

ZONING BOARD OF APPEALS

Thursday, August 25, 2016

6:00 pm

Council Board Room

One Batavia City Centre, Batavia, NY

AGENDA

- I. Roll Call
- II. Call to order
- III. Pledge of Allegiance
- IV. Approval of July 28, 2016 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

A. Request #1

59 Lyon St.

Randy White, owner

Area Variance:

Addition of a driveway to the southeast portion of this property by placing pavers and loose stone to form a 16' wide x 60' long area for parking. This would be in addition to the existing 12' wide asphalt driveway in the northeast portion of this property

- 1. Remove application from table
- 2. Review application
- 3. Public hearing and discussion
- 4. Action by the board

B. Request #2

61 River St.

Fred Mruczek, owner

Area Variance:

Addition of a 14' wide x 30' long stone driveway in the northwest portion of the front yard. This driveway will be in addition to a driveway in the southwest portion of this newly developed two family dwelling property 4'

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

C. Request #3

206 East Main St.

Vic Marchese, owner

The City of Batavia Planning and Development Committee
has requested an interpretation of the Batavia Municipal
Code regarding window signage

1. Review application
2. Discussion
3. Action by the board

VII. Setting of Next Meeting: September 22, 2016

VIII. Adjournment

ZONING BOARD OF APPEALS
Draft Minutes
Thursday, July 28, 2016
6:00 pm
Council Board Room
One Batavia City Centre, Batavia, NY

Members present: *Nicholas Harris, Lee Hyatt, Deborah Kerr-Rosenbeck, Paul McCarthy*

Members absent: Sandra Licata, 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 6:01 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. Hyatt, and on roll call, was approved 4-0.

RESULT: Approval of May 26, 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: Addition of a driveway to the southeast portion of this property by placing pavers and loose stone to form a 16' wide x 60' long area for parking. This would be in addition to the existing 12' wide asphalt driveway in the northeast portion of this property

Address: 59 Lyon St.

Applicant: Randy White, owner

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

1. Review Application

The applicant was not in attendance.

MOTION: Mr. McCarthy moved to table the application; the motion was seconded by Mr. Hyatt, and on roll call, was approved 4-0.

RESULT: Application tabled.

B. Area Variance: Placement of a 4' tall fence parallel to the north and east property lines within 15' of the front property line 6'

Address: 62 Bogue Ave.

Applicant: Brian and Holly Dunning, owners

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

1. Review Application

Acting Vice Chair Deborah Kerr-Rosenbeck 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 Mr. Harris, and on roll call, was approved 4-0.

RESULT: Public hearing opened at 6:10 pm.

Mrs. Dunning said that the 46" shrubbery was already in place when they recently purchased the house. The fence they wish to install will be 48". Mrs. Dunning explained that she wants to fence a portion of the yard for her dog.

Mr. Hyatt asked about the type of fence and Mrs. Dunning said that it would be white vinyl picket.

Mr. Harris asked if people walking on the sidewalk would be visible. Mrs. Dunning answered that they would.

Mrs. Dunning said that she would like to reduce the distance of the fence from the sidewalk to 3" rather than the 8" she had originally asked for.

Mr. Hyatt asked if the snow plow still does the sidewalks. Mrs. Dunning replied that she has only lived in the house for six weeks and she does not know. Mr. Dunning said that he thought residents were responsible for their own sidewalks. Ms. Kerr-Rosenbeck asked how far away from the sidewalk a fence has to be. Mr. Randall said that he had explained to the applicants that the distance of fence from the property line would have to be determined prior to installation of the fence.

Mr. Harris clarified that even if the board approved 3” as the distance, the property line will be determined by measuring from the house according to the survey, and the requested distance may not be feasible.

Mr. McCarthy reported that the Genesee County Planning Board recommended approval with modifications. The board recommended a reduction in the fence height to 3’ in the corner where the sidewalk meets the driveway to improve visibility between pedestrians and vehicles pulling out of the garage.

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 6:18 pm.

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, it is a corner lot

3. Action by the Board

MOTION: Mr. McCarthy moved to approve the variance with the following modifications:

- the fence is installed 6” from the property line
- there are two 8’ wide x 3’ tall sections in the corner between the sidewalk and the driveway.

The applicant has 60 days to obtain the permit. The motion was seconded by Mr. Harris, and on roll call, was approved 4-0.

RESULT: Approval of Area Variance with modifications.

C. Area Variance: Widen an existing 13.66’ wide asphalt driveway by placing 2.34’ of asphalt to the south side of the existing driveway

Address: 28 Trumbull Pkwy.

Applicant: Jason Forkey, owner

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

1. Review Application

Ms. Kerr-Rosenbeck read the summary of the proposal. Mr. McCarthy reported that the Planning and Development Committee recommended approval because the applicant is basically squaring up the driveway which will not be in front of the house.

2. Public Hearing and Discussion

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

RESULT: Public hearing opened at 6:24 pm.

Mr. Forkey explained that he intends to pull out the retaining wall and square off the driveway. He said that presently the driveway is too narrow and people get their vehicle doors scraped on the retaining wall. Also, it is difficult for trucks to get in the driveway.

There was no one else present who wished to speak and no calls or correspondence.

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 6:26 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: Mr. Hyatt moved to approve the variance as written 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

D. Area Variance: Placement of a 14' x 10' one story wood frame shed in a front yard (southeast corner) of this corner lot property

Address: *14 Cherry St.*

Applicant: Eric Wallace, owner

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

1. Review Application

Ms. Kerr-Rosenbeck 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 Mr. Harris, and on roll call, was approved 4-0.

RESULT: Public hearing opened at 6:28 pm.

Mr. Wallace told the board that he owns half of the block. He explained that he owns three houses, then one half an acre on the corner, and he is surrounded by three streets. As a corner property, he technically has three front yards and no back yard, and he would like to erect a shed.

There was no one else present who wished to speak and no calls or correspondence.

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 6:30 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, he has no back yard
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

MOTION: Ms. Kerr-Rosenbeck moved to approve the variance as written with 60 days to obtain the permit. The motion was seconded by Mr. McCarthy, and on roll call, was approved 4-0.

RESULT: Approval of Area Variance

E. Area Variance: Placement of a 12' x 14' one story wood frame shed in a front yard (southeast corner) of this corner lot property

Address: 2 Redfield Pkwy.

Applicant: James Owen, owner

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

1. Review Application

Ms. Kerr-Rosenbeck read the summary of the proposal. Mr. Randall 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 6:33 pm.

Mrs. Owen showed the board a photo, indicating where the shed would be placed in an area behind the shrubs and not visible from the street.

There was no one else present who wished to speak and no calls or correspondence.

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 6:36 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: Mr. Harris moved to approve the variance as written 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

F. Area Variance: Placement of a 14' x 18' covered pavilion in the rear yard of this property within the side and rear yard clear spaces

Address: *22 Redfield Pkwy.*

Applicant: Sharon Kubiniec, owner

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

1. Review Application

Ms. Kerr-Rosenbeck read the summary of the proposal. Mr. Randall 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.

The agent for the owner showed the board a picture of the pavilion and indicated the area over the barbeque that it would cover. Mr. Harris observed that the bushes in the yard would likely block the view of the pavilion from the neighbor.

There was no one else present who wished to speak and no calls or correspondence.

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

RESULT: Public hearing closed at 6:41 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 variance as written with 60 days to obtain the permit. The motion was seconded by Mr. Harris, and on roll call, was approved 4-0.

RESULT: Approval of Area Variance

G. Area Variance: Placement of a 12' x 16' one story wood frame shed in a side yard (north side) of this corner lot property

Address: *4 Allanview Dr.*

Applicant: James Peruzzini, owner

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

1. Review Application

Ms. Kerr-Rosenbeck 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 6:44 pm.

Mr. Peruzzini noted that there is not much choice about where to put the shed because of the restrictions imposed by being a corner property.

There was no one else present who wished to speak and no calls or correspondence.

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 6:45 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: Mr. McCarthy moved to approve the variance as written 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

VII. New Business: none

VIII. Setting of Next Meeting: August 25, 2016

IX. Adjournment

Mr. McCarthy moved to adjourn the meeting at 6:49 pm; Ms. Kerr-Rosenbeck seconded. All voted in favor.

Meg Chilano
Bureau of Inspection Clerk



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: Genesee County Planning
Planning and Development Committee
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 5/25/16

Re: 59 Lyon St.
Tax Parcel No. 84.006-3-3

Zoning Use District: R-1A

The applicant, Randy White (owner), has applied for a permit to add a driveway to the southeast portion of this property by placing pavers and loose stone to form a 16' wide x 60' long area for parking. This would be in addition to the existing 12' wide asphalt driveway in the northeast portion of this property.

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.

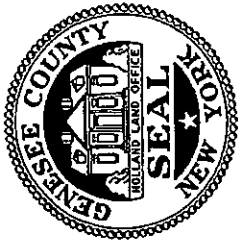
City Planning and Development Committee- Pursuant to section 190-49 C. of the zoning ordinance, the Planning and Development Committee shall review and make recommendations to the ZBA for applications that include parking variances.

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

EMC Sec. 190-39 E (1) The width of driveways shall not exceed 25% of the lot frontage.

	Permitted	Proposed	Difference
Driveway width	18.75' (25%)	29' (38.6%)	10.25' (13.6%)



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

GCDP Referral ID C-13-BAT-6-16
Review Date 6/16/2016

Municipality

Board Name

Applicant's Name

BATAVIA, C.

ZONING BOARD OF APPEALS

Randy White

Referral Type

Variance(s)

Description:

Area Variance(s)

Area Variance to add a second driveway to an existing single-family home.

Width of Driveway

Maximum allowed: 25% of lot frontage (18.75 ft.)

Existing: 17% (12.5 ft.)

Proposed: 38.6% (29 ft.)

Location

Zoning District

59 N. Lyon St., Batavia

Residential (R-1A) District

PLANNING BOARD DECISION

APPROVAL WITH MODIFICATION(S)

EXPLANATION:

The required modification is that the applicant merge the two parcels into one. Given that a neighboring property also has two driveways in the manner proposed, with the required modification the proposed driveway should pose no significant county-wide or inter-community impact.

Director

June 16, 2016

Date

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.

SEND OR DELIVER TO:

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

DEPARTMENT USE ONLY:

GCDP Referral # _____

*** GENESEE COUNTY *
PLANNING BOARD 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 Randy White

Address 59 Lyon St.

City, State, Zip Batavia, NY 14020

Phone (585) 409 - 5655

Ext.

Email

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 59 Lyon St.

B. Nearest intersecting road Richmond Ave.

C. Tax Map Parcel Number 84.006-3-3

D. Total area of the property _____ Area of property to be disturbed _____

E. Present zoning district(s) R-1A

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 190-39 E(1)C. Please describe the nature of this request Approval to place an additional driveway on this property in excess of the total driveway width permitted.**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**

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****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

**THE CITY OF BATAVIA
PLANNING & DEVELOPMENT COMMITTEE
ZONING RECOMMENDATIONS**

Meeting Date: 7/19/16

Applicant's Name	Randy White
Location	59 Lyon St.
Zoning District	R-1A
Referral Type	PDC Recommendation
Variance(s)	Area Variance
Description	Addition of a driveway to the southeast portion of this property by placing pavers and loose stone to form a 16' wide x 60' long area for parking. This would be in addition to the existing 12' wide asphalt driveway in the northeast portion of this property.

PLANNING & DEVELOPMENT COMMITTEE RECOMMENDATION

DISAPPROVAL

The problem is self-created. There is already a driveway and this space would be used like a parking lot and ruin the residential look of the neighborhood.

The space requested is too great an amount over the maximum allowed.

ZONING BOARD OF APPEALS DECISION

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CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: _____
Hearing Date/Time: _____

APPLICANT:

Name Randy White N/A
E-Mail Address _____
59 N. Lyon St. 409-5655 N/A
Street Address Phone
Batavia NY 14020
City State Zip

STATUS:

☒ Owner _____ Agent for Owner _____ Contractor _____

OWNER:

Name Same as above E-Mail Address _____
Street Address Phone Fax
City State Zip

LOCATION OF PROPERTY:

59 Lyon St., Batavia

DETAILED DESCRIPTION OF REQUEST:

Add driveway (stone) to
South East corner of my lot.
Size will be 16' wide by 66' long.

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.

Randy White

Applicant's Signature

Date

5/17/16

Randy White

Owner's Signature

Date

5/17/16

To be Filled out by Zoning Officer

TAX PARCEL: 84-006-3-3 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 190-39 E(1) driveway with shall
not exceed 25% of the lot width.

Douglas E. Randall

From: Douglas E. Randall
Sent: Friday, May 27, 2016 1:16 PM
To: 'Felipe Oltramari'
Subject: RE: 59 N Lyon St.

Thanks, we'll have to make that a condition as well

From: Felipe Oltramari [mailto:Felipe.Oltramari@co.genesee.ny.us]
Sent: Friday, May 27, 2016 1:13 PM
To: Douglas E. Randall <DRandall@batavianewyork.com>
Subject: FW: 59 N Lyon St.

Doug,

See below. Looks like he will have to merge the parcels. We'll make that a modification. Have a great weekend.

-Felipe

Felipe A. Oltramari, AICP, CNUa
Director
Genesee County Department of Planning
3837 West Main Street Road
Batavia, NY 14020-9404
Felipe.Oltramari@co.genesee.ny.us
(585) 815-7901
(585) 345-3062 (fax)
On the web at: www.co.genesee.ny.us/departments/planning

From: Brett Frank
Sent: Friday, May 27, 2016 1:09 PM
To: Felipe Oltramari
Subject: RE: 59 N Lyon St.

Hi Felipe,

I just looked into the parcels you referenced below and no these two properties were never officially merged. For the 2016 Roll year they are still listed as two separate parcels 84.006-3-3 (Residence) & 84.006-3-2 (Res. Vacant Land), I also double checked the Parcel history database and there is nothing showing that a merge request was ever filed for these two properties. Please feel free to let me know if you need any other information and I'll be happy to assist.

From: Felipe Oltramari
Sent: Friday, May 27, 2016 12:11 PM
To: Brett Frank
Subject: 59 N Lyon St.

Hi Brett,

I called and was wondering if you could look into a discrepancy we ran into today. The attached survey shows a home at 59 N. Lyon St. in the City on a single parcel, but the tax map shows it as two separate parcels 84.006-3-3 and 84.006-3-2. Were these properties ever officially merged?

Thanks,

-Felipe

Felipe A. Oltramari, AICP, CNUA

Director

Genesee County Department of Planning

3837 West Main Street Road

Batavia, NY 14020-9404

Felipe.Oltramari@co.genesee.ny.us

(585) 815-7901

(585) 345-3062 (fax)

On the web at: www.co.genesee.ny.us/departments/planning

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 it will not create these issues.

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. There are no other cures.

3. **Substantiality.** The requested area variance is not substantial. no it is not.

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 it will not.

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.



Applicant's Signature

5/17/16

Date



Permit No. _____
Date: _____

DRIVEWAY AND PARKING SPACE PERMIT
\$10 fee – Please attach Survey / Illustration

APPLICANT:

Randy White

Name _____ E-mail Address _____
59 N Lyon St 585-409-5655
Street Address _____ Phone _____
Batavia NY 14020
City _____ State _____ Zip _____

☒ Owner _____ Agent for Owner _____ Contractor _____

OWNER:

Same as Above
Name _____ E-mail Address _____

Street Address _____

Phone _____

City _____

State _____

Zip _____

ADDRESS OF PROPERTY: 59 N Lyon St Batavia NY 14020

DIMENSIONS OF EXISTING DRIVEWAY: _____

Width N/A Length N/A

DIMENSIONS OF NEW DRIVEWAY / ADDITION: _____

Width 16'6" Length 66'

SURFACE MATERIAL: Existing N/A

Proposed Stone / Pavers

Randy White
Applicant's Signature

5/17/16
Date

Randy White
Owner's Signature

5/17/16
Date

To be filled out by Zoning Enforcement Officer

TAX PARCEL: _____ ZONING DISTRICT: _____ SURVEY: _____

DIMENSIONS OF LOT: Lot Frontage 75' Front Yard 75'

PERCENTAGE OF LOT FRONTAGE: 38.6% SURFACE MATERIAL: Stone

APPROVED: _____ AREA VARIANCE: ☒ GRADE PLAN: _____

ISSUING OFFICER: _____ DATE: _____

18.75' Permitted
- 29' Proposed.
10.25' Over
25A Reg.

12.5' Existing driveway.
+ 16.5' New/Additional driveway.
29' Total = 38.6%

R/O WEATHERALL, WILLIAM E.
LIBER 840, PAGE 233

Formerly North Line Worth
Liber 419, Page 1125 and
Liber 335, Page 336

Formerly Northeastery Corner
Gerald L. & Margaret P. Worth
Liber 335, Page 336

Drive
On Line
Pin
1.30' SE.
0.12' SW.

R/O KICKBUSH,
ROLLAND G. & CAROL A.
LIBER 356, PAGE 438

R/O JACKSON, MICHAEL
A. & KATHLEEN B.
LIBER 583, PAGE 259

PARALLEL
LOT - 15
PARCEL SURVEYED
CONTAINING
0.539 +/- ACRE
LIBER 824, PAGE 10

LOT - 15

LOT - 14

R/O WIEDRA, JAMES C.
LIBER 849, PAGE 645

LEGEND

● EXISTING IRON STAKE

REFERENCE

HEMAN POMEROY SUBDIVISION FILED
AT BOOK 1 OF MAPS, PAGE 2

"UNAUTHORIZED ALTERATION OR ADDITIONS
TO A SURVEY MAP BEARING A LICENSED LAND
SURVEYOR'S SEAL IS A VIOLATION OF SECTION
7209, SUB-DIVISION 2, OF THE NEW YORK
STATE EDUCATION LAW."

"ONLY COPIES FROM THE ORIGINAL OF THIS
SURVEY MARKED WITH AN ORIGINAL OF THE
LAND SURVEYOR'S EMBOSSED SEAL SHALL
BE CONSIDERED TO BE VALID TRUE COPIES."

"CERTIFICATIONS INDICATED HEREON SIGNIFY
THAT THIS SURVEY WAS PREPARED IN ACCORDANCE
WITH THE EXISTING CODE OF PRACTICE FOR LAND
SURVEYORS ADOPTED BY THE NEW YORK STATE
ASSOCIATION OF PROFESSIONAL LAND SURVEYORS.
SAID CERTIFICATION SHALL RUN ONLY TO THE
PERSON FOR WHOM THE SURVEY IS PREPARED,
AND ON HIS/HER BEHALF TO THE TITLE COMPANY,
GOVERNMENTAL AGENCY AND LENDING INSTITUTION
LISTED HEREON, AND TO THE ASSIGNEES OF THE
LENDING INSTITUTION. CERTIFICATION ARE NOT
TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR
SUBSEQUENT OWNERS."

BOUNDARY SURVEY SHOWING THE PARCEL
TO BE CONVEYED BEING PART OF ORIGINAL
VILLAGE LOT 8, DISTINGUISHED AS PART OF
SUBDIVISION LOTS 14 AND 15 OF THE
HEMAN POMEROY SUBDIVISION. SITUATE IN
THE CITY OF BATAVIA, COUNTY OF GENESEE
AND STATE OF NEW YORK

MARCH 16, 2009

SCALE 1" = 30'

JOB NO. 09-39

DATE

N.Y.S.R.L.S. No. 50249

DAVID S. LAMENDOLA
GREGORY W. TOWNSEND
Licensed Land Surveyors
435 East Main Street
Batavia, New York 14020
Phone (585) 344-1331
Fax (585) 343-2691

LYON STREET (49.5' R.O.W.)

LINE

STREET

Formerly Westerly Line Worth
Liber 419, Pages 1125 & 1127

Parallel To
Lyon Street

Bent Pipe
0.2' NW.

Formerly Easterly Line Worth
Liber 335, Page 336 and
Liber 419, Page 1127

Pipe
0.75' NE.
0.20' NW.

LINE

LINE

LINE

LINE

LINE

LINE

LINE

LINE

LINE

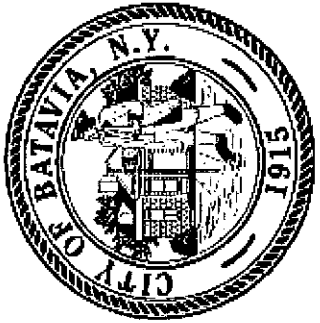
LINE

LINE

LINE

LINE

LINE



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: Planning and Development Committee
 Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 7/11/16

Re: 61 River St.
 Tax Parcel No. 84.009-2-61

Zoning Use District: R-2

The applicant, Fred Mruczek (owner), has applied for a permit to add a 14' wide x 30' long stone driveway in the northwest portion of the front yard. This driveway will be in addition to a driveway in the southwest portion of this newly developed two family dwelling property.

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:

City Planning and Development Committee-

Planning and Development Committee shall review and make recommendations to the ZBA for applications that include parking variances. Pursuant to section 190-49 C. of the zoning ordinance, the

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

BMC Sec. 190-39 E (1) The width of driveways shall not exceed 25% of the lot frontage.

	<u>Permitted</u>	<u>Proposed</u>	<u>Difference</u>
Driveway width	17.42' (25%)	32.57' (47%)	15.15' (22%)

**THE CITY OF BATAVIA
PLANNING & DEVELOPMENT COMMITTEE
ZONING RECOMMENDATIONS**

Meeting Date: 8/25/16

Applicant's Name	Fred Mruczek, owner
Location	61 River St.
Zoning District	R-2
Referral Type	
Variance(s)	Area
Description	Addition of a 14' wide x 30' long stone driveway in the northwest portion of the front yard. This driveway will be in addition to a driveway in the southwest portion of this newly developed two family dwelling property.

PLANNING & DEVELOPMENT COMMITTEE RECOMMENDATION

Recommend disapproval with a vote of 3-aye and 2-nay for the following reasons: <ul style="list-style-type: none">• Over the limit on the amount of allowed frontage• In front of the house
--

ZONING BOARD OF APPEALS DECISION

--



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 16-17
Hearing Date/Time: _____

APPLICANT:

FRED MRUCZEK
Name 1 VALLE DR E-Mail Address 585-705-0618
Street Address BATAVIA Phone 14020
City NY State NY Zip 14020

STATUS: ☒ Owner ☐ Agent for Owner ☐ Contractor

OWNER:

FRED MRUCZEK
Name 1 VALLE Dr E-Mail Address 585 705 0618
Street Address BATAVIA Phone 14020
City NY State NY Fax 14020
City BATAVIA State NY Zip 14020

LOCATION OF PROPERTY: 61 River St

DETAILED DESCRIPTION OF REQUEST:

CREATE SECOND DRIVEWAY For Two Family
DUPLEX EACH APARTMENT WILL HAVE SEPARATE
DRIVEWAY

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.

Fred Mruczek July 10 2016
Applicant's Signature Date

Fred Mruczek July 10 2016
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.009-2-61 **ZONING DISTRICT:** R-2 **FLOOD PLAIN:** NO

TYPE OF APPEAL:

- ☒ Area Variance
☐ Use Variance
☐ Interpretation
☐ Decision of Planning Committee

AUG 22 2016

CITY OF BATAVIA
Provision(s) of the Zoning Ordinance Appealed:

BMC 190-39 E(1) The width of
driveways shall not exceed 25% of the lot frontage.

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. NO

3. Substantiality. The requested area variance is not substantial. yes, not substantial

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

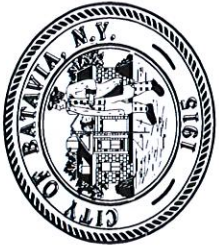
5. Not Self-Created. The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title.

NO

Ariel Murray

Applicant's Signature

July 10, 2016
Date



Permit No. _____
Date: _____

DRIVEWAY AND PARKING SPACE PERMIT
\$10 fee – Please attach Survey / Illustration

APPLICANT:

Name Fred Mriczek E-mail Address _____
Street Address 1 VALLE Dr. Phone 585 705 0618

City Batavia State N.Y. Zip 14020

☒ Owner _____ Agent for Owner _____ Contractor _____

OWNER:

Name Fred Mriczek E-mail Address _____

Street Address 1 VALLE Dr. Phone 585 705 0618

City Batavia State N.Y. Zip 14020

ADDRESS OF PROPERTY: 61 River St

DIMENSIONS OF EXISTING DRIVEWAY:

Width 14' Length 50' (south side)
Of Prop.

DIMENSIONS OF NEW DRIVEWAY / ADDITION:

Width 14' Length 30'

SURFACE MATERIAL: Existing stone Proposed stone

Applicant's Signature Fred Mriczek Date July 10, 2016

Owner's Signature Fred Mriczek Date July 10, 2016

To be filled out by Zoning Enforcement Officer

TAX PARCEL: _____ **ZONING DISTRICT:** _____ **SURVEY:** _____

DIMENSIONS OF LOT: Lot Frontage _____ Front Yard _____

PERCENTAGE OF LOT FRONTAGE: _____ **SURFACE MATERIAL:** _____

APPROVED: _____ **AREA VARIANCE:** _____ **GRADE PLAN:** _____

ISSUING OFFICER: _____ **DATE:** _____



"UNAUTHORIZED ALTERATION OR ADDITIONS TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUB-DIVISION 2, OF THE NEW YORK STATE EDUCATION LAW."

"ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S EMBOSSED SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES."

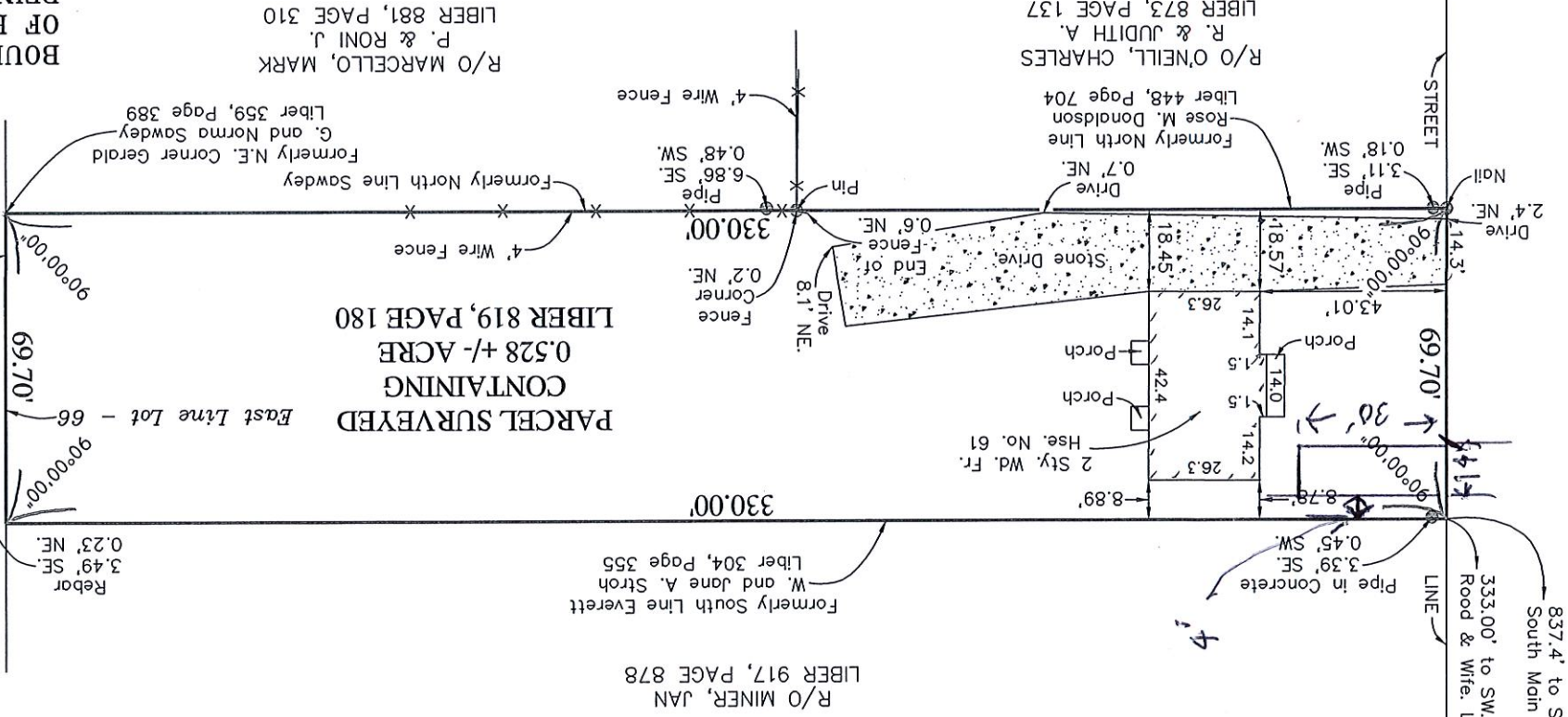
"CERTIFICATIONS INDICATED HEREON SIGNIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE FOR LAND SURVEYORS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS. AND ON HIS/HER BEHALF TO THE TITLE COMPANY, PERSON FOR WHOM THE SURVEY IS PREPARED, GOVERNMENTAL AGENCY AND LENDING INSTITUTION, LISTED HEREON, AND TO THE ASSIGNEES OF THE LENDING INSTITUTION. CERTIFICATION ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS."

BOUNDARY SURVEY SHOWING THE PROPERTY OF FREDERICK A. AND MARYANN MRUCZEK BEING PART OF VILLAGE LOT 66, SITUATE IN THE CITY OF BATAVIA, COUNTY OF GENESEE AND STATE OF NEW YORK.

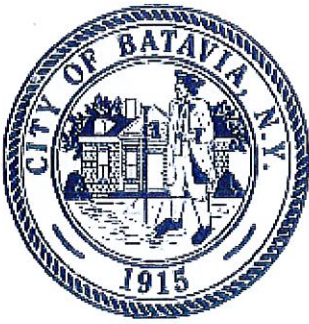
JULY 5, 2016
JOB NO. 16-232
SCALE 1" = 40'

DATE
N.Y.S.R.L.S. NO. 50249

R/O BATAVIA TOWNHOUSES, LIMITED
LIBER 492, PAGE 323
Formerly West Line
Batavia Housing Authority



LEGEND
● EXISTING IRON STAKE



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: 8/19/16
Re: 206 East Main St.
Tax Parcel No. 84.058-1-2

Zoning Use District: C-3

The City of Batavia's Planning and Development Committee has requested an interpretation of the Batavia Municipal Code regarding window signage.

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) (31).

Review and Approval Procedures:

Zoning Board of Appeals- Pursuant to BMC 190-49 A. and NYS General City Law 81-a 4. the ZBA shall decide appeals from and review any order, requirement, decision, interpretation or determination made by the Code Enforcement officer.

Interpretation-

- 1) **Do the perforated vinyl window coverings located on a first floor window of this commercial business, as depicted on the attached photographs, constitute a window sign as defined by Batavia Municipal Code?**

BMC 190-3 (11) (definitions) Sign- A structure or device designed or intended to convey information to the public in written or pictorial form.

BMC 190-3 (18) (definitions) Window sign- A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

BMC 190-3 (14) (definitions) Sign surface area- The entire area within the single, continuous perimeter enclosing the limits of writing representation, emblem or any figure or similar character. Supports, uprights or structures on which any sign is supported shall not be included in the sign face area unless it is an integral part of the sign.

- 2) **Is the maximum window sign coverage area, as indicated on the attached Exhibit A, based on the percentage of coverage for the individual window pane or all window surfaces combined?**

Exhibit A Window/outdoor signs- Size allocation (Max. % of window coverage, total window space)

BATAVIA CODE

CITY OF BATAVIA EXHIBIT A (cont'd)

Zones	R-1	R-2	R-3	C-1	C-2	C-3	I-1,P1	I-2	L	P2	P3
Minimum Height				8 ft.	8 ft.	8 ft.	8 ft.	8 ft.		8 ft.	8 ft.
MARQUEE SIGNS											
Permitted	NP	NP	NP	NP	P	P	NP	NP	NP	NP	NP
Maximum Number permitted					1 per business if no wall sign is directed to the same street frontage	1 per business if no wall sign is directed to the same street frontage					
Size Allocation (max. % of wall area)					40%	40%					
AWNING/CANOPY SIGNS											
Permitted	NP	NP	NP	P	P	P	P	P	NP	P	P
Maximum Number				1 per business	1 per business	1 per business	1 per business	1 per business		1 per business	1 per business
Size Allocation (max % of vertical canopy area)				15%	25%	20%	20%	20%		20%	20%
Internal Lighting				NP	P	P	P	P		P	P
Maximum height				7 ft.	7 ft.	7 ft.	7 ft.	7 ft.		7 ft.	7 ft.
WINDOW/OUTDOOR SIGNS											
Permitted	NP	NP	NP	P	P	P	P	P	NP	P	P
Size Allocation (Max. % of window coverage, total window space)				25%	25%	25%	25%	25%		25%	25%
Internal Lighting											
SUSPENDED SIGNS				P	P	P	P	P		P	P
Permitted	P	P	P	P	P	P	P	P		P	P
Max # Permitted	1 per entrance	1 per entrance	1 per entrance	1 per entrance	1 per entrance	1 per entrance	1 per entrance	1 per entrance	NP	1 per entrance	1 per entrance
Maximum Area	2 sq. ft.	2 sq. ft.	2 sq. ft.	6 sq. ft.	6 sq. ft.	6 sq. ft.	6 sq. ft.	6 sq. ft.		6 sq. ft.	6 sq. ft.





11. Alternate members.

- (a) The legislative body of each city except a city having a population of more than one million may, by local law or ordinance, or as part of the local law or ordinance creating the zoning board of appeals, establish alternate zoning board of appeals member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest. Alternate members of the zoning board of appeals shall be appointed by the mayor or other duly authorized appointing authority, for terms established by the legislative body of the city.
- (b) The chairperson of the zoning board of appeals may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial zoning board of appeals meeting at which the substitution is made.
- (c) All provisions of this section relating to zoning board of appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, compatibility of office and service on other boards, shall also apply to alternate members.

For a discussion of zoning board of appeals powers and duties under this statute and the applicable court decisions, see the DOS Local Government Technical Series publication "Zoning Board of Appeals."

81-a. Board of appeals procedure.

1. Meetings, minutes, records. Meetings of such board of appeals shall be open to the public to the extent provided in article seven of the public officers law. Such board of appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
2. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the board of appeals shall be filed in the office of the city clerk within five business days and shall be a public record.
3. Assistance to the board of appeals. Such board shall have the authority to call upon any department, agency or employee of the city for such assistance as shall be deemed necessary and as shall be authorized by the legislative body. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.
4. Hearing appeals. Unless otherwise provided by local law or ordinance, the jurisdiction of the board of appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination, made by the administrative official charged with the enforcement of any ordinance or local law adopted pursuant to this article. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the city.
5. Filing of administrative decision and time of appeal.
 - (a) Each order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of the zoning local law or ordinance shall be filed in the office of such administrative official within five business days from the day it is rendered, and shall be a public record. Alternately, the legislative body of the city may, by resolution, require that such filings instead be made in the city clerk's office.

Keeping of minutes, records

Filings

Authority of the board to seek assistance

The appellate nature of the board

Decisions of the enforcement officer are filed in the enforcement office, unless the city legislative body designate filing in the city clerk's office