

ZONING BOARD OF APPEALS

Thursday, January 25, 2018

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 November 16, 2017 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

25 Verona Ave.
Carol Mooney, owner

Area Variances: Placement of a 10' x 20' one story wood frame shed in the east side yard at the end of the driveway on this property

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

- VII. Setting of Next Meeting: February 22, 2018
- VIII. Adjournment

ZONING BOARD OF APPEALS

Draft Minutes

Thursday, November 16, 2017

6:00 pm

Council Board Room

One Batavia City Centre, Batavia, NY

Members present: *Deborah Kerr-Rosenbeck, Paul McCarthy, Jim Russell*

Members absent: Bill Cox, Nick Harris

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

I. Roll Call

Roll call of the members was conducted. Three members were present and Chairman McCarthy declared a quorum.

II. Call to Order

Mr. McCarthy called the meeting to order at 6:06 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 October 26, 2017 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: placement of a 10' x 16' one story wood frame shed in the east side yard

Area Variance: construction of a pressure treated wood frame deck within the required side yard clear space

Address: *1 Seneca Ave.*

Applicant: Patrick McNutt, owner

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

1. Review Application

Acting Vice Chair Deborah Kerr-Rosenbeck 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. Kerr-Rosenbeck, and on roll call, was approved 3-0.

RESULT: Public hearing opened at 6:11 pm.

The applicant, Mr. McNutt, explained that he needs a variance to put up a shed because he lives on a corner property, and technically, does not have a back yard. He also needs a variance to construct a deck. He would like the deck to be in line with the house and the house is only 6' from the property line.

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

MOTION: Mr. McCarthy moved to close the public hearing; the motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 3-0.

RESULT: Public hearing closed at 6:13 pm.

3. Action by the Board

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

- Undesirable change in neighborhood character: no
- Alternative cure sought: there isn't one
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no, it is a corner lot

MOTION: Mr. Russell moved to approve the variances as submitted, with 60 days to obtain the permit; the motion was seconded by Mr. McCarthy, and on roll call, was approved 3-0.

RESULT: Approval of both Area Variances.

B. Area Variance: placement of a 10' tall fence parallel to the north (rear) property line

Address: 8 Dewey Ave St.

Applicant: Eric Olson, owner

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

1. Review Application

Ms. Kerr-Rosenbeck 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 3-0.

RESULT: Public hearing opened at 6:15 pm.

The applicant, Mr. Olson, described how he has had privacy for most of the 40 years he has lived at on this property. Seven years ago, the trees which lined the back of the property, became infested with beetles and had to be cut down. The apartment complex at 193 South Main St. was still obscured from view by a line of trees at that address; however, National Grid removed those trees in September. Now the apartment building, with clutter behind every apartment, is in full view.

Mr. Olson noted that his property sits at the lowest point on Dewey Ave., and estimated that it would take a fence with a height of 10' to block the view of the first floor of the apartment complex and provide him with a measure of privacy.

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

MOTION: Mr. McCarthy moved to close the public hearing; the motion was seconded by Mr. Russell, and on roll call, was approved 3-0.

RESULT: Public hearing closed at 6:23 pm.

3. Action by the Board

Mr. McCarthy stated that he does not like a 10' fence because it is a great deal above the 6' limit. The board has only previously approved fences that were 8' in height. Mr. Olson responded that the fence itself would be 8' in height and then he would raise it 2' from the ground.

Mr. McCarthy asked if the ground is built up 2' and then an 8' fence is installed on that ground, would it be considered 8' or 10' in height, according to the BMC. Mr. Randall answered that it would be considered an 8' fence.

Ms. Kerr-Rosenbeck expressed concern over setting a precedent by approving a 10' fence.

Mr. Russell reminded the board that he is generally opposed to the installation of fences over the 6' limit; however, in this particular instance, featuring this particular landscape, he said he could understand Mr. Olson's desire for privacy. He pointed out that the apartment complex does not present a favorably landscaped property.

Mr. Randall noted that as a non-conforming use property, the apartment complex would not be allowed to exist in this residential neighborhood today.

Mr. McCarthy agreed that this area presents a difficult situation. He does not like the idea of a 10' fence but said that he would find an 8' fence placed on a 2' berm acceptable.

Mr. Russell commented that he is not sure there is enough value in trucking in enough dirt to create a 2' berm. Mr. Olson said that his window of opportunity to bring that amount of soil onto wet ground is very limited. He said that he understands the concern over the 10' fence but no one other than he will see the fence.

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

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

MOTION: Mr. Russell moved to approve the variance as proposed, with a 60 day time limit to obtain the permit. The motion was seconded by Mr. McCarthy, and on roll call, was approved 3-0.

RESULT: Approval of Area Variance.

VII. New Business: Approval of 2018 Meeting Dates

MOTION: Mr. Russell moved to approve the 2018 meeting dates; the motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 3-0.

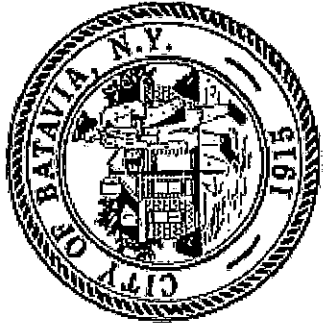
RESULT: Approval of 2018 meeting dates.

VIII. Setting of Next Meeting: December 21, 2017

IX. Adjournment

Ms. Kerr-Rosenbeck moved to adjourn the meeting at 6:38 pm; Mr. McCarthy seconded. All voted in favor.

Meg Chilano
Bureau of Inspection Secretary



City of Batavia
Department of Public Works
Bureau of Inspections

One Batavia City Center, Batavia, New York 14020 (585)-345-6345 (585)-345-1385 (fax)

To: Zoning Board of Appeals
From: Doug Randall, Code Enforcement Officer
Date: 12/11/17
Re: 25 Verona Ave.
Tax Parcel No. 71.018-3-33
Zoning Use District: R-1A

The applicant, Carol Mooney (owner), has filed an application to place a 10' x 20' one story wood frame shed in the east side yard at the end of the driveway on this property.

Note: 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) (10).

Review and Approval Procedures:

Zoning Board of Appeals- Pursuant to BMC Sec. 190-49 of the zoning ordinance, the ZBA shall review and act on required variances.

Required variances- Area

- 1) BMC 190-35 D. Accessory buildings are not permitted to occupy spaces other than a rear yard.



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: _____
Hearing Date/Time: _____

APPLICANT:

Name Carol Mooney E-Mail Address _____
Street Address 25 VERONA AVE Phone 585-330-0995
City BATAVIA State NY Fax 14020
Zip _____

STATUS: ☒ Owner Spouse _____ Agent for Owner _____ Contractor _____

OWNER:

Name MARK BENZ E-Mail Address _____
Street Address 25 VERONA AVE Phone _____ Fax _____
City BATAVIA State NY Zip 14020

LOCATION OF PROPERTY: 25 VERONA (as above)

DETAILED DESCRIPTION OF REQUEST: Place shed beside my house at the end of driveway

Applicant must be present at the hearing date. Failure to do so will result in the application being discarded. It is the responsibility of the applicant to present evidence sufficient to satisfy the Zoning Board of Appeals that the benefit of the applicant does not outweigh the health, safety, morals, aesthetics and general welfare of the community or neighborhood.

Carol Mooney

Applicant's Signature

12-01-2017

Date

Owner's Signature

To be Filled out by Zoning Officer

TAX PARCEL: 71.018-3-33 ZONING DISTRICT: R-1A

TYPE OF APPEAL:

☒ Area Variance
☐ Use Variance
☐ Interpretation
☐ Decision of Planning Committee

FEE: ☒ \$50 (One or Two Family Usec)
☐ \$100 (All other Usecs)



Provision(s) of the Zoning Ordinance Appealed: BMC 40-35 D Accessory Bldgs may not occupy any required open space other than a rear yard.

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:

Explain how the proposal conforms to EACH of the following requirements:

1. Undesirable Change in neighborhood Character. The granting of the variance will not produce an undesirable change in the neighborhood or a detriment to nearby properties.
No
2. 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 area variance. Yes
3. Substantiality. The requested area variance is not substantial. correct
4. 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.
Correct
5. 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. correct

Carol Maaney
Applicant's Signature

12-01-13
Date

CITY OF BATAVIA

BUILDING PERMIT APPLICATION

DATE: 11-29-2017APPLICANT NAME & PHONE: CAROL MOONEY 585-330-0995Project Location and Information

Permit #: _____ Fee: _____

Address of Project: 25 VERONA AVE BATAVIA, NY
Owner & Address: MARK BENZ hsb 225 VERONA AVE BATAVIA, NY
Phone: 585-813-5328

Project Type/Describe WorkEstimated cost of work: \$4800?Start date: possibly 12-2-17

Describe project:

Pre made shed Size? 10'x20'
Footprint - 2 BA Reg.

Contractor Information – Insurance certificates (liability & workers comp) required being on fileGENERAL

Name/Address: no contractor, just dropping off the shed
Phone: _____

PLUMBING (City of Batavia Licensed Plumber Required)

Name/Address: N/A
Phone: _____

HEATING

Name/Address: N/A
Phone: _____

ELECTRICAL (Third Party Electrical Inspection Required)

Name/Address: N/A
Phone: _____

FOR OFFICE USE ONLYZoning District: R-1A Flood Zone: NO Corner Lot: NO Historic District/Landmark: NO

Zoning Review: _____ Variance Required: _____ Site Plan Review: _____ Other: _____

National Grid Sign Off (Pools): N/A Lot Size: 45 x 141Existing Use: family NYS Building Code Occupancy Class: _____Proposed Use: same NYS Building Code Occupancy Class: _____



