

ZONING BOARD OF APPEALS
Minutes
Thursday, February 23, 2023
6:00 pm
Council Board Room
One Batavia City Centre, Batavia, NY

Members present: *Dave McCarthy, Leslie Moma, Jim Russell*

Members absent: Jeff Gillard, 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 Chair Dave McCarthy declared a quorum.

II. Call to Order

Mr. McCarthy called the meeting to order at 6:01 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 November 17, 2022 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: construct a front porch roof that will project into the front yard setback by 2/11"

Address: *255 Bank Street*

Applicant: Douglas Fronczak, contractor

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

1. Review Application

Acting Vice Chair, Leslie Moma, read the summary of the proposal. Mr. Randall informed the board that the proposal did not need a referral to the Genesee County Planning Board.

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 6:06 pm.

Mr. Fronczak explained that he took over for another contractor and then discovered that a variance was needed for the project. He told the board that the concrete steps were pre-existing, and he just constructed the porch roof. He pointed out that other residences on the street have front steps that extend even further.

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 6:08 pm.

3. Action by the Board

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

- Undesirable change in neighborhood character: no
- Alternative cure sought: no, there is none
- Substantiality: no
- Adverse effect or impact on neighborhood/community: no
- Self-created: no, the concrete pad was already there

MOTION: Mr. McCarthy moved to approve the variance. The motion was seconded by Ms. Moma, and on roll call, was approved 3-0.

RESULT: Area Variance approved.

- B. Area Variance: construct a 24' x 50' x 14'2" tall one-story wood frame pole building in the rear yard of this property. The owner is proposing to place the new building on a portion of land that is known to be located within the AE Special Flood Hazard Area

Address: *115 South Main Street*

Applicant: Julian Matla, 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 Ms. Moma, and on roll call, was approved 3-0.

RESULT: Public hearing opened at 6:13 pm.

Mr. Matla said that he would like to place the pole barn behind his pool. He said that the flood zoning for that location is unknown.

Mr. Randal reported that a concerned neighbor had called 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 3-0.

RESULT: Public hearing closed at 6:16 pm.

Mr. McCarthy and Ms. Moma commented on the floodplain concerns. Mr. McCarthy said that the flood-compliant components of the project would satisfy those concerns. However, Mr. Randall referred the board to the proposal packet where he had included information specifically called out in the Code regarding the requirements of a variance for a property located in the Special Flood Hazard Area (SFHA).

Mr. Randall noted that the Code specifies the criteria that must be met in the consideration of a variance. He explained that when a property is located in a Special Flood Hazard Area, there are items in the Code specifically called out. In the project information packet, he had included the sections of Code pertaining to this situation.

Mr. Randall explained that the availability of alternate locations needs to be considered. The entire parcel is not situated in the SFHA. If Mr. Matla were to place the building on any other location on the property, it would not be in the SFHA. According to the Code, if there is available space some place other than in the floodplain, the building must be placed there.

Mr. Randall also pointed out that according to the Code, variances should be considered only in those cases where the property size is less than half an acre. This property is well over that size limit.

Mr. McCarthy asked if Mr. Matla had an elevation certificate, and he answered no.

Mr. Randall said that obtaining an elevation certificate for the desired placement of the structure is an option. However, the location is considered to be in the AE flood zone until FEMA determines otherwise.

Mrs. Matla pointed out that the pole barn would have floodgates. Mr. Randall explained that the gates are mitigation for structures located in the floodplain, however, the primary concern is still that the large size of the property and the possibility of other options for placement of the pole barn, means that it does not meet the qualifications for a variance.

Mr. McCarthy suggested that the Matlas obtain an elevation certificate, and Mr. Russell agreed.

3. Action by the Board

MOTION: Mr. Russell moved to table the proposal until such time that an elevation certificate is submitted. The motion was seconded by Mr. McCarthy, and on roll call, was approved 3-0.

RESULT: Area Variance tabled.

VII. Setting of Next Meeting: March 23, 2023

VIII. Adjournment

Mr. McCarthy adjourned the meeting at 6:35 pm.



Meg Chilano

Recording Secretary