

**ZONING BOARD OF APPEALS**  
***Draft Minutes***  
**Thursday, December 15, 2016**  
**6:00 pm**  
**Council Board Room**  
**One Batavia City Centre, Batavia, NY**

Members present:     *Lee Hyatt, Sandra Licata, Paul McCarthy*

Members absent:     Nicholas Harris, Deborah Kerr-Rosenbeck

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

**I.     Roll Call**

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

**II.    Call to Order**

Mr. McCarthy called the meeting to order at 6:06 pm.

**III.   Pledge of Allegiance**

**IV.    Approval of Minutes**

**MOTION:** Mr. Hyatt moved to approve the minutes as written; the motion was seconded by Mr. McCarthy, and on roll call, was approved 3-0.

**RESULT:** Approval of August 25, 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 Request**

Use Variance: Construction of a two story, two family dwelling on this vacant parcel located within the R-1 residential use district

Address:     *151 Oak St.*

Applicant:   Fred Mruczek, owner

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

## **1. Review Application**

Vice Chair Dr. Licata read the summary of the proposal. Mr. McCarthy reported that the Genesee County Planning Board, as well as the Planning and Development Committee recommended approval of the project.

## **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 3-0.

**RESULT: Public hearing opened at 6:11 pm.**

Mr. Del Plato spoke on behalf of the estate. He pointed out that the situation with the property was not created by Mr. Mruczek. The property was originally purchased by Mr. Adolph Mruczek with the intention to build a two-family dwelling; the R-1 zoning at the time allowed for it. Mainly for reasons due to declining health, he failed to carry out his intention. The property was put up for sale and has been on the market for several years with no offers.

Mr. Fred Mruczek would like to purchase the property from the estate and build a two-family dwelling as was originally planned. The zoning changed in 1999 and no longer allows for two-family dwellings, however, a single-family dwelling would not provide a viable investment opportunity. It was also noted that there are two other multiple-family dwellings in the vicinity.

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

**RESULT: Public hearing closed at 6:27 pm.**

Dr. Licata asked if the house would look like the one Mr. Mruczek constructed on River St. or the one he constructed on Burke Dr. Mr. Mruczek answered that it will look exactly like the one on Burke Dr.

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

- Reasonable Return: no offers on the property
- Unique Hardship: the zoning changed
- Essential Character of the Neighborhood: will fit into the neighborhood
- Self-created: no

## **3. SEQR**

Mr. McCarthy asked if the board had reviewed part one of the SEQR application and they indicated they had. The board went through the questions for part two.

**MOTION:** Dr. Licata moved to approve a negative declaration of SEQR; the motion was seconded by Mr. McCarthy, and on roll call, was approved 3-0.

**RESULT: Negative declaration of SEQR**

**4. Action by the Board**

**MOTION:** Mr. McCarthy moved to approve the variance with 6 months to obtain the permit. The motion was seconded by Dr. Licata, and on roll call, was approved 3-0.

**VII. New Business: 2017 meeting dates**

**MOTION:** Dr. Licata moved to approve the 2017 meeting dates; the motion was seconded by Mr. McCarthy, and on roll call, was approved 3-0.

**RESULT: Approval of 2017 meeting dates.**

**VIII. Setting of Next Meeting: January 26, 2017**

**IX. Adjournment**

Mr. McCarthy moved to adjourn the meeting at 6:37 pm; Mr. Hyatt seconded. All voted in favor.



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Meg Chilano

Bureau of Inspection Clerk