

OFFICIAL MINUTES

September 20, 2022

6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

Members present: *David Beatty, Rebecca Cohen, Derek Geib, John Ognibene, Duane Preston*

Members absent: Edward Flynn

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

I. Roll Call

Roll call of the members was conducted. Five members were present and Chairman Duane Preston declared a quorum.

II. Call to order

Mr. Preston called the meeting to order at 6:09 p.m.

III. Previous Meeting Minutes

There were no corrections to the minutes. Mr. Preston assumed the motion and the minutes were approved as written by unanimous consent.

RESULT: Approval of August 16, 2022 meeting minutes.

IV. Proposals

A. Widen an existing 21' wide asphalt driveway by placing 8' of asphalt to the south side to the existing driveway

Address: *20 Gateway Drive*

Applicant: Joan Maniace (owner)

Actions:

1. Review application
2. Discussion and recommendation to the ZBA for area variance

1. Review Application

Mr. Preston read the summary of the proposal. He noted that the applicant was not in attendance at the meeting.

2. Discussion and Recommendation to the ZBA

The board members agreed that the request was not substantial and similar to other properties in the neighborhood. They had no questions for the applicant.

MOTION: Mr. Beatty moved to recommend approval of the proposal to the Zoning Board of Appeals; the motion was seconded by Mr. Ognibene, and on roll call, was approved 5-0.

RESULT: Recommend approval of the application to the ZBA.

B. Continuation of two unapproved dwelling units within this multiple dwelling building

Address: *113 Bank Street*

Applicant: Michael Lullo (agent for the owner)

Actions: 1. Review application
2. Discussion and recommendation to the ZBA for use variance

1. Review Application

Mr. Preston read the summary of the proposal. Mr. Lullo presented his bona fides to the board, as well as an explanation of the events leading up to the application for a variance. [See attached.]

He related that during the preparation for sale of the property, it was discovered that the Certificate of Occupancy from 1950 classified the building as a three-unit dwelling, rather than as a five-unit dwelling, as it currently exists. The variance would allow the extra units to remain in the buildings.

2. Discussion and Recommendation to the ZBA

Mr. Randall explained that in 2002 the present ownership applied to the ZBA for a variance to expand the number of dwelling units in the building. The Genesee County Planning Board, the City of Batavia Planning and Development Committee, and the Zoning Board of Appeals denied the variance. Despite the denial, sometime between 2002 and the present, the ownership increased the number of units in each building.

Mr. Preston said that it is difficult to look at the situation as a possible money loss because the owner has been illegally making a profit for the past several years. He noted that there are other ways to increase rents without creating more units.

Mr. Beatty said that to approve the proposal would make it appear as though the board was entering into collusion with the owner to rectify a situation that the owner had always known about, for the purpose of allowing a sale to go through.

MOTION: Mr. Beatty moved to recommend denial of the proposal because the situation is self-created. The motion was seconded by Mr. Ognibene, and on roll call, was approved 5-0.

RESULT: Recommendation to ZBA for disapproval of the application.

C. Continuation of two unapproved dwelling units within this multiple dwelling building

Address: *117 Bank Street*

Applicant: Michael Lullo (agent for the owner)

- Actions:
1. Review application
 2. Discussion and recommendation to the ZBA for use variance

1. Review Application

Mr. Preston read the summary of the proposal. He noted that this proposal presents a situation similar to the first.

2. Discussion and Action by the Board

MOTION: Mr. Geib moved to recommend denial of the proposal to the ZBA because the situation is self-created. The motion seconded by Ms. Cohen, and on roll call, was approved 5-0.

RESULT: Recommendation to ZBA for disapproval of the application.

V. Setting of Next Meeting: October 18, 2022

VI. Adjournment: Mr. Preston adjourned the meeting at 6:26 p.m.



Meg Chilano
Recording Secretary