

ZONING BOARD OF APPEALS

Thursday, March 24, 2016

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 November 19, 2015 minutes
- V. Statement about the role of the Zoning Board of Appeals and the procedure it follows
- VI. Variance Requests

A. Request #1

11 South Spruce Street

Curt Stechenfinger, owner

Area Variance:

Placement of a 10' x 12' one story wood frame utility shed in the side (east) yard of this corner lot

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

B. Request #2

153 Harvester Avenue

Patricia C. Diaz, owner

Area Variance:

Construction of a wooden fence around the perimeter of the rear yard with the framing members of the fence facing the neighboring properties

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

C. Request #3

41-43 Liberty Street Rear and 45 Liberty Street Rear
Victor Gautieri, agent for Ellicott Square Plaza, LLC

Use Variance:

Creation of 12 one- and/or two-bedroom dwelling units on the first floor of this existing commercial building located within the Central Commercial District

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

VII. Setting of Next Meeting: April 28, 2016

VIII. Adjournment

ZONING BOARD OF APPEALS

Minutes

November 19, 2015

6:00 pm

Council Board Room

One Batavia City Centre, Batavia, NY

Members present: *Jeffrey Gillard, Lee Hyatt, Sandra Licata, Emma Morrill (Alt.)*

Members absent: William Hayes, Paul McCarthy

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

I. Roll Call

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

II. Call to Order

Mr. Gillard called the meeting to order at 6:03 pm.

III. Pledge of Allegiance

IV. Approval of Minutes

MOTION: Mr. Hyatt moved to approve the minutes as written; the motion was seconded by Mr. Gillard, and on roll call, was approved 4-0.

Result: Approval of October 22, 2015 minutes.

V. Zoning Board of Appeals statement

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

VI. Variance Requests

The applicant, Kip Finley (agent for the owner), has filed applications for five area variances. He is proposing to subdivide this existing parcel into two separate parcels and construct an approximately 2,170 sq.' Dunkin Donuts restaurant with a drive-through window on the newly created parcel

Address: 401-409 West Main Street

Applicant: Kip Finley, agent for the owner

Actions: 1. Review application
2. Public hearing
3. Discussion and action by the board

1. Review Application

Mr. Hyatt, acting as Vice Chair, read the proposal summary for the board.

2. Public Hearing and Discussion

Mr. Gillard opened the public hearing at 6:09 pm. The applicant spoke first and addressed the request for each of the variances:

- Shorter distance to property lines because driveways will be shared with neighbors
- Small number of parking spaces because BMC requires a large number of spaces
- Change the front yard setback because it was suggested by PDC that having the restaurant closer to the street would create a more urban café style
- Increase the height of the drive in restaurant because PDC requested a more residential type structure
- Narrow the driveway width to discourage motorists from entering from the left

Donald Fryling, 6 Redfield Parkway

Mr. Fryling spoke in opposition to the project:

- Traffic congestion
- Too many donut shops and drive-through restaurants in the City
- Lot too small
- Public sentiment against it

Mary Joyce Hatch, 72 Roosevelt Avenue

Mrs. Hatch spoke in opposition to the project:

- Volume of traffic making left turns from River Street on to Main Street

James Owen, 2 Redfield Parkway

Mr. Owen spoke in opposition to the project:

- Traffic congestion
- Problems getting on to Main Street from Redfield Parkway

Nann Zorn, 12 River Street

Ms. Zorn spoke against the project:

- Traffic congestion
- Location
- Lot too small
- Too many variances needed

Mr. Gillard closed the public hearing at 6:32 pm.

3. Discussion and Action by the Board

Mr. Hyatt and Ms. Morrill asked how the driveways worked. Mr. Finley showed, using arrows on a diagram, where the driveways would be located and the direction that cars would travel to enter and exit the parking lots.

Driveways for drive-in restaurants are not permitted to be closer than 20' from side lot lines.

The proposed West Main Street curb cuts, west side of parcel ingress and east side exit driveways cross the proposed side lot lines at the street, and are on the line for the majority of the driveway's length

Mr. Gillard went through the list of supporting criteria for the variance, generally considering, however, the project as a whole:

- Undesirable change in neighborhood character: more traffic will be generated
- Alternative cure sought: not sure if they looked for another site
- Substantiality: yes
- Adverse effect or impact on neighborhood/community: yes
- Self-created: yes

The board then considered the criteria as it related more specifically to the variance before they voted.

MOTION: Dr. Licata moved to approve the application; the motion was seconded by Mr. Gillard, and on roll call, was approved 3-1.

Votes in favor: Jeffrey Gillard, Sandra Licata, Emma Morrill

Votes opposed: Lee Hyatt

Result: Approval of Area Variance

Parking is required at the rate of four spaces for each 100 sq.' of principal building space of drive-in restaurants. 88 spaces are required; 30 spaces are proposed on this parcel, with a difference of 58 spaces

After clarifying with Mr. Finley that there are 21 seats in the restaurant and 9 employees, Dr. Licata asked where the customers who just want to run in, grab coffee and leave are going to park. Mr. Finley answered that there is some flexibility in the parking area at Five Star Bank across from the entrance of the proposed restaurant. Mr. Finley added that the five additional spaces in Five Star Bank's parking lot are not considered in the 30 spaces specified by the variance.

Mr. Hyatt said he did not see a reason for 88 parking spaces.

Dr. Licata stated that she believes 88 spaces are too many but 30 spaces are not enough.

MOTION: Mr. Hyatt moved to approve the application as written; the motion was seconded by Ms. Morrill, and on roll call, was approved 3-1.

Votes in favor: Jeffrey Gillard, Lee Hyatt, Emma Morrill

Votes opposed: Sandra Licata

Result: Approval of Area Variance

The front yard clear space shall be a minimum of 25'; 12' is proposed for a difference of 13'

Mr. Hyatt asked Mr. Finley to clarify who wanted the building moved closer to the street. Mr. Finley replied that the topic came up in the discussion with the PDC about having a more residential style structure. Mr. Finley noted that 12' would leave sufficient room for a patio to be constructed.

Mr. Hyatt asked for the reasoning behind moving the building closer to the street. Mr. Finley explained that the initial design had the building set toward the rear of the lot with parking in front, and residents complained. In response to the complaints, the design was altered to bring the building forward and move the parking to the rear of the lot.

Mr. Gillard asked if the building would be even with Batavia Marine and Mr. Finley responded that it would be close.

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

- Undesirable change in neighborhood character: considering that the building is nearly in line with the other buildings on the street, no
- Alternative cure sought: the building could be moved farther back on the lot if they chose to do so
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

Dr. Licata asked if the placement of the building on the lot changed the length of the queue. Mr. Finley said that moving the queue to the rear creates an additional three feet for the queue.

MOTION: Mr. Gillard moved to approve the application as written; the motion was seconded by Mr. Hyatt, and on roll call, was approved 4-0.

Result: Approval of Area Variance

The maximum permitted height for a drive-in restaurant is 18'; 25.29' is proposed for a difference of 7.29'

Dr. Licata asked about roof measurements. Mr. Finley explained that if roof on the building was flat, like the one on the prototypical Dunkin Donuts buildings, it would measure 18'; however, the more residential-looking peak on the proposed design measures 25.9'.

Ms. Morrill asked about the choice of roof and Mr. Finley answered that the PDC had said a more residential style building would be more acceptable

Mr. Gillard asked if there was something other than dead space beneath the peak of the roof and Mr. Finley said no. Mr. Gillard asked if the roof could be reduced by 3' to make it closer to the same height as the other roofs in the area. Mr. Finley said the height of the roof was necessary to maintain the Cape Cod style and mimic the residential appearance of the houses across the street.

Mr. Gillard asked what is on the back part of the roof where a guard rail is indicated on the drawing. Mr. Finley explained that the air conditioning is being hidden behind an area meant to resemble a walk-out terrace.

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

- Undesirable change in neighborhood character: considering that the building is supposed to look more residential, it would be difficult to make it the same height as the neighboring businesses
- Alternative cure sought: the building design is based on a suggestion from the PDC
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

MOTION: Mr. Gillard moved to approve the application as written; the motion was seconded by Dr. Licata, and on roll call, was approved 4-0.

Result: Approval of Area Variance

Driveways for drive-in restaurants may not be less than 20' in width. 14' is proposed at the West Main Street exit (northeast corner of parcel) for a difference of 6'

Dr. Licata asked if the driveway is currently 14' wide and Mr. Finley answered that it is approximately 30' wide.

Ms. Morrill stated that she has a problem with the proposed width of the driveway. Mr. Finley responded that if the driveway is too wide, it invites motorists to make a left turn either out of or into the restaurant. Mr. Finley said that 14' is the smallest width that will still allow room for a UPS or delivery truck to enter.

Ms. Morrill asked if Batavia Marine would be sharing the driveway. Mr. Finley replied that the driveway would be shared, but large RVs would probably use the River Street driveway.

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

- Undesirable change in neighborhood character: no
- Alternative cure sought: Mr. Gillard suggested perhaps the DOT would allow for a greater angle on the entrance
- Substantiality: not substantial
- Adverse effect or impact on neighborhood/community: no
- Self-created: no

MOTION: Dr. Licata moved to approve the application; the motion was seconded by Mr. Gillard, and on roll call, was approved 3-1.

Votes in favor: Jeffrey Gillard, Sandra Licata, Emma Morrill

Votes opposed: Lee Hyatt

Result: Approval of Area Variance

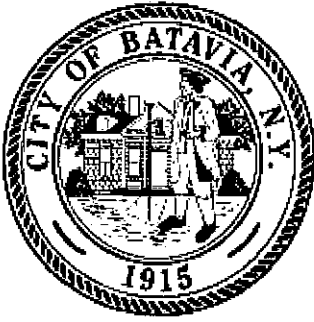
VII. New Business: none

VIII. Setting of Next Meeting: December 17, 2015

IX. Adjournment

Mr. Hyatt moved to adjourn the meeting at 7:18 pm; Mr. Gillard seconded. All voted in favor.

Meg Chilano
Bureau of Inspection Clerk



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: 2/5/16

Re: 11 South Spruce St.
Tax Parcel No. 84.060-1-9

Zoning Use District: R-3

The applicant, Curt Stechenfinger (owner), has filed an application to place a 10' x 12' one story wood frame utility shed in the side (east) yard 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) (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 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 190-35 D.** Accessory buildings are not permitted in any yard other than a rear yard.

190-33 A. Any yard adjoining a street shall be considered a front yard for the purposes of this chapter and shall comply with all requirements for a front yard in the district in which located.

SEND OR DELIVER TO:

GENESEE COUNTY DEPARTMENT OF PLANNING
3837 West Main Street Road
Batavia, NY 14020-9404
Phone: (585) 344-2580 Ext. 5467

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) INFORMATIONBoard(s) Zoning Board of AppealsAddress One Batavia City CentreCity, State, Zip Batavia, NY 14020Phone (585) 345 - 6347 Ext. _____**2. APPLICANT INFORMATION**Name Curt StechenfingerAddress 11 South Spruce St.City, State, Zip Batavia, NY 14020Phone (716) 868 - 7741 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 11 South Spruce St.B. Nearest intersecting road Morse Pl.C. Tax Map Parcel Number 84.060-1-9

D. Total area of the property _____ Area of property to be disturbed _____

E. Present zoning district(s) R-3**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 190-35 DC. Please describe the nature of this request Approval to place a 10' x 12' wood frame storage shed in the side (east) yard of this corner lot parcel.**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

If possible, please provide a reduced version or digital copy of any supporting documentation larger than 11 x 17.

Email to planning@co.genesee.ny.us**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

Application No.: 16-03
Hearing Date/Time: _____

APPLICANT: Curt Stechenfinger

Name _____ E-Mail Address _____
11 South Spruce St
Street Address _____ Phone _____ Fax _____
Batavia N.Y. 14020
City State Zip

STATUS: ☒ Owner ☐ Agent for Owner ☐ Contractor

OWNER: Same

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

LOCATION OF PROPERTY: 11 South Spruce St

DETAILED DESCRIPTION OF REQUEST: To put a 10x12 shed in
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.

Curt Stechenfinger
Applicant's Signature

2/4/16
Date

Owner's Signature

Date

To be Filled out by Zoning Officer

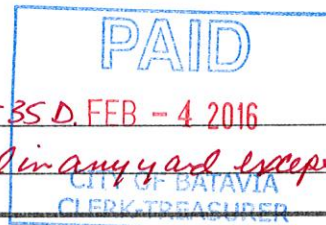
TAX PARCEL: 84.060-1-9 **ZONING DISTRICT:** R-3 **FLOOD PLAIN:** No

TYPE OF APPEAL: ☒ Area Variance
☐ Use Variance
☐ Interpretation
☐ Decision of Planning Committee

FEE: \$50 \$50 (One or Two Family Use)
\$100 (All other Uses)

Provision(s) of the Zoning Ordinance Appealed: BMC Sec. 190-35 D, FFB - 4 2016

A accessory bldg. may not be located in any yard except a rear yard.



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

Curt Steckeninger
Applicant's Signature

2/4/16
Date

DATE: 2/4/16APPLICANT NAME & PHONE: Curt Stechenfinger (716) 868-7741**Project Location and Information**

Permit #: _____ Fee: _____

Address of Project: 11 South Spruce Street

Owner & Address: _____

Phone: (716) 868-7741**Project Type/Describe Work**Estimated cost of work: \$3049.00 + Tax Start date: _____

Describe project:

Shed 10x12**Contractor Information** – Insurance certificates (liability & workers comp) required being on file**GENERAL**Name/Address: Home Depot 4181 Veterans Memorial DrPhone: 585-813-0144**PLUMBING** (City of Batavia Licensed Plumber Required)

Name/Address: _____

Phone: _____

HEATING

Name/Address: _____

Phone: _____

ELECTRICAL (Third Party Electrical Inspection Required)

Name/Address: _____

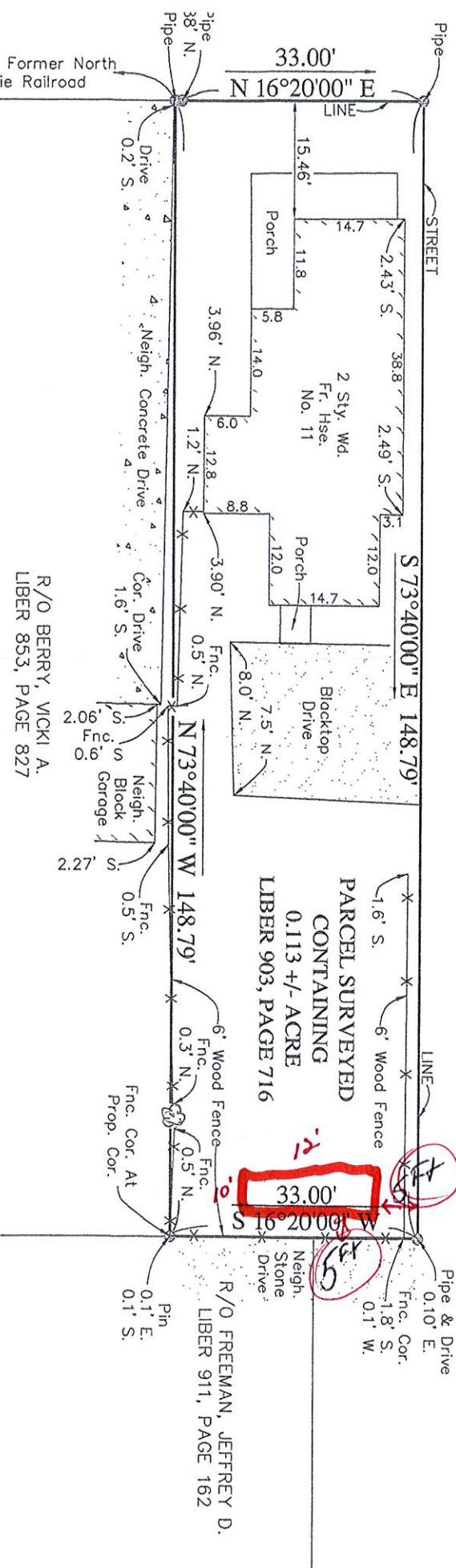
Phone: _____

FOR OFFICE USE ONLYZoning District: R-3 Flood Zone: No Corner Lot: Yes Historic District/Landmark: No

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

National Grid Sign Off (Pools): NA Lot Size: 33x148Existing Use: 1-family NYS Building Code Occupancy Class: _____Proposed Use: same NYS Building Code Occupancy Class: _____

MORSE PLACE (12.0' WIDE)



LEGEND
● EXISTING IRON STAKE

REFERENCE
LIBER 755 OF DEEDS, PAGE 325

"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 NOT TO ANY OTHER PARTY OR TO THE LENDING INSTITUTION, AND TO THE LENDING INSTITUTION, CERTIFICATION MADE BY THE TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS."

BOUNDARY SURVEY SHOWING THE
TO BE CONVEYED BEING PART OF
VILLAGE LOT NO. 47. SITUATE IN
CITY OF BATAVIA, COUNTY OF G
AND STATE OF NEW YORK

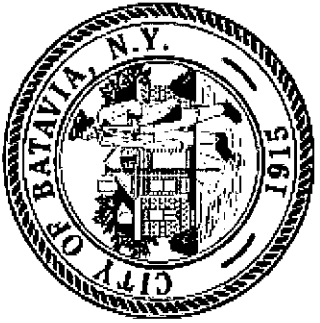
NOVEMBER 13, 2014 SCALE
JOB NO. 14-339
RESURVEYED & REVISED - - SEPTEMBER 2, 2015

DATE 09/02/15 N.Y.S.R.L.S. I



11

MORSE PL



City of Batavia
Department of Public Works
Bureau of Inspections

(585)-345-6345 (585)-345-1385 (fax)

One Batavia City Center, Batavia, New York 14020

To: Genesee County Planning
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 2/26/16

Re: **153 Harvester Ave.**
Tax Parcel No. 84.020-1-76

Zoning Use District: R-2

The applicant, Patricia C. Diaz (owner), has filed an application to construct a wooden fence around the perimeter of the rear yard with the framing members of the fence facing the neighboring properties.

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 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.** A fence designed to be structurally supported by posts, cross members or rails on one side shall be erected with the posts, cross members or rails on the fence owner's side, and the finished side of the fence shall face adjacent properties.

SEND OR DELIVER TO:

GENESEE COUNTY DEPARTMENT OF PLANNING
3837 West Main Street Road
Batavia, NY 14020-9404
Phone: (585) 344-2580 Ext. 5467

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

2. APPLICANT INFORMATIONName Patricia DiazAddress One Batavia City CentreAddress 153 Harvester Ave.City, State, Zip Batavia, NY 14020City, State, Zip Batavia, NY 14020Phone (585) 345 - 6347 Ext. _____Phone (585) 343 - 0653 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 153 Harvester Ave.B. Nearest intersecting road Ellicott St.C. Tax Map Parcel Number 84.020-1-76

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 a wooden fence with the structural supports, posts and cross members visible from the neighboring properties.**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

If possible, please provide a reduced version or digital copy of any supporting documentation larger than 11 x 17.

Email to planning@co.genesee.ny.us**7. CONTACT INFORMATION** of the person representing the community in filling out this form (required information)Name Douglas RandallTitle Code Enf. OfficerPhone (585) 345 - 6327

Ext. _____

Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020Email drandall@batavianewyork.com

16-02



CITY OF BATAVIA APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: _____
Hearing Date/Time: _____

APPLICANT:

Name Patricia C Diaz E-Mail Address kindredspirit-2001@yahoo.com
Street Address 153 Harvester Ave Phone 585-343-0653
City BATAVIA, NY 14020 State _____ Zip _____
Fax _____

STATUS: ☒ Owner _____ Agent for Owner _____ Contractor _____

OWNER:

Name Patricia C Diaz E-Mail Address kindredspirit-2001@yahoo.com
Street Address 153 Harvester Ave Phone 585-343-0653
City BATAVIA, NY 14020 State _____ Zip _____
Fax _____

LOCATION OF PROPERTY: 153 Harvester Ave. BATAVIA NY 14020

DETAILED DESCRIPTION OF REQUEST: Variance for fencing

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.

Patricia C Diaz
Applicant's Signature

2/4/16
Date

Patricia C Diaz
Owner's Signature

2/4/16
Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.020-1-76 ZONING DISTRICT: R-2 FLOOD PLAIN: NO

TYPE OF APPEAL: ☒ Area Variance FEE: \$50 \$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. Structural Supports

(posts, cross members and rails) shall be constructed to face the owners side with the finished side facing neighbors



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.
True (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.
True (no)
3. **Substantiality.** The requested area variance is not substantial.
True (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.
True (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.
Neighbors on either side gave verbal consent to have fence placed with good side facing inward

Patricia C. Dian
Applicant's Signature

2/4/16
Date

DATE: 2/4/16APPLICANT NAME & PHONE: Patricia C'NiazProject Location and Information

Permit #: _____ Fee: _____

Address of Project: 153 HARVESTER AVEOwner & Address: 153 HARVESTER AVEPhone: 585-343-0653Project Type/Describe WorkEstimated cost of work: 1250.00Start date: ASAP

Describe project:

60 foot stockade wooden fence around 3 sides of propertyContractor Information – Insurance certificates (liability & workers comp) required being on fileGENERALName/Address: Rick Stewart + Ken DarchPhone: 1-585-409-1742 (rickstewart)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: _____

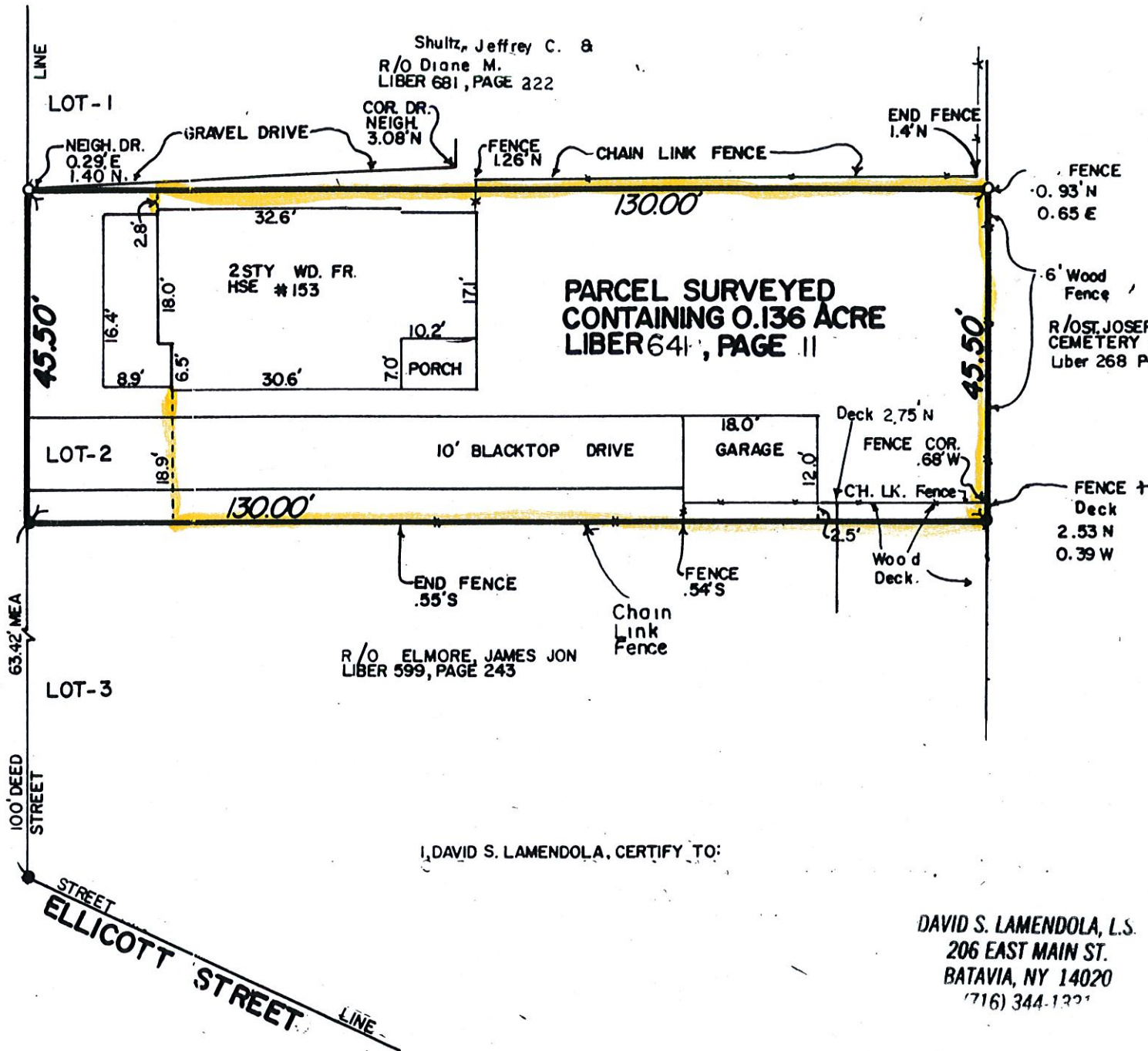
Zoning Review: _____ Variance Required: _____ Site Plan Review: _____ Other: _____

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

Existing Use: _____ NYS Building Code Occupancy Class: _____

Proposed Use: _____ NYS Building Code Occupancy Class: _____

HARVESTER AVENUE (54.0' R.O.W.)



LEGEND
● EXISTING IRON STAKE
○ SET IRON PIN

NORTH

REFERENCES
JOHN GOODENBURY SUBDIVISION,
FILED AT BOOK 2 OF MAPS PAGE 82.
ALL INTERIOR ANGLES 90°-00'-00".
LIBER 589 PAGE 122

BOUNDARY SURVEY SHOWING THE
PARCEL TO BE CONVEYED BEING PART
OF LOT 43, DISTINGUISHED AS LOT 2
OF THE JOHN GOODENBURY
SUBDIVISION, SITUATE IN THE CITY
OF BATAVIA, COUNTY OF GENESEE
AND STATE OF NEW YORK.

I, DAVID S. LAMENDOLA, CERTIFY TO:

DAVID S. LAMENDOLA, L.S.
206 EAST MAIN ST.
BATAVIA, NY 14020
(716) 344-1321

APRIL 26, 1994 SCALE 1"=20'
JOB NO. 94-58

REVISED MAY 3, 1994 RESURVEYED NOV. 10, 2000.
REVISED-- MAY 6, 1994.

NOV-14-2000 *David S. Lamendola*
DATE N.Y.S.R.L.S. NO. 49613



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
Planning and Development Committee
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 2/29/16

Re: 41-43 Liberty St. Rear (84.015-1-23.1) and
45 Liberty St. Rear (84.015-1-22)
(aka Address Point 45 Liberty St.)

Zoning Use District: C-3

The applicant, Victor Gautieri (agent for owner, Ellicott Square Plaza, LLC), has requested approval to create twelve, one and/or two bedroom dwelling units on the first floor of this existing commercial building located within the Central Commercial District. A use variance is required for the proposed change.

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; the boundary of a County or State park or other recreation area; **the right of way of a state parkway, thoroughway, expressway, road or highway;** the boundary of county or state owned land on which a public building or institution is situated; the boundary of a farm operation located in an agricultural district (not required for area variances).

City Planning and Development Committee- Pursuant to section 190-49 C. of the zoning ordinance; Applications for variances that include non-permitted uses shall be referred to the PDC for their recommendation to the ZBA.

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- Use

- 1) **BMC 190-14 A. First floor residential dwelling units are not a permitted principal use in the Central Commercial District (C-3).**

The Zoning Board of Appeals will be the lead agency to conduct SEQR.

SEND OR DELIVER TO:

GENESEE COUNTY DEPARTMENT OF PLANNING
3837 West Main Street Road
Batavia, NY 14020-9404
Phone: (585) 344-2580 Ext. 5467



*** GENESEE COUNTY ***
PLANNING BOARD REFERRAL

DEPARTMENT USE ONLY:

GCDP 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) INFORMATIONBoard(s) Zoning Board of AppealsAddress One Batavia City CentreCity, State, Zip Batavia, NY 14020Phone (585) 345 - 6347

Ext. _____

2. APPLICANT INFORMATIONName Victor GautieriAddress 45 Liberty St.City, State, Zip Batavia, NY 14020Phone (585) 343 - 0852

Ext. _____

Email vgautieri@gautieri.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 41-43 and 45 Liberty St. (84.015-1-23.1 and 84.015-1-22)B. Nearest intersecting road Ellicott St.C. Tax Map Parcel Number 84.015-1-23.1 and 84.015-1-22

D. Total area of the property _____ Area of property to be disturbed _____

E. Present zoning district(s) C-3**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 190-14 A.

C. Please describe the nature of this request Approval to create twelve, one and/or two bedroom dwelling units on the first floor of this existing commercial building in a use district that does not permit residential dwelling units as a permitted principal use.

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

If possible, please provide a reduced version or digital copy of any supporting documentation larger than 11 x 17.

Email to planning@co.genesee.ny.us**7. CONTACT INFORMATION** of the person representing the community in filling out this form (required information)Name Douglas RandallTitle Code Enf. OfficerPhone (585) 345 - 6327

Ext. _____

Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020Email drandall@batavianewyork.com



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No. 16-04
Hearing Date/Time _____

APPLICANT: V.G. Gauthier Constructors, Inc. vgautieri@gautieri.com
Name _____ E-Mail Address _____
45 Liberty Street 585-343-0852 585-343-2601
Street Address _____ Phone _____ Fax _____
Batavia NY 14020
City _____ State _____ Zip _____

STATUS: ☐ Owner ☒ Agent for Owner ☒ Contractor

OWNER: Ellisport Square Plaza, LLC vgautieri@gautieri.com
Name _____ E-Mail Address _____
45 Liberty Street 585-343-0852 585-343-2601
Street Address _____ Phone _____ Fax _____
Batavia NY 14020
City _____ State _____ Zip _____

LOCATION OF PROPERTY: 45 Liberty Street, Batavia, NY 14020

DETAILED DESCRIPTION OF REQUEST: Property owner is requesting a use variance to
to create 12 residential apartments on the Ground Floor of an existing building
within a C-3 zoning district that has been vacant and un-rentable for conforming
uses. Please see applicants narrative submitted with this application.

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.

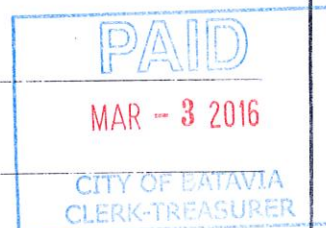
[Signature]
Applicant's Signature _____
[Signature]
Owner's Signature _____

2/26/16

Date

2/26/16

Date



To be Filled out by Zoning Officer

TAX PARCEL: (41-43) 84.015-1-23.1 ZONING DISTRICT: C-3 FLOOD PLAIN: AH
(45) 84.015-1-22

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 190-14 A. First Floor
residential dwelling units are not a permitted principal use in the
Central Commercial district.



Use Variance Application
Statement of Unnecessary Hardship

In order for the Zoning Board of Appeals to grant a use variance, an applicant must show documentation in the record that the restrictions of the Zoning Ordinance has caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the Zoning Ordinance for the particular district where the property is located, that all four (4) requirements as per §81-b of the General City Law have been proven. Additional documentation may be included. If any one of these requirements have not been proven, the Zoning Board of Appeals must deny the variance, as per §81-b of the General City Law.

Explain **how** the request conforms to EACH of the following requirements (additional pages may be attached):

1. **Reasonable Return.** The subject property is not capable of yielding a reasonable rate of return if used for its present use or developed, redeveloped or used for any other use permitted in the district in which such property is located. There is no means other than the granting of the variance by which the property can yield a reasonable return. Such inability to yield a reasonable return must be shown by specific fact (dollars and cents) from an expert or authority in economic deprivation, not the unsupported opinion of the owner or those appearing for the owner.

"The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence"

See attached Applicant Narrative

(Please provide / attach competent financial evidence)

2. **Unique Hardship.** The inability to yield a reasonable return results from a unique circumstance peculiar to the subject property which does not apply to or affect other properties in the immediate vicinity that are subject to the same regulations. The personal situation of the owner shall not be considered unique.

"The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood"

See attached Applicant Narrative

3. **Essential Character of the Neighborhood.** The granting of the variance will not be materially detrimental to the public health, safety, and welfare or injurious to the enjoyment, use or development of neighboring properties or the community. Applicant must demonstrate that the proposed use will not change the essential character of the neighborhood with regard to such physical and environmental elements such as parking, traffic, signage, landscape, architectural and structural features, location and dimensions of buildings, any by-products of proposed use such as noise or smoke, and any other impacts upon adjacent or neighboring lands.


"The requested use variance, if granted, will not alter the essential character of the neighborhood"

See Attached Applicant Narrative

4. **Not Self-Created.** The inability to yield a reasonable return is not the result of any action by the owner or predecessors in title. The applicant must show that when the property was purchased the zoning restrictions from which a use variance is now sought were not in existence or that some other change or factor has occurred that has resulted in an inability to yield a reasonable return. Otherwise, the hardship is self-created.

"The alleged hardship has not been self-created"

See attached Applicant Narrative

 FOR ELlicOTT SQUARE PLAZA, LLC 2/25/16

Applicant's Signature Date

Ellicott Square Plaza, LLC 2/25/16

Provider of Financial Evidence Date

USE VARIANCE

Statement of Income and Expense

*All Entries Must be Completed and Documented for at Least Two (2) Calendar Years
or From the Date of Purchase Whichever is Less*

Ellicott Square Plaza, LLC

PROPERTY ADDRESS: 45 Liberty Street, Batavia, NY 14020

A. PROPERTY DATA

1. Date property was purchased by current owner Property transferred to current owner
2. Was a Certificate of Occupancy issued? No
Date of Issuance? _____
If so, for what use(s)? _____
If not, why? Not required
3. Cost of Purchase N/A
4. a) Amount of Mortgage _____ Interest Rate _____
Mortgage Holder _____ Duration _____
Address _____

b) Amount of Mortgage Current Balance \$787,596 Interest Rate 6.75%
Mortgage Holder First Niagara Bank Duration Initial 10 yr. term
Address Buffalo, NY

c) Amount of Mortgage _____ Interest Rate _____
Mortgage Holder _____ Duration _____
Address _____
5. Is the property for sale? No
If so, for how long _____
Asking price _____
For what use(s) _____
Have any offers been received _____
If so, for what amount(s) _____

Summarize any attempts to sell the property Property has not been for sale

6. Present value of property Per Appraisal dated 6/18/14 - \$890,000.00 - see below
Source(s) Kevin L. Bruckner, MAI

The property value stated above is based upon a Sales Comparison Approach in lieu of an Income Approach. Using the Income Approach based upon the current occupancy level, the value is significantly lower. Our estimate of the value using this method is \$500,000.00

B. GROSS ANNUAL INCOME [BASED ON PERMITTED USE(S)]

See attached Narrative and supplemental financial information

	USE	INCOME
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
	TOTAL RENTAL INCOME	_____
	LESS VACANCY FACTOR	_____
	(Attach explanation if greater than 8%)	
	TOTAL GROSS INCOME	_____

C. ANNUAL EXPENSES

1.	<u>Annual Fixed Charges</u>	
	Real Estate Taxes (City & County)	_____
	Insurance	_____
	Average Annual Interest (over next 5 years)	_____
2.	<u>Operating Expenses</u>	
	Electric	_____
	Fuel	_____
	Water	_____
	Advertising	_____
	Miscellaneous (attach explanation)	_____
3.	<u>Maintenance Expenses (attach list)</u>	
	Repairs	_____
	General Building Maintenance	_____
	Yard and Ground Care	_____
	Miscellaneous	_____
	TOTAL ANNUAL EXPENSES	_____
	Profit or Loss	_____

See attached Narrative and supplemental financial information

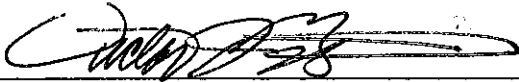
D. TOTAL INVESTMENT

1. Downpayment
2. Capital Improvements (attach list)
3. Principal Paid to date (original mortgage less
current principal balance)

TOTAL INVESTMENT
(Sum of D1, D2, & D3)

E. RATE OF RETURN = Profit or Loss

TOTAL INVESTMENT



Signature of Preparer

2/25/16

Date

Contractor / Developer

Profession of Preparer

USE VARIANCE REQUEST

NARRATIVE

Property Location: 45 Liberty Street, Batavia, NY 14020

Property Owner: Ellicott Square Plaza, LLC

Property Description: 19,500 sq. ft. single story office building with inset 2nd floor storage area

Existing Property Zoning: C-3

Existing Property Use: Office space – conforming use

Requested Change Of Use: Convert approximately 13,500 sq. ft. of existing ground floor office space to residential apartment use



TABLE OF CONTENTS

1. Property Survey Noting Location Of Existing Property And Building
2. Property Survey With Site Features Overlay
3. Ariel Photo Noting Existing Property, Building And Parking Arrangement
4. Floor Plan Noting Location Of Proposed First Floor Apartments
5. Reasonable Return Narrative
6. As-Is Income And Expense Report
7. Projected Income And Expense Report
8. Unique Hardship Narrative
9. Essential Character Of The Neighborhood Narrative
10. Not Self-Created Narrative



SURVEY OF PART OF ORIGINAL VILLAGE LOTS 31 & 33
 CITY OF BRIARCLIFF, NEW YORK
 REFERENCE MAP OF ORIGINAL VILLAGE LOTS 31 & 33
 DATE: OCTOBER 3, 1977

PREPARED BY: [Signature]
 CHECKED BY: [Signature]
 DATE: [Date]



LIBERTY ST.

STREET

(66

PORTION OF REQUIRED
PARKING PROVIDED VIA
PARKING LOT (TYP.) —

CITY OF BATAVIA

PROPERTY
LINE (TYP.)

NEW YORK CENTRAL RAILROAD
CITY OF BATAVIA
(50.0' WIDE)
R = 400±.50'
CL 44.82'

ZONING DATA

PARKING REQUIREMENTS PER SECTION 190-39:

R.3-----1 1/2 SPACE/D.U. (12 X 1.5 = 18 SPACES)
 OFFICE-----1 SPACE/300 S.F. (3815 S.F./300= 13 SPACES)
 (NON MEDICAL, NOT INCLUDING OWNERS SHOP)
 TOTAL SPACES REQUIRED ----- 31

31

SITE PLAN

$$\text{SCALF} \cdot 1'' = 20' - 0''$$

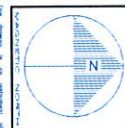
\$2



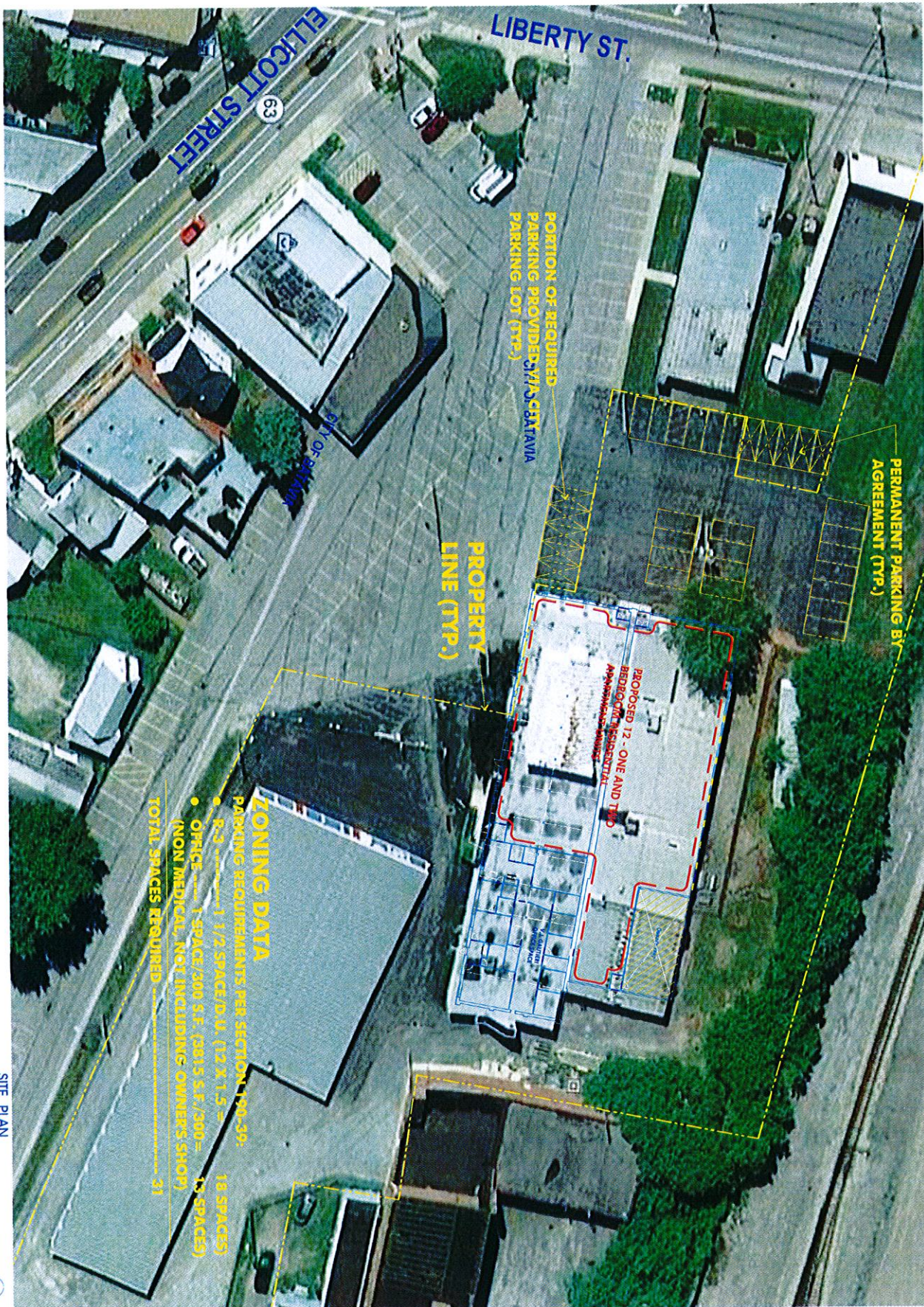
OVERMYER
DESIGN
ARCHITECTS

45 LIBERTY STREET GROUND FLOOR
45 LIBERTY ST. BLDG. TENANT FIT-UP
GAUTIERI DEVELOPMENT OF BATAVIA
45 LIBERTY ST. CITY OF BATAVIA, NEW YORK

SITE PLAN WITH SITE SURVEY



No.	Date	Description	Revisions
-----	------	-------------	-----------



SITE PLAN

SCALE: 1" = 50'-0"

1

S1



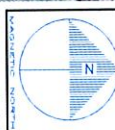
45 LIBERTY STREET GROUND FLOOR
 45 LIBERTY ST. BLDG. TENANT FIT-UP
GAUTIERI DEVELOPMENT OF BATAVIA
 45 LIBERTY ST. CITY OF BATAVIA, NEW YORK

SITE PLAN WITH AERIAL PHOTO

DATE	08/24/16
BY	AS NOTED
REVISIONS	
NO.	
DATE	
DESCRIPTION	

Scale: 1" = 50'-0"

08/24/16
 AS NOTED
 REVISIONS
 NO.
 DATE
 DESCRIPTION

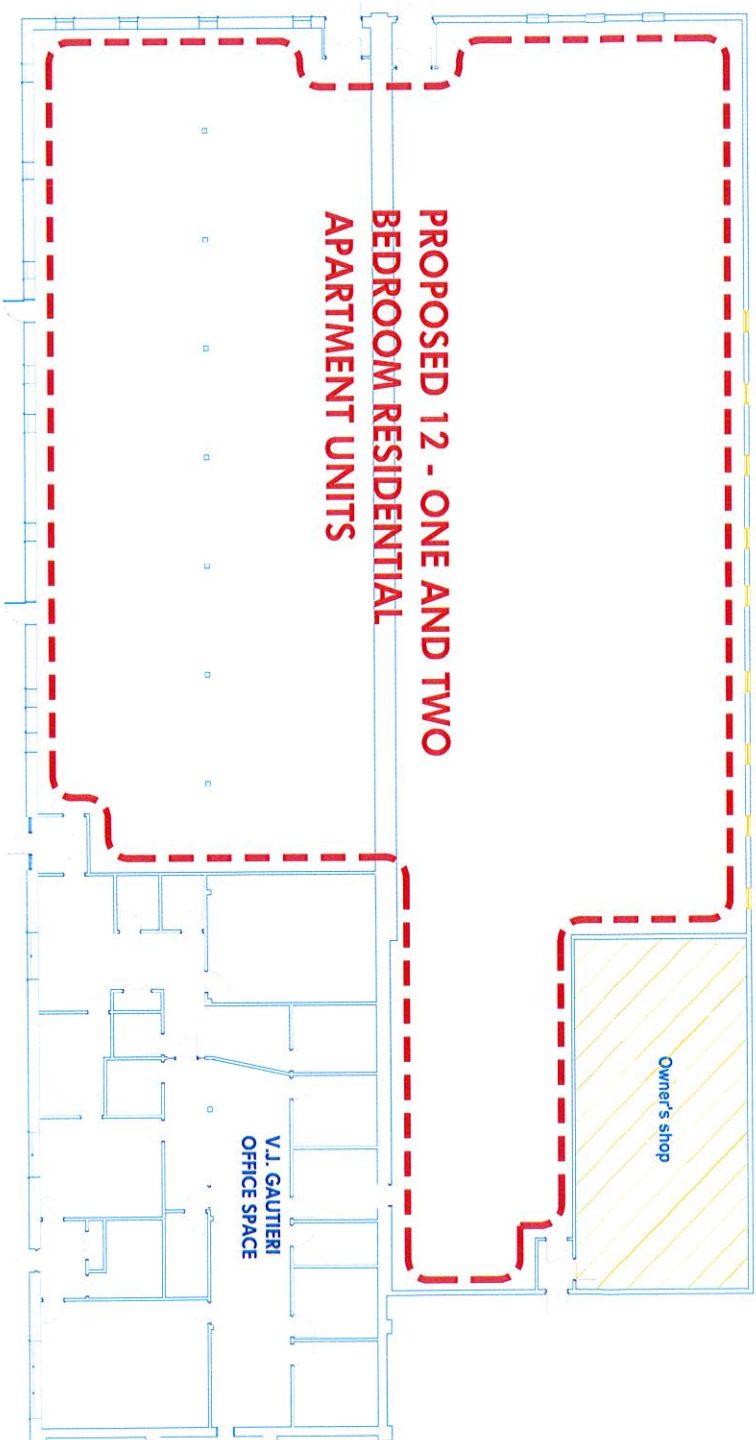


ZONING DATA

PARKING REQUIREMENTS PER SECTION 190-39:

- R-3-----1 1/2 SPACE/D.U. (12 X 1.5 = 18 SPACES)
- OFFICE -----1 SPACE/300 S.F. (3815 S.F./300= 13 SPACES)
- (NON MEDICAL, NOT INCLUDING OWNERS SHOP)

TOTAL SPACES REQUIRED ----- 31



GROUND FLOOR PLAN
SCALE = 1/8" = 1'-0"

1 - Reasonable Return

The subject property has experienced a loss of three commercial tenants over the last few years that occupied 13,500 sq. ft. of the available 19,500 sq. ft. which represents a 69% reduction of leased space within the building. The loss of two of those three tenants can be attributed to their decisions to move to alternate locations that are owned by not-for-profit entities.

Not-for-profit entities who do not pay real estate taxes have a distinct competitive advantage over other entities that must pay real estate taxes. This advantage allows those entities to offer space at a greatly reduced rental rate.

Ellicott Square Plaza, LLC has attempted to lease the vacant space through advertising and commercial real estate brokers both locally and out of town. There has been no interest in locating in the building thereby creating a deficit situation with respect to income and expense.

Rental income has been limited for several years to that which has been received from owner affiliated companies and not from outside, non-affiliated companies.

It is believed that a reasonable rate of return can be achieved by creating ground floor apartments within the building. The creation of these apartments within the 13,500 sq. ft. of un-rentable space will restore the properties financial viability. As with all financially viable properties, they remain on the real estate tax rolls thereby contributing to the City's, County's and School District's revenue streams. An income producing property that is not generating sufficient income, most likely cannot contribute to those revenue streams in an appropriate and proportionate manner.

Included within this application is an "As-Is" Income and Expense report for year ending 12/31/15 as well as a Projected Income and Expense report that includes the probable income to be derived from the proposed 12 ground floor apartment units along with the corresponding expenses associated with operating and maintaining those apartment.

ELLICOTT SQUARE PLAZA,LLC
Income Statement
For the Twelve Months Ending December 31, 2015

	Year to Date	
Revenues		
RENT INCOME	\$ 59,626.98	100.00
Total Revenues	<u>59,626.98</u>	100.00
Cost of Sales		
Total Cost of Sales	<u>0.00</u>	0.00
Gross Profit	<u>59,626.98</u>	100.00
Expenses		
PROPERTY MGMT EXPENSE	4,767.89	8.00
ACCOUNTING	314.25	0.53
LEGAL	320.00	0.54
ADVERTISING & DEVELOPMENT	3,747.71	6.29
ELECTRIC	6,826.25	11.45
NATURAL GAS	1,249.93	2.10
WATER & SEWER	1,581.54	2.65
INSURANCES	9,949.07	16.69
BANK FEES	47.50	0.08
MORTGAGE INTEREST	51,711.55	86.73
POSTAGE	26.76	0.04
REPAIRS & MAINTENANCE PARCEL A	492.20	0.83
REPAIRS & MAINTENANCE PARCEL B	1,154.15	1.94
REPAIRS & MAINTENANCE PARCEL C	1,297.49	2.18
REPAIRS & MAINTENANCE PARCEL D	61.91	0.10
REPAIRS & MAINTENANCE GROUNDS	3,248.29	5.45
SNOW REMOVAL	1,354.63	2.27
OTHER NYS TAXES	25.00	0.04
TAXES - REAL ESTATE	20,426.31	34.26
TAXES - REAL ESTATE	15,997.93	26.83
TAXES - REAL ESTATE	<u>674.79</u>	1.13
Total Expenses	125,275.15	210.10
Less Owner Affiliated Rent Income	<u>(59,626.98)</u>	
Net Income (Loss)	<u>(\$ 125,275.15)</u>	

ELLCOTT SQUARE PLAZA,LLC
Projected Income Statement
Existing Commercial and Proposed Apartments

Revenues		
RENT INCOME COMMERCIAL	\$	60,000.00 1
RENT INCOME RESIDENTIAL	\$	111,600.00
RENT INCOME RESIDENTIAL STORAGE	\$	7,200.00
VACANCY RESIDENTIAL - 5%	(\$	<u>5,580.00)</u>

Total Revenues	<u>173,220.00</u>
----------------	-------------------

Gross Profit	<u>173,220.00</u>
--------------	-------------------

Expenses		
PROPERTY MGMT EXPENSE		4,800.00
ACCOUNTING		1,000.00
LEGAL		1,000.00
ADVERTISING & DEVELOPMENT		2,400.00
ELECTRIC		4,800.00
NATURAL GAS		1,300.00
WATER & SEWER		2,400.00
INSURANCES		10,000.00
BANK FEES		50.00
MORTGAGE INTEREST		62,500.00
POSTAGE		75.00
REPAIRS & MAINTENANCE RESIDENTIAL		1,500.00
REPAIRS & MAINTENANCE COMMERCIAL		1,500.00
REPAIRS & MAINTENANCE GROUNDS		3,300.00
SNOW REMOVAL		1,500.00
OTHER NYS TAXES		25.00
TAXES - REAL ESTATE		25,000.00
TAXES - REAL ESTATE		16,000.00
TAXES - REAL ESTATE		<u>700.00</u>

Total Expenses	<u>139,850.00</u>
----------------	-------------------

Net Income (Loss)	<u><u>\$ 33,370.00</u></u>
-------------------	----------------------------

1 Owner Affiliated Companies

2 - Unique Hardship

1. The building is located a considerable distance from Liberty Street as well as Ellicott Street and is obscured from view by a number of other buildings in the area. The lack of street frontage and limited visibility is not as appealing to many businesses that conform to the existing uses permitted in a C-3 zoned area.

Currently, there exists a substantial amount of vacant space within the City of Batavia that has more favorable geographic qualities than the subject property. These available locations will take precedence over the subject property's location.

This lack of visibility and vacant space within the City makes the building difficult for motorists to find and it also severely limits any form of effective signage that would advertise a business's presence in the building.

The location of any business that is in conformance with the C-3 zoning requirements is a primary factor in the decision making process of whether or not to locate in any particular area. For that reason there has been no interest in locating in this building which differs from the other buildings in the area that are highly visible.

2. The building's close proximity to existing Ground Floor residential properties also impacts the ability to rent the vacant space as conforming users do not see the building as being located in a true business type area due to the mixed use surroundings. While there are other businesses in the area, notably Wortzman Furniture and Farm Family Insurance, the subject building differs considerably from them as they are single user, non-rental income properties.

3 – Essential Character Of The Neighborhood

The requested use variance, if granted will not alter the essential character of the neighborhood.

The existing neighborhood is comprised of residential and C-3 conforming use businesses. Second Floor Residential apartments are a permitted use within a C-3 area.

The addition of 12 proposed Ground Floor apartments will not change the character of the neighborhood nor will it negatively impact the traffic patterns of the surrounding streets and roads. Additionally, sufficient off street, code compliant private parking is currently available to residents of the proposed apartments.

With respect to the existing code wherein residential apartments on the Second Floor of a building are a conforming use, it has been previously determined that Second Floor residential apartments are not a detriment to the character of the neighborhood by virtue of their inclusion as a conforming use. Therefore, Ground Floor apartments do not alter the character of the neighborhood.

4 – Not Self-Created

The hardship this property has endured is not self-created but rather has been created as a result of socioeconomic changes. These changes have impacted how potential tenants, who operate businesses that are conforming uses, have viewed the available rental space within the building.

The proposed apartments will address the socioeconomic changes that have occurred by providing much needed as has been recommended in several independent studies, quality residential units within the C-3 zoned area.

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Sponsor Information.

Name of Action or Project: Use Variance Request		
Project Location (describe, and attach a general location map): 45 Liberty Street, Batavia, NY 14020		
Brief Description of Proposed Action (include purpose or need): Use variance request to construct 12 residential apartments within an existing building on the Ground Floor. Existing building is within a C-3 zoning district.		
Name of Applicant/Sponsor: V.J. Gautieri Constructors, Inc.		Telephone: 585-343-0852 E-Mail: vgautieri@gautieri.com
Address: 45 Liberty Street		
City/PO: Batavia	State: New York	Zip Code: 14020
Project Contact (if not same as sponsor; give name and title/role): Victor J. Gautieri, President		Telephone: 585-343-0852 E-Mail: vgautieri@gautieri.com
Address: 45 Liberty Street		
City/PO: Batavia	State: New York	Zip Code: 14020
Property Owner (if not same as sponsor): Ellicott Square Plaza, LLC		Telephone: 585-343-0852 E-Mail: vgautieri@gautieri.com
Address: 45 Liberty Street		
City/PO: Batavia	State: New York	Zip Code: 14020

B. Government Approvals

B. Government Approvals Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Planning Board or Commission		
c. City Council, Town or <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Village Zoning Board of Appeals	City of Batavia ZBA.	
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources. i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No iii. Is the project site within a Coastal Erosion Hazard Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

C. Planning and Zoning

C.1. Planning and zoning actions.	
Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No • If Yes, complete sections C, F and G. • If No, proceed to question C.2 and complete all remaining sections and questions in Part 1	
C.2. Adopted land use plans.	
a. Do any municipally-adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? <input type="checkbox"/> Yes <input type="checkbox"/> No	
b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, identify the plan(s): _____ _____ _____	
c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, identify the plan(s): _____ _____ _____	

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☐ Yes ☒ No

If Yes, what is the zoning classification(s) including any applicable overlay district?

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b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☒ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☒ No

If Yes,

i. What is the proposed new zoning for the site?

C.4. Existing community services.

a. In what school district is the project site located? City of Batavia, NY School District

b. What police or other public protection forces serve the project site?

City of Batavia Police Dept./Genesee County Sheriffs Dept./NY State Police

c. Which fire protection and emergency medical services serve the project site?

City of Batavia Fire Dept.

d. What parks serve the project site?

There are no parks in close proximity to the site.

D. Project Details**D.1. Proposed and Potential Development**

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?

Convert existing office space to residential apartment use

b. a. Total acreage of the site of the proposed action? 0.45 acres

b. Total acreage to be physically disturbed? 0.00 acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 2.50 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☒ No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☒ No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☒ No

iii. Number of lots proposed? _____

iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will proposed action be constructed in multiple phases? ☐ Yes ☒ No

i. If No, anticipated period of construction: 5 months

ii. If Yes:

• Total number of phases anticipated _____

• Anticipated commencement date of phase 1 (including demolition) _____ month _____ year

• Anticipated completion date of final phase _____ month _____ year

• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
If Yes, show numbers of units proposed.				
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	12			
At completion of all phases	12			

g. Does the proposed action include new non-residential construction (including expansions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes,	
i. Total number of structures _____	
ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length	
iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes,	
i. Purpose of the impoundment: _____	
ii. If a water impoundment, the principal source of the water: <input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input type="checkbox"/> Other specify: _____	
iii. If other than water, identify the type of impounded/contained liquids and their source. _____	
iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres	
v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length	
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____	

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)	
If Yes:	
i. What is the purpose of the excavation or dredging? _____	
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?	
<ul style="list-style-type: none"> • Volume (specify tons or cubic yards): _____ • Over what duration of time? _____ 	
iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____	
iv. Will there be onsite dewatering or processing of excavated materials? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, describe. _____	
v. What is the total area to be dredged or excavated? _____ acres	
vi. What is the maximum area to be worked at any one time? _____ acres	
vii. What would be the maximum depth of excavation or dredging? _____ feet	
viii. Will the excavation require blasting? <input type="checkbox"/> Yes <input type="checkbox"/> No	
ix. Summarize site reclamation goals and plan: _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____	

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will proposed action cause or result in disturbance to bottom sediments?

☐ Yes ☐ No

If Yes, describe:

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation?

☐ Yes ☐ No

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water?

☒ Yes ☐ No

If Yes:

i. Total anticipated water usage/demand per day: 1,800 gallons/day

ii. Will the proposed action obtain water from an existing public water supply?

☒ Yes ☐ No

If Yes:

- Name of district or service area: City of Batavia Water/Sewer Department
- Does the existing public water supply have capacity to serve the proposal? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No
- Do existing lines serve the project site? ☒ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project?

☐ Yes ☒ No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site?

☐ Yes ☒ No

If, Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes?

☒ Yes ☐ No

If Yes:

i. Total anticipated liquid waste generation per day: 1,560 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): residential sanitary wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities?

☒ Yes ☐ No

If Yes:

- Name of wastewater treatment plant to be used: City of Batavia
- Name of district: City of Batavia
- Does the existing wastewater treatment plant have capacity to serve the project? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No

<ul style="list-style-type: none"> • Do existing sewer lines serve the project site? _____ • Will line extension within an existing district be necessary to serve the project? _____ <p>If Yes:</p> <ul style="list-style-type: none"> • Describe extensions or capacity expansions proposed to serve this project: _____ _____ _____ 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? _____</p> <p>If Yes:</p> <ul style="list-style-type: none"> • Applicant/sponsor for new district: _____ • Date application submitted or anticipated: _____ • What is the receiving water for the wastewater discharge? _____ 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans): _____ _____ _____</p>		
<p>vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____ _____ _____</p>		
<p>e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? _____</p> <p>If Yes:</p> <p>i. How much impervious surface will the project create in relation to total size of project parcel?</p> <p style="margin-left: 40px;">_____ Square feet or _____ acres (impervious surface)</p> <p style="margin-left: 40px;">_____ Square feet or _____ acres (parcel size)</p> <p>ii. Describe types of new point sources. _____</p> <p>iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? _____ _____</p> <p>• If to surface waters, identify receiving water bodies or wetlands: _____ _____</p> <p>• Will stormwater runoff flow to adjacent properties? _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? _____</p>		
<p>f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? _____</p> <p>If Yes, identify:</p> <p>i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles) _____</p> <p>ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers) _____</p> <p>iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation) _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? _____</p> <p>If Yes:</p> <p>i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) _____</p> <p>ii. In addition to emissions as calculated in the application, the project will generate:</p> <ul style="list-style-type: none"> • _____ Tons/year (short tons) of Carbon Dioxide (CO₂) • _____ Tons/year (short tons) of Nitrous Oxide (N₂O) • _____ Tons/year (short tons) of Perfluorocarbons (PFCs) • _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆) • _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs) • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs) 		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐ Yes ☒ No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐ Yes ☒ No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐ Yes ☒ No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐ Weekend
☐ Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of semi-trailer truck trips/day: _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐ Yes ☐ No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within 1/4 mile of the proposed site? ☐ Yes ☐ No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐ Yes ☐ No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐ Yes ☐ No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? n/a ☐ Yes ☐ No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____

iii. Will the proposed action require a new, or an upgrade to, an existing substation? ☐ Yes ☐ No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7:00 am - 4:00 pm
- Saturday: _____
- Sunday: _____
- Holidays: _____

ii. During Operations: n/a

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

<p>m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both?</p> <p>If yes:</p> <p>i. Provide details including sources, time of day and duration:</p> <p>_____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen?</p> <p>Describe: _____</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>n. Will the proposed action have outdoor lighting?</p> <p>If yes:</p> <p>i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:</p> <p>Exterior lighting is existing. No additional exterior lighting is anticipated</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen?</p> <p>Describe: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>o. Does the proposed action have the potential to produce odors for more than one hour per day?</p> <p>If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:</p> <p>_____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage?</p> <p>If Yes:</p> <p>i. Product(s) to be stored _____</p> <p>ii. Volume(s) _____ per unit time _____ (e.g., month, year)</p> <p>iii. Generally describe proposed storage facilities: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? n/a</p> <p>If Yes:</p> <p>i. Describe proposed treatment(s):</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>ii. Will the proposed action use Integrated Pest Management Practices?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? n/a</p> <p>If Yes:</p> <p>i. Describe any solid waste(s) to be generated during construction or operation of the facility:</p> <ul style="list-style-type: none"> • Construction: _____ tons per _____ (unit of time) • Operation : _____ tons per _____ (unit of time) <p>ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:</p> <ul style="list-style-type: none"> • Construction: _____ • Operation: _____ <p>iii. Proposed disposal methods/facilities for solid waste generated on-site:</p> <ul style="list-style-type: none"> • Construction: _____ • Operation: _____ 	<input type="checkbox"/> Yes <input type="checkbox"/> No

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☒ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☒ Urban ☐ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)

☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____

ii. If mix of uses, generally describe:

Existing uses are residential, retail, restaurants, self-storage, offices

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0.28	0.28	0.00
• Forested	0.00	0.00	0.00
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0.00	0.00	0.00
• Agricultural (includes active orchards, field, greenhouse etc.)	0.00	0.00	0.00
• Surface water features (lakes, ponds, streams, rivers, etc.)	0.00	0.00	0.00
• Wetlands (freshwater or tidal)	0.00	0.00	0.00
• Non-vegetated (bare rock, earth or fill)	0.00	0.00	0.00
• Other Describe: _____			

c. Is the project site presently used by members of the community for public recreation? ☐ Yes ☒ No
 i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☐ Yes ☒ No
 If Yes,
 i. Identify Facilities: _____

e. Does the project site contain an existing dam? ☐ Yes ☒ No
 If Yes:
 i. Dimensions of the dam and impoundment:
 • Dam height: _____ feet
 • Dam length: _____ feet
 • Surface area: _____ acres
 • Volume impounded: _____ gallons OR acre-feet
 ii. Dam's existing hazard classification: _____
 iii. Provide date and summarize results of last inspection: _____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐ Yes ☒ No
 If Yes:
 i. Has the facility been formally closed? ☐ Yes ☐ No
 • If yes, cite sources/documentation: _____
 ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____

 iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐ Yes ☒ No
 If Yes:
 i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐ Yes ☒ No
 If Yes:
 i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐ Yes ☐ No
☐ Yes – Spills Incidents database Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database Provide DEC ID number(s): _____
☐ Neither database
 ii. If site has been subject of RCRA corrective activities, describe control measures: _____

 iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐ Yes ☐ No
 If yes, provide DEC ID number(s): _____
 iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

v. Is the project site subject to an institutional control limiting property uses? ☐ Yes ☒ No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐ Yes ☐ No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? unknown feet

b. Are there bedrock outcroppings on the project site? ☐ Yes ☒ No
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site: not applicable _____ %
_____ %
_____ %

d. What is the average depth to the water table on the project site? Average: _____ feet

e. Drainage status of project site soils: ☒ Well Drained: 100 % of site
☐ Moderately Well Drained: _____ % of site
☐ Poorly Drained: _____ % of site

f. Approximate proportion of proposed action site with slopes: ☒ 0-10%: 100 % of site
☐ 10-15%: _____ % of site
☐ 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? ☐ Yes ☒ No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☐ Yes ☒ No

ii. Do any wetlands or other waterbodies adjoin the project site? ☐ Yes ☒ No

If Yes to either i or ii, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☐ Yes ☐ No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐ Yes ☐ No
If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? ☐ Yes ☒ No

j. Is the project site in the 100 year Floodplain? ☒ Yes ☐ No

k. Is the project site in the 500 year Floodplain? ☐ Yes ☒ No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐ Yes ☐ No
If Yes:
i. Name of aquifer: unknown

<p>m. Identify the predominant wildlife species that occupy or use the project site:</p> <p>_____</p> <p>_____</p>	<p><u>unknown - urban area</u></p> <p>_____</p> <p>_____</p>
<p>n. Does the project site contain a designated significant natural community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p>_____</p> <p>ii. Source(s) of description or evaluation: _____</p> <p>iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres 	
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>_____</p>	
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>_____</p>	
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p>	
<p>E.3. Designated Public Resources On or Near Project Site</p>	
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, provide county plus district name/number: _____</p>	
<p>b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>i. If Yes: acreage(s) on project site: _____</p> <p>ii. Source(s) of soil rating(s): _____</p>	
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p>ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p>	
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. CEA name: _____</p> <p>ii. Basis for designation: _____</p> <p>iii. Designating agency and date: _____</p>	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes: i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District ii. Name: _____ iii. Brief description of attributes on which listing is based: _____	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site? If Yes: i. Describe possible resource(s): _____ ii. Basis for identification: _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? If Yes: i. Identify resource: _____ ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____ iii. Distance between project and resource: _____ miles.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? If Yes: i. Identify the name of the river and its designation: _____ ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

F. Additional Information


Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name V.J. Gautieri Constructors Date 2/29/16

Signature  Title President

PRINT FORM

PLANNING & DEVELOPMENT COMMITTEE

MINUTES

March 15, 2016

6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

Members present: *Edward Flynn, Robert Knipe, Duane Preston, Marc Staley (Alt.), Rachael Tabelski*

Others present: Meg Chilano – Recording Secretary, Jason Molino – City Manager,
Doug Randall – Code Enforcement Officer

I. Roll Call

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

II. Call to order

Mr. Preston called the meeting to order at 6:00 pm.

III. Previous Meeting Minutes

Mr. Staley moved to approve the minutes; the motion was seconded by Mr. Knipe, and on roll call, was approved 4-0-1.

Votes in favor: 4 (Edward Flynn, Robert Knipe, Marc Staley, Duane Preston)

Votes opposed: 0

Votes abstained: 1 (Rachael Tabelski)

RESULT: Approval of January 19, 2016 meeting minutes.

IV. Proposals

- A. Special Sign Permit: placement of a 17.64' x 8.45' window sign across four window panels on the north elevation of this commercial building located within the BID

Address: *85-89 Main Street*

Applicant: Adam Lowder (contractor, Vinyl Sticks)

Actions: Applicant was not in attendance. Application remained on the table.

- B. Sign Permit: placement of a 13' x 3' unlit wall sign on the north elevation of this commercial building located within the BID

Address: *216 East Main Street (aka 214 East Main Street)*

Applicant: Jason Quilliam (business owner)

Actions: 1. Review application
2. Discussion and action by the board

1. Review Application

Mr. Preston read the summary of the proposal. He noted that the Genesee County Planning Board recommended approval.

2. Discussion and Action by the Board

Mr. Knipe asked if the new sign is the same size as the previous sign. Mr. Pulliam stated that it is. Mr. Knipe observed that the sign contains a punctuation error and suggested that Mr. Pulliam correct it.

MOTION: Mr. Flynn moved to approve the application; the motion was seconded by Ms. Tabelski, and on roll call, was approved 5-0.

RESULT: Sign Permit approved.

C. Use Variation: creation of twelve 1- and/or 2-bedroom dwelling units on the first floor of this existing commercial building located within the Central Commercial District

Address: *41-43 Liberty Street Rear and 45 Liberty Street Rear* (aka 45 Liberty)

Applicant: Victor Gautieri (agent for Ellicott Square Plaza, LLC)

Actions: 1. Overview of project
 2. Discussion
 3. Recommendation to the ZBA

1. Overview of Project

Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board recommended disapproval.

Mr. Gautieri said that it has been difficult to lease the property because it sits too far back from the street making it hard to locate, and the location is unappealing. He noted that residential units are permitted on the second floor in this commercial district and said that he believes there is basically no difference between building on the first floor and building on the second as far as affecting the character of the neighborhood. According to Mr. Gautieri, the expense of building on the second floor would be prohibitive. He said that creating apartments in this location would make the property more economically viable and increase the value, thereby increasing property taxes.

2. Discussion

Mr. Preston stated that he is opposed to the project because first floor apartments are not allowed in a C-3 District and he does not wish to set a precedent. He noted that Batavia City Centre is located in a C-3 District and he would not want to see someone conceivably buy a parcel here and be living in the Mall.

Mr. Staley said he believes there is a difference between the Mall, which is located on Main Street, and the property located on Liberty Street. He noted that the property on Liberty Street is difficult to find and that perhaps in the future some accommodation could be made for commercial properties set back from the street.

Mr. Flynn and Ms. Tabelski agreed with Mr. Preston regarding not setting a precedent in a commercial zone.

Mr. Knipe pointed out that the property is not attractive and asked about windows in the proposed apartments. Mr. Gautieri responded that the apartments would be constructed on the perimeter of the building with the core designated as storage.

Mr. Knipe asked about the intended demographic and Mr. Gautieri answered that the apartments would not be subsidized, but rather would be market rate.

Ms. Tabelski explained that it is the task of the PDC to make a recommendation to the ZBA, and that based on City law, which does not allow for residential use in a commercial zone, she cannot support the project.

Mr. Staley asked if it is possible to put a second floor along the building. Mr. Gautieri responded that it was designed for a second floor, however, it would involve framing, installing an elevator, and constructing stair towers which would drive the cost beyond what the rent could sustain.

Mr. Flynn asked about warehousing and Mr. Gautieri replied that it is all office space at the moment. He pointed out that it was originally constructed as the Social Security Office.

3. Recommendation to the ZBA

MOTION: Ms. Tabelski moved to recommend disapproval of the project to the ZBA; the motion was seconded by Mr. Knipe, and on roll call, was approved 5-0.

RESULT: Recommendation to the ZBA to disapprove the Use Variance.

V. Other/New Business/Updates: Discussion of digital signs

VI. Setting of Next Meeting: April 19, 2016

VII. Adjournment

Ms. Tabelski moved to adjourn at the meeting at 6:43 pm. Mr. Knipe seconded. All voted in favor.

Meg Chilano
Bureau of Inspection Clerk

**THE CITY OF BATAVIA
PLANNING & DEVELOPMENT COMMITTEE
ZONING RECOMMENDATIONS**

Meeting Date: 3/15/16

Applicant's Name	Victor Gautieri, agent for Ellicott Square Plaza, LLC
Location	41-43 Liberty Street Rear and 45 Liberty Street Rear
Zoning District	C-3
Referral Type	
Variance(s)	Use
Description	Creation of twelve 1- and/or 2-bedroom dwelling units on the first floor of this existing commercial building located within the Central Commercial District.

PLANNING & DEVELOPMENT COMMITTEE RECOMMENDATION

Recommend disapproval:

City Code prohibits residential uses in a C-3 District; approval of this project would set an undesirable precedent.

ZONING BOARD OF APPEALS DECISION

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