

ZONING BOARD OF APPEALS

Thursday, September 22, 2022

6:00 p.m.

Council Board Room

One Batavia City Centre, Batavia NY

AGENDA

- I. Roll Call
- II. Call to Order
- III. Pledge of Allegiance
- IV. Approval of Minutes – 9/22/22
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

A. Area Variance to place one 18’ wide asphalt driveway on the south side and one 18’ wide asphalt driveway on the north side of this parcel. The driveways will service this newly built two family residential building.

Address: 11 Orleans Ave

Applicant: Fred Mruczek (Owner)

Actions:

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

B. Area Variance to widen an existing 21’ wide asphalt driveway by placing 8’ of asphalt to the south side of the existing driveway .

Address: 20 Gateway Drive

Applicant: Joan Maniace (Owner)

Actions:

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

C. Area Variance to demolish a portion of the dwelling and construct a two story addition within the front yard clear space

Address: 149 Jackson Street

Applicant: Michael Pastore (Owner)

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

D. Area Variance to remove an existing two-story front entry porch and construct a wood-frame landing and stairs with canopy at the front entrance of this dwelling .

Address: 14 Olyn Avenue

Applicant: Frank Loncz (Owner)

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

E. Area Variance to construct a 10' x 8' enclosed entry porch on the front elevation of this dwelling. A portion of the new porch will be located within the required front yard clear space

Address: 54 Vernon Avenue

Applicant: Jennifer Turner (Owner)

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

F. Use Variance to permit the continuation of two unapproved dwelling units within this multiple dwelling building

Address: 113 Bank Street

Applicant: Michael Lullo (Agent for owner)

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

G. Use Variance to permit the continuation of two unapproved dwelling units within this multiple dwelling building

Address: 117 Bank Street

Applicant: Michael Lullo (Agent for owner)

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

VII. Setting of Next Meeting: October 27, 2022

VIII. Adjournment

ZONING BOARD OF APPEALS

DRAFT MINUTES

July 28, 2022

6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

Members present: *Jeff Gillard, Dave McCarthy, Leslie Moma*

Members absent: *Nick Harris, Jim Russell*

Others present: Doug Randall – Code Enforcement Officer
Lauren Donovan – Recording Secretary

I. Roll Call

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

II. Call to Order

Mr. McCarthy called the meeting to order at 6:21 p.m.

III. Pledge of Allegiance

IV. Previous Meeting Minutes

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

RESULT: Approval of June 23, 2022 meeting minutes.

V. Zoning Board of Appeals Statement

VI. Variance Request

A. Widen an existing 23' wide asphalt driveway by placing 12' of loose stone to the south side of the existing driveway.

Address: 49-51 Oak St.

Applicant: Terry Speed (owner)

Actions:

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

1. Review Application

Mr. McCarthy moved to remove the application from being tabled. The motion was seconded by Ms. Moma, and on roll call, was approved 3-0.

2. Public Hearing and Discussion

The board members agreed upon the recommendation set forth from the Planning and Development committee of; the extension to be designed as a turn-around and not a parking place. The dimensions are to be a maximum of 10' wide x 18' long. The length is to be parallel with the street and the width is to be centered within the yard. In addition to the recommendation, the committee agreed upon the stipulation of having the turnaround consist of blacktop in order to match the current blacktop driveway at the residence.

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 set forth from the Planning and Development Committee with the stipulation of the area must be paved and with 60 days to obtain the permit. The motion was seconded by Ms. Moma, and on roll call, was approved 3-0.

RESULT: Area Variance approved.

- B. Place an 18' x 26' one story, wood frame shed in the south side yard of this property.

Address: 9 Hyde Pk

Applicant: Aaron Schultz (owner)

Actions:

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

1. **Review Application**

Mr. Gillard, read the summary of the proposal.

2. **Public Hearing and Discussion**

MOTION: Mr. McCarthy moved to open the public hearing; the motion was seconded by Ms. Moma, and on roll call, was approved 3-0.

RESULT: Public hearing opened at 6:34 pm.

Applicant was not present for the variance. Application tabled until next meeting.

MOTION: Mr. McCarthy moved to close the public hearing; the motion was seconded by Ms. Moma, and on roll call, was approved 3-0.

RESULT: Public hearing closed at 6:34 pm.

3. **Action by the Board**

MOTION: Mr. McCarthy moved to table the application. The motion was seconded by Ms. Moma, and on roll call, was approved 3-0.

RESULT: Application tabled until next meeting.

- C. Reconfigure the front entry stairs to this dwelling. The stairs will be located within the front yard clear space.

Address: 15 Columbia Ave

Applicant: Edward Hackett (owner)

Actions:

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

1. **Review Application**

Mr. Gillard, read the summary of the proposal. Mr. Hackett spoke regarding the project.

2. **Public Hearing and Discussion**

MOTION: Mr. McCarthy moved to open the public hearing; the motion was seconded by Ms. Moma, and on roll call, was approved 3-0.

RESULT: Public hearing opened at 6:36 pm.

Mr. Hackett stated that his property is on a small lot. The front steps to the porch are deteriorating which is resulting in a safety hazard. He would like to redo the steps and install a proper railing that is to code.

There were no calls, letters, or email concerning the proposal.

MOTION: Mr. McCarthy moved to close the public hearing; the motion was seconded by Mr. Harris, and on roll call, was approved 3-0.

RESULT: Public hearing closed at 6:39 pm.

The committee agreed that while the house is on a small lot to begin with, the stairs won't come out much further and it is a safety issue that needs to be addressed.

3. Action by the Board

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

- Undesirable change in neighborhood character: no
- Alternative cure sought: no
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

MOTION: Ms. Moma moved to approve the variance with 60 days to obtain the permit. The motion was seconded by Mr. McCarthy, and on roll call, was approved 3-0.

RESULT: Area variance approved

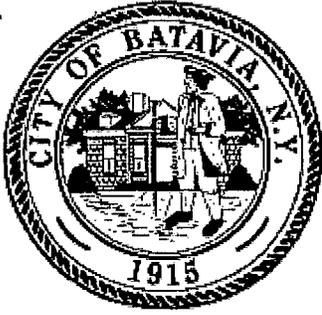
VII. Setting of Next Meeting

August 25, 2022

VIII. Adjournment

Mr. McCarthy adjourned the meeting at 6:41 p.m.

Lauren Donovan
Recording Secretary



City of Batavia
Department of Public Works
Bureau of Inspections

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

To: Planning and Development Committee
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 8/1/22

Re: 11 Orleans Ave.
Tax Parcel No. 84.047-1-5.11

Zoning Use District: R-2

The applicant, Fred Mruczek (owner), has applied for a permit to place one 18' wide asphalt driveway on the south side and one 18' wide asphalt driveway on the north side of this parcel. The driveways will service this newly built two family residential building.

Note: This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (13).

Review and Approval Procedures:

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

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

Required variances- Area

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

	<u>Permitted</u>	<u>Proposed</u>	<u>Difference</u>
Driveway width	26.66' (25%)	36' (34%)	9.34' (9%)



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

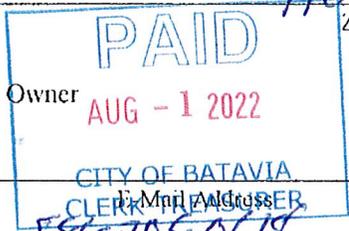
Application No.: 22-7

Hearing Date/Time: _____

APPLICANT: Fred Mruczek F.MRUCZEK@GMAIL.COM
Name E-Mail Address
1 VALE DR 585-705-0678
Street Address Phone Fax
BATAVIA NY 14020
City State Zip

STATUS: Owner Agent for Owner Contractor

OWNER: FRED MRUCZEK
Name E-Mail Address
1 VALE DR 585-705-0678
Street Address Phone Fax
BATAVIA NY 14020
City State Zip



LOCATION OF PROPERTY: 11 ORLEANS AV.

DETAILED DESCRIPTION OF REQUEST: INCREASING THE DRIVEWAYS width
from 13'4" to 18'

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 Fred Mruczek Date July 26 2022
Owner's Signature Fred Mruczek Date July 26 2022

To be Filled out by Zoning Officer

TAX PARCEL: 84,047-1-5.11 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: BMC 190-39 E (1) driveways ad parking
spaces in front yards shall not exceed 1/4 of the lot frontage.

Criteria to Support Area Variance

In making its determination, the zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, moral, aesthetics and welfare of the neighborhood or community. The Zoning Board of Appeals shall consider the following test, as per §81-b of the General City Law when making its determination:

Explain how the proposal conforms to EACH of the following requirements:

1. Undesirable Change in neighborhood Character. The granting of the variance will not produce an undesirable change in the neighborhood or a detriment to nearby properties.

NO

2. Alternative Cure Sought. There are no other means feasible for the applicant to pursue that would result in the difficulty being avoided or remedied, other than the granting of the area variance.

NO

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

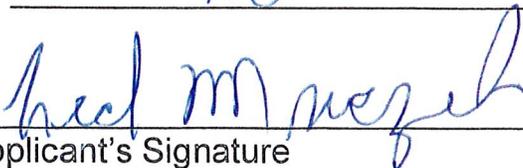
NO

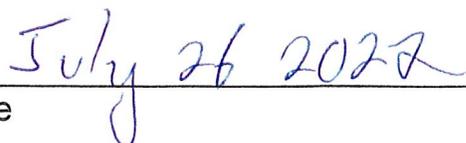
4. Adverse Effect or Impact. The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community.

NO

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

NO


Applicant's Signature


Date



Permit No. _____
Date: _____

DRIVEWAY AND PARKING SPACE PERMIT \$55 fee – Please attach Survey / Illustration

ADDRESS OF PROPERTY: 11 ORLEANS AV

OWNER: FRED MRUCZEK FMRUCZEK@Gmail.com
 Name E-mail Address
2 VANE DR. 585-705-0618
 Street Address Phone
BATAVIA NY 14020
 City State Zip

CONTRACTOR: TBD
 Name E-mail Address
 Street Address Phone
 City State Zip
 Owner/Contractor's Signature Date

DIMENSIONS OF EXISTING DRIVEWAY: Width 13' 4" Length 36' 5"
 DIMENSIONS OF NEW DRIVEWAY / ADDITION: Width 18' Length 36' 5"
 SURFACE MATERIAL: Existing STONE Proposed BLACKTOP

To be filled out by Zoning Enforcement Officer

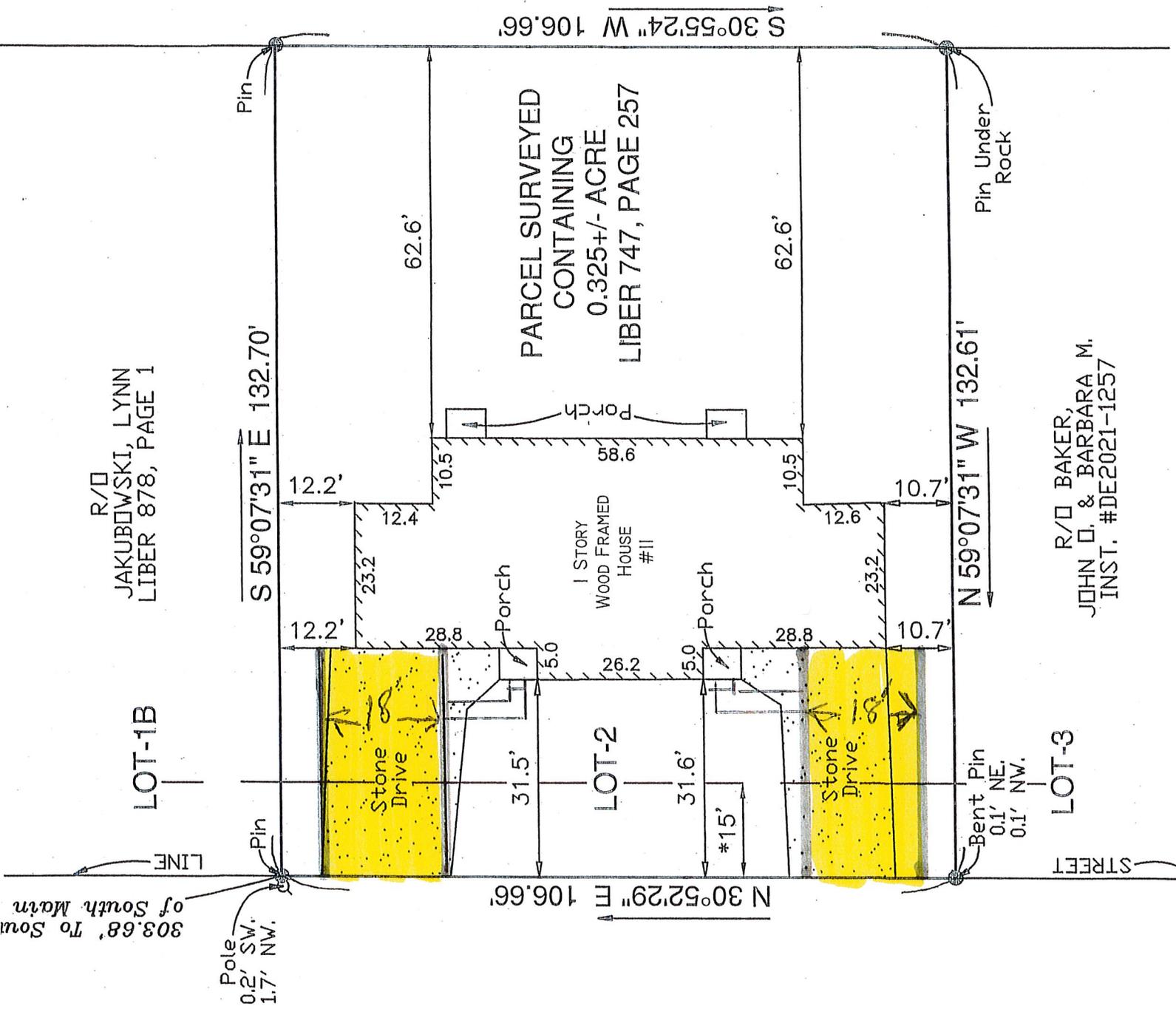
TAX PARCEL: _____ ZONING DISTRICT: _____ SURVEY: _____
 DIMENSIONS OF LOT: Lot Frontage _____ Front Yard _____
 PERCENTAGE OF LOT FRONTAGE: _____ SURFACE MATERIAL: _____
 APPROVED: _____ AREA VARIANCE: _____ GRADE PLAN: _____
 ISSUING OFFICER: _____ DATE: _____



R/D MALTA,
JULIAN JR. & CAROL
INST. #DE2020-1630

R/D
JAKUBOWSKI, LYNN
LIBER 878, PAGE 1

R/D BAKER,
JOHN D. & BARBARA M.
INST. #DE2021-1257



ORLEANS AVENUE (50.0' R.O.W.)

11 ORLEANS HV



11 A~~pt~~ ORLEANS HV



11 B ORLEANS AV

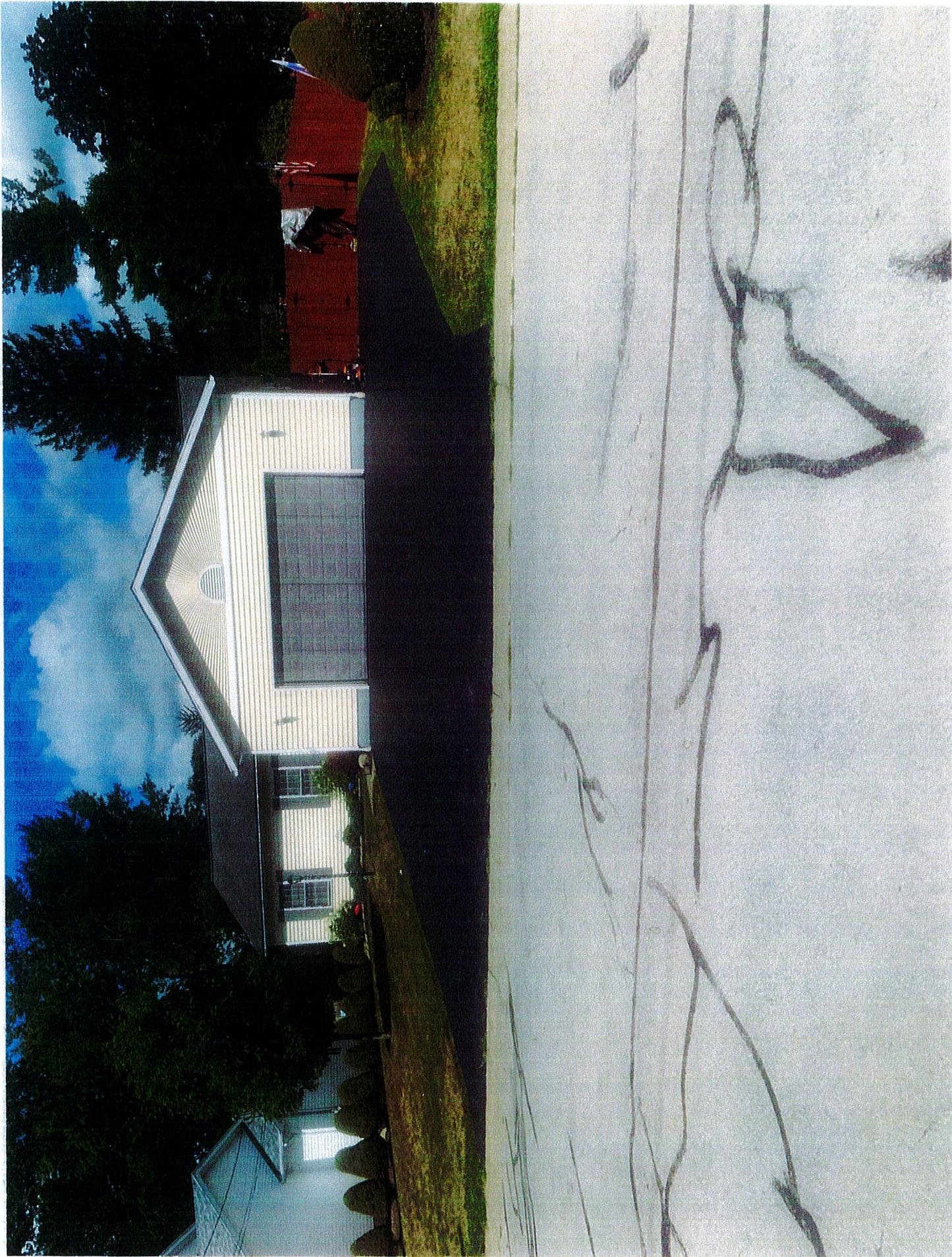


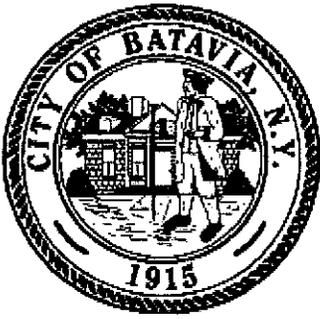
9 ORLEANS

7 ORLEANS AV



12. ~~7~~ ORLEANS AV





City of Batavia
Department of Public Works
Bureau of Inspections

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

To: Planning and Development Committee
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 9/7/22

Re: 20 Gateway Dr.
Tax Parcel No. 71.014-2-13

Zoning Use District: R-1

The applicant, Joan Maniace (owner), has applied for a permit to widen an existing 21' wide asphalt driveway by placing 8' of asphalt to the south side of the existing driveway.

Note: This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (13).

Review and Approval Procedures:

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

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

Required variances- Area

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

	<u>Permitted</u>	<u>Proposed</u>	<u>Difference</u>
Driveway width	21' (25%)	29' (34%)	8' (9%)



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

PAID
AUG 30 2022
CITY OF BATAVIA
CLERK-TREASURER

Application No.: 22-13
Hearing Date/Time: _____

Kimberley Road

APPLICANT: Joan A. Maniace
Name: Joan A. Maniace E-Mail Address: Maniace20@yahoo
Street Address: 20 Gateway Drive Phone: 585-344-1536 Fax: N/A
City: Batavia State: N.Y. Zip: 14020

STATUS: Owner Agent for Owner Contractor

OWNER: Joan A. Maniace
Name: Joan A. Maniace E-Mail Address: Maniace20@yahoo.com
Street Address: 20 Gateway Dr. Phone: 585-344-1536 Fax: _____
City: Batavia State: N.Y. Zip: 14020

LOCATION OF PROPERTY: 20 Gateway Drive

DETAILED DESCRIPTION OF REQUEST: Widening existing driveway
Putting pavement down

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.

Kimberley M. Read 8/25/22
Applicant's Signature Date
Joan A. Maniace 8/25/22
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 71.014-2-13 ZONING DISTRICT: R-1 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: _____

Criteria to Support Area Variance

In making its determination, the zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, moral, aesthetics and welfare of the neighborhood or community. The Zoning Board of Appeals shall consider the following test, as per §81-b of the General City Law when making its determination:

Explain how the proposal conforms to EACH of the following requirements:

1. **Undesirable Change in neighborhood Character.** The granting of the variance will not produce an undesirable change in the neighborhood or a detriment to nearby properties.

NO

2. **Alternative Cure Sought.** There are no other means feasible for the applicant to pursue that would result in the difficulty being avoided or remedied, other than the granting of the area variance. NO

3. **Substantiality.** The requested area variance is not substantial. NO

4. **Adverse Effect or Impact.** The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community.

NO

5. **Not Self-Created.** The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title. NO

Kimberly M. Read
Applicant's Signature

8/25/22
Date



Permit No. _____

Date: _____

DRIVEWAY AND PARKING SPACE PERMIT
\$55 fee – Please attach Survey / Illustration

ADDRESS OF PROPERTY: 20 Gateway Drive

OWNER: Joan A. Mariace Name Mariace20@yahoo E-mail Address

20 Gateway Drive Street Address 585-344-1536 Phone

Batavia City N.Y. State 14020 Zip

CONTRACTOR: _____ Name _____ E-mail Address _____

_____ Street Address _____ Phone _____

_____ City _____ State _____ Zip _____

_____ Owner/Contractor's Signature _____ Date _____

DIMENSIONS OF EXISTING DRIVEWAY: Width 21' Length 34'

DIMENSIONS OF NEW DRIVEWAY / ADDITION: Width 8' Length 34'

SURFACE MATERIAL: Existing asphalt Proposed asphalt

To be filled out by Zoning Enforcement Officer

TAX PARCEL: _____ ZONING DISTRICT: _____ SURVEY: _____

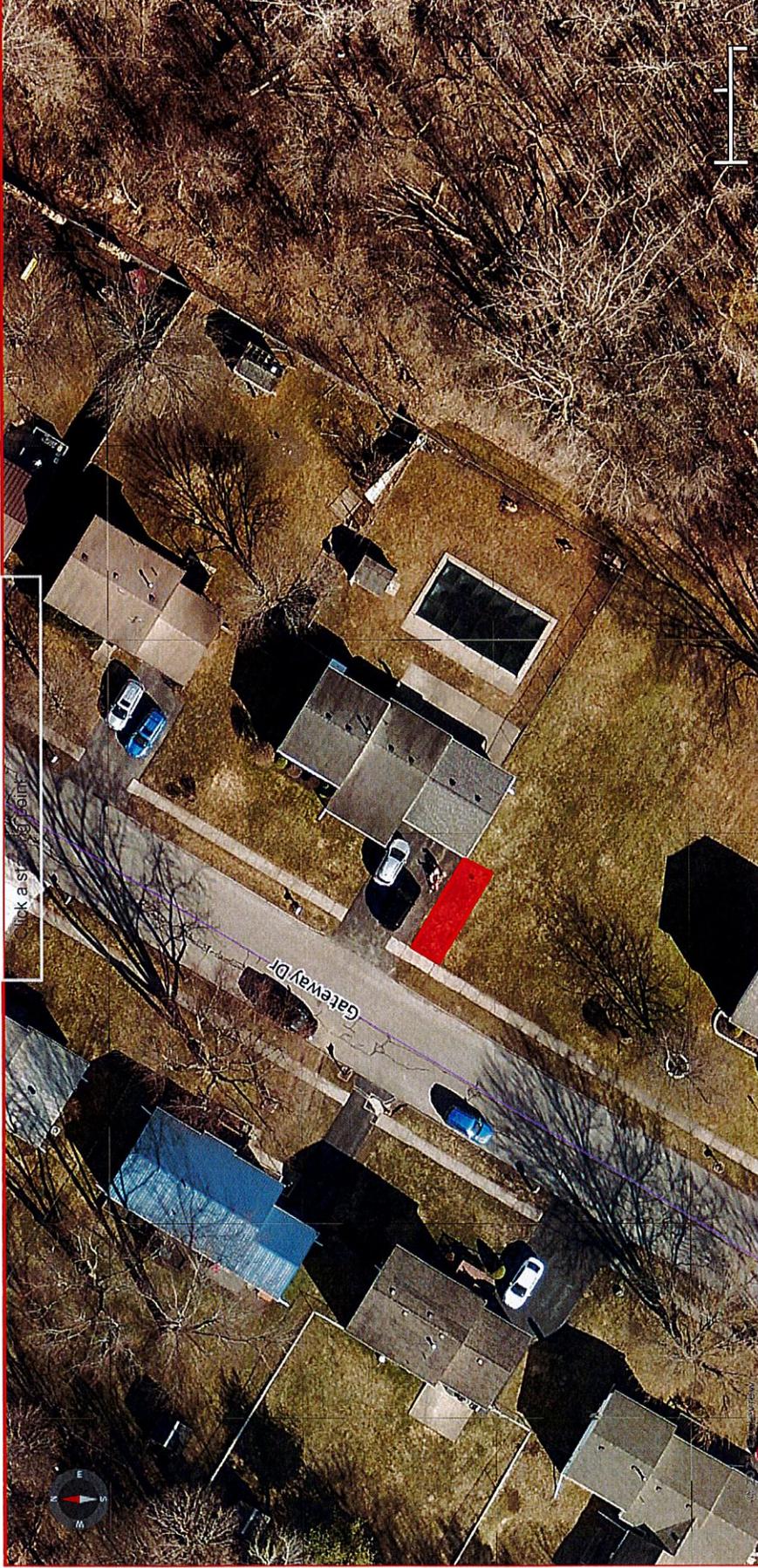
DIMENSIONS OF LOT: Lot Frontage _____ Front Yard _____

PERCENTAGE OF LOT FRONTAGE: _____ SURFACE MATERIAL: _____

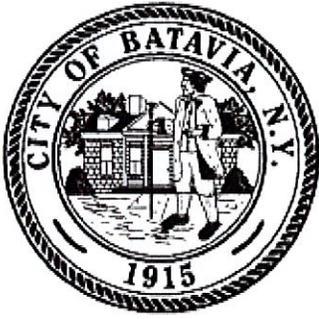
APPROVED: _____ AREA VARIANCE: _____ GRADE PLAN: _____

ISSUING OFFICER: _____ DATE: _____

CONNECTEXPLORER™



map: Auto (Ortho) Dates: All image 1 of 76 03/20/2021



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: 9/7/22
Re: 149 Jackson St.
Tax Parcel No. 84.065-2-28

Zoning Use District: R-2

The applicant, Michael Pastore (owner), has filed an application to demolish a portion of the dwelling and construct a two story addition within the front yard clear space.

Note: On 11/18/21 the ZBA approved this application with the condition that a permit be issued within 6 months (6/18/22). The timeframe of the conditional approval has expired and the applicant has requested approval of this new application.

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) (11).

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 Sec. 190-29 A. and Schedule I

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Difference</u>
Front yard clear space	20'	1.89'	1.5'	18.5'



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

AUG 30 2022

**CITY OF BATAVIA
CLERK-TREASURER**

Application No.: 22-10
Hearing Date/Time: _____

APPLICANT: Michael J. Profore
Name: Michael J. Profore E-Mail Address: profore1@gmail.com
Street Address: 3932 Horn Rd Phone: 585-509-3584
City: Alexander State: N.Y. Zip: 14005

STATUS: Owner Agent for Owner Contractor

OWNER: Genesee Country Properties LLC - Mike Profore
Name: Genesee Country Properties LLC - Mike Profore E-Mail Address: _____
Street Address: 3932 Horn Rd Phone: _____ Fax: _____
City: Alexander State: NY Zip: 14005

LOCATION OF PROPERTY: 149 JACKSON ST

DETAILED DESCRIPTION OF REQUEST: Remove Dilapidated Lower rear addition, Construct New 2 STORY Addition - 22'x36' as per Drawings.

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.

Michael J. Profore Applicant's Signature Date: 8/12/22
Michael J. Profore Owner's Signature Date: 8/12/22

To be Filled out by Zoning Officer

TAX PARCEL: 84.065-2-28 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 190-29 A and Sched. 1
Min. Frontyard Clear space is 20'

Criteria to Support Area Variance

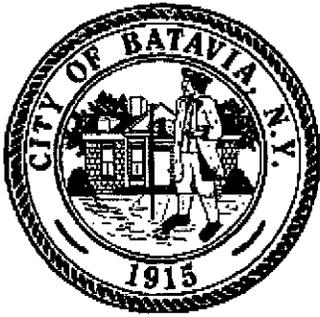
In making its determination, the zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, moral, aesthetics and welfare of the neighborhood or community. The Zoning Board of Appeals shall consider 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.
It will be a desirable change - New siding, windows, Porches.
- 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.
All Plumbing, Bathrooms & Kitchens are in a portion of the house which must be torn down and rebuilt due to structural issues - An old Back Porch was converted to a kitchen and bath.
- 3. Substantiality.** The requested area variance is not substantial.
Proposed addition will be 14' longer in length and will not affect adjacent properties - Has large corner lot
- 4. Adverse Effect or Impact.** The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community.
No,
- 5. Not Self-Created.** The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title.
Home was purchased in current condition.


Applicant's Signature

8/22/22
Date



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: 11/5/21

Re: 149 Jackson St.
Tax Parcel No. 84.065-2-28

Zoning Use District: R-2

The applicant, Michael Pastore (owner), has filed an application to demolish a portion of the dwelling and construct a two story addition within the front yard clear space.

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) (11).

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 Sec. 190-29 A. and Schedule I

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Difference</u>
Front yard clear space	20'	1.89'	1.5'	18.5'



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 21-16
Hearing Date/Time: _____

Genesee Country Residential Services

APPLICANT: Michael Pastora Mike Hardy 009@gmail.com
Name E-Mail Address
3932 Hunn Rd. Alexander NY 14005
Street Address Phone Fax
585-509-3584
City State Zip

STATUS: Owner Agent for Owner Contractor

OWNER: Genesee Country Properties LLC
Name E-Mail Address
3932 Hunn Rd 585-509-3584
Street Address Phone Fax
Alexander N.Y. 14005
City State Zip

LOCATION OF PROPERTY: 149 Jackson St.

DETAILED DESCRIPTION OF REQUEST: Remove 12x30 lower rear structure -
Rebuild 20x30 in same location extending 8' to East with
2nd level - New Foundation - Move Driveway to East -
Blotop Driveway Concrete Pad and Step to City Sidewalk

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.

Michael Pastora 10/27/21
Applicant's Signature Date
Michael Pastora 10/27/21
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.065+2-28 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)

PAID
OCT 28 2021
CITY OF BATAVIA
CLERK-TREASURER

Provision(s) of the Zoning Ordinance Appealed: BMC 190-29 A and Sched. 1
Min. Front yard Clear space is 20'

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 - This would Be a Improvement to the neighborhood -

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

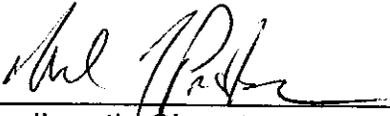
3. **Substantiality.** The requested area variance is not substantial. _____

NO

4. **Adverse Effect or Impact.** The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community.

NO

5. **Not Self-Created.** The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title. NO


Applicant's Signature

10/27/21
Date

DATE: 10/27/21

APPLICANT NAME & PHONE: GCRS - Mike Pistone - 509-3584

Project Location and Information

Permit #: _____ Fee: _____

Address of Project: 149 Jackson St

Owner & Address: Genesee Country Properties - 3932 Hunn Rd. Alexander

Phone: 509-3584

Project Type/Describe Work

Estimated cost of work: 60,000.00

Start date: ~~10/27/21~~ 1/12/22 ?
or sooner

Describe project:

Remove Existing lower addition - Construction of 2 story 32x20
Addition, Raise walls and Roof on North Side to meet Roof
on South Side - a New Rafters, Trusses ETC - to Add Bedroom, Bathroom,
Laundry, Entryway and Stair way to 2nd Level - on Both Sides.
Kitchens -

Contractor Information - Insurance certificates (liability & workers comp) required being on file

GENERAL

Name/Address: GCRS - 3932 Hunn Rd. Alexander, NY 14005

Phone: _____

PLUMBING (City of Batavia Licensed Plumber Required)

Name/Address: Genesee Plumbing

Phone: _____

HEATING

Name/Address: _____

Phone: _____

ELECTRICAL (Third Party Electrical Inspection Required)

Name/Address: Shop GCRS

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: _____

NOTICE OF UTILIZATION OF TRUSS TYPE CONSTRUCTION, PRE-ENGINEERED WOOD CONSTRUCTION AND/OR TIMBER CONSTRUCTION

To: City of Batavia
One Batavia City Centre
Batavia, NY 14020

Owner name: Coenraet Country Properties LLC
(print)

Address: 3932 Ham RE Alex Phone: 509-3584

Subject Property: 149 Jackson Tax number: _____

Please take notice that the (check applicable line):

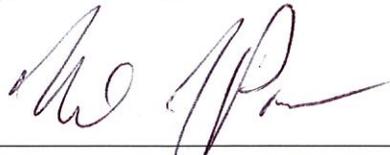
- new residential structure
- addition to existing residential structure
- rehabilitation to existing residential structure

to be constructed or performed at the subject property referenced above will utilize (check each applicable line):

- truss type construction (TT)
- pre-engineered wood construction (PW)
- timber construction (TC)

in the following locations (check applicable line):

- floor framing, including girders and beams (F)
- roof framing (R)
- floor framing and roof framing (FR)

Signature:  Date: 10/27/21

Print name: Michael J. Pastore Circle one: Owner, Owner rep., Contractor

Address: 3932 H Phone: _____
(if other than owner)

149 Jackson St

Cherry Street





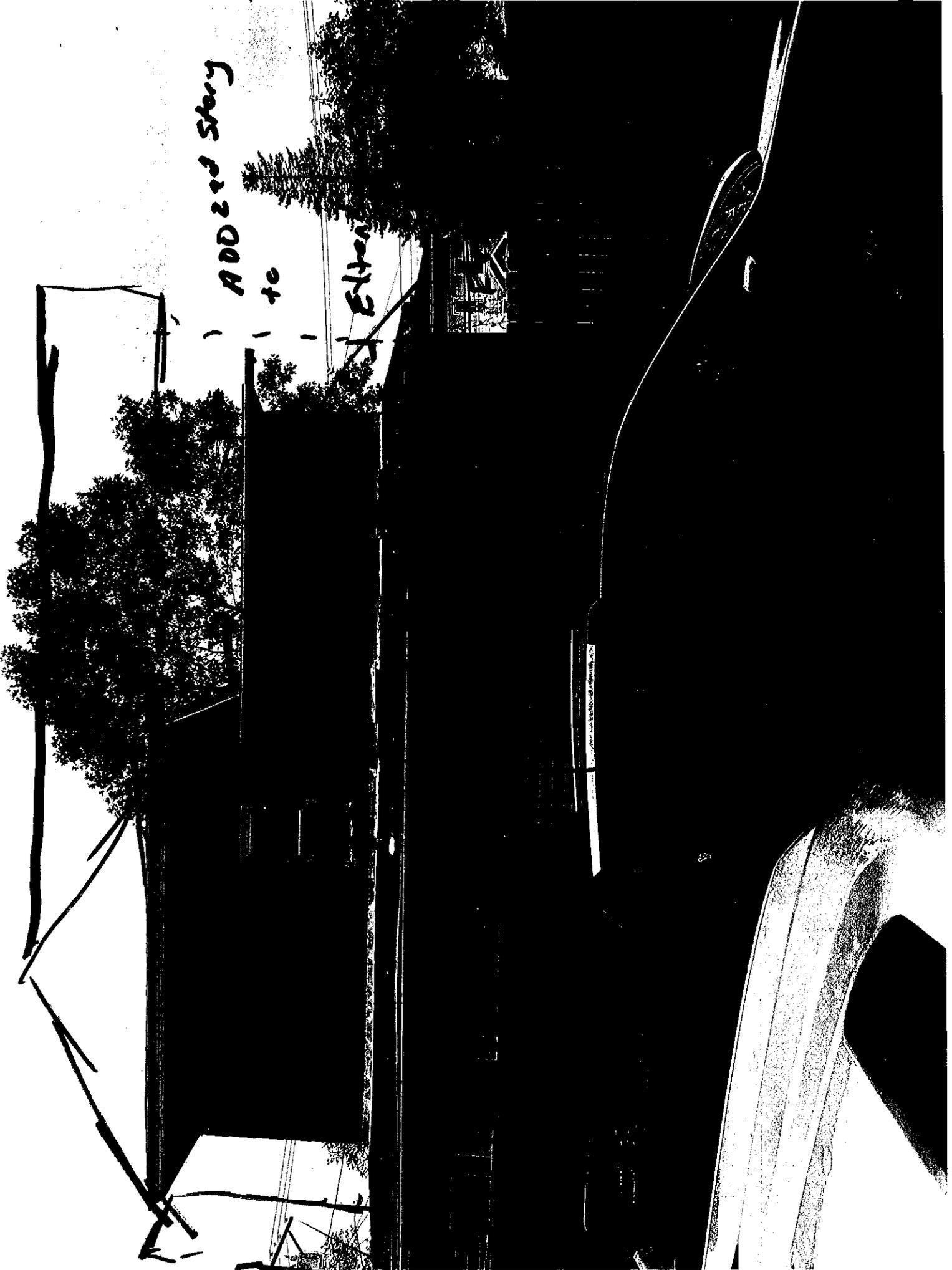
149 Jackson St

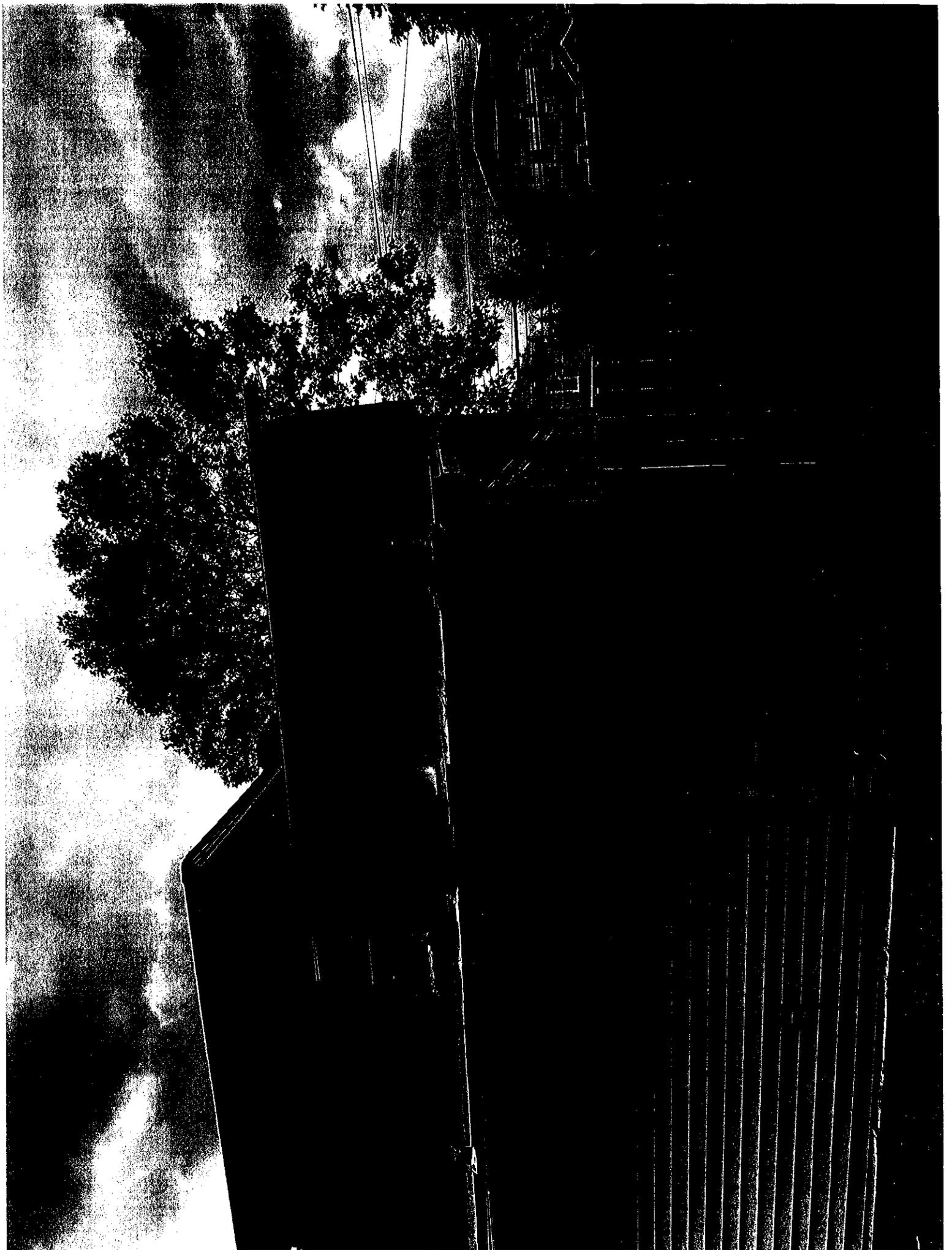
Cherry Street

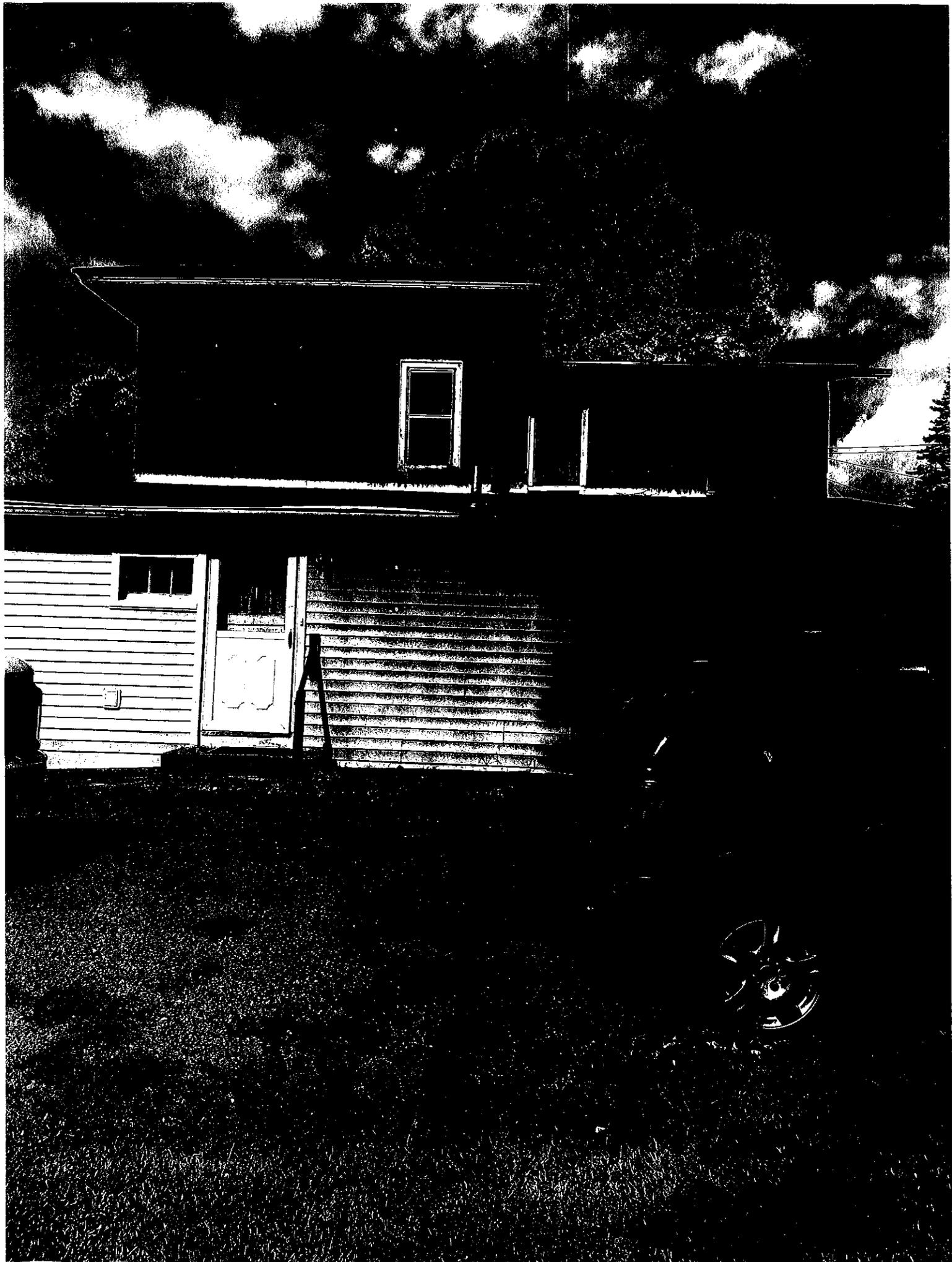
ADD 2nd Story

to

Elton

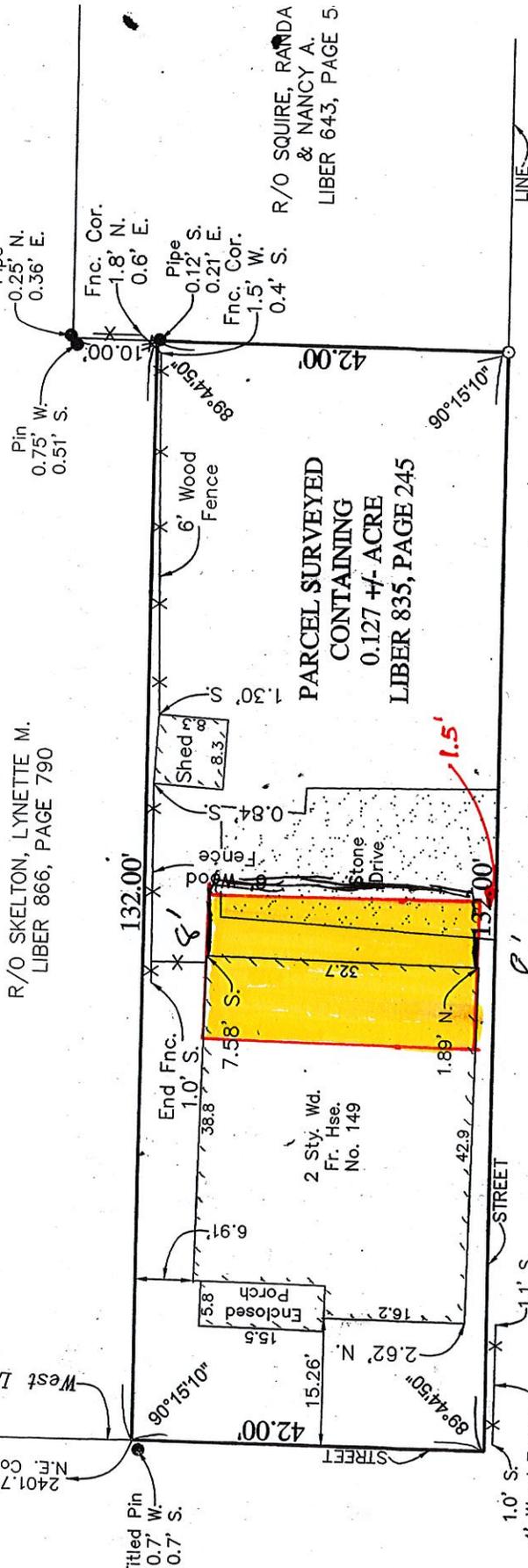






JACKSON STREET (66.0' R.O.W.)

CHERRY STREET (50.0' R.O.W.)



R/O SKELTON, LYNETTE M.
LIBER 866, PAGE 790

R/O SQUIRE, RANDA
& NANCY A.
LIBER 643, PAGE 5.

PARCEL SURVEYED
CONTAINING
0.127 +/- ACRE
LIBER 835, PAGE 245

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

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

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

LEGEND
● EXISTING IRON STAKE
○ SET IRON PIN

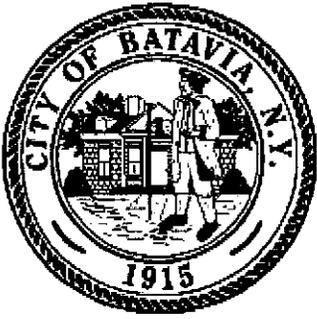
REFERENCE
ABSTRACT OF TITLE NO. BLB-21-10628 BY
INDEPENDENT TITLE AGENCY, LLC

I, GREGORY W. TOWNSEND, CERTIFY TO:
GENESEEE COUNTRY PROPERTIES, LLC
DELPLATO CASEY LAW FIRM, LLP

BOUNDARY SURVEY
TO BE CONVEYED
VILLAGE LOT NO. 2
OF BATAVIA, COUNTY
STATE OF NEW YORK

MAY 26, 2021
JOB 1

06/09/21
DATE



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: 9/7/22
Re: 14 Olyn Ave.
Tax Parcel No. 84.031-3-39

Zoning Use District: R-2

The applicant, Frank Loncz, owner, has applied for a building permit to remove an existing two story front entry porch and construct a wood frame landing and stairs with canopy at the front entrance of this dwelling.

The new construction elements will be located within the front and side yard clear spaces in the same location as the existing porch structure.

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) (12).

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 Sec. 190-29 A. and Schedule I

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Front yard clear space	20'	.61'	20.39'
Side yard clear space	8'	3.80'	4.20'



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

PAID
AUG 30 2022
CITY OF BATAVIA
CLERK-TREASURER

Application No.: 22-11
Hearing Date/Time: _____

APPLICANT: FRANK LONCZ FRANK.LONCZ@GMAIL.COM
Name E-Mail Address
5611 SWEETLAND RD
Street Address
STAFFORD NEW YORK 14143
City State Zip

STATUS: Owner Agent for Owner Contractor

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

LOCATION OF PROPERTY: 14 12 COLYN AVE BATAVIA, NEW YORK

DETAILED DESCRIPTION OF REQUEST: REMOVAL OF EXISTING PORCH and construct new entry stained canopy.

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.

Frank Loncz 8-14-2022
Applicant's Signature Date
Frank Loncz 8-14-2022
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.031-3-39 ZONING DISTRICT: R-2 FLOOD PLAIN: AE
TYPE OF APPEAL: Area Variance FEE: \$50 (One or Two Family Use)
 Use Variance \$100 (All other Uses) (3 Fam)
 Interpretation
 Decision of Planning Committee

Provision(s) of the Zoning Ordinance Appealed: BMC 190-29 A and Schedule 1
20' Front yard clear space is required, 16' is proposed, existing is on line.
8' Side yard clear space is required, 3.80' is proposed.

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.

IT WILL ENHANCE THE AREA NEIGHBORSHIP

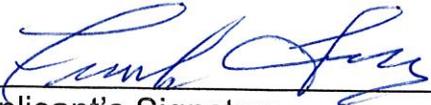
2. **Alternative Cure Sought.** There are no other means feasible for the applicant to pursue that would result in the difficulty being avoided or remedied, other than the granting of the area variance. NO

3. **Substantiality.** The requested area variance is not substantial. NO

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.

LIKE I SAID ABOVE IT WILL BE AN IMPROVEMENT TO THE NEIGHBORHOOD

5. **Not Self-Created.** The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title. NO


Applicant's Signature

8-14-2022
Date



Image capture: Aug 2011 © 2022 Google



14 Olyn Ave

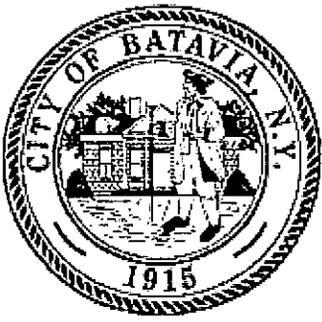
All

Street View & 360°

Batavia, New York

Google

Street View - Aug 2011



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: 5/3/22
Re: 53 Vernon Ave.
Tax Parcel No. 84.023-2-8

Zoning Use District: R-1A

The applicant, Jennifer Turner (owner), has filed an application to construct a 10' x 8' enclosed entry porch on the front elevation of this dwelling. A portion of the new porch will be located within the required front yard clear space.

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) (1).

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 Sec. 190-29 A. and Schedule I

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Front yard clear space	20'	16.86'	3.14'



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 22-2
Hearing Date/Time: _____

APPLICANT: Jim Turner
Name 53 Vernon Ave E-Mail Address Jimturner45039@gmail.com
Street Address Batavia Phone 409-6465 Fax _____
City NY State 14020 Zip

STATUS: Owner Agent for Owner Contractor

OWNER: Jennifer Turner
Name 53 Vernon Ave E-Mail Address Jenturner45039@gmail.com
Street Address Batavia Phone 585-409-6465 Fax _____
City NY State 14020 Zip

LOCATION OF PROPERTY: 53 Vernon Ave

DETAILED DESCRIPTION OF REQUEST: Existing covered entry to be removed & proposed new enclosed entry 10x8 entry stairs & landing on west side of addition

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 4/27/22
Owner's Signature _____ Date 4/27/22

To be Filled out by Zoning Officer

TAX PARCEL: 84.023-2-8 ZONING DISTRICT: R-1A 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: BMC 190-29 and Sched. 1
Frontyard clear space

PAID
APR 29 2022
CITY OF BATAVIA
CLERK-TREASURER

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.

N/A

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.

N/A

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

N/A

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.

N/A

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

Applicant's Signature

4/27/22

Date

DATE: 4/28/22

APPLICANT NAME & PHONE: Jan Turner

Project Location and Information

Permit #: _____ Fee: _____

Address of Project: 53 VERNON AVE

Owner & Address: Jan Turner 53 Vernon Ave

Phone: 409-6465

Project Type/Describe Work

Estimated cost of work: 10,500

Start date: 5/1/22

Describe project: 10x8 enclosed porch

Contractor Information – Insurance certificates (liability & workers comp) required being on file

GENERAL

Name/Address: Thomas Saucka

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: _____ 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: _____

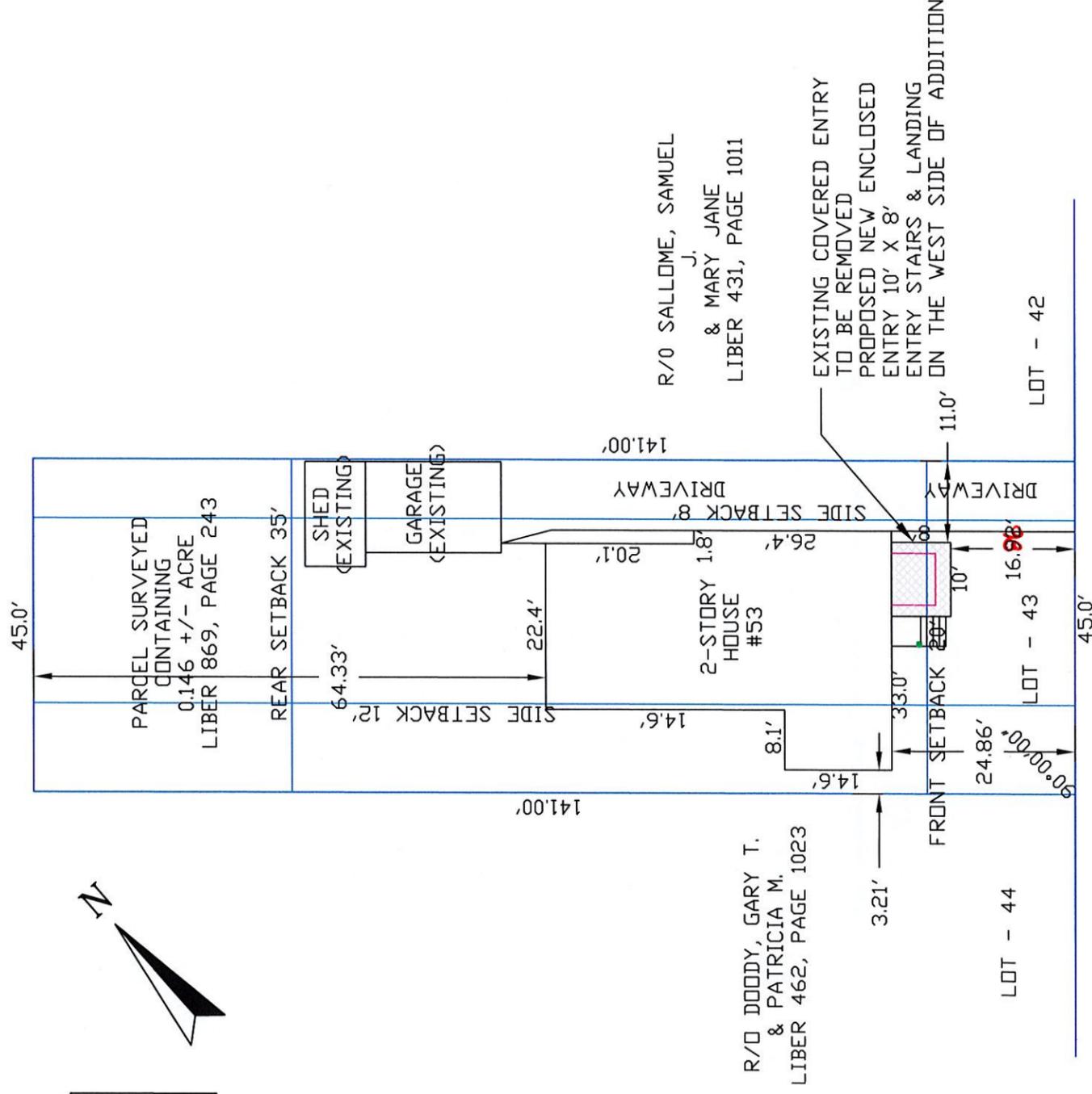
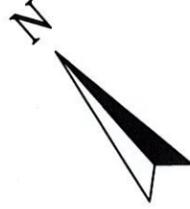
Proposed Use: _____ NYS Building Code Occupancy Class: _____



Land survey provided by:

GREGORY W. TOWNSEND
Licensed Land Surveyor
 115 Washington Avenue
 Batavia, New York 14020
 Phone (585) 344-1331
 Fax (585) 219-4313

JOB NO. 13-117



R/O SALLOME, SAMUEL J.
 & MARY JANE
 LIBER 431, PAGE 1011

R/O DODDY, GARY T.
 & PATRICIA M.
 LIBER 462, PAGE 1023

EXISTING COVERED ENTRY
 TO BE REMOVED
 PROPOSED NEW ENCLOSED
 ENTRY 10' X 8'
 ENTRY STAIRS & LANDING
 ON THE WEST SIDE OF ADDITION

VERNON AVENUE (50.0' R.O.W.)

PROPOSED SITE PLAN

SCALE: 1:20

CITY OF BATAVIA - SITE DATA

1	TAX ID. # 84.023-2-8			
2	ZONING: R-1			
3	PARCEL AREA = +/- .146 ACRES	REQUIRED	PROPOSED	VARIANCE
4	MIN. LOT SIZE (SQ. FT.)	8,000	6,345	NO
5	MIN. FRONTAGE (FEET)	75'	45.0'	N/A
6	SETBACKS FOR ADDITION:			
	FRONT =	20.0'	16.02 96	YES
	SIDE =	8.0'	11'	NO
	SIDE =	12.0'	24'	NO
	REAR =	35.0'	N/A	NO
7	MAXIMUM BUILDING HEIGHT =	35'	27'	NO
8	MAX. LOT COVERAGE	25%	25%	NO

Project Name & Address:

TURNER RESIDENCE
 Chad & Jen Turner
 53 Venon Ave.
 Batavia, NY 14020
 Genesee County

Single Story Entry Addition
 10'-0" X 8'-0" 80 sq. ft.

Engineer:

WW
Structure Solutions
 JAMES C. WALTON, PE
 3950 BATAVIA-ELBA
 TOWN LINE RD.
 OAKFIELD, NY 14125
 716-525-4093
 WWSTRUCTURESOLUTIONS@GMAIL.COM

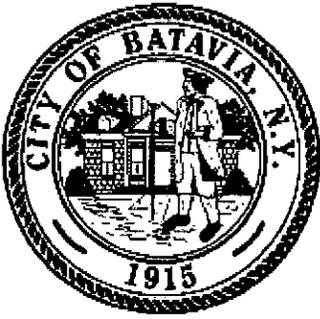
Designer:

DESIGN & DRAFTING
 BY GINA, LLC
 Gina Pestillo,
 Architectural Designer
 8468 Seven Springs Road +1 (585) 469-1113
 Batavia, New York 14020 gpestillo@gmail.com

PROPOSED SITE PLAN

Drawing Name:
 Date: December 2, 2021
 Drawn By: GMP
 Review By:
 Project: 2021.106
 Scale: AS SHOWN
 Sheet:

S-1



City of Batavia
Department of Public Works
Bureau of Inspections

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

To: Planning and Development Committee
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 9/7/22

Re: 113 Bank St.
Tax Parcel No. 84.041-1-14

Zoning Use District: R-2

The applicant, Michael Lullo (agent for the owner), is requesting approval to permit the continuation of two unapproved dwelling units within this multiple dwelling building.

This property is classified as a legal nonconforming use three family dwelling located within the R-2 zoning use district. A Certificate of Occupancy was issued on December 5, 1950 permitting the use of three family dwelling.

Sometime after 12/5/50, the interior spaces of the building were altered to increase the number of dwelling units from three to five.

Review and Approval Procedures:

City Planning and Development Committee- Pursuant to section 190-49 C applications for variances that include non-permitted uses or the extension thereof shall be referred to the City PDC for recommendation prior to submittal to the ZBA.

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

- 1) **BMC 190-36 A(1)** Non-conforming uses shall not be enlarged, altered or changed in area, activity or contents during its continuance.
- 2) **BMC 190-36 D(1)** Non-conforming uses may not be extended. Extensions include an increase in any item that will result in larger parking requirements per 190-39 [BMC 190-39 A(2)(b), 1.5 spaces per dwelling unit is required].
- 3) **BMC 190-36 C(2)** Any portion of a structure that is non-conforming shall not be renovated or structurally altered for a nonconforming use.
- 4) **BMC 190-9 A** Multiple dwellings (three or more dwelling units) are not permitted principal uses within the R-2 residential use district.

The Zoning Board of Appeals will be the lead agency to conduct SEQ. R.



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

AUG 30 2022

CITY OF BATAVIA
CLERK-TREASURER

Application No.: 22-9
Hearing Date/Time: _____

APPLICANT: MICHAEL LULLO - MARATHON REALTY MARATHON@REALTOR.COM
Name 30 CENTER ST E-Mail Address 585-343-8609 585-343-4322
Street Address BATAVIA Phone NY Fax 14020
City State Zip

STATUS: ___ Owner Agent for Owner ___ Contractor

OWNER: HACIENDA MANAGEMENT GROUP, INC
Name P O BOX 48 E-Mail Address _____
Street Address MEDINA Phone _____ Fax 14023
City State Zip

LOCATION OF PROPERTY: 113 BANK ST BATAVIA NY

DETAILED DESCRIPTION OF REQUEST: CONTINUE USE AS A 5 UNIT RESIDENTIAL RENTAL WITH DETACHED GARAGE

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.

Michael R Lullo, AGENT FOR 8/1/2022
Applicant's Signature Date

HACIENDA MANAGEMENT GROUP, INC 8/1/2022
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.041-1-14 **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 190-9 R-2 use district does not include multi-family as permitted use. BMC 190-36 A(1) Non conforming use may not be enlarged, altered or changed in area, activity, or content during its continuance., 190-36 D(1), 190-36 C(2).

- 1. Reasonable Return** - The 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"

Comparative analysis of the actual and pro forma income/expense data of the subject property as a 3 unit vs a 5 unit results in the following conclusions:

- Gross rental income drops from 38,640 to \$24,720
- Expenses stay relatively even
- Net operating income drops from \$36,708 to \$23,484
- Profit drops from \$15,205 to \$5,435
- Estimated market value drops from \$139,500 to \$83,750
- Rate of Return drops from 10.8% to 6.5%

- 2. Unique Hardship** - The inability to yield a reasonable return results from a unique circumstance peculiar to the subject property which does not apply or effect 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 the neighborhood"

Construction and floorplan layout does not contribute to the feasibility of providing smaller, more cost efficient residential units which are more in demand in the current market environment.

- 3. Essential Character of 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 the 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 fixtures, location and dimensions of buildings, any by-products of proposed use such as noise, 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"

Granting the variance will not material effect the existing population density of the immediate neighborhood nor increase vehicle or pedestrian traffic compare to current levels. Numerous multifamily dwellings are in the immediate neighborhood and no increase traffic would result above current levels.

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”

With the historical reduction in family size together with the development of numerous subsidized housing projects, the marketplace has demanded smaller, more cost efficient residential rental units.

Subsidized housing projects that compete for tenants built since present ownership date

Liberty Square
DePaul Housing
Jerome Senior Apartments
Msgr Kirby Apartments
Tonawanda Terrace Apartments
Genesee Park Place Park Road

Subsidized housing projects that compete for tenants built prior to present ownership date

Birchwood Village
Washington Towers
400 Towers

Other competing properties

Manor House
Batavia Meadows West Main St
Big Tree Glen West Main Rd
Woodstock Gardens
Walden Estates
Woodside Meadows
Batavia Gardens
North Spruce Apartments
Park Site Manor Apartments

Additional Comments

Creating an increased number of and accessibility to affordable housing units has been a popular topic for media and politicians for years. Private property owners of small multifamily structures have not benefited from government supported (funded) projects-They literally have had to access their own income sources or savings to pay for repairs, maintenance or upgrades to make their properties to remain financially viable in today's challenging economic climate – A very difficult task at best. Downscaling the size and footprint of residential units into smaller, more efficient and affordable units is the only viable alternative to older and obsolete housing stock.

Michael R. Fullo

Applicant's Signature

8/1/2022

Date

MARATHON REALTY

Provider of Financial Evidence

8/1/2022

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: 113 BANK ST BATAVIA NY

A. PROPERTY DATA

- 1. Date property was purchased by current owner 3/26/2002
- 2. Was a Certificate of Occupancy issued? YES
Date of Issuance? 12/5/1950
If so, for what use(s)? CONVERT FROM 1 FAMILY TO 3 FAMILY DWELLING
If not, why?
- 3. Cost of Purchase \$92,500
- 4. a) Amount of Mortgage — 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? UNDER CONTRACT OF SALE
If so, for how long asking price \$510,000 w/ 117 BANK;
for what use(s) 5 UNIT RESIDENTIAL RENTAL
Have any offers been received
If so, for what amount(s) WITH 117 BANK ST @ 366,000
\$366,000 COMBINED
Summarize any attempts to sell the property LISTED BY APPLICANT VIA MLS
NUMEROUS SHOWINGS; NEGOTIATED CONTRACT
- 6. Present value of property \$366,000 COMBINED w/ 117 BANK
Source(s) FAIR MARKET SALE

B. GROSS ANNUAL INCOME [BASED ON PERMITTED USE(S)]			ACTUAL (AS 5 UNIT)	PROFORMA (AS 3 UNIT)
USE	RENT	INCOME		
1. APT 1 (1A)	685	8220	8220	8220
2. APT 2 (1B)	690	8280	8280	8280
3. APT 3 (1C)	460	5520	5520	—
4. APT 4 (2A)	700	8400	8400	—
5. APT 5 (2B)	685	8220	8220	8220
6.				
7.				
8.				
9.				
10.				
TOTAL RENTAL INCOME		38,640	38,640	24,720
LESS VACANCY FACTOR (Attach explanation if greater than 8%)		1,932		1,236
TOTAL GROSS INCOME		36,708	36,708	23,484

C. ANNUAL EXPENSES

1. Annual Fixed Charges			
Real Estate Taxes (City & County)		4286	4286
Insurance		1680	1680
Average Annual Interest (over next 5 years)		0	0
2. Operating Expenses			
Electric + UTILITIES		3264	3264
Fuel + TRASH		430	430
Water + SEWER		2326	2326
Advertising + MANAGEMENT		4845	2907
Miscellaneous (attach explanation)			
3. Maintenance Expenses (attach list)			
Repairs + 10% RENTS		3864	2472
General Building Maintenance			
Yard and Ground Care + SNOW		808	808
Miscellaneous			
TOTAL ANNUAL EXPENSES		21,503	18,173
Profit or Loss		15,205	5,311

↑
ACTUAL
AS 5 UNIT

↑
PROFORMA
AS 3 UNIT

AS 5 UNIT

AS 3 UNIT

D. TOTAL INVESTMENT

- 1. Down payment..... _____
- 2. Capital Improvements (attach list) _____
- 3. Principal Paid to date (original mortgage less current principal balance)..... _____

TOTAL INVESTMENT (Sum of D1, D2, & D3)	152,500	152,500
---	---------	---------

E. RATE OF RETURN = Profit or Loss

TOTAL INVESTMENT	152,005	5311
	9.97%	3.48%

Michael R Fullo
Signature of Preparer

8/1/2022
Date

REAL ESTATE CONSULTANT
Profession of Preparer

DAVID S. LAMENDOLA
 Licensed Land Surveyor
 206 East Main Street
 Batavia, New York 14020
 Phone (716) 344-1331
 Fax (716) 343-2691

R/O JACKETT, GARY
 & ANNA MARIE
 LIBER 658, PAGE 38

R/O CAPWELL, THOMAS J.
 LIBER 531, PAGE 66

R/O SHEA, RICHARD H.
 & WAYNE E.
 LIBER 470, PAGE 399

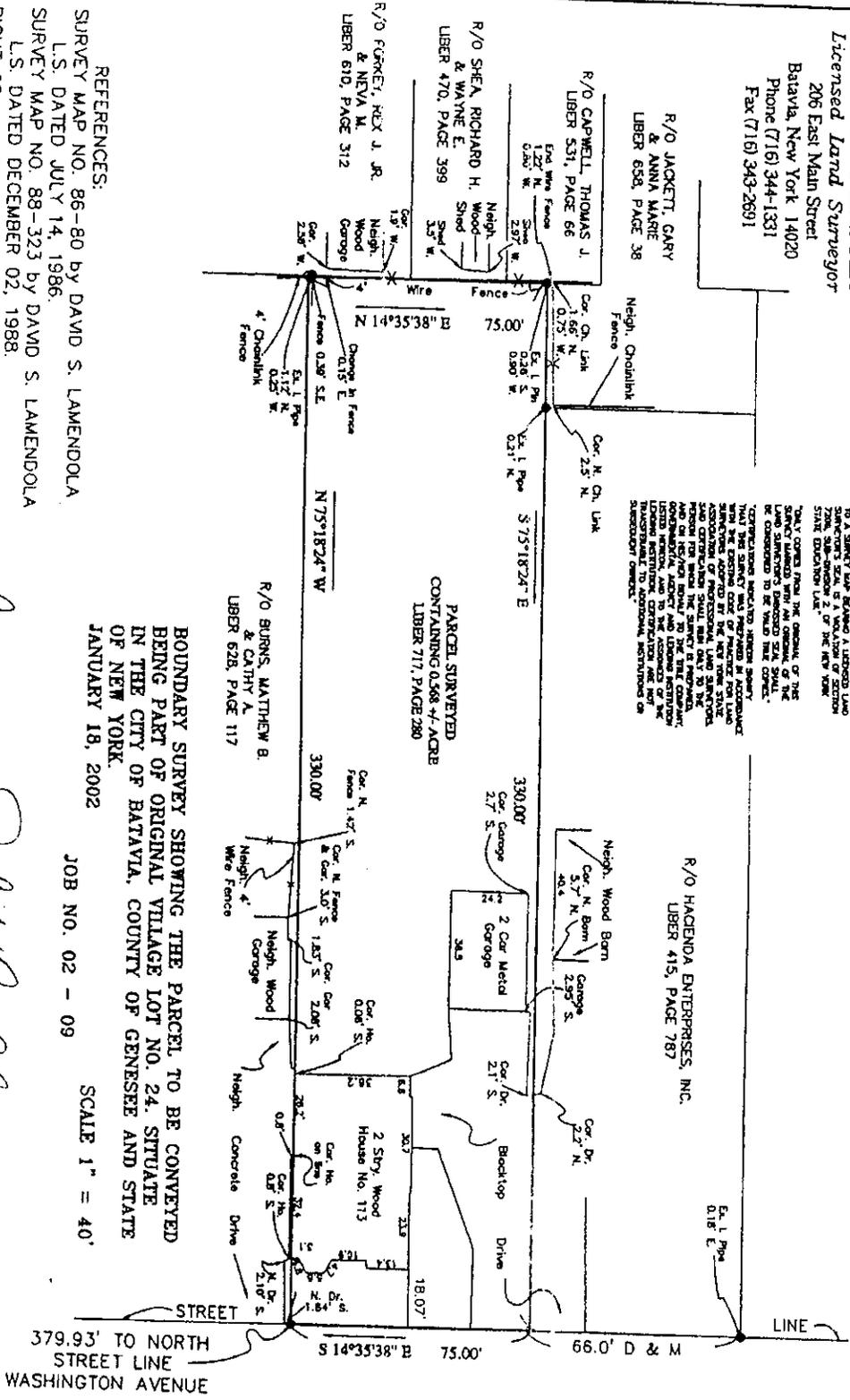
R/O FORREY, REX J. JR.
 & NEVA M.
 LIBER 610, PAGE 312

UNAUTHORIZED REVISION OR ADDITION TO A SURVEY OR REVISION OF A SURVEY MADE BY A LICENSED SURVEYOR SHALL BE A VIOLATION OF SECTION 2706, SUBSECTION 2 OF THE NEW YORK STATE EDUCATION LAW.
 ONLY CORRECTIONS FROM THE ORIGINAL OF THE LAND SURVEYOR'S DRAWING SHALL BE CONSIDERED TO BE VALID.
 CERTIFICATIONS INCORPORATED HEREIN SHOWN THAT THIS SURVEY WAS PROVIDED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 2706, SUBSECTION 2 OF THE NEW YORK STATE EDUCATION LAW.
 REVISIONS OR ADDITIONS TO A SURVEY MADE BY A LICENSED SURVEYOR SHALL BE A VIOLATION OF SECTION 2706, SUBSECTION 2 OF THE NEW YORK STATE EDUCATION LAW.
 ONLY CORRECTIONS FROM THE ORIGINAL OF THE LAND SURVEYOR'S DRAWING SHALL BE CONSIDERED TO BE VALID.
 CERTIFICATIONS INCORPORATED HEREIN SHOWN THAT THIS SURVEY WAS PROVIDED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 2706, SUBSECTION 2 OF THE NEW YORK STATE EDUCATION LAW.

PARCEL SURVEYED
 CONTAINING 0.568 +/- ACRES
 LIBER 717, PAGE 280

R/O BURNS, MATTHEW B.
 & CATHY A.
 LIBER 628, PAGE 117

R/O HACIENDA ENTERPRISES, INC.
 LIBER 415, PAGE 787



LEGEND
 ▲ SET PK NAIL
 ○ SET I. PIN
 ● EX. I. STAKE



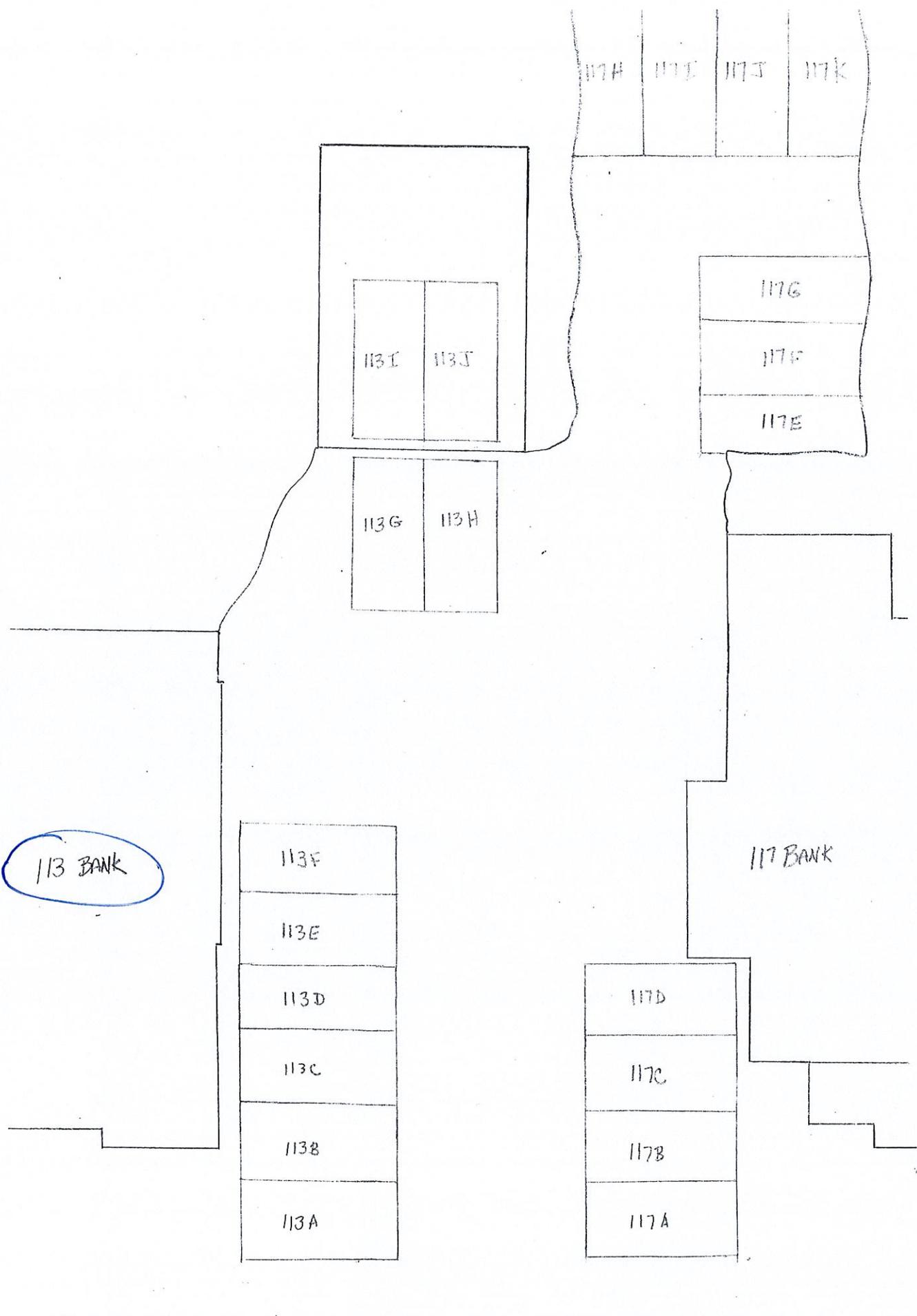
REFERENCES:
 SURVEY MAP NO. 86-80 by DAVID S. LAMENDOLA
 L.S. DATED JULY 14, 1986.
 SURVEY MAP NO. 88-323 by DAVID S. LAMENDOLA
 L.S. DATED DECEMBER 02, 1988.
 RIGHT OF WAY TO NATIONAL FUEL GAS DISTRIBUTION
 CORP., AT LIBER 505, PAGE 261.

Jan 25 2002
 David S. Lamendola
 DATE
 N.Y.S.R.L.S. NO. 48613

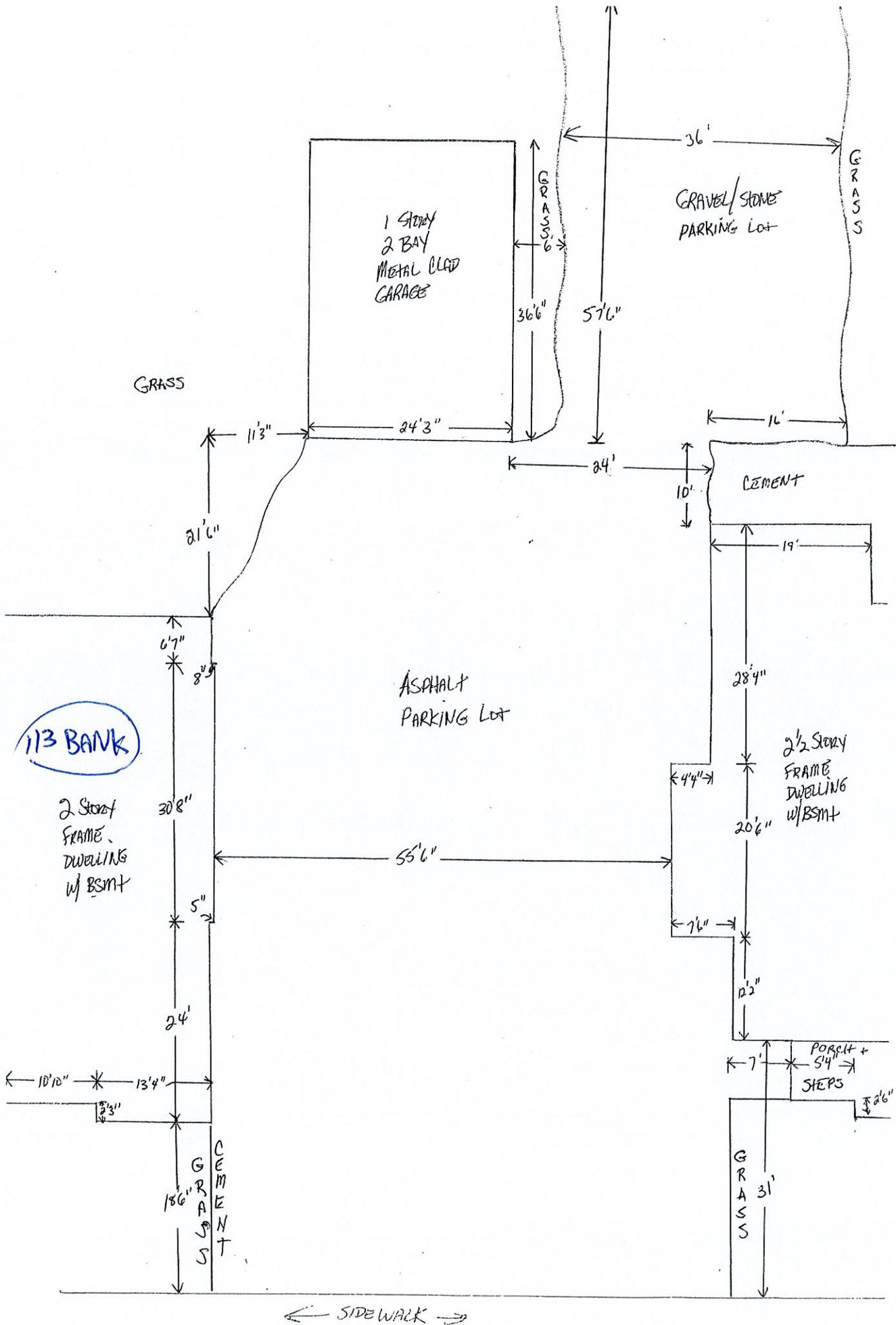
JOB NO. 02 - 09
 SCALE 1" = 40'

379.93' TO NORTH STREET LINE
 WASHINGTON AVENUE

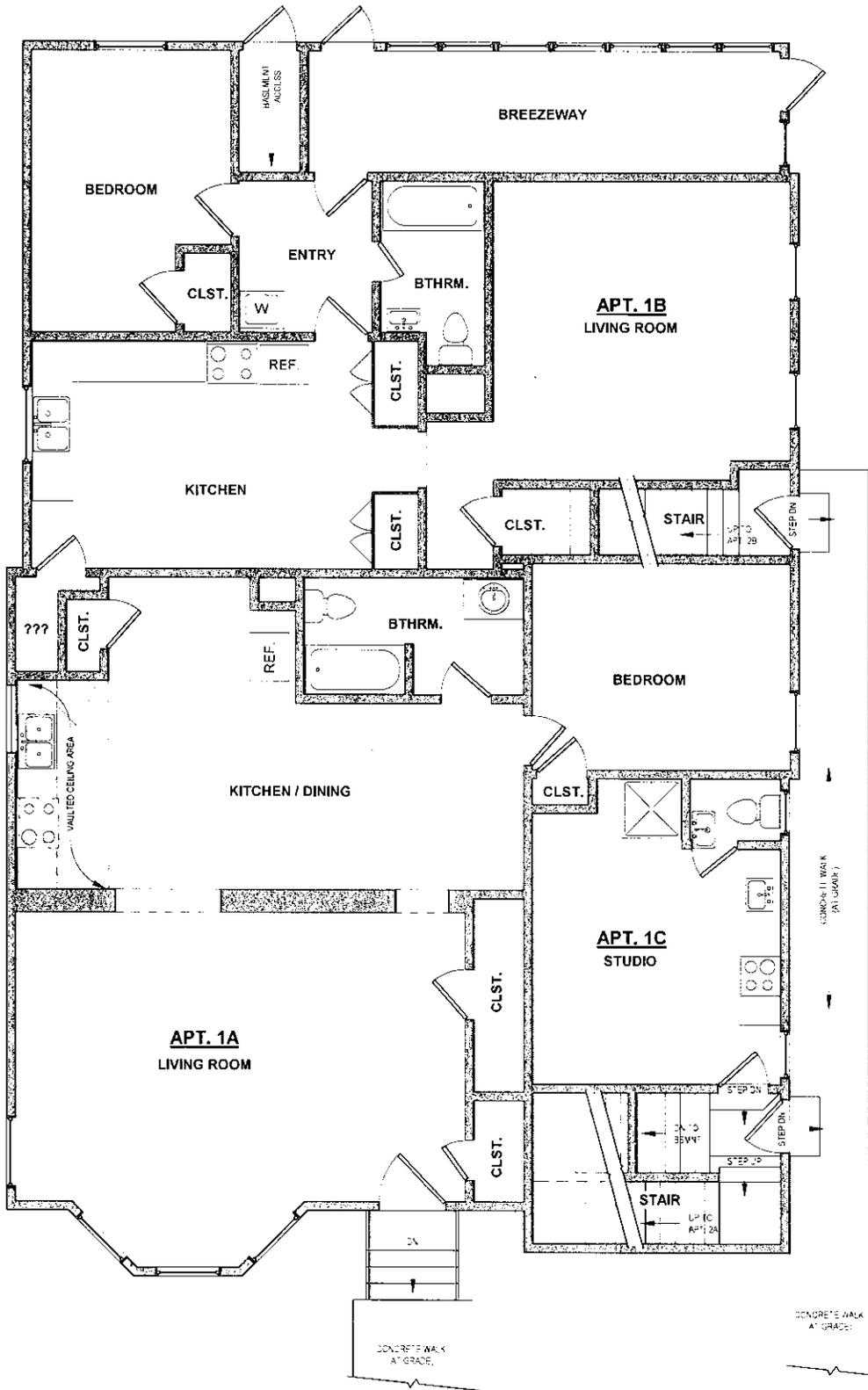
BANK STREET (49.5' R.O.W.)



← SIDEWALK →

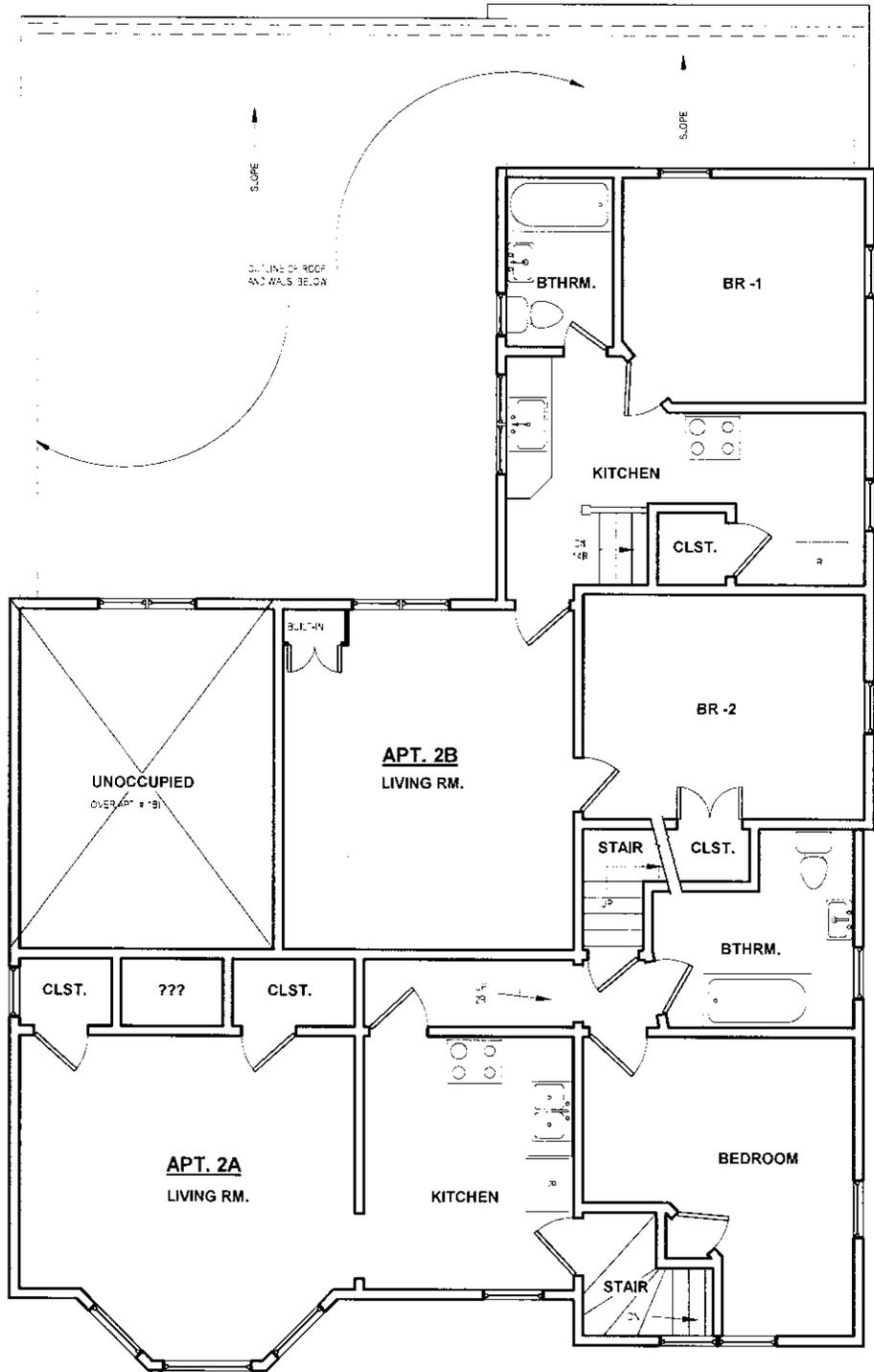


113 BANK



1 FIRST FLOOR PLAN
 3/16" = 1'-0"

113 BANK STREET

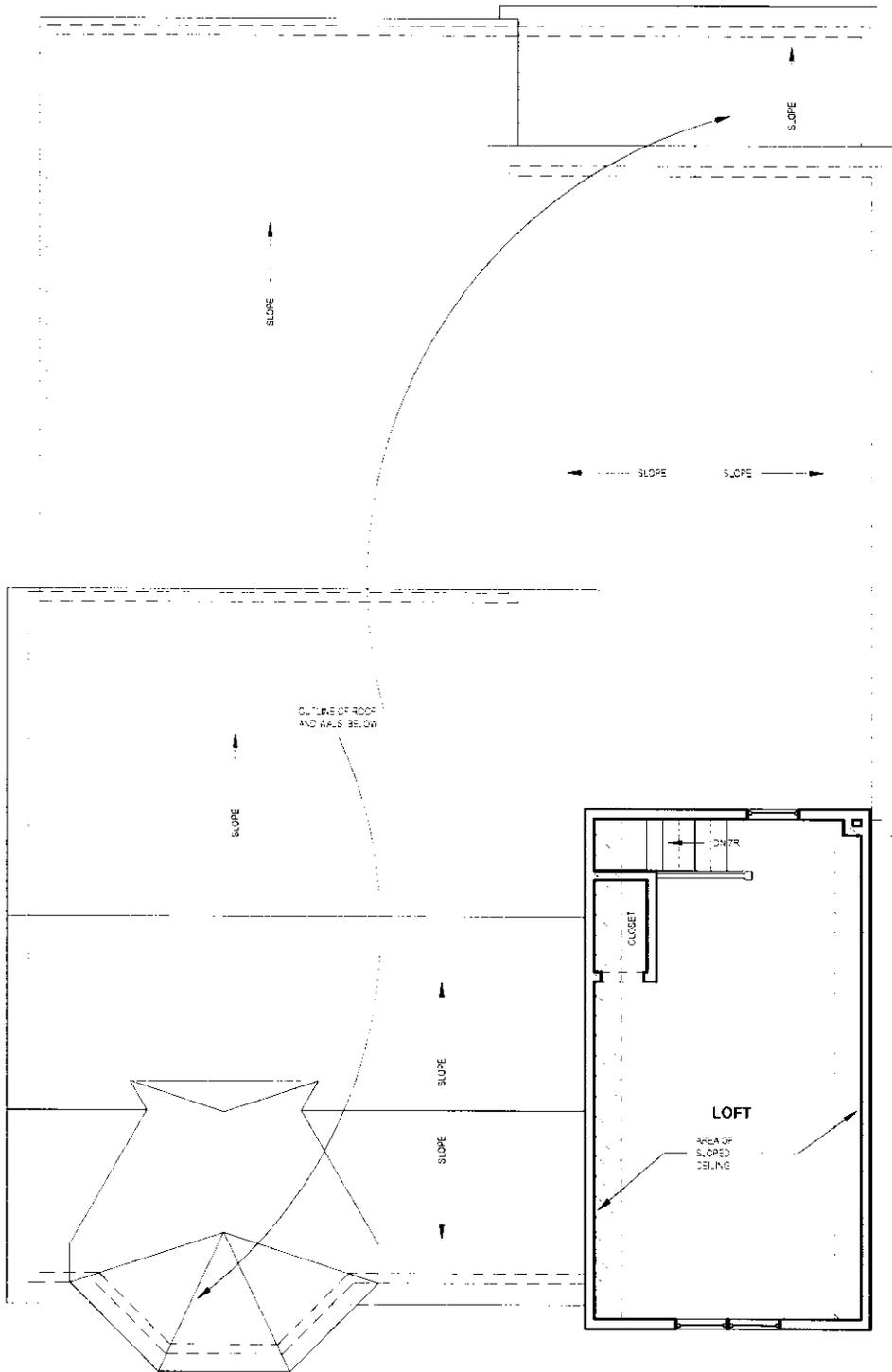


1

SECOND FLOOR PLAN

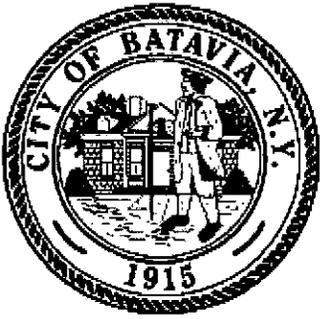
3/16" = 1'-0"

113 BANK STREET



1 THIRD FLOOR PLAN
 3/16" = 1'-0"

113 BANK STREET



City of Batavia
Department of Public Works
Bureau of Inspections

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

To: Planning and Development Committee
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 9/7/22

Re: 117 Bank St.
Tax Parcel No. 84.041-1-13

Zoning Use District: R-2

The applicant, Michael Lullo (agent for the owner), is requesting approval to permit the continuation of two unapproved dwelling units within this multiple dwelling building.

This property is classified as a legal nonconforming use five family dwelling located within the R-2 zoning use district. A Certificate of Occupancy was issued on April 4, 1972 permitting the use of five family dwelling.

On 5/15/02 Irene Cichocki, President of Hacienda Management Group Inc., filed an application with the ZBA for a use variance that would permit the expansion from five dwelling units to six. The use variance was denied by the ZBA on 8/22/02.

Sometime after 4/4/72, the interior spaces of the building were altered to increase the number of dwelling units from five to seven.

Review and Approval Procedures:

City Planning and Development Committee- Pursuant to section 190-49 C applications for variances that include non-permitted uses or the extension thereof shall be referred to the City PDC for recommendation prior to submittal to the ZBA.

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

- 1) **BMC 190-36 A(1)** Non-conforming uses shall not be enlarged, altered or changed in area, activity or contents during its continuance.
- 2) **BMC 190-36 D(1)** Non-conforming uses may not be extended. Extensions include an increase in any item that will result in larger parking requirements per 190-39 [BMC 190-39 A(2)(b), 1.5 spaces per dwelling unit is required].
- 3) **BMC 190-36 C(2)** Any portion of a structure that is non-conforming shall not be renovated or structurally altered for a nonconforming use.
- 4) **BMC 190-9 A** Multiple dwellings (three or more dwelling units) are not permitted principal uses within the R-2 residential use district.

The Zoning Board of Appeals will be the lead agency to conduct SEQR.



PAID
CITY OF BATAVIA
 APPLICATION TO THE ZONING BOARD OF APPEALS
 AUG 30 2022

CITY OF BATAVIA
 CLERK-TREASURER

Application No.: 22-8
 Hearing Date/Time: _____

APPLICANT: MICHAEL LULLO - MARATHON REALTY MARATHON@REALTOR.COM
 Name _____ E-Mail Address _____
30 CENTER ST 585-343-8609 585-343-4322
 Street Address _____ Phone _____ Fax _____
BATAVIA NY 14020
 City _____ State _____ Zip _____

STATUS: ___ Owner Agent for Owner ___ Contractor

OWNER: HACIENDA ENTERPRISES, INC
 Name _____ E-Mail Address _____
PO BOX 48 _____
 Street Address _____ Phone _____ Fax _____
MEDINA NY 14103
 City _____ State _____ Zip _____

LOCATION OF PROPERTY: 117 BANK ST BATAVIA, NY

DETAILED DESCRIPTION OF REQUEST: CONTINUE USE AS A 7 UNIT RESIDENTIAL RENTAL

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.

Michael R Lullo, AGENT FOR 8/1/2022
 Applicant's Signature _____ Date _____
HACIENDA ENTERPRISES, INC. 8/1/2022
 Owner's Signature _____ Date _____

To be Filled out by Zoning Officer

TAX PARCEL: 84.041-1-13 **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 190-36 A(1), 190-36 D(1), 190-36 C(2), 190-9A.

1. **Reasonable Return** - The 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"

Comparative analysis of the actual and pro forma income/expense data of the subject property as a 5 unit vs a 7 unit results in the following conclusions:

- Gross rental income drops from \$58,200 to \$41,980
- Expenses stay relatively even
- Net operating income drops from \$44,326 to \$31,905
- Profit drops from \$15,205 to \$5,435
- Estimated market value drops from \$195,00 to \$139,500
- Rate of Return drops from 9.4% to 5.3%

2. **Unique Hardship** - The inability to yield a reasonable return results from a unique circumstance peculiar to the subject property which does not apply or effect 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 the neighborhood"

Construction and floorplan layout does not contribute to the feasibility of providing smaller, more cost efficient residential units which are more in demand in the current market environment.

3. **Essential Character of 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 the 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 fixtures, location and dimensions of buildings, any by-products of proposed use such as noise, 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"

The granting of the variance will not materially effect the existing population density of the immediate neighborhood nor increase vehicle or pedestrian traffic compare to current levels. Numerous multifamily dwellings are in the immediate neighborhood and no increase traffic would result above current levels.

- 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”

With the historical reduction in family size together with the development of numerous government subsidized and non-subsidized housing projects, the marketplace has demanded smaller, more cost efficient residential rental units.

Subsidized housing projects that compete for tenants built since present ownership date

Liberty Square
DePaul Housing
Jerome Senior Apartments
Msgr Kirby Apartments
Tonawanda Terrace Apartments
Genesee Park Place Park Road
Washington Towers

Subsidized housing projects that compete for tenants built prior to present ownership date

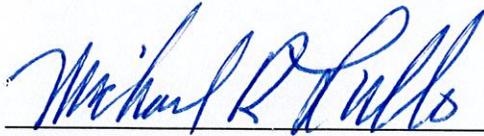
Birchwood Village
400 Towers

Other competing properties

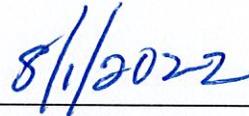
Manor house
Batavia Meadows West Main St
Big Tree Glen West Main Rd
Woodstock Gardens
Walden Estates
Woodside Meadows
Batavia Gardens
North Spruce Apartments
Park Site Manor Apartments

Additional Comments

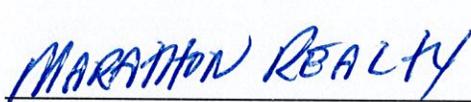
Creating an increased number of and accessibility to affordable housing units has been a popular topic for media and politicians for years. Private property owners of small multifamily structures have not benefited from government supported (funded) projects-They literally have had to access their own income sources or savings to pay for repairs, maintenance or upgrades to make their properties to remain financially viable in today's challenging economic climate – A very difficult task at best. Downscaling the size and footprint of residential units into smaller, more efficient and affordable units is the only viable alternative to older and obsolete housing stock.



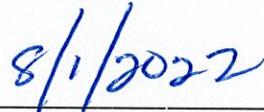
Applicant's Signature



Date



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: 117 BANK ST BATAVIA NY

A. PROPERTY DATA

1. Date property was purchased by current owner 8/3/1971
2. Was a Certificate of Occupancy issued? YES
Date of Issuance? 4/4/1972
If so, for what use(s)? 5 UNIT APARTMENT BUILDING
If not, why? _____
3. Cost of Purchase \$ 39,000
4. a) Amount of Mortgage — 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? UNDER CONTRACT OF SALE
If so, for how long asking price \$510,000 w/ 113 BANK
for what use(s) 7 UNIT RESIDENTIAL RENTAL
Have any offers been received WITH 113 BANK ST
If so, for what amount(s) \$366,000 COMBINED

Summarize any attempts to sell the property LISTED BY APPLICANT VIA MLS
NUMEROUS SHOWINGS; NEGOTIATED CONTRACT
6. Present value of property \$366,000 COMBINED w/ 113 BANK
Source(s) FAIR MARKET SALE

USE	INCOME	ACTUAL	PRO FORMA
		AS 7 UNIT	AS 5 UNIT
1. APT 1 (1A)		9600	—
2. APT 2 (1B)		8400	8400
3. APT 3 (1C)		8400	8400
4. APT 4 (2A)		8400	8400
5. APT 5 (2B)		8580	8580
6. APT 6 (3A)		6600	—
7. APT 7 (3B)		8220	8220
8.			
9.			
10.			
TOTAL RENTAL INCOME		58,200	41,980
LESS VACANCY FACTOR (23.4%)		13,874	10,075
(Attach explanation if greater than 8%) (2021 ACTUAL)			
TOTAL GROSS INCOME		44,326	31,905

C. ANNUAL EXPENSES

1. Annual Fixed Charges			
Real Estate Taxes (City & County)		5438	5438
Insurance		2351	2351
Average Annual Interest (over next 5 years)		0	0
2. Operating Expenses			
Electric. + UTILITIES		4716	4716
Fuel. + TRASH		430	430
Water. + SEWER		3393	3393
Advertising. MANAGEMENT		4478	3199
Miscellaneous (attach explanation)			
3. Maintenance Expenses (attach list)			
(Repairs..... 10% RENTS)		5820	4198
(General Building Maintenance.....)			
Yard and Ground Care. SNOW		808	808
Miscellaneous.....			
TOTAL ANNUAL EXPENSES		27,434	24,533
Profit or Loss		16,892	7372
		↑	↑
		ACTUAL	PRO FORMA
		AS 7 UNIT	AS 5 UNIT

D. TOTAL INVESTMENT

ACTUAL
AS
7 UNIT

PRO FORMA
AS
5 UNIT

- 1. Down payment.....
- 2. Capital Improvements (attach list) _____
- 3. Principal Paid to date (original mortgage less
current principal balance).....

TOTAL INVESTMENT
(Sum of D1, D2, & D3)

213,500

213,500

E. RATE OF RETURN = Profit or Loss

TOTAL INVESTMENT

16,892

7372

7.91%

3.45%

Michael R Fullo

8/1/2022

Signature of Preparer

Date

REAL ESTATE CONSULTANT

Profession of Preparer

Inspection Department

April 4, 1972

CERTIFICATE OF OCCUPANCY

No. 778

This certifies that the building located at
117 Bank Street, Batavia, New York
conforms substantially to the approved plans
for which BUILDING PERMIT NO. 2528 was
issued November 4, 1971, and
conforms to all of the requirements of appli-
cable provisions of the law.

The occupancy for which this certificate is
issued is five (5) apartment dwelling

This certificate is issued to _____

Hacienda Enterprises, Inc.

(Owner, Agent, Etc.)

of said premises. This certificate is not to
be deemed a certification of the location of
property boundary lines.

Clarence J. Klinkbeil
Building Inspector

CJK:jm

ZONING BOARD OF APPEALS

City of Batavia

August 22, 2002

7:00 P.M.

City Council/Conference Room at City Hall

Members Present: Holley Forden, David Post, William Young, Richard Starowitz, Frank Bellucci, Ann McCulloch and Barbara Pierce.

Members Absent: None

Others Present: Irene Cichock and daughter Lisa, Shirley & Ross Fanara, Barbara & Robert Scott, James Ficarella, Daniel Snyder, Christopher Holman and Michael P. Smith, Zoning Officer.

Meeting called to order at 7:00 PM by Chairperson William Young.

1. Approval of Minutes - July 25, 2002.

Motion by Barbara Pierce to approve the minutes as submitted.

Motion to second by Dave Post.

All in favor, Motion carried.

2. Address: **117 Bank Street** (Tabled from June & July 2002 Meetings)
Applicant(s): **Irene Cichocki of Hacienda Enterprises, Inc., Owner**
Action(s): **Use Variance - Proposed Expansion**

Ms. Cichocki and daughter Lisa were present and reviewed their proposal with Board Members, indicating that the site plan had been revised. This matter was tabled by the City Planning Board at their June 19, 2002 meeting. In addition, at the July 17, 2002 of the City Planning Board no action was taken due to a lack of a quorum.

At the August 21, 2002 City Planning Board meeting, Board Member Dennis Dwyer made a motion to recommend denial to the Zoning Board of Appeals because of inadequate space for parking and traffic maneuverability. The motion was approved by a vote of 6-1.

Motion by David Post that the action of the Zoning Officer and the recommendation from the City Planning and Development Committee be upheld and deny the Use Variance to create an additional apartment in accordance with the City of Batavia Zoning Ordinance, Article X, Section 190-49, Part F, second by Holley Forden.

All in favor. Motion carried.



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 02-13
 Hearing Date/Time: 6/27/02 7 PM.

APPLICANT: Hacienda Mgmt. Group, Inc. Irene Cichocki
 Name Irene Cichocki E-Mail Address
POB 48 (585) 343-5896
 Street Address Phone Fax
Medina N.Y. 14103
 City State Zip

STATUS: Owner Agent for Owner Contractor

OWNER: Hacienda Mgmt. Group, Inc. Irene Cichocki
 Name Irene Cichocki E-Mail Address
POB 48 (585) 343-5896
 Street Address Phone Fax
Medina N.Y. 14103
 City State Zip

LOCATION OF PROPERTY: 117 Bank ST. Batavia, N.Y.

DETAILED DESCRIPTION OF REQUEST: Convert large 2nd Floor Apt. into 2 normal sized Apts. (one Bdrm each) by installing a kitchen and a bathroom.

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.

Irene B. Cichocki Pres. 5/15/02
 Applicant's Signature Date
Irene B. Cichocki Pres. 5/15/02
 Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.41-1-13 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: ARTICLE III SECTION 190-9

**CITY OF BATAVIA
BUREAU OF INSPECTION**

Date: June 20, 2002

To: Zoning Board of Appeals

From: Michael P. Smith, Code Enforcement / Zoning Officer

Re: 117 Bank Street
Tax Parcel # 84.058-1-32

The property owner of this existing multiple residence desires to create an additional apartment on the second floor. The present layout of this three (3) story structure consist of five (5) apartments, three (3) on the first floor, one (1) on the second floor and two (2) on the third floor.

This property is located within the R-2 Residential. To facilitate the construction of this additional apartment a **Use Variance is required**. As per the City of Batavia Zoning Ordinance, Article III, Section 190-9, Schedule 1, large scale multi-family developments are not listed as a permitted principal use. The proposed creation of this sixth apartment would change the classification of this property to a large scale multi-family development.

Procedure:

- ✓ **City Planning Board** will conduct a Site Plan Review.
At their 6/19/02 meeting, the Board tabled the matter, requesting additional information.
- ✓ **City Zoning Board of Appeals** will be Lead Agency for SEQRA.
- ✓ **City Zoning Board of Appeals** will review and act on the Use Variance.

Recommendation:

Disapproval.

Although, the applicant proposes to provide the required nine (9) parking spaces (1 ½ per dwelling unit), vehicle maneuvering within the parking area is a concern. In addition, the New State Building Code requires the parking of motor vehicles to be a minimum of ten (10) feet from a wood frame (combustible) wall. The present parking layout along the south wall of this apartment building is a concern.

Proposal is directly contrary to the recently completed City Master Plan. The Master Plan focused on the need to limit multi-family developments and protect the established residential neighborhoods.

DENIED

Planning & Development Committee Letter
City of Batavia
July 17, 2002

Agenda Item: 117 Bank Street - Hacienda Management Group
Create additional apartment

Actions: Use Variance recommendation to Zoning Board of Appeals

Background: Last month the committee reviewed, and tabled, a proposal by Irene Cichocki (Hacienda Management Group) to create an additional apartment, thereby establishing a Large Scale multi-family home at 117 Bank Street. The item was tabled because not enough information was available at the meeting.

Per the Zoning Code, Large Scale multi-family homes are not an allowed use within the R-2 residential district. Large Scale is defined as six (6) or more units. Therefore, a use variance recommendation is required.

The purpose of making Use Variance recommendations is not to consider hardships, which is the Zoning Board's function, but to take a hard look at any adverse impacts a Use Variance could have on the surrounding neighborhood.

Comprehensive Plan Impact: The Comprehensive Plan specifically says "... modify the R-2 district to disallow large scale multi family developments."

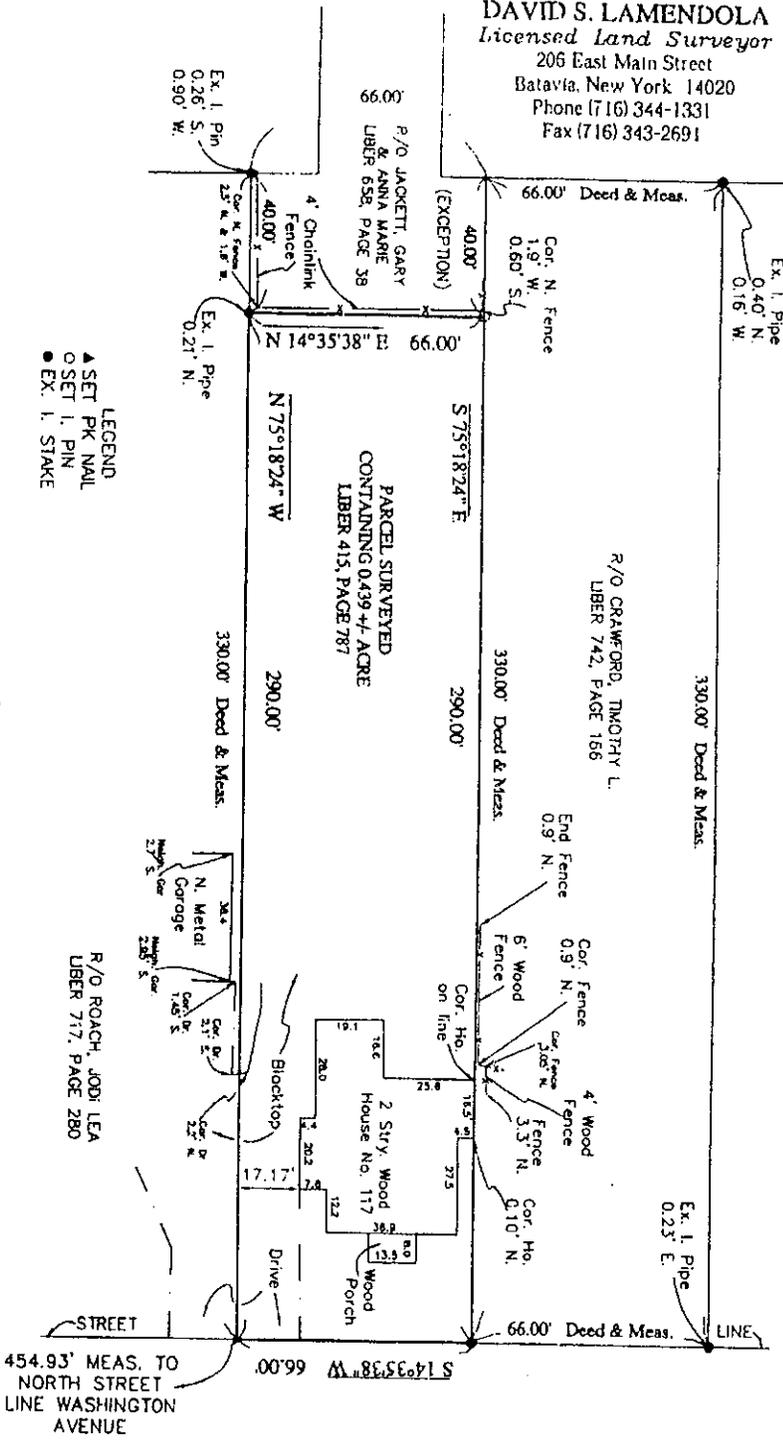
Recommended Actions: The Director recommends disapproval for the following reasons:

1. The Comprehensive Plan specifically recommended against large scale multi-family homes in the R-2 zones.
2. Parking maneuverability - The parking plan presented is based on 113 and 117 Bank Street always being owned by one individual. If that is not the case, this plan does not work
3. Front yard parking - you cannot fit seven cars on the side of the the building. At least one, if not two, will be in the front yard (see 1950's picture).
4. Neighborhood Improvement Committee - the committee has discouraged the development of any more multi-family units, especially when they need use variances.

Supporting Documents:

1. Proposed parking plan
2. Picture

DAVID S. LAMENDOLA
 Licensed Land Surveyor
 206 East Main Street
 Batavia, New York 14020
 Phone (716) 344-1331
 Fax (716) 343-2691



LEGEND
 ▲ SET PK NAIL
 ○ SET I. PIN
 ● EX. I. STAKE

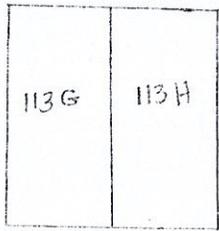
REFERENCES:
 SURVEY MAP NO. 86-80 by DAVID S. LAMENDOLA
 L.S. DATED JULY 14, 1986.
 SURVEY MAP NO. 88-323 by DAVID S. LAMENDOLA
 L.S. DATED DECEMBER 2, 1988.
 RIGHT OF WAY TO NATIONAL FUEL GAS DISTRIBUTION
 CORP., AT LIBER 505, PAGE 262.
 EXCEPTION AT LIBER 264, PAGE 44.

WARRANTED AND VOUCHER ON ADJOINERS TO A SURVEY MADE BY A LICENSED LAND SURVEYOR'S SEAL IS A WARRANTY OF ACCURACY TO THE BEST OF HIS KNOWLEDGE AND BELIEF AT THE TIME THE SURVEY WAS MADE. THE SURVEYOR'S SEAL IS A WARRANTY OF SECTION 5719, SUBSECTION 1, OF THE NEW YORK STATE SURVEYING LAW.
 ONLY COMES FROM THE ORIGINAL OF THIS SURVEY. ANY COPY OF THIS SURVEY MADE BY ANY OTHER PERSON OR ENTITY IS UNLAWFUL AND VOID. THE SURVEYOR'S SEAL IS A WARRANTY OF ACCURACY TO THE BEST OF HIS KNOWLEDGE AND BELIEF AT THE TIME THE SURVEY WAS MADE. THE SURVEYOR'S SEAL IS A WARRANTY OF SECTION 5719, SUBSECTION 1, OF THE NEW YORK STATE SURVEYING LAW.
 THE SURVEYOR'S SEAL IS A WARRANTY OF ACCURACY TO THE BEST OF HIS KNOWLEDGE AND BELIEF AT THE TIME THE SURVEY WAS MADE. THE SURVEYOR'S SEAL IS A WARRANTY OF SECTION 5719, SUBSECTION 1, OF THE NEW YORK STATE SURVEYING LAW.

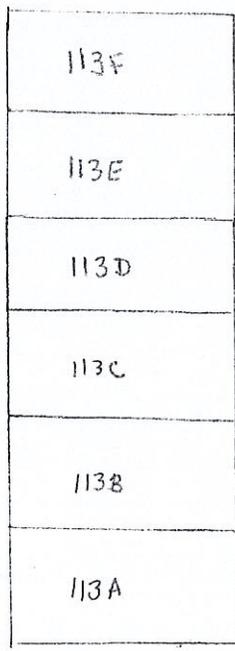
BOUNDARY SURVEY SHOWING THE PARCEL TO BE CONVERTED BEING PART OF ORIGINAL VILLAGE LOT NO. 24, SITUATE IN THE CITY OF BATAVIA, COUNTY OF GENESEE AND STATE OF NEW YORK.
 JANUARY 18, 2002
 JOB NO. 02-10
 SCALE 1" = 40'
 DATE Jan 25, 2002
 N.Y.S.R.L.S. NO. 49813



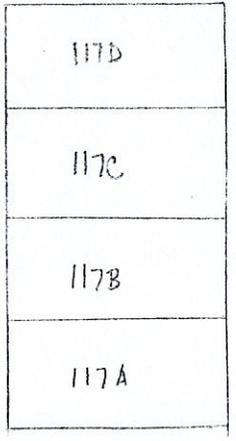
117H 117I 117J 117K



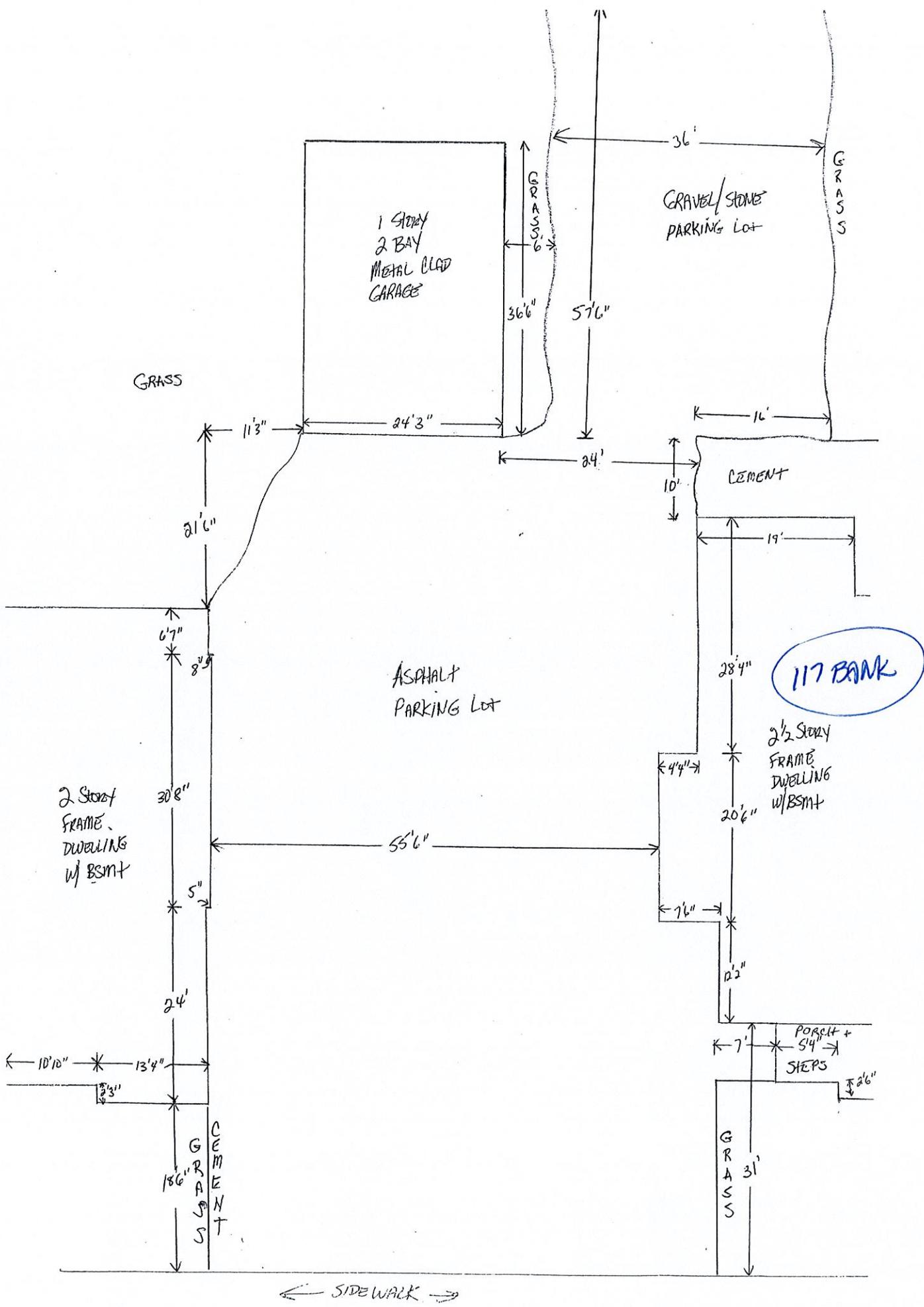
113 BANK



117 BANK



← SIDEWALK →



GRASS

1 STORY
2 BAY
METAL CLAD
GARAGE

CRAGEL/STONE
PARKING LOT

GRASS

CEMENT

ASPHALT
PARKING LOT

117 BANK

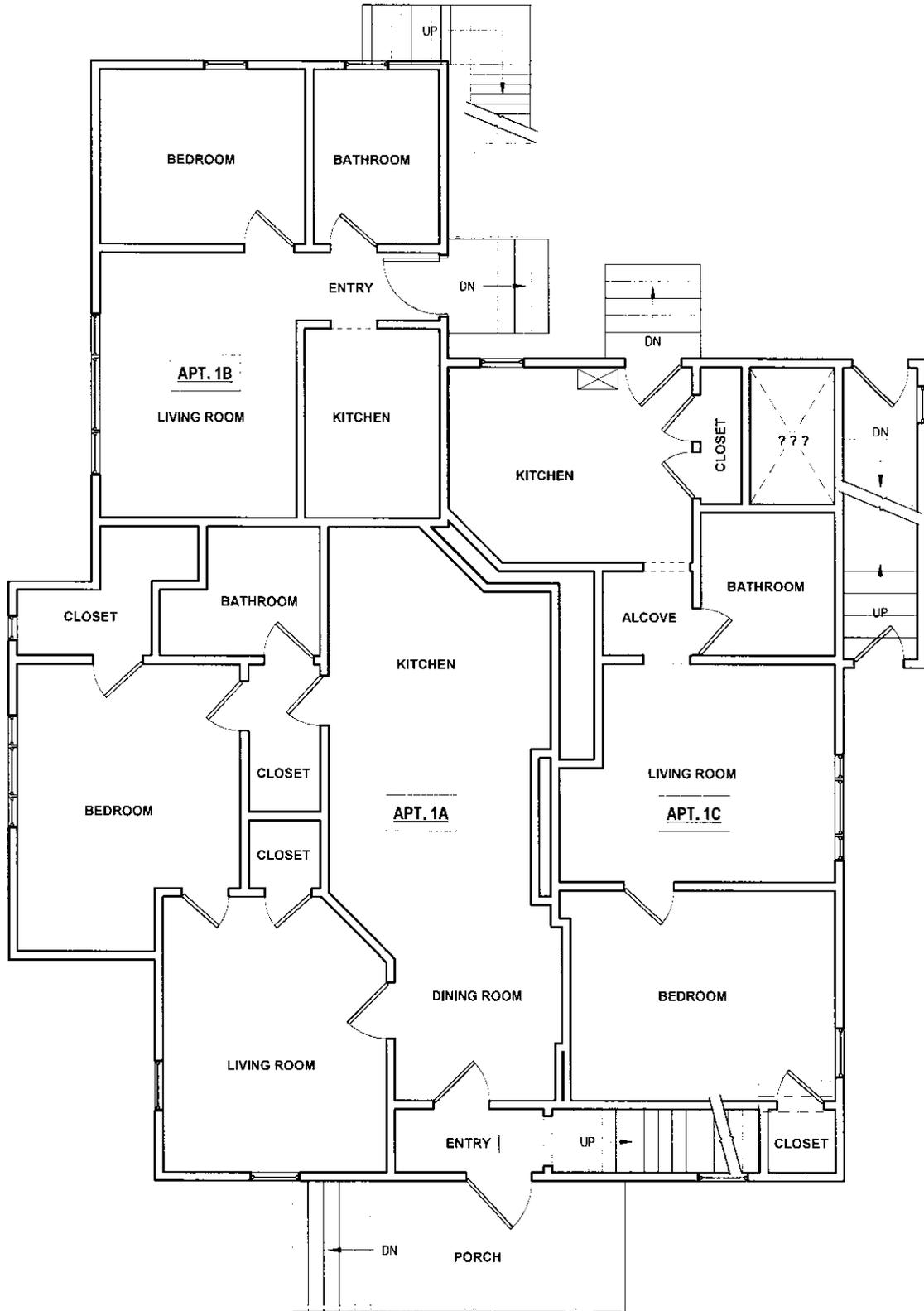
2 1/2 STORY
FRAME
DWELLING
W/BSMT

2 STORY
FRAME
DWELLING
W/BSMT

PORCH +
5'4"
STEPS

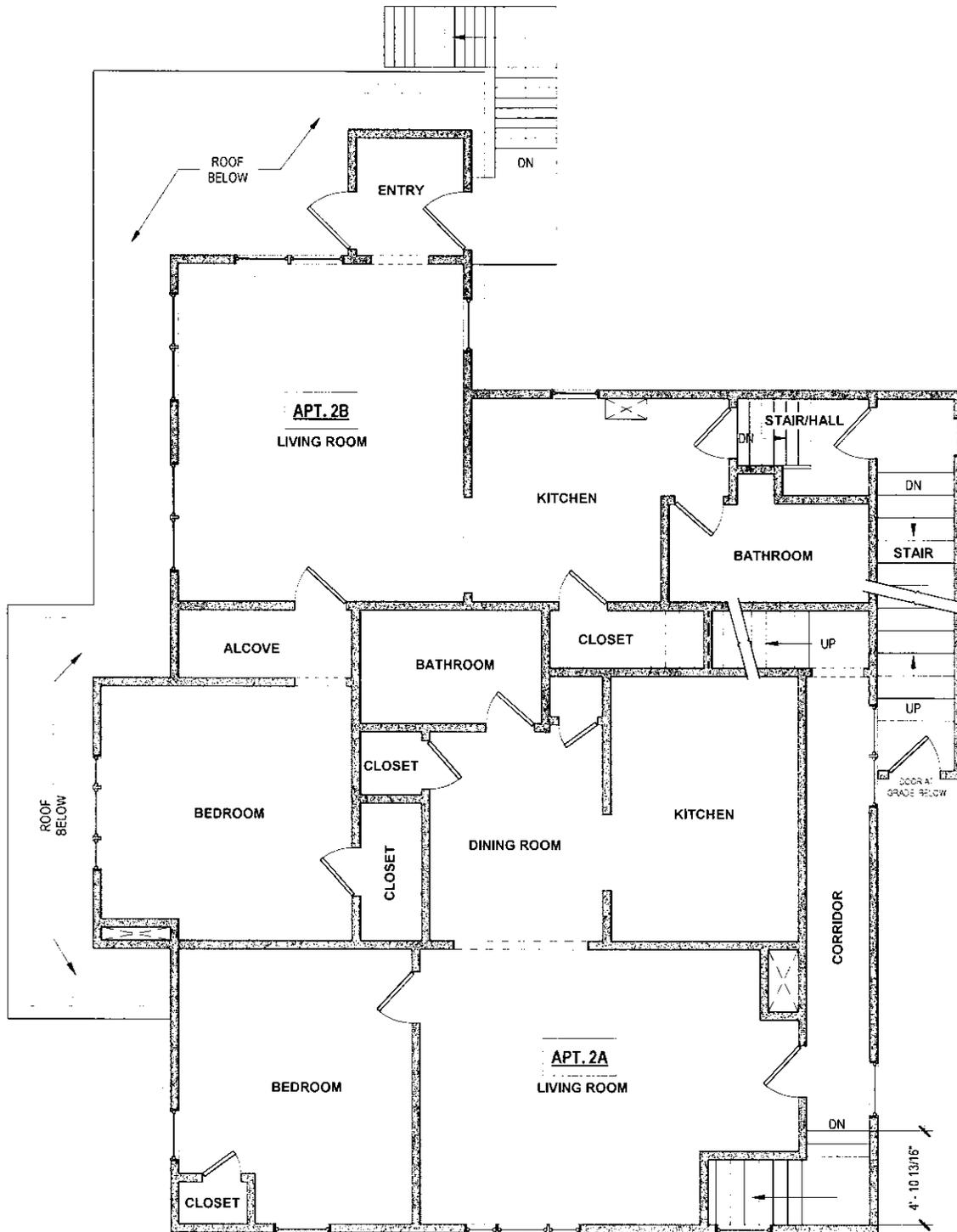
GRASS

SIDEWALK



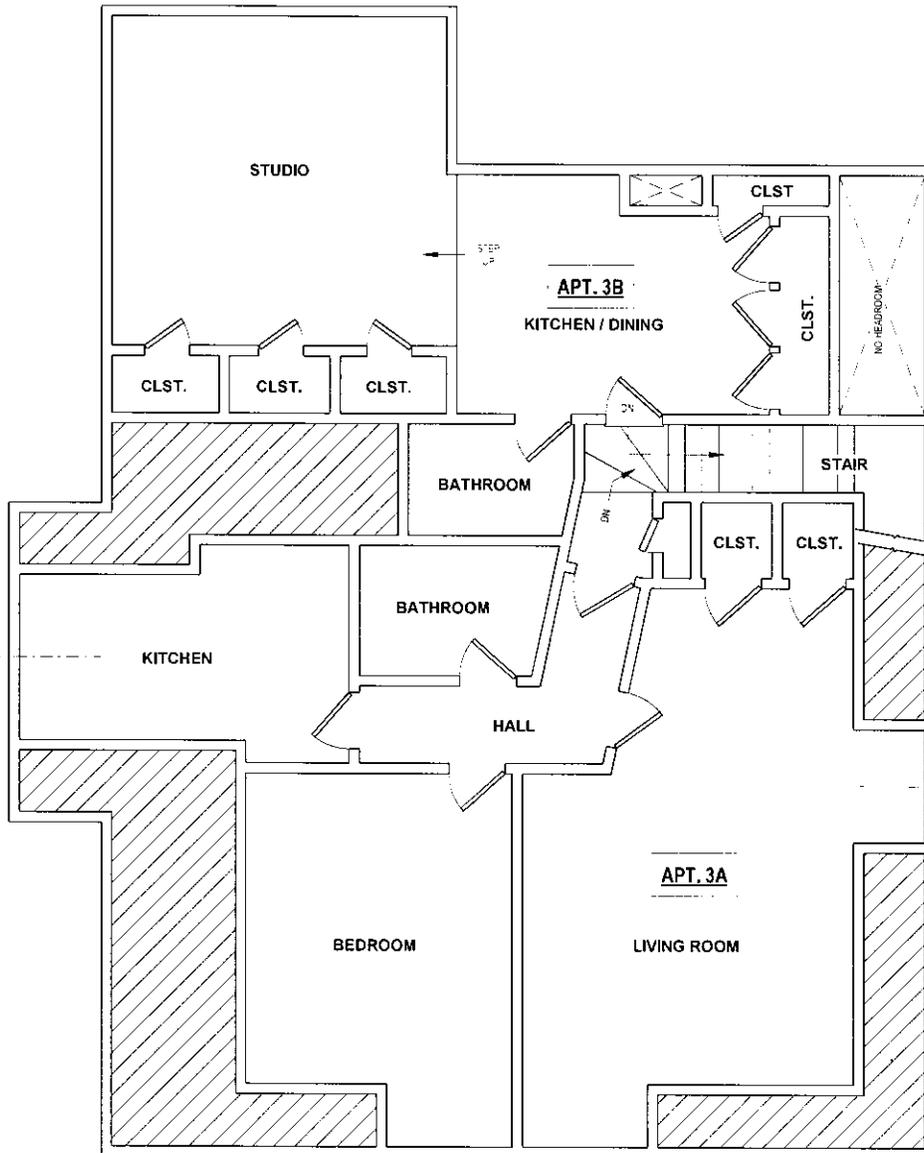
1 FIRST FLOOR PLAN
 3/16" = 1'-0"

117 BANK STREET



1 SECOND FLOOR PLAN
 3/16" = 1'-0"

117 BANK STREET



1 THIRD FLOOR
 3/16" = 1'-0"

117 BANK STREET