

**ZONING BOARD OF APPEALS**  
***Draft Minutes***  
**Thursday, July 28, 2016**  
**6:00 pm**  
**Council Board Room**  
**One Batavia City Centre, Batavia, NY**

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

Members absent:     Sandra Licata, Emma Morrill

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

**I.     Roll Call**

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

**II.    Call to Order**

Mr. McCarthy called the meeting to order at 6:01 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 4-0.

**RESULT:** Approval of May 26, 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: Addition of a driveway to the southeast portion of this property by placing pavers and loose stone to form a 16' wide x 60' long area for parking. This would be in addition to the existing 12' wide asphalt driveway in the northeast portion of this property

Address:       *59 Lyon St.*

Applicant:     Randy White, owner

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

## 1. Review Application

The applicant was not in attendance.

**MOTION:** Mr. McCarthy moved to table the application; the motion was seconded by Mr. Hyatt, and on roll call, was approved 4-0.

**RESULT: Application tabled.**

B. Area Variance: Placement of a 4' tall fence parallel to the north and east property lines within 15' of the front property line 6'

Address: 62 Bogue Ave.

Applicant: Brian and Holly Dunning, owners

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

## 1. Review Application

Acting Vice Chair Deborah Kerr-Rosenbeck 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 4-0.

**RESULT: Public hearing opened at 6:10 pm.**

Mrs. Dunning said that the 46" shrubbery was already in place when they recently purchased the house. The fence they wish to install will be 48". Mrs. Dunning explained that she wants to fence a portion of the yard for her dog.

Mr. Hyatt asked about the type of fence and Mrs. Dunning said that it would be white vinyl picket.

Mr. Harris asked if people walking on the sidewalk would be visible. Mrs. Dunning answered that they would.

Mrs. Dunning said that she would like to reduce the distance of the fence from the sidewalk to 3" rather than the 8" she had originally asked for.

Mr. Hyatt asked if the snow plow still does the sidewalks. Mrs. Dunning replied that she has only lived in the house for six weeks and she does not know. Mr. Dunning said that he thought residents were responsible for their own sidewalks. Ms. Kerr-Rosenbeck asked how far away from the sidewalk a fence has to be. Mr. Randall said that he had explained to the applicants that the distance of fence from the property line would have to be determined prior to installation of the fence.

Mr. Harris clarified that even if the board approved 3" as the distance, the property line will be determined by measuring from the house according to the survey, and the requested distance may not be feasible.

Mr. McCarthy reported that the Genesee County Planning Board recommended approval with modifications. The board recommended a reduction in the fence height to 3' in the corner where the sidewalk meets the driveway to improve visibility between pedestrians and vehicles pulling out of the garage.

**MOTION:** Mr. McCarthy moved to close the public hearing; the motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 4-0.

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

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 is a corner lot

### 3. Action by the Board

**MOTION:** Mr. McCarthy moved to approve the variance with the following modifications:

- the fence is installed 6" from the property line
- there are two 8' wide x 3' tall sections in the corner between the sidewalk and the driveway.

The applicant has 60 days to obtain the permit. The motion was seconded by Mr. Harris, and on roll call, was approved 4-0.

**RESULT: Approval of Area Variance with modifications.**

C. Area Variance: Widen an existing 13.66' wide asphalt driveway by placing 2.34' of asphalt to the south side of the existing driveway

Address: 28 Trumbull Pkwy.

Applicant: Jason Forkey, owner

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

### 1. Review Application

Ms. Kerr-Rosenbeck read the summary of the proposal. Mr. McCarthy reported that the Planning and Development Committee recommended approval because the applicant is basically squaring up the driveway which will not be in front of the house.

## **2. Public Hearing and Discussion**

**MOTION:** Mr. McCarthy moved to open the public hearing; the motion was seconded by Mr. Hyatt, and on roll call, was approved 4-0.

**RESULT: Public hearing opened at 6:24 pm.**

Mr. Forkey explained that he intends to pull out the retaining wall and square off the driveway. He said that presently the driveway is too narrow and people get their vehicle doors scraped on the retaining wall. Also, it is difficult for trucks to get in the driveway.

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 4-0.

**RESULT: Public hearing closed at 6:26 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

**MOTION:** Mr. Hyatt 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 4-0.

**RESULT: Approval of Area Variance**

D. Area Variance: Placement of a 14' x 10' one story wood frame shed in a front yard (southeast corner) of this corner lot property

Address: *14 Cherry St.*

Applicant: Eric Wallace, owner

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

### **1. Review Application**

Ms. Kerr-Rosenbeck 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 4-0.

**RESULT: Public hearing opened at 6:28 pm.**

Mr. Wallace told the board that he owns half of the block. He explained that he owns three houses, then one half an acre on the corner, and he is surrounded by three streets. As a corner property, he technically has three front yards and no back yard, and he would like to erect a shed.

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 4-0.

**RESULT: Public hearing closed at 6:30 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, he has no back yard
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Ms. Kerr-Rosenbeck moved to approve the variance as written with 60 days to obtain the permit. The motion was seconded by Mr. McCarthy, and on roll call, was approved 4-0.

**RESULT: Approval of Area Variance**

- E.                    Area Variance: Placement of a 12' x 14' one story wood frame shed in a front yard (southeast corner) of this corner lot property

Address:        *2 Redfield Pkwy.*

Applicant:     James Owen, owner

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

#### **1. Review Application**

Ms. Kerr-Rosenbeck read the summary of the proposal. Mr. Randall 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 Ms. Kerr-Rosenbeck, and on roll call, was approved 4-0.

**RESULT: Public hearing opened at 6:33 pm.**

Mrs. Owen showed the board a photo, indicating where the shed would be placed in an area behind the shrubs and not visible from the street.

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 4-0.

**RESULT: Public hearing closed at 6:36 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

**MOTION:** Mr. Harris 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 4-0.

**RESULT: Approval of Area Variance**

- F.                    Area Variance: Placement of a 14' x 18' covered pavilion in the rear yard of this property within the side and rear yard clear spaces

Address:        22 Redfield Pkwy.

Applicant:      Sharon Kubiniec, owner

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

#### **1. Review Application**

Ms. Kerr-Rosenbeck read the summary of the proposal. Mr. Randall 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 Ms. Kerr-Rosenbeck, and on roll call, was approved 4-0.

**RESULT: Public hearing opened at 6:38 pm.**

The agent for the owner showed the board a picture of the pavilion and indicated the area over the barbeque that it would cover. Mr. Harris observed that the bushes in the yard would likely block the view of the pavilion from the neighbor.

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 Mr. Harris, and on roll call, was approved 4-0.

**RESULT: Public hearing closed at 6:41 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

**MOTION:** Ms. Kerr-Rosenbeck moved to approve the variance as written with 60 days to obtain the permit. The motion was seconded by Mr. Harris, and on roll call, was approved 4-0.

**RESULT: Approval of Area Variance**

G.                    Area Variance: Placement of a 12' x 16' one story wood frame shed in a side yard (north side) of this corner lot property

Address:        *4 Allanview Dr.*

Applicant:      James Peruzzini, owner

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

#### **1. Review Application**

Ms. Kerr-Rosenbeck 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. Kerr-Rosenbeck, and on roll call, was approved 4-0.

**RESULT: Public hearing opened at 6:44 pm.**

Mr. Peruzzini noted that there is not much choice about where to put the shed because of the restrictions imposed by being a corner property.

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 4-0.

**RESULT: Public hearing closed at 6:45 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

**MOTION:** Mr. McCarthy 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 4-0.

**RESULT: Approval of Area Variance**

**VII. New Business: none**

**VIII. Setting of Next Meeting: August 25, 2016**

**IX. Adjournment**

Mr. McCarthy moved to adjourn the meeting at 6:49 pm; Ms. Kerr-Rosenbeck seconded. All voted in favor.



---

Meg Chilano

Bureau of Inspection Clerk