

**Zoning Board of Appeals  
Meeting Minutes  
One Court Plaza  
May 22, 2023**

Present: A. Coates, K. Kucinski, B. Natoli, M. Hepfer, B. McCracken

Absent: J. Wright, D. DuFour

Staff: Amy Donnison

Also Present: Chris Cevasco

**I. Call to Order**

Chairperson A. Coates called the meeting to order at 7:04 PM. Chairperson A. Coates stated that the Zoning Board of Appeals is made up of volunteer members. In order to approve a request, 4 yes votes are required. (If the County 239 committee denies the request, the ZBA must have a majority plus 1, or 5 votes in order to approve.) The ZBA has up to 62 days to make a decision. All evidence must be presented during the hearing, don't assume the board knows anything. The ZBA does not write nor can it change the Zoning or Sign Ordinance. The Common Council has the authority to change the Zoning and Sign Ordinance. In the granting or denying of variances and special permits, the ZBA must substantiate the reasons for such granting or denial. A decision by the ZBA may be appealed to the court by filing an Article 78 appeal. There is 1 case before the Zoning Board this evening: an Area Variance request.

**II. Public Hearing: Chris Cevasco – 26 East Main Street**

The public hearing was opened at 7:05 PM. The following exhibits were entered into evidence:

1. Application from Chris Cevasco dated April 18, 2023.
2. Community Development report dated May 11, 2023.
3. Photographs of property
4. Property drawings showing proposed location on parcel
5. Copy of tax map of property
6. No correspondence or phone calls received in support or opposition.
7. Public Hearing Notice (mailed by the City to all property owners within 500 feet of the applicant).

A. Donnison read the Community Development report and noted that there had been no phone calls or correspondence received in opposition to the proposal. Chris Hayes, owner of the property next door at 24 East Main Street state he has no issues with the proposed decking location being construct 1 foot 7 inches from the property line and he did provide a survey map that was clearly showed the lines of both parcels.

C. Cevalasco stated the main reason they wanted to extend the decking is to gain seating. The front decking area that was pre-existing was damaged by an auto accident a few weeks before and since it had to be rebuilt they wished to enlarge it. Previously they had 2 small picnic tables and that wasn't working so well for their needs.

K. Kucinski asked why had the construction started prior to getting a building permit and ZBA approval? C. Cevalasco stated his measurement is 18" from the line, codes approved the reconstruction of the original deck that was damaged. He also stated that what has been constructed without approval may be easily removed if needed. K. Kucinski stated he measured and the new decking area is about 16" beyond the bump out area of the building on the west side.

B. Natoli asked if the new construction is fire rated. A. Donnison stated that pressure treated lumber would be used. B. Natoli asked if they would be serving food outside. C. Cevalasco said no – there is a takeout window and customers would pick food up there and seat themselves. B. Natoli asked if this would have a roof or be enclosed in any manner? C. Cevalasco stated no. B. Natoli's only other concern was the fact that this work started before any approval. Also asked if the site would be cleaned daily. C. Cevalasco stated yes.

A. Coates noted that there used to be picnic tables in the area where new decking would be, what kind of seating would now be provided? C. Cevalasco stated there will be 1 table in the front west former and then there would be a counter approximately 16" deep and stools approximately 40" in height used for seating on the new decking area.

M. Hepfer understands the desire to increase seating but wants to state for the record that he agrees with the other board members that he isn't pleased that the project started prior to coming before the board or obtaining required permits. In no case should this be done with the hopes to be forgiven rather than ask permission. That said he is grateful for the business and the food is good.

B. McCracken was also surprised that these owners started construction before approval. B. McCracken had no additional questions for the applicant and had no issues with the proposal.

Public hearing was closed at 7:26pm.

### III. Findings & Determinations for Chris Cevalco re: 24 East Main Street

- Applicant wishes to extend decking area to increase seating and to approve the appearance of the business.
- New decking extension would be 18" from the west property line (approx. 16" beyond existing bump out portion of the structure).
- This parcel is located in a B-1 zone.
- Setback lines, if available in a B-1 zone, is 3 feet. Applicant is requesting 18" variance.
- Neighbor has no concerns regarding the proposal.
- No opposition was received.
- There will be no undesirable change to the neighborhood providing it remains a open deck with no roofing or enclosures.
- No other reasonable means to increase seating due to the small lot size.
- The request is not substantial.
- The request will not have an adverse effect or impact on the area or neighborhood.
- The alleged difficulty was self created as the lot was this same size at the time of purchase.

#### Discussion:

A. Coates noted this is a small business which the City is always looking to support where possible and the nearest neighbor has no concerns with the proposal. Also he does not feel that the request is substantial. K. Kucinski states this is a balancing act - you want to do good by the applicant and also to avoid any negative impact to the neighborhood. The owner wants a safer place for his customers to eat, at this time many stand in the public way.

*Motion made by K. Kucinski to approve the enlargement of decking on the west side as is currently framed out prior to the ZBA hearing which is approximately 16" beyond the bump out area of the structure and 18" from the western property line. This deck area shall not be enclosed by means of roofing or walls that are either temporary or permanent in nature. Seconded by B. McCracken.*

**Motion Approved: 5 ayes; 0 nays. Ayes All.**

*Ayes – A. Coates, B. Natoli, K. Kucinski, M. Hepfer, B. McCracken*

**IV. Adjournment:**

There being no further discussion, the meeting was adjourned at 7:50 pm on a motion made by B. McCracken. Seconded by B.Natoli. Ayes All. Carried.