



**GENESEE COUNTY PLANNING BOARD  
ZONING REFERRALS NOTICE OF FINAL  
ACTION**

GCDP Referral ID **C-23-BAT-12-14**

Review Date **12/11/2014**

Municipality  
Board Name  
Applicant's Name

**BATAVIA, C.**  
**ZONING BOARD OF APPEALS**  
**D.A. Tufts Co.**

Referral Type  
Variance(s)  
Description:

**Area Variance(s)**  
**Area Variances to construct a two-story 3,490 sq. ft. addition to an existing commercial building.**  
**Side Yard Setback**  
**Minimum required: 12 ft.**  
**Existing: 10.6 ft.**  
**Proposed: 5.1 ft.**  
**Number of Parking Spaces (for medical office)**  
**Minimum required: 13.5**  
**Proposed: 10**

Location  
Zoning District

**438 E. Main St. (NYS Rts. 5 & 33), Batavia**  
**Limited Commercial (C-1) District**

**PLANNING BOARD DECISION**

**APPROVAL WITH MODIFICATION(S)**

**EXPLANATION:**

**The required modification is that the applicant provides gutters and other improvements necessary to divert water runoff from the roof away from the neighboring property. With this required modification and given that neighboring properties exhibit similar setbacks, the proposed addition should pose no significant county-wide or inter-community impact.**

Director

December 11, 2014

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) 815-7901

DEPARTMENT USE ONLY:  
GCDP Referral # C-23-BAT-12-14



**\* GENESEE COUNTY \*  
PLANNING BOARD REFERRAL**

**RECEIVED**

DEC 03 2014

Required According to:  
**GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239** DEPARTMENT OF PLANNING  
(Please answer ALL questions as fully as possible)

**1. REFERRING BOARD(S) INFORMATION**

**2. APPLICANT INFORMATION**

Board(s) Zoning Board of Appeals

Name D.A. Tufts Co.

Address One City Centre

Address 4857 Ellicott Street

City, State, Zip Batavia, NY 14020

City, State, Zip Batavia, NY 14020

Phone (585) 345-6345 Ext. \_\_\_\_\_

Phone (585) 344-1286 Ext. \_\_\_\_\_

Email dtufts@datufts.com

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 438 East Main Street

B. Nearest intersecting road Harvester Ave

C. Tax Map Parcel Number 84.016-1-9

D. Total area of the property 15,297.5 Area of property to be disturbed 4,682 3,490 sq. ft.

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 190-29 Schedule I. area variance for side and rear yard setback and 190-39 A. (2) (b) & (3) (a) number of parking

C. Please describe the nature of this request Approval to construct a 4,682-sq.ft. two story addition to an existing two stor  
building. 3,490

As amended by the City of Batavia 12/5/2014

**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 checked="" type="checkbox"/> Site plan         | <input type="checkbox"/> Location map or tax maps      | <input type="checkbox"/> Photos                            |
| <input type="checkbox"/> Subdivision plot plans       | <input checked="" type="checkbox"/> Elevation drawings | <input type="checkbox"/> Other: _____                      |
| <input checked="" type="checkbox"/> SEQR forms        | <input type="checkbox"/> Agricultural data statement   |  |

**7. CONTACT INFORMATION** of the person representing the community in filling out this form (required information)

Name Douglas Randall Title Code Enforcement Officer Phone (585) 345-6327 Ext. \_\_\_\_\_

Address, City, State, Zip One City Centre, Batavia, NY 14020 Email drandall@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  
Planning and Development Committee  
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 12/5/14

Re: **438 East Main St.**  
Tax Parcel No. 84.016-1-9

Zoning Use District: C-1

The applicant, David Tufts (purchaser of parcel), has filed an application to construct a 3,490 sq.' two story addition that will include 4 indoor parking spaces on the first floor and two dwelling units on the second floor; a 172 sq.' (approx.) enclosed entry stairway to provide private access to two proposed dwelling units on the second floor of the existing building; and a 189 sq.' one story enclosed front entry addition to the first floor commercial space with patio/deck above to service second floor dwelling units. The location of the two story addition will place it within the clear side yard space along the west property line. The south half of this parcel is an existing parking lot.

**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) (7).**

**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 190-44 C (1) (b) of the zoning ordinance, the Planning and Development Committee shall review and approve site plans for residential additions that exceed 1,300 sq.' and 190-49 C the PDC shall review and make recommendations to the ZBA regarding variances involving parking.

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

Required variances- Area

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

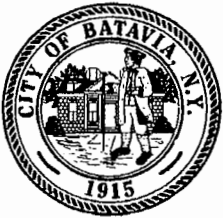
	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Minimum side yard clear space	12'	5.1	6.9'

- 2) BMC Sec. 190-39 A (3) [26] (commercial parking)

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Commercial parking for Med. office	13.5	10	3.5 spaces

NOTE: 6 spaces are required and have been provided per BMC 190-39 A (2) (b) (residential parking)

The Planning and Development Committee will be the lead agency to conduct SEQ. R.



**CITY OF BATAVIA**  
**APPLICATION TO THE ZONING BOARD OF APPEALS**

Application No.: \_\_\_\_\_

Hearing Date/Time: \_\_\_\_\_

APPLICANT: D. A. TUFTS Co. dtufts@datufts

Name 4857 ELLICOTT ST. E-Mail Address .com

Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_

City BATAVIA State NY Phone 344-1286 Fax 344 2165

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

STATUS:  Owner  Agent for Owner  Contractor

OWNER: \_\_\_\_\_  
Name \_\_\_\_\_ E-Mail Address \_\_\_\_\_

Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

LOCATION OF PROPERTY: 438 EAST MAIN ST.

DETAILED DESCRIPTION OF REQUEST: 1. SIDE YARD VARIANCE - 5.1'  
REQUESTED

2. PARKING - 19.5 REQ'D. FOR COMBINED  
APARTMENTS AND MEDICAL OFFICES - 16  
REQUESTED.

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.

Daniel Tufts  
Applicant's Signature

11-24-14  
Date

John J. P...  
Owner's Signature

11/25/14  
Date

*To be Filled out by Zoning Officer*

TAX PARCEL: \_\_\_\_\_ ZONING DISTRICT: \_\_\_\_\_ FLOOD PLAIN: \_\_\_\_\_

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

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

Provision(s) of the Zoning Ordinance Appealed: \_\_\_\_\_

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

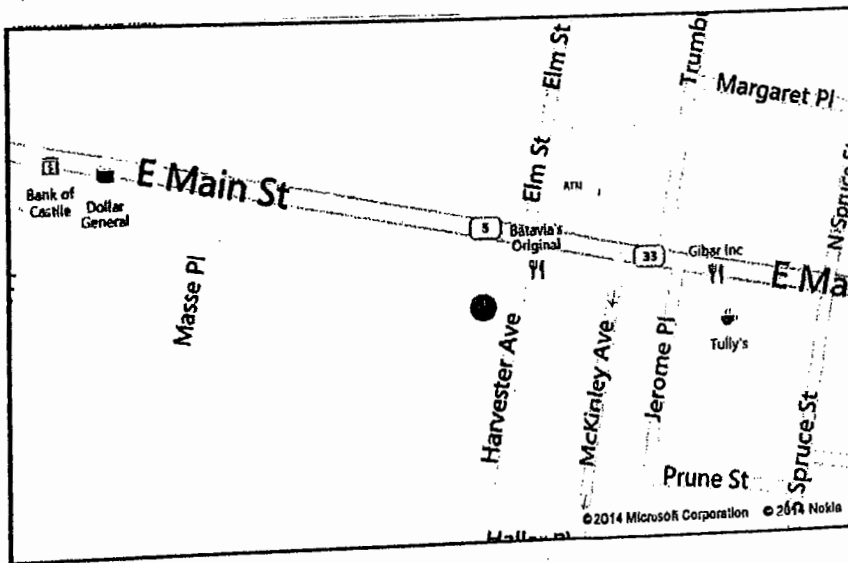
**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: Side yard and Parking variances.			
Project Location (describe, and attach a location map): 438 East main Street, Batavia			
Brief Description of Proposed Action: Request for a west side yard variance to allow 5.1' and a parking space variance to allow 16 spaces for mixed residential and medical office use.			
Name of Applicant or Sponsor: D.A. Tufts Co.		Telephone: (585) 344-1286 E-Mail: dtufts@datufts.com	
Address: 4857 Ellicott St. Rd.			
City/PO: Batavia		State: NY	Zip Code: 14020
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ .35 acres			
b. Total acreage to be physically disturbed? _____ 0 acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ .35 acres			
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			



18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: <u>David A. Tufts</u>	Date: <u>11-24-14</u>	
Signature: <u><i>David A. Tufts</i></u>		



438 E Main St, Batavia, NY 14020



## 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.

Currently installed at the west property line is a stockade fence to height of approx. 8' above finish ground floor of building. All entryways and generated activities are located on opposite side of building from variance area. Adjacent property has no closely located structures. Adjacent property is mixed residential rental and medical office use.

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.

Minimum space needed for a private entrance to the upper west apartment requires the layout indicated. Common area space and shared entrances are to be avoided in this project.

3. **Substantiality.** The requested area variance is not substantial. \_\_\_\_\_

The 5.1' side yard requested relates to two six feet wide bump outs on the second floor only. The balance of the structure will provide 7.1' side yard and set back from the stockade fence.

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.

When constructed, the addition will provide added shielding of on site activities from neighboring property. Exterior lighting will be limited to the east side of the structure and will not spill onto property adjacent to where variance is requested.

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. \_\_\_\_\_

The variances are requested to make economically feasible the purchase, repurposing and development of this deteriorating and vacant building. The 3.5 space parking variance will allow a wider spectrum of prospective commercial tenants. Adequate parking can be assured through utilization of Main Street parallel parking which is available and through the diversity in the mixed use parking times.

  
Applicant's Signature

11-24-14  
Date

DATE: 11-24-14

APPLICANT NAME & PHONE: D. A. TUFTS Co. (585) 344-1286

**Project Location and Information**

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

Address of Project: 438 EAST MAIN ST. BATAVIA

Owner & Address: DAVID TUFTS 4857 ELLICOTT ST. BATAVIA

Phone: 344-1286

**Project Type/Describe Work**

Estimated cost of work: <sup>#</sup> 280,000

Start date: JAN. 1, '15

Describe project:

2 APARTMENTS OVER 4 GARAGES ADDITION  
PLUS 2 APARTMENTS ON PRESENT 2ND FLOOR,  
REMODEL PRESENT GROUND FLOOR FOR COMMERCIAL  
USE.

**Contractor Information** - Insurance certificates (liability & workers comp) required being on file

**GENERAL**

Name/Address: D. A. TUFTS Co.

Phone: 344-1286

**PLUMBING** (City of Batavia Licensed Plumber Required)

Name/Address: T.B.D.

Phone: \_\_\_\_\_

**HEATING**

Name/Address: TUFTS

Phone: \_\_\_\_\_

**ELECTRICAL** (Third Party Electrical Inspection Required)

Name/Address: TUFTS

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: \_\_\_\_\_

**REQUIRED INSPECTIONS**

Contact the Bureau of Inspection at (585) 345-6345 twenty-four (24) hours in advance to schedule all inspections.

IT IS THE RESPONSIBILITY OF THE OWNER AND/OR AGENT TO CONTACT THIS OFFICE & BE PRESENT FOR ALL INSPECTIONS

- Site  Water Service  Sewer Service
- Footing before Placing Concrete  Smoke & Carbon Monoxide Detectors
- Foundation before backfill
- Framing before enclosing (After mechanical inspection)
- Electrical before enclosing (Third Party Electrical Inspection Agency)
- Plumbing before enclosing (City of Batavia Licensed Plumber Required)
- Insulation before enclosing  Ice/Water Shield  Final Completion

In consideration of the granting of the permit hereby petitioned for, the undersigned hereby agrees to: 1) comply with the terms thereof, the laws of the State of New York, the Ordinance of the City of Batavia, and the Regulations of the various departments of the County of Genesee and the State of New York; 2) preserve the established building line; 3) request all the necessary inspections and authorize and provide the means of entry to the premises and building to the Bureau of Inspection, and 4) will not use or permit to be used the structure or structures covered by the permit until sanitary facilities are completely furnished and either a Certificate of Occupancy or Certificate of Completion is issued. The undersigned hereby certifies that all of the information in this petition is correct and true.

David Tipton 11-24-14  
 Applicant Signature Date

**Roofing Disclaimer - Per the Residential & Building Code of New York State**

**R907.3 Recovering versus Replacement**

New roof coverings shall not be installed without first removing existing roof coverings where any of the following conditions occur:

1. Where the existing roof or roof coverings is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.
2. Where the existing roof covering is wood shake, slate, clay, cement or asbestos-cement tile.
3. Where the existing roof has two or more applications of any type of roof covering.

**Exceptions:**

1. Complete and separate roofing systems, such as standing-seam metal roof systems, that are designed to transmit the roof loads directly to the building's structural system and that do not rely on existing roofs and roof coverings for support shall not require the removal of existing roof coverings.
2. Metal panel, metal shingle, and concrete and clay tile roof coverings shall be permitted to be installed over existing wood shake roofs when applied in accordance with Section R907.4.

I, \_\_\_\_\_ owner and/or agency of the property located at \_\_\_\_\_ for Building Permit No. \_\_\_\_\_ have reviewed and understand the requirements of Section 907.3 Recovering versus Replacement.

\_\_\_\_\_  
 Applicant Signature Date

**Fence Disclaimer**

I understand Section 190-33.B Fences, Walls and Hedges of the City of Batavia Zoning Ordinance regulated the installation of fences as follows:

"Fences, hedges and walls in Residential Districts shall not exceed three (3) feet above ground level when located within fifteen (15) feet of the property line abutting any street and shall not exceed six (6) feet above ground level when located elsewhere on the property. However, there shall be no height limit for hedges in rear yards within residential zones. In commercial and Industrial Districts, fences, hedges, and walls shall not exceed eight (8) feet in height unless permitted by a special use permit from the Planning & Development Committee. A fence designed to be structurally supported by posts, cross members or rails on one (1) 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."

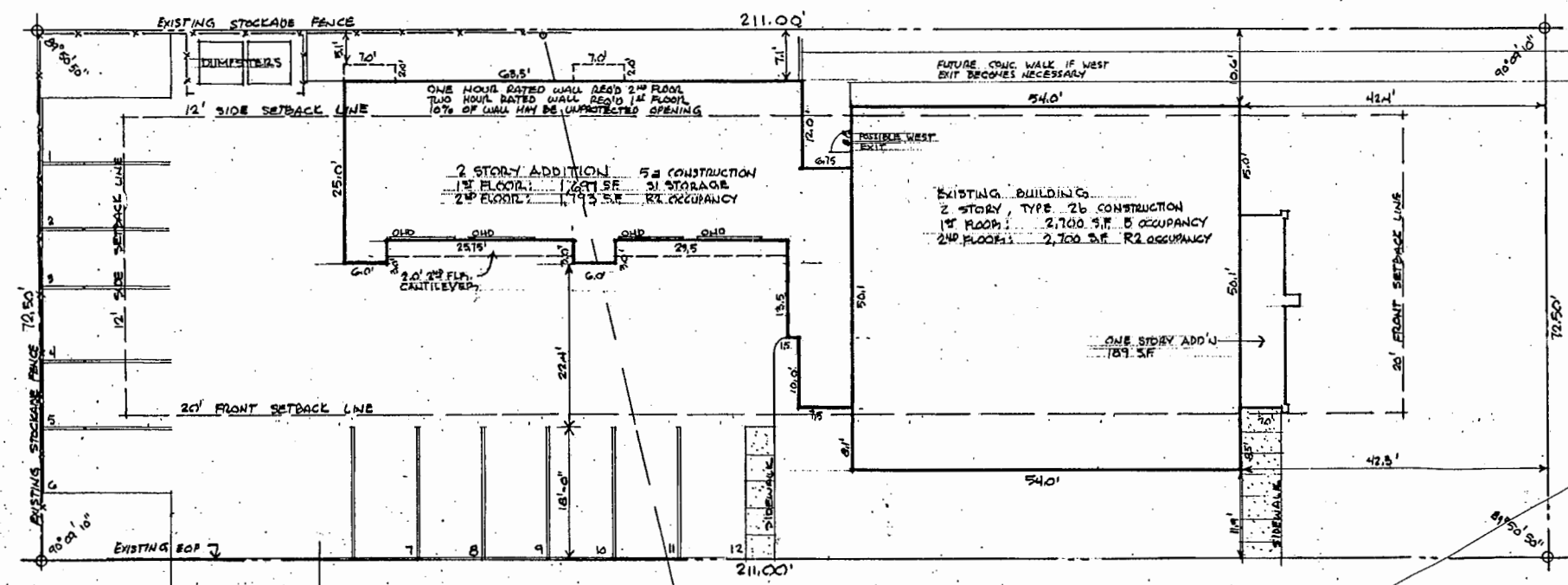
I, \_\_\_\_\_ owner and/or agent of the property located at \_\_\_\_\_ for Permit No. \_\_\_\_\_ understand that this permit is issued based on information supplied by owner/agent and that the City of Batavia accepts no responsibility for inaccurate documentation or information supplied to secure the permit.

\_\_\_\_\_  
 Applicant Signature Date

**SITE DATA:**  
 SITE AREA: 15,297.5 S.F. 15,297.5 S.F. (100%)  
 BUILDING FOOTPRINT (EXISTING):  
 PROPOSED BUILDING FOOTPRINT (w/o CANTILEVERS) = 4,586 S.F. (30%)  
 PROPOSED BUILDING FOOTPRINT (w/ CANTILEVERS) = 4,682 S.F. (30.6%)

**PARKING REQUIREMENTS:**  
 OFFICE (NON-MEDICAL) 2,700 S.F. @ 1 SPACE/200 S.F. = 9 SPACES  
 OFFICE (MEDICAL) 2,700 S.F. @ 1 SPACE/200 S.F. = 13.5 SPACES  
 APARTMENTS (4) @ 1 1/2 / APARTMENT = 6 SPACES  
 TOTAL REQ'D W/ MEDICAL OFFICES = 19.5 SPACES  
 TOTAL REQ'D W/O MEDICAL OFFICES = 15 SPACES  
 TOTAL SPACES PROVIDED: 4 INTERIORS + 12 EXTERIORS = 16 SPACES

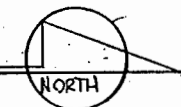
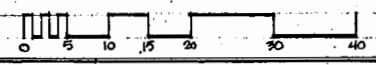
**OCCUPANCY:**  
 FIRST FLOOR (4) INDOOR PARKING SPACES  
 2,700 S.F. BUSINESS OFFICES  
 SECOND FLOOR (2) 1-BEDROOM APARTMENTS  
 (2) 2-BEDROOM APARTMENTS



EAST MAIN STREET (RTS 5 & 33)

SITE PLAN  
 SCALE 1" = 10'-0"

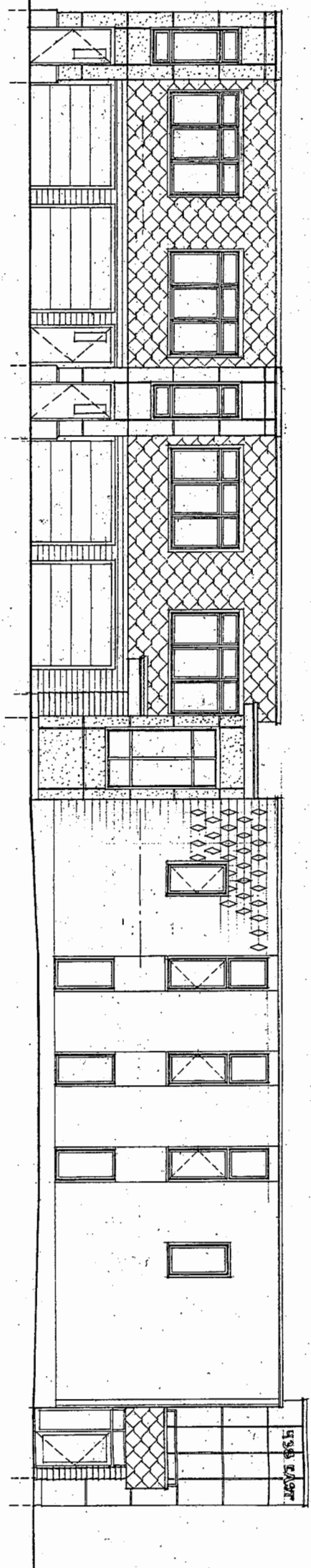
HARVESTER STREET



APARTMENT CONVERSION & ADDITION  
 438 EAST MAIN STREET  
 BATAVIA NEW YORK

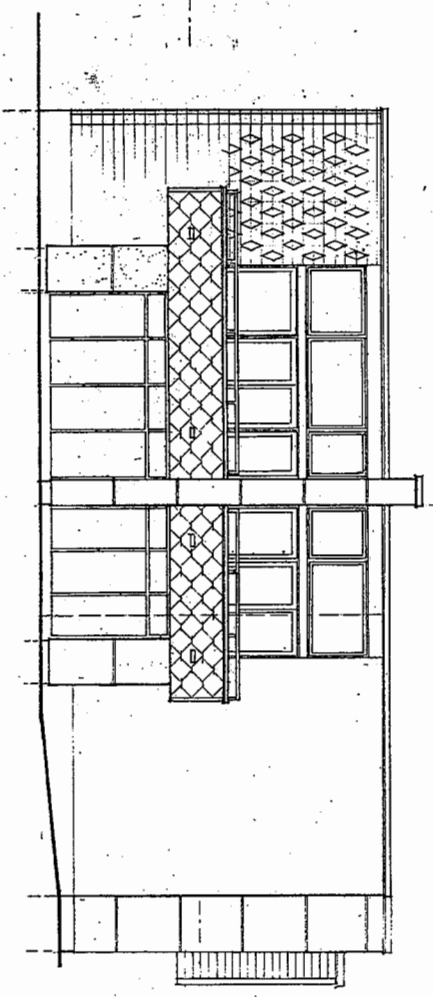
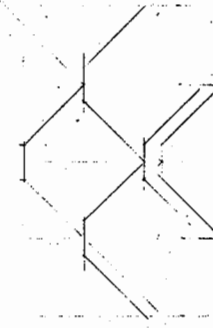
PROJECT NUMBER:  
 2014-53  
 DATE:  
 NOV. 20, 2014  
 DRAWN BY:  
 PEACOCK  
 SHEET TITLE:  
 SITE PLAN  
 SHEET NUMBER:  
 51





EAST ELEVATION

SCALE: 3/16" = 1'-0"



NORTH ELEVATION

SCALE: 3/16" = 1'-0"

RANDALL F. PEACOCK, RA  
 ARCHITECT  
 339 EAST AVENUE, SUITE 205  
 ROCHESTER, NEW YORK 14604  
 TEL (585) 328-8250 EMAIL RFP@MOSSIER.COM

APARTMENT CONVERSION & ADDITION  
 438 EAST MAIN STREET  
 BATAVIA, NEW YORK

PROJECT NUMBER:  
 2014-565  
 DATE:  
 NOV 26, 2014  
 DRAWN BY:  
 PEACOCK, R  
 SHEET TITLE:  
 ELEVATIONS

A-20

SHEET NUMBER:



C-23-BAT-12-14

