

# ZONING BOARD OF APPEALS

Thursday, December 17, 2020

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 November 19, 2020 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

**Request**

*16 Meadowcrest Dr.*

Patsy Rapone, owner

Area Variance:

Construct a 13' x 20' open-sided carport on the north side of the attached garage. A portion of the projection will be located within the 8' side yard clear space

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

VII. Setting of Next Meeting: January 28, 2021

VIII. Adjournment

**ZONING BOARD OF APPEALS**  
***Draft Minutes***  
**Thursday, November 19, 2020**  
**6:00 pm**  
**Council Board Room**  
**One Batavia City Centre, Batavia, NY**

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

Members absent: Nick Harris, Deborah Kerr-Rosenbeck, Jim Russell

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

**I. Roll Call**

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

**II. Call to Order**

Mr. McCarthy called the meeting to order at 6:03 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 October 22, 2020 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: construct a 13' x 20' open-sided carport on the north side of the attached garage. A portion of the projection will be located within the 8' side yard clear space

Address: *16 Meadowcrest Dr.*

Applicant: Patsy Rapone, owner

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

The applicant was absent, and the proposal was postponed.

- B. Area Variance: place a 10' x 16' one story wood frame shed in the southwest corner of this corner property

Address: 12 Cone St.

Applicant: Mark Woodruff, owner

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

### 1. Review Application

Ms. Moma 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 6:08 pm.**

Mr. Woodruff noted that he lives on a corner lot and there is not enough room for the shed on what is defined as his rear yard.

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 Ms. Moma, and on roll call, was approved 3-0.

**RESULT: Public hearing closed at 6:09 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. McCarthy moved to approve the variance with 30 days to obtain the permit. The motion was seconded by Ms. Moma, and on roll call, was approved 3-0.

**RESULT: Area Variance approved.**

- C. Area Variance: replace four existing illuminated sign face panels identifying the existing business. The signs are located within the Central Commercial District / Business Improvement District

Address: 45-47 Ellicott St.

Applicant: Mike Hodgins, sign contractor

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

### **1. Review Application**

Ms. Moma read the summary of the proposal. Mr. McCarthy reported that the Genesee County Planning Board recommended approval of the variance. He also reported that the proposal came before the City of Batavia Planning and Development Committee. The PDC also recommended approval because the sign panels are just replacing already existing ones.

### **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 6:13 pm.**

Mr. Hodgins told the board that the site for the signs is the Save-A-Lot store, which is currently undergoing renovation. The graphics and logo on the signs are changing as part of Save-A-Lot's rebranding. The dimensions of the signs and their location will stay pretty much the same. He noted that the changes in the signs would improve the appearance of the area.

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 Ms. Moma, and on roll call, was approved 3-0.

**RESULT: Public hearing closed at 6:15 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

Ms. Moma referred to the apartments that will be going in on the upper floor and asked about lighting. Mr. Hodgins explained that the signs have an aluminum frame with a cap on it, and there will be no light leakage.

**MOTION:** Ms. Moma moved to approve the variance. The motion was seconded by Mr. Gillard, and on roll call, was approved 3-0.

**RESULT: Area Variance approved.**

- D. Area Variance: construct a one-story wood frame addition on the northeast corner of this single-family dwelling. The addition will be located within the required front yard clear space

Address: *11 Evergreen Dr.*  
Applicant: David O'Geen, owner

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

### 1. Review Application

Ms. Moma 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 6:21 pm.**

Mr. O'Geen pointed out that there would be 16' of space between the addition and the neighbor's garage. He said that the majority of the addition would be located adjacent to a privacy fence.

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 Ms. Moma, and on roll call, was approved 3-0.

**RESULT: Public hearing closed at 6:23 pm.**

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

### 3. Action by the Board

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

**RESULT: Area Variance approved.**

- E. Area Variance: place a 4' tall lattice panel on top of an existing 6' tall fence. This construction would result in a 10' tall fence located along portions of the north lot line

Address: 16 Ellicott Ave.  
Applicant: Tracy Battaglia, owner

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

### **1. Review Application**

Ms. Moma 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. Moma, and on roll call, was approved 3-0.

**RESULT: Public hearing opened at 6:27 pm.**

Ms. Battaglia said that she would like to add lattice to the top of the existing fence in order to create more privacy. She pointed out that the houses on Ellicott Avenue are situated closely to one another and are tall, which does not allow for much privacy. She noted that the fence would not be placed along the entire property line, but only where the house sits.

Ms. Moma asked about the length, and Ms. Battaglia responded that the distance is approximately 64’.

Mr. McCarthy asked if the point of the fence is to prevent neighbors looking out of upper windows into Ms. Battaglia’s yard, and she said yes.

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. Gillard, and on roll call, was approved 3-0.

**RESULT: Public hearing closed at 6:29 pm.**

Mr. McCarthy said that he does not like fences that are higher than the 6’ limit, and added that the ZBA has never approved one 10’ tall. He said that he would be willing to allow for an 8’ tall fence.

Mr. Gillard said he would allow 3’ in addition to the original fence, considering that the lattice is not solid. Mr. McCarthy agreed.

### **3. Action by the Board**

**MOTION:** Mr. McCarthy moved to approve the variance with a 3’ extension on the fence, with 30 days to obtain the permit; the motion was seconded by Ms. Moma, and on roll call, was approved 3-0.

**RESULT: Area Variance approved.**

F. Area Variance: place an 4' tall fence within 15' of the front property line

Address: 6 Osterhout Ave.

Applicant: Colin Cooper, owner

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

**1. Review Application**

Ms. Moma 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 6:38 pm.**

Mr. Cooper told the board that he needs a 4' tall fence to keep his dogs in the yard, and noted that the fence will not cause a viewing obstruction because it is chain link. There was a discussion about the front property line and the proximity of the fence. Ms. Moma and Mr. McCarthy expressed concerns about the placement of the fence too close to the sidewalk.

**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, it's a corner lot

**MOTION:** Mr. McCarthy moved to approve the variance with on the condition that the fence must be installed a minimum of 4' from the sidewalk, with 30 days to obtain the permit. The motion was seconded by Ms. Moma, and on roll call, was approved 3-0.

**RESULT: Area Variance approved.**

**VII. Approval of 2021 Meeting Dates**

**MOTION:** Mr. McCarthy moved to approve the 2021 meeting dates as written. The motion was seconded by Ms. Moma, and all voted aye.

**RESULT: 2021 Meeting dates approved.**

**VIII. Setting of Next Meeting: December 17, 2020**

**IX. Adjournment**

Mr. McCarthy adjourned the meeting at 7:01 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-12-20**  
Review Date **12/10/2020**

Municipality **BATAVIA, C.**  
Board Name **ZONING BOARD OF APPEALS**  
Applicant's Name **Patsy Rapone Jr.**  
Referral Type  
Variance(s) **Area Variance(s)**  
Description: **Area Variance to place a 260 sq. ft. (13 x 20 ft.) open carport for an exiting single-family home.**  
**Side-Yard Setback**  
**Minimum required: 8 ft.**  
**Proposed: 5.08 ft.**  
Location **16 Meadowcrest Dr., Batavia**  
Zoning District **Residential (R-2) District**

### PLANNING BOARD DECISION

**APPROVAL**

### EXPLANATION:

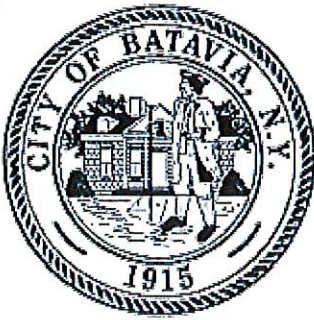
The proposed variance should pose no significant county-wide or inter-community impact.

Director

December 10, 2020

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  
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 10/13/20

Re: 16 Meadowcrest Dr.  
Tax Parcel No. 84.009-1-80

Zoning Use District: R-2

The applicant, Patsy Rapone Jr (owner), has filed an application to construct a 13' x 20' open sided car port on the north side of the attached garage. A portion of the projection will be located within the 8' side 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:**

**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.

Required variances- Area

BMC Sec. 190-29 A. and Schedule I

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
1) Side yard clear space	8'	5.08'	2.92'

**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) 345-6345 Ext. \_\_\_\_\_**2. APPLICANT INFORMATION**Name Patsy Rapone Jr.Address 16 Meadowcrest Dr.City, State, Zip Batavia, NY 14020Phone (585) 297-0831 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 16 Meadowcrest DrB. Nearest intersecting road EdgewoodC. Tax Map Parcel Number 84.009-1080

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 190-29 A and Sched. 1C. Please describe the nature of this request Approval to place a 13' x 20' open carport on the north side of garage partially within the side yard clear space.**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.: 20-16  
Hearing Date/Time: \_\_\_\_\_

APPLICANT: Patsy A Rapone Jr  
Name 16 Medocrest DR E-Mail Address \_\_\_\_\_  
Street Address Batavia NY 14020 Phone 585-2970831 Fax \_\_\_\_\_  
City NY State NY Zip 14020

STATUS: ☒ Owner ☐ Agent for Owner ☐ Contractor

OWNER: Patsy Rapone Jr  
Name 16 Medocrest DR E-Mail Address \_\_\_\_\_  
Street Address Batavia Phone NY Fax 14020  
City NY State NY Zip 14020

LOCATION OF PROPERTY: Side of garage

DETAILED DESCRIPTION OF REQUEST: Side of garage 13 x 20  
Lean Tube for my new car

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.

Patsy A Rapone Jr 5/5/20  
Applicant's Signature Date  
Patsy A Rapone Jr 5/5/20  
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.009-1-80 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  
Sideyard clear space shall be a minimum of 8'



## 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 WILL NOT CHANGE CHARACTER.  
AND MY NEIGHBOR HE LIKES IT I SHOWED  
IT TO HIM

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.

THAT IS A CONCRETE PAD ALREADY THERE  
THE POST START 12 INCHES OR PAD SANTA TUBES  
42 INCHES DOWN

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 MY NEIGHBORS ON BOTH SIDES AND ACROSS  
THE STREET LOVE IT I SHOWED THE PLANS TO  
ALL MY NEIGHBORS

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

Patty A. Rapone Jr  
Applicant's Signature

5/5/20  
Date

DATE: 10/2/20APPLICANT NAME & PHONE: Patsy A Rapone Jr 585-297-8301**Project Location and Information**

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

Fee: \_\_\_\_\_

Address of Project: 16 Medocrest DROwner & Address: Patsy Rapone Jr 16 Medocrest DRPhone: 585-297-8301**Project Type/Describe Work**Estimated cost of work: \$1500Start date: SOON as possible

Describe project:

Lean Tube off garage  
20x13 290sq feet roof 8 bundles architectural shingles  
1 Roll 15p felt 1 Roll ice shield 16 2x8x14 9 4x8 5/8 plywood  
3 6x8x7 2 8x8x10**Contractor Information** – Insurance certificates (liability & workers comp) required being on file**GENERAL**

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: \_\_\_\_\_

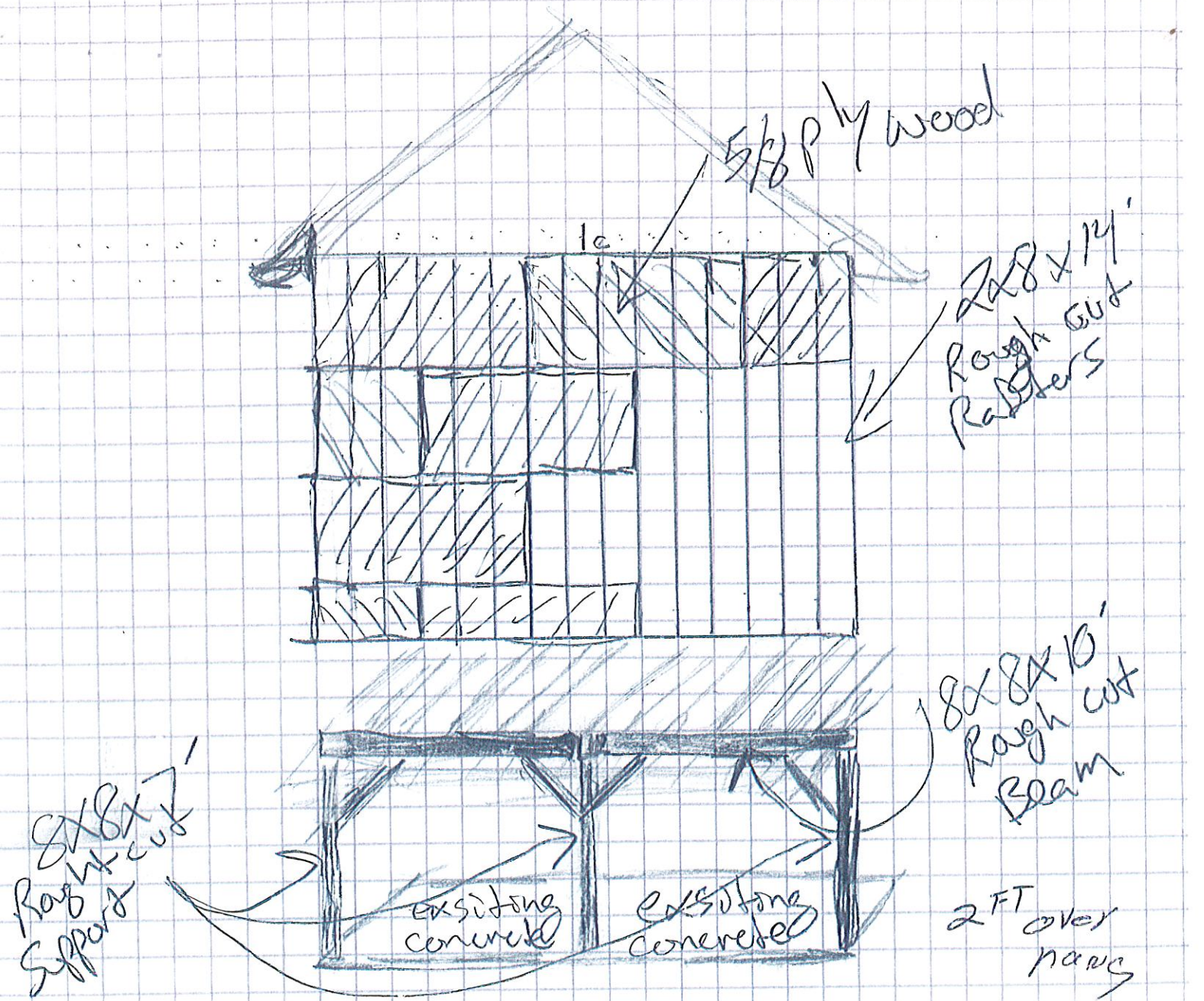
Zoning Review: \_\_\_\_\_ Variance Required: \_\_\_\_\_ Site Plan Review: \_\_\_\_\_ Other: \_\_\_\_\_

National Grid Sign Off (Pools): \_\_\_\_\_ Lot Size: 160'00 75'00

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

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





280 sq feet Roof

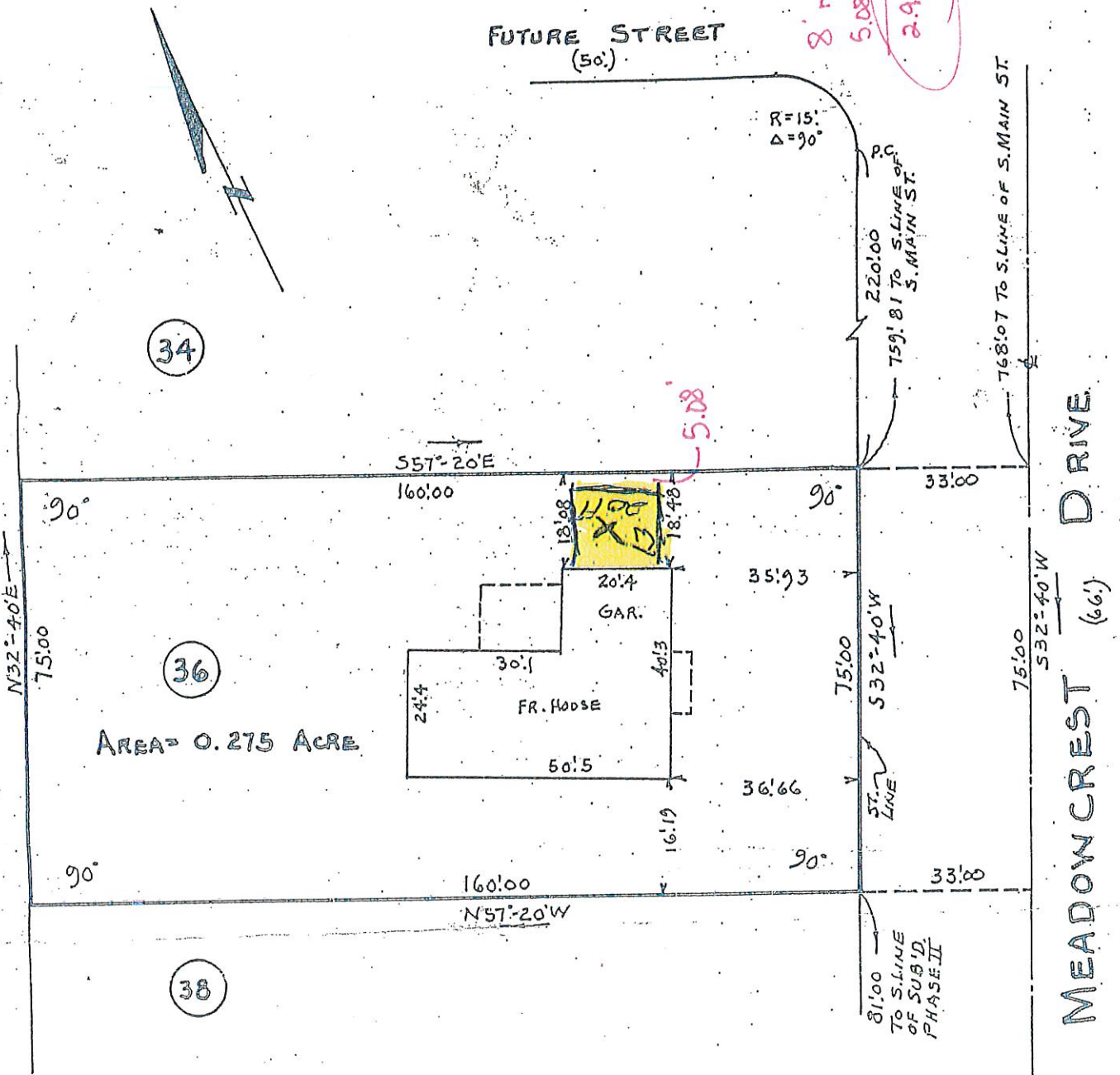
8 bundles Architectural shingles

1 Roll 15 lb felt

1 Roll ice water

16	2x8x14'
9	4x8x5/8 plywood
3	8x8x7'
2	8x8x10'





REF: MAP FILED IN G.C.C.O.  
# 1012

MAP OF A SURVEY  
OF LAND TO BE CONVEYED  
BEING LOT 36, McWETHY SUB'D., PHASE II  
ROLLING HILLS  
IN THE  
CITY OF BATAVIA  
GENESEE COUNTY, NEW YORK

THOMAS F. DUTTON  
LAND SURVEYOR  
5715 W. MAIN STREET  
LAKEVILLE, N.Y.

SCALE: 1 IN. = 30 FT.

JUNE 14, 1984

I CERTIFY TO:

- 1) FIRST FEDERAL SAVINGS & LOAN ASSOCIATION  
OF ROCHESTER

Certifications indicated hereon signify that this survey was prepared in accordance with the existing Code of Practice for Land Surveys adopted by the New York State Association of Professional Land Surveyors.



