

ZONING BOARD OF APPEALS
Thursday, March 28, 2019
6:00 pm
Council Board Room
One Batavia City Centre, Batavia, NY

AGENDA

- I. Roll Call
- II. Call to order
- III. Pledge of Allegiance
- IV. Approval of February 28, 2019 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

Request #1 *126 Elm St.*
Darrel Schiavi, owner

Area Variance: Construction of a 6' x 10' pressure treated wood-frame deck at the front entry of this single-family dwelling to replace an existing 1.9' x 10' concrete patio and stair

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

- VII. Setting of Next Meeting: April 25, 2019
- VIII. Adjournment

ZONING BOARD OF APPEALS

Draft Minutes

Thursday, February 28, 2019

6:00 pm

Council Board Room

One Batavia City Centre, Batavia, NY

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

Members absent: Nick Harris

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

I. Roll Call

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

II. Call to Order

Mr. McCarthy called the meeting to order at 6:13 pm.

III. Pledge of Allegiance

IV. Approval of Minutes

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

RESULT: Approval of January 24, 2019 minutes.

V. Zoning Board of Appeals statement

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

VI. Variance Request

Area Variance: replacement of an 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 proposal
2. Public hearing and discussion
3. Action by the board

1. Review Application

Acting Vice Chair Deborah Kerr-Rosenbeck read the summary of the proposal. Mr. McCarthy reported that both the Genesee County Planning Board and the City of Batavia Planning and Development Committee recommended approval of the proposal.

2. Public Hearing and Discussion

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

RESULT: Public hearing opened at 6:18 pm.

Mr. Neff explained that the reinstated sign panel will refer to the new business located there. It is constructed of aluminum, in the company color of blue, with letters and logo that are lighted with LED bulbs.

There was no one present who wished to speak about the project, and no phone calls, letters, or emails.

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

RESULT: Public hearing closed at 6:20 pm.

3. Action by the Board

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

- Undesirable change in neighborhood character: no, it's a commercial area
- Alternative cure sought: no
- Substantiality: no
- Adverse effect or impact on neighborhood/community: no
- Self-created: no, it's a replacement of an existing sign

MOTION: Mr. McCarthy moved to approve the proposal with 60 days to obtain the permit. The motion was seconded by Mr. Cox, and on roll call, was approved 5-0.

RESULT: Approval of Area Variance.

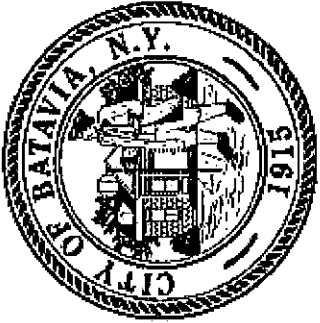
VII. New Business: none

VIII. Setting of Next Meeting: March 28, 2019

IX. Adjournment

Mr. McCarthy moved to adjourn the meeting at 6:22 pm; Mr. Russell seconded. All voted in favor.

Meg Chilano
Bureau of Inspection 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: Zoning Board of Appeals
From: Doug Randall, Code Enforcement Officer
Date: 2/27/19
Re: 126 Elm St.
Tax Parcel No. 84.043-2-17
Zoning Use District: R-1A

The applicant, Darrel Schiavi (owner), has applied for a permit to construct a 6' x 10' pressure treated wood frame deck at the front entry of this single family dwelling to replace an existing 1.9' x 10' concrete patio and stair.

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

Review and Approval Procedures:

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

Required variances- Area

1) BMC Sec. 190-29 A. and Schedule I

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Front yard clear space	20'	5.88'	14.12'

PAID



MAR 18 2019

CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS
CLERK-TREASURER

Application No.: 19-03
Hearing Date/Time: _____

APPLICANT: Daniel P. Schiavi
Name none
E-Mail Address
126 Elm St
Street Address
Batavia NY Phone 585-737-0150
City State Zip

STATUS: ☒ Owner _____ Agent for Owner _____ Contractor _____

OWNER: Daniel P. Schiavi
Name
126 Elm St. E-Mail Address
Street Address
Batavia NY Phone 585-737-0150 Fax
City State Zip

LOCATION OF PROPERTY: 126 Elm St Batavia NY 14020

DETAILED DESCRIPTION OF REQUEST: Replace front steps with 10'-6"
Deck + stairs

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.

Daniel P. Schiavi Date 2-5-19
Applicant's Signature
Daniel P. Schiavi Date 2-5-19
Owner's Signature

To be Filled out by Zoning Officer

TAX PARCEL: 84.043-2-17 ZONING DISTRICT: R-1A FLOOD PLAIN: C
TYPE OF APPEAL: ☒ Area Variance FEE: ☒ \$50 (One or Two Family Use) CL# 3267
☐ Use Variance ☐ \$100 (All other Uses)
☐ Interpretation
☐ Decision of Planning Committee

Provision(s) of the Zoning Ordinance Appealed: BMC 190-29 A and Schedule I
Front yard setback 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.
Deck to replace front steps which are
falling apart

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. To build a 10' by 6' Deck with stairs
Railings

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

4. **Adverse Effect or Impact.** The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community.
None

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

Donald P. Schmitt

Applicant's Signature

2-5-19

Date

CITY OF BATAVIA

BUILDING PERMIT APPLICATION

DATE: 2APPLICANT NAME & PHONE: Darrel P. Schiavi 585-737-0150Project Location and Information

Permit #: _____ Fee: _____

Address of Project: 126 Elm St. Batavia NYOwner & Address: Darrel P. Schiavi 126 Elm St. Batavia NY 14020
Phone: 585-737-0150Project Type/Describe WorkEstimated cost of work: \$2500Start date: Spring of 2019

Describe project:

10' Long Deck which will Ex. 6' Towards
Parwell St.Contractor Information – Insurance certificates (liability & workers comp) required being on fileGENERALName/Address: Owner will buildPhone: 585-737-0150PLUMBING (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: _____

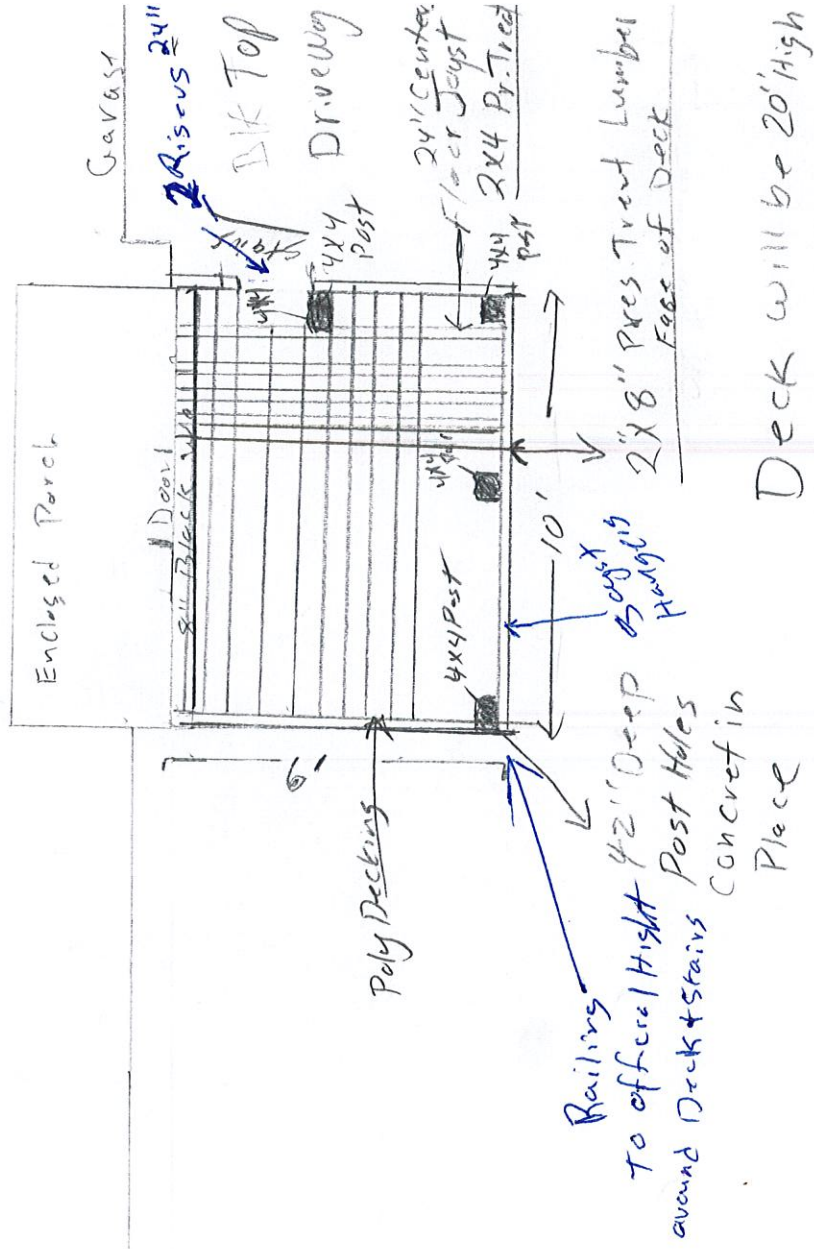
Zoning Review: _____ Variance Required: _____ Site Plan Review: _____ Other: _____

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

Existing Use: _____ NYS Building Code Occupancy Class: _____

Proposed Use: _____ NYS Building Code Occupancy Class: _____

126 Elm St



Elm St → North

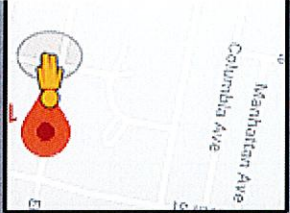
Farewell

← West

→ South

Darrel Sohani 126 Elm St

585-737-0150



Farwell Dr
Batavia, New York
Google
Street View - Aug 2011

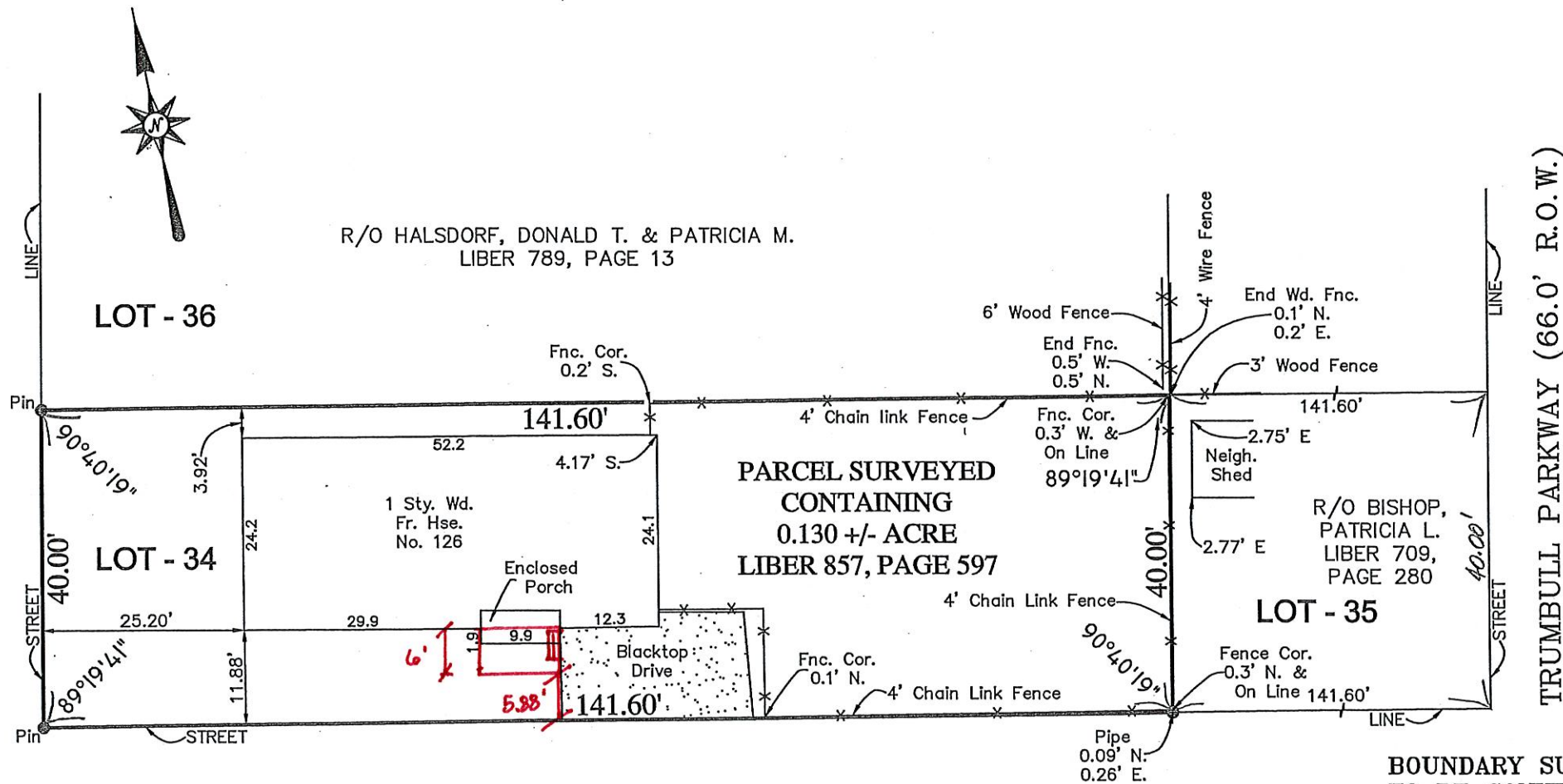


Fairwell St



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

DAVID S. LAMENDOLA
GREGORY W. TOWNSEND
Licensed Land Surveyors
435 East Main Street
Batavia, New York 14020
Phone (585) 344-1331
Fax (585) 343-2691



**"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. TO THE ASSIGNEES OF THE LENDING INSTITUTION, CERTIFICATION ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS."

FARWELL STREET (40.0' R.O.W.)

LEGEND
● EXISTING IRON STAKE

REFERENCES
WARD'S SUBDIVISION FILED AT BOOK 3 OF MAPS,
PAGE 128 (Formerly Filed At Book 2 Of Maps,
Page 21)
SURVEY MAP NO. 92-91 BY DAVID S. LAMENDOLA,
L.S., DATED APRIL 20, 1992

BOUNDARY SURVEY SHOWING THE PARCEL
TO BE CONVEYED BEING ALL OF LOT 34
IN BLOCK B OF WARD'S SUBDIVISION.
SITUATE IN THE CITY OF BATAVIA, COUNTY
OF GENESEE AND STATE OF NEW YORK

APRIL 20, 2007 SCALE 1" = 20'
JOB NO. 07-103
RESURVEYED & REVISED - - AUGUST 6, 2010

DATE 11/11/78 N.Y.S.R.L.S. No. 50249