

ZONING BOARD OF APPEALS

Draft Minutes

Thursday, May 26, 2016

6:00 pm

Council Board Room

One Batavia City Centre, Batavia, NY

Members present: *Nicholas Harris, Lee Hyatt, Deborah Kerr-Rosenbeck, Sandra Licata, Paul McCarthy*

Members absent: Emma Morrill

Others present: Meg Chilano – Clerk, 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 6:02 pm.

III. Pledge of Allegiance

IV. Approval of Minutes

MOTION: Ms. Kerr-Rosenbeck moved to approve the minutes as written; the motion was seconded by Mr. Hyatt, and on roll call, was approved 5-0.

RESULT: Approval of April 28, 2016 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 6' tall privacy fence 12.25' west of the east property line on this corner lot parcel

Address: *124 East Avenue*

Applicant: James Pacino, owner

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

1. Review Application

Dr. Licata, acting as Vice Chair, read the proposal summary for the board. Mr. McCarthy reported that the Genesee County Planning Board recommended approval of this variance.

2. Public Hearing and Discussion

MOTION: Mr. McCarthy moved to open the public hearing; the motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 5-0.

RESULT: Public hearing opened at 6:07 pm.

Mr. Pacino told the board that he wanted to put the fence even with his house and noted that by placing it in this position, the meter and wires would be avoided. He also pointed out that the fence would not obstruct the view of the street or the corner lot.

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

RESULT: Public hearing closed at 6:11 pm.

Ms. Kerr-Rosenbeck and Mr. Harris agreed that the fence would not obstruct vision in any way.

Mr. McCarthy asked if the purpose of the fence is for privacy and Mr. Pacino explained the he has small grandchildren he would like to keep safe inside the fence.

There was no one else present who wished to speak and no calls or correspondence.

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: Ms. Kerr-Rosenbeck moved to approve the variance as requested with 60 days to obtain the permit. The motion was seconded by Dr. Licata, and on roll call, was approved 5-0.

RESULT: Approval of Area Variance

- B. Area Variance: Placement of a 6' tall vinyl privacy fence parallel to the west property line within 15' of the front property line

Address: *10 LaCrosse Avenue*

Applicant: Richard and Betty Ahl, owners

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

1. Review Application

Dr. Licata 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 6:12 pm.

Mrs. Ahl stated that the fence was already in place 48 years ago when she and her husband purchased the property. She said that 23 years ago they were granted a variance to install a new fence. The fence is deteriorating and now needs to be replaced. Mr. and Mrs. Ahl would like to replace the existing fence with a vinyl one.

Dr. Licata asked about the height of the fence. Mrs. Ahl said that they would like the new fence to be as maintenance free as possible and vinyl fences only come in 6' high panels.

Mr. Hyatt asked if the neighbor has experienced difficulty when backing out of his driveway. Mrs. Ahl answered that the fence is back far enough that it does not obstruct the view.

Mr. McCarthy reported that the Genesee County Planning Board took no action on the variance request.

There was no one else present who wished to speak and no calls or correspondence.

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

RESULT: Public hearing closed at 6:17 pm.

Mr. Hyatt asked about amount of distance between the pavement and the fence. Mrs. Ahl answered that it is 15' from the pavement to the fence. Mrs. Ahl noted that when the last variance was granted the board set the condition that the fence must be 15' back from the pavement.

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; there is already a fence in the same place
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

3. Action by the Board

MOTION: Mr. McCarthy moved to approve the variance with 60 days to obtain the permit. The motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 5-0.

RESULT: Approval of Area Variance

C. Area Variance: Construction of a pressure treated wood frame deck in the rear yard within the rear yard clear space

Address: 2 Madison Avenue

Applicant: Donald H. Morris, agent for the owner

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

1. Review Application

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

2. Public Hearing and Discussion

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

RESULT: Public hearing opened at 6:22 pm.

Mr. Morris was unable to attend the meeting. Mrs. Morris explained that the resident of the property needs a ramp in order to come home from the nursing home; she has a broken leg and must use a walker.

There was no one else present who wished to speak and no calls or correspondence.

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

RESULT: Public hearing closed at 6:24 pm.

3. Action by the Board

Mr. McCarthy pointed out that the ramp extends quite a distance into the yard but noted that the slope must comply with ADA regulations. He observed that according to the application, the ramp will not be attached to the house.

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: Dr. Licata moved to approve the variance as written with 60 days to obtain the permit. The motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 5-0.

RESULT: Approval of Area Variance

VII. New Business: none

VIII. Setting of Next Meeting: June 30, 2016

IX. Adjournment

Mr. McCarthy moved to adjourn the meeting at 6:31 pm; Dr. Licata seconded. All voted in favor.



Meg Chilano

Bureau of Inspection Clerk