential (R-1A) Dis	trict
PLANNING BOARD		
EXPLANATION:	ODIFICATION(S)	
The required modification i	e that the applicant merge the	two parcels into one. Given that a neighboring property

no significant county-wide or inter-community impact.

June 16, 2016

Date

If the County Planning Board disapproved the proposal, or recommends modifications, the referring agency shall NOT act contrary to the recommendations except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within 30 days after the final action the referring agency shall file a report of final action with the County Planning Board. An action taken form is provided for this purpose and may be obtained from the Genesee County Planning Department.



### Department of Public Works City of Batavia

Bureau of Inspections

One Batavia City Center, Batavia, New York 14020

(585)-345-1385 (fax)

(585)-345-6345

Planning and Development Committee Genesee County Planning To:

Zoning Board of Appeals

Doug Randall, Code Enforcement Officer From:

5/25/16 Date:

59 Lyon St. Re:

84.006-3-3 Tax Parcel No.

Zoning Use District: R-1A

The applicant, Randy White (owner), has applied for a permit to add a driveway to the southeast portion of this property by placing pavers and loose stone to form a 16' wide x 60' long area for parking. This would be in addition to the existing 12' wide asphalt driveway in the northeast portion of this property.

This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (13). Note:

## Review and Approval Procedures:

Pursuant to General Municipal Law 239 m, referral to the County Planning Board is required since the property is within 500 feet of the right of way of a state road or highway. County Planning Board-

Pursuant to section 190-49 C. of the zoning ordinance, the Planning and Development Committee shall review and make recommendations to the ZBA for applications City Planning and Development Committeethat include parking variances. Pursuant to BMC Sec. 190-49 of the zoning ordinance, the ZBA shall review and Zoning Board of Appealsact on required variances.

Area Required variancesBMC Sec. 190-39 E (1) The width of driveways shall not exceed 25% of the lot frontage.

10.25' (13.6%) Difference 18.75' (25%) 29' (38.6%) Proposed Permitted Driveway width

### IN OP DEI IVER TO:

GENEREIS COUNTY DEPARTMENT OF PLANNING 3837 West Main Street Road Batavia, NY 14020-9404 Phone (585) 344-2580 Fet 5467		GCDP Referral #
E CONTROL OF THE PROPERTY OF T	* GENESEE COUNTY * PLANNING BOARD REFERR	TY * FERRAL
SEAL GENERAL M	Required According to:  GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION (Please answer ALL questions as fully as possible)	3, SECTION 239 L, M, N lly as possible)
REFERRING BOARD(S) INFORMATION	44TION 2. APPLICANT INFORMATION	JFORMATION
Soard(s) Zoning Board of Appeals	Name Randy White	nite
Address One Batavia City Centre	Address 59 Lyon St.	St.
City, State, Zip Batavia, NY 14020	City, State, Zip Batavia, NY 14020	atavia, NY 14020
hone (585) 345-6347	Ext. Phone (585) 409 - 5655	55 Ext. Email
MUNICIPALITY:	Town Uillage of Batavia	6
. TYPE OF REFERRAL: (Check all applicable items)	oplicable items)	
Area Variance Use Variance Special Use Permit Site Plan Review	Zoning Map Change Coning Text Amendments Comprehensive Plan/Update	Subdivision Proposal    Preliminary   Final
LOCATION OF THE REAL PROPERTY OF THE REAL PROPERTY OF THE PROP	SAL PROPERTY PERTAINING TO THIS REFERRAL:	RAL:
A. Full Address 39 Lyon St.  R. Nearest intersecting road Richmond	mond Ave	
	006-3-3	
D. Total area of the property		Area of property to be disturbed
E. Present zoning district(s) R-1A		
5. REFERRAL CASE INFORMATION: A. Has this referral been previously	EFERRAL CASE INFORMATION: A. Has this referral been previously reviewed by the Genesee County Planning Board?	ning Board?
■ NO TES If yes, give	If yes, give date and action taken	
B. Special Use Permit and/or Va	riances refer to the following section(s) of	B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law
BMC 190-39 E(1)		
C. Please describe the nature of thi total driveway width permitted	his request Approval to place an additi	C. Please describe the nature of this request Approval to place an additional driveway on this property in excess of the total driveway width nermitted
6. ENCLOSURES – Please enclose co	6. ENCLOSURES - Please enclose copy(s) of all appropriate items in regard to this referral	this referral
■ Local application ■ Site plan Subdivision plot plans □ SEQR forms	Zoning text/map amendments Location map or tax maps Elevation drawings Agricultural data statement	<ul> <li>New or updated comprehensive plan</li> <li>Photos</li> <li>Other: Cover letter</li> </ul>
If possible, please provide a reduced Email to <u>planning@co.genesee.ny.us</u>	educed version or digital copy of any s <u>ee.ny.us</u>	If possible, please provide a reduced version or digital copy of any supporting documentation larger than 11 x 17. Email to <u>planning@co.genesee.ny.us</u>
7. CONTACT INFORMATION of the	. CONTACT INFORMATION of the person representing the community in filling out this form (required information)	lling out this form (required information)
Name Douglas Randall	Title Code Enf. Officer	Phone (585) 345-6327 Ext.
Address, City, State, Zip One Batav	Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020	Email drandall@batavianewyork.com



# CITY OF BATAVIA APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: Hearing Date/Time:	NIA	E-Mail Address  WA Phone Fax  WY State  State	Agent for Owner Contractor	B-Mail Address	Phone Fax	State	Lyon St. Bakawa	d drive way (stens) to if my lot do By lob' Long.	Applicant must be present at the hearing date. Failure to do so will result in the application being discarded. It is the responsibility of he applicant to present evidence sufficient to satisfy the Zoning Board of Appeals that the benefit of the applicant does not outweigh he health, safety, morals, aesthetics and general welfare of the community or neighborhood.	Date	Date	To be Filled out by Zoning Officer   R-1A,   FLOOD PLAIN: 160	FEE: \$50 (One or Two Family Use)  \$100 (All other Uses)  Committee	pealed: BML 190-39 E(1) driveway width Shall of the lot undth.
1915	APPLICANT: Randy White	Street Address  Bathy 19  City	TATUS: XOwner	OWNER: Same as abou	Street Address	City	COCATION OF PROPERTY: 59	South East Cornor of Size will be 16" wide	Applicant must be present at the hearing date. Failure to do so will result in the application be applicant to present evidence sufficient to satisfy the Zoning Board of Appeals that the be health, safety, morals, aesthetics and general welfare of the community or neighborhood.    Community or neighborhood.	Applicant's Signature	1 =	To be Filled TAX PARCEL: 84.000-3-3 ZON	FYPE OF APPEAL:  ———————————————————————————————————	Provision(s) of the Zoning Ordinance Appealed:

## Criteria to Support Area Variance

In making its determination, the zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, moral, aesthetics and welfare of the neighborhood or community. The Zoning Board of Appeals shall consider the following test, as per §81-b of the General City Law when making its determination:

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- The granting of the variance will not produce an undesirable change in the neighborhood or a detriment to nearby properties. 155WeS Undesirable Change in neighborhood Character. cea te
- Alternative Cure Sought. There are no other means feasible for the applicant to pursue that would result in the difficulty being avoided or remedied, other than the granting of the Cures othe 5 0 There area variance. ci
- 20 The requested area variance is not substantial. Substantiality. 3
- Adverse Effect or Impact. The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community. 73 4,
- Not Self-Created. The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title. 5

Applicant's Signature

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## DRIVEWAY AND PARKING SPACE PERMIT \$10 fee – Please attach Survey / Illustration

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18.75 Perwith a 39 Februith a 39 Februith a 30 Februith a

12.5' Existing downay. + 16.5 New/dolohoma! downar



