



**TOWN OF HENRIETTA
APPLICATION TO THE ZONING BOARD OF APPEALS
FOR AN AREA VARIANCE**

Appeal No ZDA-2024-0114
Date February 27th, 2024

I (we) David L. Herring of 88 Nightfrost Lane
Name of Applicant / Business Business (Number & Street)

Henrietta, NY 14467 hereby appeal to the Zoning Board of Appeals from the decision
Town, State, Zip

of the Building Inspector, whereby the Building Inspector did deny grant a permit relating to the below property.

<u>10 Wintergarden Drive, Lot 101</u> <small>No. & Street</small>	<u>Henrietta</u> <small>City</small>	<u>NY</u> <small>State</small>	<u>14467</u> <small>Zip Code</small>
<u>176.13-1-80</u> <small>Tax Map No.</small>	<u>R-1-15 Residential</u> <small>Zoning District</small>		

PROVISION(S) OF THE ZONING CRDINANCE APPEALED, (Indicate the article, section and paragraph of the Zoning Ordinance being appealed) 295-10B(1)(b)
Number Only (Do not quote the ordinance)

Description of Proposal: Revisiting an approved, expired, variance granted in 2017. The property, being a corner lot, has two front setbacks of 40-feet on Wintergarden Drive and 60-feet on Nightfrost Lane
We are requesting relief from the code provision for the setback on Wintergarden Drive

be allowed at 35-feet.

Applicant should answer all statements regarding this application on page 2. Incomplete applications shall not be acted upon.

Received by: CCM Agent / Application: David L. Herring, P.E.

Reviewed by: CEM / HDW H Address: 88 Nightfrost Lane

Date of Meeting: APRIL 3RD, 2024 Henrietta, NY 14467

Phone #: [REDACTED]

Email: [REDACTED]

Signature: [Handwritten Signature]

NOTE: If signature is other than owner, written authorization from owner must accompany application

APPLICANT OR REPRESENTATIVE MUST BE PRESENT AT THE MEETING
PLEASE PRINT ALL INFORMATION

- 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.
This application is being submitted at the request of the adjacent neighbor at 88 Nightfrost Lane. By moving the proposed residence five-feet to the south will not negatively impact the character of the neighborhood, but may be an enhancement providing a greater separation of the adjacent structures.

- 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.
There are no other options or alternatives to feasibly achieve this requested variance.

- 3) Whether the requested area variance is substantial.
We believe this application is a minor change to this setback requirement and was previously supported and approved by a prior application in June 2017.

- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
We believe this proposed variance will have little to no impact on the physical or environmental conditions in this development.

- 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.
This difficulty is self created and is being sought in the spirit of being a good neighbor, at the request of the adjacent property owner.

**Statement of Applicant and Owner with Respect to Reimbursement
of Professional and Consulting Fees**

In conjunction with an application made to the Town of Henrietta, the undersigned states, represents and warrants the following:

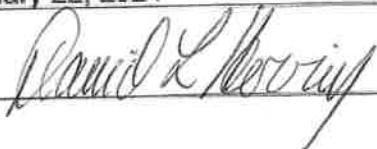
- 1) I/We am/are the applicant and owner with respect to an application to the Town of Henrietta.
- 2) I/We have been advised of, are aware of and agree to comply with the obligation to reimburse the Town of Henrietta for any and all professional and consulting fees incurred by the Town in conjunction with this and any other applications by me/us, including but not limited to engineering and/or legal fees, all as more fully set forth in the Henrietta Town Code.
- 3) I/We have been provided with, or have otherwise reviewed the Henrietta Town Code provisions related to the obligation to reimburse the Town with respect to professional and consulting fees, and agree to comply with the same.
- 4) I/We understand that this obligation shall not be dependent upon the approval or success of the application.
- 5) I/We further agree that in the event the Town of Henrietta is required to refer for collection an outstanding debt for such professional and/or consulting fees due to the Town of Henrietta, I/we shall be obligated to pay the reasonable attorney's fees incurred as a result of the Town's efforts to collect such fees. Reasonable attorney's fees shall also include any and all disbursements that may result from the commencement of litigation.
- 6) Each party to the application, including the applicant and the owner, shall be jointly and severally liable for all consulting and professional fees and expenses incurred in conjunction with the application.

Applicant/Business Owner: _____

By: David L. Herring

Title: Professional Engineer

Dated: February 22, 2024

Signed: 

Property Owner: Morrell Teams

By: William Arieno

Title: Project Manager

Dated: February 22, 2024

Signed: 

APPLICATION FOR ZONING BOARD OF APPEALS

Legal Notice to Read

Application of
requesting a variance for a
whereas

required
is allowed by code on property located at

Application Information	
Meeting Date	<input type="text" value="April 3rd, 2024"/>
Received By	<input type="text" value="CCM"/>
Date Received	<input type="text" value="February 27th, 2024"/>
Fee Amoun Paid	<input type="text" value="\$75.00"/>
Check #	<input type="text" value="1260"/>

Receipt # 3687590

Book Page D 12907 0665

No. Pages: 3

Instrument: DEED OTHER

Control #: 202312291234

Ref #: TT0000008793

Date: 12/29/2023

Time: 3:37:29 PM

Return To:
REVOLUTION TITLE AGENCY
16 W Main St
Rochester, NY 14614-1602

CAVATASSI, PATRICIA F
CAVATASSI, KELLY
CAVATASSI, ACHILLE

MORRELL TEAM IN MOTION LLC,

Recording Fee	\$26.00	
Pages Fee	\$10.00	
State Fee Cultural Education	\$14.25	
State Fee Records	\$4.75	Employee: RRR
Management		
Transfer Tax	\$960.00	
TP-584 Form Fee	\$5.00	
RP-5217 County Fee	\$9.00	
RP5217 State Equal Addit Fee	\$241.00	
Total Fees Paid:	\$1,270.00	

State of New York

MONROE COUNTY CLERK'S OFFICE
WARNING – THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

Consideration: \$240,000.00

JAMIE ROMEO

MONROE COUNTY CLERK



RTA

BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ACTS

THIS INDENTURE, made the 31st day of December, 2023.

Between **PATRICIA F. CAVATASSI**, residing at 350 Fairport Road, East Rochester, New York 14445 and **KELLY CAVATASSI AKA ACHILLE CAVATASSI**, residing at 1112 Main Street, East Rochester, New York 14445

Grantor,

and **MORRELL TEAM IN MOTION LLC**, with an address of 150 Pittsford-Victor Road Suite 100, Victor, New York 14564

Grantee,

WITNESSETH that the Grantor, in consideration of ONE DOLLAR (\$1.00) lawful money of the United States, and other valuable consideration paid by the Grantee, does hereby grant and release unto the Grantee, its heirs or successors, and assigns forever,

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Henrietta, County of Monroe and State of New York, known and described as Lot Nos. 101, 107, and 121 of Wintergarden Subdivision, Section 1, as shown on a subdivision map filed in the Monroe County Clerk's Office in Liber 310 of Maps, pages 3 and 4.

Being and intending to describe part of the same premises conveyed to Walter Cavatassi by deed dated June 12, 1985 and recorded in the Monroe County Clerk's Office on June 18, 1985, in Liber 6722 of Deeds at page 157, and part of the same premises conveyed to Walter Cavatassi and Kelly Cavatassi by deed dated May 27, 1993 and recorded in the Monroe County Clerk's Office on June 1, 1993 in Liber 8343 of Deeds at page 313. Walter Cavatassi's interest was thereafter conveyed to Patricia F. Cavatassi by Executor's Deed dated October 11, 2022 and recorded in the Monroe County Clerk's Office on December 30, 2022 in Liber 12765 of Deeds at page 92, and said Executor's Deed was corrected by Correction Executor's Deed dated May 16, 2023 and recorded in the Monroe County Clerk's Office on June 2, 2023 in Liber 12821 of Deeds, page 369.

Tax Identifier Map Parcel No: 176.13-1-80; 176.17-1-37; 176.13-1-86
Tax Mailing Address: 1501 Pittsford Victor Rd, Ste 100, Victor, NY
Property Address: 0, 8, 68 Nightfrost Lane, Town of Henrietta, New York 14564
14467

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the Grantee, its heirs or successor and assigns forever.

AND said Grantor covenants that Grantor has not done or suffered anything whereby the premises have been encumbered in any way whatsoever, except as set forth above.

This Deed is subject to the trust fund provisions in Section 13 of the Lien Law.

WHENEVER the sense of this instrument so requires, the words "Grantor" and "Grantee" shall be construed in their plural forms.

IN WITNESS WHEREOF, the Grantor has executed this Deed on the day and year first above written.



Patricia F. Cavatassi



Kelly Cavatassi aka Achille Cavatassi

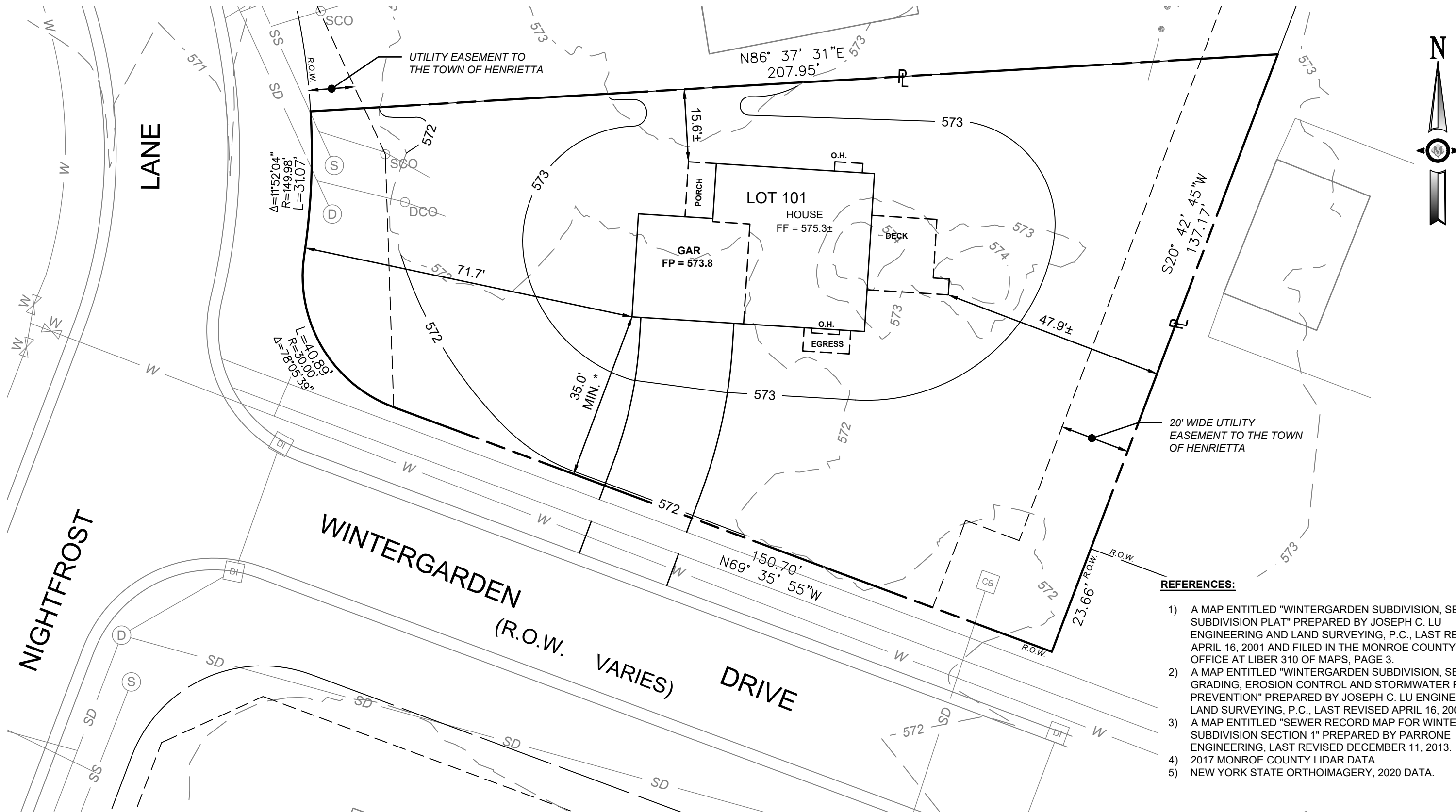
STATE OF NEW YORK)
COUNTY OF MONROE) ss:

On the 26 day of December, in the year 2023, before me, the undersigned, personally appeared Patricia F. Cavatassi and Kelly Cavatassi aka Achille Cavatassi personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals or the person upon behalf of which the individuals acted, executed the instrument.



Notary Public

KRISTEN L. CAVATASSI
NOTARY PUBLIC, STATE OF NEW YORK
Reg. #02CA6286766
Registered in Ontario County
Commission Expires July 29, 2025

R&R: Box 129 (RIT)
Lacy Katzen LLP



- REFERENCES:**
- 1) A MAP ENTITLED "WINTERGARDEN SUBDIVISION, SECTION 1 SUBDIVISION PLAT" PREPARED BY JOSEPH C. LU ENGINEERING AND LAND SURVEYING, P.C., LAST REVISED APRIL 16, 2001 AND FILED IN THE MONROE COUNTY CLERKS OFFICE AT LIBER 310 OF MAPS, PAGE 3.
 - 2) A MAP ENTITLED "WINTERGARDEN SUBDIVISION, SECTION 1 GRADING, EROSION CONTROL AND STORMWATER POLLUTION PREVENTION" PREPARED BY JOSEPH C. LU ENGINEERING AND LAND SURVEYING, P.C., LAST REVISED APRIL 16, 2001.
 - 3) A MAP ENTITLED "SEWER RECORD MAP FOR WINTERGARDEN SUBDIVISION SECTION 1" PREPARED BY PARRONE ENGINEERING, LAST REVISED DECEMBER 11, 2013.
 - 4) 2017 MONROE COUNTY LIDAR DATA.
 - 5) NEW YORK STATE ORTHOIMAGERY, 2020 DATA.



**1501 Pittsford-Victor Road
Suite 100
Victor, NY 14564
(585)249-8100
www.morrellbuilders.com**

REQUIREMENT	REQ'D	PROVIDED
FRONT SETBACK	40'	35' *VARIANCE REQ'D
SIDE SETBACK	10% LOT WIDTH	47.9'
REAR SETBACK	8' MINIMUM (18.8') 10'	15.6±

PROJECT No.: DP2023.01
SCALE: 1" = 20'
DRAWN: RJT
DESIGNED: RJT
DATE: 2/22/2024
REVISED:

PROJECT: WINTERGARDEN SUBDIVISION SECTION 1
TITLE: VARIANCE REQUEST PLOT PLAN-LOT 101
10 WINTERGARDEN DRIVE
LOCATION: TOWN OF HENRIETTA, MONROE COUNTY, NEW YORK