

**ZONING BOARD OF APPEALS**  
**Thursday, October 24, 2019**

*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 September 26, 2019 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

**Request #1**                      *4 LaCross Avenue*  
Jim Russell, owner

Area Variance:                Place a 10' x 14' one story wood-frame utility shed within the required 3' setback distance; 12" is proposed

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

**Request #2**                      *17 Vine Street*  
Christopher Plath, owner

Area Variance:                Place a 6' tall fence within 15' of the west property line. This property is situated between two municipal right of ways

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

VII. Setting of Next Meeting: November 21, 2019

VIII. Adjournment

**ZONING BOARD OF APPEALS**  
***Draft Minutes***  
**Thursday, September 26, 2019**  
**6:00 pm**  
**Council Board Room**  
**One Batavia City Centre, Batavia, NY**

Members present: *Bill Cox, Deborah Kerr-Rosenbeck, Paul McCarthy, Leslie Moma, Jim Russell*

Members absent: Nick Harris

Others present: Meg Chilano – Recording Secretary, 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 6:00 pm.

**III. Pledge of Allegiance**

**IV. Approval of Minutes**

There were no corrections to the minutes. Mr. McCarthy assumed the motion and the minutes were approved by unanimous consent.

**RESULT: Approval of August 22, 2019 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: widen an existing 29.9' wide Portland cement driveway by adding an additional 5.71' of Portland cement concrete, creating a total driveway width of 35'

Address: *8 Evergreen Dr.*  
Applicant: Donald Childs, owner

- Actions:
1. Review proposal
  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. Ms. Chilano reported that the City of Batavia Planning and Development Committee recommended approval of the proposal.

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

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

**RESULT: Public hearing opened at 6:05 pm.**

Mr. Childs explained that he just purchased the house and the driveway is in poor condition. While he is redoing the driveway, he would like to create a bump-out so that cars can be parked out of the driveway itself. Mr. Childs pointed out that the neighbor is some distance from the driveway. According to him, the neighbor does not have an issue with Mr. Child's widening his driveway.

Mr. Cox asked how many vehicles Mr. Childs has. Mr. Childs answered that he has three vehicles at the moment, but since he has nine children, more vehicles will be added in the future.

There was no one present who wished to speak, and no calls, letters, or email concerning the proposal.

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

**RESULT: Public hearing closed at 6:07 pm.**

Mr. McCarthy noted that the driveway already exceeds the allowable width. Mr. Childs responded that near the street, the driveway is the allowable width, and that it would only exceed the limit near the house where the bump-out would be located.

Mr. McCarthy said that he believes 35' will create a parking lot. If the entire driveway is made 29' wide, it will allow for sufficient parking.

Mr. Cox and Ms. Kerr-Rosenbeck indicated that they have no objection to the proposal. Mr. Cox said that as long as the neighbor does not have an issue with the proposed width, he does not have a problem with it. Ms. Kerr-Rosenbeck said that an additional 6' will not create a significant impact.

Ms. Moma asked if the neighbor had indicated any desire for a buffer, and Mr. Child's answered no.

Mr. Russell said that he is concerned about setting a precedent for driveways in the front yard. Mr. Cox pointed out that the ZBA is responsible for reviewing one case at a time according to its unique situation.

Mr. Randall added that the cases would have to be exactly the same in order for a precedent to be set.

### 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: possibly
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. Cox moved to approve the variance with a 60-day time limit to obtain the permit. The motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was denied 2-3-0.

Votes in favor: 2 (Bill Cox, Deborah Kerr-Rosenbeck)

Votes opposed: 3 (Leslie Moma, Paul McCarthy, Jim Russell)

Votes abstained: 0

**RESULT: Disapproval of Area Variance.**

**MOTION:** Ms. Moma moved to approve the variance with the stipulation that the entire driveway is 29'29" wide, with a 60-day time limit to obtain the permit. The motion was seconded by Mr. Russell, and on roll call, was approved 5-0.

**RESULT: Approval of Area Variance.**

B. Area Variance: placement of an 8' tall fence parallel to the northwest property line and returning to the dwelling

Address: 5 Walnut St.

Applicant: Erik Saluste, 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 Genesee County Planning Board recommended approval of the project.

#### 2. Public Hearing and Discussion

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

**RESULT: Public hearing opened at 6:20 pm.**

Mr. Saluste told the board that the current fence is falling down and he would like to replace it with a vinyl fence. The reason for the additional height is the neighbors. The property next door is a rental which is not well-cared for, and the neighbors disturb his privacy and throw things over the fence. Mr. Saluste wishes to provide privacy for the use of his pool.

Mr. Cox asked Mr. Randall if the reason for establishing the limit on the height of fences at 6' is explained in the Code. Mr. Randall said it is not. He pointed out that a possible consideration is ventilation and light, depending on how closely the fence runs along the neighboring house.

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

**RESULT: Public hearing closed at 6:23 pm.**

Mr. Russell said that while he generally is not supportive of 8' tall fences, he is sympathetic with problems stemming from bad tenants.

### **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: no
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

**MOTION:** Mr. Russell moved to approve the variance, with a 60-day time limit to obtain the permit. The motion was seconded by Mr. Cox, and on roll call, was approved 5-0.

**RESULT: Approval of Area Variance.**

C.                    Area Variance: construction of a 12' x 24.5' one story wood frame addition to an existing attached garage. A portion of the addition will be located within the required front yard clear space

Address:            *217 South Main St.*

Applicant:        Tim Stoddard, contractor for 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 Genesee County Planning Board recommended approval of the project.

### **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 5-0.

**RESULT: Public hearing opened at 6:31 pm.**

Mr. Stoddard explained that the garage can accommodate a single vehicle at present. He intends to build a bay to create a two-car garage. He noted that the addition will be sided, and it will look like every other property in the neighborhood.

Mr. Russell asked if the driveway is wide enough to accommodate the addition, and Mr. Stoddard answered that it is.

There was no one present who wished to speak, and no calls, letters, or email concerning the proposal.

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

**RESULT: Public hearing closed at 6:33 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 with 60 days to obtain the permit. The motion was seconded by Ms. Moma, and on roll call, was approved 5-0.

**RESULT: Area Variance approved.**

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

### **VIII. Setting of Next Meeting: October 24, 2019**

### **IX. Adjournment**

Mr. McCarthy moved to adjourn the meeting at 6:35 pm; Ms. Kerr-Rosenbeck seconded. All voted in favor.

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Meg Chilano  
Recording Secretary



## GENESEE COUNTY PLANNING BOARD REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID **C-20-BAT-10-19**  
Review Date **10/10/2019**

Municipality  
Board Name  
Applicant's Name  
Referral Type  
Variance(s)  
Description:

**BATAVIA, C.**

**ZONING BOARD OF APPEALS**

**Jim Russell**

**Area Variance(s)**

**Area Variance to place a 140 sq. ft. (10 x 14 ft.) shed on an existing concrete pad for a single-family home.**

**Lot Line Setback**  
**Minimum required: 3 ft.**  
**Existing garage: 1.1 ft.**  
**Proposed shed: 1 ft.**

Location  
Zoning District

**4 La Crosse Ave., Batavia**

**Residential (R-2) District**

### PLANNING BOARD DECISION

#### APPROVAL

#### EXPLANATION:

Given that the garage is also similarly setback from the property line, the proposed variance should pose no significant county-wide or inter-community impact.

Director

October 10, 2019

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.

**As mandated by State Law, this form must be completed and filed within 30 days after Final Action by the local agency.**



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**-NOTICE OF FINAL ACTION-  
ZONING REFERRALS**

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PURSUANT TO SECTIONS 239 l, m and n OF GENERAL MUNICIPAL LAW

Date : \_\_\_\_\_

Reference : G.C.D.P. Referral Number : \_\_\_\_\_

Applicant : \_\_\_\_\_  
\_\_\_\_\_

☐ AGREEMENT with County Planning Board recommendations.

☐ OVERRULED County Planning Board recommendations.

Is a copy of the resolution attached?      YES      ☐      NO      ☐

If not, please list the substance of the resolution below.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of the Referring Official

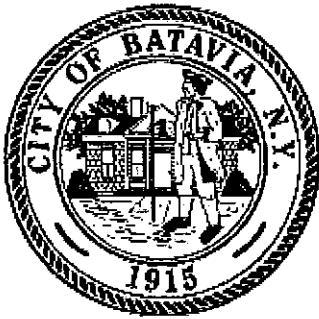
\_\_\_\_\_  
Representing Board

Article 12B, Sections 239 l, m and n of the General Municipal Law requires the County Planning Board to review all zoning matters as specified by that resolution. It also provides that a recommendation of the County Planning Board may be overruled by the local referring agency. The local referring agency must pass a resolution expressing the reason for such action by a majority plus one vote of its membership. Article 12B also requires that the local municipal agency file a report of its final action informing the County Planning Board of what action the local agency took.

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Please return this form within 30 days of your final action to:  
GENESEE COUNTY DEPARTMENT OF PLANNING  
3837 West Main Street Road  
Batavia, New York 14020-9404

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*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  
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 9/26/19

Re: 4 La Crosse Ave.  
Tax Parcel No. 84.024-1-67

Zoning Use District: R-2

The applicant, Jim Russell (owner), has filed an application to permit placement of a 10' x 14' one story, wood frame utility shed within the required 3' set back distance. 12" is proposed.

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

**Review and Approval Procedures:**

**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 a state road or highway.

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

Required variances- Area

- 1) **BMC Sec. 190-35 D. Accessory buildings may not be located less than 3 feet from any lot line.**

SEND OR DELIVER TO:  
GENESEE COUNTY DEPARTMENT OF PLANNING  
3837 West Main Street Road  
Batavia, NY 14020-9404  
Phone: (585) 815-7901

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 - 6327 Ext. \_\_\_\_\_

**2. APPLICANT INFORMATION**

Name Jim Russell

Address 4 La Crosse

City, State, Zip Batavia, NY 14020

Phone (585) 202 - 7025 Ext. \_\_\_\_\_ Email rusfire4@outlook.com

MUNICIPALITY: ☒ City ☐ Town ☐ Village of Batavia

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

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

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

- Subdivision Proposal  
☐ Preliminary  
☐ Final

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

A. Full Address 4 La Crosse

B. Nearest intersecting road Montclair

C. Tax Map Parcel Number 84.024-1-67

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

E. Present zoning district(s) R-2

**5. REFERRAL CASE INFORMATION:**

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

☒ NO ☐ YES If yes, give date and action taken \_\_\_\_\_

B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law  
BMC 190-35 D.

C. Please describe the nature of this request Approval to place a 10' x 14' utility shed within the 3' set back

**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

**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 drrandall@batavianewyork.com

PAID

SEP 27 2019

CITY OF BATAVIA  
CLERK-TREASURER

# CITY OF BATAVIA

## APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 19-19

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

APPLICANT:

Jim Russell rustfire4@outlook.com  
 Name E-Mail Address  
4 LaCross Ave (585) 202-7025 N/A  
 Street Address Phone Fax  
Batavia NY 14020  
 City State Zip

STATUS:

☒ Owner ☐ Agent for Owner ☐ Contractor

OWNER:

Jim Russell rustfire4@outlook.com  
 Name E-Mail Address  
4 LaCross Ave 585-202-7025 N/A  
 Street Address Phone Fax  
Batavia NY 14020  
 City State Zip

LOCATION OF PROPERTY: Same as above

DETAILED DESCRIPTION OF REQUEST:

To place a 10x14 wood frame shed  
on the existing 10'6x14' concrete pad at the  
rear of the garage. I need a area variance from  
the property line 12"

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.

Applicant's Signature

Date

Owner's Signature

Date

To be Filled out by Zoning Officer

TAX PARCEL:

84.024-1-67

ZONING DISTRICT:

R-2

FLOOD PLAIN:

C

TYPE OF APPEAL:

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

FEE:

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

Provision(s) of the Zoning Ordinance Appealed:

190-35 D Accessory bldgs may  
not be located less than 3 feet from any lot line.

## 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 undesirable change
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 reasonable Alternative Cure. The Shed will be placed on the concrete slab where the old Shed was
3. **Substantiality.** The requested area variance is not substantial. 1'4"
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.  
There will ~~not~~ not be any adverse effect.
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. The existing concrete is in this Location and the New Shed is built to fit on the concrete pad.

Jim Russell  
Applicant's Signature

09-03-2019  
Date

DATE: 9/25/2019APPLICANT NAME & PHONE: Jim Russell (585) 202 7025**Project Location and Information**

Permit #:

Fee:

Address of Project: 4 La Cross Ave Batavia NY 14020Owner & Address: 4 La Cross Ave Batavia N.Y. - 14020Phone: (585) 344-0261**Project Type/Describe Work**Estimated cost of work: \$6611.54Start date: ASAP

Describe project:

Replace Place a new Haritag Structures Storage Shed  
on an existing concrete pad 10'6" Long X 14' wide  
The new shed is 10' long X 14' wide

**Contractor Information** – Insurance certificates (liability & workers comp) required being on file**GENERAL**Name/Address: N/A

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

**PLUMBING** (City of Batavia Licensed Plumber Required)Name/Address: N/A

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

**HEATING**Name/Address: N/A

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

**ELECTRICAL** (Third Party Electrical Inspection Required)Name/Address: N/A

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

**FOR OFFICE USE ONLY**

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

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

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

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

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

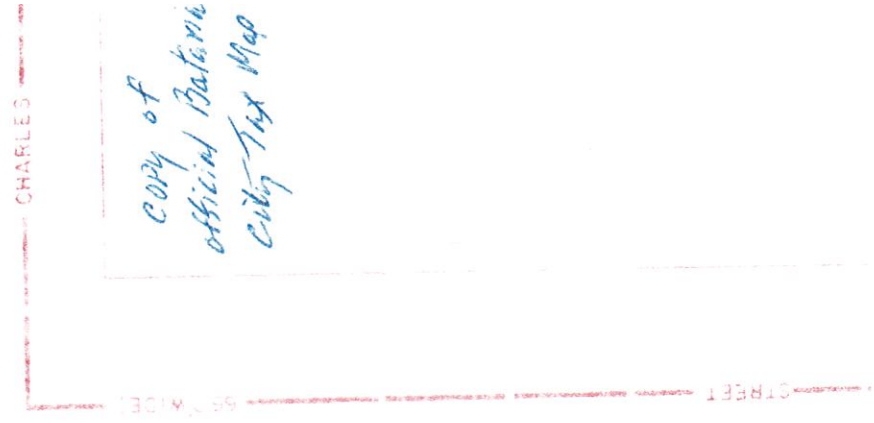




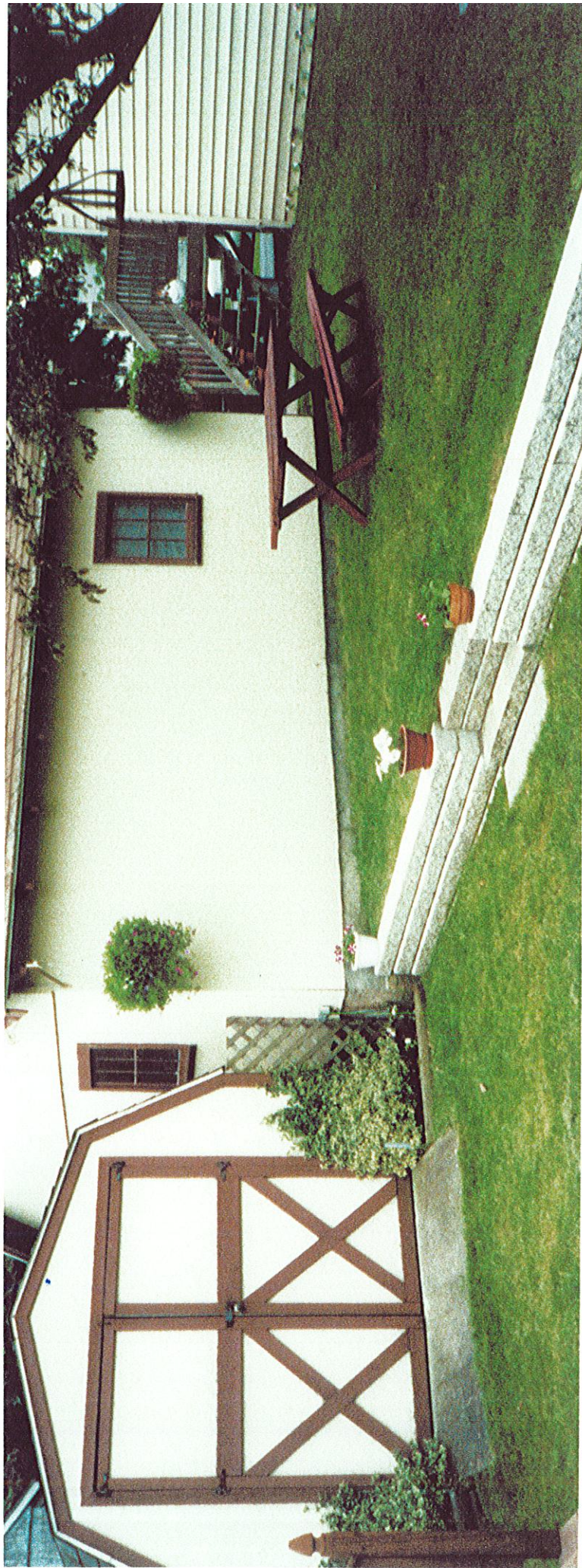


North Lyon Street

La Crosse Avenue



Old Shed



RD ZHANG,  
YI JIAN & NY RONG HU  
LIBER 683, PAGE 101

~~(SLOH)~~

STANLEY  
ROOM 1125

3018  
Blacktop  
Drive

6

9474



924

50

RD BRANCH  
LIBER 298, P.

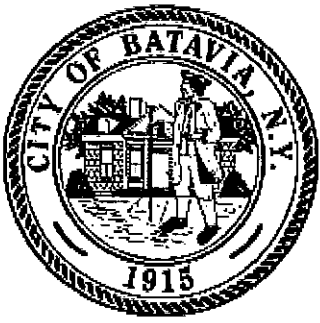
THOMAS ALICE SOURCES

PARCEL SUR  
CONTAINING  
LIBER 44. PAGE

5th ed  
14' x 10

5  
N. 5

25



*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: 9/26/19  
Re: 17 Vine St.  
Tax Parcel No. 84.051-1-47

Zoning Use District: R-2

The applicant, Christopher Plath (owner), has filed an application to place a 6' tall fence within fifteen feet of the west property line. This property is situated between two municipal right of ways.

**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:**

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

Required variances- Area

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



CITY OF BATAVIA  
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 19-18  
Hearing Date/Time: \_\_\_\_\_

APPLICANT: CHRISTOPHER PLATH CHRS. PLATH@GMAIL.COM  
Name 17 VINE ST. E-Mail Address 585-201-0313  
Street Address \_\_\_\_\_ Phone \_\_\_\_\_  
City BATAVIA State NY Zip \_\_\_\_\_

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

OWNER: \_\_\_\_\_  
Name \_\_\_\_\_ E-Mail Address \_\_\_\_\_  
Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

LOCATION OF PROPERTY: 17 VINE ST. BATAVIA

DETAILED DESCRIPTION OF REQUEST: RESIDENTIAL HOME

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.

Christopher H. Plath 9/13/19  
Applicant's Signature Date

Owner's Signature \_\_\_\_\_ Date \_\_\_\_\_

To be Filled out by Zoning Officer

TAX PARCEL: 84.051-1-47 ZONING DISTRICT: R-2 FLOOD PLAIN: C

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

Provision(s) of the Zoning Ordinance Appealed: BMC 190-33 D. Fences located within 15' of a property line abutting a street may not exceed 3' in height in Residential districts.

## 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.  
NONE - EVERYBODY ON STREET HAS 6FT HIGH FENCES ALREADY
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. NO - ALREADY HAVE A 6FT FENCE
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.  
NONE
5. **Not Self-Created.** The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title. N/A

Christopher H. Plank  
Applicant's Signature

9/13/19  
Date

DATE: 9/5/19APPLICANT NAME & PHONE: CHRISTOPHER H. PLATH 585-201-0313**Project Location and Information**

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

Fee: \_\_\_\_\_

Address of Project: 17 VINE ST. BATAVIAOwner & Address: CHRISTOPHER & MELISSA PLATH 17 VINE ST.Phone: 585-201-0313**Project Type/Describe Work**Estimated cost of work: \$2800Start date: 9/6/2019

Describe project:

REPLACE REAR AND SIDE BACKYARD FENCE**Contractor Information** – Insurance certificates (liability & workers comp) required being on file

OK

**GENERAL**Name/Address: HQS FENCE

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

**PLUMBING** (City of Batavia Licensed Plumber Required)

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

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

**HEATING**

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

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

**ELECTRICAL** (Third Party Electrical Inspection Required)

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

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

**FOR OFFICE USE ONLY**Zoning District: R-2 Flood Zone: NO Corner Lot: NO Historic District/Landmark: NO

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

National Grid Sign Off (Pools): N/A Lot Size: 39 x 150Existing Use: 1 family NYS Building Code Occupancy Class: \_\_\_\_\_Proposed Use: same NYS Building Code Occupancy Class: \_\_\_\_\_

SCALE 1" = 20'

*GOFF*

NEW DECK

GMAC MORTGAGE CORP., ITS SUCCESSORS &/OR ASSIGNS; MONROE TITLE INSURANCE CO.  
THE SPATORICO LAW FIRM RAE MARIE MAZURKIEWICZ BABCOCK & BABCOCK, ATTS.

I, GEORGE L. MILLER, DUTY LICENSED IN THE STATE OF NEW YORK, U.S. NO. 04688, HEREBY CERTIFY TO THOSE PARTIES LISTED BELOW THAT THIS IS AN INSTRUMENT SURVEY PREPARED IN ACCORDANCE WITH THE MINIMUM STANDARDS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS.  
DATE 4-17-2001

NEW FENCE

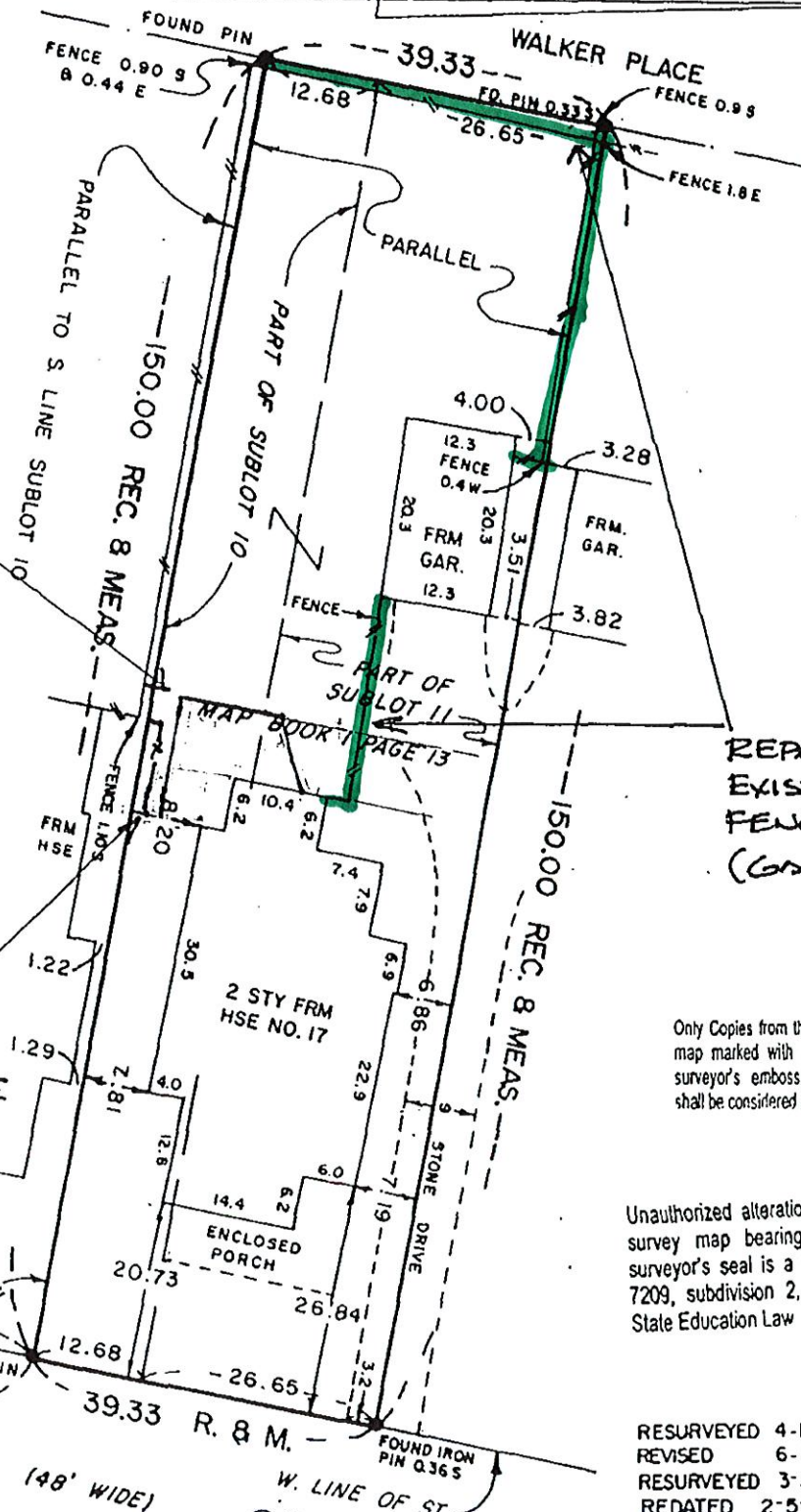
572.87 R & M. TO N'LY LINE MAIN ST.  
40.32 TO SE CORNER SUBLOT 10  
FOUND PIN

VINE

(48' WIDE)

STREET

PART OF LOT \_\_\_\_\_ SEC \_\_\_\_\_  
TWP. \_\_\_\_\_ RGE. \_\_\_\_\_  
VILLAGE OF \_\_\_\_\_  
CITY OF BATAVIA  
COUNTY OF GENESEE N.Y.  
PART OF VILLAGE LOT 36



REPAIR EXISTING FENCE (GATES)

Only Copies from the original of this survey map marked with an original of the land surveyor's embossed seal and signature shall be considered to be valid true copies

Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7209, subdivision 2, of the New York State Education Law

RESURVEYED 4-17-01  
REVISED 6-2-95  
RESURVEYED 3-28-94  
REDATED 2-5-90  
OTTNEY & MILLER, L.S.P.C.  
25 BUFFALO STREET  
AKRON, N. Y. 14001  
716-542-5764  
DATE 4-27-87  
FB # 47-50 JOB # 5856



Walker Place