

# **ZONING BOARD OF APPEALS**

**Thursday, August 27, 2015**

*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 23, 2015 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Request

*101 Naramore Drive*

Tim Johnson, owner

Area Variance: Construction of an in-ground swimming pool in the west side yard of the corner lot property

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

- VII. Setting of Next Meeting: September 24, 2015
- VIII. Adjournment

# **ZONING BOARD OF APPEALS**

## ***Minutes***

**Thursday, June 25, 2015**

***6:00 pm***

**Council Board Room**

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

Members present: *Jeffrey Gillard, Lee Hyatt, Paul McCarthy*

Members absent: William Hayes, Sandra Licata

Others present: Doug Randall - Code Enforcement Officer, Janice Smith - Recording Secretary

### **I. Roll Call**

Roll call of the members was conducted. Three members were present and Chairman Gillard declared a quorum.

### **II. Call to Order**

Mr. Gillard called the meeting to order at 6:01 pm.

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

### **IV. Approval of Minutes from June 25, 2015 Meeting**

**MOTION:** Mr. Hyatt moved to approve the minutes; the motion was seconded by Mr. McCarthy, and on roll call, was approved 3-0.

**Result: Approval of June 25, 2015 minutes.**

### **V. Zoning Board of Appeals statement**

Mr. Gillard explained the role of the Zoning Board of Appeals and the procedures it follows.

### **VI. Variance Request**

Placement of a 4' tall, metal wire and T-post fence within the required 15' set back along the west property line

Address: *1 Prospect Avenue*

Applicant: Frank Zinni, owner

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

### **1. Review Application**

Acting Vice Chairman Hyatt read the proposal summary for the board.

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

Mr. Gillard opened the public hearing at 6:06 pm. Mr. Gillard closed the public hearing at 6:06 pm.

Mr. Zinni said that the tenant has small children and because the yard slopes away to the west, a fence would provide some security. According to Mr. Zinni, the fence should not interfere with any line of sight.

Mr. Gillard asked if it would be possible to run the fence from the corner of the house rather than the corner of the porch. He pointed out that it would square off the yard and make it easier to mow the grass. Mr. Zinni suggested that having the fence go up to the porch may be safer because it would prevent the children jumping off the porch.

Mr. Gillard reported that the Genesee County Planning Board recommended approval.

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

Mr. Gillard 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 application as written, with 60 days to obtain the permit. The motion was seconded by Mr. Hyatt, and on roll call, was approved 3-0.

**Result: Approval of Area Variance**

## **VII. New Business**

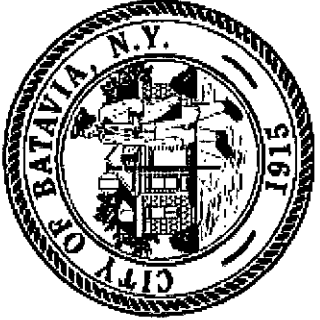
## **VIII. Setting of Next Meeting: August 27, 2015**

## **IX. Adjournment**

Mr. McCarthy moved to adjourn the meeting at 6:15 pm. The motion was seconded by Mr. Gillard. All voted in favor.

---

Meg Chilano  
Bureau of Inspection Clerk



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

---

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

To: Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 7/29/15

Re: 101 Naramore Dr.  
Tax Parcel No.

Zoning Use District: R-1

The applicant, Tim Johnson (owner), has applied for a permit to construct an in-ground swimming pool in the west side yard of the corner lot 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) (10).**

**Review and Approval Procedures:**

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

Required variances- Area

- 1) **BMC 190-35 D. Swimming pools may not occupy any space except a rear yard.**



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

Application No.: 15-10  
Hearing Date/Time: \_\_\_\_\_

**APPLICANT:**

Jim Johnson  
Name \_\_\_\_\_ E-Mail Address \_\_\_\_\_  
101 Macamre 85-297-6532  
Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
Batavia NY 14020  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**STATUS:**

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

**OWNER:**

Jim Johnson  
Name \_\_\_\_\_ E-Mail Address \_\_\_\_\_  
101 Macamre Drive  
Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
Batavia NY 14020  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

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

**DETAILED DESCRIPTION OF REQUEST:** would like to put a pool behind house  
live on a corner lot so I would like variances back  
area is already paved in

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 7.27.15

**Owner's Signature**

\_\_\_\_\_  
Date 7.27.15

*To be Filled out by Zoning Officer*

**TAX PARCEL:** 85.005-1-11 **ZONING DISTRICT:** R-1 **FLOOD PLAIN:** No

**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 190-35 D  
Swimming pools may not occupy any space  
except the rear yard.



## 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 area will be used in way that will be

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 live on corner lot large area already fenced in

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

Like Post To Go 15' well within boundaries + is large enough and 15 already fenced in with privacy 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.

No all Powerlines checked ok underground with the same professionally and using Dig Safety.com for underground lines.

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 just want a pool

  
Applicant's Signature

7.27.15

Date

## CITY OF BATAVIA

## BUILDING PERMIT APPLICATION

DATE: 7-22-16APPLICANT NAME & PHONE: Jim Johnson 585-297-6532Project Location and Information

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

Address of Project: 101 Noramore Drive Batavia NY 14020  
Owner & Address: 101 Noramore Drive Batavia NY 14020  
Phone: 585-297-6532

Project Type/Describe WorkEstimated cost of work: 30,000Start date: 8-19-2015 Estimated

Describe project:

in ground Pool with Concrete DeckContractor Information – Insurance certificates (liability & workers comp) required being on fileGENERAL

Name/Address: ALBION POOL CO. 3557 DRAKE ST LD OAKFIELD  
Phone: (585) 721-3780 NY. 14125

PLUMBING (City of Batavia Licensed Plumber Required)

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

HEATING

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

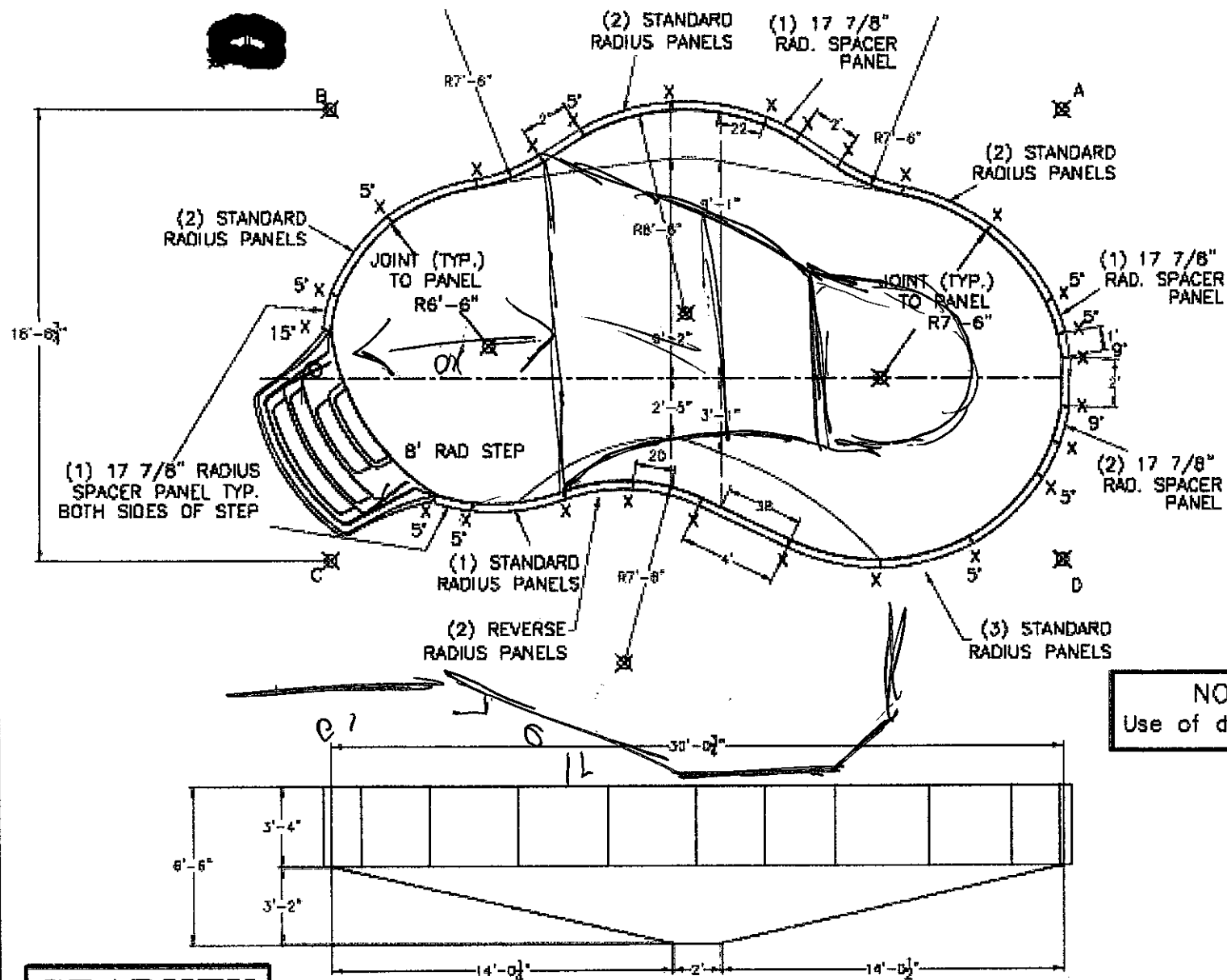
ELECTRICAL (Third Party Electrical Inspection Required)

Name/Address: Empire Inspections LLC Tim Endrey  
Phone: 585-1798-1844

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: \_\_\_\_\_

Technical drawing of a trapezoidal structure. The top width is 6'-6". The bottom width is 3'-4". The total height is 15'. The structure is divided into two main sections: a left section with a height of 11' and a right section with a height of 2'. The right section is a trapezoid with a top width of 6'-6" and a bottom width of 3'-4". The left section is a rectangle with a height of 11' and a width of 3'-4".



NON-DIVING POOL  
Use of diving equipment prohibited

# GRAPHEX

15' x 30' OMNI RIGHT

AREA: 401 PERIMETER: 78'-2"

DRAWING #03-720



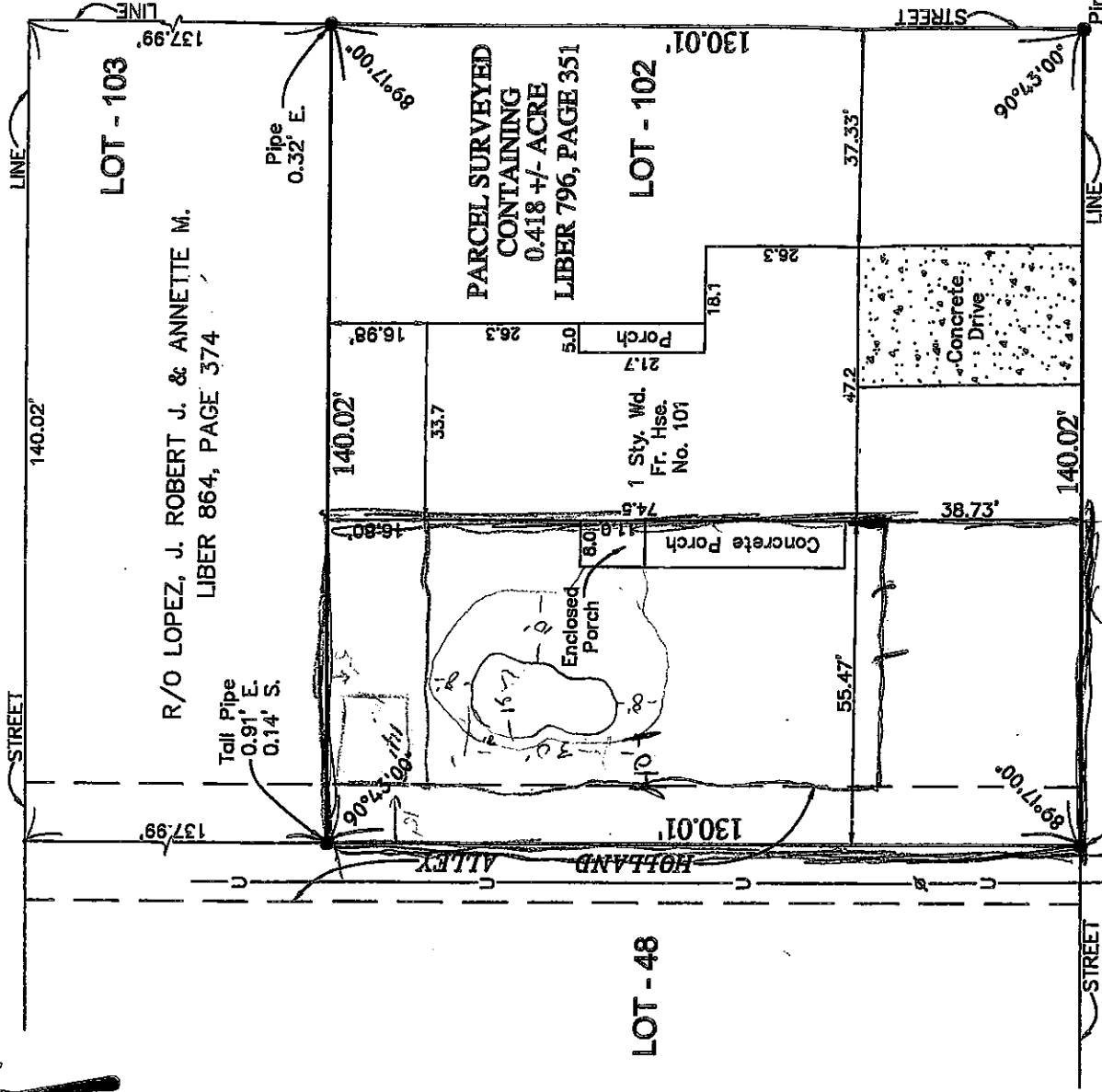






DAVID S. LAMENDOLA  
GREGORY W. TOWNSEND  
Licensed Land Surveyors  
435 East Main Street  
Batavia, New York 14020  
Phone (585) 344-1331  
Fax (585) 349-2691

# NORTH POINTE DRIVE



(66.0' R.O.W.)

NARAMORE DRIVE

R/O CHURCH OF LATTER-DAY SAINTS  
LIBER 470, PAGE 32

LOT - 48

LOT - 103

R/O LOPEZ, J. ROBERT J. & ANNETTE M.  
LIBER 864, PAGE 374

LOT - 102

PARCEL SURVEYED  
CONTAINING  
0.418 +/- ACRE  
LIBER 796, PAGE 351

## NORTH STREET (66.0' R.O.W.)

- LEGEND
- EXISTING IRON STAKE
- UTILITY POLE
- U- OVERHEAD UTILITY LINES

### REFERENCES

CLINTON GARDENS PART 10 FILED AS MAP 922,  
BOOK 13 PAGE 40  
SURVEY MAP NO. 01-68 BY DAVID S. LAMENDOLA, L.S.,  
DATED APRIL 17, 2001  
EASEMENTS TO NIAGARA MOHAWK POWER CORP. AND  
NEW YORK TELEPHONE CO. AT LIBER 412, PAGE 917

11/22/11  
272  
189

"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  
SURVEYING ADOPTED BY THE NEW YORK STATE  
ASSOCIATION OF PROFESSIONAL LAND SURVEYORS.  
SAID CERTIFICATION OF PRACTICE RUN ONLY FOR 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 NO. 50 AND PART OF THE  
HOLLAND ALLEY BETWEEN LOTS 48 AND  
50, DISTINGUISHED AS SUBDIVISION LOT  
102 OF THE CLINTON GARDENS, PART 10  
SUBDIVISION. SITUATE IN THE CITY OF  
BATAVIA, COUNTY OF GENESEE AND STATE  
OF NEW YORK

MAY 3, 2011

SCALE 1" = 30'

JOB NO. 11-94

05/04/11 David S. Lamendola

DATE

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