

ZONING BOARD OF APPEALS

Thursday, October 22, 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 September 24, 2015 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

Request #1 *9 Holmes Avenue*

Brian Hale, owner

Area Variance: Placement of 40 lin. ft. of 8' tall wooden fence on this property, parallel to the west property line

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

VII. Setting of Next Meeting: November 19, 2015

VIII. Adjournment

ZONING BOARD OF APPEALS

Minutes

Thursday, September 24, 2015

6:00 pm

Council Board Room

One Batavia City Centre, Batavia, NY

Members present: *Jeffrey Gillard, Sandra Licata, Paul McCarthy*

Others present: Meg Chilano - 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 6:00 pm.

III. Pledge of Allegiance

IV. Approval of Minutes

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

Result: Approval of August 27, 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 Requests

- A. Relocate the front entrance stairs from the east elevation of the front porch to the south (front) elevation of the porch in a location that is within the front yard clear space

Address: *509 Ellicott Street*

Applicant: Nicholas Salvador, owner

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

1. Review Application

Dr. Licata, acting as Vice Chair, read the proposal summary for the board.

2. Public Hearing and Discussion

Mr. Gillard opened the public hearing at 6:02 pm. There were no calls or correspondence and no one present who wished to speak. Mr. Gillard closed the public hearing at 6:03 pm.

Mr. Salvador explained that he wants to move the stairs. Mr. McCarthy asked if he planned to extend the steps. Mr. Salvador answered no, and then added that he just wants to square off the steps.

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: Dr. Licata moved to approve the application with 60 days to obtain the permit. The motion was seconded by Mr. Gillard, and on roll call, was approved 3-0.

Result: Approval of Area Variance

- B. Construction of a three season room on the rear of this one family dwelling. A portion of the addition is proposed to be located within the west side yard clear space

Address: *18 Fisher Park*

Applicant: Bill Fox, contractor for the owner

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

1. Review Application

Dr. Licata read the summary of the proposal.

2. Public Hearing and Discussion

Mr. Gillard opened the public hearing at 6:05 pm. There were no calls or correspondence and no one present who wished to speak. Mr. Gillard closed the public hearing at 6:06 pm.

Mr. Fox told the board that the homeowner wishes to keep the addition in line with the house which is 4 ¾" into the setback.

Mr. Gillard asked if the addition will be the same size as the porch and Mr. Fox replied that it will.

Mr. Gillard asked if the roof will be underneath the overhang from the upstairs. Mr. Fox answered that the window and little roof above it will be coming out, and an egress window will be installed.

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

Result: Approval of Area Variance

- C. Construction of a 6' x 6' wood frame entry deck with stairs and rails on the southwest corner of this one family dwelling. The proposed construction will be located within the front yard clear space

Address: *30 Washington Avenue*

Applicant: Timothy Stoddard, contractor for the owner

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

1. Review Application

Dr. Licata read the summary of the proposal.

2. Public Hearing and Discussion

Mr. Gillard opened the public hearing at 6:08 pm. There were no calls or correspondence and no one present who wished to speak. Mr. Gillard closed the public hearing at 6:09 pm.

Mr. Stoddard said that the current steps have shifted and the railing is ruined. His intention is to construct a new entrance.

Mr. Gillard asked if the door is going to be installed where the window is currently located. Mr. Stoddard responded that it is.

Mr. Gillard asked if the deck will be squared off with the back and side of the house. Mr. Stoddard stated that it will.

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: Dr. Licata moved to approve the application with 60 days to obtain the permit. The motion was seconded by Mr. Gillard, and on roll call, was approved 3-0.

Result: Approval of Area Variance

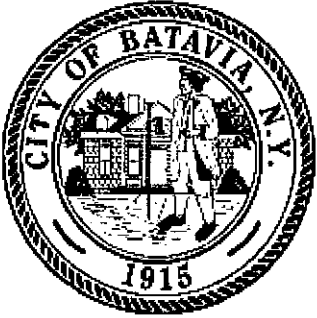
VII. New Business: none

VIII. Setting of Next Meeting: October 22, 2015

IX. Adjournment

Dr. Licata moved to adjourn the meeting at 6:12 pm; Mr. Gillard seconded. 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: 9/24/15
Re: 9 Holmes Ave.
Tax Parcel No. 84.012-3-14

Zoning Use District: R-1

The applicant, Brian D. Hale (owner), has applied for a permit to place 40 lin. ft. of 8' tall wooden fence on this property, parallel to the west property line.

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

Review and Approval Procedures:

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

Required variances- Area

- 1) BMC 190-33 D. Fences may not exceed 6' in height within residential districts. The proposed fence exceeds that height by 2'

15-18



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: _____

Hearing Date/Time: _____

APPLICANT: BRIAN D. HALE

vhale@rochester.rr.com

Name

E-Mail Address

9 HOLMES AVE.

(585) 356-7795

Street Address

Phone

Fax

BATAVIA

N.Y.

14020

City

State

Zip

STATUS: ☒ Owner

☐ Agent for Owner

☐ Contractor

OWNER: BRIAN D. HALE

vhale@rochester.rr.com

Name

E-Mail Address

9 HOLMES AVE.

(585) 356-7795

Street Address

Phone

Fax

BATAVIA

N.Y.

14020

City

State

Zip

LOCATION OF PROPERTY: 9 HOLMES AVE BATAVIA, N.Y.

DETAILED DESCRIPTION OF REQUEST: REQUESTING 40' OF 8' HIGH

TREATED WOOD PANEL FENCE. TOOK OUT 3 LARGE PINES
TREES + WOULD LIKE TO REPLACE WITH 8' HIGH PRIVACY
FENCE.

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.

Brian D. Hale

Applicant's Signature

9-15-15

Date

Brian D. Hale

9-15-15

Date

Owner's Signature

PAID

OCT 16 2015

**CITY OF BATAVIA
CLERK-TREASURER**

To be Filled out by Zoning Officer

TAX PARCEL: 84.012-3-14

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 190-33 D. Fences may not
exceed 6' 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.
The neighbors agree that the fence will be a positive addition.
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.
Removed 3 very large pine trees that were a danger to the house + neighbors if they uprooted
3. **Substantiality.** The requested area variance is not substantial.
N/A - The area is in our back yard within our property line
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.
See #1 above - the neighbors agree to the installation of the fence.
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 - The fence proposal is a simple wood panel fence.

Brian D. Hale
Applicant's Signature

9-15-15
Date

DATE: 9-15-15APPLICANT NAME & PHONE: BRIAN D. HALE (585) 356-7795**Project Location and Information**

Permit #: _____ Fee: _____

Address of Project: 9 HOLMES AVE BATAVIA, N.Y.Owner & Address: BRIAN D. HALE 9 HOLMES AVE BATAVIA, N.Y.Phone: (585) 356-7795**Project Type/Describe Work**Estimated cost of work: \$1,400 Start date: _____

Describe project:

40' OF 8' HIGH TREATED WOOD PANEL FENCE.**Contractor Information** – Insurance certificates (liability & workers comp) required being on file

OK

GENERALName/Address: H+S FENCE CO. PO BOX 437 BATAVIA, N.Y. 14021-0437Phone: DAN HUNT 343-6631**PLUMBING** (City of Batavia Licensed Plumber Required)

Name/Address: _____

Phone: _____

HEATING

Name/Address: _____

Phone: _____

ELECTRICAL (Third Party Electrical Inspection Required)

Name/Address: _____

Phone: _____

FOR OFFICE USE ONLY

Zoning District: _____ Flood Zone: _____ Corner Lot: _____ Historic District/Landmark: _____

Zoning Review: _____ Variance Required: _____ Site Plan Review: _____ Other: _____

National Grid Sign Off (Pools): _____ Lot Size: _____

Existing Use: _____ NYS Building Code Occupancy Class: _____

Proposed Use: _____ NYS Building Code Occupancy Class: _____

REQUIRED INSPECTIONS

Contact the Bureau of Inspection at (585) 345-6345 twenty-four (24) hours in advance to schedule all inspections.

IT IS THE RESPONSIBILITY OF THE OWNER AND/OR AGENT TO CONTACT THIS OFFICE & BE PRESENT FOR ALL INSPECTIONS

<input type="checkbox"/> Site	<input type="checkbox"/> Water Service	<input type="checkbox"/> Sewer Service
<input type="checkbox"/> Footing before Placing Concrete	<input type="checkbox"/> Smoke & Carbon Monoxide Detectors	
<input type="checkbox"/> Foundation before backfill		
<input type="checkbox"/> Framing before enclosing (After mechanical inspection)		
<input type="checkbox"/> Electrical before enclosing (Third Party Electrical Inspection Agency)		
<input type="checkbox"/> Plumbing before enclosing (City of Batavia Licensed Plumber Required)		
<input type="checkbox"/> Insulation before enclosing	<input type="checkbox"/> Ice/Water Shield	<input type="checkbox"/> Final Completion

In consideration of the granting of the permit hereby petitioned for, the undersigned hereby agrees to: 1) comply with the terms thereof, the laws of the State of New York, the Ordinance of the City of Batavia, and the Regulations of the various departments of the County of Genesee and the State of New York; 2) preserve the established building line; 3) request all the necessary inspections and authorize and provide the means of entry to the premises and building to the Bureau of Inspection, and 4) will not use or permit to be used the structure or structures covered by the permit until sanitary facilities are completely furnished and either a Certificate of Occupancy or Certificate of Completion is issued. The undersigned hereby certifies that all of the information in this petition is correct and true.

Brian D. Hale
Applicant Signature

9-15-15
Date

Roofing Disclaimer - Per the Residential & Building Code of New York State

R907.3 Recovering versus Replacement

New roof coverings shall not be installed without first removing existing roof coverings where any of the following conditions occur:

1. Where the existing roof or roof coverings is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.
2. Where the existing roof covering is wood shake, slate, clay, cement or asbestos-cement tile.
3. Where the existing roof has two or more applications of any type of roof covering.

Exceptions:

1. Complete and separate roofing systems, such as standing-seam metal roof systems, that are designed to transmit the roof loads directly to the building's structural system and that do not rely on existing roofs and roof coverings for support shall not require the removal of existing roof coverings.
2. Metal panel, metal shingle, and concrete and clay tile roof coverings shall be permitted to be installed over existing wood shake roofs when applied in accordance with Section R907.4.

I, _____ owner and/or agency of the property located at _____ for Building Permit No. _____ have reviewed and understand the requirements of Section 907.3 Recovering versus Replacement.

Applicant Signature

Date

Fence Disclaimer

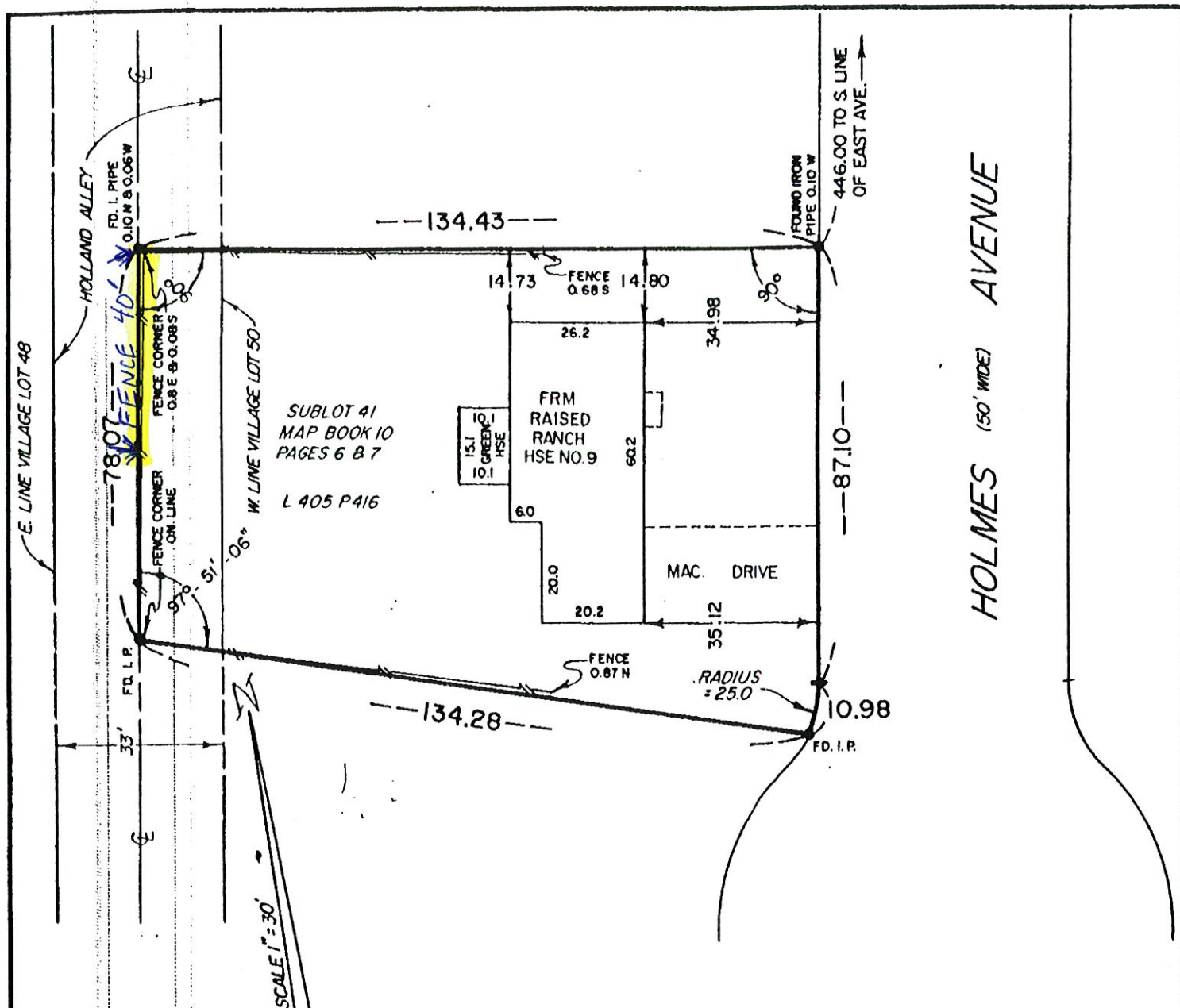
I understand Section 190-33.B Fences, Walls and Hedges of the City of Batavia Zoning Ordinance regulated the installation of fences as follows:

"Fences, hedges and walls in Residential Districts shall not exceed three (3) feet above ground level when located within fifteen (15) feet of the property line abutting any street and shall not exceed six (6) feet above ground level when located elsewhere on the property. However, there shall be no height limit for hedges in rear yards within residential zones. In commercial and Industrial Districts, fences, hedges, and walls shall not exceed eight (8) feet in height unless permitted by a special use permit from the Planning & Development Committee. A fence designed to be structurally supported by posts, cross members or rails on one (1) side only shall be erected with the posts, cross members or rails on the fence owner's side, and the finished side of the fence shall face adjacent properties."

I, Brian D. Hale owner and/or agent of the property located at 9 HOLMES AVE. for Permit No. _____ understand that this permit is issued based on information supplied by owner/agent and that the City of Batavia accepts no responsibility for inaccurate documentation or information supplied to secure the permit.

Brian D. Hale
Applicant Signature

9-15-15
Date



Post-It™ brand fax transmittal memo 7671

of pages 1

To	DAN RYBAK	From	TERRI
Co.		Co.	OTTNEY & MILLER
Dept.		Phone #	
Fax #	343-3092	Fax #	542-5208

PART OF VILLAGE LOT 50

PART OF LOT 8EC

TWP. RGE.

VILLAGE OF

CITY OF BATAVIA

COUNTY OF GENESEE N.Y.

ottney & miller, L.S.P.C.

25 BUFFALO STREET - AKRON, NEW YORK 14001

PHONE: (716) 542-5784

FAX: (716) 542-5208

DATE 4-19-93

REVISED

FB # 71-51 JOB # 9791