

ZONING BOARD OF APPEALS

Thursday, July 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 June 24, 2021 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

Request *48 Manhattan Avenue*
John Fitros, owner

Area Variance: Construct a wood-frame deck on the east elevation of this dwelling. A portion of the deck will be placed within the front yard clear space of this corner lot parcel

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

VII. Setting of Next Meeting: August 26, 2021

VIII. Adjournment

ZONING BOARD OF APPEALS
Draft Minutes
Thursday, June 24, 2021
6:00 pm
Community Room
One Batavia City Centre, Batavia, NY

Members present: *Deborah Kerr-Rosenbeck, Jeff Gillard, Paul McCarthy, Leslie Moma*

Members absent: Nick Harris, Jim Russell

Others present: Doug Randall – Code Enforcement Officer

I. Roll Call

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

II. Call to Order

Mr. McCarthy called the meeting to order at 6:00 p.m.

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 May 27, 2021 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

Area Variance: the proposed project involves construction of a four-pump fuel station island with canopy and underground fuel storage tanks, and a change of use for the existing restaurant building. Area variances needed for the distance separating a fuel station from a church and the number of parking spaces required

Address: 204 Oak St.

Applicant: Patricia Bittar, agent for Quicklee's

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

1. Review Application

Vice Chair Deborah Kerr-Rosenbeck read the summary of the proposal. Mr. McCarthy reported that the Genesee County Planning Board recommended approval of the project.

Mr. Randall related that the City of Batavia Planning and Development Committee requested further information regarding the Quicklee's project. Quicklee's will revise and resubmit the site plan next month. Their decision has no bearing on the variances before the ZBA.

2. Public Hearing and Discussion

MOTION: Mr. McCarthy moved to open the public hearing; the motion was seconded by Mr. Gillard, and on roll call, was approved 4-0.

RESULT: Public hearing opened at 6:07 p.m.

Mr. Gillard asked about the ingress/egress driveway between 204 Oak Street and the hotel behind it. He noted that the owner of the hotel, Mr. Patel, has indicated that he wishes to close that access point. Ms. Bittar pointed out that there is an ingress/egress agreement and the hotel owners do not have that right. Mr. Randall said that the City attorney is currently considering the matter.

Ms. Kerr-Rosenbeck asked if the easement agreement has any bearing on the ZBA's consideration of the proposal, and Mr. Randall answered no.

There were no calls, letters, or email, other than the message from Mr. Patel, 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 4-0.

RESULT: Public hearing closed at 6:15 p.m.

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 for distance of separation from the church, with 60 days to obtain the permit. The motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 4-0.

RESULT: Area Variance approved.

MOTION: Mr. Gillard moved to approve the variance regarding number of parking spaces, with 60 days to obtain the permit. The motion was seconded by Ms. Kerr-Rosenbeck, and on roll call, was approved 4-0.

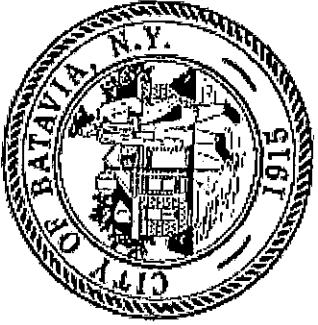
RESULT: Area Variance approved.

VII. Setting of Next Meeting: July 22, 2021

VIII. Adjournment

The meeting adjourned at 6:25 p.m.

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: 6/21/21

Re: 48 Manhattan Ave.
Tax Parcel No. 84.035-1-9

Zoning Use District: R-2

The applicant, John Fitros (owner), has applied for a permit to construct a wood frame deck on the east elevation of this dwelling. A portion of the deck will be placed within the front yard clear space of this corner lot parcel.

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) (12).

Review and Approval Procedures:

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

Required variances- Area

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

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Front yard clear space	20'	10.86'	9.14'



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 21-10
Hearing Date/Time: _____

APPLICANT: JOHN FITROS ISLES 9999@gmail.com
Name 48 Manhattan Ave E-Mail Address
Street Address (585) 590-1287 Phone
City Batavia State NY Fax 14020
City Zip

STATUS: ☒ Owner _____ Agent for Owner _____ Contractor _____

OWNER: JOHN FITROS ISLES 9999@gmail.com
Name 48 Manhattan Ave E-Mail Address
Street Address (585) 590-1287 Phone
City Batavia State NY Fax 14020
City Zip

LOCATION OF PROPERTY: 48 Manhattan Ave, Batavia, NY 14020

DETAILED DESCRIPTION OF REQUEST: Request variance so that the deck can be built and centered against the back side of the house. So the variance requested is approximately 11 to 15 feet from the "front yard" line. Any other way just won't look right or work well.

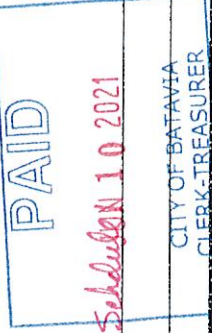
Applicant must be present at the hearing date. Failure to do so will result in the application being discarded. It is the responsibility of the applicant to present evidence sufficient to satisfy the Zoning Board of Appeals that the benefit of the applicant does not outweigh the health, safety, morals, aesthetics and general welfare of the community or neighborhood.

[Signature] 06/10/2021
Applicant's Signature Date
[Signature] 06/10/2021
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.035-1-9 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 Section 10 2021
20' front yard set back required.



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 this will not produce an undesirable change
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 alternative will remedy what we are looking for. Aesthetically, granting the variance will allow the item to not be offset against the home on the property.
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 this is not self created


Applicant's Signature

06/10/2021
Date

CITY OF BATAVIA

BUILDING PERMIT APPLICATION

DATE: 6-7-2021APPLICANT NAME & PHONE: TOTH FIRMOS(585) 590 1287Project Location and Information

Permit #: _____ Fee: _____

Address of Project: 48 Manhattan Ave Batavia NY 14020
Owner & Address: TOTH FIRMOS 48 Manhattan Ave Batavia 14020
Phone: (585) 590 1287

Project Type/Describe WorkEstimated cost of work: \$ 2500 - \$3000Start date: 6/8/2021

Describe project:

Build a deck 12' x 16' attached to back of the
houseContractor Information – Insurance certificates (liability & workers comp) required being on fileGENERAL

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: _____

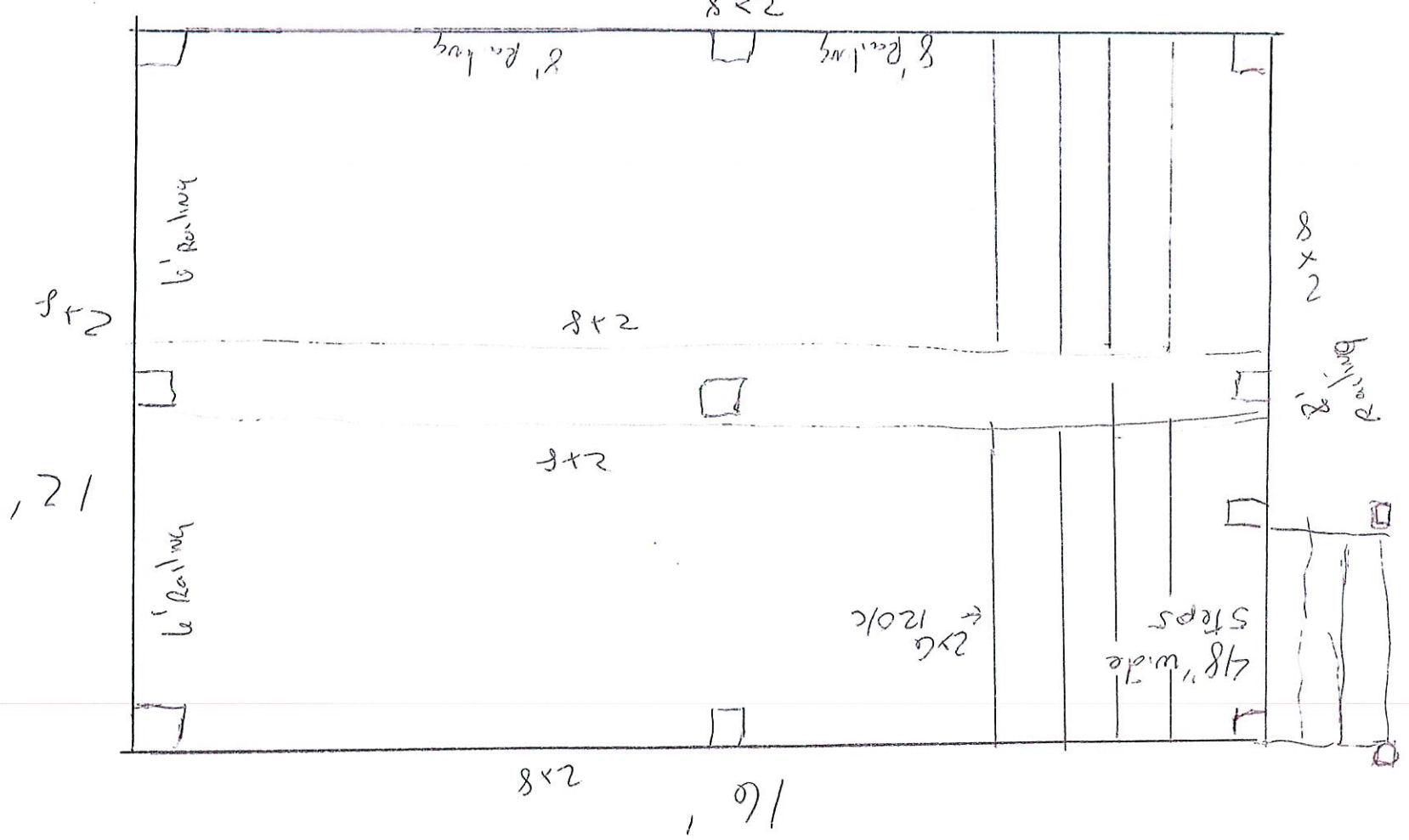
Zoning Review: _____ Variance Required: _____ Site Plan Review: _____ Other: _____

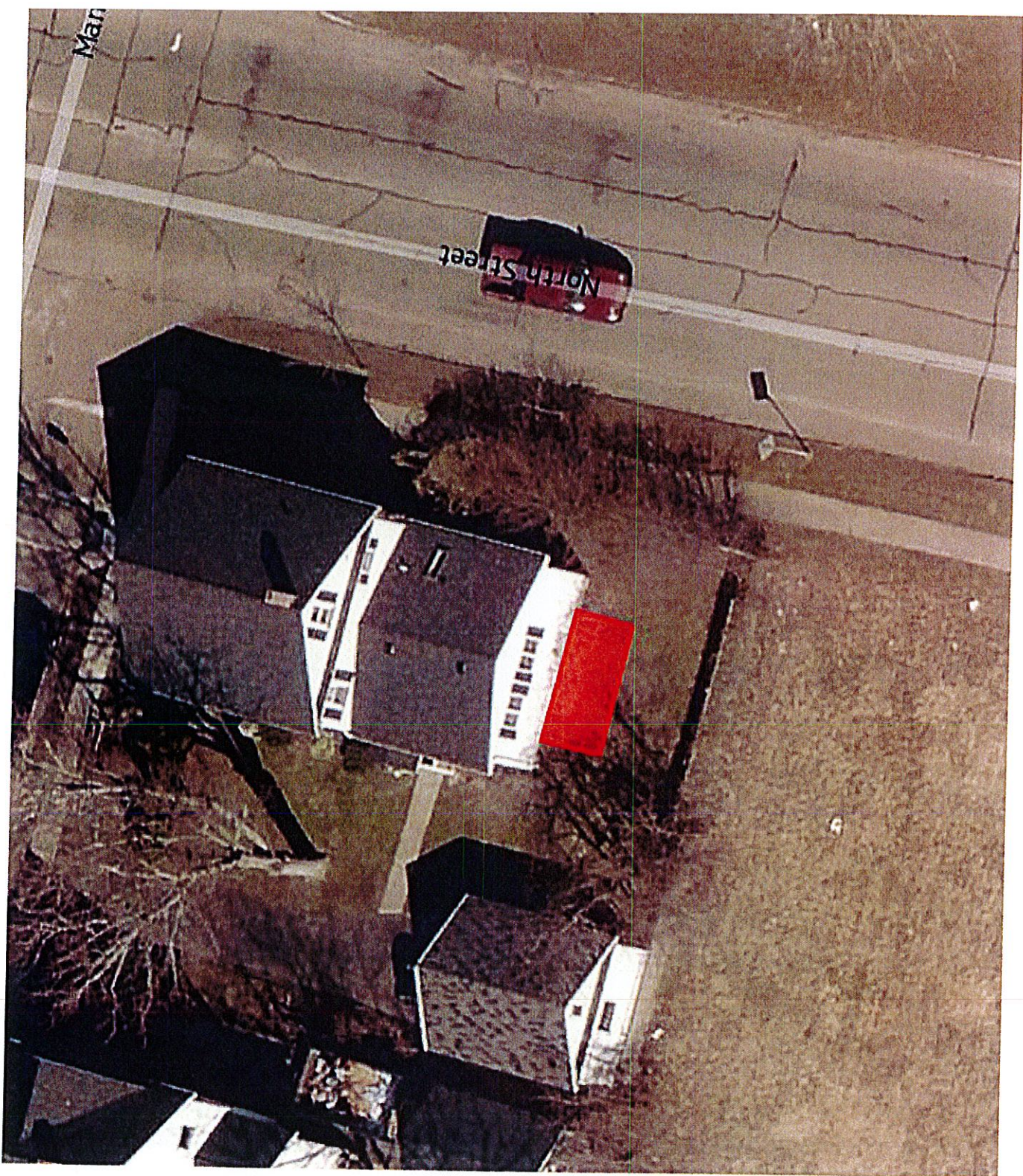
National Grid Sign Off (Pools): _____ Lot Size: _____

Existing Use: _____ NYS Building Code Occupancy Class: _____

Proposed Use: _____ NYS Building Code Occupancy Class: _____

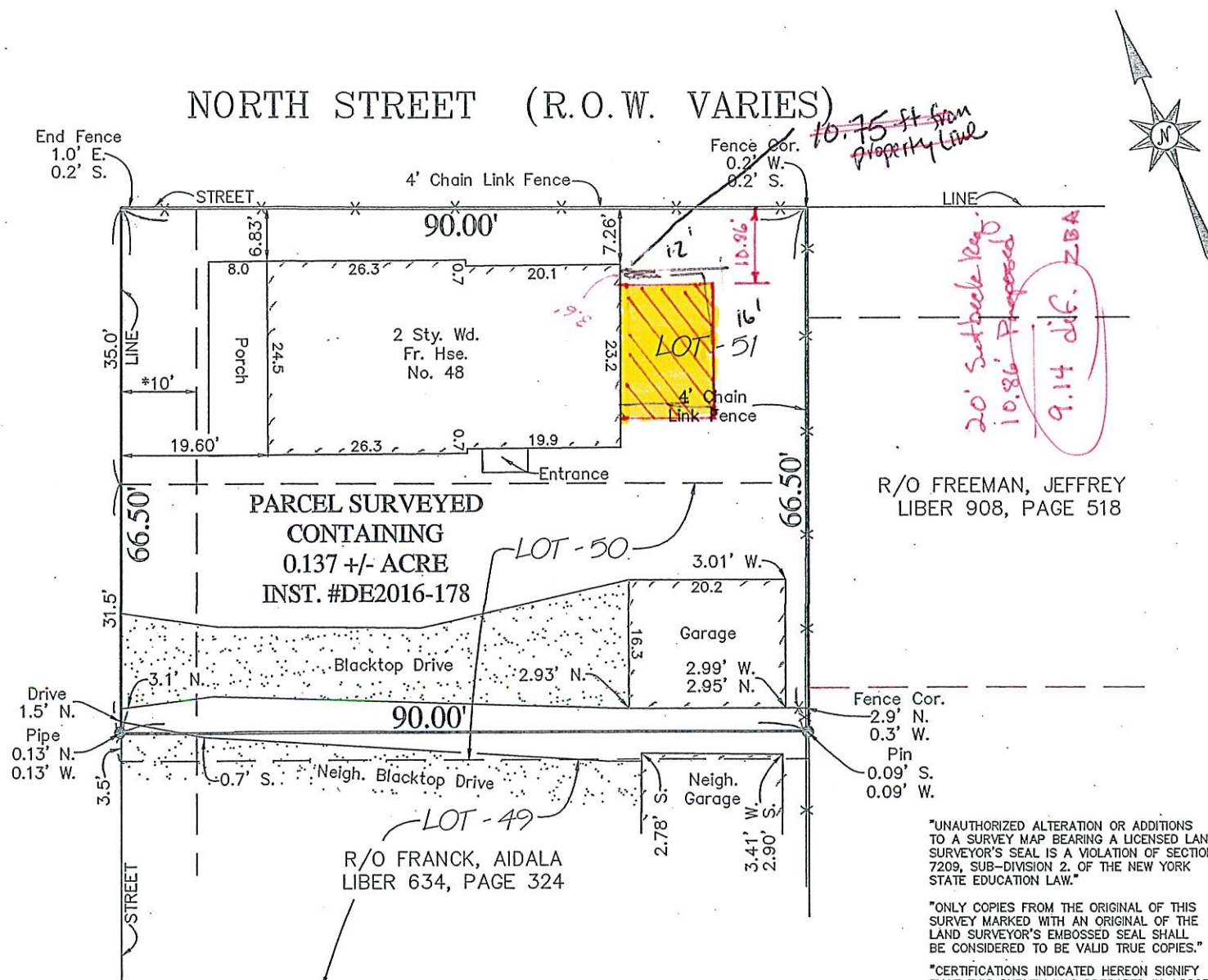
16x12 Deck Attached to back of House
 2x8 frame construction Deck joists 12" on center
 for composite Deck boards
 = 10" sand tube concrete filled 42" deep 4x4's to set on top
 Stair stringers 12" on center for composite 16" on center for PT





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

MANHATTAN AVENUE (40.0' R.O.W.)



LEGEND
● EXISTING IRON STAKE

REFERENCES
LINCOLN PART TRACT FILED AT BOOK 3 OF MAPS,
PAGE 130
*RIGHT OF WAY TO NATIONAL FUEL GAS DISTRIBUTION
CORPORATION FILED AT LIBER 455 OF DEEDS, PAGE 318

NOTE:
- ALL INTERIOR ANGLES = 90°00'00"

I, GREGORY W. TOWNSEND, CERTIFY TO:
PREMIUM MORTGAGE CORPORATION, ITS SUCCESSORS AND/OR
ASSIGNS, AS THEIR INTERESTS MAY APPEAR
MELISSA M. SAWYER-FYTROS AND JOHN M. FYTROS
FIRST AMERICAN TITLE INSURANCE COMPANY OF NEW YORK
CORNER STONE ABSTRACT
KATHERINE BOGAN, ESQ.

BOUNDARY SURVEY SHOWING THE PARCEL
TO BE CONVEYED DISTINGUISHED AS
SUBDIVISION LOT NO. 51 AND THE
NORTHERLY 31.5' OF SUBDIVISION LOT
NO. 50 OF THE LINCOLN PARK TRACT.
SITUATE IN THE CITY OF BATAVIA, COUNTY
OF GENESEE AND STATE OF NEW YORK

DECEMBER 7, 2020 SCALE 1" = 20'
JOB NO. 20-550
REVISED (CERTS) - DECEMBER 9, 2020

DATE 12/09/20 *Gregory W. Townsend* N.Y.S.R.L.S. No. 50249

"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."