

ZONING BOARD OF APPEALS

Minutes

Thursday, January 15, 2015

6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

Members present: *Jeffrey Gillard, William Hayes, Sandra Licata,*

Others present: Rose Mary Christian, Mr. and Mrs. Graham, Tim Jess, Terry Platt, Dave Tufts, Meg Chilano - Recording Secretary, Doug Randall - Code Enforcement Officer

I. Roll Call

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

II. Call to Order

Mr. Gillard called the meeting to order at 6:01pm.

III. Pledge of Allegiance

IV. Approval of Minutes from December 18, 2014 Meeting

Motion by: *Jeffrey Gillard*

"I make a motion to accept the minutes as written."

Seconded by: *William Hayes*

Votes in favor: 3 (Jeffrey Gillard, William Hayes, Sandra Licata)

Votes opposed: 0

Votes abstained: 0

Result: Approval of December 18, 2014 minutes.

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 Requests

- A. Installation of a wooden fence along the west property line with the structural supports, cross members, and rails installed facing the neighboring property in violation of the municipal requirement

Address: 316 East Main Street

Applicant: Terry Platt, owner

- Actions:
1. Review of application
 2. Public hearing
 3. Discussion and action by the board

1. Review of Application

Vice Chairman Hayes summarized the proposal for the board. Mr. Platt was available to speak about the project. He explained that there was already a chain link fence-which belongs to him- in place when he installed the new fence. When Mr. Platt said that he would take it down, the adjacent neighbor requested that the chain link fence remain in place. With the chain link fence still in place, there is not enough room for the supporting structures to be installed on the correct side.

2. Public Hearing

Mr. Gillard opened the public hearing at 6:06 pm. Tim Jess, the adjacent neighbor at 314 East Main Street, wished to speak. He told the board that he had asked Mr. Platt to leave the chain link fence. He said that he likes it the way it is and if the wind becomes too strong in the back yard, the fence posts could be anchored to the chain link fence. Mr. Platt said that if at any time Mr. Jess decides that he wants the chain link fence down, Mr. Platt would remove it. Mr. Hayes asked if the fence posts are in concrete. Mr. Platt responded that they are in the dirt, 4' in the ground.

No one else wished to speak and there no calls or correspondence. Mr. Gillard closed the public hearing at 6:08 pm.

3. Discussion and Action by the Board

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: no
- Self-created: no

Mr. Hayes wanted to know what would happen if a future owner wanted the fence reversed. Mr. Randall explained that if the board granted a zoning variance, it would be attached to the property not the owner, and the fence could stay that way.

Motion by: *Jeffrey Gillard*

“I make a motion to approve this variance as written with 60 days to complete the paperwork.”

Seconded by: *Sandra Licata*

Votes in favor: 3 (Jeffrey Gillard, William Hayes, Sandra Licata)

Votes opposed: 0

Votes abstained: 0

Result: Approval of Area Variance

- B. Construction of an 8' x 21'-10 ¾" one story addition to the south side of an existing 12' x 21'-10 ¾" one story attached garage. A portion of the proposed addition will be located within the required 35' rear yard clear space

Address: *143 Vine Street*

Applicant: William Graham, owner

- Actions:
1. Review of application
 2. Public hearing
 3. Discussion and action by the board

1. Review of Application

Mr. Hayes summarized the proposal. The owner of the property, Mr. Graham, said that he has a new snow blower with a cab and he needs a bigger garage to put it in. According to Mr. Graham, the side of the garage attached to the house will remain the same. Mr. Gillard asked about drainage and Mr. Graham answered that it would drain into the back yard. Mr. Hayes pointed out that there will be more square footage to the roof and therefore more drainage into the back. He and Mr. Gillard agreed that the drainage would have to go to the side toward the driveway.

Mr. Gillard asked if the construction would all be the same. Mr. Randall explained that the contractor had provided a description of the materials and it appears as though the 12' portion will remain as siding, but the roof and side walls will be steel. Dr. Licata noted that it will not match. Mr. Gillard asked if the colors would match. The board members looked for pictures but none were available. Mr. Gillard asked again about the color. Mr. Graham said that their house is bluish gray and the garage will be gray.

Question about drainage arose again and Mr. Randall said that the inspector would make sure the drainage was handled properly.

2. Public Hearing

Mr. Gillard opened the public hearing at 6:22 pm. He read an email from an adjacent neighbor into the minutes. Mr. Graham was unable to hear so Mr. Hayes gave him a copy of the email. There was no one present who wished to speak about the proposal and no other correspondence or calls from adjacent neighbors. Mr. Gillard closed the public hearing at 6:24 pm.

3. Discussion and Action by the Board

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: no
- Self-created: no

Motion by: *William Hayes*

“I make a motion to approve this variance with two conditions: make sure the drainage is away from neighboring properties; and that the color of the structure is a close match to the existing house. Applicant has six months to file for the permit.”

Seconded by: *Sandra Licata*

Votes in favor: 3 (Jeffrey Gillard, William Hayes, Sandra Licata)

Votes opposed: 0

Votes abstained: 0

Result: Approval of Area Variance

- C. Placement of a 21' x 20' one story pre-manufactured steel garage in the side yard of this property

Address: *29 Williams Street*

Applicant: Rose Mary Christian, owner

- Actions: 1. Review application
 2. Public hearing
 3. Discussion and action by the board

1. Review of Application

Mr. Hayes read the summary of the proposal. Mr. Gillard stated that there would be a modification in size from what had originally been written to 24' x 24'. Councilwoman Christian was present but did not wish to add any comments to her proposal.

2. Public Hearing

Mr. Gillard opened the public hearing at 6:29 pm. No calls or correspondence had been received and there was no one present who wished to speak about the proposal. Mr. Gillard closed the public hearing at 6:30.

3. Discussion and Action by the Board

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: no
- Self-created: no

Motion by: *Sandra Licata*

“I make a motion to approve this variance with the dimensions 24’ x 24’ with six months to obtain the permit.”

Seconded by: *Jeffrey Gillard*

Votes in favor: 3 (Jeffrey Gillard, William Hayes, Sandra Licata)

Votes opposed: 0

Votes abstained: 0

Result: Application for Area Variance approved

- D. Construction of a 3,490 sq.’ two story detached two family dwelling that will include four indoor parking spaces on the first floor and two dwelling units on the second floor. This proposal was previously approved as an addition to an existing structure and was recommended for approval by the Genesee County Planning Board on 12/11/14, and was approved by the Planning and Development Committee on 12/16/14 and the Zoning Board of Appeals on 12/18/14. The proposed building’s size, interior layout and exterior appearance will match the previously approved plan with the exception of its detached construction. The new plan places this structure within the clear yard spaces along the south and west property lines. Area variances were previously granted to permit the construction, as proposed, within 5.1’ of the west property line and to modify the required off street parking spaces to permit ten spaces for medical office parking with six spaces provided for the residential uses

Address: 438 East Main Street

Applicant: Dave Tufts, owner

- Actions:
1. Review of application
 2. Public hearing
 3. Discussion and action by the board

1. Review of Application

Mr. Hayes read the summary for the proposal. He asked Mr. Tufts about the change in the attached addition. Mr. Tufts said that in the past month they have had the opportunity to do more checking into compliance issues. Mr. Tufts explained that with the mixed nature of a partially existing structure and new construction, it became increasingly difficult to bring everything into compliance. According to Mr. Tufts, it is easier to work with an independent existing structure and independent new construction than to combine the two. Mr. Gillard asked if the only change is the separation of the two structures and if everything the board had gone over the previous month would be the same. Mr. Tufts assured the board that everything would remain the same except that the two structures would not share a common wall.

2. Public Hearing

Mr. Gillard opened the public hearing at 6:36 pm. There was no correspondence or calls and no one present who wished to speak. Mr. Gillard closed the public hearing at 6:37 pm.

3. Discussion and Action by the Board

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: no
- Self-created: no

Motion by: *Jeffrey Gillard*

“I make a motion to approve the modified request variance with six months to obtain the building permit.”

Seconded by: *William Hayes*

Votes in favor: 3 (Jeffrey Gillard, William Hayes, Sandra Licata)

Votes opposed: 0

Votes abstained: 0

Result: Application for Area Variance approved.

VII. Setting of Next Meeting: February 26, 2015

VIII. Adjournment

Mr. Gillard made a motion to adjourn the meeting at 7:24 pm. Dr. Licata seconded. All voted in favor.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Meg Chilano". The signature is written in a cursive, flowing style.

Meg Chilano