



GENESEE COUNTY PLANNING BOARD ZONING REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID **C-02-BAT-1-15**

Review Date **1/8/2015**

Municipality
Board Name
Applicant's Name

BATAVIA, C.

ZONING BOARD OF APPEALS

Terry Platt

Referral Type
Variance(s)
Description:

Area Variance(s)

Area Variance to install a wooden fence with posts and rails on the side facing the neighboring property.

Per City zoning regulations a fence designed to be structurally supported by posts, cross members or rails on one side only 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.

Location
Zoning District

316 E. Main St. (NYS Rts. 5 & 33), Batavia

Limited Commercial (C-1) District

PLANNING BOARD DECISION

APPROVAL

EXPLANATION:

The proposed fence should pose no significant county-wide or inter-community impact. Given that the adjacent property owner requested that the adjacent chain link fence remain in place, the applicant has no option but to construct the fence with the posts and rails on the side facing the neighboring property.

Director

January 8, 2015

Date

If the County Planning Board disapproved the proposal, or recommends modifications, the referring agency shall NOT act contrary to the recommendations except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within 30 days after the final action the referring agency shall file a report of final action with the County Planning Board. An action taken form is provided for this purpose and may be obtained from the Genesee County Planning Department at 344-2580 x 5466, or online at <http://www.co.genesee.ny.us/> under Forms and Permits for Towns and Villages.

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 # C-02-BAT-1-15

*** GENESEE COUNTY *
PLANNING BOARD REFERRAL**

RECEIVED

DEC 15 2014

Required According to:
GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N

(Please answer ALL questions as fully as possible)

GENESEE COUNTY
DEPARTMENT OF PLANNING

1. REFERRING BOARD(S) INFORMATION

Board(s) Zoning Board of Appeals
Address One Batavia City Centre
City, State, Zip Batavia, NY 14020
Phone (585) 345 - 6347 Ext. _____

2. APPLICANT INFORMATION

Name Terry Platt ✕
Address PO Box 338
City, State, Zip Batavia, NY 14021
Phone (585) 474 - 2122 Ext. _____ Email _____

MUNICIPALITY: City Town Village of Batavia

3. TYPE OF REFERRAL: (Check all applicable items)

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Area Variance | <input type="checkbox"/> Zoning Map Change | <input type="checkbox"/> Subdivision Proposal |
| <input type="checkbox"/> Use Variance | <input type="checkbox"/> Zoning Text Amendments | <input type="checkbox"/> Preliminary |
| <input type="checkbox"/> Special Use Permit | <input type="checkbox"/> Comprehensive Plan/Update | <input type="checkbox"/> Final |
| <input type="checkbox"/> Site Plan Review | <input type="checkbox"/> Other: _____ | |

4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:

- A. Full Address 316 East Main St.
- B. Nearest intersecting road Swan St.
- C. Tax Map Parcel Number 84.058-1-16
- D. Total area of the property _____ Area of property to be disturbed _____
- E. Present zoning district(s) C-1

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 190-33D
- C. Please describe the nature of this request Approval to install a wooden fence with structural supports, cross members and rails facing the neighboring property.

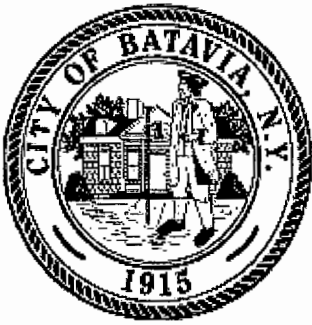
6. ENCLOSURES – Please enclose copy(s) of all appropriate items in regard to this referral

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Local application | <input type="checkbox"/> Zoning text/map amendments | <input type="checkbox"/> New or updated comprehensive plan |
| <input type="checkbox"/> Site plan | <input type="checkbox"/> Location map or tax maps | <input type="checkbox"/> Photos |
| <input type="checkbox"/> Subdivision plot plans | <input type="checkbox"/> Elevation drawings | <input checked="" type="checkbox"/> Other: <u>Cover letter</u> |
| <input type="checkbox"/> SEQR forms | <input type="checkbox"/> Agricultural data statement | |

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
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: 12/11/14

Re: **316 East Main St.**
Tax Parcel No. 84.058-1-16

Zoning Use District: C-1

The applicant, Terry Platt (owner), is requesting approval to install a wooden fence along the west property line with the structural supports, cross members and rails installed facing the neighboring property in violation of the municipal requirement.

Note: This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (10).

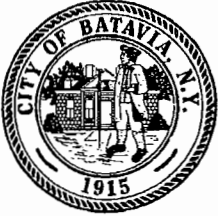
Review and Approval Procedures:

County Planning Board- Pursuant to General Municipal Law 239 m, referral to the County Planning Board is required since the property is within 500 feet of the boundary of the city; 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).

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

Required variances- Area

- 1) **BMC 190-33 D. Fences, walls and hedges-** Fences 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 on shall face adjacent properties.



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: _____

Hearing Date/Time: _____

APPLICANT: Terry Platt Plattterry@yahoo.com
 Name E-Mail Address
316 E. Main 716-474-2122
 Street Address Phone Fax
Batavia N.Y. 14021
 City State Zip

STATUS: Owner Agent for Owner Contractor

OWNER: Terry Platt Same
 Name E-Mail Address
P.O. Box 338 Same
 Street Address Phone Fax
Batavia N.Y. 14021
 City State Zip

LOCATION OF PROPERTY: 316 E. Main, Batavia

DETAILED DESCRIPTION OF REQUEST: Installed a fence between 316 + 318 and the neighbor at 318 wanted me to keep the chain link fence up that I own and said he doesn't care about the good side on his side because he wants the chain fence to stay. We cannot install the boards with the chain fence in the way. I told the neighbor

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.
that at any time if he wants me to take chain fences down then I would install a good side for him also.

[Signature] 12/5/14
Applicant's Signature Date

[Signature] 12/5/14
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.058-1-16 **ZONING DISTRICT:** C-1 **FLOOD PLAIN:** NO

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 190-33D Structural supports and cross members or nails shall be located on the installer side with the finish side facing the adjacent prop.

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.

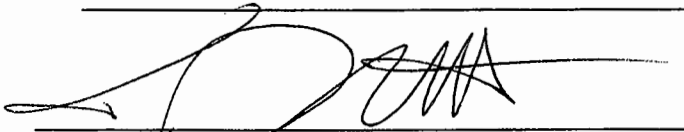
NO

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.

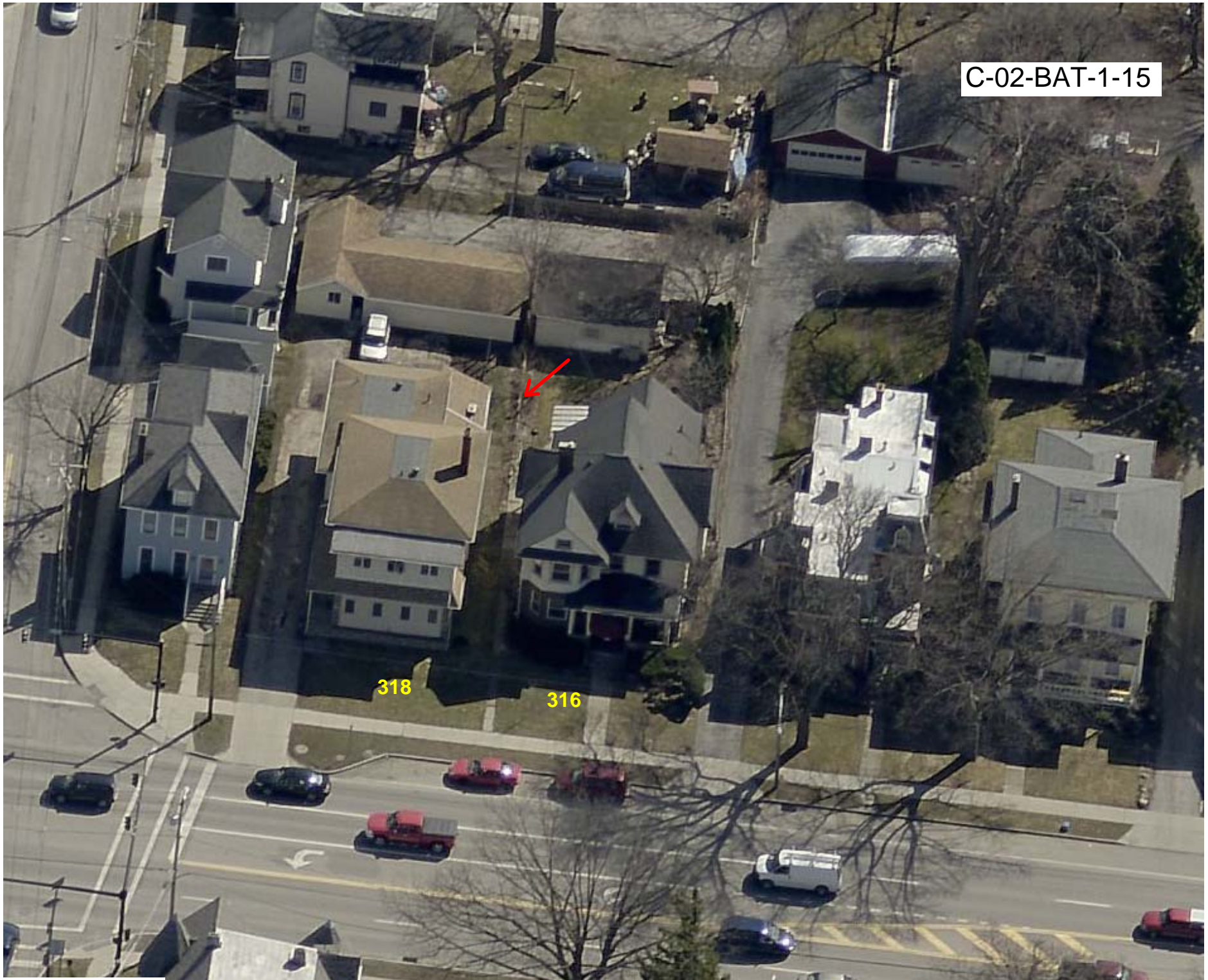
NO


Applicant's Signature

12/9/14
Date



C-02-BAT-1-15



318

316