

# ZONING BOARD OF APPEALS

Thursday, May 26, 2016

6:00 pm

Council Board Room

One Batavia City Centre, Batavia, NY

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## AGENDA

- I. Roll Call
- II. Call to order
- III. Pledge of Allegiance
- IV. Approval of April 28, 2015 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

**A. Request #1**                      *124 East Avenue*  
James Pacino, owner

Area Variance:                      Placement of a 6' tall privacy fence 12.25' west of the east property line on this corner lot parcel

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

**B. Request #2**                      *10 LaCrosse Avenue*  
Richard and Betty Ahl, owners

Area Variance:                      Placement of a 6' tall vinyl privacy fence parallel to the west property line within 15' of the front property line

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

**C. Request #3**                      *2 Madison Avenue*  
Donald H. Morris, agent for the owner

Area Variance:                      Construction of a pressure treated wood frame residential access ramp to the front entry of this one family dwelling. The new construction will be located entirely within the 20' front yard clear space

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

VII. New Business

VIII. Setting of Next Meeting: June 30, 2016

IX. Adjournment

# **ZONING BOARD OF APPEALS**

## ***Draft Minutes***

**Thursday, April 28, 2016**

**6:00 pm**

**Council Board Room**

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

Members present: *Lee Hyatt, Deborah Kerr-Rosenbeck, Sandra Licata, Paul McCarthy*

Members absent: Nicholas Harris (Alt.), Emma Morrill

Others present: Meg Chilano – Clerk, 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 6:04 pm.

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

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

**MOTION:** Ms. Kerr-Rosenbeck moved to approve the minutes as written; the motion was seconded by Mr. McCarthy, and on roll call, was approved 4-0.

**RESULT: Approval of March 24, 2016 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**

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

Address: *11 South Spruce Street*

Applicant: Curt Stechenfinger, owner

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

#### **1. Review Application**

Dr. Licata, acting as Vice Chair, read the proposal summary for the board. Mr. McCarthy reported that the Genesee County Planning Board recommended approval of this variance.

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

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

**RESULT: Public hearing opened at 6:09 pm.**

Mr. McCarthy asked the applicant if he wished to speak about the project. Mr. Stechenfinger explained that he and his wife take in foster children and they wish to have a 6' fence for the safety of the children. He said that they wish to prevent someone (possibly a parent) from reaching over the fence to pull a child up and over the fence. Mr. Stechenfinger told the board that there is a "predator" living across the street from whom he wishes to protect the children.

Vicky Berry, 13 South Spruce Street, spoke against the project. She said that the fence will obstruct her view.

Mr. Hyatt asked Mr. Stechenfinger how many foster children they have at any one time and he responded 2-3.

Mr. Hyatt asked Mr. Stechenfinger where he intends to park if the fence is installed across the driveway. Mr. Stechenfinger answered that the fence will have a gate and he will park in the driveway.

Mr. McCarthy read a letter from John Armstead, 1 Morse Place, into the minutes. Mr. Armstead opposed the fence because he does not like the view.

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

**RESULT: Public hearing closed at 6:17 pm.**

Ms. Kerr-Rosenbeck asked about the purpose behind the regulation which says, "Fences and hedges in a Residential District shall not exceed three feet above ground level when located within fifteen feet of the street by boundary line." Mr. Randall explained that there is no indication in the Code of the reasoning behind the regulation, but he assumed that the reason concerns issues of safety.

Mr. McCarthy said that he would not expect safety problems since there is no through traffic on this street. Ms. Kerr-Rosenbeck agreed and pointed out that no neighbors had raised questions of safety.

Dr. Licata asked Mr. Stechenfinger if he thought someone would be able to reach a child over the fence if the fence were 4' in height. He responded that it would depend on the height of the child.

Dr. Licata asked if he would be opposed to a shorter fence and Mr. Stechenfinger said he was not sure 4' would be high enough.



Mr. Hyatt asked if Mr. Stechenfinger wanted to hide his yard and he replied that he just wants to keep the children safe. Mr. Hyatt clarified that Mr. Stechenfinger wants the fence in order to protect the children, not for privacy.

Mr. Hyatt asked how many houses are on the street. Mr. Stechenfinger said there are two others. Mr. Hyatt asked if his is the last house and Mr. Stechenfinger said there is a house on the corner past his. Mr. Randall referred the board to the aerial photo included in the application.

### 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: discussion of possible change to shorter fence
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. Hyatt moved to approve the variance for the placement of the 6' tall fence. There was no second.

**MOTION:** Ms. Kerr-Rosenbeck moved to approve the variance for the placement of a 4' tall fence with 60 days to obtain the permit. The motion was seconded by Mr. McCarthy, and on roll call, was tied 2-2.

Votes in favor: 2 (Deborah Kerr-Rosenbeck, Paul McCarthy)

Votes opposed: 2 (Lee Hyatt, Sandra Licata)

Votes abstained: 0

**RESULT: Tie vote.**

**MOTION:** Dr. Licata moved to approve the variance for the placement of a 5' tall fence with 60 days to obtain the permit. The motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 4-0.

**RESULT: Approval of Area Variance with the condition that the fence is 5' in height**

- B. Area Variance: Construction of a 7' x 20' pressure treated wood frame deck between the dwelling and detached garage. Portions of the deck will be located within the front and side yard clear spaces

Address: 23 Madison Avenue

Applicant: Adam Figlow, owner

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

### 1. Review Application

Dr. Licata 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 Ms. Kerr-Rosenbeck, and on roll call, was approved 4-0.

**RESULT: Public hearing opened at 6:33 pm.**

Mr. Figlow explained that his porch, which is composed of block and stone, is falling apart. He said that he would like the new porch to extend away from the house enough to allow for a small sitting area.

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

**RESULT: Public hearing closed at 6:35 pm.**

Ms. Kerr-Rosenbeck said she believes that the variance request is reasonable.

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

## **3. Action by the Board**

**MOTION:** Dr. Licata moved to approve the application with 60 days to obtain the permit. The motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 4-0.

**RESULT: Approval of Area Variance**

C.                    Area Variance: Construction of a pressure treated wood frame deck in the rear yard within the rear yard clear space

Address:        *5 Verona Avenue*

Applicant:     Jeff Shelnut, contractor for the owner

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

### **1. Review Application**

Dr. Licata read the summary of the proposal. Mr. McCarthy reported that the Genesee County Planning Board recommended approval.

## **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 6:38 pm.**

Mr. Shelnut said his client's porch is falling apart and he wishes to replace it with a bigger L-shaped deck.

Mr. McCarthy noted that the deck will be even with the house on one side.

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

**RESULT: Public hearing closed at 6:40 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: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Ms. Kerr-Rosenbeck moved to approve the application with 60 days to obtain the permit. The motion was seconded by Dr. Licata, and on roll call, was approved 4-0.

**RESULT: Approval of Area Variance**

### **VII. New Business: none**

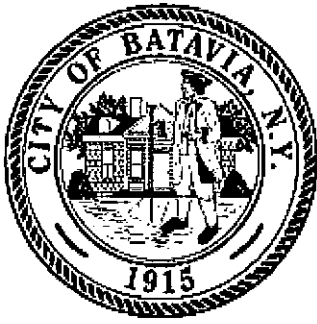
### **VIII. Setting of Next Meeting: May 26, 2016**

### **IX. Adjournment**

Mr. McCarthy moved to adjourn the meeting at 6:43 pm; Dr. Licata seconded. All voted in favor.

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Meg Chilano  
Bureau of Inspection Clerk



*City of Batavia*  
*Department of Public Works*  
*Bureau of Inspections*

One Batavia City Center, Batavia, New York 14020

(585)-345-6345

(585)-345-1385 (fax)

To: Zoning Board of Appeals  
From: Doug Randall, Code Enforcement Officer  
Date: 4/27/16  
Re: 124 East Ave.  
Tax Parcel No. 84.043-3-31

**Zoning Use District:**

The applicant, James Pacino (owner), has applied for a permit to place a 6' tall privacy fence 12.25' west of the east property line on this corner lot parcel.

**Note: This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (10).**

**Review and Approval Procedures:**

**Zoning Board of Appeals-** Pursuant to BMC Sec. 190-49 of the zoning ordinance, the ZBA shall review and act on required variances.

Required variances- Area

- 1) **BMC 190-33 D. Fences in residential districts shall not exceed 3' above ground level when located within 15' of a property line abutting a street.**



**CITY OF BATAVIA**  
**APPLICATION TO THE ZONING BOARD OF APPEALS**

Application No.: \_\_\_\_\_

Hearing Date/Time: \_\_\_\_\_

**APPLICANT:** JAMES PACINO jimpacino52@yahoo.com  
Name E-Mail Address  
124 EAST AVE 585-201-6363  
Street Address Phone  
BATAVIA NY 14020  
City State Zip

**STATUS:** ☒ Owner ☐ Agent for Owner ☐ Contractor

**OWNER:** JAMES PACINO jimpacino52@yahoo.com  
Name E-Mail Address  
124 EAST AVE 585-201-6363  
Street Address Phone  
BATAVIA NY 14020  
City State Zip

**LOCATION OF PROPERTY:** \_\_\_\_\_

**DETAILED DESCRIPTION OF REQUEST:** INSTALL 6' PRIVACY FENCE - 80 FT.  
LONG PARALLEL TO ELM ST 17 FT FROM SIDEWALK, STARTING  
IN BACK OF HOUSE TO FENCE IN BACK YARD

Applicant must be present at the hearing date. Failure to do so will result in the application being discarded. It is the responsibility of the applicant to present evidence sufficient to satisfy the Zoning Board of Appeals that the benefit of the applicant does not outweigh the health, safety, morals, aesthetics and general welfare of the community or neighborhood.

James P Pacino  
Applicant's Signature

4/26/16  
Date

James P Pacino  
Owner's Signature

4/26/16  
Date

To be Filled out by Zoning Officer

**TAX PARCEL:** 84.043-3-31 **ZONING DISTRICT:** R-1A **FLOOD PLAIN:** No

**TYPE OF APPEAL:** ☒ Area Variance  
☐ Use Variance  
☐ Interpretation  
☐ Decision of Planning Committee

**FEE:** ☒ \$50 (One or Two Family Use)  
☐ \$100 (All other Uses)

**Provision(s) of the Zoning Ordinance Appealed:** BMC 190-33 D. Fences in Residential  
districts shall not exceed 3' above ground level when located within  
15' of the property line abutting any street.



## Criteria to Support Area Variance

In making its determination, the zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, moral, aesthetics and welfare of the neighborhood or community. The Zoning Board of Appeals shall consider the following test, as per §81-b of the General City Law when making its determination:

Explain how the proposal conforms to EACH of the following requirements:

1. **Undesirable Change in neighborhood Character.** The granting of the variance will not produce an undesirable change in the neighborhood or a detriment to nearby properties.

N/A

2. **Alternative Cure Sought.** There are no other means feasible for the applicant to pursue that would result in the difficulty being avoided or remedied, other than the granting of the area variance. IF FENCE IS MOVED IN by 2.75 FT, My WINDOW, ELECTRIC METR+ OTHER BOXES WILL INTERFERE.

3. **Substantiality.** The requested area variance is not substantial.

N/A

4. **Adverse Effect or Impact.** The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community.

N/A

5. **Not Self-Created.** The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title.

N/A

  
Applicant's Signature

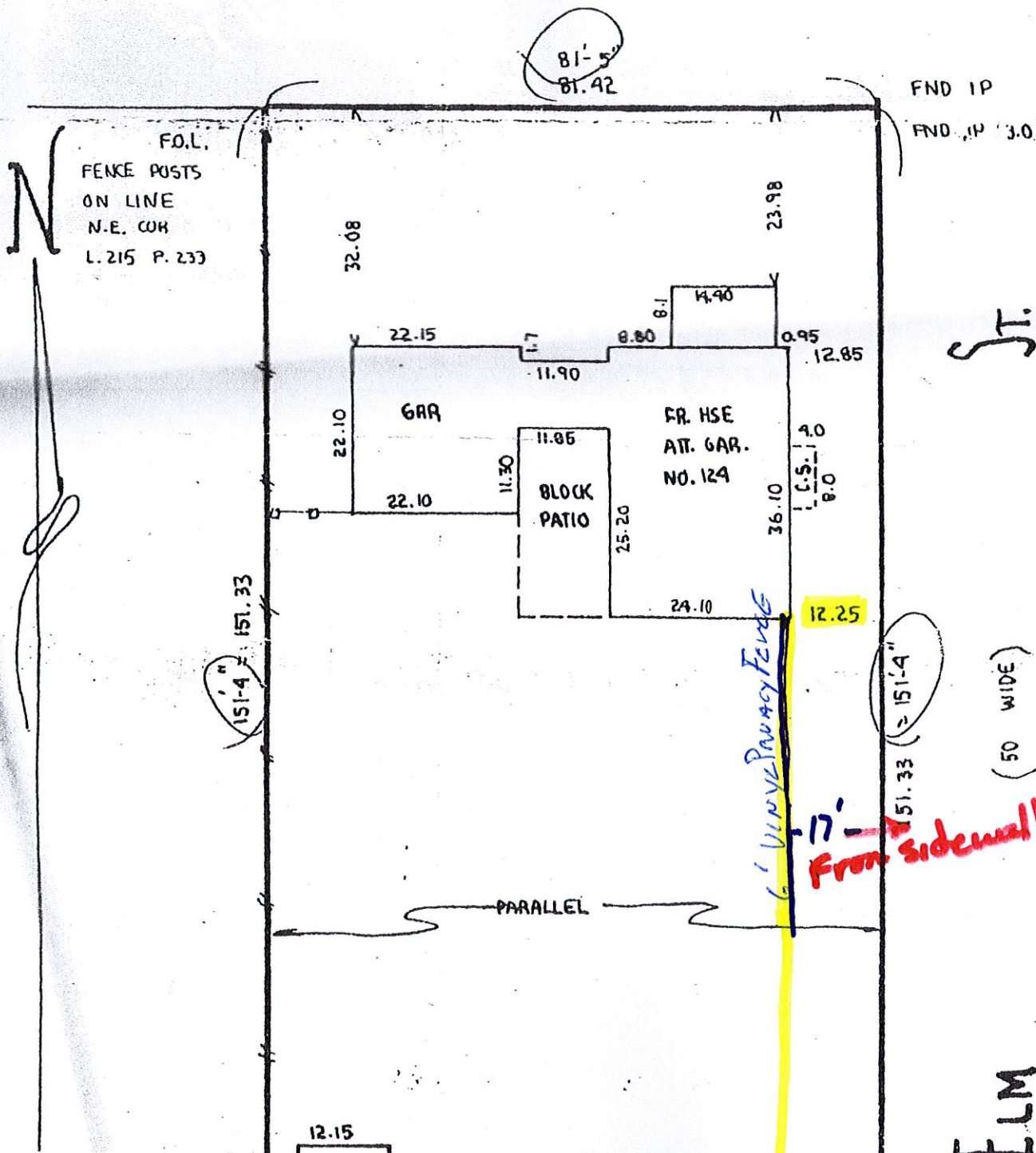
4/26/16  
Date



EAST

( 66 WIDE )

Ave.



"CERTIFICATIONS INDICATED HEREON SIGNIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE FOR LAND SURVEYS ADOPTED BY THE N.Y.S.A.P.L.S. AS AMENDED FOR ERIE COUNTY. SAID CERTIFICATIONS SHALL RUN ONLY TO THE PERSON FOR WHOM THE SURVEY IS PREPARED, AND TO CHARTERED SURVEYING FIRMS OR TO ANY OF ITS SUCCESSORS AND ASSIGNS; COMMONWEALTH TITLE INSURANCE CO. ALSO ACOVARELCO, ATTORNEYS.

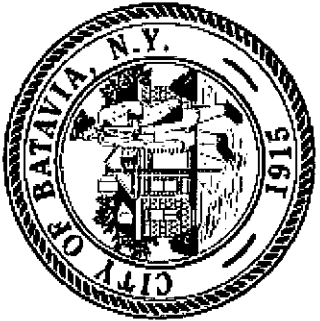
5:1013:





USGS The National Map, National Boundaries Dataset, National  
Elevation Dataset, Geographic Names Information System, National  
Hydrography Dataset, National Land Cover Database, National  
Structures Dataset, and National Transportation Dataset; U.S. Census  
Bureau, TIGER/Line, HERE Road Data





*City of Batavia*  
***Department of Public Works***  
***Bureau of Inspections***  

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One Batavia City Center, Batavia, New York 14020 (585)-345-6345 (585)-345-1385 (fax)

To: Genesee County Planning  
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 4/29/16

Re: **10 LaCrosse Ave.**  
Tax Parcel No. 84.024-1-64

Zoning Use District: R-2

The applicant, Richard and Betty Ahl (owners), have filed an application to place a 6' tall vinyl privacy fence parallel to the west property line within 15' of the front property line.

**Note:** This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (13).

**Review and Approval Procedures:**

**County Planning Board-** Pursuant to General Municipal Law 239 m, referral to the County Planning Board is required since the property is within 500 feet of the right of way of a state road or highway.

**Zoning Board of Appeals-** Pursuant to BMC Sec. 190-49 of the zoning ordinance, the ZBA shall review and act on required variances.

Required variances- Area

- 1) **BMC 190-33 D.** Fences located in residential districts shall not exceed 3' in height above ground when located within 15' of a property line abutting a street.

**SEND OR DELIVER TO:**

GENESEE COUNTY DEPARTMENT OF PLANNING  
3837 West Main Street Road  
Batavia, NY 14020-9404  
Phone: (585) 344-2580 Ext. 5467



**\* GENESEE COUNTY \*  
PLANNING BOARD REFERRAL**

**DEPARTMENT USE ONLY:**

GCDP Referral # \_\_\_\_\_

Required According to:

**GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N**  
(Please answer ALL questions as fully as possible)

**1. REFERRING BOARD(S) INFORMATION**

Board(s) Zoning Board of Appeals

Address One Batavia City Centre

City, State, Zip Batavia, NY 14020

Phone (585) 345 - 6347 Ext. \_\_\_\_\_

Name Richard and Betty Ahl.

Address 10 Lacrosse Av.

City, State, Zip Batavia, NY 14020

Phone (585) 343 - 5864 Ext. \_\_\_\_\_ Email rah14@rochester.rr.com

**MUNICIPALITY:** ☒ **City** ☐ **Town** ☐ **Village of Batavia**

**3. TYPE OF REFERRAL: (Check all applicable items)**

- ☒ Area Variance  
☐ Use Variance  
☐ Special Use Permit  
☐ Site Plan Review

- ☐ Zoning Map Change  
☐ Zoning Text Amendments  
☐ Comprehensive Plan/Update  
☐ Other: \_\_\_\_\_

- Subdivision Proposal  
☐ Preliminary  
☐ Final

**4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:**

A. Full Address 10 Lacrosse Ave.

B. Nearest intersecting road Lyon St.

C. Tax Map Parcel Number 84.024-1-64

D. Total area of the property \_\_\_\_\_ Area of property to be disturbed \_\_\_\_\_

E. Present zoning district(s) R-2

**5. REFERRAL CASE INFORMATION:**

A. Has this referral been previously reviewed by the Genesee County Planning Board?

☒ **No** ☐ **Yes** If yes, give date and action taken \_\_\_\_\_

B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law  
**BMC 190-33 D.**

C. Please describe the nature of this request Approval to place a 6' tall fence within 15' of the front (west) property line.

**6. ENCLOSURES – Please enclose copy(s) of all appropriate items in regard to this referral**

- ☒ Local application  
☒ Site plan  
☐ Subdivision plot plans  
☐ SEQR forms

- ☐ Zoning text/map amendments  
☒ Location map or tax maps  
☐ Elevation drawings  
☐ Agricultural data statement

- ☐ New or updated comprehensive plan  
☒ Photos  
☒ Other: Cover letter, previous variances info

If possible, please provide a reduced version or digital copy of any supporting documentation larger than 11 x 17.  
Email to [planning@co.genesee.ny.us](mailto:planning@co.genesee.ny.us)

**7. CONTACT INFORMATION of the person representing the community in filling out this form (required information)**

Name Douglas Randall

Title Code Enf. Officer

Phone (585) 345 - 6327 Ext. \_\_\_\_\_

Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020

Email drandall@batavianewyork.com



**GENESEE COUNTY PLANNING BOARD  
ZONING REFERRALS NOTICE OF FINAL  
ACTION**

GCDP Referral ID C-11-BAT-5-16

Review Date 5/12/2016

Municipality

BATAVIA, C.

Board Name

ZONING BOARD OF APPEALS

Applicant's Name

Richard and Betty Ahl

Referral Type

Variance(s)

Area Variance(s)

Description:

Area Variance to replace wooden fence with a vinyl fence.

Fence height in front yards within 15 ft. of property line  
Maximum allowed: 3 ft.

Existing wooden: 5 ft. (previous variance granted in 1991)  
Proposed: 6 ft.

Location

10 Lacrosse Ave., Batavia

Zoning District

Residential (R-2) District

**PLANNING BOARD DECISION**

**NO ACTION TAKEN**

**EXPLANATION:**

No action was taken on this referral due to the inability of the County Planning Board to pass any motion with a majority of the whole number (5 of 9 members) on a specific recommendation.

Director

Date

May 12, 2016

If the County Planning Board disapproved the proposal, or recommends modifications, the referring agency shall NOT act contrary to the recommendations except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within 30 days after the final action the referring agency shall file a report of final action with the County Planning Board. An action taken form is provided for this purpose and may be obtained from the Genesee County Planning Department.



# CITY OF BATAVIA

## APPLICATION TO THE ZONING BOARD OF APPEALS

**PAID**  
MAY 16 2016

CITY OF BATAVIA  
CLERK-TREASURER

Application No.: 16-09

Hearing Date/Time: \_\_\_\_\_

### APPLICANT:

Richard & Betty AHL Rahly@rochester.rr.com

Name Richard & Betty AHL E-Mail Address Rahly@rochester.rr.com  
Street Address 10 LaCrosse Ave. Phone 585-343-5864  
City Batavia State NY Fax 14020  
Zip \_\_\_\_\_

### STATUS:

☒ Owner \_\_\_\_\_ Agent for Owner \_\_\_\_\_ Contractor \_\_\_\_\_

### OWNER:

Richard & Betty AHL Rahly@rochester.rr.com

Name Richard & Betty AHL E-Mail Address Rahly@rochester.rr.com  
Street Address 10 LaCrosse Ave. Phone 585-343-5864  
City Batavia State NY Fax 14020  
Zip \_\_\_\_\_

### LOCATION OF PROPERTY:

10 LaCrosse Ave. Batavia

### DETAILED DESCRIPTION OF REQUEST:

To replace an existing 5ft. wooden fence that is over 20yrs old with a 6ft. Vinyl fence. The existing fence is in constant need of repair and is weather beaten and unsightly. The posts are rotting out.

Applicant must be present at the hearing date. Failure to do so will result in the application being discarded. It is the responsibility of the applicant to present evidence sufficient to satisfy the Zoning Board of Appeals that the benefit of the applicant does not outweigh the health, safety, morals, aesthetics and general welfare of the community or neighborhood.

Vinyl fencing is not available in 5ft. so we have to put in a 6ft. fence.

### Applicant's Signature

Betty Ahl

Date

4/26/16

### Owner's Signature

Richard Ahl

Date

4-26-16

To be Filled out by Zoning Officer

### TAX PARCEL:

84.054-1-64

### ZONING DISTRICT:

R-2

### FLOOD PLAIN:

no

### TYPE OF APPEAL:

☒ Area Variance  
\_\_\_\_ Use Variance  
\_\_\_\_ Interpretation  
\_\_\_\_ Decision of Planning Committee

### FEE:

☒ \$50 (One or Two Family Use)  
\_\_\_\_ \$100 (All other Uses)

Provision(s) of the Zoning Ordinance Appealed: BMC 190-33 D. - Fences located in

Residential districts shall not exceed 3' above grade when located within 15' of the structure.

## Criteria to Support Area Variance

In making its determination, the zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, moral, aesthetics and welfare of the neighborhood or community. The Zoning Board of Appeals shall consider the following test, as per §81-b of the General City Law when making its determination:

Explain how the proposal conforms to EACH of the following requirements:

1. **Undesirable Change in neighborhood Character.** The granting of the variance will not produce an undesirable change in the neighborhood or a detriment to nearby properties. True! A new fence will enhance our property and the nearby properties as well. The old fence is weather beaten and unsightly and some of the posts are rotted out and would have to be replaced. It is over 20 yrs. old.
2. **Alternative Cure Sought.** There are no other means feasible for the applicant to pursue that would result in the difficulty being avoided or remedied, other than the granting of the area variance. True! The only way to remedy it is to have a new fence. It is not cost efficient to keep repairing it piece by piece. Without a fence, we have no privacy on our property.
3. **Substantiality.** The requested area variance is not substantial. Correct: A new fence will be in exactly the same spot. The only change will be that it has to be 6ft instead of 5ft. Because vinyl fences are not made at 5 feet and we need vinyl because it is maintenance free.
4. **Adverse Effect or Impact.** The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community. True! It does not affect traffic or the neighbors in any way. A new vinyl fence will greatly improve the aesthetics of our nearby neighbors property as well.
5. **Not Self-Created.** The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title. True! The fence is needed because we are on a corner lot on a busy street. It encloses our back yard and also gives our neighbors privacy on their property.

Applicant's Signature

Deely C. H.

Date

4-26-16



DATE: 4-21-16APPLICANT NAME & PHONE: Richard & Betty Ahl 585-343-5864Project Location and Information

Permit #: \_\_\_\_\_ Fee: \_\_\_\_\_

Address of Project: 10 LaCrosse Ave., Batavia  
Owner & Address: Richard & Betty Ahl, 10 LaCrosse Ave. Batavia  
Phone: 585-343-5864Project Type/Describe WorkEstimated cost of work: \$3800.00 Start date: 5-1-16

Describe project:

Replace existing wooden fence with white  
vinyl fencing in back yard. Fence is  
about 20 yrs. old and is deteriorating. (10 sections  
of fencing)Contractor Information – Insurance certificates (liability & workers comp) required being on fileGENERALName/Address: H & S Fence Co.

Phone: \_\_\_\_\_

PLUMBING (City of Batavia Licensed Plumber Required)

Name/Address: \_\_\_\_\_

Phone: \_\_\_\_\_

HEATING

Name/Address: \_\_\_\_\_

Phone: \_\_\_\_\_

ELECTRICAL (Third Party Electrical Inspection Required)

Name/Address: \_\_\_\_\_

Phone: \_\_\_\_\_

FOR OFFICE USE ONLY

Zoning District: \_\_\_\_\_ Flood Zone: \_\_\_\_\_ Corner Lot: \_\_\_\_\_ Historic District/Landmark: \_\_\_\_\_

Zoning Review: \_\_\_\_\_ Variance Required: \_\_\_\_\_ Site Plan Review: \_\_\_\_\_ Other: \_\_\_\_\_

National Grid Sign Off (Pools): \_\_\_\_\_ Lot Size: \_\_\_\_\_

Existing Use: \_\_\_\_\_ NYS Building Code Occupancy Class: \_\_\_\_\_

Proposed Use: \_\_\_\_\_ NYS Building Code Occupancy Class: \_\_\_\_\_

Owners: DAN HUNT  
Ph: 343-6631

RICK SAUNDERS  
Ph: 344-0521

# Proposal

## H & S FENCE CO.

No.

PO BOX 437  
BATAVIA, NEW YORK 14021-0437

Richard

Page No. \_\_\_\_\_ of \_\_\_\_\_

PROPOSAL SUBMITTED TO

PHONE

DATE

*Corky & Betty AHL*

STREET

JOB NAME

*10 LACROSS AVE*

CITY

STATE

ZIP CODE

JOB LOCATION

*BATAVIA NY*

SUBMITTED BY

DATE OF PLANS

JOB PHONE

*4/19/16*

We hereby submit specifications and estimates for:

*80*

*32'*

*4.5'*

*Driveway*

*120' - 6' Vinyl*

*TOTAL*

*\$ 3800.00*

*Replacing ext  
old fence. with  
New Vinyl white*

The Proposer hereby to furnish material and labor - complete in accordance with above specifications, for the sum of:

PAYMENT TO BE MADE AS FOLLOWS:

dollars (\$ \_\_\_\_\_ )

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmens' Compensation Insurance.

Authorized Signature \_\_\_\_\_

Note: This proposal may be withdrawn by us if not accepted within \_\_\_\_\_ days.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_



A MAP OF  
SURVEY OF PART OF  
VILLAGE LOT 9

CITY OF BATAVIA, NEW YORK  
Scale: 1" = 80' May 1957

THE RECORD OF THIS INVESTIGATION  
IS FILED IN THE CITY OF BAYAMON  
OFFICE OF THE STATE OF NEW YORK, WAS CONNECTED  
WITH THIS MATTER MADE UPON ON May 25, 1957.

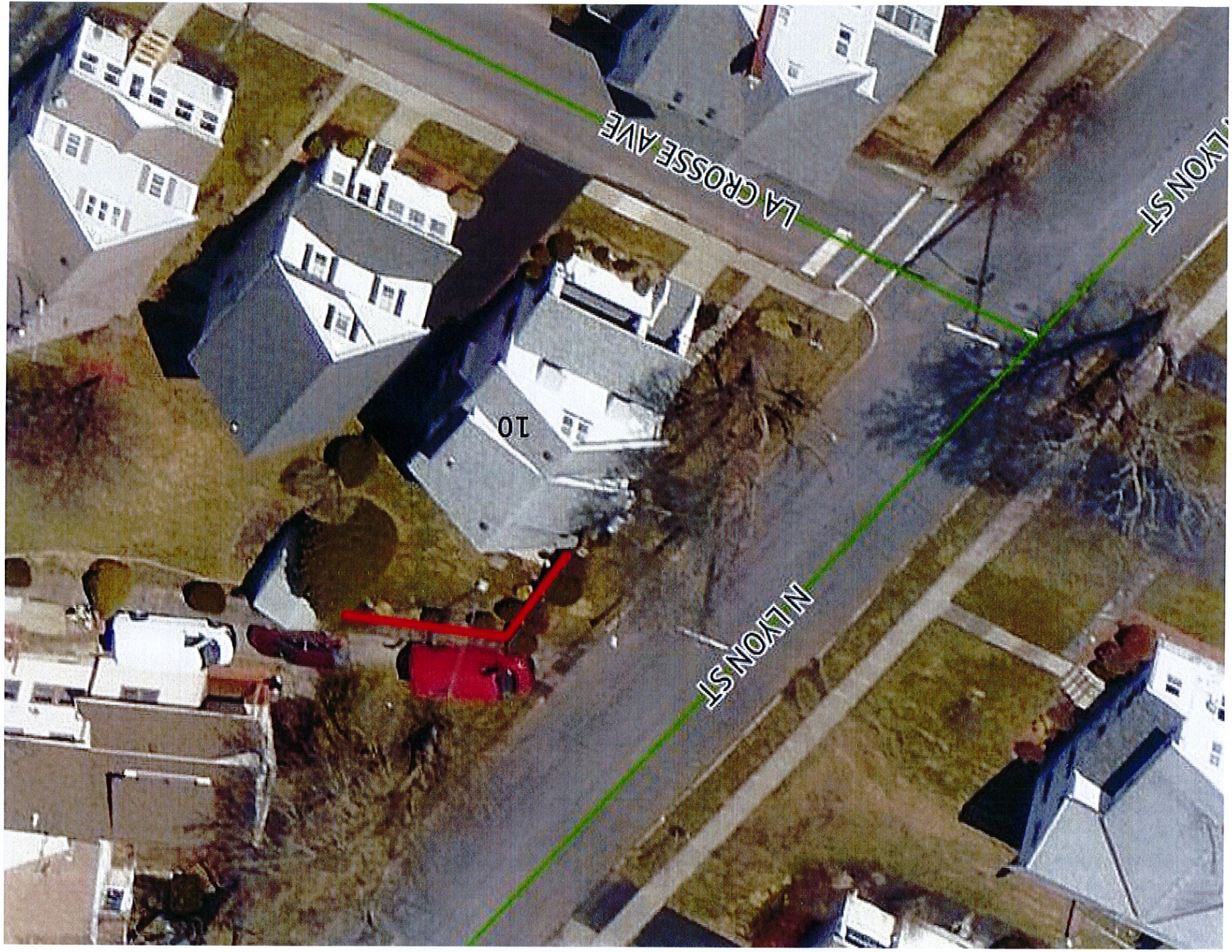
DAVID H. DAVIS L. S. 24926

Edward H. Davis

REVISED AND REDATED TO SHOW LANDS WEST  
OF CANYON Oct 12, 1967

*John D. Jones*







Send To:

GENESSEE COUNTY PLANNING DEPARTMENT  
3837 West Main Street Road  
Batavia, New York 14020-9404  
Phone (716)344-2580, Ext. 467

Department Use Only:

G.C.D.P. Referral # C-13-BAT-4-91  
Date Received 4-5-91  
(referral form # LA-85)

- COUNTY PLANNING BOARD REFERRAL -  
(SUBMIT IN DUPLICATE)

April 5, 1991

Required According To:

GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L-M-N

1. REFERRING BOARD WITH ADDRESS:

Insp. Dept., City of Batavia  
10 West Main Street  
Batavia, NY 14020

2. APPLICANT'S NAME, ADDRESS & PHONE

Richard L. & Betty Ahl  
10 Lacrosse Avenue  
543-5864

MUNICIPALITY: ☐ CITY ☐ TOWN ☐ VILLAGE (of) Batavia

3. TYPE OF REFERRAL:

☒ Area Variance  
☐ Use Variance  
☐ Special Use Permit  
☐ Site Plan Review

☐ Map Change  
☐ Text Amendments  
☐ New Zoning Ordinance  
☐ Other

☐ Subdivision Proposal  
☐ Preliminary  
☐ Final

4. LOCATION OF REAL PROPERTY PERTAINING TO REFERRAL:

A. Road name 10 Lacrosse Avenue  
B. Nearest intersection Lacrosse and North Lyon St.  
C. Tax map parcel # 84.24-1-64  
D. Dimensions of property 40' x 90' Area of property \_\_\_\_\_  
E. Present zoning district R-2

5. REFERRAL CASE INFORMATION:

- A. Has this referral been previously reviewed by the G.C.P.B.? If yes, give date and action. NO
- B. Special use permits or variances refer to the following section of the present zoning ordinance. 30.75D
- C. For variances or special use permits, please describe the request.  
Applicants propose to replace an existing 5' high fence 11' from the front property line on N. Lyon St. Section 30.75D of the zoning Ordinance stipulates a fence within the first 15' of the front property line may not exceed 3' in height.

- D. Enclosures - Please enclose copy(s) of appropriate items in regard to this referral.

☒ Copy of local application  
☐ Sketch of proposal  
☐ Subdivision plot plans  
☐ Maps

☐ Copy of text amendments  
☐ Copy of new ordinance  
☒ Site Plan  
☐ Other

6. NAME, ADDRESS & PHONE NUMBER OF PERSON REPRESENTING THE COMMUNITY IN FILLING OUT THIS FORM: M.P. Smith, 343-8180 Ext. 243  
CITY HALL 10W MAIN ST BATAVIA, N.Y.

To Obtain Additional Forms or Information, Contact the Genesee County Planning Department

COUNTY PLANNING BOARD ACTION

MEETING DATE: 4/11/91

- ☐ NOT SUBJECT TO REVIEW BY THIS PLANNING BOARD
- ☐ ADDITIONAL REQUIREMENTS OR INFORMATION NEEDED FOR REVIEW

- ☐ REQUEST 30-DAY EXTENSION
- ☐ TABLE

Reasons:

RECOMMENDS:

- ☒ APPROVAL
- ☐ APPROVAL WITH MODIFICATIONS
- ☐ DISAPPROVAL
- ☐ OTHER

Reasons/Recommendations/Modifications:

This proposal should pose no significant adverse impacts upon surrounding land uses or pedestrian/vehicle traffic circulation if the following recommendation is followed. It is strongly recommended that the City Inspection Department conduct a site visit to this location to determine what setback will be required in order to provide adequate line-of-sight distances for the two driveways involved for both the existing street traffic and for the proposed sidewalk. The proposed fence should be set back off the property line or "angled" to provide adequate line-of-sight.

DATE:

4/12/91

Robert A. Castanga  
Director of Planning  
for the Genesee County Planning Board

If the County Planning Board disapproved the proposal, or recommends modifications, the referring agency shall not act contrary to the recommendation except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within seven days after the final action, the referring agency shall file a report of the final action with the County Planning Board. Form G.C.D.P. 1B is provided for this purpose and may be obtained from the County Planning Department.

BOARD: ZONING BOARD OF APPEALS

MEETING DATE: APRIL 18, 1991

RE: ITEM #1 10 LACROSSE AVENUE - AREA VARIANCE

COUNTY REFERRAL? YES If so, Co. Recommendation APPROVAL  
(If denied, majority plus one vote of total Board required)

MOTION TO: GRANT VARIANCE

MOTION MADE BY: JOE GERACE

MOTION SECONDED BY: BOB BASSETT

MOTION CARRIED: ALL PRESENT

VOTE OF APPROVAL

KROLIKOWSKI X

BASSETT X

GRASSO X

GERACE X

GERMAN X

VOTE OF DENIAL

KROLIKOWSKI

BASSETT

GRASSO

GERACE

GERMAN

COMMENTS:

MRS. MRS. AHL WERE PRESENT  
THEY PRESENTED TWO (2) LETTERS  
TO MR. CANNEMAN

ONE FROM PHILLIP C. RAAB  
OF 62 NORTH LYON STREET,  
THE SECOND FROM MS. WELLES  
EACH HAD NO PROBLEMS WITH  
THIS PROPOSAL. T. BIRD BOOK  
LETTERS TO PUT INTO MINUTES  
MRS. SMITH

# BUILDING PERMIT

CITY OF BATAVIA, N.Y.

PERMIT  
NUMBER

MPS.

8376

DATE 4/4/91

LOCATION 10 Lacrosse Lane TAX PARCEL # 84-24-1-64

OWNER Richard L. & Betty Adl PHONE # 343-5864

ADDRESS 10 Lacrosse Lane

CONTRACTOR Suttell Fence PHONE # 344-1073

ADDRESS 138 South Main St Batavia, NY

WORKMEN'S COMP. INS. ON FILE with State STATE COMP. INS. FORM COMPLETED

ELECTRICIAN N/A ADDRESS

PLUMBER N/A ADDRESS

ZONE R-2 FLOOD ZONE No CORNER LOT Yes ZONING VARIANCE REQ? Yes

DESCRIBE WORK PROPOSED/USE CHANGE Replace a 5' high fence in the front yard on N. Main St.

EXIST. USE Single Family WILL WORK PROP. CHG. EXIST. USE? No

DOES USE COMPLY WITH ZONING REGULATIONS? N/A

IS THERE SUFFICIENT PARKING FOR PROPOSED USE? N/A

IS LAND USED ONE BUILDING LOT? Yes LOT SIZE 40x90 LOT AREA

ANY CHEMICALS USED? No IF YES, FURTHER APPROVAL REQUIRED.

ESTIMATE OF COST (ROUND OFF TO NEAREST HUNDRED) \$ 1400.

1) SIDING 2) WINDOW REPLACEMENT 3) REMODEL 4) ADDITION

5) NEW 6) OTHER ST. BLDG. CODE CLASS. ENERGY CODE COMP?

PLANS SUBMITTED WITH APPLICATION -- CHECK APPLICABLE CATEGORIES

BLDG. CONSTRUCTION DRAWINGS PLOT PLANS PLUMBING LAYOUT

-- COMPLETE ALL APPLICABLE SECTIONS AND ATTACH --

All applicable drawings and information has been submitted with form.

All statements contained herein are true and the work proposed will be performed in compliance with all laws, ordinances, New York State Building & Fire Prevention Code, other applicable codes and regulations of the City of Batavia and the State of New York. If applicable, said building will not be occupied and/or used until the Certificate of Occupancy is issued by the Building Inspector.

Applicant Signature 4/3/91 Building Inspector J. M. McArthur

Date Betty Adl Permit Fee: \$ 6.

Richard L. Adl Chairman, Planning Board

Richard L. Adl Chairman, Zoning Board

4/18/91 comment

comment

# APPLICATION TO BOARD OF APPEALS

Tel. No. ....

Appeal No. ....

Date. April 12, 1991

TO THE ZONING BOARD OF APPEALS, City of Batavia, N.Y.

I (we) Richard & Betty Ahl

of 10 Lacrosse

HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FROM THE

DECISION OF THE BUILDING INSPECTOR ON AN APPLICATION FOR A Building Permit

DATED ....., 19...., WHEREBY THE BUILDING INSPECTOR DID DENY TO  
said permit.

☐ A PERMIT FOR USE

☐ A CERTIFICATE OF EXISTING USE

☐ A PERMIT FOR OCCUPANCY

☐ A CERTIFICATE OF ZONING COMPLIANCE

☐ A TEMPORARY PERMIT OR EXTENSION THEREOF

☒ AREA PERMIT.

1. Applicant is the ☒ PROPERTY OWNER

☐ Sign Permit

☐ CONTRACTOR FOR THE WORK CONCERNED HEREIN

☐ PROSPECTIVE TENANT

☐ OTHER (Describe) .....

2. LOCATION OF THE PROPERTY 10 Lacrosse Avenue

3. State in general the exact nature of the permission required, replace 5' high fence in a front  
yard area

4. PREVIOUS APPEAL. No previous appeal has been made with respect to this decision of the Building Inspector or with respect  
to this property, except the appeal made in Appeal No. ...., dated ....., 19....

## 5. REASON FOR APPEAL.

A. A Variance to the Zoning Ordinance is requested because strict application of the ordinance would produce undue hardship, or  
the hardship created is unique and is not shared by all properties alike in the immediate vicinity of this property and in this use district,  
or the variance would observe the spirit of the ordinance and would not change the character of the district because:  
see attached appeal

B. Interpretation of the Zoning Ordinance is requested because:

C. A Special or Temporary Permit or an Extension thereof Under the Zoning Ordinance is requested pursuant to Article

Section , Subsection , Paragraph of the Zoning Ordinance, because:

## TO BE COMPLETED BY THE BUILDING INSPECTOR

1. Provision(s) of the Zoning Ordinance Appealed, including article, section, subsection or paragraph of the Zoning Ordinance  
Section 30.75D

2. Zoning classification of the property concerned in this appeal R-2

3. Type of Appeal:

☒ Variance to the Zoning Ordinance.

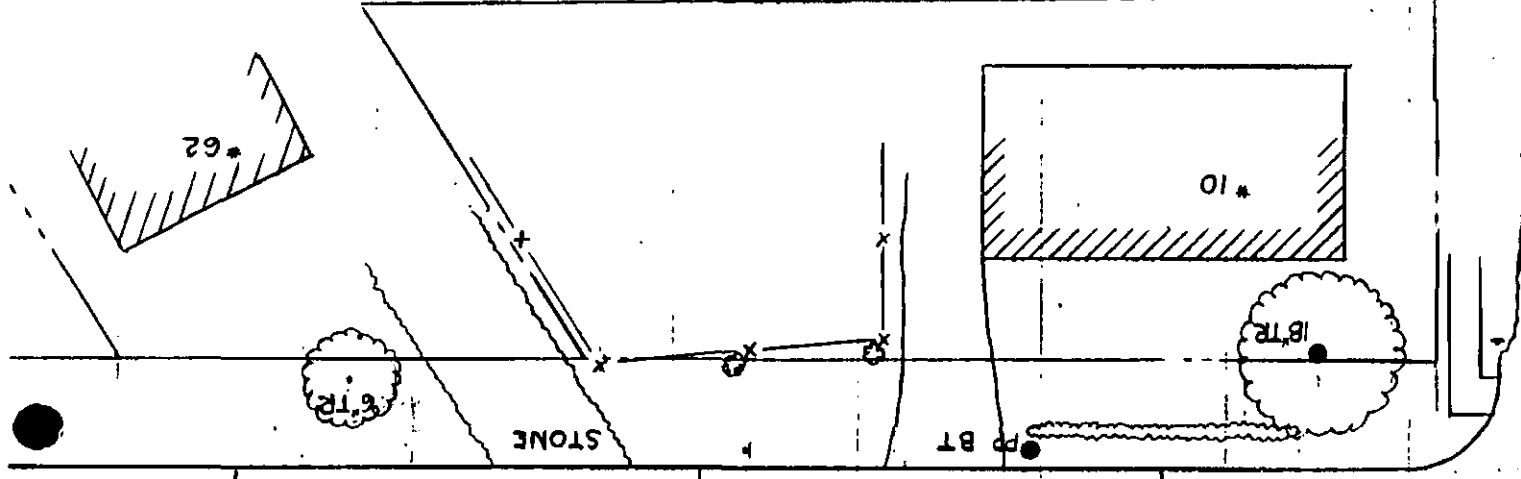
☐ Interpretation of the Zoning Ordinance or Zoning Map.

☐ Special or Temporary Permit or an extension thereof under the Zoning Ordinance.

4. A statement of any other facts or data which should be considered in this appeal. 4/11/91 Co. Pl.Bd. recommended  
approval w/modifications.



N. LYON ST

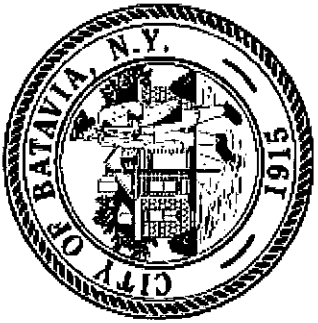


Present fence  
noted on this  
sketch encroaches  
onto city-R.O.W.  
Proposed fence  
replacement will be  
1'-0"± from property  
line.

0+0

LACROSS

N  
←



*City of Batavia*  
*Department of Public Works*  
*Bureau of Inspections*  
(585)-345-6345 (585)-345-1385 (fax)

One Batavia City Center, Batavia, New York 14020

To: Zoning Board of Appeals  
From: Doug Randall, Code Enforcement Officer  
Date: 5/2/16  
Re: 2 Madison Ave.  
Tax Parcel No. 84.038-1-30  
Zoning Use District: R-2

The applicant, Donald H. Morris (owners representative), has filed an application to construct a pressure treated wood frame residential access ramp to the front entry of this one family dwelling. The new construction will be located entirely within the 20' front yard clear space.

**Note:** This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (10).

Review and Approval Procedures:

**Zoning Board of Appeals-** Pursuant to BMC Sec. 190-49 of the zoning ordinance, the ZBA shall review and act on required variances.

Required variances- Area

1) BMC Sec. 190-29 A. and Schedule I

|                        | <u>Required</u> | <u>Proposed</u> | <u>Difference</u> |
|------------------------|-----------------|-----------------|-------------------|
| Front yard clear space | 20'             | 3.6'            | 16.4'             |





# CITY OF BATAVIA

## APPLICATION TO THE ZONING BOARD OF APPEALS

**PAID**  
MAY 16 2016

Application No.: 16-10

Hearing Date/Time: \_\_\_\_\_

APPLICANT: DONALD H. MORRIS CITY OF BATAVIA TREASURER MORRIS 50 ROCHESTER, RR. 00M

Name 4960 BATAVIA ELBA TOWNLINE RD E-Mail Address 585-343-2685  
Street Address BATAVIA Phone 14020  
City NEW YORK State 14020 Zip

STATUS: \_\_\_\_\_ Owner X Agent for Owner \_\_\_\_\_ Contractor

OWNER: SALLY ROBINS NONE  
Name 2 MADISON AVE E-Mail Address NONE  
Street Address BATAVIA Phone 585-343-7105 Fax NONE  
City NEW YORK State 14020 Zip

LOCATION OF PROPERTY: 2 MADISON AVE, BATAVIA, NEW YORK

DETAILED DESCRIPTION OF REQUEST: BUILD A RAMP FROM THE FRONT  
ENTRYWAY OF HOUSE TO THE DRIVEWAY UTILIZING A 90°  
TURN USING PRESSURE TREATED LUMBER, RAMP IS NOT  
ATTACHED TO HOUSE

Applicant must be present at the hearing date. Failure to do so will result in the application being discarded. It is the responsibility of the applicant to present evidence sufficient to satisfy the Zoning Board of Appeals that the benefit of the applicant does not outweigh the health, safety, morals, aesthetics and general welfare of the community or neighborhood.

Donald H Morris April 27, 2016  
Applicant's Signature Date

Sally Mae Robins 4/27/16  
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.038-1-30 ZONING DISTRICT: R-2 FLOOD PLAIN: X-500

TYPE OF APPEAL: ☒ Area Variance ☐ Use Variance ☐ Interpretation ☐ Decision of Planning Committee  
FEE: ☒ \$50 (One or Two Family Use) ☐ \$100 (All other Uses)

Provision(s) of the Zoning Ordinance Appealed: 190-29 A and Schedule 1

A 20' Front yard clear space is required.

## Criteria to Support Area Variance

In making its determination, the zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, moral, aesthetics and welfare of the neighborhood or community. The Zoning Board of Appeals shall consider the following test, as per §81-b of the General City Law when making its determination:

Explain how the proposal conforms to EACH of the following requirements:

1. **Undesirable Change in neighborhood Character.** The granting of the variance will not produce an undesirable change in the neighborhood or a detriment to nearby properties.  
NO

2. **Alternative Cure Sought.** There are no other means feasible for the applicant to pursue that would result in the difficulty being avoided or remedied, other than the granting of the area variance.  
NONE

3. **Substantiality.** The requested area variance is not substantial.  
NO

4. **Adverse Effect or Impact.** The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community.  
NO

5. **Not Self-Created.** The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title.  
NO

Sally Mae Perkins  
Applicant's Signature

4/27/16  
Date



## CITY OF BATAVIA

## BUILDING PERMIT APPLICATION

DATE: 4/27/2016APPLICANT NAME & PHONE: DONALD H. MORRIS 585-343-2685Project Location and Information

Permit #: \_\_\_\_\_ Fee: \_\_\_\_\_

Address of Project: 2 MADISON AVENUE, BATAVIAOwner & Address: SALLY ROBINS 2 MADISON AVENUE, BATAVIA NY 14020Phone: 585-343-7105Project Type/Describe WorkEstimated cost of work: \$911.89

Start date: \_\_\_\_\_

Describe project:

BUILD A RAMP FROM THE FRONT ENTRYWAY TO DRIVEWAY  
UTILIZING A 90° TURN USING PRESSURE TREATED LUMBER  
RAMP IS NOT ATTACHED TO HOUSEContractor Information – insurance certificates (liability & workers comp) required being on fileGENERALName/Address: EMMANUEL BAPTIST CHURCH

Phone: \_\_\_\_\_

PLUMBING (City of Batavia Licensed Plumber Required) NA

Name/Address: \_\_\_\_\_

Phone: \_\_\_\_\_

HEATING NA

Name/Address: \_\_\_\_\_

Phone: \_\_\_\_\_

ELECTRICAL (Third Party Electrical Inspection Required) NA

Name/Address: \_\_\_\_\_

Phone: \_\_\_\_\_

FOR OFFICE USE ONLY

Zoning District: \_\_\_\_\_ Flood Zone: \_\_\_\_\_ Corner Lot: \_\_\_\_\_ Historic District/Landmark: \_\_\_\_\_

Zoning Review: \_\_\_\_\_ Variance Required: \_\_\_\_\_ Site Plan Review: \_\_\_\_\_ Other: \_\_\_\_\_

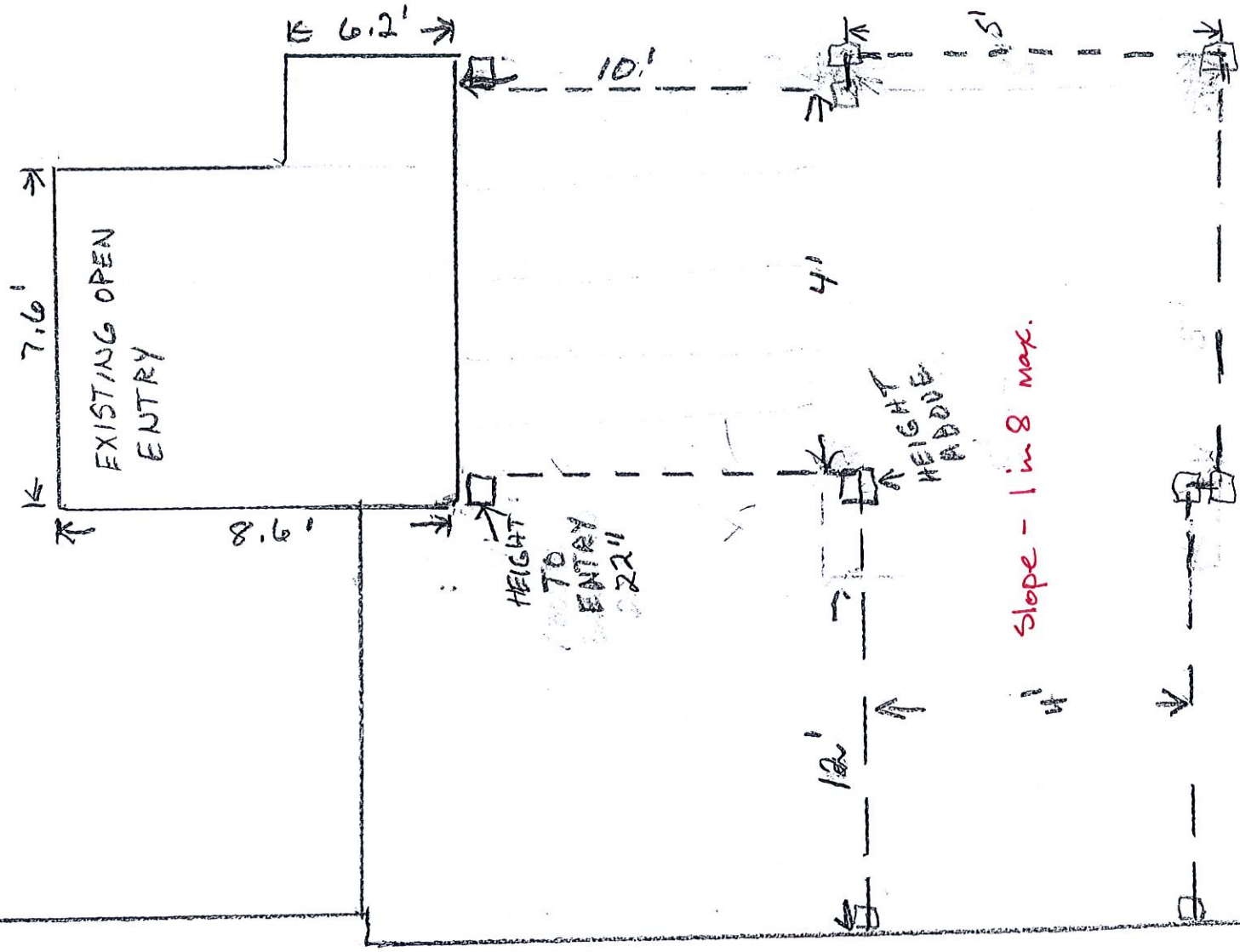
National Grid Sign Off (Pools): \_\_\_\_\_ Lot Size: \_\_\_\_\_

Existing Use: \_\_\_\_\_ NYS Building Code Occupancy Class: \_\_\_\_\_

Proposed Use: \_\_\_\_\_ NYS Building Code Occupancy Class: \_\_\_\_\_



1520



DRIVEWAY

510124

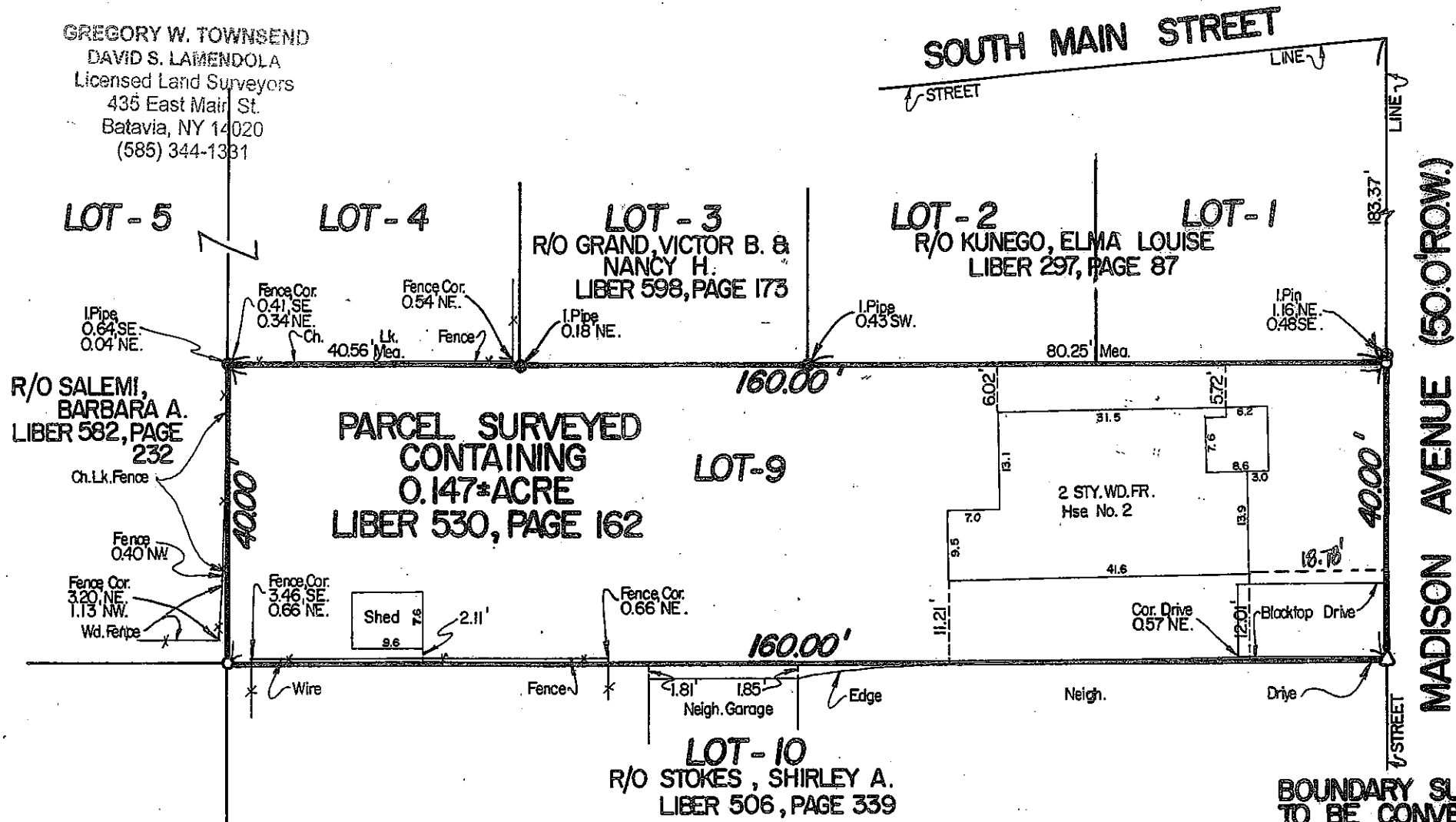
LEAVES 3' BETWEEN RAMP & SIDEWALK







GREGORY W. TOWNSEND  
DAVID S. LAMENDOLA  
Licensed Land Surveyors  
435 East Main St.  
Batavia, NY 14020  
(585) 344-1331



DATE

NYS.R.L.S. NO. 49613