

# ZONING BOARD OF APPEALS

Thursday, July 23, 2015

6:00 pm

Council Board Room

One Batavia City Centre, Batavia, NY

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## AGENDA

- I. Roll Call
- II. Call to order
- III. Pledge of Allegiance
- IV. Approval of June 25, 2015 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

**Request #1**                      *1 Prospect Avenue*

Frank Zinni, owner

Area Variance:                      Placement of a 4' tall, metal wire and T-post fence within the required 15' set back along the west property line

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

VII. Setting of Next Meeting: August 27, 2015

VIII. Adjournment

# **ZONING BOARD OF APPEALS**

## ***Minutes***

**Thursday, June 25, 2015**

***6:00 pm***

**Council Board Room**

**One Batavia City Centre, Batavia, NY**

Members present: *Jeffrey Gillard, William Hayes, Lee Hyatt, Sandra Licata, Paul McCarthy*

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

### **I. Roll Call**

Roll call of the members was conducted. All five members were present and Chairman Gillard declared a quorum.

### **II. Call to Order**

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

### **III. Pledge of Allegiance**

### **IV. Approval of Minutes from May 28, 2015 Meeting**

**MOTION:** Dr. Licata moved to approve the minutes; the motion was seconded by Mr. Gillard, and on roll call, was approved 5-0.

**Result: Approval of May 28, 2015 minutes.**

### **V. Zoning Board of Appeals statement**

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

### **VI. Variance Requests**

- A. Widen an existing 11.41' wide asphalt driveway to 23.31' by placing a 12' wide stone addition to the north side of the existing driveway

Address: *23 Seneca Avenue*

Applicant: George Mirrione, owner

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

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

Vice Chairman Hayes read the proposal summary for the board.

## 2. Public Hearing and Discussion

Mr. Gillard opened the public hearing at 6:06 pm. Mrs. Mirrione related to the board that the proposal was modified based on the recommendation of the Planning and Development Committee (PDC). The width of the driveway was reduced to 20' instead of 23.31'. Mrs. Mirrione pointed to the diagram in the application showing where the driveway will be going. She indicated that there are 7' between the driveway and the neighbor's property line.

Mr. Gillard noted that the PDC also recommended paving the driveway within one year. He asked if Mr. and Mrs. Mirrione were agreeable and they answered yes.

Mr. Gillard closed the public hearing at 6:08 pm.

## 3. Action by the Board

Mr. Gillard 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. Gillard moved to approve the application with the changes recommended by the PDC, with 60 days to obtain the permit. The motion was seconded by Mr. McCarthy, and on roll call, was approved 5-0.

### Result: Approval of Area Variance

- B. Widen an existing 10' wide stone driveway by placing 13' of stone to the east side of the existing driveway

Address: *17 Maple Street*

Applicant: Timothy Corcoran, owner

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

## 1. Review Application

Mr. Hayes read the summary of the proposal.

## 2. Public Hearing and Discussion

Mr. Gillard opened the public hearing at 6:10 pm. Mr. Corcoran told the board that he wants to open up more space in the driveway so there is enough room to maneuver more than one car. He said there is never any street parking and it is a hassle to move cars around to accommodate different schedules.

Betty Baldwin, 15 Maple Street, wished to speak about the project. Mrs. Baldwin stated that she has lived at her present location for 15 years. She said that the previous owner had made a parking area large enough to accommodate one car at the end of the driveway near the sidewalk. This space was made from stone while the remainder of the driveway was constructed from concrete. According to Mrs. Baldwin, she went to the City to obtain a permit to have the parking spot paved like the rest of the driveway, and she was told she was not allowed. She said she was told to return the parking area to grass because only a single lane driveway was permissible.

Mr. Gillard explained that the board could not answer as to what happened before; they can only deal with what is before them. Dr. Licata added that Mrs. Baldwin could apply again if she chose.

Mr. Hyatt asked the applicant if the stakes belonged to him and if he intended to put up a fence. Mr. Corcoran responded that the stakes are his and he is going to install a fence.

Mr. Gillard related to Mr. Corcoran that one of the PDC's recommendations was to create parking space to the rear of the house. Mr. Gillard asked if there was a reason why he could not do that. Mr. Corcoran responded that he would like to put up a garage.

Mr. Hyatt observed that according to Mr. Corcoran's plan for the driveway, a car would have to be parked sideways. Mr. Corcoran replied that he does not believe so.

Mr. Hyatt asked what he intends to do with snow. Mr. Corcoran answered that he can blow it onto the front yard. Mr. Hyatt said that he does not think residents should be parking their cars sideways in front of the house. Dr. Licata said that she does not see how he could put a vehicle sideways.

Neil Jacobs, 13 Maple Street, spoke about past negative interactions with Mr. Corcoran.

Mr. Gillard closed the public hearing at 6:36.

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

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

- Undesirable change in neighborhood character: Mr. Hyatt said he believes there is. He stated that a parking area should not go in the front. Mr. Gillard pointed out that all of the other houses have parking in the front. Mr. Hyatt said that they need to stop it some time.
- Alternative cure sought: Mr. Hyatt and Mr. Hayes said the parking could go in the back. Mr. Gillard estimated that the back yard is 80' deep. Dr. Licata said she would not want parking to ruin the back yard for entertaining. She said it does not make sense to do that especially when other neighbors have parking in the front. Mr. Hyatt expressed concern that Mr. Corcoran will not have enough room to park vehicles one

- behind the other in the driveway and he will park them parallel to the house. Mr. Gillard said he believes there is enough room. Mr. McCarthy asked if Mr. Corcoran would be parking his vehicle in the garage when he builds it and he answered yes. Mr. McCarthy pointed out that Mr. Corcoran will not need extra parking at that time. Dr. Licata said that he will still need more parking because people will need to get in and out of the driveway. Mr. Hayes asked if it would be a two-car garage and where Mr. Corcoran intends to put it. Mr. Corcoran said that he wants a large structure so he has room for working on his vehicles and plenty of storage. He does not want to put it too far in the back because he said his patio area is in the back along the fence.
- Substantiality: not substantial
  - Adverse effect or impact on neighborhood/community: Mr. Gillard said that there are similar situations in the neighborhood but Mr. Hyatt disagreed.
  - Self-created: no

**MOTION:** Dr. Licata moved to approve the Area Variance with 60 days to obtain the permit. Mr. Hayes asked if they could put a stipulation on parking. Mr. Randall answered that they could but it would be difficult to enforce. Dr. Licata moved to approve the Area Variance with the condition that parking must be perpendicular to the road, with 60 days to obtain the permit. The motion was seconded by Mr. McCarthy, and on roll call, was approved 5-0.

**Result: Approval of Area Variance**

- C. Establish an auto detailing, protection, and accessory shop on this parcel which shares lot lines with a church to the west and is within 500' of the required set back

Address: *311-313 West Main Street*  
 Applicant: Tony Mattiaccio, President/CEO of Monroe County  
 Automotive Services Inc./prospective owner

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

**1. Review Application**

Mr. Hayes read the summary of the proposal.

**2. Public Hearing and Discussion**

Mr. Gillard opened the public hearing at 6:45 pm. Tony Mancuso spoke on behalf of the applicant. Mr. Hayes asked him if the property is the old Pepsi garage and he said that it is. Mr. Gillard clarified that both buildings will be used: the one in front will be the show room; and the one in the rear will be the work area.

Mr. Gillard asked about environmental issues with spray from the undercoating. Mr. Mancuso responded that everything meets DEC code.

Mr. Gillard asked if there was any correspondence or contact from anyone at the church and Mr. Randall replied that there was none. Mr. McCarthy verified that the business is closed on Sunday. Mr. Mancuso said that the hours of operation are from about 7 am to 6 pm five days per week, with an occasional Saturday.

Dr. Licata asked about parking. Mr. Mancuso said that the areas designated for parking are behind and to the east of the building.

Mr. Hyatt asked about the yellow lines on the diagram. Mr. Mancuso explained that the lines represent two separate tax parcels.

Mr. Gillard closed the public hearing at 6:48 pm.

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

Mr. Gillard 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 Area Variance, with 60 days to obtain the permit; the motion was seconded by Mr. Hayes, and on roll call, was approved 5-0.

**Result: Approval of Area Variance**

## **VII. New Business**

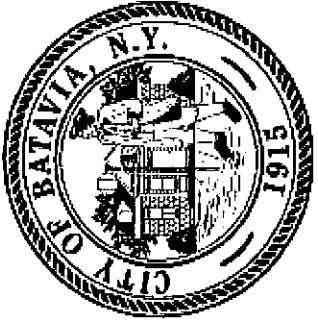
## **VIII. Setting of Next Meeting: July 23, 2015**

## **IX. Adjournment**

Mr. Gillard made a motion to adjourn the meeting at 6:47 pm. Dr. Licata seconded. All voted in favor.

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Meg Chilano  
Bureau of Inspection Clerk



*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: Genesee County Planning  
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 6/26/15

Re: 1 Prospect Ave.  
Tax Parcel No. 84.032-1-35

Zoning Use District: R-1A

The applicant, Frank Zinni (owner), has filed an application to place a 4' tall, metal wire and T-post fence within the required 15' set back along the west property line.

**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:**

**County Planning Board-** 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.

**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 Sec. 190-33 D. Fences are not permitted to exceed 3' in height when placed within 15' of the front property line.**

**SEND OR DELIVER TO:**

GENESEE COUNTY DEPARTMENT OF PLANNING  
3837 West Main Street Road  
Batavia, NY 14020-9404  
Phone: (585) 344-2580 Ext. 5467

**DEPARTMENT USE ONLY:**

GCDDP Referral # \_\_\_\_\_

**\* GENESEE COUNTY \*  
PLANNING BOARD REFERRAL**

Required According to:

**GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N**  
(Please answer ALL questions as fully as possible)

**1. REFERRING BOARD(S) INFORMATION**Board(s) Zoning Board of AppealsAddress One Batavia City CentreCity, State, Zip Batavia, NY 14020Phone (585) 345 - 6347 Ext. \_\_\_\_\_Name Frank ZinniAddress Po Box 406City, State, Zip Batavia, NY 14020Phone (585) 343 - 3037 Ext. \_\_\_\_\_ Email \_\_\_\_\_MUNICIPALITY: ☒ City ☐ Town ☐ Village of Batavia**3. TYPE OF REFERRAL: (Check all applicable items)**

- ☒ Area Variance  
☐ Use Variance  
☐ Special Use Permit  
☐ Site Plan Review

- ☐ Zoning Map Change  
☐ Zoning Text Amendments  
☐ Comprehensive Plan/Update  
☐ Other: \_\_\_\_\_

- Subdivision Proposal  
☐ Preliminary  
☐ Final

**4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:**A. Full Address 1 Prospect Ave.B. Nearest intersecting road OakC. Tax Map Parcel Number 84.032-1-35

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 reviewed by the Genesee County Planning Board?

☒ No ☐ Yes If yes, give date and action taken \_\_\_\_\_

B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law

BMC 190-33 DC. Please describe the nature of this request Approval to place a 4' tall metal wire and T-post fence along the west (front) property line.**6. ENCLOSURES - Please enclose copy(s) of all appropriate items in regard to 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

- ☐ New or updated comprehensive plan  
☒ Photos  
☒ Other: Cover letter

If possible, please provide a reduced version or digital copy of any supporting documentation larger than 11 x 17.

Email to [planning@co.genesee.ny.us](mailto:planning@co.genesee.ny.us)**7. CONTACT INFORMATION of the person representing the community in filling out this form (required information)**Name Douglas RandallTitle Code Enf. OfficerPhone (585) 345 - 6327

Ext. \_\_\_\_\_

Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020Email drandall@batavianewyork.com





**CITY OF BATAVIA**  
**APPLICATION TO THE ZONING BOARD OF APPEALS**

Application No.: \_\_\_\_\_  
Hearing Date/Time: \_\_\_\_\_

**APPLICANT:** Frank V. Zinni  
Name # P.O. Box 406 (343-3037) (FAX: 343-9441)  
E-Mail Address \_\_\_\_\_  
Street Address BATAVIA, N.Y. Phone 14021  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**STATUS:** ☒ Owner ☒ Agent for Owner \_\_\_\_\_ Contractor \_\_\_\_\_

**OWNER:** Frank & Barbara Zinni  
Name # P.O. Box 406 (same as above)  
E-Mail Address \_\_\_\_\_  
Street Address BATAVIA, N.Y. Phone 14021  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**LOCATION OF PROPERTY:** #1 Prospect Ave Batavia N.Y.

**DETAILED DESCRIPTION OF REQUEST:** Approval of 4' HIGH WIRE-ROLL FENCE ALONG PART OF WEST SIDE (OAK ST.) PROPERTY USING POUND-IN METAL POSTS REMOVABLE, NO CONCRETE) - ADDENDUM ATTACHED.

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.

[Signature]  
Applicant's Signature Date 6/23/15

[Signature]  
Owner's Signature Date 6/23/15

*To be Filled out by Zoning Officer*

**TAX PARCEL:** 84.032-1-35 **ZONING DISTRICT:** R-1A **FLOOD PLAIN:** No

**TYPE OF APPEAL:** ☒ Area Variance ☐ Use Variance ☐ Interpretation ☐ Decision of Planning Committee  
**FEE:** ☒ \$50 (One or Two Family Use) ☐ \$100 (All other Uses)

**Provision(s) of the Zoning Ordinance Appealed:** BMC 190-33 D.

## CITY OF BATAVIA

## BUILDING PERMIT APPLICATION

DATE: MAY 27<sup>TH</sup> 2015APPLICANT NAME & PHONE: FRANK V. ZANNI - 585-343-3037Project Location and Information

Permit #: \_\_\_\_\_ Fee: \_\_\_\_\_

Address of Project: #1 PROSPECT AVE BATAVIA, N.Y. 14020  
Owner & Address: FRANK & BARBARA ZANNI, 40 PO Box 406 Batavia, NY  
Phone: 585-343-3037 14021

Project Type/Describe WorkEstimated cost of work: UNDER 500Start date: END OF MAY / BEGINNING OF JUNE 2015

Describe project: PURPOSE - CHILD SAFETY; PUT-UP A FOUR (4') FOOT HIGH WIRE-ROLL FENCE (Temporary) ALONG PART OF WEST SIDE (OAK ST) OF PROPERTY, USING POUND-IN METAL POSTS (REMOVABLE NO CONCRETE WITH REMOVABLE TIES/FASTENERS; SEE ADDENDUM ATTACHED.

Contractor Information - Insurance certificates (liability & workers comp) required to be on fileGENERAL

Name/Address: FRANK BELLECI, # 605 ELLICOTT ST, BATAVIA, NY  
Phone: 585-343-9581 14020

PLUMBING (City of Batavia Licensed Plumber Required)

Name/Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

HEATING

Name/Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

ELECTRICAL (Third Party Electrical Inspection Required)

Name/Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

FOR OFFICE USE ONLY

Zoning District: \_\_\_\_\_ Flood Zone: \_\_\_\_\_ Corner Lot: \_\_\_\_\_ Historic District/Landmark: \_\_\_\_\_  
Zoning Review: \_\_\_\_\_ Variance Required: \_\_\_\_\_ Site Plan Review: \_\_\_\_\_ Other: \_\_\_\_\_  
National Grid Sign Off (Pools): \_\_\_\_\_ Lot Size: \_\_\_\_\_  
Existing Use: \_\_\_\_\_ NYS Building Code Occupancy Class: \_\_\_\_\_  
Proposed Use: \_\_\_\_\_ NYS Building Code Occupancy Class: \_\_\_\_\_

**ADDENDUM to BUILDING PERMIT APPLICATION:**

**Re : # 1 PROSPECT AVE.**

**FENCE TO RUN AS FOLLOWS: (distances/directions are approximate).**

- Four (4) foot high wire-roll fence to start at SW corner of existing 6' fence (of adjoining northside property) and to run southerly approximately 60-65' along the same N-S line as the existing N-S fences of the two adjoining northside properties (and equidistant from the Oak St. sidewalk) to a point opposite the SW corner of the front porch (of #1 Prospect) then turning east and running approximately 10-15' feet (along the same E-W line of the front porch) to the SW corner of the porch.

Respectfully submitted,  
Frank Zinni







APRIL 15, 2014 SCALE 1" = 10'  
JOB NO. 14-98

LEGEND  
● EXISTING IRON PIN

REFERENCES  
CHADDOCK SUBDIVISION FILED AT BOOK 4  
OF MAPS, PAGE 195  
RIGHT OF WAY FILED AT LIBER 209 OF  
DEEDS, PAGE 276

**DAVID S. LAMENDOLA**  
**GREGORY W. TOWNSEND**  
*Licensed Land Surveyors*  
435 East Main Street  
Batavia, New York 14020  
Phone (585) 344-1331  
Fax (585) 219-4313

DATE \_\_\_\_\_

N.Y.S.R.L.S. NO. 50249

PARCEL SURVEYED  
CONTAINING  
0.056 +/- ACRE  
LIBER 878, PAGE 209

PROSPECT AVENUE (64.0' R.O.W.)

R/O HACKETT, STEPHEN S.  
LIBER 837, PAGE 293

"UNAUTHORIZED ALTERATION OR ADDITIONS  
TO A SURVEY MAP BEARING A LICENSED LAND  
SURVEYOR'S SEAL IS A VIOLATION OF SECTION  
7209, SUB-DIVISION 2. OF THE NEW YORK  
STATE EDUCATION LAW."

"CERTIFICATIONS INDICATED HEREON SIGNIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE FOR LAND SURVEYORS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS. SAID CERTIFICATION SHALL RUN ONLY TO THE PERSON FOR WHOM THE SURVEY IS PREPARED, AND ON HIS/HER BEHALF TO THE TITLE COMPANY, GOVERNMENTAL AGENCY AND LENDING INSTITUTION LISTED HEREON, AND TO THE ASSIGNEES OF THE LENDING INSTITUTION. CERTIFICATION ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS."