

# APPLICATION TO BOARD OF APPEALS

Tel. No. 716

Appeal No. 2023-050

Date 10-25-23

TO THE ZONING BOARD OF APPEALS, WEST SENECA, NEW YORK:

I (we) Jo Anne and Robert Biniaszewski of 239 Borden Road

, HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FROM THE DECISION OF THE BUILDING INSPECTOR ON AN APPLICATION FOR A BUILDING PERMIT, WHEREBY THE BUILDING INSPECTOR DID DENY PERMIT TO:

- A PERMIT FOR USE
- A PERMIT FOR OCCUPANCY
- A TEMPORARY PERMIT OR EXTENSION THEREOF
- A CERTIFICATE OF EXISTING USE
- A CERTIFICATE OF ZONING COMPLIANCE
- AREA PERMIT

1. Applicant is the  PROPERTY OWNER
- CONTRACTOR FOR THE WORK CONCERNED HEREIN
  - PROSPECTIVE TENANT
  - OTHER (Describe) \_\_\_\_\_

2. LOCATION OF THE PROPERTY 239 BORDEN RD.

3. State in general the exact nature of the permission required, 6FT FENCE, SIDE OF HOUSE

4. PREVIOUS APPEAL. No previous appeal has been made with respect to this decision of the Building Inspector or with respect to this property, except the appeal made in Appeal No. NA, dated \_\_\_\_\_, 20\_\_\_\_\_.

### 5. REASON FOR APPEAL.

A. A Variance to the Zoning Ordinance is requested because strict application of the ordinance would produce undue hardship, or the hardship created is unique and is not shared by all properties alike in the immediate vicinity of this property and in this use district, or the variance would observe the spirit of the ordinance and would not change the character of the district because:

SEE ENCLOSED LETTER AND NEIGHBOR SIGNATURES

B. Interpretation of the Zoning Ordinance is requested because:

C. A Special or Temporary Permit or an Extension thereof Under the Zoning Ordinance is requested pursuant to Article \_\_\_\_\_, Section \_\_\_\_\_, Subsection \_\_\_\_\_, Paragraph \_\_\_\_\_ of the Zoning Ordinance, because:

Jo Anne Biniaszewski  
Applicant's Signature

### TO BE COMPLETED BY THE BUILDING INSPECTOR

1. Provision(s) of the Zoning Ordinance Appealed, including article, section, subsection or paragraph of the Zoning Ordinance 120-39 (B) - 4FT FENCE PERMITTED ON SIDE OF HOUSE - 6FT REQUESTED

2. Zoning Classification of the property concerned in this appeal R-90A

3. Type of Appeal:

- Variance to the Zoning Ordinance.
- Interpretation of the Zoning Ordinance or Zoning Map.
- Special or Temporary Permit or an extension thereof under the Zoning Ordinance.

4. A statement of any other facts or data which should be considered in this appeal. OWNER UNAWARE

OR HEIGHT REQUIREMENTS.

Building Inspector AW

**SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, N.Y.  
AND REPLY TO MUNICIPALITY**

Submit this form with full statement of proposed action (as described in GML 239-m(c)) at www.Erie.gov/IRonline, OR mail a hard copy (retain a copy for your files) to: Erie County Division of Planning, 95 Franklin Street, Room 1053, Buffalo, N.Y., 14202

DO NOT WRITE IN THIS SPACE

Case No.: 628-ZR-23

Postmark/Delivery Date: 11/6/23

The proposed action described herein is referred in accordance with the provisions of NYS General Municipal Law §239 l - nn  
A Municipal Referral Map is available to help determine whether an applicable action is subject to referral.

Description of Proposed Action

1. Name of Municipality: Town of West Seneca

§239-m(4)(b) provides that the county shall have 30 days after receipt of a full statement of the proposed action to reply.  
If the county fails to reply within such period, the referring body may take final action.  
However, any county reply received after 30 days but 2 or more days prior to final action by the referring body shall be subject to §239-m(5)  
The referring body shall file a report of its final action with the county within 30 days per §239-m(6).

2. Hearing Schedule:      Date 12/6/23      Time 6:00pm      Location 1300 Union Rd, West Seneca

3. Action is before:       Legislative Body       Board of Appeals       Planning Board

4. Action consists of:       New Ordinance       Rezone/Map Change       Ordinance Amendment  
 Site Plan       Variance       Special Use Permit       Other: \_\_\_\_\_

5. Location of Property:       Entire Municipality       Address: 239 Borden Rd  
West Seneca NY 14224

5a. S.B.L. of Property: 125.16-5-13

6. Referral required as site is within 500' of:       State or County Property/Institution       Municipal Boundary       Farm Operation located in an Agricultural District  
 Expressway       County Road       State Highway       Proposed State or County Road, Property, Building/Institution, Drainageway

7. Proposed change or use: to allow a 6' fence on side of house (maximum 4' height allowed)  
(specify the action, such as the scope of variances or site plans)

8. Other remarks: \_\_\_\_\_

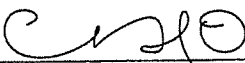
9. Submitted by: Amy Kobler      Email: akobler@twsny.org

10. Return Address: 1250 Union Rd West Seneca 14224

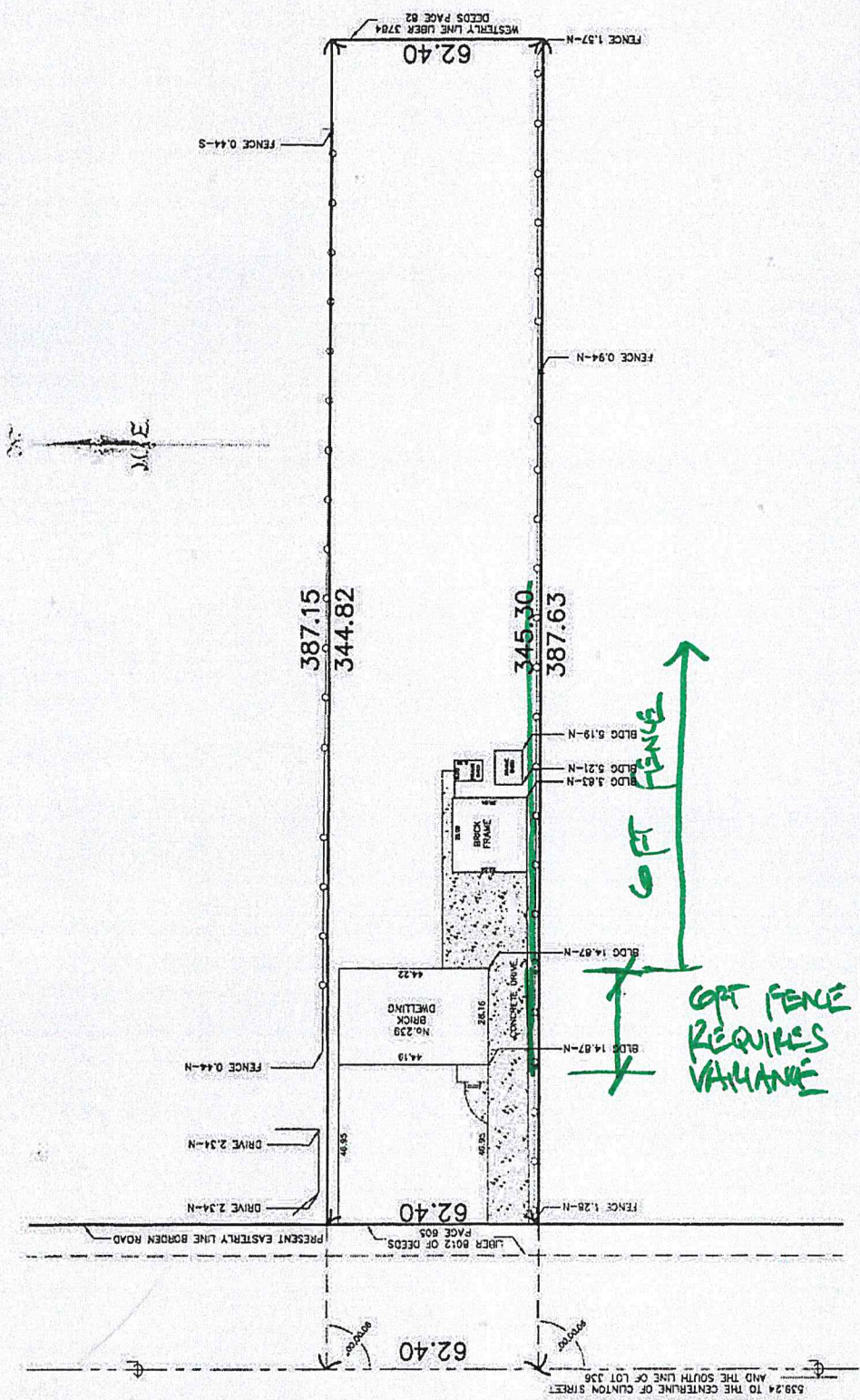
Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 11/6/23. The Division herewith submits its review and reply under the provisions of applicable state and local law, based on the information submitted with this referral.

1.  The proposed action is not subject to review under the law.
2.  Comment on proposed action is attached hereto.
3.  The proposed action is subject to review; Recommendation on Proposed Action is attached hereto.
4.  No Recommendation; proposed action has been reviewed and determined to be of local concern.

By the Division of Planning:       Date: 11/6/23

BORDEN (80.00 WDE) ROAD

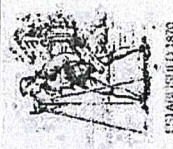


Part of Lot (Lots) 335, Section 10, Township 10, Range 7, of the EBENEZER LANDS BUFFALO CREEK RESERVATION, County of WEST SENeca, State of New York  
 City (or) Village of \_\_\_\_\_  
 Notes:  
 1) This Survey is VOID unless embossed with New York State Licensed Land Surveyor's Seal #050182  
 2) Allowing any item on this Survey is in violation of law, excepting as provided in Section 72(9) Part 2 of the New York State Education Law.  
 3) This Survey VOID if used with an Affidavit of No Change  
 4) This Survey was prepared without the benefit of an Abstract of Title and is subject to any state of facts that may be revealed by an examination of the same

Date of Survey SEPTEMBER 25, 2019  
 Signature [Signature]  
 Marshall L. Mill, PLS  
 Kraus & Gantzer  
 170 Sunnyside  
 13 Olean Street  
 East Aurora, New York 14052

Feet	Inches	Feet	Inches
0.08	1 inch	0.26	3 inches
0.17	2 inches	0.51	6 inches
0.25	3 inches	0.83	10 inches
0.42	5 inches	1.29	15 inches
0.50	6 inches	1.67	20 inches

Job No. 169,843  
 LL6034



To West Seneca Town Board,

10/22/23

We are writing to request permission to keep our newly installed side yard fence. We have been directed to write this letter, or a "variance."

We recently replaced the old rotten privacy fence of 30 feet in length, and added on another 30 feet.

The distance from the end of the fence to the street is 64 feet of NO obstruction.

The updating was also done because,

① When we moved in four years ago, we were provided with shade and privacy with our still current neighbors' 8 feet tall hedges, or bushes. They once lined that same span or length alongside our driveway. Last year they were all cut down in the summer.

② We were then subjected to increased traffic noise (w/out that barrier) and at the corner of Clinton + Bardonia the "live Band" noise every weekend.

③ And finally but even more importantly, last years winter storm proved and produced high snow drifts into our driveway and side door without these 8' tall bushes the neighbor once had, that normally would block the elements fairly well

Attached is a petition from our surrounding neighbors, as asked by our phone call to the town.

- We have asked the neighbors if they find our fence ~~intrusive~~ or offensive in any way.

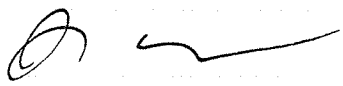
Thank You Kindly,

Robert and JoAnne Biniaszewski  
239 Borden Road  
West Seneca N.Y. 14224

10/22/2

We at 239 Borden Road, West S  
New York are asking our  
neighbors...

Do you find our side yard Fence  
Intrusive or Obstructive?

<u>Address</u> P Hon E #	<u>Yes or No</u>	<u>Signature</u>
249 Borden Rd 716-725-4516	No	Michelle Wiley
248 BORDEN RD 716-668-1467	No	Kathly Dobosina
716-760-059 244 Borden rd	no	
716-668-0619	No	Meredith White
240 Borden Rd 240 Borden Rd 716-860-1459	No	Jess White
232 Borden Rd 716-309-0100	No	Jess White
225 Borden Rd. 716-238-2160	No	Michelle D. Pab.

THANK YOU!  
Robert And JoAnne  
Binia szewski