

ZONING BOARD OF APPEALS

Minutes

Thursday, March 23, 2023

6:00 pm

Council Board Room

One Batavia City Centre, Batavia, NY

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

Members absent: Jeff Gillard, Nick Harris

Others present: Lauren Donovan – Recording Secretary, Doug Randall – Code Enforcement Officer

I. Roll Call

Roll call of the members was conducted. Four members were present and Acting Chair Dave McCarthy declared a quorum.

II. Call to Order

Mr. McCarthy called the meeting to order at 6:04 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 February 23, 2023 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: widen an existing 10'-wide asphalt driveway by placing 10' of gravel to the east side of the existing driveway

Address: *177 South Main Street*

Applicant: Kathy Antinore, owner

- 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.

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 6:08 pm.

Ms. Antinore explained that she lives in the lower apartment and has a tenant in the upper. There is not enough space in the driveway for all of the vehicles. She would like to create a space where the tenant can park and no vehicles have to be left on the street.

James Carney, 164 South Main Street, spoke regarding the project. He said that it is customary in this area to park on the street.

Pam and Mike Goodrich, 179 South Main Street, sent a letter in which they objected to the proposal. They believe putting stone in the front yard will detract from the appeal of the neighborhood.

There was an unsigned letter, which indicated disapproval of the project. The board prefers not to consider anonymous comments.

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 6:12 pm.

Mr. Russell noted that the City has an ordinance prohibiting parking on the front lawn. Mr. McCarthy said that he has never been a proponent of parking in the front yard.

Mr. Randall clarified that the ordinance refers to parking on an unsuitable surface, which would include grass.

The board agreed that while it is an inconvenience, it is not a good policy to allow parking in the front and they would like to be cautious about setting precedencies.

3. Action by the Board

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

- Undesirable change in neighborhood character: yes
- Alternative cure sought: perhaps widen the driveway
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: yes
- Self-created: yes

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

RESULT: Area Variance denied.

- B. Area Variance: construct a 4' x 8' one-story side entrance addition on the west elevation. A portion of the proposed addition will be located within the 8' side yard clear space

Address: 4 Fordham Drive
Applicant: Tim Stoddard, contractor

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 Mr. Russell, and on roll call, was approved 3-0.

RESULT: Public hearing opened at 6:23 pm.

Mr. Stoddard told the board that the addition would provide the residents with easier access to the house. He pointed out that the door by the garage cannot be opened without hitting the car in the garage.

Thomas Burns, 10 Holmes Avenue, spoke in opposition to the proposal. He said that the project would affect the character of the neighborhood by disrupting the pattern of the layout of the houses on the street.

Mr. Stoddard pointed out that the addition is not substantial and will not jut out past the house. It is designed to look as though it is a natural part of the house. He noted that the new door will swing inward, which is considered to be in accordance with industry standards, whereas the current door swings outward.

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 6:31 pm.

Mr. McCarthy said that he did not have a problem with the project, and Ms. Moma concurred. She said that the addition blends in well with the face of the structure.

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: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

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

RESULT: Area Variance approved.

- C. Area Variance: relief from the rear-yard setback requirements in order to subdivide this parcel. The wood-frame deck on the rear of the dwelling projects to within 18.1' of the proposed rear lot. The rear wall of the dwelling complies with the 35' minimum rear yard clear space

Address: *164 South Main Street*

Applicant: James Carney, 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 Mr. Russell, and on roll call, was approved 3-0.

RESULT: Public hearing opened at 6:34 pm.

Mr. Carney explained that he bought the property adjacent to his at 162 South Main Street. He wants to sell 162 South Main Street but he would like to redraw the boundary line between the two properties so that he can drive behind his barn and also maintain ownership of the land behind the houses. Mr. Carney pointed out that there is a problem with the way the surveyor drew the boundary line because he measured from the back of the house rather than the back of the deck.

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

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 6:41 pm.

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

- Undesirable change in neighborhood character: could be
- Alternative cure sought: no
- Substantiality: yes
- Adverse effect or impact on neighborhood/community: yes
- Self-created: yes

3. Action by the Board

MOTION: Mr. Russell moved to approve the variance with the stipulation that a 6' solid fence be placed along the northern and eastern property lines, with 60 days to obtain the permit. The motion was seconded by Mr. McCarthy, and on roll call, was approved 3-0.

RESULT: Area Variance approved as stipulated above.

- D. Area Variance: place a 10' x 4' externally illuminated sign and pole sign structure on this property. The vertical clearance and sign area are not compliant with the requirements for properties located within the industrial use district

Address: 665 East Main Street

Applicant: Dean Robb, owner

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

1. Review Application

Mr. Russell 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 6:44 pm.

Mr. Robb explained that the foundation for the sign had been installed when the permit was originally issued in 2016. At that time, however, he had been unable to purchase the steel for the post. When he was finally able to buy the steel, the sign material was not available due to COVID shortages. The sign was finally erected, but during the intervening period, the sign Code changed, and now the sign is not compliant.

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

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

RESULT: Public hearing closed at 6:47 pm.

Mr. Russell asked a question about the sign permit issued in 2016, and Mr. Randall clarified that the sign permit issued in 2016 was not for the sign under discussion. A sign had been erected upon the issuance of the permit in 2016, and the permit had been closed.

The sign currently under discussion will go in the same location but will be slightly taller and wider. However, the sign Code no longer allows for the requested size or ground clearance.

Mr. Russell observed that the sign will not intervene with the flow of traffic, nor will it flash or change. Mr. McCarthy and Ms. Moma agreed.

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: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: yes

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

RESULT: Application approved.

- E. Area Variance: replace the existing freestanding sign for University Eye that is located on the RRH-UMMC campus property immediately adjoining University Eye. The proposed non-illuminated monument sign is an “off-premises” sign

Address: *127 North Street*

Applicant: Rochester Regional Health - UMMC

- 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 6:52 pm.

Michelle Zeches spoke on behalf of University Eye Specialists. She told the board that the property had been purchased from UMMC in 1995 and the signs erected at that time. The signs are now old, faded, and peeling, and University Eye would like to replace the sign closest to the front entrance of the building.

Mr. McCarthy asked about the City ROW and Mr. Randall said that the City does not own the land adjacent to the sign. The City ROW ends near the entrance doors at the cancer treatment center.

Ms. Moma observed that the sign will not block the view of traffic, and the traffic will be limited to the clinic area.

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 6:55 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: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no, it's just a replacement

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

RESULT: Area Variance approved.

VII. Setting of Next Meeting: April 27, 2023

VIII. Adjournment

Mr. McCarthy adjourned the meeting at 6:58 pm.



Meg Chilano

Recording Secretary