

**ZONING BOARD OF APPEALS**  
***Draft Minutes***  
**Thursday, August 24, 2017**  
**6:00 pm**  
**Council Board Room**  
**One Batavia City Centre, Batavia, NY**

Members present: *Bill Cox, Nick Harris, Deborah Kerr-Rosenbeck, Paul McCarthy*

Members absent: Jim Russell

Others present: Meg Chilano – Recording Secretary, 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**

July 27, 2017 minutes will be approved at the next meeting.

**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: construction of a shed addition on the south side of the dwelling within the side yard clear space

Address: 2 Verona Ave.

Applicant: James Basham, owner

- 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. Mr. McCarthy reported that the Genesee County Planning Board recommended approval of the proposal with modifications: the shed should be set 3' back from the property line in order to allow for maintenance of the shed and yard.

## 2. Public Hearing and Discussion

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

**RESULT: Public hearing opened at 6:03 pm.**

The applicant, Mr. Basham, explained that the shed, which is already in place, was constructed by using the fence as one side, with a roof over the top. If he has to move the shed, he will have to put the fence back up, leaving a gap of 3' which will not grow grass and become muddy. Mr. Basham said that he uses this area to store items that will not fit in his garage, such as the lawn mower and snowmobile, and preserve family space in a small backyard. He brought photos to show the board how the shed has been painted to match the house.

Mr. McCarthy read a letter of complaint regarding the proximity of the shed to the house into the minutes.

Mr. Basham brought a letter of support from an adjacent neighbor, which Mr. McCarthy read into the minutes.

**MOTION:** Mr. Cox 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 6:18 pm.**

## 3. Action by the Board

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

- Undesirable change in neighborhood character: no
- Alternative cure sought: no, not much room in the backyard
- Substantiality: somewhat
- Adverse effect or impact on neighborhood/community: no
- Self-created: yes

**MOTION:** Ms. Kerr-Rosenbeck moved to approve the variance as submitted, without the modification recommended by the Genesee County Planning Board, with a 60 day time limit to obtain the permit. The motion was seconded by Mr. Harris, and on roll call, was approved 4-0.

**RESULT: Approval of Area Variance.**

- B.           Area Variance: construction of a 5' x 6' pressure treated wood frame deck with stairs and rails at the front entrance of this single family dwelling. A portion of the deck and stairs is proposed to be located within the front yard clear space

Address:       142 Oak St.

Applicant:     Tom Dickes, owner

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

### 1. Review Application

Ms. Kerr-Rosenbeck Harris read the summary of the proposal. Mr. McCarthy reported that the Genesee County Planning Board recommended approval of the request.

### 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 6:23 pm.**

The applicant, Mr. Dickes, told the board that a motorist ran into his front steps and pushed them back into the foundation. He explained that the foundation has been repaired and he would now like to replace the concrete steps.

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

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

**RESULT: Public hearing closed at 6:25 pm.**

### 3. Action by the Board

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

- Undesirable change in neighborhood character: no, it will improve it
- Alternative cure sought: no
- Substantiality: no
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

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

**RESULT: Approval of Area Variance.**

- C. Area Variance: placement of a 6' tall fence parallel to the north property line within 15' of the front property line

Address: 67 Manhattan Ave.

Applicant: Richard Saunders, 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 6:27 pm.**

Mr. Saunders said that the fence was damaged in the wind storm and it was necessary to replace it.

Mr. Cox asked about the height of the fence and Mr. Saunders replied that it had been 6' tall.

Mr. Saunders explained that he has a pool and he would like the same height fence to be installed in the same place as the one that had been there for the past 29 years. His property is on a corner and the 6' tall fence provides privacy and security for the pool.

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

**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 6:28 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: no, just replacing and existing fence
- 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. Harris, and on roll call, was approved 4-0.

**RESULT: Approval of Area Variance.**

**VII. New Business: none**

**VIII. Setting of Next Meeting: September 28, 2017**

**IX. Adjournment**

Mr. McCarthy moved to adjourn the meeting at 7:00 pm; Mr. Harris seconded. All voted in favor.



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Meg Chilano

Bureau of Inspection Secretary