

ZONING BOARD OF APPEALS

Thursday, April 22, 2021

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 25, 2021 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

A. Request #1 *129 Trumbull Parkway*
David Chua, owner

Area Variance: Convert an existing art studio/shop to an independent dwelling unit. This existing living space is located in a detached building located on street frontage within the bounds of this corner lot parcel

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

B. Request #2 *1 Ellicott Place*
Allan Bischoff, owner

Area Variance: Expand an existing rear porch by constructing an 8' x 5.8' wood frame deck extension. The new construction will be located within the rear yard clear space

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

VII. Setting of Next Meeting: May 27, 2021

VIII. Adjournment

ZONING BOARD OF APPEALS
Draft Minutes
Thursday, February 25, 2021
6:00 pm
Council Board Room
One Batavia City Centre, Batavia, NY

Members present: *Nick Harris, Leslie Moma, Jim Russell*

Members absent: Deborah Kerr-Rosenbeck

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 Acting Chair Nick Harris declared a quorum.

II. Call to Order

Mr. Harris 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. Harris assumed the motion and the minutes were approved by unanimous consent.

RESULT: Approval of December 17, 2020 minutes.

V. Zoning Board of Appeals statement

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

VI. Variance Requests

- A. Area Variance: replace the existing internally illuminated, white background roof sign face panels with new, white background, internally illuminated face panels identifying the existing business. The signs are located within the Central Commercial District / Business Improvement District

Address: *60 Ellicott Street (Pok A Dot)*

Applicant: Mike Hodgins, sign contractor

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

1. Review Application

Acting Vice Chair, Leslie Moma, read the summary of the proposal. Mr. Harris reported that the Genesee County Planning Board recommended approval of the variance; however, the Planning and Development Committee recommended disapproval because the internal illumination and light-colored background do not meet City design guidelines

2. Public Hearing and Discussion

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

RESULT: Public hearing opened at 6:08 pm.

Mr. Hodgins told the board that replacement panels look the same as the ones that have been there since the restaurant opened in 1962.

Mr. Russell asked Mr. Randall if owners of the Pok A Dot would be required to appear before the board again if they wished to change the signs in the future. Mr. Randall said that they would not need permission to change the interior lighting or the background color if this variance is approved.

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

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

RESULT: Public hearing closed at 6:13 pm.

Ms. Moma pointed out that granting the variance could be setting a precedent. In response, Mr. Russell noted that the signs are staying the same and the variance is not substantial.

3. Action by the Board

Mr. Harris 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. Harris, and on roll call, was approved 3-0.

RESULT: Area Variance approved.

- B. Area Variance: place a 24' x 24' above grade, wood frame detached garage in the northwest (front/side) yard of this corner lot property

Address: 8 Carolwood Drive
Applicant: Matthew Hume, RA

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. Harris reported that the Genesee County Planning Board recommended approval of the project.

2. Public Hearing and Discussion

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

RESULT: Public hearing opened at 6:19 pm.

A representative from Hume Construction spoke on behalf of the project. She explained that the design intent is to have the great room look out on the corner of the property, placing the garage behind the front view in what they are referring to as the back yard. She noted that the developer of the property, John Harrower, approves of the drawings for the project.

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

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

RESULT: Public hearing closed at 6:23 pm.

3. Action by the Board

Mr. Harris 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. Harris moved to approve the variance with 60 days to obtain the permit. The motion was seconded by Mr. Russell, and on roll call, was approved 3-0.

RESULT: Area Variance approved.

C. Use Variance: add a non-permitted use food service business (Commit to Well / Eat Well Grill meal preparation service) in an existing kitchen / food preparation area of this existing multi use building

Address: 301 North St.
Applicant: Dr. Emily Fraser-Branche, owner

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

1. Review Application

Ms. Moma read the summary of the proposal. Mr. Harris reported that the Planning and Development Committee reviewed the proposal and recommended approval with conditions: any business which occupies the space must be related to the health care business; and, no additional burden on traffic should be created.

2. Public Hearing and Discussion

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

RESULT: Public hearing opened at 6:26 pm.

Gregory Branche spoke on behalf of the project. He explained that the YWCA no longer leases the industrial kitchen space. Mr. Branche said that it would be cost prohibitive to remove and renovate the space to make it suitable for medical use. He pointed out that using the space as a lab or blood draw station would significantly increase the flow of traffic.

Mr. Branche said that he believes the current use of the kitchen to serve healthy meals is consistent with the purpose of a medical campus.

Dr. Faser-Branche added that she sees this business alliance as the perfect connection between medicine, educating the community about nutrition, and healthy eating.

There were calls, letters, and email concerning the proposal. The board members indicated they had read the public comments. [See attached.]

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

RESULT: Public hearing closed at 6:40 pm.

Mr. Russell started the discussion by saying that the public commentary seems to indicate that some of the adjacent neighbors believe that the YWCA, the former owner of the property, had not been a good neighbor. Some of the area residents expressed unhappiness with what they have perceived as a lack of cooperation on the part of the YWCA.

Mr. Russell said he believes that rather than feeling any real unhappiness with the food preparation business, the neighbors have displaced their dissatisfaction with the YWCA onto the project. Mr. Russell said that the relationship between the new owners and the neighbors is something they need to resolve on their own. The rest of the board agreed.

The board decided on the definition of a restaurant as a place where patrons sit down to eat meals cooked on the premises, and considered that the food preparation business does not fall into this category. However, the board expressed concern over what could happen if they approved the proposal and then the business decided to leave. The members agreed to place conditions on their approval in order to prevent restaurants occupying the space in the future.

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

- Reasonable return: if they had to modify the building the answer would be no
- Unique hardship: yes, it's a commercial building in a residential neighborhood
- Essential character of neighborhood: no, they've been operating this business for here for two years
- Self-created: no, it's an existing building

3. SEQR

Mr. Harris asked if the board had reviewed part one of the SEQR application and they indicated they had. The board went through the questions for part two.

MOTION: Mr. Harris moved to approve a negative declaration of SEQR; the motion was seconded by Mr. Russell, and on roll call, was approved 3-0.

RESULT: Negative declaration of SEQR

4. Action by the Board

MOTION: Mr. Russell moved to approve the variance with conditions: the food will be prepared for takeout only; and the square footage of the kitchen space will remain the same regardless of what business is located there. The motion was seconded by Mr. Harris, and on roll call, was approved 3-0.

RESULT: Area Variance approved with conditions.

D. Area Variance: place a 4' x 4' non-illuminated pole sign in the north yard of this commercial parcel 6'

Address: 438 East Main Street

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. Harris reported that the Genesee County Planning Board

2. Public Hearing and Discussion

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

RESULT: Public hearing opened at 7:12 pm.

The applicant, Mr. Hodgins, described the sign as something he called a post and panel sign; however, Mr. Randall explained that by definition of the Batavia Municipal Code, with the full intent of the Planning and Development Committee, this sign is a pole sign.

Mr. Russell commented that it is an area that needs addressing, but Mr. Randall pointed out that the PDC did address the issue and decided they did not like the appearance of that type of sign for this type of district.

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

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

RESULT: Public hearing closed at 7:17 pm.

3. Action by the Board

Mr. Harris 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

Mr. Harris asked if there is a cost difference between this type of sign and a monument sign. Mr. Hodgins said that the cost for a monument sign is two or three times greater, and was the motivating action for creating this particular sign.

MOTION: Mr. Russell moved to approve the proposal with 60 days to obtain the permit; the motion was seconded by Mr. Harris, and on roll call, was approved 3-0.

RESULT: Application approved.

- E. Area Variance: construct a two-story addition covering approximately 5,113 sq.' or parcel area. A portion of the proposed addition is located within the front yard setback

Address: *127 North Street*

Applicant: Dave Hetrick, agent for the owner

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

1. Review Application

Ms. Moma read the summary of the proposal. Mr. Randall reminded Mr. Harris that the Genesee County Planning Board recommended approval of the project, and the PDC approved SEQR.

2. Public Hearing and Discussion

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

RESULT: Public hearing opened at 7:22 pm.

Mr. Hetrick informed the board that the addition would provide housing for the new MRI machine and CT scan, with a nice waiting area for patients.

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

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

RESULT: Public hearing closed at 7:28 pm.

3. Action by the Board

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

RESULT: Area Variance approved.

VII. Setting of Next Meeting: March 25, 2021

VIII. Adjournment

Mr. Harris adjourned the meeting at 7:35 pm.

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: 3/26/21
Re: 129 Trumbull Pkwy.
Tax Parcel No. 84.043-2-26

Zoning Use District: R-1A

The applicant, David Chua, owner, has filed an application to convert an existing art studio / shop to an independent dwelling unit. This existing living space is located in a detached building located on street frontage within the bounds of this corner lot parcel.

Area variances were previously approved for minimum front yard set-back and accessory building located in other than a rear yard, see attached application and meeting minutes.

Note: This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (1).

Review and Approval Procedures:

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

Required variances- Area

- 1) **BMC 190-42 D** Minimum lot area requirements shall apply to each structure when there is more than one principal building on the same lot.

BMC Sec. 190-29 A. and Schedule I

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Minimum lot area for 1 fam. dwelling = 8,000 sq.'	16,000 sq.'	11,328 sq.'	4,672 sq'.



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

PAID
APR 12 2021
CITY OF BATAVIA
CLERK-TREASURER

Application No.: _____
Hearing Date/Time: _____

APPLICANT: David V Chua dchua@dandachua@gmail.com
Name E-Mail Address
129 Trumbull Pkwy 585-356-7674 585-300-4822
Street Address Phone Fax
Batavia NY 14020
City State Zip

STATUS: ☒ Owner ☐ Agent for Owner ☐ Contractor

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

LOCATION OF PROPERTY: 129 Trumbull Pkwy Batavia, NY 14020

DETAILED DESCRIPTION OF REQUEST: We wish to convert our studio/shop into an accessory dwelling unit by installing a bathroom with a toilet sink and shower and a stove, refrigerator and sink.

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.

David V Chua 3/23/2021
Applicant's Signature Date

Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.043-2-26 ZONING DISTRICT: R-1A FLOOD PLAIN: C

TYPE OF APPEAL: ☒ Area Variance ☐ Use Variance ☐ Interpretation ☐ Decision of Planning Committee
FEE: ☒ \$50 (One or Two Family Use) ☐ \$100 (All other Uses)

Provision(s) of the Zoning Ordinance Appealed: BMC 190-42.D Minimum lot area requirements shall apply to each structure. 190-29 A. and Schedule I require 8,000 sq. per 1 fam. dwelling.

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, bldg. is existing

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

No, no other means feasible, Bldg. is existing

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

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

No

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

No, not self created. Bldg. is existing

Applicant's Signature _____

Date _____

DATE: 3/23/2021APPLICANT NAME & PHONE: Dan & V. Chuq**Project Location and Information**

Permit #:

Fee:

Address of Project: 129 Trumbull PkwyOwner & Address: David & Allison ChuqPhone: 585-356-7674, 585-356-4092**Project Type/Describe Work**Estimated cost of work: 18,000Start date: 4/22/2021

Describe project:

We are converting our studio space into an accessory dwelling unit by installing a bathroom with a sink, toilet, and shower, as well as an additional sink outside of the bathroom and a stove and refrigerator

Contractor Information – Insurance certificates (liability & workers comp) required being on file**GENERAL**Name/Address: Neil's Custom CarpentryPhone: (315) 395-5502**PLUMBING** (City of Batavia Licensed Plumber Required)Name/Address: Geness Plumbing 28 Swan St Batavia, NY 14020Phone: 585-343-3805**HEATING**Name/Address: NA

Phone:

ELECTRICAL (Third Party Electrical Inspection Required)Name/Address: JC KabelPhone: 716-474-6432**FOR OFFICE USE ONLY**

Zoning District: _____ Flood Zone: _____ Corner Lot: _____ Historic District/Landmark: _____

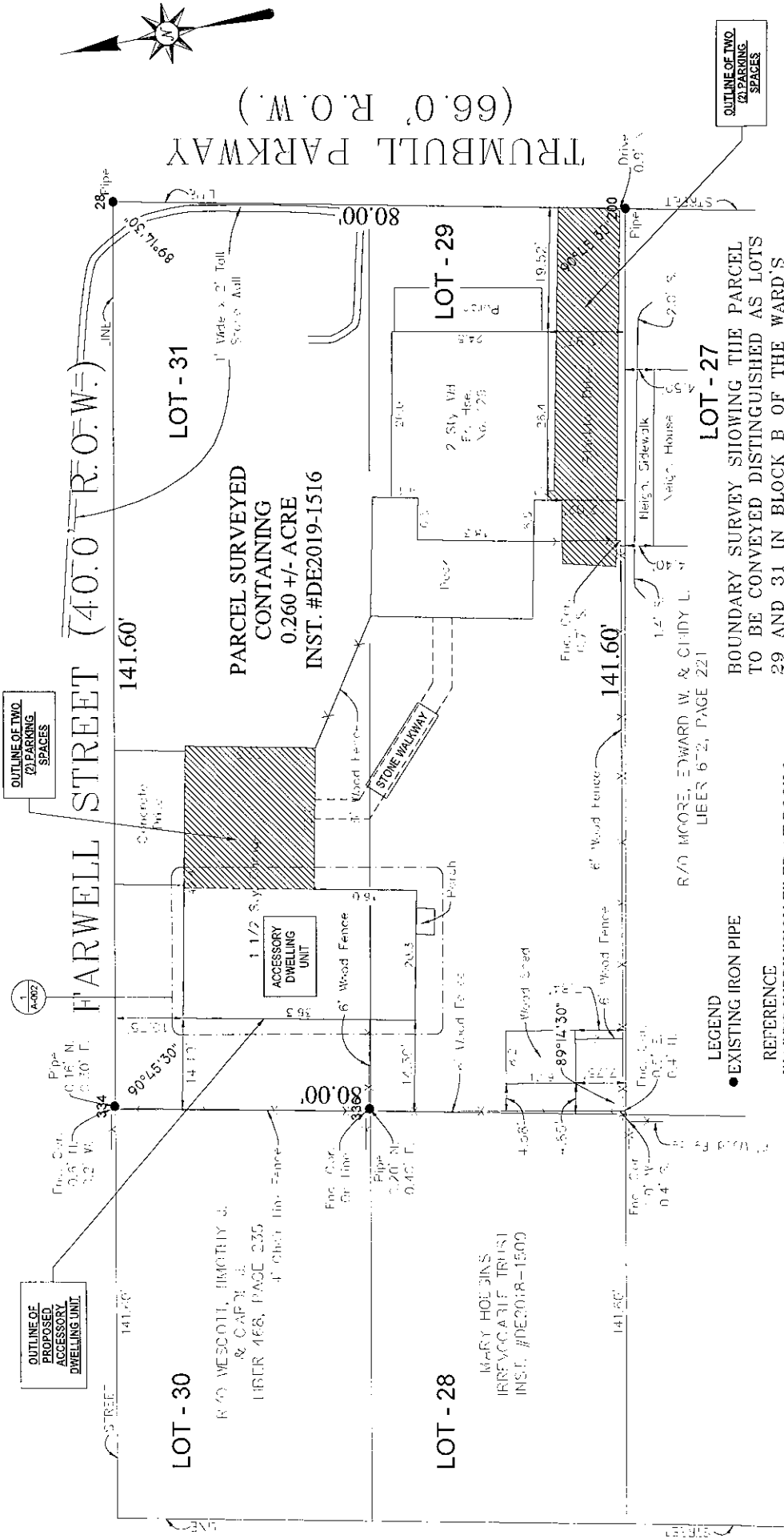
Zoning Review: _____ Variance Required: _____ Site Plan Review: _____ Other: _____

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

Existing Use: _____ NYS Building Code Occupancy Class: _____

Proposed Use: _____ NYS Building Code Occupancy Class: _____

FLM STREET



TRUMBULL PARKWAY (66.0' R.O.W.)

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

LOT - 30

LOT - 31

LOT - 28

LOT - 29

PARCEL SURVEYED
CONTAINING
0.260 +/- ACRE
INST. #DE2019-1516

R/O WESDOLL, JIMOTHY J.
& CAPRI J.
LIBER 468, PAGE 235
4' Chain Link Fence

MARY HOLGINS
IRREVOCABLE TRUST
INST. #DE2018-1500

LEGEND
● EXISTING IRON PIPE

REFERENCE
WARD'S SUBDIVISION FILED AT BOOK 2
OF MAPS, PAGE 21
ABSTRACT OF TITLE NO. 19-NY-04419 BY
BARRISTERS OF NEW YORK, LLC

BOUNDARY SURVEY SHOWING THE PARCEL
TO BE CONVEYED DISTINGUISHED AS LOTS
29 AND 31 IN BLOCK B OF THE WARD'S
SUBDIVISION. SITUATE IN THE CITY OF
BATAVIA, COUNTY OF GENESEE AND STATE
OF NEW YORK

FEBRUARY 2, 2021 SCALE 1" = 20'

GREGORY W. TOWNSEND
Licensed Land Surveyors
115 Washington Avenue
Batavia, New York 14020
Phone (585) 344-1331
gwtownsendsurvey@gmail.com

I, GREGORY W. TOWNSEND, CERTIFY TO:
ESL FEDERAL CREDIT UNION, ITS SUCCESSORS AND/OR ASSIGNS
DAVID V. CHUA AND ALLISON R. CHUA
FIRST AMERICAN TITLE INSURANCE COMPANY

1 SITE PLAN EXISTING
3/22/21

CHUA RESIDENCE - 129 TRUMBULL PARKWAY - BATAVIA, NY

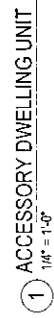
www.smartDESIGNarchitecture.com
t. 585_345_4687 f. 585_345_4688

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A-001

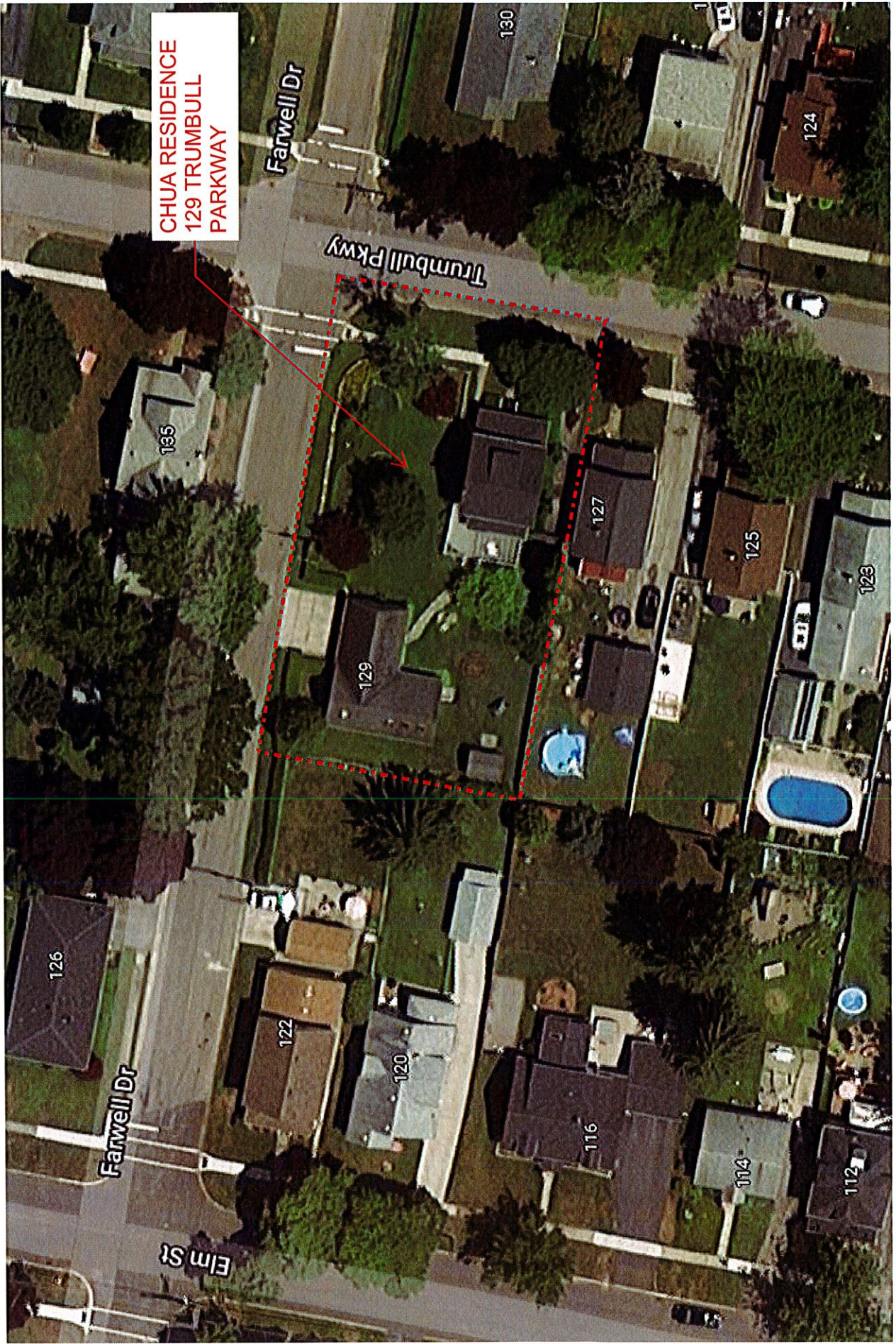
DATE N.Y.S.R.L.S. No. 50249

03.25.2021



www.smartDESIGNarchitecture.com
1.585.345.4067 1.585.345.4068

03.25.2021



APPLICATION TO BOARD OF APPEALS

Tel. No. 343-2961

Appeal No. (1)

Date March 21, 1990

TO THE ZONING BOARD OF APPEALS, Batavia, NY

I (we) James & Gail Thomas of 129 Trumbull Parkway

HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FROM THE
DECISION OF THE BUILDING INSPECTOR ON AN APPLICATION FOR A BUILDING PERMIT

DATED 3/12/90 WHEREBY THE BUILDING INSPECTOR DID DENY TO

Build a garage/workshop

☐ A PERMIT FOR USE

☐ A CERTIFICATE OF EXISTING USE

☐ A PERMIT FOR OCCUPANCY

☐ A CERTIFICATE OF ZONING COMPLIANCE

☐ A TEMPORARY PERMIT OR EXTENSION THEREOF

☒ AREA PERMIT

1. Applicant is the ☒ PROPERTY OWNER

☐ CONTRACTOR FOR THE WORK CONCERNED HEREIN

☐ PROSPECTIVE TENANT

☐ OTHER (Describe)

2. LOCATION OF THE PROPERTY 129 Trumbull Parkway

3. State in general the exact nature of the permission required, To encroach upon required front
setback of 20' minimum - proposed 12', also placement of accessory
building in front yard.

4. PREVIOUS APPEAL. No previous appeal has been made with respect to this decision of the Building Inspector or with respect
to this property, except the appeal made in Appeal No. n/a, dated n/a, 19.

5. REASON FOR APPEAL.

A. A Variance to the Zoning Ordinance is requested because strict application of the ordinance would produce undue hardship, or
the hardship created is unique and is not shared by all properties alike in the immediate vicinity of this property and in this use district,
or the variance would observe the spirit of the ordinance and would not change the character of the district because:
(see attached memo)

B. Interpretation of the Zoning Ordinance is requested because: n/a

C. A Special or Temporary Permit or an Extension thereof Under the Zoning Ordinance is requested pursuant to Article
Section , Subsection , Paragraph of the Zoning Ordinance, because: n/a

TO BE COMPLETED BY THE BUILDING INSPECTOR

1. Provision(s) of the Zoning Ordinance Appealed, including article, section, subsection or paragraph of the Zoning Ordinance
30.75 Schedule I - Minimum Front Setback 20'

30.81D - Accessory Building allowed in rear yard only.

2. Zoning classification of the property concerned in this appeal R-2 Residential

3. Type of Appeal:

☒ Variance to the Zoning Ordinance.

☐ Interpretation of the Zoning Ordinance or Zoning Map.

☐ Special or Temporary Permit or an extension thereof under the Zoning Ordinance.

4. A statement of any other facts or data which should be considered in this appeal.

See attached memo from Building Inspector, Dale Soderholm

MARCH 29, 1990

CITY OF BATAVIA

ZONING BOARD OF APPEALS

IN THE MATTER OF THE APPEAL

BY

JAMES AND GAIL THOMAS

PRESENT:

DOUGLAS HAVENS, CHAIRMAN

Joseph Gerace

Scott German

Lewis Grasso

Joseph Krolikowski

Michael P. Smith, Codes Enforcement Officer

APPEARANCE:

James and Gail Thomas

CHAIRMAN:

This is an appeal from the denial of a Building Permit to construct a 20' x 36' workshop with a 20' x 22' free-standing garage at property at 129 Trumbull Parkway. The applicants are James and Gail Thomas. The Zone is R-2.

Applicant proposes to encroach upon the required front setback of 20' minimum - proposed 12'. Also placement of accessory building in front yard.

Section 30.75 Schedule I states the minimum front setback is 20'. Section 30.81 D

- Accessory building allowed in rear yard

MARCH 29, 1990

only.

We have comments from Building Inspector Dale Soderholm which reads as follows:

"This use would be considered a home occupation by State Code if there is incidental use and does not introduce the public and is under 500 square feet. The occupancy classification is considered low hazard and would not impose an adverse impact on the surrounding area.

Please advise said applicant of the stipulation of no public sales.

Said Home Occupation Permit will be required to be renewed annually."

There is an affidavit attached which reads in part as follows: That strict observance of the Ordinance would impose practical difficulties and/or unnecessary hardships as follows:

"Need for artist workshop as a requirement of my employment at R.I.T.. Cannot continue affording expense of renting space. Desire to apply this cost to equity in our own property. Do not want

to relocate as we desire Batavia location due to our jobs in Lockport and Rochester. Need for garage/storage area. Desire short driveway (12' from property line and 24' from roadway off Farwell) to reduce maintenance and to prevent removal of existing concrete slab from previous garage. See lot layout plans." It is signed by James Thomas and dated March 2, 1990.

We have a proposed sketch.

Do you have anything you wish to add?

Mr. Thomas: Just have a question regarding renewal of permit. Don't understand that last statement.

Mr. Smith: He indicated an annual renewal fee. That could be waived. Possible on site inspection that he could conduct.

Mr. Thomas: I have to make sure there are no public sales?

Mr. Smith: Right.

Mr. Krolikowski: This property next to you is your lot?

Mr. Thomas: Yes. It is a double lot.

Chairman: We are looking for unnecessary hardship.

Could place this on property without asking for a variance.

Mr. Thomas:

Looking for variance for placement of the structure to Farwell. Zoning generally requires 20'. That is what I am concerned about. Trying to place it closer to Farwell. Have existing concrete slab. Would not like to rip up concrete slab. Use it as an outdoor work area. If I moved to 20', would bring it on top of the concrete area. Would like a little space. Did not want to shovel a long driveway. Reduce maintenance in the winter time. Took photographs of three residences on that street to show short driveways. Here is property behind and the property directly across.

Presented Board with the photos.

We would put the setback 24' from the actual asphalt of the road.

Mr. Smith:

Had one property before us at 122 Elm Street last year. Was 6'1" off right-of-way from where house is. You have two front yards on your property.

Mr. Thomas: Our actual structure would pretty much be lined up with our house structure. Maybe a little further in than their house. Right now we have alot of pine trees that have to be taken out.

Chairman: Alot of stakes in the yard.

Mr. Thomas: Tried to get a sense of the layout. Brought larger drawings of this structure. There is an existing hedge we put in right along road side edge. Twenty feet will have to be dug out.

Mr. Grasso: Any comment from any of the neighbors?

Mrs. Thomas: We did check with our neighbors. Asked them if they had any questions. They had no problems. Some asked if there was anything they could do to help.

Mr. Gerace: This would be detached from the house?

Mr. Smith: Yes.

Mr. Gerace: Don't have a garage on the property now?

Mr. Thomas: No.

Mr. Gerace: If he were to ask to put up a garage, would he have to come before us?

Mr. Smith: Yes. He is in front yard area.

Mr. Gerace: Is there room in the back yard?

Mr. Smith: No.

Chairman: How much distance between concrete slab
and photo shop?

Mr. Smith: About 8½'.

Mr. Thomas: Don't know the exact measurement.

Chairman: It is actually side yard-front yard.
He has two front yards.

Mr. Thomas: Since it is a double lot, trying to
consolidate into one lot instead of
two lots.

Chairman: How far is front of garage from the
street? ,

Mr. Smith: About 24'.

Chairman: No sidewalk going down there?

Mr. Thomas: No.

Mr. Gerace: Do you have one deed?

Mr. Thomas: Two lots, one deed. Is there any system
where it could be converted into one lot?

Mr. Smith: It could be re-surveyed.

Mr. Thomas: Listed as 129 -131. Rather than having
two numbers for one lot, have just one.
Would there be any advantage to doing
that?

Mr. Smith: Assessing Department could do that. One

taxable lot.

Mr. Thomas: No need to ever change it?

Mr. Smith: You could.

Mr. Gerace: Check with your counsel. They would advise you.

Chairman: The adjacent property already has same setback. The people right behind you.

Mr. Thomas: Yes they do.

Chairman: Not establishing new setback?

Mr. Thomas: No. We will be in line with their garage.

Mr. Smith: 10' 3" back to garage. You propose 12'.

Mr. Thomas: Two feet in from theirs.

Mr. Gerace: This is considered a home occupation?

Mr. Smith: Yes.

Mr. Gerace: This goes with the property?

Mr. Smith: Yes.

Mr. Gerace: He is to live on the premises?

Mr. Smith: Yes, on the property.

Mr. Gerace: If he sells that, could continue a business?

Mr. Smith: Similar. Can have accessory structure where business is conducted.

Mr. Thomas: No intention to set up a business in

terms of the public coming in. Just intend on working there. Have been re-doing our house. Use it for repair work. Kind of an all purpose shop.

Mr. Smith: Any way in your designing where you could push the garage portion back to line up with work shop? Want to point out the overhang of the car. If a sidewalk went through there would be 13'. Shut off right-of-way.

Mr. Thomas: Anything is possible. In terms of layout of property, trying to get between with structure and our house. Would tend to cross work in.

Mr. Smith: As long as you are aware of the overhang of the care.

Mr. Thomas: I measured it out. Here is the problem. I have a mini van. We still have a driveway between our house and the adjacent house. In terms of parking situation, they could park in there.

Mrs. Thomas: Thinking of the aesthetics of the property too. How it would appear.

Mr. Thomas: Thinking of putting entry to rear of

house eventually.

Chairman: Any questions? If not, do I hear a motion from someone?

Mr. Gerace: I move that the actions of the Zoning Enforcement Officer be set aside to grant the variances according to Section 30.95 F on the basis of Chapters 1 and 2 of the City of Batavia Municipal Code seeing that there is no opposition from the neighbors and seeing that this gentleman is running a home occupation I would like this Board to grant the variances and let him conduct his business:

- (1) That strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of the land or building for which such variances are sought, that the granting of the variances are necessary for the reasonable use of such property, and that the variances granted by the Board of Appeals

are the minimum variances that
will accomplish this purpose;
and,

- (2) That the granting of the variances
will be in harmony with the general
purpose of the Chapter, will
not be injurious to the neighborhood,
and will not alter the essential
character of the locality. In
granting the variances, the Board
of Appeals may prescribe appropriate
conditions or safeguards that
are necessary or desirable to
carry out the requirements of
this Subdivision.

Mr. German: I will second Mr. Gerace's motion.

Chairman: Let's vote:

Mr. Gerace - Yes

Mr. German - Yes

Mr. Krolikowski - Yes


Mr. Grasso - Yes

Mr. Havens Yes

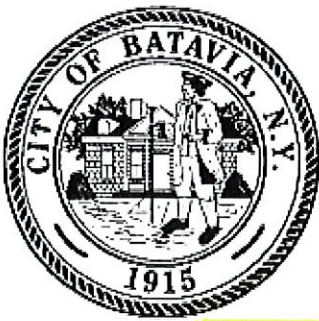
Chairman: Your appeal has been passed.

Mr. Thomas: What is the next step?

Mr. Smith: Come back to the Inspection Department.
Mr. Thomas: Do I come to see you next to get a permit?
Mr. Smith: Yes.
Mr. Thomas: Appreciate that very much. Thank you.


Chairman

Teresa M. Bird
Stenographer



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: 3/26/21

Re: 1 Ellicott Place
Tax Parcel No. 84.015-3-7.1

Zoning Use District: R-2

The applicant, Allan Bischoff, owner, has filed an application to expand an existing rear porch by constructing an 8' x 5.8' wood frame deck extension. The new construction will be located within the rear yard clear space.

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) (12).

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 a NYS 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.

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

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Rear yard set-back	35'	11.29'	23.71'



GENESEE COUNTY PLANNING BOARD REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID C-07-BAT-4-21
Review Date 4/8/2021

Municipality
Board Name
Applicant's Name
Referral Type
Variance(s)
Description:

BATAVIA, C.
ZONING BOARD OF APPEALS
Allen Bischoff
Area Variance(s)
Area Variance to expand an existing rear porch for a single-family home.
Rear Yard Setback Minimum required: 35 ft. Existing home: 17.09 ft. Proposed porch: 11.29 ft.

Location
Zoning District

1 Ellicott Pl., Batavia
Residential (R-1) District

PLANNING BOARD DECISION

APPROVAL

EXPLANATION:

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

Director

April 8, 2021

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.

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 Appeals

Address One Batavia City Centre

City, State, Zip Batavia, NY 14020

Phone (585) 345 - 6345 Ext. _____

2. APPLICANT INFORMATION

Name Allan Bischoff

Address 1 Ellicott Place

City, State, Zip Batavia, NY 14020

Phone (585) 813 - 5078 Ext. _____ Email allenbischoff@yahoo.com

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 1 Ellicott Place

B. Nearest intersecting road Ellicott St

C. Tax Map Parcel Number 84.015-3-7.1

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 Schedule I

C. Please describe the nature of this request Approval to place a porch extension within the rear 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

☐ SFQR 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

MAR 26 2021

CITY OF BATAVIA
CLERK-TREASURER

Application No.: 21-04

Hearing Date/Time: _____

APPLICANT: Allen Bischoff
Name 1 Ellicott Place
Street Address Batavia NY
City State Zip
E-Mail Address allenbischoff@yahoo.com
Phone 585-813-5078
Fax 14020

STATUS: ☒ Owner ☐ Agent for Owner ☐ Contractor

OWNER: Allen Bischoff
Name 1 Ellicott Place
Street Address Batavia NY
City State Zip
E-Mail Address 585-813-5078
Phone 14020
Fax

LOCATION OF PROPERTY: _____

DETAILED DESCRIPTION OF REQUEST: Build an addition to an existing porch 8' x 6' approximately 3' high

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.

Allen Bischoff 3-25-21
Applicant's Signature Date
Allen Bischoff 3-25-21
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.05-3-7.1 ZONING DISTRICT: R-2 FLOOD PLAIN: AH

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 190-29A and Schedule I
The minimum rear yard clearance is 35'

Criteria to Support Area Variance

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

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

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

No

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

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

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

No

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

Ann Bin
Applicant's Signature

3-25-21
Date

DATE: 3-25-21APPLICANT NAME & PHONE: Allen Bischoff**Project Location and Information**

Permit #: _____ Fee: _____

Address of Project: 1 Ellicott Place Batavia NYOwner & Address: Allen Bischoff 1 Ellicott PlPhone: 585-813-5078**Project Type/Describe Work**Estimated cost of work: \$5000Start date: May 1st

Describe project:

Support existing porch roof and replace everything below roof w/
new 8' long addition attached**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: _____

Existing Use: _____ NYS Building Code Occupancy Class: _____

Proposed Use: _____ NYS Building Code Occupancy Class: _____

23' overall

Top View

8' long

New porch addition
w/o roof

Existing
Roof

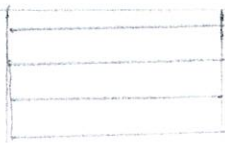
15'

24 g/10 on 16" centers

8-

↓

Removal
of porch



Side View

2x10

6x6
Post

4x4

2-
approx.
6'-11"

Ground level

12 x 42/44
concrete
pillars
typ.



Ellicott Place

84.015-3-10

84.015-3-7.1

84.015-3-8

84.015-3-9