



# GENESEE COUNTY PLANNING BOARD REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID

C-01-BAT-03-24

Review Date

3/14/2024

Municipality  
Board Name  
Applicant's Name  
Referral Type  
Variance(s)  
Description:

**BATAVIA, C.**

**ZONING BOARD OF APPEALS**

**Brian Wormley**

**Area Variance(s)**

**Area Variance to subdivide a parcel.**

**Side Yard Setback**

**Minimum required: 12 ft.**

**Existing: Approx. 9 ft.**

**Proposed: 3.5 ft.**

Location  
Zoning District

**6-8 S. Lyon St., Batavia**

**General Commercial (C-2) District**

## PLANNING BOARD RECOMMENDS:

**NO ACTION TAKEN**

## EXPLANATION:

**Due to a lack of quorum, the Genesee County Planning Board will not be able to make a formal recommendation. Non-binding Department Staff Recommendation: The proposed variance should pose no significant county-wide or inter-community impact.**

Director

March 14, 2024

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.

**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-01-BAT-03-24

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

RECEIVED  
Genesee County  
Dept. of Planning  
3/7/2024

Required According to:  
**GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N**  
(Please answer ALL questions as fully as possible)

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

Board(s) Zoning Board of Appeals  
Address One Batavia City Centre  
City, State, Zip Batavia, NY 14020  
Phone (585) 345-6345 Ext. \_\_\_\_\_

**2. APPLICANT INFORMATION**

Name Brian Wormley  
Address 5137 East Main St.  
City, State, Zip Batavia, NY 14020  
Phone (585) 409-6643 Ext. \_\_\_\_\_ Email bwormley@rahaitz.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 6-8 South Lyon St., Batavia NY
- B. Nearest intersecting road West Main St.
- C. Tax Map Parcel Number 84.039-1-6
- D. Total area of the property 1.41 acres Area of property to be disturbed .22 acres
- E. Present zoning district(s) C-2

**5. REFERRAL CASE INFORMATION:**

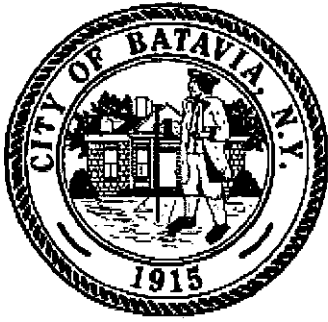
- A. Has this referral been previously reviewed by the Genesee County Planning Board?  
 NO  YES If yes, give date and action taken \_\_\_\_\_
- B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law  
BMC 190-29 A and Schedule 1
- C. Please describe the nature of this request Approval of a side yard setback variance

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

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

Name Douglas Randall Title Code Enf. Officer Phone (585) 345-6327 Ext. \_\_\_\_\_  
Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020 Email 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  
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 3/6/24

Re: 6-8 South Lyon St.  
Tax Parcel No. 84.039-1-6

Zoning Use District: C-2

The applicant, Brian Wormley, agent for BGW Properties LLC, has filed an application to subdivide this parcel by removing .224 acres +/- along the northeastern lot line. This subdivided portion will be joined to the neighboring parcel as part of an approved redevelopment project.

There is an 11,065 sq.' building located on the existing parcel. Prior to "Lot Division" approval, 5,449 sq.' of building area will need to be removed from the parcel being conveyed. The owner is proposing to leave 5,616 sq.' of that building and construct a new masonry exterior wall with interior and exterior alterations. A portion of the remaining building and new exterior wall will be located within the side yard clear space along the northeastern lot line.

**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) (16).**

**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 a NYS road or highway.

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

Required variances- Area

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

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Minimum side yard clear space	12'	3.5'	8.5'



PAID

MAR 6 2024  
CITY OF BATAVIA  
APPLICATION TO THE ZONING BOARD OF APPEALS  
CITY OF BATAVIA  
CLERK-TREASURER

Application No.: 2024-4  
Hearing Date/Time: \_\_\_\_\_

APPLICANT: BGW Properties LLC  
Name \_\_\_\_\_ E-Mail Address \_\_\_\_\_  
5137 east Main  
Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
Batavia NY 14020  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

STATUS:  Owner \_\_\_\_\_ Agent for Owner \_\_\_\_\_ Contractor \_\_\_\_\_

OWNER: SAME  
Name \_\_\_\_\_ E-Mail Address \_\_\_\_\_  
Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

LOCATION OF PROPERTY: 6-8 South Lyow st

DETAILED DESCRIPTION OF REQUEST: Remove steel building 40' by 90'  
ON North west side of Properties,  
Reduction From side yard set back  
From 12' required. to 3' 1/2'

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.

B Wang \_\_\_\_\_ 1/16/24 \_\_\_\_\_  
Applicant's Signature Date  
\_\_\_\_\_  
Owner's Signature Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.039-1-6 ZONING DISTRICT: C-2 FLOOD PLAIN: C and AE.

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: BMC 190-29 A. and Sched. 1 The min.  
Side yard clear space required is 12'. 3.5' is proposed.

6-8 Lyons

### Criteria to Support Area Variance

In making its determination, the zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, moral, aesthetics and welfare of the neighborhood or community. The Zoning Board of Appeals shall consider the following test, as per §81-b of the General City Law when making its determination:

Explain how the proposal conforms to EACH of the following requirements:

- 1. **Undesirable Change in neighborhood Character.** The granting of the variance will not produce an undesirable change in the neighborhood or a detriment to nearby properties.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ NO

- 2. **Alternative Cure Sought.** There are no other means feasible for the applicant to pursue that would result in the difficulty being avoided or remedied, other than the granting of the area variance.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ NO

- 3. **Substantiality.** The requested area variance is not substantial.

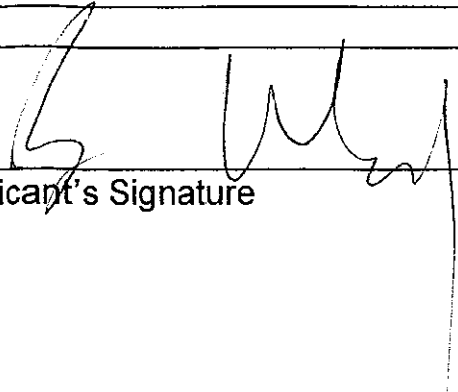
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ NO

- 4. **Adverse Effect or Impact.** The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ NO

- 5. **Not Self-Created.** The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ NO

  
\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date 11-5-23



Parcel ID No. \_\_\_\_\_

**City of Batavia**  
**Bureau of Inspections**  
One Batavia City Centre  
Batavia, NY 14020  
585-345-6345

**Lot Division/Minor Subdivision**  
**Application**

Address of parcel being divided 6-8 South Lyons st

Address divided parcel is be joined to 4 South Lyon st

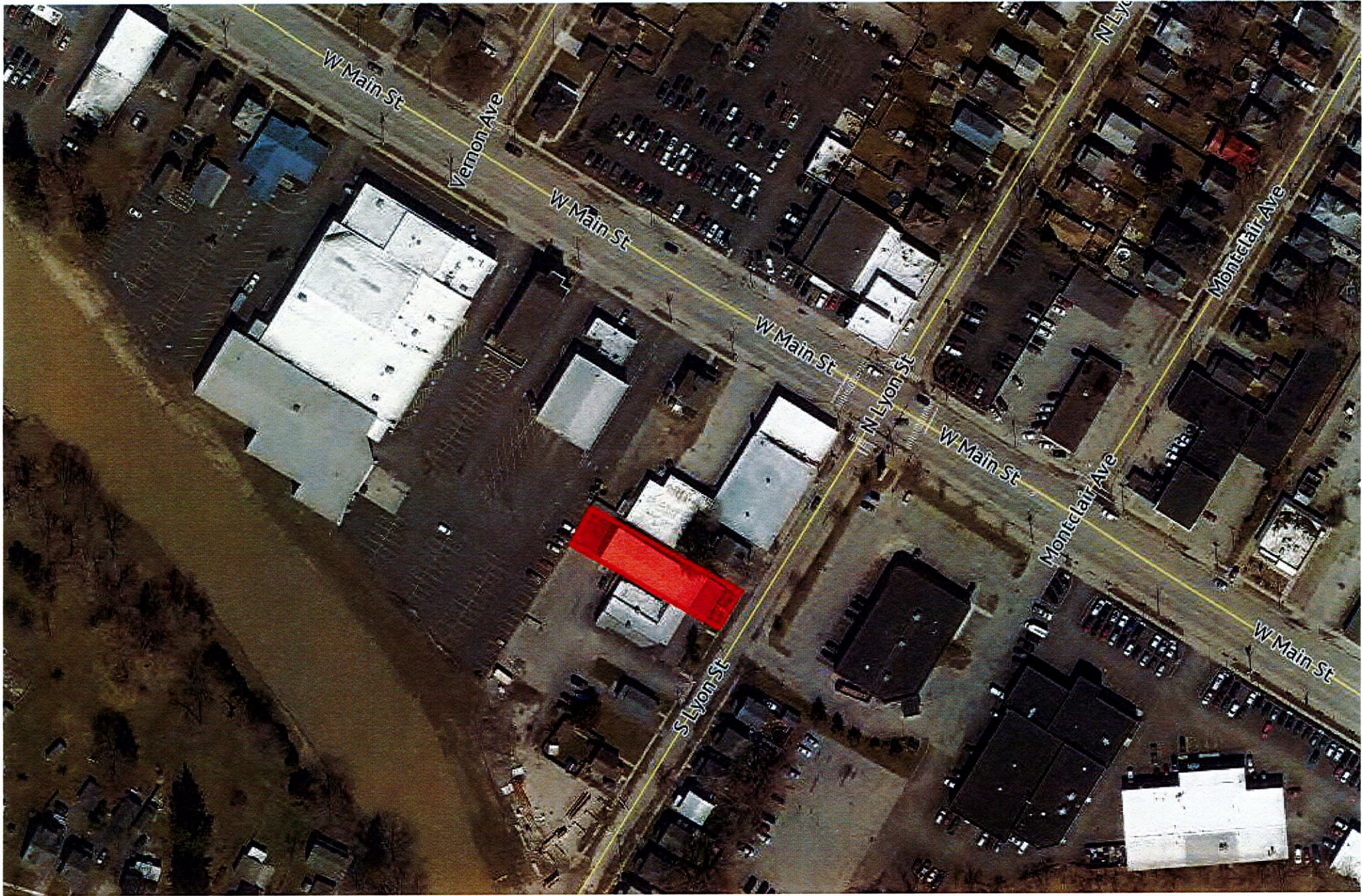
Owner: BGW Properties Burwley@RAHatz.com  
Name E-mail address  
5137 east Main Bat, NY 14020 409-6643  
Mailing Address City Zip Code Phone No.

Applicant (if not the owner): same  
Name E-mail address  
Mailing address City Zip Code Phone No.

Owner signature: [Signature] Date: 1-15-24

Fees: \_\_\_\_\_ \$100 (Residential district)

\$150 (Non-residential district)







Gregory W. Townsend  
*Licensed Land Surveyor*  
115 Washington Avenue  
Batavia, New York 14020  
Phone (585) 344-1331  
gwtownsendsurvey@gmail.com

Part of 6-8 South Lyon Street

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Batavia, County of Genesee and State of New York, being part of Original Village Lot No. 78, and more particularly described as follows:

Beginning at a point on the westerly street line of South Lyon Street at a distance of 199.37' southerly from the intersection of the westerly street line of South Lyon Street and the southerly street line of West Main Street, said point being the southeast corner of land conveyed to Gregory J. Branche at Liber 864 of Deeds, page 50;

Thence N 57°28'00" W, along the southerly line of Branche lands and along the southerly line of land conveyed to BRS Realty, LLC at Liber 815 of Deeds, page 36, a distance of 150.00' to a point;

Thence N 34°29'10" E, continuing along the southerly line of BRS Realty, LLC lands, a distance of 9.21' to a point;

Thence N 57°28'00" W, continuing along the southerly line of BRS Realty, LLC lands, a distance of 37.88' to a point on the easterly line of land conveyed to The Crickler Management Group at Liber 650 of Deeds, page 239;

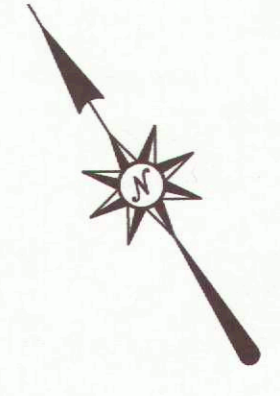
Thence S 33°35'00" W, along the easterly line of The Crickler Management Group lands, a distance of 59.21' to a point;

Thence S 57°28'00" E, a distance of 188.65' to a point on the westerly street line of South Lyon Street;

Thence N 32°32'00" E, along the westerly street line of South Lyon Street, a distance of 50.00' to the point of beginning, containing 0.224 +/- acre

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

WEST MAIN STREET -- ROUTE 5



LEGEND  
 ● EXISTING IRON STAKE  
 ○ SET IRON PIN

REFERENCES  
 WALKER HOMES CORPORATION SUBDIVISION FILED AT BOOK 3 OF MAPS, PAGE 108.  
 LIBER 451, PAGE 451.  
 LIBER 466, PAGE 914.  
 LIBER 495, PAGE 133.  
 \*MAPS OF THE BATAVIA FLOOD PROJECT, TONAWANDA CREEK, FILED AT LIBER 304 OF DEEDS, PAGE 258. (PERMANENT EASEMENT)  
 SURVEY MAP NO. 02-01 BY DAVID S. LAMENDOLA, L.S., DATED JANUARY 2, 2002  
 ABSTRACT OF TITLE NO. 81240125 BY STEWART TITLE INSURANCE COMPANY  
 \*\*PERMANENT EASEMENTS TO THE COUNTY OF GENESEE FILED AT INSTRUMENT #DE2022-254 AND SHOWN AS MAP NO. 2, PARCELS NO. 2 AND 3  
 SURVEY MAP NO. 23-91 BY GREGORY W. TOWNSEND, L.S., DATED MARCH 6, 2023

NOTES:  
 - The parcel surveyed is part of land conveyed to BGW Properties, LLC at Liber 821 of Deeds, page 314  
 - The parcel surveyed is part of Tax Map No. 84.39-1-6

APPROVED BY CITY OF BATAVIA PLANNING BOARD

CHAIRMAN \_\_\_\_\_  
 DATE \_\_\_\_\_

APPROVED BY CITY OF BATAVIA ENGINEERS

ENGINEER \_\_\_\_\_  
 DATE \_\_\_\_\_

FILED IN GENESEE COUNTY CLERK'S OFFICE AS:

MAP No. \_\_\_\_\_ SLIDE No. \_\_\_\_\_  
 CABINET No. \_\_\_\_\_  
 COUNTY CLERK \_\_\_\_\_  
 DATE \_\_\_\_\_

REAL PROPERTY TAX SERVICES

DATE \_\_\_\_\_  
 APPROVED BY \_\_\_\_\_

This particular referenced action is not subject to Genesee County Health Department review under New York State Public Health Law Article 11 Title II

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

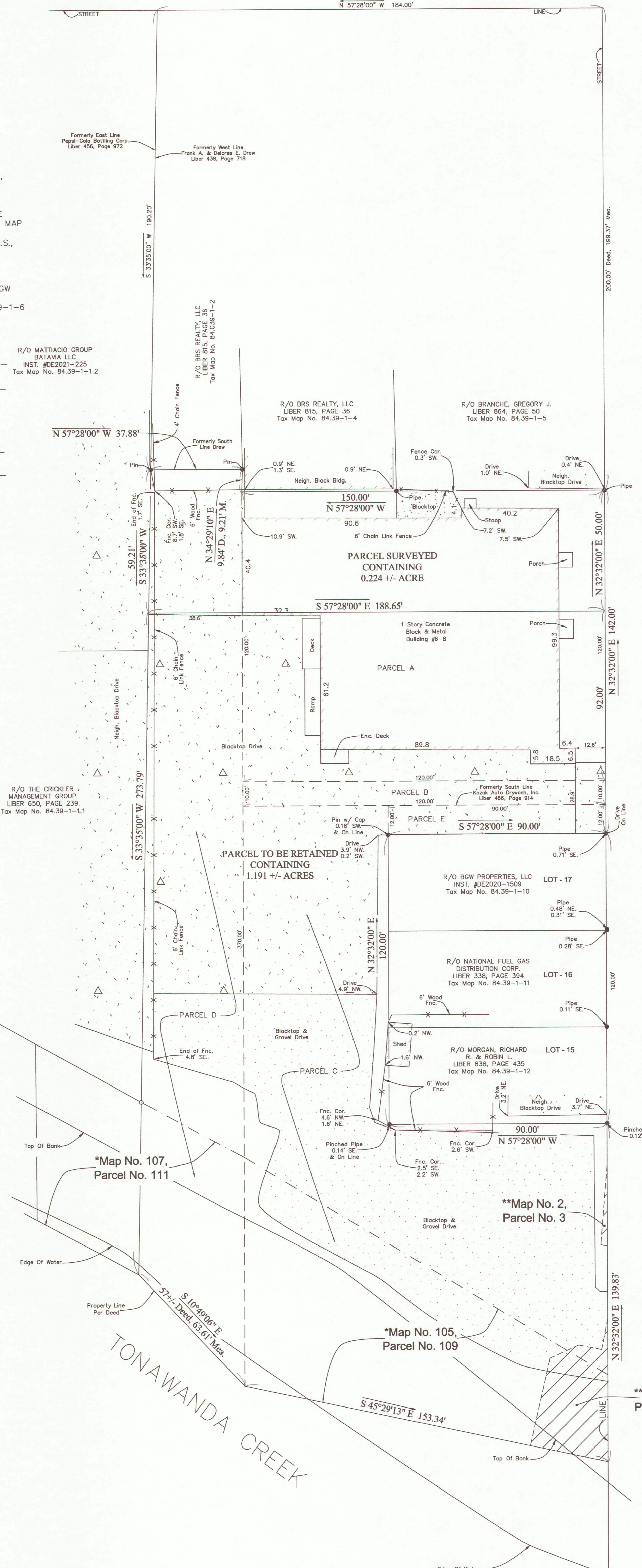
\*UNAUTHORIZED ALTERATION OR ADDITIONS TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 2206, SUB-DIVISION 2, OF THE NEW YORK STATE EDUCATION LAW.  
 \*ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S LICENSED SEAL SHALL BE CONSIDERED TO BE VALID COPIES.  
 \*CERTIFICATIONS INDICATED HEREON SIGNIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE ETHICS CODE OF PRACTICE FOR LAND SURVEYORS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS. SAID CERTIFICATION SHALL RELY ONLY TO THE PERSON FOR WHOM THE SURVEY IS PREPARED, AND ON NEITHER BEAR TO THE TITLE COMPANY, GOVERNMENTAL AGENCY AND LICENSED INSTITUTION LISTED HEREON, AND TO THE ADDRESS OF THE LICENSED INSTITUTION CERTIFICATION IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUCCESSOR OWNERS.

I HEREBY CERTIFY THAT THIS LAND SEPARATION WAS PREPARED BY ME, AND WAS MADE FROM AN ACTUAL SURVEY COMPLETED BY ME ON MARCH 6, 2023 AND REFERENCES LISTED HEREON

BOUNDARY SURVEY SHOWING THE SEPARATION OF LANDS OF BGW PROPERTIES, LLC, BEING PART OF ORIGINAL VILLAGE LOT NO. 78. SITUATE IN THE CITY OF BATAVIA, COUNTY OF GENESEE AND STATE OF NEW YORK

MARCH 4, 2024 SCALE 1" = 20'  
 JOB NO. 23-91A

DATE \_\_\_\_\_ N.Y.S.R.L.S. No. 50249



SOUTH LYON STREET (49.5' R.O.W.)

TONAWANDA CREEK



# C-01-BAT-03-24

