

**ZONING BOARD OF APPEALS**  
**Thursday, December 15, 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 August 25, 2016 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

**Request**

*151 Oak St.*

Estate of Adolph Mruczek through Michael Del Plato, Esq.

Use Variance:

Construction of a two story, two family dwelling on this vacant parcel located within the R-1 Residential Use district

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

- VII. New Business: approval of 2017 meeting dates
- VIII. Setting of Next Meeting: January 26, 2017
- IX. Adjournment

**ZONING BOARD OF APPEALS**  
***Draft Minutes***  
**Thursday, August 25, 2016**  
**6:00 pm**  
**Council Board Room**  
**One Batavia City Centre, Batavia, NY**

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

Members absent: Emma Morrill

Others present: Meg Chilano – Clerk, Doug Randall – Code Enforcement Officer

**I. Roll Call**

Roll call of the members was conducted. Five 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. Harris, and on roll call, was approved 5-0.

**RESULT:** Approval of July 28, 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

The applicant was not in attendance. Mr. Randall reported that an error was found in the application. The County discovered that the parcel actually consists of two unmerged parcels. If the applicant wishes to pursue the project in the future, the two parcels would need to be merged prior to submitting the application. Additionally, the applicant has not

paid the fee to appear before the ZBA and has not responded to efforts to contact him. The Code Enforcement Office withdrew the proposal.

- B. 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

Address: 61 River St.

Applicant: Fred Mruczek, 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 PDC recommended disapproval for the following reasons: the driveway will be over the limit of the allowed frontage; and, it will 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 Dr. Licata, and on roll call, was approved 5-0.

**RESULT: Public hearing opened at 6:13 pm.**

From the beginning of the project, Mr. Mruczek said he had wanted two driveways, the same as his other three apartment buildings on River St. (46, 86, 96), however, there was a utility pole on the left side in the middle of the space for the second driveway. When he inquired about moving the pole, National Grid told him it would cost over \$6,000 to move the pole, so he changed the plan to allow for only one driveway.

Mr. Mruczek said that when it came to the point in the building where it was time to put in an electrical line, he decided to put in an underground service. The customer service representative from National Grid estimated the pole would only last five more years and told Mr. Mruczek that she would like to put up a new pole. At Mr. Mruczek's request, she moved the pole 10' to place it beside the property line, leaving room to put in the second driveway he had wanted from the beginning of the project. Mr. Mruczek said he believes that two driveways create a balanced esthetic and also afford each family privacy.

**MOTION:** Mr. McCarthy moved to close the public hearing; the motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 5-0.

**RESULT: Public hearing closed at 6:25 pm.**

Mr. Harris asked about the plan for entrance into the apartments and Mr. Mruczek said that most of the time everyone enters through the front doors.

Mr. Hyatt asked if the kitchens are in the back. Mr. Mruczek responded that they are. Mr. Hyatt pointed out that it would be closer to carrying groceries into the house if parking is in the back. Mr. Mruczek said that he believes it is more important to have a private drive than ease of carrying in groceries.

Mr. Harris asked about snow plowing and Mr. Mruczek said that he plows the driveways with his 8' wide plow.

Mr. Hyatt asked if the driveway will be stoned and Mr. Mruczek answered yes.

Mr. Hyatt asked where the driveways end and Mr. Mruczek said the driveways of his houses typically end at the front edge of the house.

Dr. Licata asked if Mr. Mruczek would be willing to compromise on the width of the driveway and he said that he would but that he would like both drives to be the same size for balance and symmetry.

Mr. McCarthy went through the list of supporting criteria for the variance:

- Undesirable change in neighborhood character: no
- Alternative cure sought: could park in the back
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: possibly a little
- Self-created: it is a narrow lot

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

**MOTION:** Ms. Kerr-Rosenbeck moved to approve the variance with the following modification: the existing driveway will be reduced to 14', and the new driveway will be 14' wide and approximately 30' in length, with 60 days to obtain the permit. The motion was seconded by Dr. Licata, and on roll call, was approved 4-1-0.

Votes in favor: 4 (Nicholas Harris, Lee Hyatt, Sandra Licata, Deborah Kerr-Rosenbeck)

Votes opposed: 1 (Paul McCarthy)

Votes abstained: 0

**RESULT: Approval of Area Variance with modifications.**

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

- Actions:
1. Review the request
  2. Discussion and action by the board

## **1. Review the Request**

Ms. Kerr-Rosenbeck read the summary of the proposal. The Planning and Development Committee requested an interpretation of the sign code as it pertains to the proposal for 206 East Main St.

Interpretation:

- Do the perforated vinyl window coverings constitute a window sign as defined by Batavia Municipal Code?
- Is the maximum window sign coverage area based on the percentage of coverage for the individual window pane or all window surfaces combined?

Definitions (according to Batavia Municipal Code):

Sign: structure or device designed or intended to convey information to the public in written or pictorial form.

Window sign: a sign visible from a sidewalk, street, or other public place painted or fixed on glass or other window material or located inside within 4' of the window, not including graphics in connection with customary window display of products.

Sign Surface Area: the entire area within a 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. Discussion and Action by the Board**

The board discussed signs and graphics and what constitutes a customary window display of products. Mr. McCarthy stated he believes the window covering is a sign because it conveys information to the public in pictorial form. Mr. Harris disagreed. He said he believes it is a graphic.

Mr. McCarthy said that graphic refers to the customary display of products, which the window covering is not. There was further discussion among the board members regarding what constitutes a customary window display of products.

Mr. Hyatt asked Mr. Marchese about his intent for the window and Mr. Marchese responded by saying he wanted to make it look nicer. Mr. Hyatt pointed out that Mr. Marchese is advertising pizza on the window covering and Mr. Marchese agreed.

The board discussed the meaning of sign coverage area and whether window surface area refers to just the window the sign is on or all windows on the façade. They discussed if façade includes only the first floor or the entire wall on which the window is located.

**MOTION:** Mr. McCarthy moved to interpret this form of window treatment as a sign according to the definition in the BMC; the motion was seconded by Dr. Licata, and on roll call, was approved 3-0.

Votes in favor: 3 (Lee Hyatt, Sandra Licata, Paul McCarthy)  
Votes opposed: 2 (Nicholas Harris, Deborah Kerr-Rosenbeck)  
Votes abstained: 0

**MOTION:** Mr. McCarthy moved to clarify that the maximum amount of window coverage allowed refers to the individual space in which the sign is located and not all window surfaces combined; motion was seconded by Dr. Licata, and on roll call, was approved 3-0.

Votes in favor: 3 (Lee Hyatt, Sandra Licata, Paul McCarthy)  
Votes opposed: 2 (Nicholas Harris, Deborah Kerr-Rosenbeck)  
Votes abstained: 0

**VII. New Business: none**

**VIII. Setting of Next Meeting: September 22, 2016**

**IX. Adjournment**

Mr. McCarthy moved to adjourn the meeting at 7:18 pm; Ms. Kerr-Rosenbeck seconded. All voted in favor.

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Meg Chilano  
Bureau of Inspection Clerk



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

GCDP Referral ID **C-29-BAT-11-16**

Review Date **11/10/2016**

Municipality

**BATAVIA, C.**

Board Name

**ZONING BOARD OF APPEALS**

Applicant's Name

**Estate of Adolph Mruczek**

Referral Type

Variance(s)

**Use Variance**

Description:

**Use Variance to construct a two-family dwelling on a vacant parcel.**

Location

**151 Oak St. (NYS Rt. 98), Batavia**

Zoning District

**Residential (R-1) District**

**PLANNING BOARD DECISION**

**APPROVAL**

**EXPLANATION:**

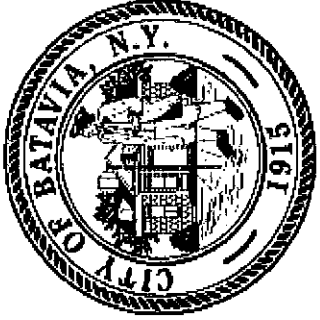
The application seems to meet all four criteria set forth in NYS City Law, for the granting of a use variance and as such the variance should pose no significant county-wide or inter-community impact. The hardship appears not to be self-created as the parcel was purchased by the family prior to the restrictions on two-family dwellings was in place. The applicant has demonstrated with ample financial evidence that a reasonable return cannot be obtained from the property as currently zoned. In addition, the hardship seems to be unique to this parcel given that the surrounding properties are already built upon. Finally, a two-family homes should not alter the essential character of the residential neighborhood.

Director

November 10, 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.



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

From: Doug Randall, Code Enforcement Officer

Date: 11/1/16

Re: 151 Oak St.  
Tax Parcel No. 71.018-1-18

Zoning Use District: R-1

The applicant, Estate of Adolph Mruczek through Michael DelPlato, Esq., has filed an application to construct a two story, two family dwelling on this vacant parcel located within the R-1 residential use district.

**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 190-49 C the Planning and Development Committee shall make recommendations to the ZBA regarding applications for variances that include non-permitted uses. Also; 190-44D(1) The PDC will perform a “sketch plan review” of the proposed site plan in order to provide the applicant direction prior to the final site plan submittal.

NOTE: Per Section 190-44 C(d) of the zoning ordinance, the Planning and Development Committee shall perform site plan review for use variance applications that increase lot coverage by more than 3% or 1,300 sq.’ This proposal will be resubmitted to the PDC for site plan approval following the granting of a use variance.

**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- Use

**BMC 190-8 A Two family dwellings are not listed as approved principal uses in the R-1 residential use district.**

**The ZBA will be the lead agency to conduct SEQOR of this non-listed action.**



**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**

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) PDC and ZBA Name Estate of Adolph Mruczek C/O Michael DelPlato Esq.

Address One Batavia City Centre Address 73 Main St.

City, State, Zip Batavia, NY 14020 City, State, Zip Batavia, Ny 14020

Phone (585) 345 - 6347 Ext. \_\_\_\_\_ Phone (585) 344 - 1050 Ext. \_\_\_\_\_ Email mdelplato@delplatocasey.net

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 151 Oak St.

B. Nearest intersecting road Union St.

C. Tax Map Parcel Number 71.018-1-18

D. Total area of the property .33 acres approx. Area of property to be disturbed \_\_\_\_\_

E. Present zoning district(s) R-1

**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 190-8 A

C. Please describe the nature of this request Approval of a use variance to construct a two family dwelling on this vacant parcel located within the R-1 residential use district.

**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](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

By 9/14/11 Co 19/15  
By 10/27 Co 11/10 11/15-25 " 20A



CITY OF BATAVIA  
APPLICATION TO THE ZONING BOARD OF APPEALS

APPLICANT:

Frederick Mawczek

Application No.: 16-18  
Hearing Date/Time:



Name: Valle Dr.  
Street Address: BATAVIA  
City: Batavia  
E-Mail Address: NOV - 8 2016  
Phone: NY  
Fax: 1419 OF BATAVIA  
CLERK-TREASURER

STATUS:

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

OWNER:

Estate of Adolph Mawczek

Name: 8820 Rollin Circle  
Street Address: Batavia  
City: Batavia  
E-Mail Address: NY  
Phone: 14000  
Fax: Zip: Batavia NY

LOCATION OF PROPERTY:

151 OAK ST. BATAVIA NY

DETAILED DESCRIPTION OF REQUEST:

Use Variance to permit  
Construction of 2 Family Structure in  
R-1 Zone

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.

Frederick Mawczek

Applicant's Signature

10/27/16  
Date

James S. Hoy Ex

Owner's Signature

10/27/16  
Date

To be Filled out by Zoning Officer

TAX PARCEL:

71.018-1-18

ZONING DISTRICT: R-1

FLOOD PLAIN: No

TYPE OF APPEAL:

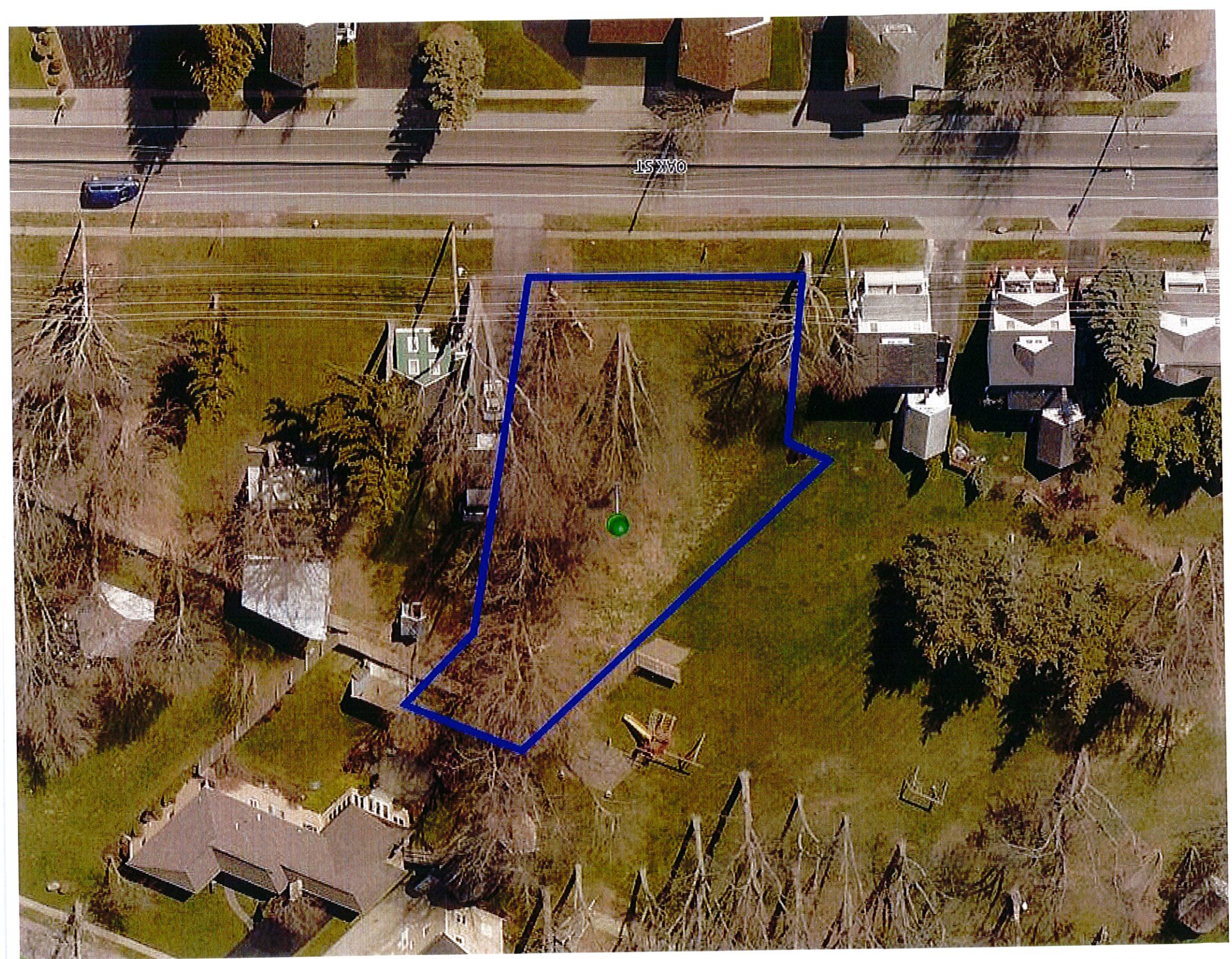
\_\_\_ Area Variance  
☒ Use Variance  
\_\_\_ Interpretation  
\_\_\_ Decision of Planning Committee

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

Provision(s) of the Zoning Ordinance Appealed:

Bmc 190-8 A. Two Family dwellings  
are not on the list of approved principal uses.







## Use Variance Application

### Statement of Unnecessary Hardship

In order for the Zoning Board of Appeals to grant a use variance, an applicant must show documentation in the record that the restrictions of the Zoning Ordinance has caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the Zoning Ordinance for the particular district where the property is located, that all four (4) requirements as per §81-b of the General City Law have been proven. Additional documentation may be included. If any one of these requirements have not been proven, the Zoning Board of Appeals must deny the variance, as per §81-b of the General City Law.

Explain how the request conforms to EACH of the following requirements (additional pages may be attached):

1. **Reasonable Return.** The subject property is not capable of yielding a reasonable rate of return if used for its present use or developed, redeveloped or used for any other use permitted in the district in which such property is located. There is no means other than the granting of the variance by which the property can yield a reasonable return. Such inability to yield a reasonable return must be shown by specific fact (dollars and cents) from an expert or authority in economic deprivation, not the unsupported opinion of the owner or those appearing for the owner.

*"The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence"*

*See Attached Supplement*

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(Please provide / attach competent financial evidence)

2. **Unique Hardship.** The inability to yield a reasonable return results from a unique circumstance peculiar to the subject property which does not apply to or affect other properties in the immediate vicinity that are subject to the same regulations. The personal situation of the owner shall not be considered unique.

*"The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood"*

*See Attached*

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3. **Essential Character of the Neighborhood.** The granting of the variance will not be materially detrimental to the public health, safety, and welfare or injurious to the enjoyment, use or development of neighboring properties or the community. Applicant must demonstrate that the proposed use will not change the essential character of the neighborhood with regard to such physical and environmental elements such as parking, traffic, signage, landscape, architectural and structural features, location and dimensions of buildings, any by-products of proposed use such as noise or smoke, and any other impacts upon adjacent or neighboring lands.

*"The requested use variance, if granted, will not alter the essential character of the neighborhood"*

*See Attached*

4. **Not Self-Created.** The inability to yield a reasonable return is not the result of any action by the owner or predecessors in title. The applicant must show that when the property was purchased the zoning restrictions from which a use variance is now sought were not in existence or that some other change or factor has occurred that has resulted in an inability to yield a reasonable return. Otherwise, the hardship is self-created.

*"The alleged hardship has not been self-created"*

*See Attached*

<i>X Susan S. Hoy Ex</i>	<i>10/27/16</i>
Applicant's Signature	Date
<i>X Andrew M. M...</i>	<i>10/27/16</i>
<i>(Signature)</i>	<i>10/27/16</i>
Provider of Financial Evidence	Date



## USE VARIANCE

### Statement of Income and Expense

*All Entries Must be Completed and Documented for at Least Two (2) Calendar Years  
or From the Date of Purchase Whichever is Less*

PROPERTY ADDRESS: 151 OAK ST. BATAVIA N.Y.

#### A. PROPERTY DATA

1. Date property was purchased by current owner MARCH 1981  
2. Was a Certificate of Occupancy issued? NO  
Date of Issuance? \_\_\_\_\_  
If so, for what use(s)? \_\_\_\_\_  
If not, why? \_\_\_\_\_

3. Cost of Purchase \$15,000  
4. a) Amount of Mortgage 0 Interest Rate \_\_\_\_\_  
Mortgage Holder \_\_\_\_\_ Duration \_\_\_\_\_  
Address \_\_\_\_\_

- b) Amount of Mortgage \_\_\_\_\_ Interest Rate \_\_\_\_\_  
Mortgage Holder \_\_\_\_\_ Duration \_\_\_\_\_  
Address \_\_\_\_\_

- c) Amount of Mortgage \_\_\_\_\_ Interest Rate \_\_\_\_\_  
Mortgage Holder \_\_\_\_\_ Duration \_\_\_\_\_  
Address \_\_\_\_\_

5. Is the property for sale? Yes  
If so, for how long over 12 years  
asking price 22,000  
for what use(s) SINGLE FAMILY  
Have any offers been received NO  
If so, for what amount(s) \_\_\_\_\_

Summarize any attempts to sell the property Listed by owner 10 years  
by Realtor 24 years

6. Present value of property 10,000 or less  
Source(s) Realtor / APPRAISER

B. GROSS ANNUAL INCOME [BASED ON PERMITTED USE(S)]

USE

INCOME

See Attached Supplement

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

TOTAL RENTAL INCOME

LESS VACANCY FACTOR

(Attach explanation if greater than 8%)

TOTAL GROSS INCOME

C. ANNUAL EXPENSES

1. Annual Fixed Charges

Real Estate Taxes (City & County)

Insurance.....

Average Annual Interest (over next 5 years)

See Attached Supplement

2. Operating Expenses

Electric.....

Fuel.....

Water.....

Advertising.....

Miscellaneous (attach explanation)

3. Maintenance Expenses (attach list)

Repairs.....

General Building Maintenance.....

Yard and Ground Care.....

Miscellaneous.....

TOTAL ANNUAL EXPENSES

Profit or Loss

D. TOTAL INVESTMENT

1.	Down payment.....	See Attached
2.	Capital Improvements (attach list)	
3.	Principal Paid to date (original mortgage less current principal balance).....	11
TOTAL INVESTMENT (Sum of D1, D2, & D3)		

E. RATE OF RETURN = Profit or Loss

TOTAL INVESTMENT	See Attached
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		10/27/18
Signature of Preparer		Date
Attorney	Developer/Builder	
Profession of Preparer		



SUBMISSION TO CITY OF BATAVIA ZONING BOARD OF APPEALS

RE: 151 OAK ST. BATAVIA NY    USE VARIANCE

1. APPLICATION TO ZONING BOARD OF APPEALS;
2. SHORT FORM ENVIRONMENTAL ASSESSMENT;
3. USE VARIANCE APPLICATION AND STATEMENT;
4. SUPPLEMENT WITH ATTACHMENTS:
  - A. STREET SALES REPORT OAK ST. 24 MONTHS;
  - B. 1981 ORDINANCE WITH PAGES 30.13, 30.14 AND SCHEDULE I;
  - C. LETTER OF JOHN GERACE REALY USA, WITH ATTACHMENTS;
  - D. OARS PRINTOUT OF 153 OAK STREET;
  - E. SURVEYORS MAP OF PROPOSED HOUSE AND DRIVEWAY LOCATION;
  - F. PHOTOS(2) OF EXISTING LOT;
  - G. PHOTOS(2) OF PROPOSED HOUSE FRONT AND REAR;
  - H. PHOTOS(6) OF INTERIOR DETAIL OF TYPICAL BUILD QUALITY.

RESPECTFULLY

THE ESTATE OF ADOLPH MRUCZEK

FREDERICK MRUCZEK

## USE VARIANCE APPLICATION SUPPLEMENT

### BACKGROUND

The Estate of Adolph Mruczek owns the vacant parcel at 151 Oak Street in the City of Batavia. The property was purchased in 1981 for \$7500.00 and Mr. Mruczek purchased the lot to build a duplex on the lot which was permitted at the time. In the interim, changes to his wife's health and her death, his health and his death and changes to the Zoning Ordinance bring up before the Board. Mr. Mruczek maintained the vacant lot and paid taxes on it until his death in January 2013. His son, Frederick Mruczek, has maintained the property since then and the Estate has paid the taxes.

The lot is the last asset of the Estate to be liquidated. Adolph Mruczek had the lot for sale for about 10 years before his death. No offers were ever made on the property. After his death, the property was listed for over two years with Bob Harris/Realty USA through John Gerace, Realtor. No offers were received and only two inquiries were made.

Frederick Mruczek is willing to buy the lot from the Estate if he can develop it as a two-family dwelling. The lot is zoned R-1. A two-family dwelling is not permitted under the present Zoning Ordinance. A use variance is required.

The within analysis will address the four factors to be addressed for a use variance:

1. **Reasonable Return.** The property is a vacant parcel of land on Oak Street, City of Batavia. The annual taxes are \$1,016.00. The property is a liability for the Estate. It produces no income. Taxes alone are \$1,000.00 per year.

No permitted use of the property would yield a reasonable return.

Permitted uses under the Zoning Ordinance to be considered are:

- Single family dwelling – discussed below;
- Church, place of worship, etc. No such use available. Neither owner nor developer are clergy. Lot too small for building, parking and related uses;
- Library, school, museum, etc. Lot too small for building, parking, etc. No demand or need;
- Park, playground, etc. Lot too small. Lack of need. Proximity to Route 98 truck route and safety concerns;
- Golf course. Not practical. Size limitations. Parking, etc.
- Agricultural operation. Not practical in City. Area is a “run” for deer and other wildlife. Greenhouses would not be permitted on the lot. Size of lot limits agricultural use.

The only permitted use available is a single family dwelling under R-1 zoning. Based upon advice of Robert Gerace, realtor and Robert Shell, appraiser, the lot is not

conductive to single family dwelling because of cost of construction, character of neighborhood, particularly vehicle and truck traffic day and night.

The developer could not construct and sell a conventional single family home in this area. A typical square footage of 1800 sq. ft. at \$140.00 per sq.ft. would be \$252,000.00. The house to the south is assessed for \$60,000.00 and to the north \$39,000.00.

As an investor, the developer would seek to build a two family dwelling. A single family rental unit would not provide a reasonable return or sufficient return based on the analysis below:

Analysis of Single Family Dwelling vs. Two Family Dwelling.

<u>Single Family Dwelling</u>		\$182,000.00
1300 sq.ft. @ \$140.00/sq.ft. finished with landscaping and driveway		
20% Downpayment;		\$873.60
30 year finance at 80% at 6% - \$145,600 @6.00 per \$1,000.00		600.00
Taxes (estimate)		60.00
Insurance		<u>200.00</u>
Maintenance		\$1733.60
Total Monthly Expenses		
Rental Income	\$1300-\$1500/mo	
Say \$1400.00 X 12 months = \$16,800 less 5% vacancy = \$15960.00 annually	Monthly	<u>\$1330.00</u>
<u>NET PROFIT (LOSS)</u>		(\$403.60)

**\*\*Resale opportunity for single family dwelling is non-existent based on size of house and location.**

<u>Two Family Dwelling</u>		\$275,000.00
2200 sq. ft. @ \$125.00/sq.ft.		
20% Downpayment;		\$1320.00
30 year finance at 80% at 6% - \$220,000 @ \$6.00 per \$1,000.00		650.00
Taxes (estimate)		60.00
Insurance		<u>200.00</u>
Maintenance		\$2230.00
Totally Monthly Expenses		
Rental Income	\$1200-\$1300 per unit/mo.	
Say \$1250.00 X 2 X 12 months = \$30,000.00 less 5% vacancy = \$28500 annually	Monthly	<u>\$2375.00</u>
<u>NET PROFIT</u>		\$145.00/mo.

The above analysis is developed based on input from Frederick Mruczek, the builder, Robert Shell appraiser and Michael DelPlato, attorney. Information regarding re-sale possibility also from Robert Gerace, realtor.

## **2. Unique Hardship.**

This is an older neighborhood. There is no demand for new single family homes on Oak Street. There are few if any vacant lots available for development on Oak Street and none in this neighborhood. Neither the construction of a single family dwelling for re-sale or as rental property are reasonable or possible.

Because this district or neighborhood is an older established area, the prices of home have been established by sales and assessments in the \$60,000-\$80,000 range as shown by the City Assessment records and average sales on this street per attached Street Sales Report from OARS.

The two family dwelling is the best use of the property. The attached Street Sales Report shows a range of sales as above except for two properties, one sold for \$135,000 (1892 sq.ft. ranch or \$136 sq.ft) and \$147,000 (2578 sq.ft. with garage and inground pool or \$57.02 sq.ft.)

This is also a unique situation since the intended use was, arguably, a permitted use under the Zoning Ordinance that existed at the time of the purchase of the property and continued until the Zoning Ordinance changed until 1999. This would be further addressed in #4 below.

## **3. Essential Character of the Neighborhood.**

The proposed two family structure will not be detrimental to the neighborhood. The developer has filled his units mostly with empty nesters and retired persons or low density occupancy. The neighborhood is mainly single family dwellings. The property to the north is an older home assessed for \$39,000 based upon an actual sales price closed on 5/30/2014 (see attached OARS printout). That property had been for sale for nearly one year. The property to the south is assessed for \$60,000.

The lot is vacant. The development of the lot will result in the removal of much of the brush and older trees on the property. That together with the construction of a new dwelling will enhance the neighborhood.

The request for two-family dwelling is a minimal request for variance. It is not a request for a commercial or more onerous use.

The request before this Board is to permit the developer to use an underutilized property that has been vacant for years to be developed into an attractive two-family dwelling to enhance the neighborhood and increase the tax rolls.

**4. Not Self-Created.**

This lot is an island in an area that is totally developed. Adolph Mruczek purchased the lot in 1981. Susan Hoy, his daughter and Executor of the Estate and Frederick Mruczek, the developer contend that Adolph was advised he could build a two-family dwelling when the lot was purchased. However, we have been unable to find a change in zoning in that area through City records. Our research has indicated that the property has been zoned R-1 for many years and was zoned R-1 at the time Adolph Mruczek purchased it. However, under the 1981 Zoning Ordinance, (see attached page 30.13, 30.14 and 30.43 from former Zoning Ordinance) while the property was zoned R-1, a two-family was permitted in the R-1 district as were multi-family and large scale developments. Mr. Mruczek bought this lot with some reasonable assurance that it could be developed as a two-family dwelling. At most, he might have had to apply for area variance based on the frontage but the lot would appear to support the lot area requirement and the minimum yard requirements. The hardship of the current zoning classification is not self-created. It is a result of the 1999 Amendment to the Zoning Ordinance wherein the R-1 district was amended to included single family dwellings only.

Adolph Mruczek had this lot listed for sale for more than 10 years. He received no interest in the purchase of the lot. John Gerace had this property listed for sale for over 2 years. He had no offers and phone inquiries which ended shortly after he advised that this was zoned for single family dwelling only.

Frederick Mruczek is willing to take the investment risk to develop the property into a two-family dwelling. There has been no other interest in this property for years. A variance to permit a two-family dwelling in this district is requested. It is a minimal variation from the Zoning Ordinance. It was arguably a permitted use at the time the lot was purchased. It is fair and equitable to grant the variance to provide relief from the changes brought about by the Amendment to the Zoning Ordinance.

The information developed in this analysis has been developed in conjunction with Susan Hoy, Executrix, Frederick Mruczek, Developer, Robert Shell, Appraiser, Michael DelPlato, Attorney and Robert Gerace, Broker.

Thank you for your kind consideration.

  
SUSAN S. HOY

  
FREDERICK MRUCZEK

  
MICHAEL A. DELPLATO









# Street Sales Report

All Sales on OAK ST Over the Last 24 Months

Properties Found	8
Average Assessed Value	\$88,625
Average Sale Value	\$88,900

Records Found: 8 (Displaying 100 per page)

Page  
1 of 1

Photo	Address	SBL #	Sale Price - Sale Date	Total Assessed Value	Property Type Building Style	Lot Size	Year Built	SQFT
	164 OAK ST, Batavia	71.018- 2-36	\$98,400 - 8/23/2016	\$92,000	Residential - 1 Family Res Old style	150 x 168	1875	1,784
	103 OAK ST, Batavia	84.006- 2-6	\$160,000 - 8/9/2016	\$147,000	Residential - 1 Family Res Old style	112.6 x 228.51	1910	2,578
	18 OAK ST, Batavia	84.040- 1-25	\$65,000 - 3/28/2016	\$56,000	Residential - 1 Family Res Old style	40 x 170	1900	1,288
	49-51 OAK ST, Batavia	84.024- 1-36.2	\$40,000 - 12/21/2015	\$62,000	Residential - 1 Family Res Old style	71.9 x 115	1836	1,056
	182 1/2 OAK ST, Batavia	71.018- 2-1	\$69,900 - 10/28/2015	\$70,000	Residential - 1 Family Res Ranch	115 x 160	1925	1,136
	46 OAK ST, Batavia	84.032- 1-6	\$78,000 - 10/15/2015	\$72,000	Residential - 1 Family Res Old style	40 x 163	1925	1,524
	100 OAK ST, Batavia	84.006- 2-52	\$114,900 - 9/10/2015	\$135,000	Residential - 1 Family Res Ranch	115 x 116	1947	1,892
	170 OAK ST, Batavia	71.018- 2-38	\$85,000 - 11/17/2014	\$75,000	Residential - 1 Family Res Old style	78.8 x 266	1939	1,308

Records Found: 8 (Displaying 100 per page)

Page  
1 of 1

CITY OF BATAVIA, N. Y.

ZONING ORDINANCE

EFFECTIVE JANUARY 1981

## ZONING

§ 30.31

### ARTICLE III

#### RESIDENTIAL DISTRICTS

##### § 30.31 R-1 Residential Districts

In R-1 Residential Districts, no building or structure shall be erected, altered, or extended and no land, building, structure, or part thereof shall be used for other than one or more of the following uses:

##### A. Permitted principal uses.

1. Dwelling.
2. Church or other place of worship, convent, parish house, cemetery.
3. Public library, public museum, public school, parochial school, school operated by a non-stock corporation under the Education Law of the State, any institution of higher learning but not dormitory accommodations.
4. Public park not conducted for profit, public playground or athletic field and field house or other accessory buildings.
5. Golf course, except a miniature golf course operated on a commercial basis.
6. Agricultural operations, including gardens, nurseries, greenhouses and usual buildings or structures. No greenhouse heating plant shall be less than one hundred feet (100') from any lot line.

##### B. Permitted accessory uses.

1. Such accessory uses as are customarily incidental to the above uses, subject to the provisions of § 30.81.
2. Off-street parking, subject to the provisions of § 30.85.
3. Signs subject to the provisions of § 30.89.

##### C. Uses permitted with special use permits.

1. Municipal or public utility structures or facilities when necessary for the service of a neighborhood and of a kind and character

Supp. #1, Dec. 31, 1981.



§ 30.31

MUNICIPAL CODE

in keeping with the residential character of the neighborhood.

2. Large scale multi-family developments.

§ 30.32 R-2 Residential Districts

In R-2 Residential Districts no building or structure shall be erected, altered, or extended, and no land, building, structure, or part thereof shall be used for other than one or more of the following uses:

A. Permitted principal uses.

1. Any principal use permitted in R-1 Residential Districts.

2. Hospital, day nursery, sanitarium, nursing or convalescent home for the treatment of human beings, philanthropic or eleemosynary institutions, other than a penal or correctional institution. [Amd Ord 3/9/81 by deleting "other than the mentally ill, mentally retarded, epileptic, drug or liquor patients" after "human beings".]

3. Boarding house, lodging house, rooming house, tourist home, but not tourist camps or cabins.

B. Permitted accessory uses.

1. Such accessory uses as are customarily incidental to the above uses including home occupations and home professional uses subject to the provisions of § 30.81 excepting physicians' and dentists' offices.

2. Off-street parking, subject to the provisions of § 30.85.

3. Signs subject to the provisions of § 30.89.

C. Uses permitted with special use permit.

1. Municipal or public utility structures, and/or facilities when necessary for the service of a neighborhood and of a kind and character in keeping with the residential character of the neighborhood.

2. Large scale multi-family developments.

§ 30.33 R-3 Residential Districts

In R-3 Residential Districts no building or structure shall be erected, altered or extended, and no land, building, structure or part thereof shall be used for other than one or more of the following uses:

Supp. #1, Dec. 31, 1981.

# SCHEDULE I

DISTRICT	PRINCIPAL Uses not listed: use first line for each District	MINIMUM <sup>1</sup> Lot Area (sq. ft)	MAX COV (%)	MAX <sup>2</sup> HGT. (ft)	MINIMUM YARDS (ft.) Side Frt Min Tot. Rear		
					25	10	25
R-1	One-Family	12,000	20	35	25	10	25
	Two-Family	16,000	20	35	25	10	25
	Multi-Family (Add'l ea. family over 2)	+5,000	20	35	25	10	25
	Place of Worship	20,000	20	35	25	10	25
	Public uses	20,000	20	35	25	10	25
	Large-scale Multi- Family Develop- ments	Min 6 units not over 6 per acre	20	35	25	15	30
R-2	One-Family	8,000	25	35	20	8	20
	Two-Family	10,000	25	35	20	8	20
	Multi-Family (Add'l ea. family over 2)	+3,000	25	35	20	8	20
	Place of Worship	12,000	25	35	25	10	25
	Public Building	12,000	25	35	25	10	25
	Large-scale Multi- Family Develop- ments	Min 6 units not over 12 per acre	25	35	25	15	30
R-3	One-Family	5,000	30	40	20	8	20
	Two-Family	6,000	30	40	20	8	20
	Multi-Family (Add'l ea. family over 2)	+1,500	30	40	20	8	20
	Place of worship	7,500	30	40	25	10	25
	Public Building	7,500	30	40	25	10	25
	Large-scale Multi- Family Develop- ments	Min 6 units not over 20 per acre	30	40	25	15	30
	Professional Offices <sup>4</sup>	10,000	75	40	35	12	25
	High Rise Apartment <sup>5</sup>		100	40	35	35	35

- May be varied according to the preceding provision of Art. VII.
- Towers and steeples may extend to a height of 80' maximum.
- The side yard of corner lot adjacent to a street shall be considered as a front yard.
- Minimum yard requirements are for new construction only.
- For every foot the building height is in excess of 70', the minimum yard requirements shall be increased by one-half of one foot
- parking and loading space shall not cover more than an additional 40% of the lot.



| Upstate New York's Largest Independent Real Estate Company |

October 26, 2016

Mr. Michael DelPlato, Esq.  
73 Main Street  
Batavia, NY 14020

Re: 151 Oak Street , .37 acre lot  
Batavia, NY 14020

Dear Mr. DelPlato,

In reference to the above noted property our companies Bob Harris Realty, LLC and Realty, USA WNY, Inc. had the subject listed for sale from 9/18/2013 until 7/31/2015. We also had our sign on the property for an additional 6 months after the listing had expired.

During the listing period we had only 2 inquiries on the property. I believe in my professional opinion the property has not appealed to a potential purchaser is the current zoning of the property. The lot is currently zoned R1 which limits the development to only single family dwellings. I believe if the property was re zoned to allow multifamily dwellings it would definitely help the marketing of this property.

At current cost levels, it would not be advantageous to construct a single family dwelling on the subject and expect an favorable re sale value due to the location of the subject. I have attached a history of the listing for your convenience. If you have any other questions , please feel free to contact me.

Thank you,

John P. Gerace, CEA, CRS, GRI  
Licensed Associate Real Estate Broker

REALTY USA, WNY, Inc.  
6 Ellicott Avenue  
Batavia, NY 14020

Batavia Office : 6 Ellicott Avenue Batavia NY 14020 | Office: 585.343.8366 Fax: 585.343.0915



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MLS #	Brk Cd	Apt ID	Address	DOM	Price	PT	Change Type	Eff Date	Chg Info	Chg
<del>R263658</del>	RUSA111	11519	151 Oak St	210	\$22,000	LOT	X-Expired	07/31/15	A->X	08/1
<del>R263658</del>	RUSA111	11519	151 Oak St		\$22,000	LOT		01/02/15	->22000.00	01/1
<del>R263658</del>	RUSA111	11519	151 Oak St		\$22,000	LOT	New Listing	01/02/15	->A	01/1
<del>R244656</del>	HRIS	11519	151 Oak St	272	\$22,000	LOT	X-Expired	12/31/14	A->X	01/1
<del>R244656</del>	HRIS	11519	151 Oak St		\$22,000	LOT		04/03/14	->22000.00	04/1
<del>R244656</del>	HRIS	11519	151 Oak St		\$22,000	LOT	New Listing	04/03/14	->A	04/1
<del>R233546</del>	HRIS	11519	151 Oak St	194	\$22,000	LOT	X-Expired	03/31/14	A->X	04/1
<del>R233546</del>	HRIS	11519	151 Oak St		\$22,000	LOT		09/18/13	->22000.00	09/
<del>R233546</del>	HRIS	11519	151 Oak St		\$22,000	LOT	New Listing	09/18/13	->A	09/



MLS#: **R233546** **Lots, Land, Farms, and Seasonal/Camps** **X-Expired**  
151 Oak St **VR Pricing: No** **List Price: \$22,000**  
County: **Genesee** **Zip: 14020** **Sale Price:**  
Town: **Batavia-City** **Pstl City: Alexander** **Sell Concess:**  
Area#: **Batavia-City-180200** **Cross St: Richmond Avenue**  
Subdivision: **180200-071-018-0001-018-000** **Acre: 0.37**  
TxMap#: **Batavia** **Lot Front: 82**  
City Nghbrhd: **Batavia High** **Lot Depth: 198**  
School Dist: **Batavia Middle** **Lot Shape: Irregular**  
High School: **Jackson** **Lot #: 15,354**  
Middle School: **Jackson** **SqFt: Normal**  
Elem School: **Jackson** **Type of Sale: Normal**  
**# Attach: 1 # Photo: 10**

#### Listing Office Information

Offc Name: **Bob Harris Realty LLC (HRIS)**  
Offc Addr: **6 Ellicott Ave**  
**Batavia, NY 14020**

LA Name/ID: **John P. Gerace (11519)**  
LA Email: **johngerace@rochester.rr.com**  
LA Dir Phone/Fax: **585-343-8366 x14 / 585-343-0915**  
Owner Name: **Mruczek Estate**

Owner 2:  
Owner Addr:

Offc Lic#: **585-343-8366**  
Offc Phone: **585-343-0915**  
Offc Fax:  
LA Cell #: **585-303-0407**  
LA Accts Txt: **No**  
LA NY Lic#: **30GE0694659**  
Comp (SA): **5%**  
Comp (BA): **5%**  
Comp (Brk): **0**  
Exclusions: **No**  
List Date: **09/18/2013**  
Expire Date: **03/31/2014**  
DOM: **194**

**Exclusive Right To Sell** **Spc Conditions: No**

Service Type:  
Negotiation w/:  
Show Apt/Desc:  
Private Rmrks:  
Branded VT:  
Unbranded VT:  
Sub Board:

**Listing Broker Only**  
**585-303-0407 / Agent: Call List Agent for Showing Instructions**  
**LISTING OFFICE TO HOLD DEPOSIT.**

**Rochester**

#### General Information

Type: **Building Lot, Residential**

Topography: **Level**  
Road Ft/Desc: **State**

Zoning: **Wooded - Partial**

Land Feat: **No**

Bedrooms: **No**

On Wtrfrnt: **No**

Baths: **No**

Name: **No**

GOM Rots Rsv: **No**

Public Remarks: **Unique city building lot. All public utilities available. Partially wooded . Over 80' of frontage. Conveniently located to shopping, schools, 30 Minuets to Buffalo or Rochester, 1 minuut to the NYS Thruway. Must see to appreciate!!**

Improvement: **None**  
Driveway Desc: **None**  
Buildings: **None**  
Milk Mkt:

# Horse Stls: **0**

Rooms:

Footage:

Rip Rgts: **No**

Directions: **Located on the West side of Oak Street (Route 98 North) Between Richmond Avenue and Burke Drive.**

#### Residence Information

Garage:

Style of Res:  
Exterior Cnstr:

BR 1st Flr:

FB 1st Flr:

HB 1st Flr:

Kitchen:

Basement:

Floor:

Attic:

Addl Rooms:

Interior Feat:

Exterior Feat:

Appliances:

Accessibility:

Foundation:

Emerg Backup:

ENERGY STAR

Qualified@:

BR 2nd Flr:

FB 2nd Flr:

HB 2nd Flr:

BR Basement:

FB Basement:

HB Basement:

Utils on Site: **None**

HVAC Type:

Util Avail:

Heating Fuel:

Waste Disp: **Public Storm Drain, Sewer Available**  
Cable, Electric, Gas, High Speed Internet, Sanitary Sewer, Storm Sewer, Telephone, Water  
Water Htr Fuel:

#### Utilities Information

Water Supply: **At Street, Public**

Type of Well:

Well Location:

Miscellaneous Information

Avail Docs: **Boundary Data**  
Dev Status: **Raw Land**

Restrictions:

Seller Provides:  
Conditions:  
Possible Uses:  
Seller Stake in Lnd:  
# Crop Acres:  
# Tillable Acres:

Other - See Remarks

Single Family Development

Addl Site Data:

# Timber Acres:  
# Pasture Acres:

# Wooded Acres:

Financial Information

Cash Only, Conventional

Possible Fin:  
1st Mtg Bal:  
2nd Mtg Bal:  
Tax Info:

Equity:

Town/Cnty Tax: **\$234**  
City/Vil Tax: **\$220**

School Tax: **\$581**

Total Taxes: **\$1,035**

Escrow Agt/Bnk: **BOB HARRIS REALTY,LLC/M&T**

BANK

Assess Val:

**\$23,700**

Orig. List Price: **\$22,000**

Annl Spc Assess: **\$0**  
PriceChg Time:

Display & Occupancy Information

Possession: **At Closing**

Internet: **Yes**

Inet St Addr: **Yes**

IDX: **No**

AVM: **No**

Blq: **Yes**

Realtor.com: **Yes**

MLS#: **R233546**

John P. Gerace

NY Licensed Assoc. R.E. Broker

Realty USA WNY, Inc.

4909 Transit Road Depew, NY 14043

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1	04 - Residual	0	0	0	1510	Land: 3 Rating:
1	01 - Primary	0	12	159	0	Land: 2 Rating:
1	01 - Primary	0	140	180	0	Land: 1 Rating:

### Owner Information

Owner Name	Address 1	Address 2	City/State/Zip
Martin, Jerald E	3854 Pearl Street Rd		Batavia NY 14020

### Exemptions

Code Description	Amount	Exemption %	Start Year	End Year
No Exemptions				

### Special Districts

Code Description	Type	Primary Units	Secondary Units	Amount
No Special Districts				



617.20  
Appendix B

Short Environmental Assessment Form

Instructions for Completing

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: Estate of Adolph Muczek owner / Frederick Muczek Developer Use VARIANCE			
Project Location (describe, and attach a location map): 151 Oak St. BATAVIA NY 14020			
Brief Description of Proposed Action: Use VARIANCE to permit construction of 2 Family Structure			
Name of Applicant or Sponsor: Estate of Adolph Muczek / Frederick Muczek		Telephone: 409-3628	
Address: Estate 8800 Lincoln Circle BATAVIA		E-Mail: Fred 705-0618	
City/PO: BATAVIA		State: NY	Zip Code: 14020
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO	YES
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:		NO	YES
3.a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		.30 acres .05 acres .30 acres	
4. Check all land uses that occur on, adjoining and near the proposed action. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): <input type="checkbox"/> Parkland			



	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations?	<input checked="" type="checkbox"/>		
b. Consistent with the adopted comprehensive plan?		<input checked="" type="checkbox"/>	
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?		NO	YES <input checked="" type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____		NO	YES <input checked="" type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?		NO	YES <input checked="" type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?		<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____		NO	YES <input checked="" type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____		NO	YES <input checked="" type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____		NO	YES <input checked="" type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?		NO	YES <input checked="" type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____		NO	YES <input checked="" type="checkbox"/>
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?		NO	YES <input checked="" type="checkbox"/>
16. Is the project site located in the 100 year flood plain?		NO	YES <input checked="" type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____		NO	YES <input checked="" type="checkbox"/>



18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size:	NO	YES
	X	
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	X	
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	X	

**I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE**

Applicant/sponsor name: Estate of Adolph Nevezek Date: 10/27/16

Signature: Edward S. Hory Lead Manager 10/27/16

**Part 2 - Impact Assessment.** The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing: <div>             a. public / private water supplies?              b. public / private wastewater treatment utilities?           </div>		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.**

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.	
_____ Name of Lead Agency	_____ Date
_____ Print or Type Name of Responsible Officer in Lead Agency	_____ Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from Responsible Officer)

GREGORY W. TOWNSEND  
Licensed Land Surveyor  
435 East Main Street  
Batavia, New York 14020  
Phone (585) 344-1331  
Fax (585) 219-4313

NOTE:  
- All property lines sketched  
per Tax Map dimensions  
- Tie distances to property  
lines are approximate



SKETCH SHOWING PROPOSED HOUSE AND  
DRIVE LOCATIONS FOR 151 OAK STREET  
MRUCZEK PROPERTY  
CITY OF BATAVIA  
COUNTY OF GENESEE  
STATE OF NEW YORK

OCTOBER 18, 2016 SCALE 1" = 30'

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

OAK STREET -- ROUTE 98 (66.0' R.O.W.)

