

**City of Batavia Zoning Board of Appeals
Minutes**

June 26, 2014, 6:00 p.m.

**Council Board Room
One Batavia City Centre, Batavia NY**

Members present: Jeff Gillard, William Hayes, Lee Hyatt, Sandy Licata

Absent: Paul McCarthy

Others present: Elizabeth Saleh, Jeffrey Oshlag, Meg Chilano - Recording Secretary,
Douglas Randall - Code Enforcement Officer

I. Roll call

Roll call of the members was conducted. Four members were present providing a quorum to conduct the meeting.

II. Call to order

The meeting was called to order at 6:05 p.m. by Chairman Jeff Gillard.

III. Pledge of Allegiance

IV. Approval of minutes from November 21, 2013 meeting

A motion was made by Lee Hyatt to approve the November 21, 2013 minutes. It was seconded by William Hayes. The motion carried 4-0.

V. Zoning Board of Appeals statement

Mr. Gillard read a statement regarding the role of the Zoning Board of Appeals and the procedures it follows.

VI. Variance request

Request #1: 116 Naramore Drive
David Saleh, owner

Area Variance: Placement of a one story, 12 ft. by 20 ft. utility shed in the front/side yard (northeast) corner of this property

A. Review Application

Vice Chairman Hayes summarized the application for the board. Jeff Oshlag, speaking on behalf of David and Elizabeth Saleh, explained their reasons for the variance request. He said that the rear yard is small and the Salehs believe that putting the shed in the rear will crowd the neighbors on the side facing Naramore Drive. If they put the shed where they are proposing, Mr. Oshlag stated that the Salehs will do their best to make it esthetically blend in with the house and the surrounding neighborhood, and the shed won't have to be squeezed into an area that tapers at the side of the driveway.

Mr. Oshlag explained that Mrs. Saleh is a gardener. (He had photos of the gardens at Mrs. Saleh's previous house.) Mr. Oshlag said that where the Salehs want to put the shed is governed by where the sun comes across the yard. They believe if placed in the back yard, the shed will diminish the sunlight shining on the gardens she hopes to plant to enhance the property.

Mr. Gillard wanted to know if the shed would be in line with the front of the house, and Doug Randall, City of Batavia Code Enforcement Officer, responded that according to the survey, it appears that it is in line with the house but that one of the corners projects outward. When Mrs. Saleh asked if it was because the house is at an odd angle, Mr. Randall answered that it's because the street is at an odd angle. Mr. Gillard asked if the back line of the shed is pretty much in line with the house, and Mr. Randall responded that the northwest corner appears to be in line with the house. At a later point in the meeting, as Mrs. Saleh, Mr. Hayes, and Dr. Licata discussed the line of the house and the shed, it was determined that even though the survey seems to show the shed at a slight angle, it is the intention for the shed to be in line with the house.

B. Public Hearing

There was no one present who wished to speak about the variance. Mr. Gillard asked if there were any letters or calls from the neighbors regarding the placement of the shed, and Mr. Randall said no. Mr. Hayes was particularly concerned about the Canales and wanted to know if they had complained, but Mr. Randall said there were no complaints.

C. Discussion and Action by the Board

Mr. Gillard then asked if any board member had questions, and Mr. Hayes wanted to know which way the doors are going to open. Mrs. Saleh said toward the back yard. Mr. Hayes asked what they were going to store in the shed. Mrs. Saleh replied that they intended to use it for the lawn mower, the snow blower, and gardening tools. Mr. Hyatt pointed out that if they were going to keep the snow blower in the shed, it might be more practical to place the shed closer to the garage.

A conference between the board members followed after Mr. Hyatt queried whether or not it would be possible to put the shed in a different position near the garage. Mr. Gillard asked if the distance from the shed to the back yard is 20 ft., and Mrs. Saleh commented that the zoning officer wanted them to move the shed farther away from the house. Mr. Randall pointed out that at 5 ft., the wall of the shed closest to the house would have to be fire rated for one hour, or else the shed would have to be 10 ft. away from the house.

Mr. Hayes asked about the height of the shed. Mr. Randall reported that the side walls were 6 ½ ft. and calculated the height was about 8 ft. Mr. Gillard pointed out that the shed is not much higher than a fence, and Mrs. Saleh replied that a fence was another possibility they had considered. Mr. Hyatt was trying to get an idea of the proportions, so Mr. Randall checked the survey and said that it was pretty close to scale.

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:

At this point, Mr. Hayes wished to ascertain whether or not a letter went out to all of the adjacent neighbors. Mr. Randall said yes. Mr. Hyatt wanted to know if the Canales had received a sketch. Mr. Randall said no, but explained that the adjacent neighbors received a letter and the agenda so Mr. Canale would know that it is a 12 ft. by 20 ft. utility shed to be placed in the side yard.

Mr. Gillard asked if there were any more questions, and when there were none, he asked if anyone wished to make an action. Mr. Hayes began to make a motion to accept the variance, and then asked if they should accept it as submitted or change the footage and fire rate the wall. Mr. Hyatt asked about the expense of a fire-rated wall and then asked Mrs. Saleh if she would be willing to comply with their stipulations of such a wall. Mrs. Saleh said that they actually had wanted to place the shed as close to the house as possible and that they would be happy to pay for the fire-rated wall.

Mr. Hayes questioned Mr. Randall about his preference for the location of the shed. Mr. Randall stated that he would like to see the shed placed as far away from the street as possible. Mr. Hyatt asked if Mrs. Saleh would consider some sort of flowers or shrubs along the side street side. She answered affirmatively. The board continued to discuss angles and distance until they arrived at the decision that they would make it a requirement for the shed to be close to the house with a fire rated wall.

Bill Hayes: "I make a motion to accept the application with the following conditions: the shed is placed 5 ft. even with the house, the west wall fire rated for one hour, and the doors open into the back yard." Sandy Licata seconded. Motion carried 4-0.

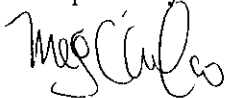
VII. Setting of Next meeting: July 24, 2014

The next meeting will be July 24, 2014

VIII. Adjournment

Jeff Gillard made a motion to adjourn. Lee Hyatt seconded. Motion carried 4-0. Meeting adjourned at 6:34 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Meg Chilano". The signature is fluid and cursive, with the first name "Meg" and last name "Chilano" clearly distinguishable.

Meg Chilano