

# PLANNING & DEVELOPMENT COMMITTEE

Tuesday, March 19, 2019

6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

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## AGENDA

- I. Roll Call
- II. Call to Order
- III. Approval of Minutes – 2/28/19
- IV. Proposals

*Public storage rental units.*

Proposal      City Council has requested that the Planning and Development Committee review permitted zoning of public storage units in the Batavia Municipal Code, to include application and implementation matters, as well as potential revisions, and make recommendations to City Council for consideration

Actions:      1. Review application and discussion  
                  2. Recommendation to City Council

- V. Other/ New Business/Updates
- VI. Setting of Next Meeting: March 19, 2019
- VII. Adjournment

**SPECIAL MEETING**  
**PLANNING & DEVELOPMENT COMMITTEE**  
***DRAFT MINUTES***  
**February 28, 2019**  
**6:00 pm**  
Council Board Room  
One Batavia City Centre, Batavia NY

Members present: *Edward Flynn, Matt Gray, Tammy Hathaway, Duane Preston*

Members absent: Robert Knipe, Marc Staley

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

**I. Roll Call**

Roll call of the members was conducted. Four members were present and Chairman Duane Preston declared a quorum.

**II. Call to order**

Mr. Preston called the meeting to order at 6:00 pm.

**III. Previous Meeting Minutes**

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

**RESULT: Approval of December 18, 2018 meeting minutes.**

**IV. Proposal**

Recommendation to the Zoning Board of Appeals for an Area Variance that would permit the replacement of the existing internally illuminated monument sign face panel (Key Bank) with a new internally illuminated face panel identifying the new business (Ameriprise Financial). The sign is located within the Central Commercial District / Business Improvement District

Address: *219 East Main St.*  
Applicant: Scott Neff (owner)

Actions: 1. Review application and discussion  
2. Recommendation to the ZBA

**1. Review Application and Discussion**

Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board recommended approval of the proposed sign.

Mr. Neff explained that the sign will be constructed of aluminum and show the name of the business and its logo. It will be illuminated internally with LED lights, using the electrical

setup already in place. Mr. Neff said that the new sign will use the same base as the previous sign.

Mr. Flynn asked if the structure on top of the base is still in place. Mr. Neff explained that it had been taken down in order to install the panel for the new business.

Mr. Flynn asked if the base will be replaced. Mr. Neff answered that the base will not be replaced, rather it will be wrapped with a material that will match the façade of the building.

Mr. Gray asked if the building has been vacant for more than a year, and Mr. Neff said that it has.

Following questions and discussion about opacity and illumination, Mr. Neff clarified that the sign itself will be opaque with only the letters being lighted.

Mr. Preston asked if the sign will operate on a timer, and Mr. Neff said the letters will always be lighted.

## **2. Action by the Board**

**MOTION:** Mr. Flynn moved to recommend approval of the proposal to the ZBA. The motion was seconded by Mr. Gray, and on roll call, was approved 4-0.

**RESULT: Recommendation to the ZBA for approval of the Area Variance**

**V. Setting of Next Meeting:** March 19, 2019

## **VI. Adjournment**

Mr. Flynn moved to adjourn the meeting at 6:10 p.m.; the motion was seconded by Ms. Hathaway. All voted in favor.

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Meg Chilano  
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  
From: Doug Randall, Code Enforcement Officer  
Date: 2/28/19  
Re: Public storage rental units

City Council has been petitioned to amend the current zoning ordinance to allow the principal use of “storage unit buildings with individual units” and “outdoor fenced-in storage area for large items”. The petitioner requests such uses for the I-1 and I-2 use districts.

City Council has requested the Planning and Development Committee review permitted zoning of public storage units in the Batavia Municipal Code, to include application and implementation matters, as well as potential revisions, and make recommendations to City Council for consideration.

**Review Procedures:**

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**City Planning and Development Committee-** Pursuant to City Charter chapter 13-3, the Planning and Development Committee shall serve in an advisory capacity to City Council and make recommendations regarding proper use of private lands as outlined in the comprehensive plan.

The PDC should consider, at a minimum;

- 1) Whether self-service public storage buildings and/or lots for outdoor storage should be an approved principal use within the City of Batavia.
- 2) Which zoning use districts would be best suited for these types of uses.
- 3) What restrictions or conditions should be placed on this use.

#13-2019

**A RESOLUTION REFERRING THE REVIEW OF THE ZONING OF PUBLIC STORAGE RENTAL UNITS IN THE BATAVIA MUNICIPAL CODE TO THE PLANNING AND DEVELOPMENT COMMITTEE**

**Motion of Councilperson McGinnis**

**WHEREAS**, the City Council is desirous of reviewing the Batavia Municipal Code, Section §190, in response to a petition from Peter Yasses, a member of 54 Cedar Street LLC, in relation to the lack of permitted zoning use of Public storage rental units; and

**WHEREAS**, under the City Charter § 13-3 the City Planning and Development Committee shall have such powers and duties to serve in an advisory capacity and provide such advice as to assist the City Council in developing a strategy that interprets, plans and leads in the implementation of land use matters relating to public and private development within the City of Batavia; and

**WHEREAS**, General City Law Section 27 provides City Council with the authority to refer matters to the Planning and Development Committee requesting reviews and recommendations regarding planning and development within the City of Batavia; and

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia hereby requests that the City Planning and Development Committee is to review permitted zoning of public storage units in the Batavia Municipal Code, to include application and implementation matters, as well as potential revisions, and make a recommendation to the City Council for consideration.

**Seconded by Councilperson Viele and on roll call approved 9-0.**

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I hereby certify that the foregoing is a true and correct transcript of a resolution duly adopted by the City Council of the City of Batavia on the 11<sup>th</sup> day of February, 2019 and of the whole thereof.

Dated at Batavia, NY, February 27, 2019




Heidi J. Parker  
City Clerk, Batavia, NY



# City of Batavia

## *Memorandum*

To: Martin Moore, City Manager

From: Matt Worth, Director of Public Works 

Date: January 18, 2019

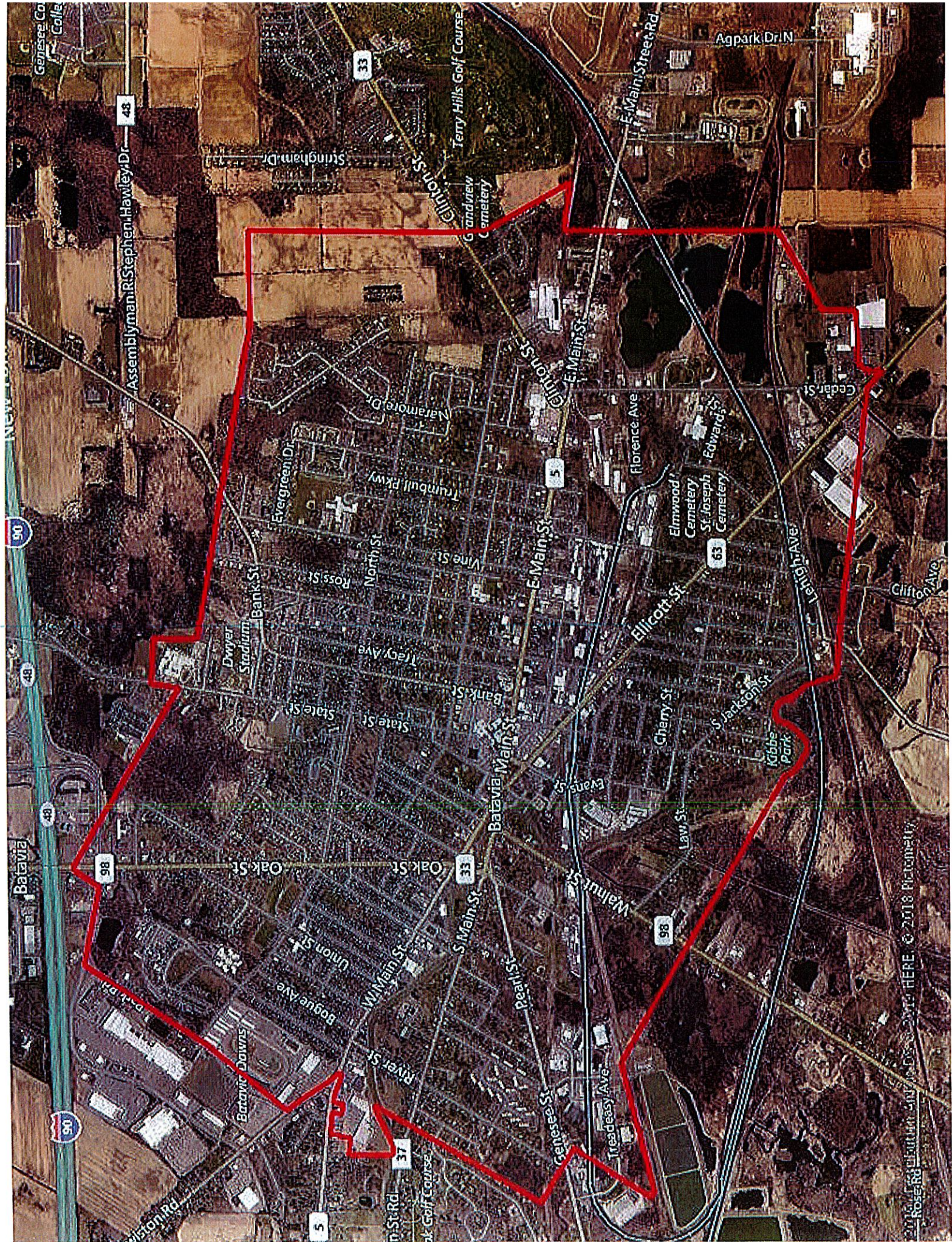
Subject: Petition for Zoning Ordinance Change

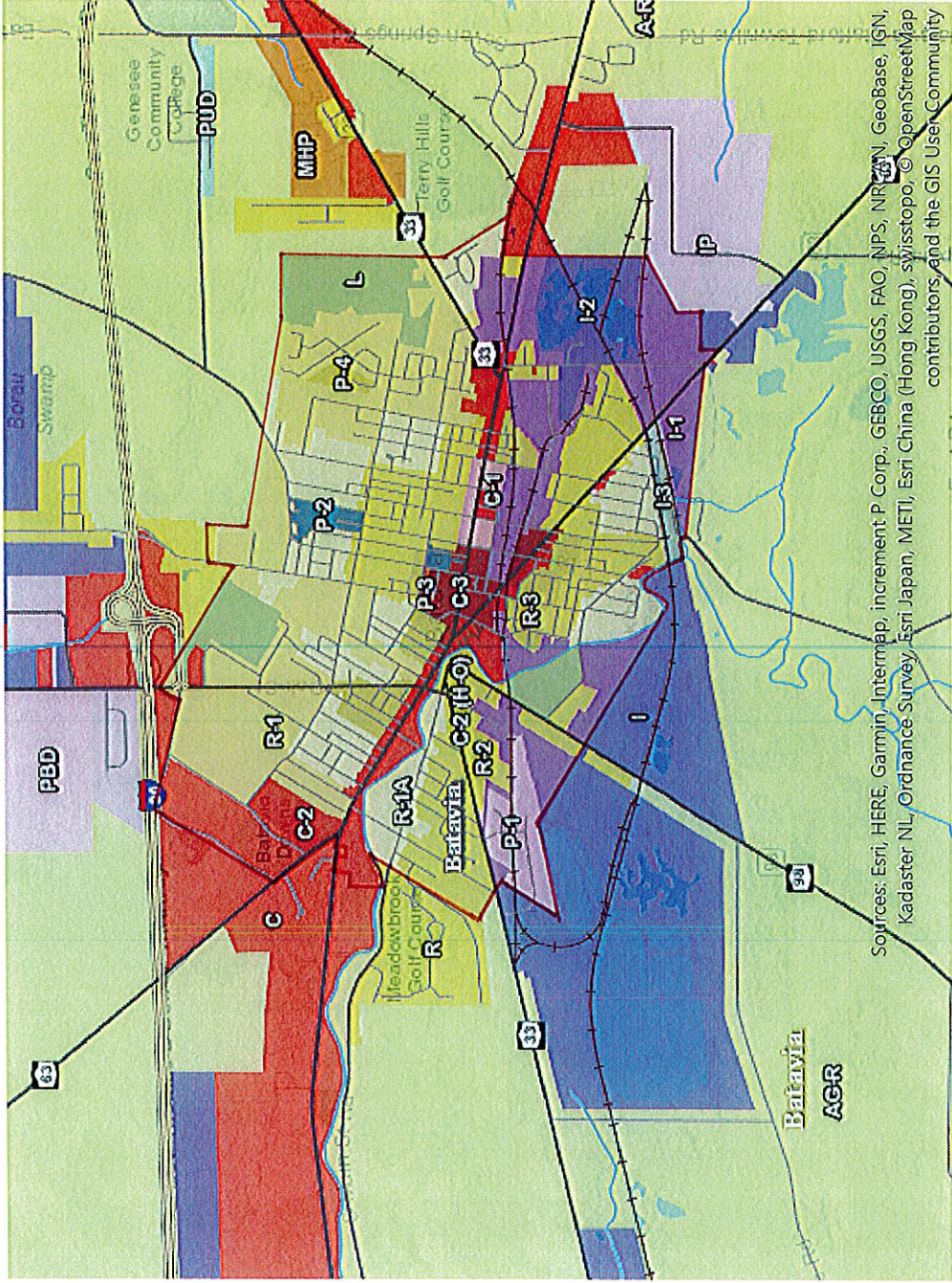
The City received a formal petition from Mr. Peter Yasses and 54 Cedar St LLC for a change to the current Zoning Ordinance. Currently, the City of Batavia Zoning Ordinance does not have any land zones that allow for the operation of a Self Service Storage Unit type of business.

The petition as received requests that allowed uses in I-1 and I-2 Industrial Zones be changed to allow for the operation of a storage unit business. This item was originally considered for a use variance, however, granting a variance would not have been a successful approach due to NYS General City Law. The recommendation from the Genesee County Planning Board of Referrals was to file the petition before you to consider changing the code to allow this use. A review of the updated comprehensive plan does not appear to address this issue as it relates to either Industrial Zones, or this type of business activity.

It is appropriate for City Council to consider referring this matter to the City of Batavia Planning and Development Committee for review.

Supporting Documentation:  
Draft Resolution  
Petition for Zoning Change

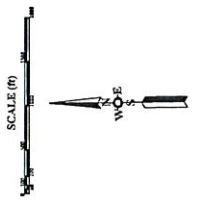




Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRC, NNDP, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, © OpenStreetMap contributors, and the GIS User Community

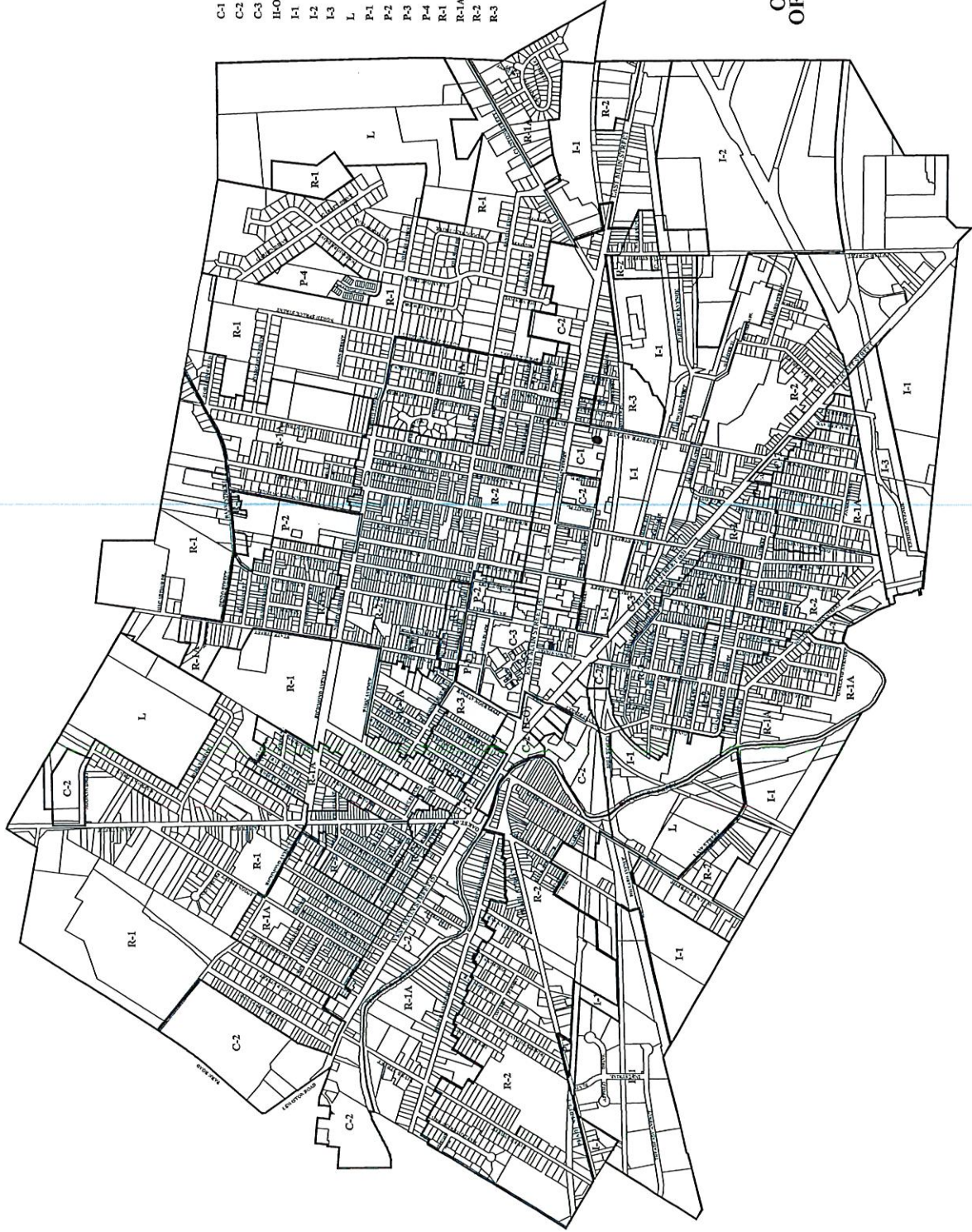


- C-1 LIMITED COMMERCIAL DISTRICT
- C-2 GENERAL COMMERCIAL DISTRICT
- C-3 CENTRAL COMMERCIAL DISTRICT
- HO-0 HISTORIC OVERLAY DISTRICT
- I-1 INDUSTRIAL DISTRICT
- I-2 INDUSTRIAL DISTRICT
- I-3 INDUSTRIAL DISTRICT
- L LAND CONSERVATION DISTRICT
- P-1 PLANNED DEVELOPMENT-INDUSTRIAL
- P-2 PLANNED DEVELOPMENT-MEDICAL
- P-3 PLANNED DEVELOPMENT-SERV. COMMER.
- P-4 PLANNED DEVELOPMENT-RESIDENTIAL
- R-1 RESIDENTIAL DISTRICT
- R-1A RESIDENTIAL DISTRICT
- R-2 RESIDENTIAL DISTRICT
- R-3 RESIDENTIAL DISTRICT



**OFFICIAL ZONING MAP  
OF THE CITY OF BATAVIA**  
GENESSEE COUNTY, NY

Updated  
April 5, 2006  
August 15, 2006  
October 11, 2006



## 4. Future Land Use Plan

### Planning for Land Use Changes

The **Future Land Use Plan** is a technique used to illustrate preferred future land use patterns. It is a reflection of the stated goals, objectives, and recommendations of the Comprehensive Plan. Most importantly, the Future Land Use Plan sets the foundation for the City's zoning. In essence, the Future Land Use Plan is a statement of what residents would like the Batavia of tomorrow to look like. The Future Land Use Plan presented here only highlights areas of proposed change from existing land use patterns.

It is important to state that the Plan is focused on the future – it does not imply that existing houses or businesses must “convert” to the future desired land use.

#### 4.A Future Land Use Definitions

**Low-Density Residential:** designation is intended to apply to lands that are not appropriate for urban levels of development and/or land that is appropriate for low-intensity larger-lot residential development.

**Medium-Density Residential:** designation is intended to create the opportunity for neighborhoods that offer a variety of lot sizes, housing, and ownership options. Residential Medium Density neighborhoods should include a variety of unit types designed to incorporate features from both single-family and multi-family developments, support cost-efficient housing, facilitate infill development, encourage use of transit service, and promote the efficient use of urban services and infrastructure.

**High-Density Residential:** designation is intended to encourage a variety of high quality multi-family living environments for people in differing living situations, from all income levels, and in all stages of life. Should be limited to where there is adequate infrastructure to accommodate higher densities with direct access to an arterial and adequate buffering from lower intensity land uses.

**Restoration Residential:** intended to enhance residential development on land that is significantly constrained by environmental factors, i.e. located within the floodplain.

**PUD:** designation to allow greater flexibility in development standards (lot coverage, setbacks, building heights, lot sizes, etc.) to facilitate adaptation of development to the unique conditions while permitting a mixture of uses which, with proper design and planning, will be compatible with each other and with surrounding uses or zoning districts all to permit a response to market demand.

**Light Industrial:** designated to establish and protect industrial areas for the use of light manufacturing operations and for the distribution of products at wholesale. The standards will be established to promote sound

light industrial development, and to protect nearby areas from undesirable aspects of industrial development.

**Auto-oriented Commercial:** designation is intended to encourage the redevelopment of strip commercial areas into vibrant business districts that are physically connected to the surrounding community by pedestrian pathways as well as major arterials.

**Highway Commercial:** designation is intended to encourage development of uses that cater to the needs of highway travelers.

**Gateway District:** The purpose of the Gateway District is to encourage the development of a safe and compatible mix of commercial, office and light industrial uses immediately adjacent to East Main Street, without compromising the safety of the adjoining neighborhoods, imposing hazards and nuisances on the community, or degrading the environment. A primary function of this district is to encourage the location of businesses that can service the broader regional community and to function as a gateway into the City of Batavia. Improving the visual integrity of this segment of East Main Street is a priority goal in this future land use designation. To encourage economic opportunity in this uniquely located area, future land uses should be more focused on the area's visual integrity and less on specific allowed uses. Additionally, in an effort to achieve improved compatibility between adjacent land uses, design standards should be adopted that minimize off-site impacts.

**Transformational Neighborhood:** designated for a compatible mix of residential, office and limited specialty retail uses in close proximity to downtown and the surrounding residential development. The designation recognizes the need to protect adjacent residential uses, thus the basic character of the designation encourages a compatible mixture of residential and office types of land uses. Review of building design, uses, buffers, landscaping, lighting and parking are recognized as essential for the establishment and maintenance of the character of this designation. This designation is not intended for moderate-to-large office centers.

**Downtown:** designation features a mix of private and public uses designed to create a compact, friendly small-town feel, with an emphasis on a strong pedestrian network and public realm. Public places, sidewalks, extensive landscaping, transit orientation, shared or structured parking, protection of environmentally sensitive areas, and high-quality design and signage are key features. Permitted uses emphasize mixed or multiple use developments, and include high-density housing, civic and governmental, offices, medical, small-scale commercial and retail, and locally oriented professional and personal services.

**Conservation:** located within the floodplain, this area experiences repeated loss from flooding waters. Future regulations will be developed to alleviate these losses without adversely impacting natural resources.

# 4.B Future Land Use Map

## City of Batavia Comprehensive Plan

### Future Land Use Plan

#### Existing Land Use Legend

- City Boundary
- Land Use Type
- Agricultural
- Commercial
- Community Services
- Industrial
- Mixed Use
- Parks, Recreation & Conservation Lands
- Public Services
- Residential - Low Density
- Residential - Medium Density
- Residential - High Density
- Vacant Land
- Unclassified



Date: January 2016  
 Source: City of Batavia  
 MAP 2013 Impervious, NYSITS



This map is intended for reference purposes only and is not suitable for engineering or planning purposes.



**BOYLAN LAW OFFICE, LLP**

ATTORNEYS AND COUNSELORS AT LAW  
P.O. BOX 307, 45 WEST MAIN STREET  
LEROY, NEW YORK 14482-0307  
(585) 768-8148 FAX (585) 768-7738

PAUL S. BOYLAN\*  
LAURENCE W. BOYLAN  
MARK S. BOYLAN  
\*ALSO ADMITTED IN FLORIDA

PAUL A. BOYLAN  
(1902-1997)

January 2, 2019

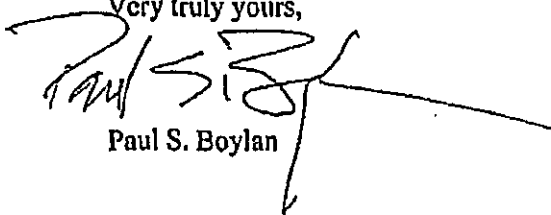
Martin D. Moore, City Manager  
City of Batavia  
One Batavia City Centre  
Batavia, NY 14020

Dear Mr. Moore:

Enclosed please find a Petition to Amend the City of Batavia Zoning Code, with attachments, on behalf of my client, Peter Yasses, and ask that you submit it to the Batavia City Council for their consideration.

Please let me know if you require anything further at this time. Thank you very much.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul S. Boylan", with a long horizontal line extending to the right from the end of the signature.

Paul S. Boylan

PSB:ds  
Enclosures

PETITION TO AMEND  
CITY OF BATAVIA ZONING CODE

I, Peter N. Yasses, am the member of 54 Cedar Street, LLC, which owns the property located at 54 Cedar Street in the City of Batavia. Said property is also known as Tax Map Parcel 84.020-1-10 and consists of 7.46 acres pf undeveloped land. It is presently located in an I-2 zone.

I wish to install at least six (6) storage unit buildings with individual units within those buildings and an outdoor fenced-in storage area for large items.

I have been advised that the City of Batavia Zoning Code does not permit storage unit buildings in ANY zone.

I respectfully request that the City Code be amended to include storage unit buildings as a permitted use in both I-1 and I-2 zoned property.

I have attached an aerial photograph of the property owned by 54 Cedar Street, LLC and photographs of typical storage unit buildings of the type I wish to install.

I look forward to meeting with you and your representatives to answer any questions you or your advisors may have.

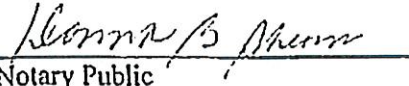
54 CEDAR STREET, LLC

By: 

Peter N. Yasses, Member

STATE OF NEW YORK)  
COUNTY OF GENESEE) SS.

On the 3<sup>rd</sup> day of January, 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared Peter Yasses, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

DONNA B. SHUM  
Notary Public, State of New York  
Qualified in Genesee County  
My Commission Expires January 4, 2023



## GENESEE COUNTY PLANNING BOARD REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID C-14-BAT-10-18  
Review Date 10/11/2018

Municipality BATAVIA, C.  
Board Name ZONING BOARD OF APPEALS  
Applicant's Name Peter Yasses  
Referral Type \_\_\_\_\_  
Variance(s) Use Variance  
Description: Use Variance to construct up to two self-service storage buildings with outdoor storage.  
Location 54 Cedar St., Batavia  
Zoning District Industrial (I-2) District

### PLANNING BOARD DECISION

**DISAPPROVAL**

### EXPLANATION:

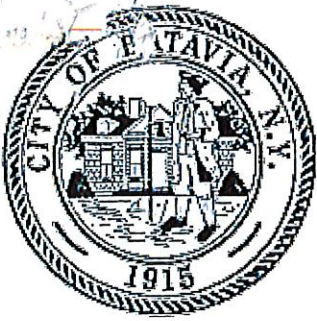
Under the criteria set forth in NYS General City Law, this proposal does not appear to meet the thresholds for the granting of a Use Variance. The parcel was purchased by the applicant this August with the prohibition in place therefore the hardship appears to be self-created. Additionally, the applicant must provide financial data that the landowner cannot make a reasonable return on the property with any of the uses currently allowed under the zoning law. Furthermore, there is no evidence that the property and its circumstances are unique in this zoning district. By State Law, the applicant must meet all four tests in order for the Zoning Board of Appeals to grant the use variance. **The applicant should instead approach City Council and ask if such a use could be added to the list of allowed uses in the I-1/I-2 district.** Possible inappropriate application of use variances may pose significant impacts upon the development policies/processes of the City.

  
Director

October 11, 2018

Date

If the County Planning Board disapproved the proposal, or recommends modifications, the referring agency shall NOT act contrary to the recommendations except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within 30 days after the final action the referring agency shall file a report of final action with the County Planning Board. An action taken form is provided for this purpose and may be obtained from the Genesee County Planning Department.



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

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

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

From: Doug Randall, Code Enforcement Officer

Date: 10/2/18

Re: **54 Cedar St.**  
Tax Parcel No. **84.020-1-10**

Zoning Use District: **I-2**

The applicant, Peter Yasses, has filed an application for a use variance to allow individual public storage rental unit buildings with outside storage on this vacant parcel located within the I-2 Industrial District.

**Review and Approval Procedures:**

**County Planning Board-** Pursuant to General Municipal Law 239 m, referral to the County Planning Board is required since the property is within 500 feet of the boundary of a County or State park or other recreation area.

**City Planning and Development Committee-** Pursuant to section 190-49 C of the zoning ordinance, the Planning and Development Committee shall review applications for variances that include non-permitted uses and make recommendation 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.

Required variances- Use

- 1) **BMC 190-16 Individual public storage rental units with outside storage area is not a permitted principal use in the I-2 industrial use district.**

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



DATE: 9/26/18

APPLICANT NAME & PHONE: 54 CEDAR, LLC

**Project Location and Information**

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

Address of Project: 54 CEDAR STREET BATAVIA N.Y.

Owner & Address: 54 CEDAR STREET, 6956 BYRON-HOLLEY RD, BYRON, N

Phone: (505) 548-2564 (Patrick Yasses) 11422

**Project Type/Describe Work**

Estimated cost of work: 100,000

Start date: 1/1/19

Describe project:

CONSTRUCTION OF ONE OR POSSIBLY TWO STORAGE FACILITY BUILDINGS

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

**GENERAL**

Name/Address: THE YASSES TRUCKING + CONSTRUCTION, LLC

Phone: 548-5014 6954 BYRON-HOLLEY RD., BYRON, N.Y. 11422

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

Name/Address: NONE

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

**HEATING**

Name/Address: NONE

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

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

Name/Address: UNKNOWN AT THIS TIME

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: \_\_\_\_\_



CITY OF BATAVIA  
APPLICATION TO THE ZONING BOARD OF APPEALS

PAID  
OCT - 3 2018  
CITY OF BATAVIA  
CLERK-TREASURER

Application No.: 18-17  
Hearing Date/Time: \_\_\_\_\_

APPLICANT: 54 CEDAR LLC  
Name: 54 CEDAR LLC E-Mail Address: PYASSEI@ROCHESTER.NY.COM  
Street Address: 6956 BYRON-HALLEY RD. Phone: (508) 548-2564 Fax: 548-7100  
City: BYRON State: N.Y. Zip: 14422

STATUS:  Owner  Agent for Owner  Contractor

OWNER: PETER N. YASSEI OWNER OF LLC  
Name: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_  
Street Address: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

LOCATION OF PROPERTY: 54 CEDAR ST. BATAVIA N.Y.

DETAILED DESCRIPTION OF REQUEST: APPLICANT WANTS TO BUILD STORAGE UNIT FACILITIES UPON THIS PROPERTY WHICH IS ZONED I-2 (NOTE: A PORTION OF THIS PROPERTY IS ZONED I-1 HOWEVER NO UNITS BUILT IN I-1)

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: [Signature] Date: 9/26/18  
Owner's Signature: [Signature] Date: 9-26-18

To be Filled out by Zoning Officer

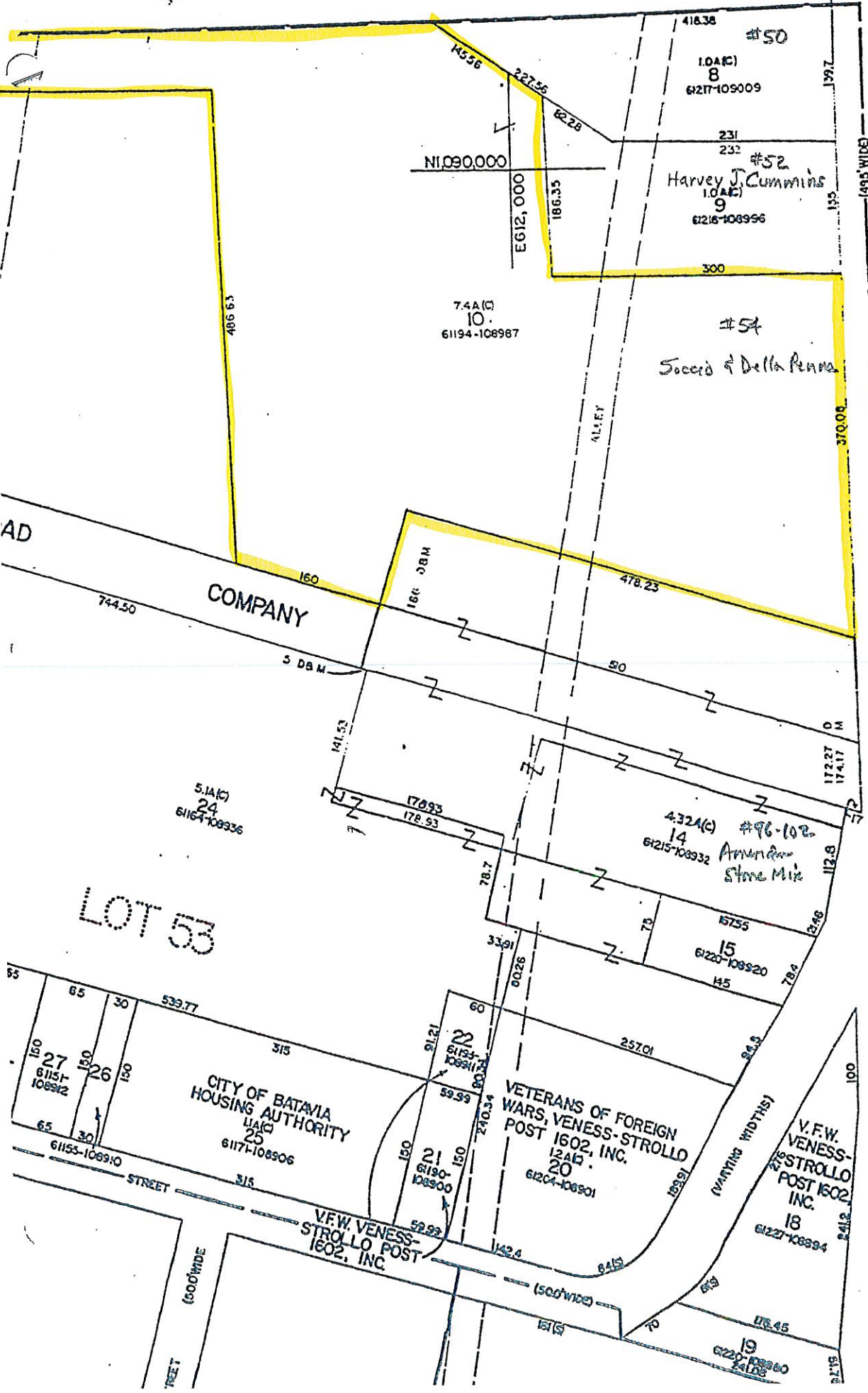
TAX PARCEL: 84.020-1-10 ZONING DISTRICT: I-2 FLOOD PLAIN: C

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 190-110 Individual public storage unit buildings with outside storage area is not a permitted principal use in the I-1 Industrial District.



54 CEDAR ST.



LOT 53

CITY OF BATAVIA HOUSING AUTHORITY

VETERANS OF FOREIGN WARS, VENESS-STROLLO POST 1602, INC.

V.V.W. VENESS-STROLLO POST 1602, INC.

Harvey J. Cummins

Socco & Della Penna

Amman Stone Mix



Dewitt Area Dr  
Dewitt Park

Elmwood Cemetery

St. Joseph Cemetery

Farrall Park

Google Maps 119 Cedar St



Image capture: Jul 2018 © 2019 Google

Batavia, New York

Google

Street View - Jul 2018



Google Maps 125 Cedar St



Image capture: Jul 2018 © 2019 Google

Batavia, New York

Google

Street View - Jul 2018

SITE PLAN



| PROPOSED 6 STORAGE BUILDINGS

□ PROPOSED FENCED IN OUTDOOR STORAGE

..... PROPOSED SMALL BURM W BRICK SIGN







