



City of Binghamton Planning Department

SUMMARY OF MINUTES CITY OF BINGHAMTON ZONING BOARD OF APPEALS	
MEETING DATE: July 30, 2024	LOCATION: City Council Chambers, City Hall
CALLED TO ORDER: 5:15PM	RECORDER OF MINUTES: Shalin Patel

ROLL CALL		
ZONING BOARD OF APPEALS MEMBERS:	PRESENT	ABSENT
J. Kelly Donovan (Chair)	X	
Susan Bucci	X	
John Matzo (Vice chair)		X
Ernest Landers		X
Marina Resciniti	X	
STAFF MEMBERS PRESENT:	TITLE & DEPARTMENT:	
Tito Martinez	Assistant Director, Planning Department	
Shalin Patel	Planner, Planning Department	
Greg Buell	Zoning Officer, Planning Department	
Elisabeth Rossow	Corporation Counsel	

PUBLIC HEARINGS & FINAL DELIBERATIONS	
ADDRESS: 117 Prospect St	CASE NUMBER: ZBA-2024-92
APPLICATION FOR: Area variance for a 0' side setback where 5' is the minimum required in association with construction of a deck in the R-2 Residential One- & Two-Unit Dwelling District	
REPRESENTATIVE(S): Stephen Janeski	
DISCUSSION POINTS:	
<ul style="list-style-type: none"> ▪ Building of deck has already started; applicant said he was unaware of acquiring a building permit or an area variance ▪ Existing deck attached to the house was dilapidated and falling apart; in the process of replacing the previous deck, the applicant made the decision to extend it out to make it an useable outdoor space and to improve the property ▪ The property is located on a small corner parcel, where there is no additional room to put up a deck – it would not meet the criteria of being within 5 or 15' of property line (<i>Janeski</i>) ▪ Board member (Resciniti) asked if the existing deck was up against the chain link fence. And if the existing staircase will be replaced. <ul style="list-style-type: none"> - Representative (Janeski) replied with no. It was about 3' back, it was used as an entrance to the side door. The stairs will not be replaced, it will be going out to the front, which is closer to the Prospect St side. ▪ Board member (Resciniti) asked, is it your intention to put covering around the base of the new deck? <ul style="list-style-type: none"> - Representative (Janeski) replied with yes. ▪ Board member (Bucci) asked furthermore about the location of the stairs. 	

- **Representative (Janeski) commented**, if you are standing on Prospect St facing the property, the stairs would be on that side right by the electric meter. There is a side entrance facing Maple St that will come out onto the deck itself.
- **Staff (Martinez) commented**, the Building department will not issue a building permit until a variance is granted.
- **Chair (Donovan) asked**, it looks like the project had already started, how did it come to a stop? If the variance was not granted, what would happen to the project?
 - **Staff (Martinez) replied**, the building department issues a stop work order. If it was not granted, the applicant would have to remove the deck.
- **Staff (Martinez) commented** about the 239 Review comments from the County: “the Planning department has not identified any significant countywide impacts. The site plan should reflect BMTS’ comments. BMTS comments: given the location of the deck, the city should make sure that there is adequate site distance to and from the property’s driveway.
- **Board member (Resciniti) asked** about the applicant’s plans for banister around the top of the deck, are they doing something solid or?
 - **Representative (Janeski) commented**, there will definitely be a railing, but the thought was to do some sort of a privacy fence. From ground to the base of the deck would lattice going around to cover the existing, broken stairs and anything else that is under the deck.

PUBLIC COMMENT:

- **Gary Petrocelli & Connie Petrocelli (neighbors at 15 Maple St) spoke in opposition to the application.**
 - **Ms. Petrocelli had following to say about the project.** We are asking the Zoning Board to consider this variance illegal under the code enforcement laws. There must be an allowance for Prospect and Maple St traffic to see in advance the traffic coming and going around the corner of Mr. Boyd’s property. There is a high rate of traffic in the area and it is imperative to the safety of Maple and Prospect St Residents that visit and live in the area that park on Maple to visit and offer services to handicapped young lady on Prospect St. Due to the increased parking of apartment dwellers on Maple St and park on both side of the street, it makes it a one lane situation, while traveling on the street, creating an unsafe street. Mr. Boyd has a garage torn down, a cement slab poured, and has room for 2 parked vehicles as well as patio furniture and a fire pit. It is plenty big enough for his needs that he has created this problem for himself. I would think the city would feel sad and shamed if they let this variance go forward and a vehicle tragedy occurs.
 - **Mr. Petrocelli had following to say about the project.** Mr. Boyd called Police on me after taking some pictures of his deck to bring it to the ZBA meeting when it was originally scheduled. The deck comes out right to the edge of the sidewalk and a deck has to have railings in the city. If the deck is 6’ off the ground and railings are additional 3’, then all of his belonging that he will put out on the deck will obstruct the view even more. If Mr. Boyd puts lattice underneath his deck to hide the underneath from the view then it will obstruct the view even more. He has a 40’ long concrete pad, parks his cars comfortably and has 30 something feet of entertainment spot with lights and a beautiful vinyl fence put up around it and it was actually closer to us. Where he plans to put up his deck comes up to about our 2nd story window, so for privacy purposed it would do him a favor to keep his entertainment and outdoor space on the concrete pad. He has other options besides putting up a deck that close to the sidewalk, which creates a safety issue.

<ul style="list-style-type: none"> 2 letters received in favor of the application, one from Jennifer MacBlane (neighbor at 14 Maple St) and another from Janice Sakovitch (neighbor at 119 Prospect St). The letters were read in to the record and full copies of the letters can be retrieved from the Planning department. 		
VOTING		
MOTION to OPEN the public hearing		
FIRST: Donovan	SECOND: Resciniti	VOTE: Carried (3-0-0)
AYE(S): Donovan, Resciniti, Bucci	NAY(S):	ABSTENTION(S):
NOTE that this is a SEQR Type II action and no further environmental review is required		
MOTION to CLOSE the public hearing		
FIRST: Donovan	SECOND: Bucci	VOTE: Carried (3-0-0)
AYE(S): Donovan, Resciniti, Bucci	NAY(S):	ABSTENTION(S):
DELIBERATION:		
<ol style="list-style-type: none"> The Zoning Board of Appeals determined that the granting of the variance would not result in an undesirable change because it is the rebuilding and expansion of a structure that previously existed. The Zoning Board of Appeals concluded that under applicable zoning regulations, there is not a reasonable alternative. The applicant looked at alternatives, but building a deck on the side of the property seemed the most feasible and reasonable choice. The Zoning Board of Appeals determined that the requested variance was not substantial. The new deck is being extended 3 feet closer to the fence line from the previously existing deck. The Zoning Board of Appeals determined that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Zoning Board of Appeals determined that the alleged hardship was self-created. 		
MOTION to approve the requested variance		
FIRST: Resciniti	SECOND: Bucci	VOTE: Carried (3-0-0)
AYE(S): Donovan, Resciniti, Bucci	NAY(S):	ABSTENTION(S):

ADJOURNMENT		
MOTION to adjourn		TIME: 6:53PM
FIRST: Donovan	SECOND: Bucci	VOTE: Carried (3-0-0)
AYE(S): Donovan, Resciniti, Bucci	NAY(S):	ABSTENTION(S):