

# **ZONING BOARD OF APPEALS**

## ***Minutes***

**Thursday, June 24, 2021**

***6:00 pm***

**Community Room**

**One Batavia City Centre, Batavia, NY**

Members present: *Deborah Kerr-Rosenbeck, Jeff Gillard, Paul McCarthy, Leslie Moma*

Members absent: Nick Harris, Jim Russell

Others present: 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 6:00 p.m.

### **III. Pledge of Allegiance**

### **IV. Approval of Minutes**

There were no corrections to the minutes. Mr. McCarthy assumed the motion and the minutes were approved by unanimous consent.

**RESULT: Approval of May 27, 2021 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**

Area Variance: the proposed project involves construction of a four-pump fuel station island with canopy and underground fuel storage tanks, and a change of use for the existing restaurant building. Area variances needed for the distance separating a fuel station from a church and the number of parking spaces required

Address: *204 Oak St.*

Applicant: Patricia Bittar, agent for Quicklee's

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

### **1. Review Application**

Vice Chair Deborah Kerr-Rosenbeck read the summary of the proposal. Mr. McCarthy reported that the Genesee County Planning Board recommended approval of the project.

Mr. Randall related that the City of Batavia Planning and Development Committee requested further information regarding the Quicklee's project. Quicklee's will revise and resubmit the site plan next month. Their decision has no bearing on the variances before the ZBA.

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

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

**RESULT: Public hearing opened at 6:07 p.m.**

Mr. Gillard asked about the ingress/egress driveway between 204 Oak Street and the hotel behind it. He noted that the owner of the hotel, Mr. Patel, has indicated that he wishes to close that access point. Ms. Bittar pointed out that there is an ingress/egress agreement and the hotel owners do not have that right. Mr. Randall said that the City attorney is currently considering the matter.

Ms. Kerr-Rosenbeck asked if the easement agreement has any bearing on the ZBA's consideration of the proposal, and Mr. Randall answered no.

There were no calls, letters, or email, other than the message from Mr. Patel, concerning the proposal.

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

**RESULT: Public hearing closed at 6:15 p.m.**

### **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 for distance of separation from the church, with 60 days to obtain the permit. The motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 4-0.

**RESULT: Area Variance approved.**

**MOTION:** Mr. Gillard moved to approve the variance regarding number of parking spaces, with 60 days to obtain the permit. The motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 4-0.

**RESULT: Area Variance approved.**

**VII. Setting of Next Meeting: July 22, 2021**

**VIII. Adjournment**

The meeting adjourned at 6:25 p.m.



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Meg Chilano

Bureau of Inspection Secretary