GENESEE COUNTY PLANNING BOARD REFERRALS
NOTICE OF FINAL ACTION

GCDP Referral ID	**V-02-OAK-12-17**
Review Date	**12/14/2017**
Municipality	**OAKFIELD, V.**
Board Name	**ZONING BOARD OF APPEALS**
Applicant's Name	**David Boyle**
Referral Type	
Variance(s)	**Area Variance(s)**
Description:	**Area Variance to install patio for a single-family home.** **Rear Yard Setback** **Minimum required: 35 ft.** **Existing Barn: 1.5 ft.** **Proposed patio: 4 ft.**
Location	**10 Forest Ave., Oakfield**
Zoning District	**Residential (R-2) District**

PLANNING BOARD DECISION

APPROVAL

EXPLANATION:

The proposed variance should pose no significant county-wide or inter-community impact. The patio should have no impact given that the barn is closer to the property line.

Felix A. [illegible]

Director

December 14, 2017

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, N.Y. 14020-9404

DEPARTMENT USE ONLY:
G.C.D.P. Referral # V-02-OAK-12-17
Date Received 11/20/17

RECEIVED
NOV 20 2017
Genesee County Department of Planning

GENESEE COUNTY PLANNING BOARD REFERRAL

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

(Please answer ALL questions as fully as possible)

1. REFERRING BOARD(S) INFORMATION

Board(s) Zoning Board of Appeals
Address 37 Main St.
Oakfield NY 14125

2. APPLICANT INFORMATION

Name David Boyle
Address 10 Forest Ave. Oakfield 14125
Phone 716-474-2661 Email

MUNICIPALITY: ☐ City ☐ Town ☒ Village of Oakfield

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

- ☒ Area Variance
- ☐ Use Variance
- ☐ Special Use Permit
- ☐ Site Plan Review
- ☐ Zoning Map Change
- ☐ Zoning Text Amendments
- ☐ Comprehensive Plan/Update
- ☐ Other:

Subdivision Proposal
- ☐ Preliminary
- ☐ Final

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

A. Address 10 Forest Ave, Oakfield NY 14125
B. Nearest intersecting road Main St.
C. Tax Map Parcel Number 1.-2-82
D. Total area of the property 0.26 acres Area of property to be disturbed
E. Present zoning district(s) R-2

5. REFERRAL CASE INFORMATION:

A. Has this referral been previously reviewed by the Genesee County Planning Board?

☒ NO ☐ YES If yes, give date and action taken

B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law

C. Please describe the nature of this request Site Plan Review/Area Variance for a Patio

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

- ☒ Local application
- ☒ Site plan
- ☐ Subdivision plot plans
- ☐ SEQR forms
- ☐ Zoning text/map amendments
- ☐ Location map or tax maps
- ☐ Elevation drawings
- ☐ Agricultural data statement
- ☐ New or updated comprehensive plan
- ☐ Other:

***** If possible, please provide a reduced version or digital copy of any supporting documentation larger that 11 x 17 in. Digital copies may be sent via email to planning@co.genesee.ny.us *****

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

Name Andrew Maguire Title Clerk Treasurer Phone 585-948-5862
Address 37 Main St, Oakfield, NY 14125 Email andrew@villageofoakfield.org

APPLICATION NUMBER: 15-17

APPLICATION DATE: 10/17/17

APPLICATION FOR ZONING ☐ AND/OR BUILDING ☒ PERMIT

VILLAGE OF OAKFIELD, New York 14125

OWNER

Name: David Boyle
Address: 10 Forest Ave.
Oakfield NY 14125
Phone #: 716 474 2661

APPLICANT (IF OTHER THAN OWNER)

Name:
Address:
Phone #:

PROJECT SITE LOCATION: 10 Forest Ave TAX MAP # (TMP) 1-2-82
Check with the local Assessor

INSTRUCTIONS: *Using a ball point pen please fill out this application as completely as possible. Submit additional Attachment(s) [listed on the back of this sheet] and the completed application to the Village Clerk. This application is NON-TRANSFERRABLE and is NOT a permit to commence work.*

1 Application for Use: RESIDENTIAL ☒ ; COMMERCIAL ☐ ; INDUSTRIAL ☐ ; RECREATIONAL ☐ ; SITE PLAN ☐
2 Permit for: NEW CONSTRUCTION ☒ ; ADDITION ☐ ; ALTERATION ☐ ; REPAIR ☐ ; CHANGE IN USE ☐
3 Is this parcel; A corner lot? YES ☐ ; NO ☒ ; In a Sewer District? YES ☒ ; NO ☐ ; In a Water District? YES ☒ ; NO ☐
4 List the DIMENSIONS of the parcel: appr. 90 x 120 and/or TOTAL PARCEL AREA (Acres) ________.
5 What are the parcel setbacks [Ft.] from the project. FRONT ______; REAR 40 & SIDE yards (a) 26' (b) >30'
6 Total % of coverage of ALL buildings on the parcel (including the proposed project): ________ TOTAL %
7 Does this project require County Health Department approval? NO ☒ ; YES ☐, If yes, submit attachment F.
8 Is this parcel property subdivided? NO ☒ ; YES ☐, If yes, provide documentation.
9 Do you give the Village VALID CONSENT to do the required inspections? YES ☒ NO ☐, If no, what procedures?
10 Name of Architect/Engineer NA Telephone #
Address
11 Name of Contractor(s) NA Telephone #
Address
12 Estimates cost of the project $1200.00 [Substantiation may be required]
13 Total Dwelling units: 1.0

PAID
NOV 15 2017
CK# 2553
VILLAGE OF OAKFIELD

14

PROPOSED PROJECT	HEIGHT	LENGTH	WIDTH	SQ. FT.
HOUSE				
GARAGE				
ACCESSORY BUILDING	~~0.0~~			
SWIMMING POOL				
DECK & Patio	approx.	28.0'	5.5'	154.00
COMMERCIAL/INDUSTRIAL				
OTHER				
			TOTAL SQ. FT.	154.00

15 Describe the proposed project and use:

[Use additional sheet(s) for more information]

SIGNATURE BLOCK

I hereby certify that I have read the instructions and examined this application and supporting attachments and know the same to be true and correct. All provisions of laws and ordinances covering this type of work or use will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel provisions of any other state or local law or ordinance regulating construction or performance of construction.

David T. Boyle
Signature - OWNER
10/17/2017
Date

Signature - APPLICANT (If different than owner)
Date

OFFICE USE ONLY

Action taken by Z.E.O./C.E.O.: Approved ☐ ; Denied ☒ ; Reason for denial; Schedule A ☐ needs area variance

Article ______ Section ______ Subsection ______ Paragraph ______ *Briefly Describe:* ______ Zoning District ______

Z.E.O. Signature: [signature]
C.E.O. Signature:
Date of Action:

	YES	NO
Wetlands		
Flood Plain		

FEES:
Cash
Check #
Receipt #

Special Use
Variance
Public Hearing
TOTAL

Zoning $150.00
Building
TOTAL $150.00

Affidavit of Exemption to Show Specific Proof of Workers' Compensation Insurance Coverage for a 1, 2, 3 or 4 Family, Owner-occupied Residence

This form cannot be used to waive the workers' compensation rights or obligations of any party.

Under penalty of perjury, I certify that I am the owner of the 1, 2, 3 or 4 family, **owner-occupied** residence (including condominiums) listed on the building permit that I am applying for, and I am not required to show specific proof of workers' compensation insurance coverage for such residence because (please check the appropriate box):

☒ I am performing all the work for which the building permit was issued.

☐ I am not hiring, paying or compensating in any way, the individual(s) that is(are) performing all the work for which the building permit was issued or helping me perform such work.

☐ I have a homeowner's insurance policy that is currently in effect and covers the property listed on the attached building permit AND am hiring or paying individuals a total of less than 40 hours per week (aggregate hours for all paid individuals on the jobsite) for which the building permit was issued.

I also agree to either:

- acquire appropriate workers' compensation coverage and provide appropriate proof of that coverage on forms approved by the Chair of the NYS Workers' Compensation Board to the government entity issuing the building permit if I need to hire or pay individuals a total of 40 hours or more per week (aggregate hours for all paid individuals on the jobsite) for work indicated on the building permit; or if appropriate, file a WC/DB-100 exemption form; OR
- have the general contractor, performing the work on the 1, 2, 3 or 4 family, **owner-occupied** residence (including condominiums) listed on the building permit that I am applying for, provide appropriate proof of workers' compensation coverage or proof of exemption from that coverage on forms approved by the Chair of the NYS Workers' Compensation Board to the government entity issuing the building permit if the project takes a total of 40 hours or more per week (aggregate hours for all paid individuals on the jobsite) for work indicated on the building permit.

David T. Boyle
(Signature of Homeowner)

11/17/2017
(Date Signed)

David T. Boyle
(Homeowner's Name Printed)

Home Telephone Number 585 948 5703

Property Address that requires the building permit:

10 Forest Ave.

Sworn to before me this _____ day of

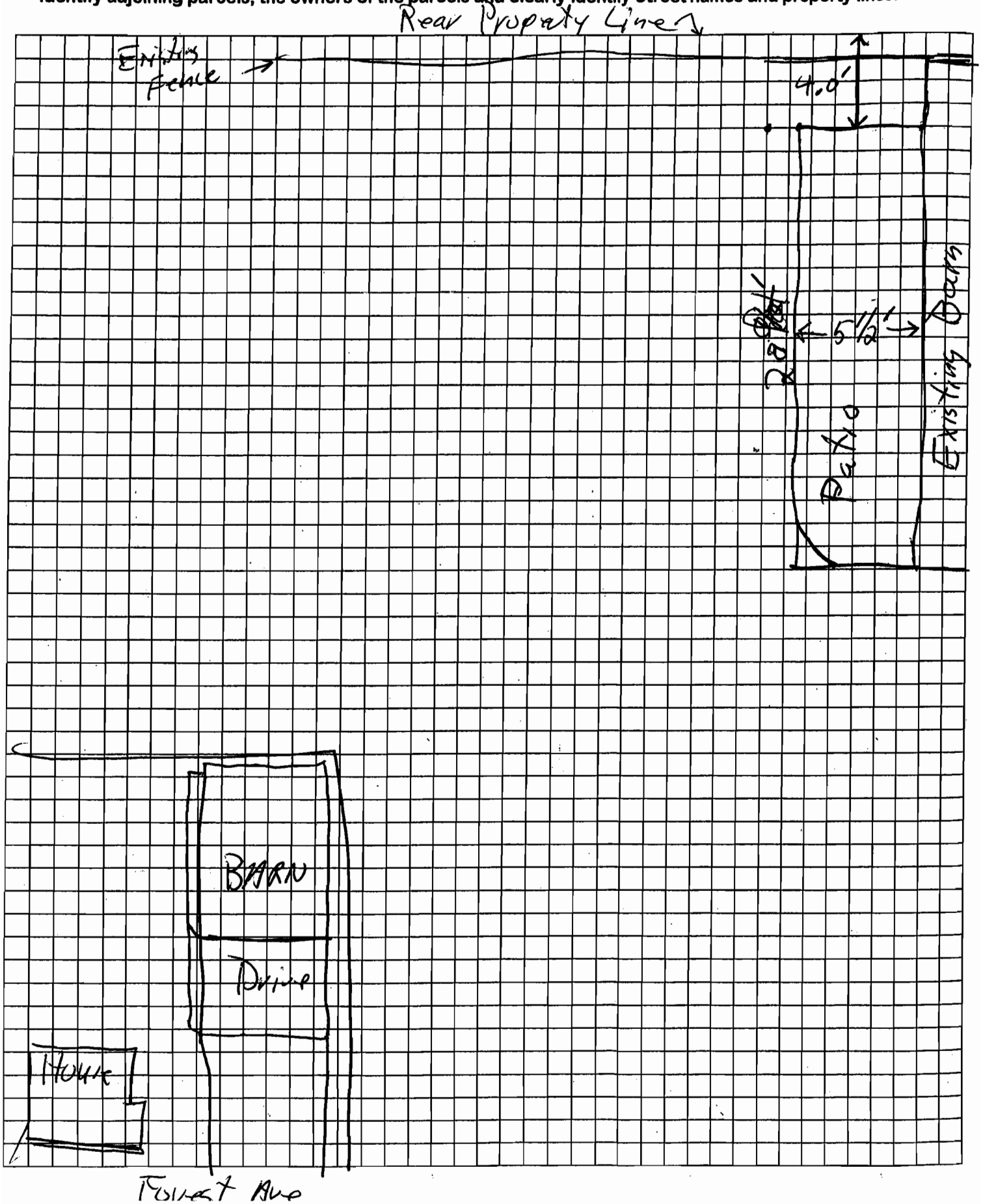
_____, _____.

_____
(County Clerk or Notary Public)

Once notarized, this Form BP-1 serves as an exemption for both workers' compensation and disability benefits insurance coverage.

PLOT DIAGRAM INSTRUCTIONS

* The plot diagram must show all existing buildings and structures as well as proposed on the property.
* Show dimensions in feet from the Proposed building or structure to All lot lines. (Dimensions not needed for existing)
* Identify adjoining parcels, the owners of the parcels and clearly identify Street names and property lines.



37 MAIN STREET
OAKFIELD, NY 14125
Telephone: (585) 948-5862
Fax: (585 948-9588
TDD: 1-800-662-1220

http://www.oakfield.govoffice.com
email: ivillage@rochester.rr.com

JASON ARMBREWSTER
Mayor

DAVID BOYLE
Deputy Mayor

Trustees
SCOTT L. BORING
JOHN IGOE
JOHN MULLEN

ANDREW MAGUIRE
Clerk/Treasurer

October 23, 2017

Mr. Dave Boyle
10 Forrest Avenue
Oakfield, New York 14125

Regarding: Zoning Application for deck/patio

Dear Dave:

After much consultation with the Village Code Officer and the Genesee County Planning Department, it has been determined that your Zoning Application must be denied. Your ~~162.25~~ 162 28X5½ square foot structure consists of a load bearing foundation. This requires a building permit and makes it more than just a patio. These structures require that they be erected 35 feet from the rear property line for those homes located in an R2 Residential District. Your Zoning Application indicates that it is only 4 feet from your rear property line. As a result of the way your structure has been built and since your property is located less than 500 feet from Main Street (yours is 232 feet from Main Street), an Area Variance is required.

To rectify this matter, the following is required;

1. That you complete a **ZBA/Area Variance** application at the Village Office.
2. This matter must be referred to the Genesee County Planning Board for review. The cost is $150.00 for the application and will be completed by the Assistant Clerk Treasurer upon payment.
3. After this matter is reviewed by the Genesee County Planning Board, it must then be reviewed by the Oakfield Zoning Board of Appeals for approval of your request for an Area Variance.
4. Finally, assuming this Area Variance is approved, you must obtain a **Building Permit**. The Village Code Officer will inspect your structure to insure that it meets all building code requirements.

I hope you find this information to be helpful. If you have further questions, please do not hesitate to contact me.

Sincerely,

Rick Pastecki
Oakfield Zoning Enforcement Officer

The Village of Oakfield is an equal opportunity provider and employer

10/16/2017

10 Forest Ave.
Oakfield NY 14125

Mr. Bruce Gerould
Village Code Officer-Oakfield, NY

Dear Bruce:

I stopped in to the Village yesterday and picked up a permit application. I have filed it as requested ~~and paid the application fee~~. I must say "Mea Culpa!" as this application is after the fact and I should have been more "with it" in recognizing that I needed a permit. My only excuse is that it started out from cleaning out bones and metal from the past hundred or so years and evolved into the patio.

While at the office I consulted the Sept. 14, 2015 edition of the Zoning Laws. (My copy is a rendition from much earlier.) Anyways, after reading it, my interpretation is different from yours and I ask that you consider my contribution to the discussion and approve the application. The Zoning Document presents some difficulty in interpreting this area. While "porch" is defined "patio" is not. This makes navigation in the Zoning Document hard. What is on-site is definitely not a "porch"—i.e., "a covered shelter projecting in front of the entrance of a building" but more like a "patio"—"a paved outdoor area adjoining a house." On page 38 of the Zoning Laws booklet there is some guidance: This is under Article III, Section 301, Paragraph B, Subsection 2. This section says: "Accessory Structures (other than buildings) are permitted as follows: ... shall not be closer than three (3) feet to the side and/or rear lot line...". My patio confirms to this.

The patio is well constructed and significantly beyond just pouring concrete. For example, the concrete surface slab is 4" thick and reinforced with wire mesh, the concrete block forming the patio's face is reinforced with steel rod and concrete fill-in and the block sits on a concrete footer which is below the top soil level and sits on top of the underlying clay base. The patio is not tied in to the barn as the barn is much more valuable and I simply wanted a patio that would stand the test of time without interfering with the structure of the barn.

Once again, I apologize for not being more aware of what I should have done. Hopefully, with this information you can approve my application even though it is after the fact as has sometimes been done in the Village.

Sincerely,

David T. Boyle

VILLAGE OF OAKFIELD

37 Main Street, Oakfield, N. Y. 14125
Telephone: (585)-948-5862 Fax: (585)-948-9588
Website: ivillage@rochester.rr.com

ZONING BOARD OF APPEALS APPLICATION

I (Name) David Boyle of (address) 10 Forest Ave. hereby appeal to the Zoning Board of Appeals the decision of the Zoning Officer on the application for patio along barn dated _____

Type of Appeal: Area Variance: X Use Variance: ____ Interpretation: X Application Fee: $150____

Date/ Plans Submitted: _____ Environmental Assessment Form Submitted: _____

- PROPERTY ADDRESS: 10 Forest Ave., Oakfield NY
  Tax Map Parcel #(s): 1-2-82 Parcel size approx. 90 width 120 depth
  Property Zoning District: R2
- Present Use of Property: R2
  Proposed Use of Property: R2
  Provision of Code Appealed (give section and subsection numbers):
  _____
- Has a previous applications for this property been made? ___ Planning Board ___ Zoning Board of Appeals. If yes, provide
  results: _____
- Is property located within 500 feet of a municipal boundary or on a state or county road? _____

Description of Proposal / Detail of Request: (Use extra sheet if necessary)

Please review the legal criteria on the next page

Interpretation of Zoning Ordinance is requested because structure is a patio. ZEO officer views it as a weight bearing structure. Owner does not agree that it is "more than just a patio." Structure built to not interfere with barn. Also slab will use to just level the

Area Variance is requested because steep incline from barn to yard. Owner also believes that there is an exception in the NYS Building Code which say this structure is not considered a weight bearing structure. (See attached letter sent to Village Code Officer on 10/16/2017).

A Use Variance is requested **because** _____

The applicant(s) hereby affirms they are title owner(s) and the above information is accurate and complete, to the best of their knowledge.

Applicant Signature David T. Boyle
Applicant Name Printed David T. Boyle
Mailing Address 10 Forest Ave. Phone # 585 9485103

VILLAGE OF OAKFIELD

GUIDELINES AND CRITERIA TO SUPPORT ZONING APPEAL

AREA VARIANCE

In order to be entitled to an Area Variance, an Applicant to the Village of Oakfield must show by documentation in the record that the benefit to the Applicant from the proposed variance will not outweigh the detriment to the health, safety, and welfare of the community and the neighborhood, if the variance is granted. (See Village Law § 7-712-b(3))

In making this determination the Zoning Board of Appeals shall consider the following factors, and the Applicant must respond to these questions with facts and circumstances and not merely repeat all or part of the questions.

1. Whether or not 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.

   No detriment — but an improvement. Takes an area where refuse was dumped over 100 years and places a nice patio in its place. Visually attractive and gets rid of an area where only weeds would grow.

2. Whether or not 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 or not the requested Area Variance is substantial.

4. Whether or not the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

VILLAGE OF OAKFIELD

AREA VARIANCE-continued

5. Whether or not 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.

_____

_____

_____

_____

_____

David T. Boyle — Applicant Signature

4/17/17 — Date

****

The _____Variance was Denied ( ) Granted ( ) with the following conditions as attached. (if applicable) The Interpretation was Supported ( ) Overturned ( )

Signed: _____ *Date*_____

Chairperson Zoning Board of Appeals

Additional Comments and Requirements:

10 Forest Avenue
Oakfield NY 14125
November 6, 2017

Chairperson
Genesee County Planning Board
Batavia, NY 14020

Dear Chairperson:

I have been requested by the Oakfield Village Zoning Enforcement Officer to file this request with you to seek your approval to legitimize my patio. As you can see from the attachments, the patio is already installed and I acknowledged that I should have been more conscious of the need to obtain a building permit.

After receiving the October 23, 2017 letter from Mr. Pastecki, I sought additional advisement from another Code Enforcement Officer in Genesee County. He indicated the patio would be considered a "structure" and needed a building permit. However, he also told me that it should not be considered a "weight bearing structure" because of a provision in the New York State Building code. This is because the block wall sits on the clay base under the top soil and does not extend 46 inches deep.

Based on this information, I believe the structure should be viewed as a patio and not as a "weight bearing structure." I would like your approval to consider it as a patio needing a 3-foot clearance from the rear property line. If, however, you believe this reasoning to be in error, I ask for your approval of the structure and I will follow up with "a ZBA/Area Variance application at the Village Office."

I thank you for your consideration and time. I apologize for not being more aware that I should have started the process with a building permit application.

Sincerely,

David T. Boyle

David T. Boyle