

**Village of Brockport
Zoning Board of Appeals
Meeting Agenda
Thursday, July 6, 2023, 6pm**

CALL TO ORDER / PLEDGE / ROLL CALL:

APPROVAL OF MINUTES: April 6, 2023

CORRESPONDENCE:

NEW BUSINESS APPLICATIONS: (PUBLIC HEARINGS)

1. Applicant: Melissa Norment
 Address: 242 Holley St, Brockport, NY
 Tax Map #: 068.15-1-7
 Property Code: 210 – Single Family Residential
 Zoning: Residential Use District
 Lot Size: 60.5f x 265d x 0.4ac
 Purpose: Applicant seeks an area variance of 6 foot 9 inches to build a structure 3
 foot 3 inches off property line.
 Zoning Code: Chapter 58-9 F(3) O Residential Use District

(F) Yards. Yards of the following minimum depths and widths shall be provided for all buildings, structures and uses:
(3) *There shall be two side yards, both of which shall be not less than 10 feet in width. [Amended 7-7-1969]*

ADJOURNMENT:

UPCOMING REGULAR MEETINGS/DEADLINES (only upon application):

Meeting: August 3, 2023 - 6pm Deadline: July 18, 2023 - Noon
Meeting: September 7, 2023 - 6pm Deadline: August 22, 2023 - Noon

--Unapproved--

**Meeting of the Village of Brockport Zoning Board of Appeals
Conference Room, Municipal Building, 49 State St, Brockport, NY
Thursday, April 6, 2023, 6:00 p.m.**

PRESENT: Chair Robert Duff, Vice Chair Robert LeSuer, Member Karen LoBracco
Member Edward Starowicz, Clerk Theresa Weed

EXCUSED: Village Board Liaison Annie Crane

ALSO PRESENT: Jeremiah Thomas, Andrew Vieira, Andrew Follman, Jared Hirt, Aaron Bower, Nate Crofoot, Ryan Diehl, Dan Schum, Village Board Liaison Kathy Kristansen, Code Enforcement Officer Chad Fabry, Assistant Code Enforcement Officer Carol McNeese, Aaron Bower, Susan Smith, Patty Hayles, Bruce Hovey, Michael Cilento, Chuck Switzer, Ron Pierce, Dave Moore, Craig McAllister, Cheryl Weist, David Mack, Gloria Mack, Geri Rightmyer, Ann Lee Walker, Rich Wiest, Joanne Bocach, Benton Hart, Libby Caruso, Pauline Johnson, Brendan Johnson, Jon Kleinhans, Mary Wanzer, Ray Duncan, Kendra Nenni, Jill Bower, Erick Hart, Marcy Johnson, Kevin Johnson, Brandy Schill, MaryAnn Knapp, Norm Knapp, Andrew Vieira, Andrew Follman, Jen Ames, Wayne Hartman, Heidi Squillante, Steve Pakis, David Young, James Cook, Melba LoMonaco, Gary Sullivan, Gredel Karasch, Ryan Diehl, Karen Diehl, Cindy Diehl, Fred Carbone, Terry Carbone, Steve Wilcox, Michelle Wilcox, Amy Guptill, Paul Swirza, Stephen Phlanz, Mary D'Agostino, Joe Rocchio, Robin Waller, Ed Webster

CALL TO ORDER: Chair Duff called the meeting to order and led the Pledge of Allegiance.

REVIEW OF MEETING MINUTES: Chair Duff called for a motion to approve minutes.

➔ Member LoBracco moved, Member Starowicz seconded, unanimously carried to approve the minutes of the meeting held January 6, 2022 as written.

CORRESPONDENCE: None

PREFACE: Chair Duff stated that all 3 applications tonight involve an Area Variance. In making a determination whether to grant or deny a variance request, there are 5 criteria that the board shall take into consideration. Chair Duff went on to explain each of the 5 criteria. Chair Duff read excerpts from the SEQR (State Environmental Quality Review) and noted that it is up to the Zoning Board to decide whether granting a variance relieving the applicants of a restriction imposed by the Village Code is allowable.

NEW BUSINESS:

1. Applicant: Jeremiah Thomas
Owner: The River at Rochester Church
Address: 96 Adams St, Brockport, NY
Tax Map #: 068.67-1-24./A
Property Code: 210 – Single Family Residential
Zoning: Residential Use District

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Lot Size: 171f x 131d x 0.5ac
Purpose: Applicant seeks an area variance of 1 foot to install a front-yard 4 feet high decorative/safety fence.
Zoning Code: Chapter 6-3 (D-1) Provisions applicable to residential districts:

(D). Open decorative fences, hedges or screen plantings may be permitted within any required front yard subject to the issuance of a conditional use permit by the Planning Board. In addition to any other requirements of a conditional use permit, no such permit shall be issued where: (1) The fence exceeds a height of three feet.

Applicant Presentation:

Chair Duff reviewed Village Code and asked Andrew Follman and Andrew Vieira who are presenting on behalf of the Applicant to present the proposed application:

The Applicant is seeking a 1-foot height variance to install a 4-foot black aluminum ornamental fence to enhance the safety of approximately 50 four-to five-year-old children attending the church on any given Friday or Sunday. The extra foot of fence will greatly enhance the safety of the kids.

Public Comment:

→ Member Starowicz moved, Member LeSuer seconded, unanimously carried that the regular meeting be closed, and the public hearing be opened at 6:18 pm.

Three area residents, Benton Hart, Sharon O'keefe, and Mary D'Agostino approached the board to express their support or concerns.

No further public comments.

→ At 6:22 pm, Member Starowicz moved, Member LoBracco seconded, unanimously carried that the public hearing be closed, and the regular meeting be reopened.

Continued Board discussion on application:

A discussion took place concerning fence setback, use of yard, and clarification as to the area where the fence will be installed.

Member Starowicz reviewed the 5 New York State criteria regarding the area variance application.

Motion:

Member LoBracco made a motion to approve the application with the understanding that there is an approximate 3-foot distance between the sidewalk and the fence along Adams Street and to limit the fence to the areas as described by the applicants. Member LeSuer seconded to approve the area variance for 96 Adams Street.

Chair Duff asked for a Roll call vote:

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Roll call vote:

Chair Duff	Aye
Member LoBracco	Aye
Member LeSuer	Aye
Member Starowicz	Aye

The motion carries unanimously with 4 votes in favor, 0 against.

2. Applicant: Jared Hirt
Owner: Brockport-Market Properties, LLC
Address: 51 Market St, Brockport, NY
Tax Map #: 069.45-2-13
Property Code: 421 – Restaurant
Zoning: Business Use District
Lot Size: 170f x 70.66d x 0.2ac
Purpose: Applicant seeks an area variance allowing a front setback of 0 feet.
Zoning Code: Chapter 58-11 (E) B Business Use District:

(E) Yards required. Buildings shall be set back at least 47 feet from the center of Main Street and State Street or 40 feet from the center line of any other street within a B District, at least 11 feet from the rear line, and need have no side yard if the rear portion of the building is accessible by alley, street or driveway for motor vehicle delivery and pickup. If such access is not available, a side yard or driveway of at least 11 feet in width should be furnished.

Applicant Presentation:

Chair Duff reviewed Village Code and asked the Applicant to present the proposed application:

The Applicant indicated, via Zoom, he is seeking an area variance to add 3 overhead entry canopies measuring 4-feet x 9-feet wide to the front exterior of the existing building in conformity with the proposed plans.

Public Comment:

- Member LeSuer moved, Member Starowicz seconded, unanimously carried that the regular meeting be closed, and the public hearing be opened at 6:34 pm.

No public comments.

- At 6:35 pm, Member LeSuer moved, Member LoBracco seconded, unanimously carried that the public hearing be closed, and the regular meeting be reopened.

Continued Board discussion on application:

A discussion took place concerning canopy material, canopy measurements, and

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distance between the canopies and the sidewalk.

Motion:

Member Starowicz made a motion to approve the variance request to include 3 overhead entry canopies not to exceed 4 feet by 9 feet in dimensions nor extend into the right of way of the sidewalk. Member Starowicz reviewed the 5 findings of fact for approval of the application for 51 Market Street. Member LoBracco seconded to approve the motion as submitted.

Chair Duff asked for a Roll call vote:

Roll call vote:

Chair Duff	Aye
Member LoBracco	Aye
Member LeSuer	Aye
Member Starowicz	Aye

The motion carries unanimously with 4 votes in favor, 0 against.

3. Applicant: Aaron Bower – Earthtech Developers, LLC
Owner: South Avenue Properties, LLC
Address: 180 South Ave, Brockport, NY
Tax Map #: 069.17-2-9.1
Property Code: 447 – Truck Terminal
Zoning: Limited Industrial Use District
Lot Size: 49.73 Acres
Purpose: Applicant seeks an area variance to allow primary processing of unrefined materials outside.
Zoning Code: Chapter 58-12 (E-2) and (E-3) Limited Industrial Use District. Other requirements:
- (2) *All uses, including equipment for the handling of processes, shall be conducted in a completely enclosed building. The actual loading and unloading of materials shall not be restricted to indoor locations.*
- (3) *No materials, supplies or equipment shall be permitted to be permanently stored outside any building. Company vehicles may be parked out of doors overnight, provided that they are stored on the property to which they are accessory and adequately screened from public view. A signed permit is required from the Planning Board for the temporary placement of construction trailers.*

Applicant Presentation:

Chair Duff reviewed Village Code and asked the Applicant to present the proposed application:

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Daniel Schum, Esq. spoke on behalf of the Applicant, Aaron Bower from Earthtech Developers, LLC. Along with him in this joint venture is Ryan Diehl who owns a commercial site work company and Nate Crofoot who owns Residential Excavating LLC. This application is to request an area variance to allow the processing of previously refined materials out of doors to produce mulch and topsoil at the property at 180 South Avenue. Daniel Schum reviewed the two area variances that the applicant is seeking and addressing the 5 criteria of the Area Variance Test that the board will take into consideration in determining whether to approve or deny this application.

Chair Duff asked to have the applicants step forward to answer any questions or concerns. Nate Crofoot stepped up as the designated voice of the group to give a history, what's happened in the last 6 months and where they would like to go.

Public Comment:

- ➔ Member LeSuer moved, Member Duff seconded, unanimously carried that the regular meeting be closed, and the public hearing be opened at 7:40 pm.

Chair Duff stated that each speaker will be limited to 3 minutes to state their concerns.

Twenty five speakers (Dave Moore, Craig McAllister, Cheryl Wiest, Ann Lee Walker, Rich Weist, Joanne Bocach, Brendan Johnson, Mary Wanzer, Ray Duncan, Jill Bower, Erick Hart, Kevin M. Johnson, Norm Knapp, Wayne Hartman, Heidi Squillante, Steve Packis, James Cook, Melba LoMonaco, Terry Carbone, Fred Carbone, Steve Wilcox, Amy Guptill, Steve Pflanz, Mary D'Agostino and Robin Waller) approached the board to express their support or concerns regarding noise, traffic, odors, dust, storage, lighting, run-off, hours of operation, topsoil processing, and site clearing.

No further public comments.

- ➔ At 8:42 pm, Member LeSuer moved, Member Starowicz seconded, unanimously carried that the public hearing be closed, and the regular meeting be reopened.

Continued Board discussion on application:

Chair Duff read into the record a letter from resident, Mary Wanzer.

Chair Duff asked the applicants to approach the zoning board.

A discussion took place concerning construction spoils, structural fill, mulch temperature monitoring, noise, odor mitigation, safety measures, runoff mitigation, mulch dye, hours of operation, berms, commercial vehicle traffic and proposed use versus previous uses.

A brief break took place while the board talked amongst themselves.

Chair Duff – The first issue the zoning board has to address is whether the proposed process of grinding trunks into mulch and dying it in the process creates a significant impact on the environment in terms of pollution. The Zoning Board of Appeals has found that a Type II action with no further review has been determined.

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Motion:

- Chair Duff made a motion that the project is to be declared a Type II and no longer requires a SEQR environmental impact study. Member LoBracco seconded.

Chair Duff asked for a Roll call vote:

Roll call vote:

Chair Duff	Aye
Member LoBracco	Aye
Member LeSuer	Aye
Member Starowicz	Nay

The motion carries with 3 votes in favor, 1 against

Chair Duff reviewed the 5 New York State criteria regarding the area variance application as a reminder as to what would be needed to take into consideration when voting.

Findings and decisions are as follows:

The applicant is Earthborn Materials. The appeal concerns the property at 180 South Avenue, Brockport. The reason for which variance is requested is to allow for out-of-doors processing of wood-based material and screening of soil. The applicable sections of the Village code chapter 58.12 E 2 and 3.

- 1) We find the area of 180 South Ave has been in continuous use for decades and the processing of material into mulch or screening of soil does not change the character of this area of the village.
- 2) We find it is unfeasible to impose a requirement to contain such material processing within a commercial building.
- 3) The proposed use is not determined from the evidence presented to the ZBA hearing to be separate and distinct from the site's current permitted use or past users of that site.
- 4) We do not find a significant adverse impact upon the environment as its size is not shown to be exceeding the size of prior similar material processing at this location in the past.
- 5) The unfeasibility of constructing a commercial building to house grinding and screening equipment and storage of finished product was taken into consideration by the ZBA while coming to the decision on this application.

The ZBA, after taking into consideration the above 5 factors, finds that the benefit to the applicant does outweigh the detriment to the neighborhood or community. As described above, the work to be done at 180 South Avenue is not substantially different from prior industrial uses at that site.

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The ZBA further finds that an area variance from section 58-12 sub 2 and 3 is a minimum variance which should be granted in order to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community because reasonable restrictions on this application, which follow, will tend to protect the character of the area as much as may be done.

Conditions:

The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community.

Condition #1: Noise generated from grinding material and while screening soil shall be limited to 20 calendar days a year or any lesser part of 8hrs for the grinding of raw material and 30 days a calendar year of 8hrs per day or any lesser part of 8hrs for screening soil.

Condition #2: Berms are to be constructed as proposed in the application as soon as practical and before the coming winter season begins. The applicants' website and instructions to drivers of dump trucks and semi-trailer operators are to mandate the use of Owens Rd to access South Ave. No such traffic, loaded or empty, are to use any other village street.

Condition #3: No retail sales are to be conducted at 180 South Ave for mulch, soil or any other material.

Condition #4: No more than 8 piles of material, finished or raw, shall be stored as shown on the site map submitted in this application.

Motion:

- ➔ Chair Duff requests a motion to approve the applicants' request for an area variance for the purpose of processing raw materials into mulch and the screening of soil with the restrictions described previously. Member LoBracco seconded.

Chair Duff asked for a Roll call vote:

Roll call vote:

Chair Duff	Aye
Member LoBracco	Aye
Member LeSuer	Aye
Member Starowicz	Nay

The motion carries with 3 votes in favor, 1 against.

Chair Duff stated the applicant shall present to the Village of Brockport Planning Board, odor control techniques available for commercial mulch production.

Secondly, the members of the zoning board will meet at a date to be determined to

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create a report based on tonight's zoning board meeting for its finding of April 6th, 2023 for the review of the Planning Board.

ADJOURNMENT:

- Chair Duff called for a motion to adjourn the meeting, Member Starowicz moved, Member LoBracco seconded, unanimously carried that the meeting be adjourned at 11:18 pm.

Theresa Weed, Clerk

VILLAGE OF BROCKPORT

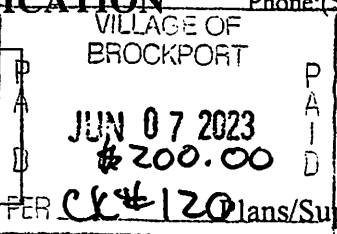
127 Main St, Brockport, New York 14420

Phone: (585)637-5300 ext.114 Fax: (585)637-1045

Website: www.brockportny.org

ZONING BOARD OF APPEALS APPLICATION

Area Variance: Use Variance: _____
 Interpretation: _____ Special Permit: _____
 Other: _____



Meeting Date: July 6, 2023
 Date Submitted: 6/7/2023
 Application Fee: \$200.00

Plans/Supporting Documents(10 sets): 2
 Environmental Assessment Form: Q

Please note:

- Applicant must attend meeting(s).
- Failure to show, withdrawal of application, or denial will result in forfeiture of fee.
- Applicant may be billed for Village Engineer fees related to the review of application.

PROPERTY ADDRESS: 242 Holley Street, Brockport 14420

Tax Map Parcel #: 068.15-1-7 Parcel Size: _____ width _____ depth

Property Zoning District: Residential Use Property Class: _____

Present Use of Property: private home Proposed Use of Property: Residential

Flood Zone: Yes No Historical designations? Yes No

Provision of Code Appealed (section and subsection): 58-9 F(3)

Previous applications that pertain to this application? _____ Planning Board _____ Zoning Board of Appeals

Description of Proposal / Detail of Request:
Building structure 3'3" off property line
Variance of 6'9"

Certification of Statements:

The applicant(s) hereby affirms that the above information is accurate and complete, to the best of his/her knowledge and he/she/they is/are the title owner(s) of the property or has/have been authorized by the title owner(s) to make this application.

I/We hereby certify that I/We am/are title owner(s) of the property identified in the above application and that the applicant(s) named is/are authorized to make the application described herein.

Melissa J. Norment
 Applicant Signature

Melissa J. Norment
 Owner Signature

Melissa J. Norment
 Applicant Name Printed/Typed

Melissa J. Norment
 Owner Name Printed/Typed

242 Ho
 Street City State Zip

242 Holley St. Brockport, NY 14420
 Street City State Zip

Phone # _____ E-mail _____

Phone # _____ E-mail _____

AREA VARIANCE TEST

New York State criteria:

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 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 ZBA, 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.

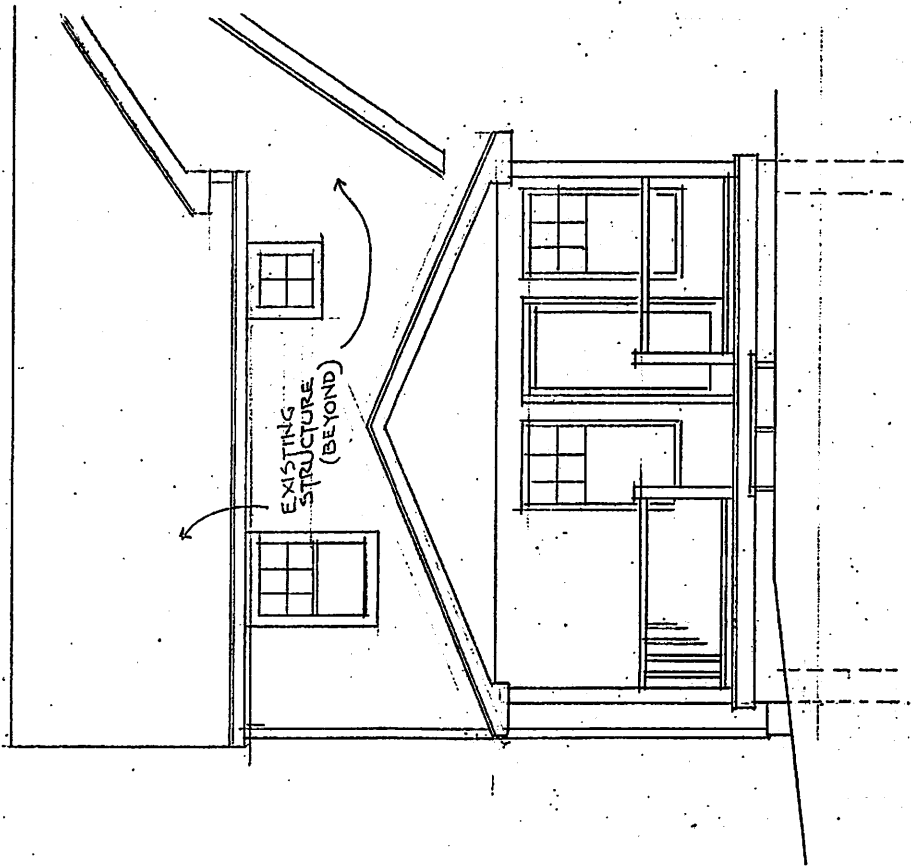
USE VARIANCE TEST

New York State criteria:

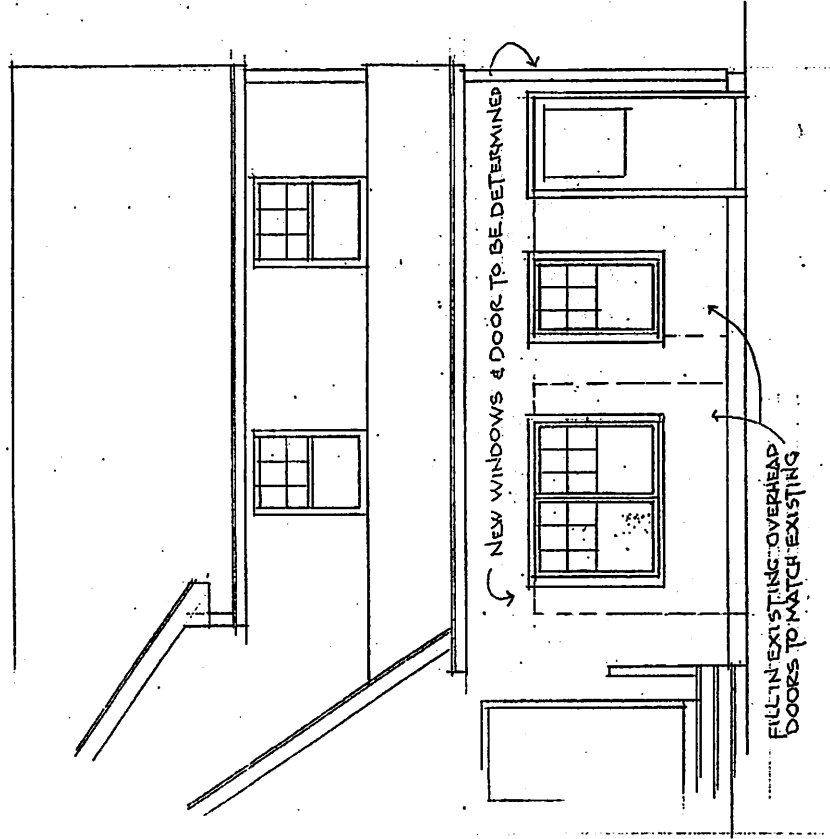
In making its determination, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- 1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence
- 2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- 3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- 4) that the alleged hardship has not been self-created.

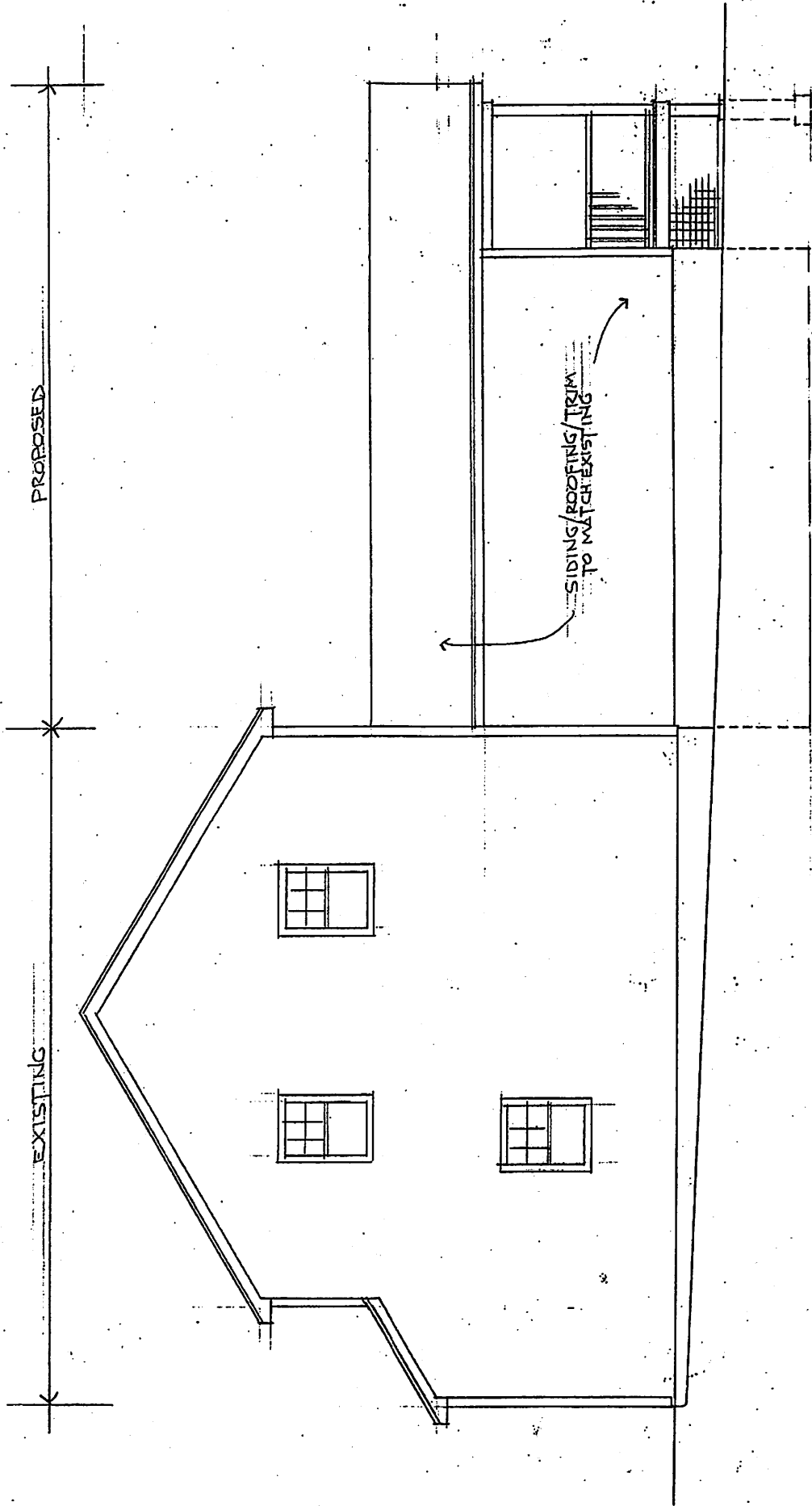
The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.



NORTH ELEVATION



SOUTH ELEVATION



PROPOSED

EXISTING

SIDING/ROOFING/TRIM
TO MATCH EXISTING

FAS1 ELEVATION