

# ZONING BOARD OF APPEALS

Thursday, September 26, 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. Pledge of Allegiance
- IV. Approval of August 22, 2019 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

**Request #1**                      *8 Evergreen Dr.*  
Donald Childs, owner

Area Variance:                Widen an existing 29.9' wide Portland cement driveway by adding an additional 5.71' of Portland cement concrete, creating a total driveway width of 35'

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

**Request #2**                      *5 Walnut St.*  
Erik Saluste, owner

Area Variance:                Placement of an 8' tall fence parallel to the northwest property line and returning to the dwelling

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

**Request #3**                      *217 South Main St.*  
Tim Stoddard, contractor for owner

Area Variance:                Construction of a 12' x 24.5' one story wood frame addition to an existing attached garage. A portion of the addition will be located within the required front yard clear space

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

VII. Setting of Next Meeting: November 28, 2019

VIII. Adjournment

**ZONING BOARD OF APPEALS**  
***Draft Minutes***  
**Thursday, August 22, 2019**  
**6:00 pm**  
**Council Board Room**  
**One Batavia City Centre, Batavia, NY**

Members present: *Bill Cox, Nick Harris, Deborah Kerr-Rosenbeck, Paul McCarthy, Leslie Moma (Alt.), Jim Russell*

Members absent:

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 5:59 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 by unanimous consent.

**RESULT: Approval of July 25, 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 Requests**

- A. Area Variance: placement of a 12' x 24' one story wood frame shed in a yard not a rear yard (front) of this property

Address: 69 Clinton St.

Applicant: Laurie Kilbury Taylor, owner

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

### **1. Review Application**

Acting Vice-chair Ms. Kerr-Rosenbeck read the summary of the proposal. Mr. McCarthy reported that the Genesee County Planning Board recommended approval of the variance.

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

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

**RESULT: Public hearing opened at 6:03 pm.**

Ms. Kilbury Taylor explained that the place she chose to put the shed is the only flat spot in the yard. Near the house is too wet and the side yard is wooded. The shed will not be visible from the street, and the neighbor does not have a problem with the location.

There was no one present who wished to speak, and no calls, letters, or email concerning the proposal.

**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 6:05 pm.**

### **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. Russell moved to approve the variance with 60 days to obtain the permit. The motion was seconded by Mr. Cox, and on roll call, was approved 5-0.

**RESULT: Area Variance approved.**

**VII. New Business: none**

**VIII. Setting of Next Meeting: September 26, 2019**

### **IX. Adjournment**

Mr. McCarthy adjourned the meeting at 6:09 pm.

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Meg Chilano  
Bureau of Inspection Secretary





## GENESEE COUNTY PLANNING BOARD REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID C-17-BAT-9-19  
Review Date 9/12/2019

Municipality BATAVIA, C.  
Board Name ZONING BOARD OF APPEALS  
Applicant's Name Tim Stoddard, Contractor for owner  
Referral Type \_\_\_\_\_  
Variance(s) Area Variance(s)  
Description: Area Variance to construct a garage addition for a single family home.  
Front Yard Setback  
Minimum required: 20 ft.  
Proposed: 14.24 ft.  
  
Location 217 South Main St., Batavia  
Zoning District Residential (R-1A) District

### PLANNING BOARD DECISION

#### APPROVAL

#### EXPLANATION:

The proposed garage should pose no significant county-wide or inter-community impact.

Director

September 12, 2019

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.



## GENESEE COUNTY PLANNING BOARD REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID **C-18-BAT-9-19**  
Review Date **9/12/2019**

Municipality **BATAVIA, C.**  
Board Name **ZONING BOARD OF APPEALS**  
Applicant's Name **Erik R. Saluste**  
Referral Type  
Variance(s) **Area Variance(s)**  
Description: **Area Variance to replace wooden fence with a taller vinyl one.**  
**Fence Height**  
**Maximum allowed: 6 ft.**  
**Proposed: 8 ft.**  
Location **5 Walnut St. (NYS Rt. 98), Batavia**  
Zoning District **Residential (R-2) District**

### PLANNING BOARD DECISION

#### APPROVAL

#### EXPLANATION:

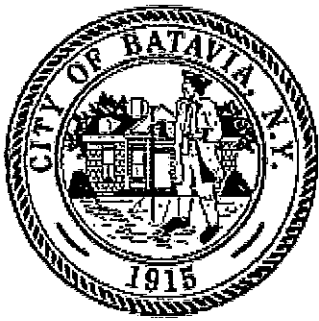
The proposed fence should pose no significant county-wide or inter-community impact, however the City ZBA may want to consider if this variance could set precedent for future such requests if granted.

Director

September 12, 2019

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: Planning and Development Committee  
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 8/29/19

Re: 8 Evergreen Dr.  
Tax Parcel No. 84.008-1-43

Zoning Use District: R-1

The applicant, Donald Childs (owner), has applied for a permit to widen an existing 29.29' wide Portland cement driveway by adding an additional 5.71' of Portland cement concrete, creating a total driveway width of 35'

**Note:** This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQRR 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>Existing</u>	<u>Proposed</u>	<u>Difference</u>
Driveway width	27.5'	29.29'	35'	7.5' (over permitted)



CITY OF BATAVIA  
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: \_\_\_\_\_

Hearing Date/Time: \_\_\_\_\_

APPLICANT: Donald Childs dchilds1@rochester.rr.com  
Name E-Mail Address  
8 Evergreen Dr. 585-861-0140  
Street Address Phone Fax  
Batavia NY 14020  
City State Zip

STATUS: ☒ Owner ☐ Agent for Owner ☐ Contractor

OWNER: Donald Childs dchilds1@rochester.rr.com  
Name E-Mail Address  
8 Evergreen Dr. 585-861-0140  
Street Address Phone Fax  
Batavia NY 14020  
City State Zip

LOCATION OF PROPERTY: 8 Evergreen Dr., Batavia, NY

DETAILED DESCRIPTION OF REQUEST: Replace existing driveway with a wider driveway

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.

Donald J. Childs 8-22-19  
Applicant's Signature Date

Donald J. Childs 8-22-19  
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.0087-43 ZONING DISTRICT: R-1 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 190-39 E (1) driveway width may not exceed 25% of lot width.



## 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.  
There will be no undesirable change in the neighborhood character.
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. There are no alternative cures.
3. **Substantiality.** The requested area variance is not substantial. The requested 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.  
There will be no adverse effect or impact on the physical or environmental condition in the neighborhood or community.
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. The difficulty is not the result of the owner or predecessor.

Ormaed J. Chiedo  
Applicant's Signature

8-22-19  
Date



Permit No. \_\_\_\_\_  
Date: \_\_\_\_\_

**DRIVEWAY AND PARKING SPACE PERMIT**  
**\$10 fee – Please attach Survey / Illustration**

ADDRESS OF PROPERTY: 8 Evergreen Drive, Batavia, NY

OWNER: Donald Childs dchild1@rochester.rr.com  
Name E-mail Address  
8 Evergreen Drive 585-861-0140  
Street Address Phone  
Batavia NY 14020  
City State Zip

CONTRACTOR: GMA Concrete Design  
Name E-mail Address  
526 Sprucewood 716-390-9133  
Street Address Phone  
Williamsville NY 14221  
City State Zip

Donald J. Childs 8-22-19  
Owner/Contractor's Signature Date

DIMENSIONS OF EXISTING DRIVEWAY: Width 29'3 1/2" Length 60'

DIMENSIONS OF NEW DRIVEWAY / ADDITION: Width 35' Length 60'

SURFACE MATERIAL: Existing Concrete Proposed concrete

*To be filled out by Zoning Enforcement Officer*

TAX PARCEL: 84.008-1-43 ZONING DISTRICT: R-1 SURVEY: \_\_\_\_\_

DIMENSIONS OF LOT: Lot Frontage \_\_\_\_\_ Front Yard \_\_\_\_\_

PERCENTAGE OF LOT FRONTAGE: \_\_\_\_\_ SURFACE MATERIAL: \_\_\_\_\_

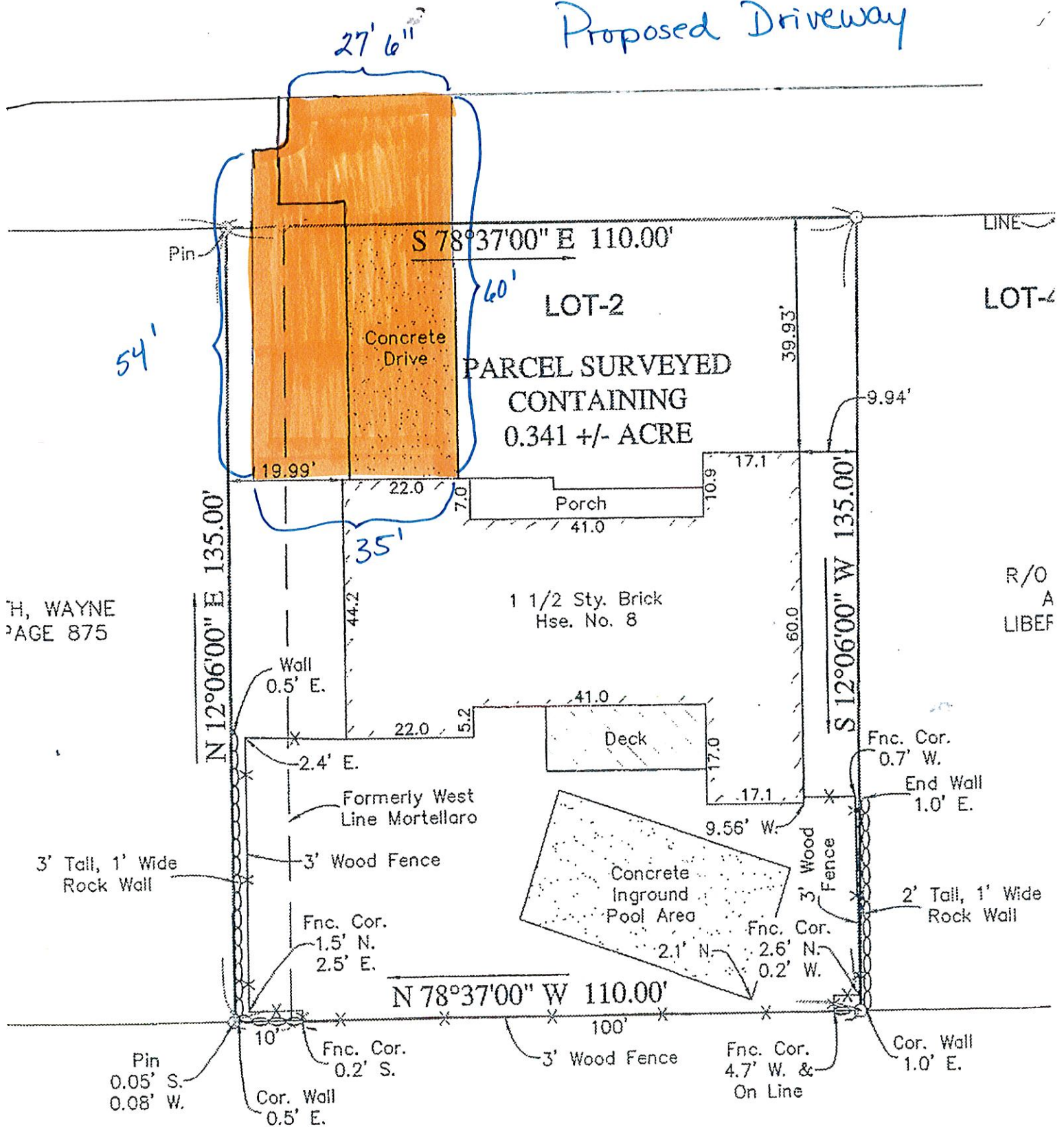
APPROVED: \_\_\_\_\_ AREA VARIANCE: \_\_\_\_\_ GRADE PLAN: \_\_\_\_\_

ISSUING OFFICER: \_\_\_\_\_ DATE: \_\_\_\_\_



Evergreen Drive

Proposed Driveway



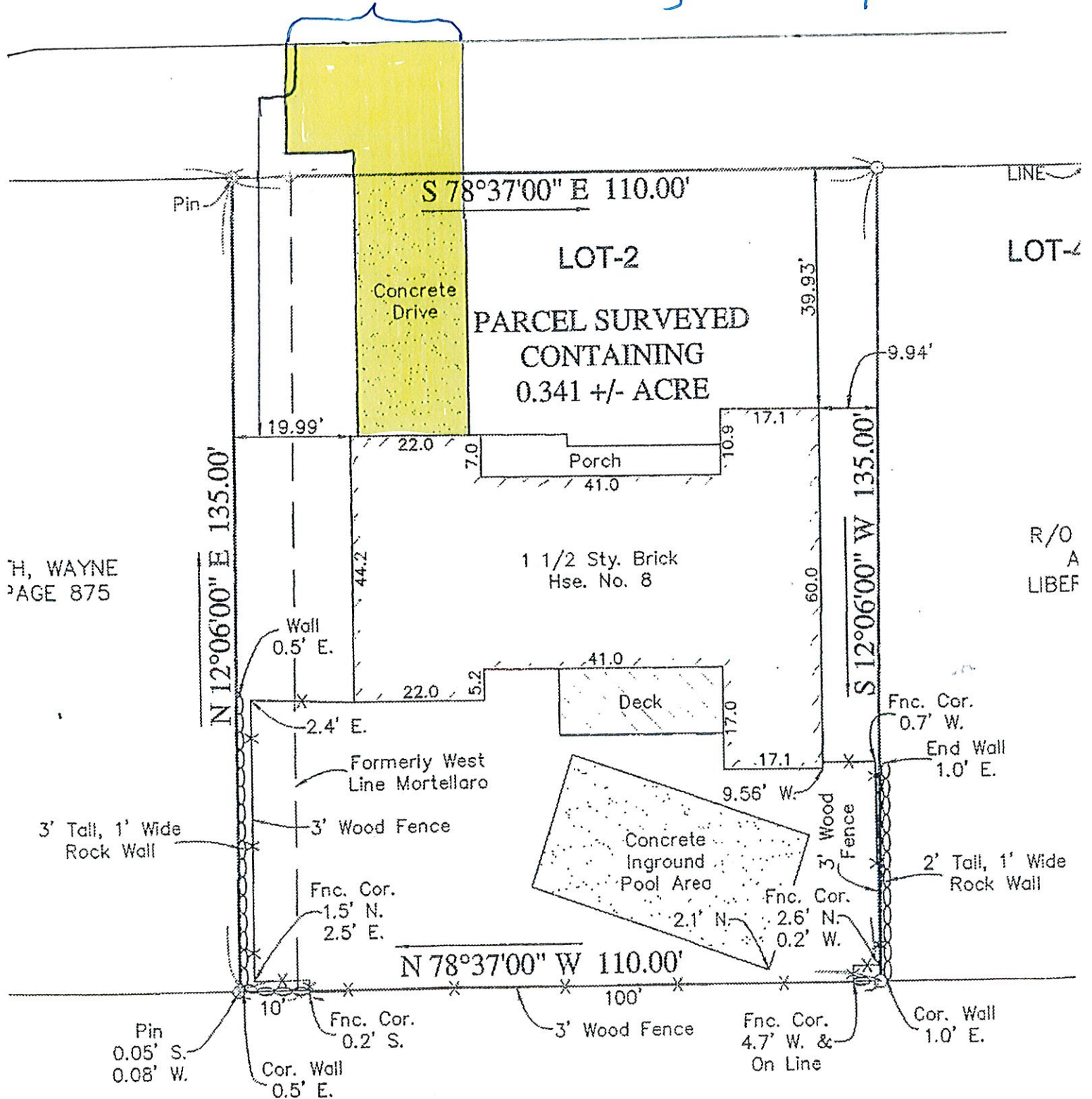
H, WAYNE  
PAGE 875

R/O  
A  
LIBEF

Evergreen Drive

29' 3 1/2"

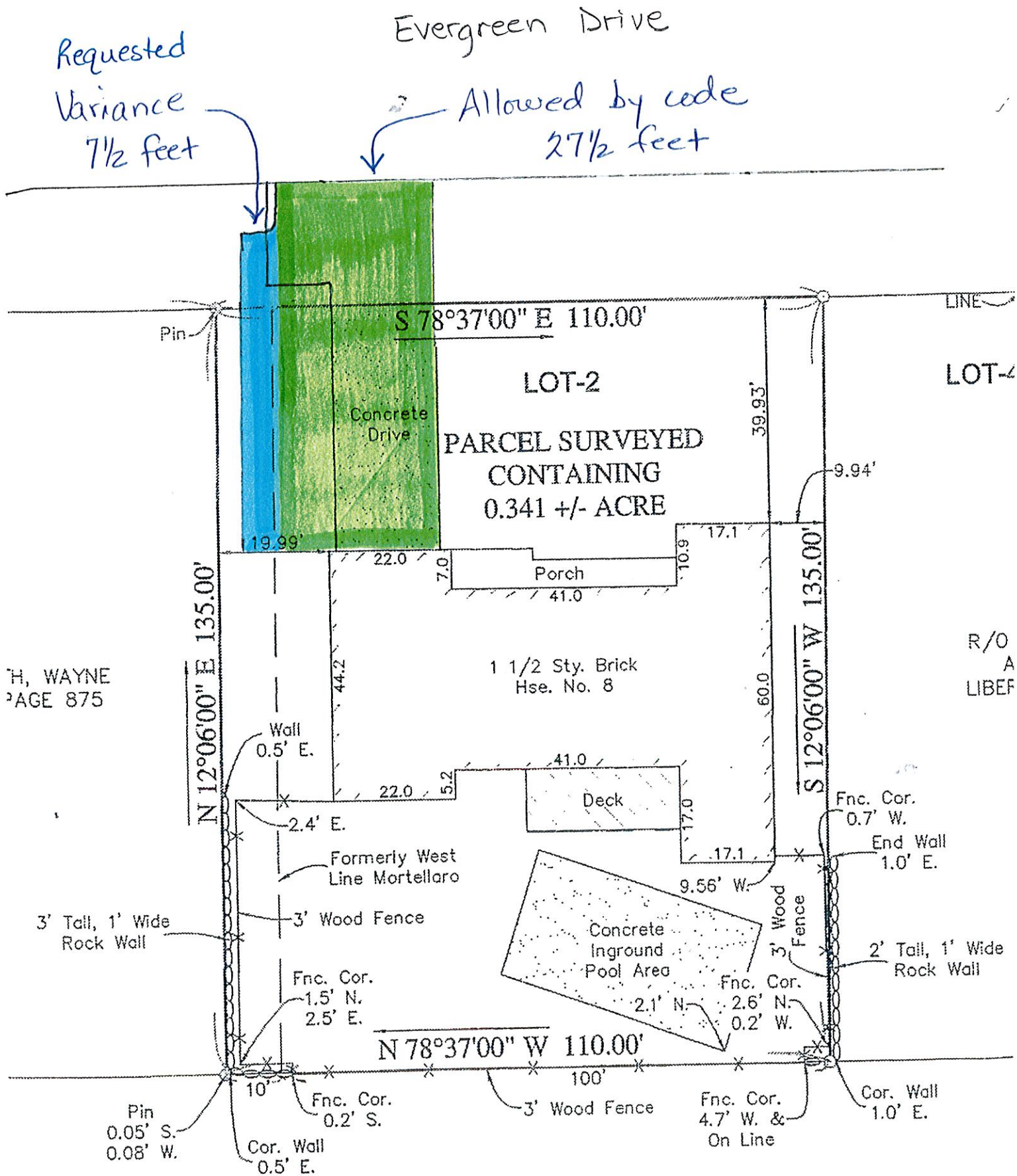
Existing Driveway



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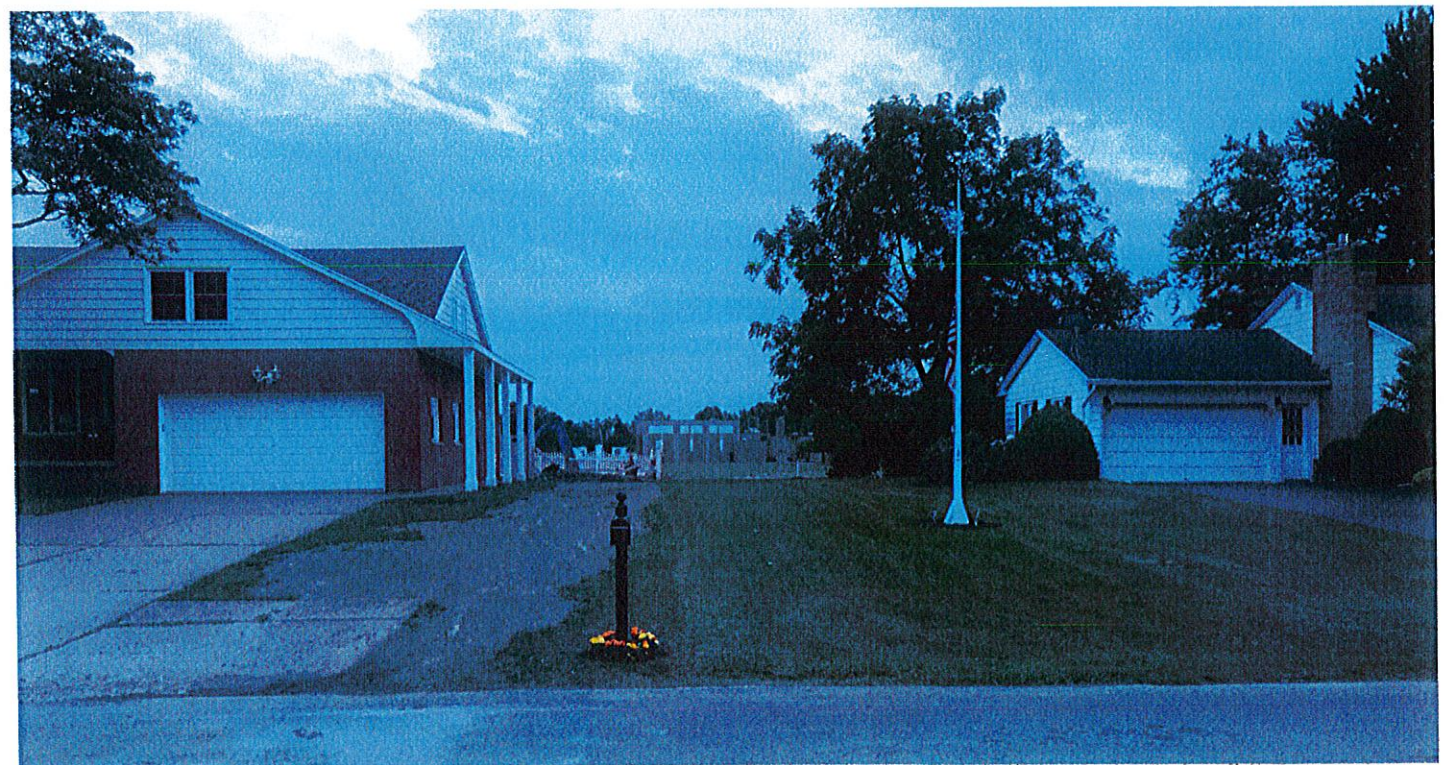
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H, WAYNE  
PAGE 875



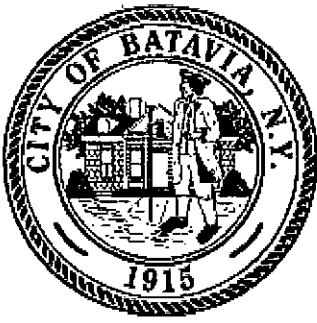






Area of Variance





*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  
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 8/30/19

Re: 5 Walnut St.  
Tax Parcel No. 84.010-4-20

Zoning Use District: R-2

The applicant, Erik R. Saluste (owner) has filed an application to place an 8' tall fence parallel to a portion of the northwest property line and returning to the dwelling.

**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:**

**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 right of way of a state road or highway.

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

Required variances- Area

1) **BMC 190-33 D.** Fences located in residential districts shall not exceed 6' in height above ground.

**SEND OR DELIVER TO:**

GENESEE COUNTY DEPARTMENT OF PLANNING

3837 West Main Street Road

Batavia, NY 14020-9404

Phone: (585) 815-7901

**DEPARTMENT USE ONLY:**

GCDP Referral # \_\_\_\_\_



**\* GENESEE COUNTY \***  
**PLANNING BOARD REFERRAL**

Required According to:

**GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N**

(Please answer ALL questions as fully as possible)

**1. REFERRING BOARD(S) INFORMATION**Board(s) Zoning Board of AppealsAddress One Batavia City CentreCity, State, Zip Batavia, NY 14020Phone (585) 345 - 6327 Ext. \_\_\_\_\_**2. APPLICANT INFORMATION**Name Erik R. SalusteAddress 5 Walnut St.City, State, Zip Batavia, NY 14020Phone (585) 356 - 5722 Ext. \_\_\_\_\_ Email esaluste@rochester.rr.comMUNICIPALITY: ☒ City ☐ Town ☐ Village of Batavia**3. TYPE OF REFERRAL:** (Check all applicable items)☒ Area Variance☐ Use Variance☐ Special Use Permit☐ Site Plan Review☐ Zoning Map Change☐ Zoning Text Amendments☐ Comprehensive Plan/Update☐ Other: \_\_\_\_\_

Subdivision Proposal

☐ Preliminary☐ Final**4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:**A. Full Address 5 Walnut St.B. Nearest intersecting road PearlC. Tax Map Parcel Number 84.010-4-20

D. Total area of the property \_\_\_\_\_ Area of property to be disturbed \_\_\_\_\_

E. Present zoning district(s) R-2**5. REFERRAL CASE INFORMATION:**

A. Has this referral been previously reviewed by the Genesee County Planning Board?

☒ NO ☐ YES If yes, give date and action taken \_\_\_\_\_

B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law

BMC 190-33 D.C. Please describe the nature of this request Approval to place an 8' tall fence on this property**6. ENCLOSURES** – Please enclose copy(s) of all appropriate items in regard to this referral☒ Local application☒ Site plan☐ Subdivision plot plans☐ SEQR forms☐ Zoning text/map amendments☐ Location map or tax maps☐ Elevation drawings☐ Agricultural data statement☐ New or updated comprehensive plan☒ Photos☒ Other: Cover letter**7. CONTACT INFORMATION** of the person representing the community in filling out this form (required information)Name Douglas Randall Title Code Enf. Officer Phone (585) 345 - 6327 Ext. \_\_\_\_\_Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020 Email drrandall@batavianewyork.com



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

**PAID**

**AUG 28 2019**

**CITY OF BATAVIA  
CLERK-TREASURER**

Application No.: 19-17

Hearing Date/Time: \_\_\_\_\_

**APPLICANT:** Erik R. Saluste ESaluste@Rochester.rr.com

Name 5 Walnut Street E-Mail Address 585-356-5722  
Street Address Batavia Phone 14020  
City NY State 14020 Zip

**STATUS:** ☒ Owner ☐ Agent for Owner ☐ Contractor

**OWNER:** Erik R. Saluste ESaluste@Rochester.rr.com

Name 5 Walnut Street E-Mail Address 585-356-5722  
Street Address Batavia Phone 14020  
City NY State 14020 Zip

**LOCATION OF PROPERTY:** 5 Walnut Street Batavia NY

**DETAILED DESCRIPTION OF REQUEST:** Install (8) Foot high Fence  
around pool next to house.

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.

Erik R. Saluste 8-27-2019  
Applicant's Signature Date

Erik R. Saluste 8-27-2019  
Owner's Signature Date

*To be Filled out by Zoning Officer*

**TAX PARCEL:** 84.010-4-20 **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)  
☐ Interpretation  
☐ Decision of Planning Committee

**Provision(s) of the Zoning Ordinance Appealed:** BMC 190-33 D. Fences may not  
exceed 6' in height in the R-2 district. / Residential use districts.

## Criteria to Support Area Variance

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

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

1. **Undesirable Change in neighborhood Character.** The granting of the variance will not produce an undesirable change in the neighborhood or a detriment to nearby properties.  
*It is a new fence and improves the property as well as the visual improvement.*
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.  
*The fence is the only way to physically separate the properties.*
3. **Substantiality.** The requested area variance is not substantial.  
*It only occupies the current area of fence, no impact to anything.*
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.  
*It is replacing a worn deteriorating wooden fence with an aesthetically pleasing vinyl fence. There is no impact to anyone or the environment.*
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.  
*The fence has been on the same piece of property for over 25 years.*

Erik R. Schubert  
Applicant's Signature

8-27-2019  
Date



## CITY OF BATAVIA

## BUILDING PERMIT APPLICATION

DATE: 8-27-2019APPLICANT NAME & PHONE: Erik R. Saluste 585-356-5722**Project Location and Information**

Permit #:

Fee:

Address of Project: 5 Walnut Street Batavia NYOwner & Address: Erik R. Saluste 5 Walnut Street Batavia NYPhone: 585-356-5722**Project Type/Describe Work**Estimated cost of work: \$ 5000-6000Start date: ASAP

Describe project:

Replace existing deteriorating wooden fence  
with a new vinyl one.**Contractor Information – Insurance certificates (liability & workers comp) required being on file****GENERAL**Name/Address: Scalia's (Batavia Fence) 8106 State St. Rd.Phone: 585-343-3106**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: \_\_\_\_\_

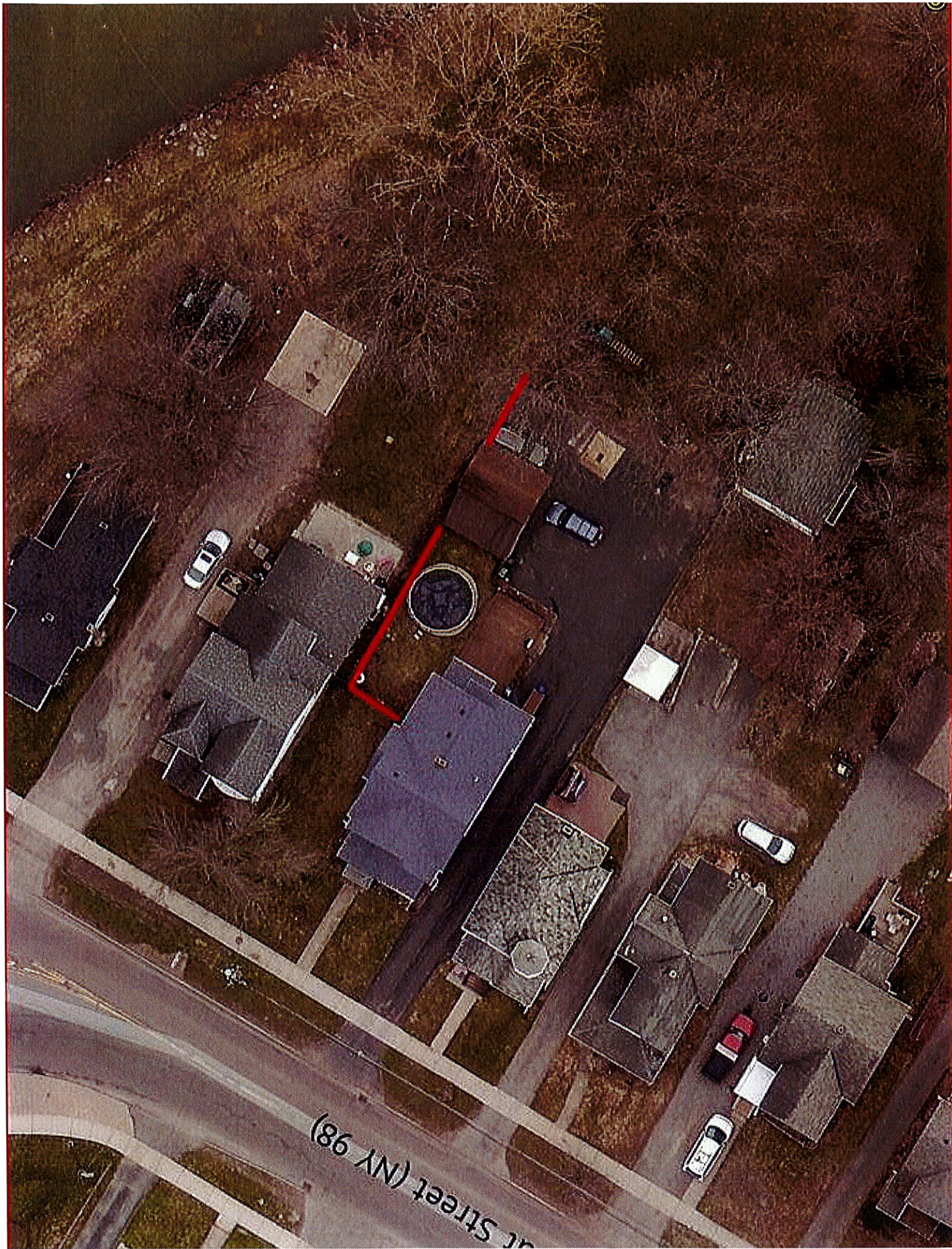
Zoning Review: \_\_\_\_\_ Variance Required: \_\_\_\_\_ Site Plan Review: \_\_\_\_\_ Other: \_\_\_\_\_

National Grid Sign Off (Pools): \_\_\_\_\_ Lot Size: \_\_\_\_\_

Existing Use: \_\_\_\_\_ NYS Building Code Occupancy Class: \_\_\_\_\_

Proposed Use: \_\_\_\_\_ NYS Building Code Occupancy Class: \_\_\_\_\_

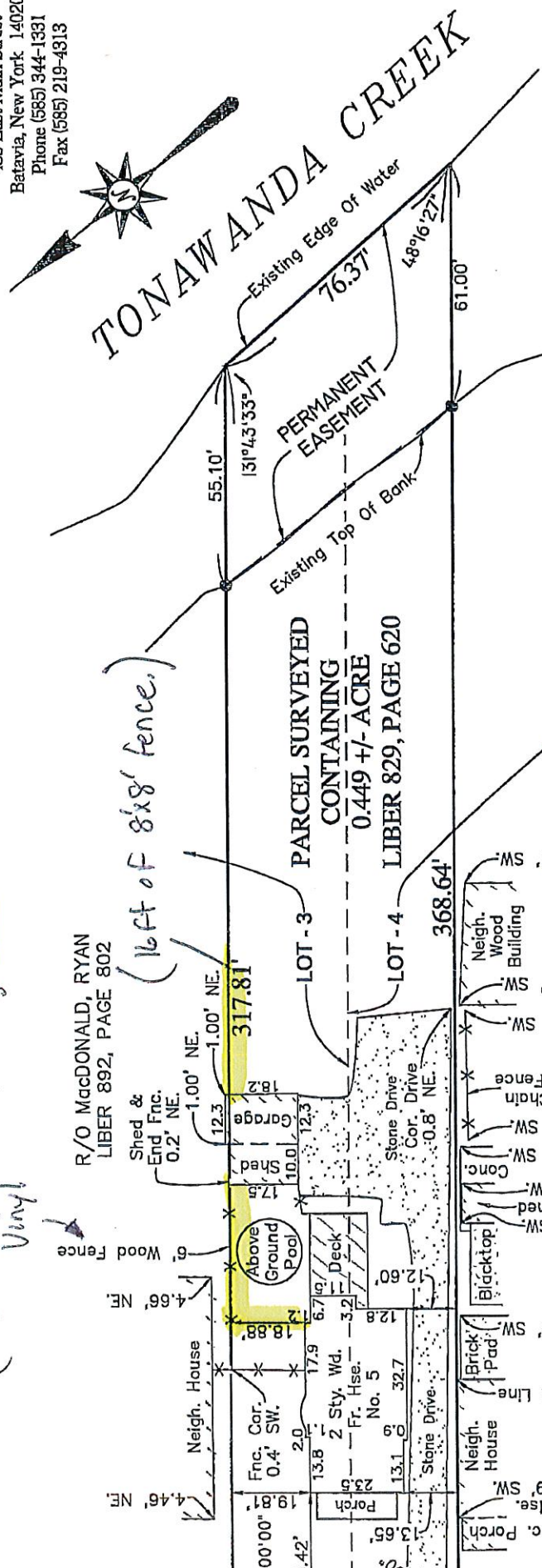






DAVID S. LAMENDOLA  
GREGORY W. TOWNSEND  
Licensed Land Surveyors  
435 East Main Street  
Batavia, New York 14020  
Phone (585) 344-1331  
Fax (585) 219-4313

(Replace with 8'x8' panels)  
Vinyl  
= Fence



R/O SUTTON, HERBERT J.  
& VICTORIA L.  
LIBER 893, PAGE 79

BOUNDARY SURVEY SHOWING THE PROPERTY OF ERIK R. SALUSTE, BEING PART OF ORIGINAL VILLAGE LOT NO. 17, DISTINGUISHED AS BEING PART OF SUBDIVISION LOTS 3 AND 4 OF THE HOMER N. KELSEY SUBDIVISION. SITUATE IN THE CITY OF BATAVIA, COUNTY OF GENESEE AND STATE OF NEW YORK

JULY 15, 2013  
JOB NO. 13-200  
SCALE 1" = 40'

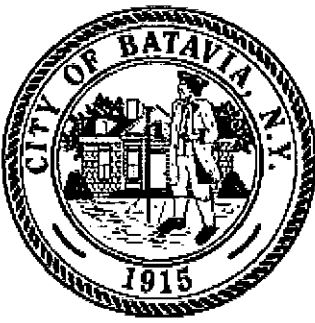
"UNAUTHORIZED ALTERATION OR ADDITIONS TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUB-DIVISION 2, OF THE NEW YORK STATE EDUCATION LAW."

"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."

END AT BOOK 5  
THE STATE OF  
CONTROL PROJECT,  
E 140

07/17/13  
David S. Lamendola  
DATE  
N.Y.S.R.L.S. No. 50249



*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  
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 8/29/19

Re: 217 South Main St.  
Tax Parcel No. 84.009-1-3

Zoning Use District: R-1A

The applicant, Tim Stoddard (contractor for owner), has filed an application to construct a 12' x 24.5' one story wood frame addition to an existing attached garage. A portion of the addition 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) (10).

**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 the city

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

**1) Required variances- Area BMC Sec. 190-29 A. and Schedule I**

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Front yard clear space	20'	14.24'	5.76'

**SEND OR DELIVER TO:**

GENESEE COUNTY DEPARTMENT OF PLANNING

3837 West Main Street Road

Batavia, NY 14020-9404

Phone: (585) 815-7901

**DEPARTMENT USE ONLY:**

GCDP Referral # \_\_\_\_\_



**\* GENESEE COUNTY \***  
**PLANNING BOARD REFERRAL**

Required According to:

**GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N**

(Please answer ALL questions as fully as possible)

**1. REFERRING BOARD(S) INFORMATION**Board(s) Zoning Board of AppealsAddress One Batavia City CentreCity, State, Zip Batavia, NY 14020Phone (585) 345 - 6327 Ext. \_\_\_\_\_**2. APPLICANT INFORMATION**Name Tim Stoddard, Contractor for ownerAddress 20 Ellicott Ave.City, State, Zip Batavia, NY 14020Phone (585) 746 - 1354 Ext. \_\_\_\_\_ Email \_\_\_\_\_MUNICIPALITY: ☒ City ☐ Town ☐ Village of Batavia**3. TYPE OF REFERRAL:** (Check all applicable items)☒ Area Variance☐ Use Variance☐ Special Use Permit☐ Site Plan Review☐ Zoning Map Change☐ Zoning Text Amendments☐ Comprehensive Plan/Update☐ Other: \_\_\_\_\_

Subdivision Proposal

☐ Preliminary☐ Final**4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:**A. Full Address 217 South Main St.B. Nearest intersecting road MeadowcrestC. Tax Map Parcel Number 84.0090-1-3

D. Total area of the property \_\_\_\_\_ Area of property to be disturbed \_\_\_\_\_

E. Present zoning district(s) R-1A**5. REFERRAL CASE INFORMATION:**

A. Has this referral been previously reviewed by the Genesee County Planning Board?

☒ NO ☐ YES If yes, give date and action taken \_\_\_\_\_

B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law

BMC 190-29 A. and Schedule IC. Please describe the nature of this request Approval to place a portion of a garage addition within the front yard clear space on a corner lot property.**6. ENCLOSURES** – Please enclose copy(s) of all appropriate items in regard to this referral☒ Local application☒ Site plan☐ Subdivision plot plans☐ SEQR forms☐ Zoning text/map amendments☐ Location map or tax maps☐ Elevation drawings☐ Agricultural data statement☐ New or updated comprehensive plan☒ Photos☒ Other: Cover letter**7. CONTACT INFORMATION** of the person representing the community in filling out this form (required information)Name Douglas Randall Title Code Enf. Officer Phone (585) 345 - 6327 Ext. \_\_\_\_\_Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020 Email drandall@batavianewyork.com





CITY OF BATAVIA  
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 19-16  
Hearing Date/Time: \_\_\_\_\_

APPLICANT: Tim Stoddard  
Name 20 Elliott Ave E-Mail Address \_\_\_\_\_  
Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
City Batavia State N.Y. Zip 14020

STATUS: ☐ Owner ☐ Agent for Owner ☒ Contractor

OWNER: Jane Paladino  
Name 217 South Main St. E-Mail Address \_\_\_\_\_  
Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
City Batavia State N.Y. Zip 14020

LOCATION OF PROPERTY: 217 South Main St. Batavia

DETAILED DESCRIPTION OF REQUEST: Variance is needed due to  
Being a corner lot

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.

Tim Stoddard 8-27-19  
Applicant's Signature Date  
Jane Paladino 8-27-19  
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.009-1-3 ZONING DISTRICT: R-1A 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 Schedule 1

## 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

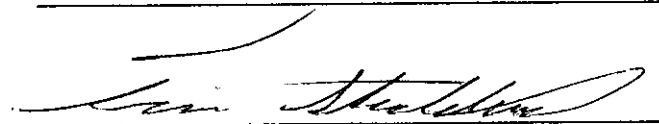
2. **Alternative Cure Sought.** There are no other means feasible for the applicant to pursue that would result in the difficulty being avoided or remedied, other than the granting of the area variance. NONE

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.

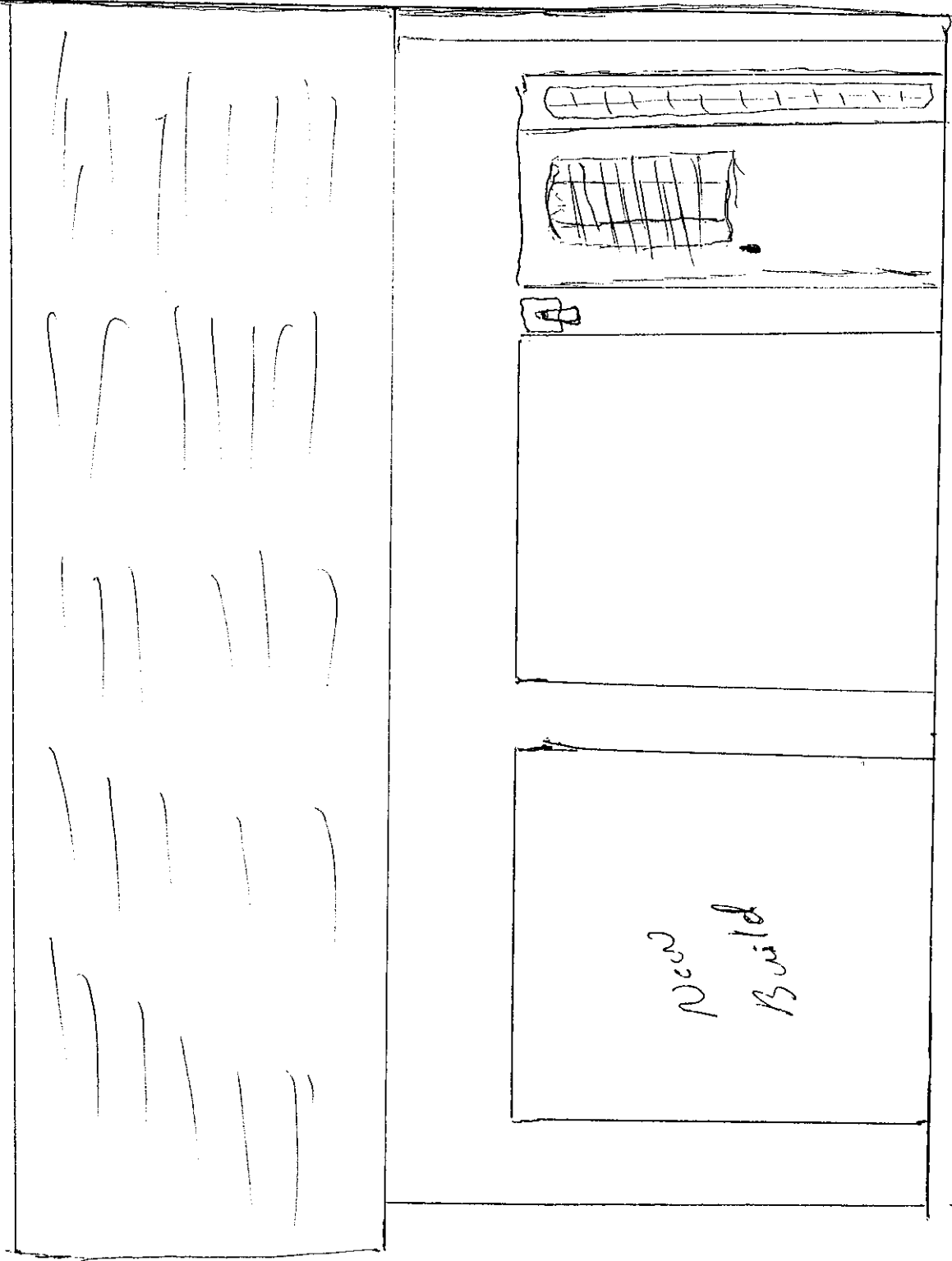
NONE

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. NO

  
Applicant's Signature

8-27-19  
Date

217 Southmain St.



12' →

DATE: 8-27-19APPLICANT NAME & PHONE: Tim Stoddard 746-1354**Project Location and Information**

Permit #:

Fee:

Address of Project: 217 South Main St BataviaOwner & Address: Same as above Jane PaladinoPhone: 721-3963**Project Type/Describe Work**Estimated cost of work: 23000.00Start date: 11-1-19

Describe project:

See Attached Contract**Contractor Information – Insurance certificates (liability & workers comp) required being on file****GENERAL****American Home Remodeling**  
20 Ellicott Avenue  
Batavia, New York 14020

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

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): 2.0' set back req. Lot Size: \_\_\_\_\_  
14.24 provided.

Existing Use: \_\_\_\_\_ NYS Building Code Occupancy Class: \_\_\_\_\_

Proposed Use: -5.76 NYS Building Code Occupancy Class: \_\_\_\_\_



# American Home Remodeling

# PROPOSAL

20 Ellicott Ave.  
Batavia, New York, 14020  
Phone (585)345-4122  
americanremodelingonline.com

No. Number

Proposal Submitted to Dave Paladino			Phone 721-3963	Date 8/26/19
Street 217 South Main St.			Email Email Address	
City Batavia	State NY	Zip 14020	Job Location Location	
Submitted by TS			Job Phone Phone Number	

We hereby submit specifications

Build a 12' by 24' single car garage, built on a block foundation, done by others. Attached to existing garage (East side)

- 1) Remove existing vinyl siding on garage and save.
- 2) Build walls with 2"x 6" studs on 16" centers. Frame in for a 9'x 7' overhead door on front wall, and a 36"x 48" vinyl double hung window on the east side.
- 3) Install: 24' span standard trusses, and build a 10" overhang.
- 4) Sheath walls and roof with 1/2" plywood.
- 5) Install: 3'ft of ice and water shield at eaves and synthetic underlayment on the rest.
- 6) Install: new architectural shingles, blending into existing shingles. With new aluminum rake metal and drip edge and 2 #750 exhaust vents.
- 7) Install: Tyvek on walls and re-install vinyl siding adding new as needed. (owner will paint)
- 8) Install: vented vinyl soffit. trim out all fascia, window and door casing in custom bent white aluminum trim.

- Owner responsible for black top patch work and land scaping.

Note - Permit fee to be billed at end of job. (actual cost of permit only)

You the buyer, may cancel this transaction at any time prior to the midnight of the third business day after the date of this transaction. Owner agrees that in the event of a cancellation after this specified time, owner shall pay contractor thirty percent (30) of the contract price as liquidated damages for the breach.

Sixteen Thousand One Hundred and Ninety-Eight 00/100 dollars (\$16,198.00)

Payment to be made as follows: 10% down, balance on completion

Unless otherwise specified - payment is due immediately upon completion of the job. A 2% finance charge will be added 2 business days after completion on any balance due and 2% each month thereafter.

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent above strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature



Note: This proposal may be withdrawn if not accepted within 30 business days

**Acceptance of Proposal** - the above prices, specifications and conditions are satisfactory and hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature

Signature

Date of Acceptance 8/25/2019



South Main Street

Meadowcrest Drive





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

LEGEND  
● EXISTING IRON STAKE

SOUTH MAIN STREET (66.0' R.O.W.)

Pinched Pipe  
0.21' NE.  
0.14' SE.

LOT - 20

LOT - 19

Storm Sewer  
Easement

Drive  
Blacktop

Overhang

2 Story Wood  
House No. 217

R/O ODACHOWSKI, DAVID S.  
& MILLER, ANDREA  
LIBER 557, PAGE 306

152.41' Mea.

N 32°21'19" E  
N 32°21'50" E Map

PARCEL SURVEYED  
CONTAINING  
0.335 +/- ACRE  
LIBER 437, PAGE 75

MEADOWCREST DRIVE (66.0' R.O.W.)

"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."

Pipe  
0.40' S.E.

N 57°20'00" W 88.71'

Pipe  
0.14' N.E.  
0.32' S.E.

REFERENCES:

- \*EASEMENT TO THE NEW YORK TELEPHONE  
COMPANY AT LIBER 423 OF DEEDS, PAGE 851.
- \*RIGHT OF WAY TO NIAGARA MOHAWK POWER  
CORPORATION AT LIBER 312 OF DEEDS, PAGE  
95.

R/O YUNKER, MARY K.  
LIBER 488, PAGE 01

WESTRIDGE SUBDIVISION BY DENLUCK, THOMAS,  
McGRAIL & ASSOC. DATED NOVEMBER 19, 1973,

BOUNDARY SURVEY SHOWING THE PARCEL TO BE  
CONVEYED BEING PART OF ORIGINAL VILLAGE LOT