

1. Zoning Board Of Appeals Regular Meeting Agenda

Documents:

[ZBA 10 17 2016.PDF](#)

1.I. 95 Montcalm Ave

Documents:

[APPEAL 2089 95 MONTCALM .PDF](#)

1.II. US Avenue (Rte 9 South)

Documents:

[APPEAL 2090 US RT 9 SOUTH.PDF](#)

1.III. 133 So Peru St

Documents:

[APPEAL 2091 133 SOUTH PERU ST.PDF](#)

1.IV. 167 Broad St

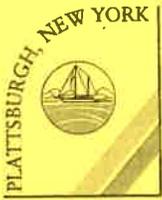
Documents:

[APPEAL 2092 167 BROAD ST..PDF](#)

1.V. 70 Park Ave

Documents:

[APPEAL 2093 70 PARK AVE.PDF](#)



Plattsburgh, New York

Building & Zoning Department
41 City Hall Place
Plattsburgh, New York 12901
Ph: 518-563-7707
Fax: 518-563-6426

ZONING BOARD OF APPEALS
CITY OF PLATTSBURGH
41 CITY HALL PLACE
(518) 563-7707

The Zoning Board of Appeals of the City of Plattsburgh will hold a Public Hearing on October 17, 2016, at 7:00 PM in the Community Room, 41 City Hall Place, to hear:

<u>APPEAL</u>	<u>APPLICANT</u>	<u>REQUEST</u>
2089	WILLIAM FERRIS 95 MONTCALM AVENUE	CLASS B VARIANCE(s) DUE TO PROPOSED ADDITIONAL APARTMENT
2090	EZ PROPERTIES LLC RT. 9 SOUTH ADJACENT TO GLENS FALL BANK	CLASS B VARIANCE 1. REQUEST INCREASE NUMBER OF PRINCIPLE BUILDINGS; 2. REQUEST INCREASE NUMBER OF ACCESSORY BUILDINGS 3. REQUEST INCREASE NUMBER OF DWELLING UNITS FOR NEW MULTI-FAMILY HOUSING
2091	TERRY BESAW 133 SOUTH PERU STREET	CLASS B VARIANCE REQUEST TO BUILD A GARAGE TOO CLOSE TO PROPERTY LINE.
2092	ANNE WALING 167 BROAD STREET	CLASS B VARIANCE REQUEST TO WIDEN DRIVEWAY INTO FRONT YARD
2093	ROGER & SANDRA MARLAND 70 PARK AVENUE	CLASS B VARIANCE REQUEST TO ERECT 7' FENCE ON CORNER LOT

NOTE: THE ORDER OF AGENDA IS SUBJECT TO CHANGE WITHOUT NOTICE. A PRELIMINARY MEETING WILL BE HELD AT 6:30 P.M. IN THE BUILDING INSPECTORS OFFICE AND IS OPEN TO THE PUBLIC.



Plattsburgh, New York

Building & Zoning Dept.
41 City Hall Place
Plattsburgh, New York 12901
Ph: 518-563-7707
Fax: 518-563-6426

Date: 8/26/2016
CLASS A VARIANCE USE
CLASS B VARIANCE AREA
SPECIAL USE PERMIT SUP

Appeal No.: 2089
App# 2013

An application is hereby made to the Zoning Board of Appeals pursuant to the City of Plattsburgh Zoning Ordinance for a variance to allow the property use as herein described.

Applicant: Bill Ferris
Applicant's Address: 20 Fort Brown Dr
Plattsburgh, NY 12903
Telephone No.: 518-569-4600
Parcel Identification: 207.15-11-9
Location of Request: 95 Montcalm
Property Owner: Mike Settevendomo
Request Description: change & single family home to
2 family home
R2
Zoning District: _____
Section Appealed: _____
Previous Appeal: No.: None Date: _____
Identify Applicant's Right to Apply for Variance:
Long Term Lease: _____ Contract To Purchase:
Main): Land contract

Documents must be accompanied by:
Proposed site plan plus original application.
Site floor plan.

Reasonable conditions and restrictions on the grant of area and use variance shall be incidental to the proposed use of the property. Such conditions shall be imposed in accordance with zoning law, and shall be imposed for the purpose of minimizing any adverse effect on the neighborhood or community.

Denise S. Nephew
DENISE S. NEPHEW Notary Public
Notary Public, State of New York
Registration No. 01NE6322848
Qualified in Clinton County
Commission Expires 4/13/19

Other than Property Owner require a Letter of Authorization to apply.

617.20
Appendix B
Short Environmental Assessment Form

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.

Part 1 - Project and Sponsor Information			
Name of Action or Project: <i>Change Single family home to two family Home</i>			
Project Location (describe, and attach a location map): <i>95 Montcalm</i>			
Brief Description of Proposed Action: <i>existing</i> <i>Separate the downstairs apartment from the upstairs apartment. Add separate electric meters.</i>			
Name of Applicant or Sponsor: <i>Bill Ferris</i>		Telephone: <i>518-569-4600</i>	
Address: <i>20 Fort Brown DR</i>		E-Mail: <i>byapple@westel.com.com</i>	
City/PO: <i>Plattsburgh</i>	State: <i>N.Y.</i>	Zip Code: <i>12903</i>	
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 checked="" 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: <i>Variance & Building Permit</i>			YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action? <i>2.1</i> acres			
b. Total acreage to be physically disturbed? <i>2.1</i> acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? <i>2.1</i> 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			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

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"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Bill Ferris</u>	Date: <u>8-26-16</u>	
Signature: <u>Bill Ferris</u>		

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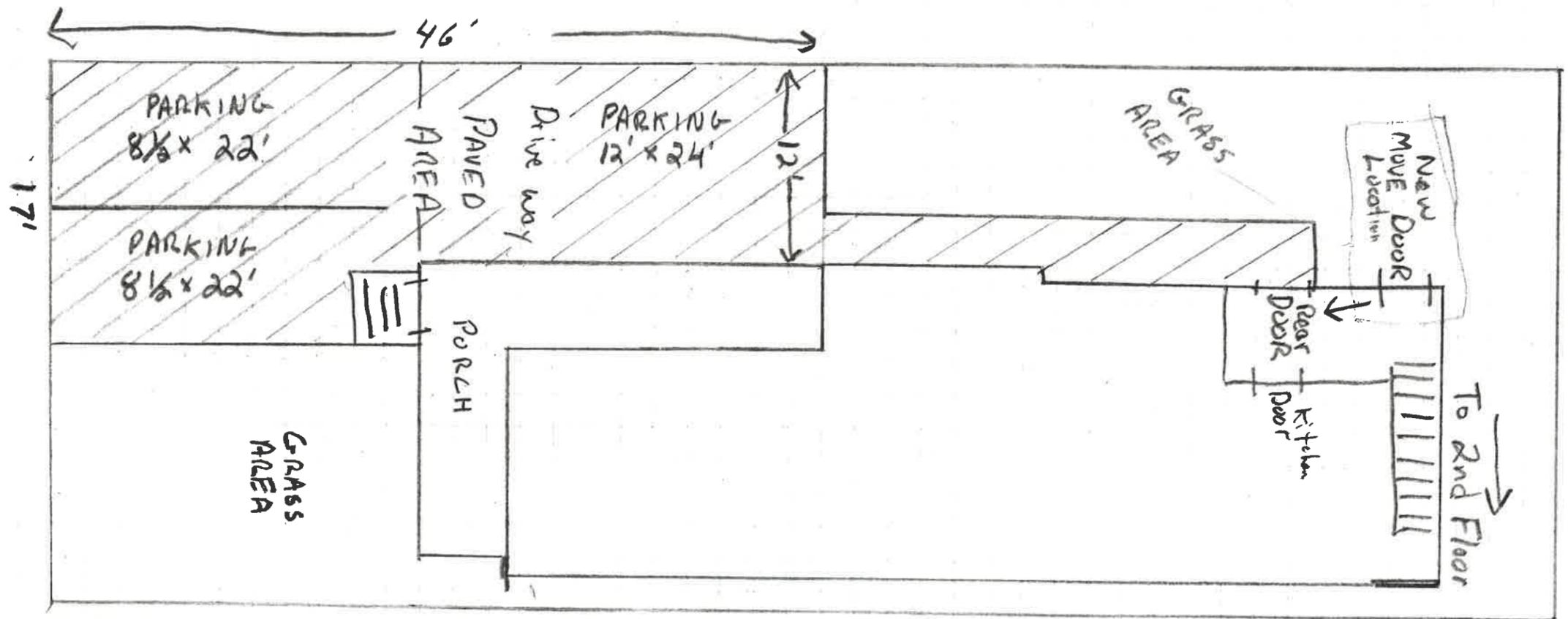
Zoning Board to Fill out. Applicant does not fill out Part 2.

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

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Appeal 2089 95 Mountain



Area or Dimensional Variances

Area variances may be granted where setback, frontage, lot size or yard requirements of this Code cannot be reasonably met. In making its determination the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determinations the board shall also consider the following criteria:

Please give a written response to each section.

(1) Will an undesirable change be produced to the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

ATTACHED

(2) Can the benefit sought by the applicant be achieved by some method, feasible to the applicant to pursue, other than an area variance?

(3) Is the requested area variance substantial?

(4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

(5) Has the alleged difficulty been self-created?
This information shall be relevant to the decision of the board but shall not necessarily preclude granting of the variance.

Aug. 26, 2016

AREA VARIANCE ZBA CITY OF PLATTSBURGH

1. NUMBER OF PRINCIPAL BUILDINGS ON THE LOT
2. NUMBER OF ACCESSORY STRUCTURES ON THE LOT
3. NUMBER OF APARTMENT DWELLING UNITS ON THE LOT

Written responses:

1. Will an undesirable change to the character of neighborhood or be a detriment to nearby properties?

The parcel is adjacent to Glens Falls National Bank and future PUD develop lots (lot 42, 221.16-1-17.42 and lot 43, 221.16-1-17-13) of same type of area uses with multiple dwellings, multiple accessory structures and multiple principal buildings as per the 5 acre rule for PUD. Lake Country Village is within 500 feet and is a housing association of over 300 homes, accessory structures and dwelling units.

2. Can the benefit sought by the applicant be achieved by some other method?

The lot is what is left over from PARC multiple subdivisions and property sales over the last 15 years. The lot is not big enough to meet PUD required 5 acres because some property was divided off from this lot for Glens Falls National Bank building and to increase lot 42 and lot 43 to the 5 acre size. The only property left is adjacent to the west and that is zoned Commercial. As per city Code 270 Schedule 2 this property is zoned RC-2 but is required to be developed under R-2 zone rules and bulk control schedule. Because of the unique circumstances of this left over property a lot that is not quite big enough and too big to be successfully used under the restrictive R-2 codes set for much smaller lots. The only other solution would be to re-subdivide this lot into 3 lots: and then the 3.77 acre area would look pretty much the same except with 3 individual curb cuts to US Ave for a greater number of dwelling units (72 apartments vs 36 apartments). Under current Zoning rules for this lot only one building can be on the property and a maximum of 24 dwelling units.

3. Is the area variance substantial?

The area variances made in this application to ZBA are not substantial when ZBA considers how this lot became the odd size of 3.77 acres and the adjacent two RC-2 lots sold in 2015.

4. Will the proposed area variances have an adverse effect or impact on the physical or environmental conditions of neighborhood?

The variances would allow for a well planned development that will be a continuation of the area development and land use.

5. Has the alleged difficulty been self-created?

The difficulty has been created by PARC and the City of Plattsburgh Planning Board. Over the last 15 plus years both agencies have in the process of converting what was once Federal land into property sold to the public. In this process a lot of changes have been made to accommodate buyers and their needs in lot sizes and zoning of parcels being sold. We are at the very end of all the Federal land once occupied as Plattsburgh Air Force Base being sold to the public.

617.20
Appendix B
Short Environmental Assessment Form

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.

Part 1 - Project and Sponsor Information			
Name of Action or Project: <i>AREA VARIANCE FOR LOT 41 221.16-1-17-41</i>			
Project Location (describe, and attach a location map): <i>West Side of USA Ave. Adjacent to GFNB</i>			
Brief Description of Proposed Action: <i>Number of Principal Buildings on the Lot</i> <i>Number of Accessory Structures on the Lot</i> <i>Number of Dwelling Units on the Lot</i>			
Name of Applicant or Sponsor: <i>EZ Properties, LLC</i>		Telephone: <i>518 569 7772</i>	
Address: <i>164 Boynton Ave Suite 307</i>		E-Mail: <i>ejzukowski@yahoo.com</i>	
City/PO: <i>Plattsburgh</i>		State: <i>NY</i>	Zip Code: <i>12901</i>
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 checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action? <i>3.77</i> acres			
b. Total acreage to be physically disturbed? <i>3.5</i> acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? <i>3.77</i> acres			
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input checked="" 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			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input checked="" type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties?	NO	YES	
	<input checked="" type="checkbox"/> NO <input checked="" type="checkbox"/> YES	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES		
<i>Retention 1st + then overflow to City storm</i>			

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: <u>To Be determined - STORM WATER MANAGEMENT</u>	NO	YES
	<input type="checkbox"/>	<input checked="" 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"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>EZ Properties, LLC</u>	Date: <u>8/20/14</u>	
Signature: <u>Edward Zukowski</u>		

Zoning Board to Fill out. Applicant does not fill out Part 2.

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>



4.36 AC

30E

17.2
3.0 AC

343.42'

OHIO AVENUE SOUTH

396.41'

365.29'

(66')

349.65'

AVENUE

585.75'

42

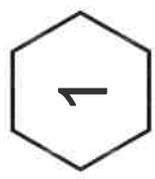
37.00°

19.52°

41

17.41
3.77 AC

17.12
2.40 AC

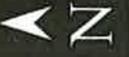


44

1 AIR FORCE BASE
7.11
34 AC

ROAD

*appeal # 2090
EB Properties*



1000 ft





Plattsburgh, New York

Building & Zoning Dept.
41 City Hall Place
Plattsburgh, New York 12901
Ph: 518-563-7707
Fax: 518-563-6426

USE
CLASS A VARIANCE

 X
AREA
CLASS B VARIANCE

SUP
SPECIAL USE PERMIT

Date: 9/14/16

Appeal No.: 2091
App# 2059

An application is hereby made to the Zoning Board of Appeals pursuant to the City of Plattsburgh Zoning Ordinance for a variance to allow the property use as herein described.

Applicant: Terry Besaw

Applicant's Address: 20 Honey Drive
Plattsburgh NY

Telephone No.: 518 563 2619 518 572-9447

Parcel Identification: 221.15-5-11

Location of Request: 133 South Peru

Property Owner: Scott & Francine Hebert

Request Description: Garage Request to build 20x28'
garage too close to prop. line

Zoning District: R-2

Section Appealed: 270-18 Accessory Structures

Previous Appeal: No.: Date:

Identify Applicant's Right to Apply for Variance: email: besawkenneth@charter.net

Ownership Long Term Lease: Contract To Purchase:

Other (Please Explain): _____

Applications for Zoning Variances must be accompanied by:
13 copies of existing and proposed site plan plus original application.
13 copies of existing and proposed floor plan.

The Zoning Board of Appeals may impose reasonable conditions and restrictions on the grant of area and use variances provided they are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Terry Besaw
Signature (Owner/Applicant)
Terry Besaw
Print First and Last Name

Denise S. Neff
DENISE S. NEFF
Notary Public, State of New York
Registration No. 01NE6322848
Qualified in Clinton County
Commission Expires 4/3/19

*Signatures other than Property Owner require a Letter of Authorization to apply.

ZONING BOARD OF APPEALS

CITY HALL

PLATTSBURGH, NEW YORK 12901

STANDARDS OF PROOF - AREA VARIANCE

A. The applicant for an area variance is not entitled to an area variance unless he has furnished competent proof to satisfy the "practical difficulty standard" and that the variance, if granted will not alter the essential character of the neighborhood.

In order to satisfy the practical difficulty standard, the applicant must prove that the Zoning Ordinance as it applies to his land creates significant economic injury and that the variance, if granted, will not produce a substantial change in the character of the neighborhood. The courts of this state hold that "significant economic injury cannot be established except by dollars and cents proof which includes:

1. The original purchase price of the premises.
2. The current market value of the premises without an area variance.
3. The projected market value of the premises with the variance having been granted."

"Projected market value" in item 3 does not include any cost of valuation for the proposed construction. It includes only the current market value without any variance plus the "value of the right to build." The "value of the right to build" may be said to be the "value of the building permit". How much more valuable is the entire property with a building permit allowing the future construction of the proposed work? Projected market value which includes the value of the work to be constructed will be rejected.

Projected market value can be best shown by the in-person testimony of a real estate appraiser who is present at the hearing. Written appraisals may be less satisfactory because the writer is not present to answer any questions.

The difference between the current market value without the variance and the projected market value with the variance is the amount of economic injury. If the Zoning Board of Appeals determines that this economic injury is significant, then the applicant may be entitled to the area variance.

However, if a town official comes forward at the hearing with testimony establishing that it is important in this particular instance to enforce the Zoning Ordinance as it is written, in order to protect the health, safety and welfare, then the application must be denied. It is important to note that such testimony must be by a town official or someone hired by the town to give the testimony. If the Zoning Board of Appeals agrees with the Town Official that it is important in this case to enforce the Zoning Ordinance as written, then the applicant is not entitled to the area variance, unless he presents further testimony that the enforcement of the ordinance as written will deprive him of any reasonable use of his land. If applicant proves that, then he is entitled to the area variance.

B. The second question to be determined by the Zoning Board of Appeals is whether the the propose will alte the essential character of the neighborhood. Will a substantial detriment to adjoining properties be created? If it will, then the variance may be denied.

C. Other Grounds for Denial:

1. Whether the variance applied for is the minimum variance that is necessary.
2. Is the variance sought one that is merely desirable for the greater enjoyment of the property, as opposed to one that is necessary for continued practical utilization of the premises? (Bielak v. Zoning Board of Appeals, 78 AD 2d 435).

ZONING BOARD OF APPEALS

CITY HALL

PLATTSBURGH, NEW YORK 12901

-2-

STANDARDS OF PROOF - AREA VARIANCE

3. Is this hardship self-created? An area variance cannot be denied solely on the ground of self-created hardship, but is a factor to be considered.
4. Is the plight of the owner due to personal problems of the owner as opposed to matters dealing with the land or buildings? While an area variance may not be denied solely on this basis, it is a factor to be considered.

Lot is not wide enough to add a attach garage

Area Variances Standards

The state statues define area variances as: "the authorization by the zoning board of appeals for the use of land in a manner which is not allowed by dimensional or physical requirements of the applicable zoning regulations."

General City Law, 81-b(1)

The state statues then go on to provide the zoning board with the standards for granting the area variances;

"(b) In making it's determination, the zoning board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

(1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

(2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;

(3) whether the requested area variance is substantial;

(4) whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and

(5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

The board of appeals , in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community."

General City Law, 81-b(4)

Area or Dimensional Variances

Area variances may be granted where setback, frontage, lot size or yard requirements of this Code cannot be reasonably met. In making it's determination the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determinations the board shall also consider the following criteria:

Please give a written response to each section.

(1) Will an undesirable change be produced to the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

no

(2) Can the benefit sought by the applicant be achieved by some method, feasible to the applicant to pursue, other than an area variance?

no

(3) Is the requested area variance substantial?

no

(4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

no

(5) Has the alleged difficulty been self-created?

This information shall be relevant to the decision of the board but shall not necessarily preclude granting of the variance.

no

Variations

One of the basic powers given by law to a zoning board of appeals is called the "variance" power. The board has the authority to "vary," or modify, the strict letter of a zoning ordinance or local law in cases where this strict interpretation could cause practical difficulties or unnecessary hardships for an individual.

Appeals boards are frequently confronted with requests for variances. There are two types of requests that come before the board, and the standards by which they are judged differ. A use variance is a request to utilize property for a use or activity which is not permitted by the zoning ordinance, and the applicant must demonstrate "unnecessary hardship." An area variance is a request for relief from dimensional standards contained in the zoning ordinance, and it requires a demonstration of "practical difficulty."

The basic standards for determining unnecessary hardship and practical difficulty have been established and refined by the courts in numerous cases.

Use Variance

An individual who wants to utilize property for a use that is not permitted by the zoning ordinance must apply for a use variance. An applicant for a use variance must demonstrate unnecessary hardship by satisfying each of the following three tests:

1. Uniqueness

The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone AND that these features make it impossible to earn a reasonable return without some adjustment. If the features or conditions are generally applicable throughout the district, a variance should not be granted. In those situations where the difficulty is shared by others, the relief should be accomplished by an amendment to the zoning ordinance, not a variance.

2. Reasonable Return

The applicant must demonstrate an inability to realize a reasonable return under any of the uses permitted by the zoning ordinance. There must be a "dollars and cents" proof of the applicant's inability to realize reasonable return; speculation or qualitative assessment is inadequate. Failure to realize the highest return is not considered a hardship.

3. Character

The applicant must prove that the requested modification will not change the character or quality of the neighborhood. In addition, the "spirit" of the ordinance or local law should be preserved.

The applicant for a use variance must meet all three tests before the appeals board may grant relief. A use variance should not be granted if the "unnecessary hardship" was created by the applicant. If the appeals board grants a use variance to an applicant who has failed to meet each of the tests, it runs the risk of assuming the function of the legislative body and making a decision contrary to the legislative intent of the zoning ordinance.

An increasing number of use variance requests is often the sign of an "aged" zoning regulation. The appeals board should not circumvent the legislative process by granting use variances. Instead, the appeals board should advise the governing body of the need to reexamine and amend the zoning ordinance.

Area Variance

In the case of an area variance, the applicant is seeking modification of dimensional standards, such as yard requirements, set-back lines, lot coverage, frontage requirements or density regulations, so that the property may be utilized for one of the uses permitted by the zoning ordinance. The appeals board may grant relief if the applicant can demonstrate that strict compliance with the regulations would cause practical difficulty.

The determination of practical difficulty is a three-step process.³

1. First, the applicant must demonstrate that the application of the zoning ordinance to his property causes significant economic injury.
2. Once the applicant has demonstrated economic injury, then the municipality must show that the regulation in question is reasonably related to a legitimate exercise of the police power.
3. Last, assuming the municipality has met its burden of proof, the applicant must demonstrate that the restrictions, as strictly applied in his case, are unrelated to the public health, safety or welfare of the community and that granting the variance will not adversely affect the community.

In making a determination of practical difficulty, the appeals board may consider:⁴

1. How substantial the variation is in relation to the requirement;
2. The potential effect of increased density on available municipal, county and state facilities and services;
3. Whether the variance will cause a substantial change in the character of the neighborhood;
4. Whether the difficulty can feasibly be mitigated by some other method; or
5. Whether the interests of justice will be served in granting the variance.

The appeals board should grant the minimum relief necessary to allow reasonable use of the land in question. Not every applicant for an area variance is automatically entitled to receive relief. Each application should be carefully considered against the requirement for proof of practical difficulty.

Summary

The major difference between a use variance and an area variance involves the use of the property. An area variance results in a modification of physical restrictions so that an allowable use may be established on the property. By contrast, a use variance permits the establishment of a use which is prohibited by the zoning ordinance and the zoning map. It is for this reason that the standards for a use variance are more stringent than the standards established for an area variance.

Frequently, the appeals board is encouraged to make legislative decisions under the guise of use variance requests. The appeals board should exercise caution when confronted with a request for a use variance, and only grant those which meet the tests established for determining unnecessary hardship. The appeals board should resist the inclination to correct deficiencies in the zoning ordinance through the exercise of its variance power. If particular provisions of the zoning ordinance are inappropriate or unjust, the appeals board should recommend that the legislative body (City Council, Town Board, Board of Trustees) take the necessary steps to amend the ordinance or local law.

¹Otto v. Steinhilber, 282 NY 71 (1939); Village of Bronxville v. Francis, 150 NYS 2d 906 (1956); Jayne Estates v. Raynor, 22 NY 2d 417 (1968); Douglaston Civic Association, Inc. v. Klein, 51 NY 2d 963 (1980).

²Fayetteville v. Jarrold, 53 NY 2d 254 (1981).

³Fulling v. Palumbo, 21 NY 2d 30 (1967); National Merrit, Inc. v. Werst, 41 NY 2d 438 (1977).

⁴Waschsberger v. Michalls, 19 Misc 2d 909 (1959).

Department of Planning



Note:

This Tech Memo was prepared by the publication for municipal governments.

Department of Planning as an Informational It is not intended to be a legal opinion.

617.20
Appendix B
Short Environmental Assessment Form

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.

Part 1 - Project and Sponsor Information			
Name of Action or Project: <i>Terry Besaw</i>			
Project Location (describe, and attach a location map): <i>Scott & Francine Hebert</i>			
Brief Description of Proposed Action: <i>133 South Peru St</i> <i>Build 20x28 garage too close to property line.</i>			
Name of Applicant or Sponsor: <i>Terry Besaw</i>		Telephone:	
Address: <i>20 Honey Dr</i>		E-Mail: <i>besawBuilders@charter.net</i>	
City/PO: <i>OLA Hsburgh</i>		State: <i>NY</i>	Zip Code: <i>12901</i>
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 checked="" type="checkbox"/> YES <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:			NO <input checked="" type="checkbox"/> YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		<i>51</i> acres	
b. Total acreage to be physically disturbed?		<i>51</i> acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<i>< 1</i> 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 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			

	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: <u>Garage</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100 year flood plain?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Terry Besaw</u>	Date: <u>9/14/16</u>	
Signature: <u>Terry Besaw</u>		

Zoning Board to Fill out. Applicant does not fill out Part 2.

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

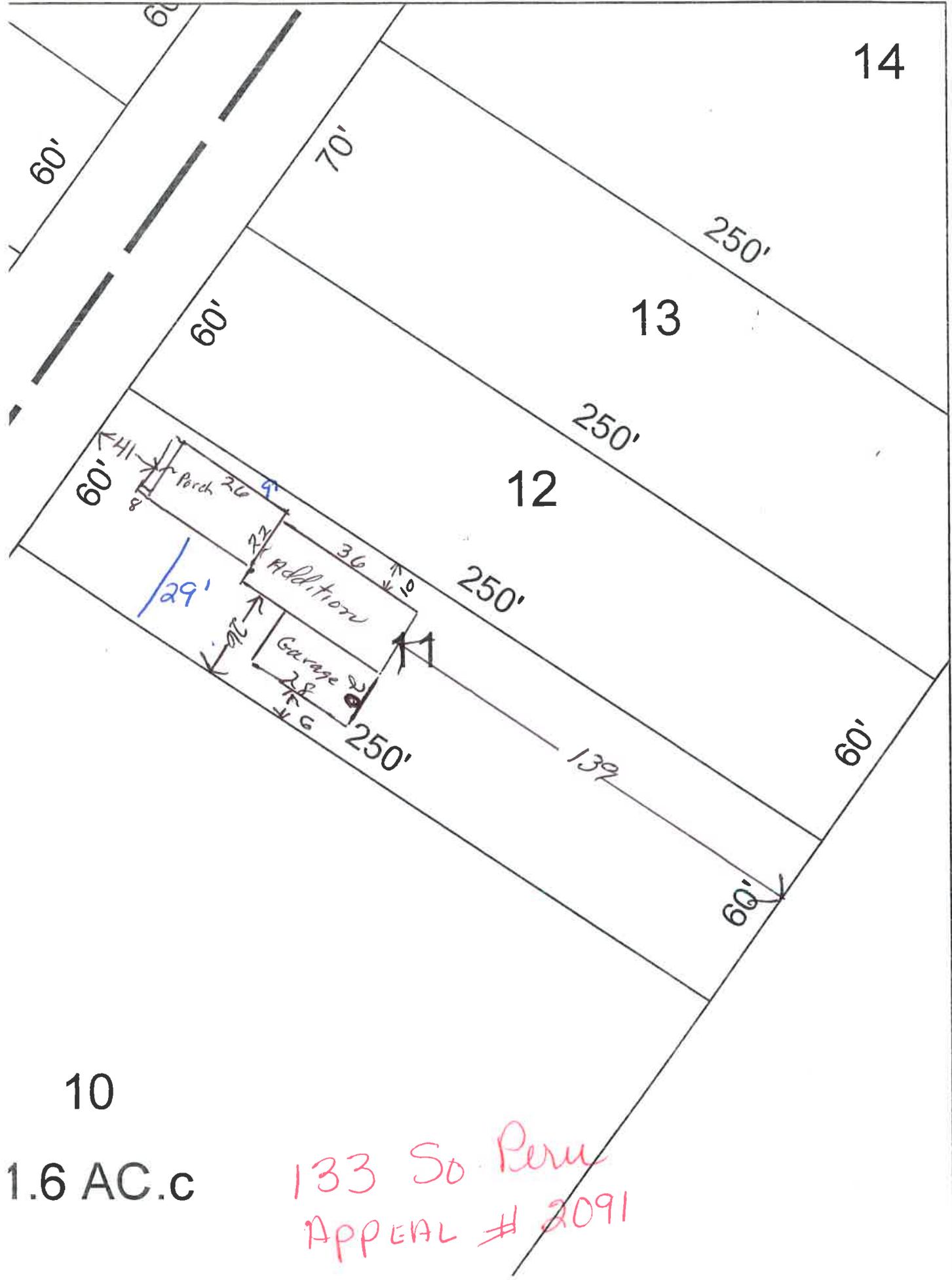
	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT



133 So. Peru
APPEAL # 2091



CLINTON COUNTY PLANNING DEPARTMENT

135 Margaret Street, Suite 124 · Plattsburgh, New York 12901-2980
Planning (518) 565-4711 • C.A.R.T. (518) 565-4713 • Facsimile (518) 565-4885

CLINTON COUNTY PLANNING BOARD DECISION ON 239M REFERRAL

TO: City of Plattsburgh

REFERRAL NUMBER: 82-16

SUBJECT: City of Plattsburgh, Applicant Terry Besaw, Area Variance for Garage, 133 South Peru St.

The following action was taken by the Clinton County Planning Board regarding this zoning referral, in compliance with New York State General Municipal Law, Article 12B, Section 239M. This decision is not binding upon the local municipality, but may impact the local board's voting requirements to act contrary to the County decision. A County Decision of Disapproval or Approval With Modifications may only be overturned by the local municipal board by a majority plus one vote of the full membership of the board (4 votes for 5 member board, 5 votes for 7 member board).

DATE OF COUNTY ACTION: 10/5/16

ACTION TAKEN ON REFERRAL:

- APPROVAL
 APPROVAL WITH MODIFICATION
 DISAPPROVAL
 LOCAL ISSUE

SEE ENCLOSED COMMENTS REGARDING THIS REFERRAL

VOTE RECORDED:

5 YES

0 NO

5 ABSENT

1 ABSTAINED

10/6/16
DATE


CLINTON COUNTY PLANNING DEPARTMENT

PLEASE RETURN A COPY OF THE FINAL DECISION BY YOUR BOARD TO THE CLINTON COUNTY PLANNING DEPARTMENT WITHIN 30 DAYS OF DECISION.

Plattsburgh, New York

Building & Zoning Dept.
41 City Hall Place
Plattsburgh, New York 12901
Ph: 518-563-7707
Fax: 518-563-6426

Plattsburgh

 USE
CLASS A VARIANCE

 X AREA
CLASS B VARIANCE

 SUP
SPECIAL USE PERMIT

Date: 9-13-16

Appeal No.: 2092
App. # 2061

An application is hereby made to the Zoning Board of Appeals pursuant to the City of Plattsburgh Zoning Ordinance for a variance to allow the property use as herein described.

Applicant: Anne Waling

Applicant's Address: 167 Broad St.

Plattsburgh NY 12901

Telephone No.: ~~518-563-5423~~ 518-593-0355

Parcel Identification: 207.18-3-7

Location of Request: 167 BROAD ST.

Property Owner: Anne Waling

Request Description: Permit for Driveway Widening

Zoning District: R-1

Section Appealed: 270-25

Previous Appeal: No.: Date:

Identify Applicant's Right to Apply for Variance:

Ownership: X Long Term Lease: Contract To Purchase:

Other (Please Explain):

Applications for Zoning Variances must be accompanied by:
13 copies of existing and proposed site plan plus original application.
13 copies of existing and proposed floor plan.

The Zoning Board of Appeals may impose reasonable conditions and restrictions on the grant of area and use variances provided they are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

* [Signature]
Signature (Owner/Applicant)
Anne Waling
Print First and Last Name

[Signature]
DENISE S. NEPHEW
Notary Public
Notary Public, State of New York
Registration No. 01NE6322848
Qualified in Clinton County
Commission Expires 4/13/19

*Signatures other than Property Owner require a Letter of Authorization to apply.

Application for zoning variance

City of Plattsburgh

167 Broad Street

Anne Waling, Owner

Project Narrative:

I just purchased the home at 167 Broad Street, which currently has a long and very narrow driveway. Since the street is a hill, there is a significant drop off immediately to the east side of the drive, which due to the narrowness produces a hazardous environment when people get out of the car on the driver's side, since they have to park far enough from the house not to hit their doors.

The current driveway is on the easterly property boundary. The lot is a half-sized lot with fifty feet of frontage. Due to the existing garage, deck, and house structures, it is impossible to widen the driveway in the rear or on the side of the house without demolishing the garage, which is a less desirable solution as it adds privacy for the easterly neighbor and is a valuable addition to my own property.

I would like to widen the drive in the front of the house to create additional parking and the ability to turn around, which would be helpful as the traffic on upper Broad Street can be unpredictable and it would be safer to not have to back out. It is my intention to preserve some of the existing landscaping or to install additional landscaping to preserve the curb appeal and visual character of the home.

The existing curb cut is significantly wider than the existing drive, and should not need to be adjusted at all. There is no uniform 'look' to any of the driveways on my block—I don't believe that the character of the neighborhood would be unduly impacted by this change. The home is currently well-landscaped in the front and the driveway expansion plan aims to preserve much of the existing landscaping to avoid any suggestion of a parking lot appearance.

Thank you for your consideration!



Anne Waling, Owner

Area or Dimensional Variances

Area variances may be granted where setback, frontage, lot size or yard requirements of this Code cannot be reasonably met. In making its determination the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determinations the board shall also consider the following criteria:

Please give a written response to each section.

(1) Will an undesirable change be produced to the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

See att. sheet

(2) Can the benefit sought by the applicant be achieved by some method, feasible to the applicant to pursue, other than an area variance?

(3) Is the requested area variance substantial?

(4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

(5) Has the alleged difficulty been self-created?
This information shall be relevant to the decision of the board but shall not necessarily preclude granting of the variance.

Variance application responses to questions:

1. Will an undesirable change be produced to the character of the neighborhood or a detriment to nearby properties?
No, neither of the immediate neighbors object to the plan. The driveway expansion is not expected to produce any additional impacts on adjoining properties, and there is no neighbor across the street. It is in keeping with the general character of the neighborhood; many of the homes have driveways that are 2 cars wide in the nearby neighborhoods in the R-1 district.
 2. Can the benefit sought be achieved by another means?
The widening of the driveway in the rear of the property would require demolishing garage or deck, neither of which is a feasible option.
 3. Is the requested area variance substantial?
No. It will simply widen the driveway in the front portion of the property.
 4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?
The additional pavement will increase the lot coverage slightly, which should not produce any harmful environmental issues since there is adequate drainage. There are no wetlands or existing watercourses on the property.
 5. Has the alleged difficulty been self-created?
No, when I bought the property the realtor noted that if I widened the driveway it would be a benefit. This request has not been made previously, to my knowledge.
-

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

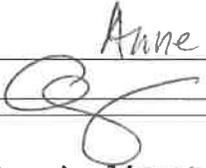
Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. 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.

Part 1 - Project and Sponsor Information				
Name of Action or Project: Driveway widening				
Project Location (describe, and attach a location map): 167 Broad St. Plattsburgh				
Brief Description of Proposed Action: Widen front portion of driveway to allow turnaround and ability to park without moving cars.				
Name of Applicant or Sponsor: Anne Waling		Telephone: 518-593-6335		
Address: 167 Broad Street		E-Mail: a.r.waling@gmail.com		
City/PO: Plattsburgh		State: NY	Zip Code: 12901	
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 checked="" type="checkbox"/>	YES <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:			NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		.10 acres (approx 4500 sq ft)		
b. Total acreage to be physically disturbed?		_____ acres		
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		.10 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 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"/>

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

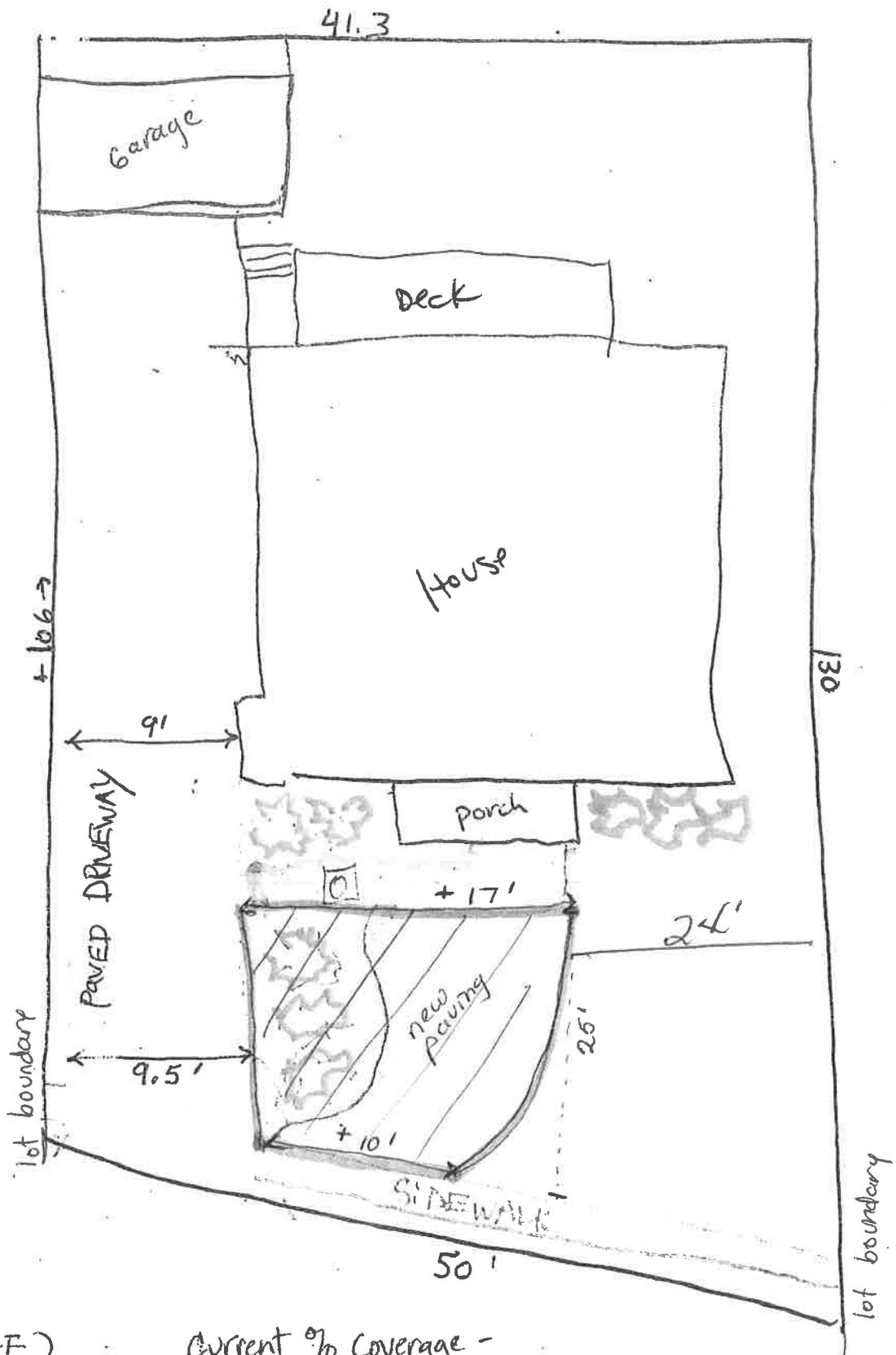
Applicant/sponsor name: Anne Walong Date: 9/13/16
Signature: 

Zoning Board to Fill out. Applicant does not fill out Part 2.

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

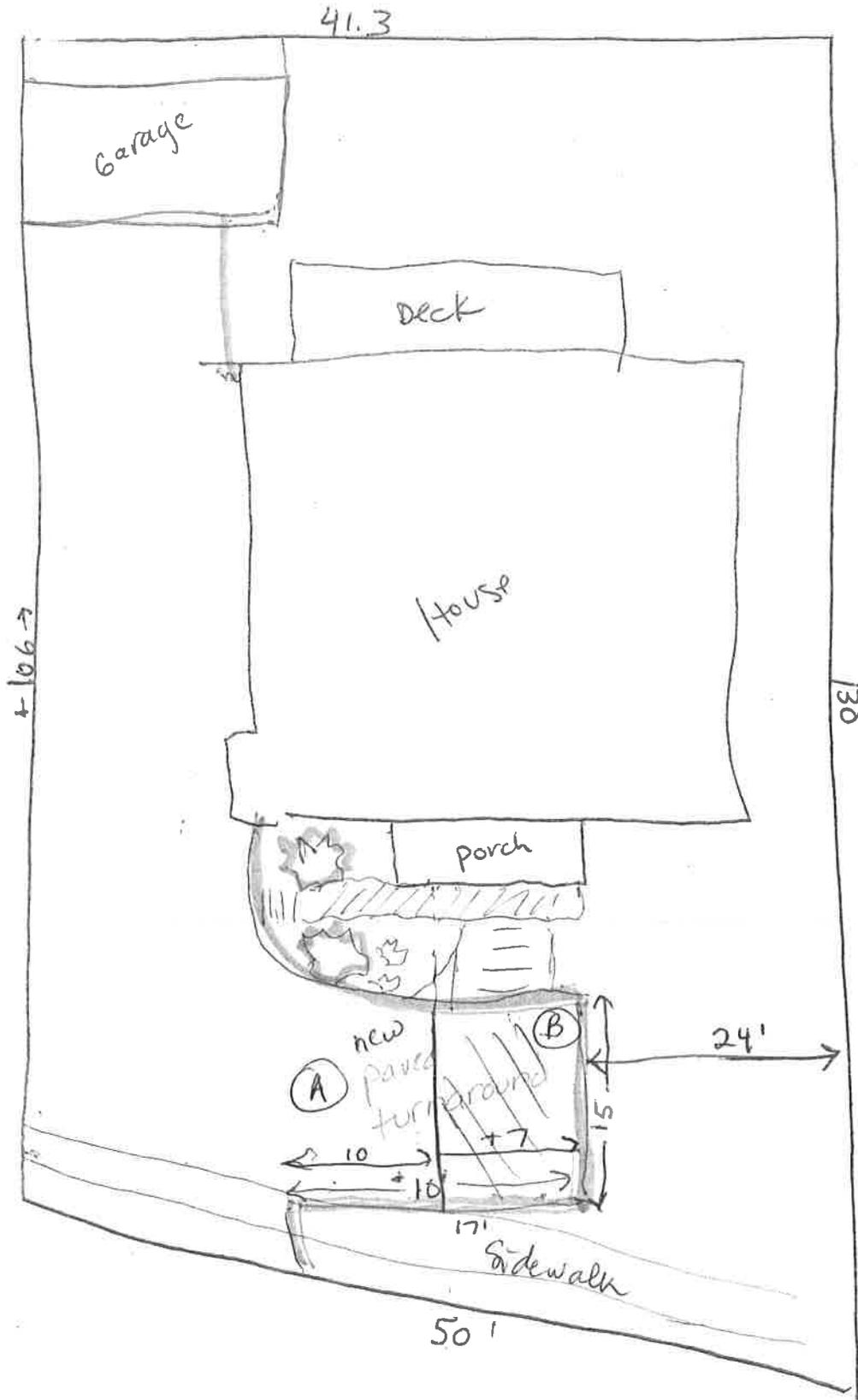
Proposed
~~Existing~~ Conditions: Plan 1



(NOT TO SCALE)

Current % Coverage -

Proposal 2B preferred, 2A minimum





BROAD

189 Broad St

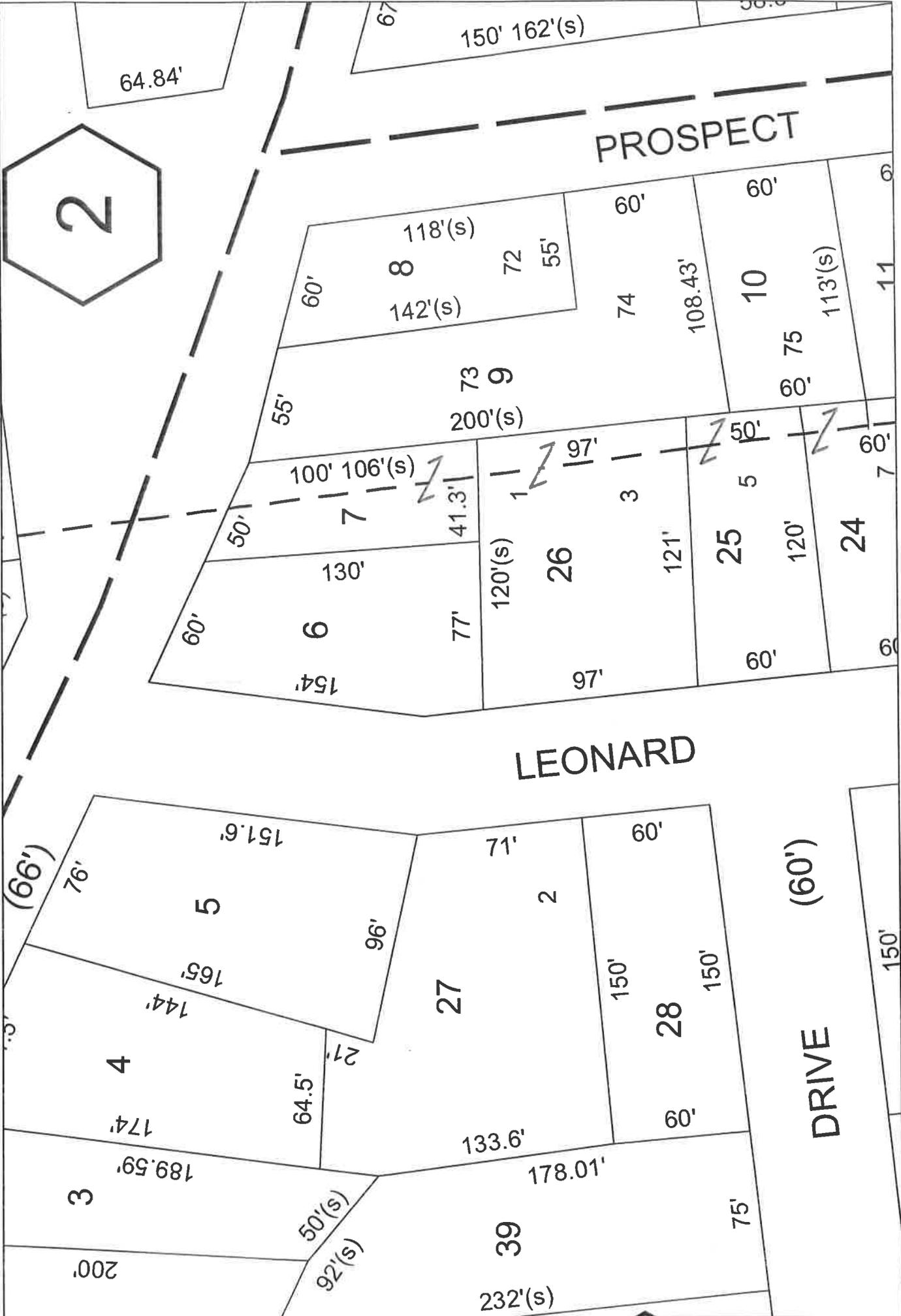
187 Broad St

165 Broad St

163 Broad St

City of Plattsburgh

1. 10/23/2014



2

PROSPECT

LEONARD

DRIVE (60')

(66')

200'

3

189.59'

4

174'

76'

5

151.6'

64.5'

21'

50'(s)

92'(s)

96'

27

39

133.9'

178.01'

232'(s)

2

71'

150'

28

60'

75'

150'

60'

6

130'

154'

77'

41.3'

120'(s)

26

97'

100' 106'(s)

7

73

200'(s)

3

97'

121'

25

60'

120'

24

60'

55'

60'

8

142'(s)

118'(s)

72

55'

60'

74

108.43'

10

60'

75

113'(s)

11

60'

64.84'

150' 162'(s)

67

58.6



Plattsburgh, New York

Building & Zoning Dept.
41 City Hall Place
Plattsburgh, New York 12901
Ph: 518-563-7707
Fax: 518-563-6426

 USE
CLASS A VARIANCE

 X AREA
CLASS B VARIANCE

 SUP
SPECIAL USE PERMIT

Date: 9/22/2016

Appeal No.: 2093

An application is hereby made to the Zoning Board of Appeals pursuant to the City of Plattsburgh Zoning Ordinance for a variance to allow the property use as herein described.

Applicant: Roger Marland & Sandra Marland

Applicant's Address: 70 Park Ave
Plattsburgh, NY

Telephone No.: 518 563 40935

Parcel Identification: 091300 221.6-2-43

Location of Request: 70 Park Ave.

Property Owner: Roger & Sandra Marland

Request Description: replace existing fence - increase height
to 7' height from 6' corner lot

Zoning District: R-1

Section Appealed: 270-28

Previous Appeal: No.: Date:

Identify Applicant's Right to Apply for Variance:

Ownership: X Long Term Lease: Contract To Purchase:

Other (Please Explain):

- Applications for Zoning Variances must be accompanied by:
- 13 copies of existing and proposed site plan plus original application.
 - 13 copies of existing and proposed floor plan.

The Zoning Board of Appeals may impose reasonable conditions and restrictions on the grant of area and use variances provided they are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

* Roger N. Marland
Signature (Owner/Applicant)
ROGER N. MARLAND
Print First and Last Name

Kenneth M. Prasad
Notary Public
KENNETH M. PRASAD
Notary Public, State of New York
No. 01PR5035113
Qualified in Clinton County
Commission Expires 10/29/2018

*Signatures other than Property Owner require a Letter of Authorization to apply.

ZONING BOARD OF APPEALS

CITY HALL

PLATTSBURGH, NEW YORK 12901

STANDARDS OF PROOF - AREA VARIANCE

A. The applicant for an area variance is not entitled to an area variance unless he has furnished competent proof to satisfy the "practical difficulty standard" and that the variance, if granted will not alter the essential character of the neighborhood.

In order to satisfy the practical difficulty standard, the applicant must prove that the Zoning Ordinance as it applies to his land creates significant economic injury and that the variance, if granted, will not produce a substantial change in the character of the neighborhood. The courts of this state hold that "significant economic injury cannot be established except by dollars and cents proof which includes:

1. The original purchase price of the premises.
2. The current market value of the premises without an area variance.
3. The projected market value of the premises with the variance having been granted."

"Projected market value" in item 3 does not include any cost of valuation for the proposed construction. It includes only the current market value without any variance plus the "value of the right to build." The "value of the right to build" may be said to be the "value of the building permit". How much more valuable is the entire property with a building permit allowing the future construction of the proposed work? Projected market value which includes the value of the work to be constructed will be rejected.

Projected market value can be best shown by the in-person testimony of a real estate appraiser who is present at the hearing. Written appraisals may be less satisfactory because the writer is not present to answer any questions.

The difference between the current market value without the variance and the projected market value with the variance is the amount of economic injury. If the Zoning Board of Appeals determines that this economic injury is significant, then the applicant may be entitled to the area variance.

However, if a town official comes forward at the hearing with testimony establishing that it is important in this particular instance to enforce the Zoning Ordinance as it is written, in order to protect the health, safety and welfare, then the application must be denied. It is important to note that such testimony must be by a town official or someone hired by the town to give the testimony. If the Zoning Board of Appeals agrees with the Town Official that it is important in this case to enforce the Zoning Ordinance as written, then the applicant is not entitled to the area variance, unless he presents further testimony that the enforcement of the ordinance as written will deprive him of any reasonable use of his land. If applicant proves that, then he is entitled to the area variance.

B. The second question to be determined by the Zoning Board of Appeals is whether the the propose will alte the essential character of the neighborhood. Will a substantial detriment to adjoining properties be created? If it will, then the variance may be denied.

C. Other Grounds for Denial:

1. Whether the variance applied for is the minimum variance that is necessary.
2. Is the variance sought one that is merely desirable for the greater enjoyment of the property, as opposed to one that is necessary for continued practical utilization of the premises? (Bielak v. Zoning Board of Appeals, 78 AD 2d 435).

ZONING BOARD OF APPEALS

CITY HALL

PLATTSBURGH, NEW YORK 12901

-2-

STANDARDS OF PROOF - AREA VARIANCE

3. Is this hardship self-created? An area variance cannot be denied solely on the ground of self-created hardship, but is a factor to be considered.
4. Is the plight of the owner due to personal problems of the owner as opposed to matters dealing with the land or buildings? While an area variance may not be denied solely on this basis, it is a factor to be considered.

Area or Dimensional Variances - Attachment

(1) Will an undesirable change be produced to the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

No. The requested variance for a taller replacement fence will not be detrimental to the neighborhood or harm the use and enjoyment of neighboring properties nor would it detract from the character of the neighborhood. The fence would produce an aesthetically proper addition, if not an enhancement to our neighborhood.

(2) Can the benefit sought by the applicant be achieved by some method, feasible to the applicant to pursue, other than an area variance?

No. A fence will provide security and privacy by preventing the public from walking from the northwest corner of our property to the southeast corner (though our backyard) which we have witnessed on several occasions. It also lessens the potential for liability issues caused by the public taking shortcuts through our backyard. Pre-existing fence was broken by vandalism and falling rocks from neighbor's retaining wall in rear.

(3) Is the requested area variance substantial?

No. The location of the fence is not changing in any way, only the height will be different. We are only requesting a three (3') foot variance for a twelve (12') foot section on the west side (Prospect Avenue) and a one (1') foot variance for an eighteen (18') foot section on the backside (north) of our lot.

(4) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

No. The requested variance will not infringe on any neighboring residential properties, nor would it impose any hardship on any neighbors, nor would it create a situation where any neighbor's property value or peaceful co-existence would be negatively affected.

(5) Has the alleged difficulty been self-created?

No. The unusual topographical conditions in the northwest corner of our lot are caused by the street elevation of Prospect Avenue to the west and the height of a retaining wall on the north side of our property. Increasing the height of the fence in that area is the minimum needed to address the situation caused by the grade change. The variance makes possible a reasonable use of the property by allowing the fence to be extended the minimum amount that would provide security and privacy. Pre-existing side fence broken by vandals and neighbor's retaining wall collapsed on rear fence.

**Respectfully submitted,
Roger and Sandra Marland
September 20, 2016**

617.20
Appendix B
Short Environmental Assessment Form

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.

Part 1 - Project and Sponsor Information				
replace existing fence				
Name of Action or Project:				
Project Location (describe, and attach a location map):				
Brief Description of Proposed Action: <div style="font-size: 1.5em; text-align: center;">REPLACE 6' fence with a 7' fence Corner Lot</div>				
Name of Applicant or Sponsor: Roger & Sandra Marland		Telephone: 518 563-0935	E-Mail:	
Address: 70 Park Ave				
City/PO: Plattsburgh	State: NY	Zip Code: 12901		
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 checked="" type="checkbox"/>	YES <input checked="" 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: Variance & Building Permit.			NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		4.1 acres		
b. Total acreage to be physically disturbed?		4.1 acres		
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		4.1 acres		
4. Check all land uses that occur on, adjoining and near the proposed action.				
<input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input 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				

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT



CLINTON COUNTY PLANNING DEPARTMENT

135 Margaret Street, Suite 124 · Plattsburgh, New York 12901-2980
Planning (518) 565-4711 • C.A.R.T. (518) 565-4713 • Facsimile (518) 565-4885

CLINTON COUNTY PLANNING BOARD DECISION ON 239M REFERRAL

TO: City of Plattsburgh

REFERRAL NUMBER: 83-16

SUBJECT: City of Plattsburgh, Applicant Roger & Sandra Marland, Area Variance - Fence, 70 Park Ave.

The following action was taken by the Clinton County Planning Board regarding this zoning referral, in compliance with New York State General Municipal Law, Article 12B, Section 239M. This decision is not binding upon the local municipality, but may impact the local board's voting requirements to act contrary to the County decision. A County Decision of Disapproval or Approval With Modifications may only be overturned by the local municipal board by a majority plus one vote of the full membership of the board (4 votes for 5 member board, 5 votes for 7 member board).

DATE OF COUNTY ACTION: 10/5/16

ACTION TAKEN ON REFERRAL:

- APPROVAL
 APPROVAL WITH MODIFICATION
 DISAPPROVAL
 LOCAL ISSUE

SEE ENCLOSED COMMENTS REGARDING THIS REFERRAL

VOTE RECORDED:

- 4 YES
1 NO
5 ABSENT
1 ABSTAINED

10/6/16
DATE

CLINTON COUNTY PLANNING DEPARTMENT

PLEASE RETURN A COPY OF THE FINAL DECISION BY YOUR BOARD TO THE CLINTON COUNTY PLANNING DEPARTMENT WITHIN 30 DAYS OF DECISION.



MORLAND - TO PARK AVE

Conceptual only



9/15/12

MARLAND - 70 PARK AVE



MARLAND - 70 PARK AVE

WORK IN PROGRESS



MARLAND - 70 PARK AVE

BACKYARD

WORK IN PROGRESS