

**ZONING BOARD OF APPEALS**  
*Minutes*  
**Thursday, May 23, 2019**  
**6:00 pm**  
**Council Board Room**  
**One Batavia City Centre, Batavia, NY**

Members present: *Bill Cox, Nick Harris, Paul McCarthy, Leslie Moma, Jim Russell*

Members absent: Deborah Kerr-Rosenbeck

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 McCarthy declared a quorum.

**II. Call to Order**

Mr. McCarthy called the meeting to order at 6:00 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 as written by unanimous consent.

**RESULT: Approval of March 28, 2019 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 one-story plastic shed in a yard (east side yard) other than a rear yard

Address: *172 Pearl St.*

Applicant: Heather Phillips, owner

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

**1. Review Application**

Acting Vice Chair Nick Harris read the summary of the proposal. Mr. McCarthy reported that the Genesee County Planning Board recommended approval 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 6:04 pm.**

Ms. Phillips told the board that there are not a lot of options for the placement of the shed because there is not much of a back yard. She pointed out that there are no neighbors on the east side of the house to object about the location.

Mr. Cox asked how the shed will be anchored, and Ms. Phillips said that it will be set on a platform and filled with heavy objects such as motor cycles and a snow blower. However, she said if it becomes necessary, the shed can be attached to the platform with screws.

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

**RESULT: Public hearing closed at 6:05 pm.**

## 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: no
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. Russell moved to approve the variance with a 60-day time limit to obtain the permit. The motion was seconded by Ms. Moma, and on roll call, was approved 5-0.

**RESULT: Approval of Area Variance.**

- B. Area Variance: construction of a 6,000 sq.' pole-style building on this undeveloped parcel. The uses will include an area of approximately 900 sq.' for retail sales and 5,100 sq.' for storage and service operations related to the Cedar Street Sales and Rentals business

Address: 52 Cedar St.  
Applicant: Guy Clark, owner

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

### 1. Review Application

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

### 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 6:10 pm.**

Mr. Schmieder, engineer for the project, noted that in order to provide room for trucks to access the loading dock, it is necessary to place it in the back. Due to the configuration of the site, the parking needs to be located in the front of the building. He indicated that the site will be landscaped.

Mr. Russell point out that both Spectrum and Arctic Refrigeration have the same situation with parking in the front.

Ms. Moma asked if the parking area will be maintained with gravel, and Mr. Clark responded that it will be paved.

There was no one else 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. Cox, and on roll call, was approved 5-0.

**RESULT: Public hearing closed at 6:12 pm.**

### 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: no
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. McCarthy moved to approve the proposal, with a 60-day time limit to obtain the permit. The motion was seconded by Mr. Cox, and on roll call, was approved 5-0.

**RESULT: Approval of Area Variance.**

- C. Area Variance: removal of an existing open porch and construction of a new enclosed front porch with stairs and landing under an existing roof. Portions of the new structure will be located within the front yard clear space

Address: 43 Vernon Ave.

Applicant: Charles Kohorst, contractor/agent for the owner

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

### **1. Review Application**

Mr. Harris 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 6:16 pm.**

Charlie Kohorst, contractor for the project, described how the stairs are in the middle coming down to where the driveway is located. He said that he intends to create a sidewalk approximately 3' in length, so the property looks similar to other houses on the street.

Mr. McCarthy asked if the new porch will be the same size, and Mr. Kohorst said it will be; the only difference will be the landing.

Ms. Moma asked if the landing will be covered, and Mr. Kohorst said it will not.

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

**RESULT: Public hearing closed at 6:18 pm.**

### **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: no
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Ms. Moma moved to approve the area variance, with a 60-day time limit to obtain the permit. The motion was seconded by Mr. McCarthy, and on roll call, was approved 5-0.

**RESULT: Area Variance approved.**

**VII. New Business: none**

**VIII. Setting of Next Meeting: June 27, 2019**

**IX. Adjournment**

Mr. McCarthy moved to adjourn the meeting at 6:22 pm; Mr. Harris seconded. All voted in favor.



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Meg Chilano

Bureau of Inspection Secretary