

ATTACHMENT #1

I, Matthew Reuter, owner of the Norman Vale Estate located at 1 Norman Vale Lane, Tax Map Section 51.00-Block 2-Lot 8.11, hereby appeal from the decision of the Chief Building and Zoning Officer dated August 11, 2025 granting the application by Douglas Bauer, owner of 3 Norman Vale Lane and 7 Nott Road, for a building permit to construct a fence and hereby apply to the Zoning Board of Appeals for an interpretation of the zoning ordinance and to invalidate the permit to construct the fence.

1. LOCATION OF PROPERTY

The property of Matthew Reuter, the Norman Vale Estate, is 1 Norman Vale Lane (Tax Map Section 51.00 - Block 2 - Lot 8.11).

The property of Douglas Bauer is 3 Norman Vale Lane (Tax Map Section 51.00 - Block 2 - 8.13) and 7 Nott Road (Tax Map Section 51.00 - Block 2 - 8.12).

The Chief Building and Zoning Officer granted Mr. Bauer's application to construct a fence on August 11, 2025. The properties of Matthew Reuter and Douglas Bauer are located in a residential R2 zoning district. The properties are directly adjacent to and adjoin each other, and the fence for which a permit to construct was granted lies along the boundary of their properties.

2. INTERPRETATION OF THE ZONING ORDINANCE IS REQUESTED BECAUSE:

POINT I

First, the application for construction was incomplete because it failed to indicate that the 130 feet long fence would qualify as a decorative fence.

Section 280-27(A)(5) of the Town Zoning Code prohibits construction of a fence in the front yard of the historic Norman Vale Estate home. Section 280-27(A)(5) states as follows:

"(5) A fence or wall in a Residential District shall not be located in front yard except for a decorative fence not exceeding four feet in height."

Section 280-27(A)(3) of the Town Zoning Code provides as follows:

"A fence in a Residential District shall have its most pleasant or decorative side facing the adjacent lot, with all posts being in the applicant's yard unless such posts or supports are an integral part of the decorative design of the fence."

The Town Code at section 200-5(239) defines a "Front Yard" as follows:

"YARD, FRONT The area extending the width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as permitted in this chapter. See diagram at §280-24."

The Town Code at section 200-5(242) defines a "Side Yard" as follows:

"YARD, SIDE The area extending from the front yard line to the rear yard line between a building and nearest side lot line, unoccupied and unobstructed from the ground upward except as permitted in this chapter. See diagram at §280-24."

The Town Code at section 200-5(76) defines a "decorative fence" as follows:

"A fence made of decorative or ornamental materials such as split rail, redwood, pine and the like, and the type of fence where the ratio of transparent to opaque area is 3 to 1 or greater. A decorative fence in a front yard shall have a maximum height of four feet."

The Town of Guilderland Zoning Code at section 280-4 defines a "Complete Application" as an application which includes "all information concerning a proposed project in the format specified" by the Zoning Code, an Environmental Assessment Form (EAF), and a determination by the Chief Building and Zoning Officer (lead agency) that the proposed project is not likely to have a significant impact on the environment. The definition of a "Complete Application" is as follows:

"APPLICATION, COMPLETE

An application that includes the following:

- A. A completed application form together with all information concerning a proposed project in the format as specified

by this chapter;

- B. The payment of application fees required by this chapter and the professional review fee escrow deposit, if any, required by the reviewing board;
- C. An environmental assessment form ("EAF") or draft environmental impact statement ("DEIS"), if required, assessing the potential environmental impacts of the proposed project;
- D. A determination by the reviewing agency, or by the lead agency in the event of coordinated review, that the proposed project is not likely to have a significant impact on the environment (negative declaration), or the filing of a notice of completion of a draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act ("SEQRA")."

The Town Code of the Town of Guilderland, Chapter 140 entitled "Building Permits", at section 140-4(D) entitled "Issuance or denial", states that the Chief Building Inspector and Zoning Coordinator should disapprove the application for a building permit if the application does not contain the "plans, specifications and documents, "does not describe the proposed work", and "does not conform to all of the requirements of the applicable building regulations". Section 140-4(A), (D) states as follows:

"140-4 Issuance or denial.

- A. The Chief Building Inspector and Zoning Coordinator shall examine or cause to be examined all applications for building permits required by this article and the plans, specifications and documents filed therewith; he shall approve or disapprove the application within a reasonable time.***
- D. If the application for a building permit required by this article, together with plans, specifications and other documents filed therewith, describe proposed work which does not conform to all of the requirements of the applicable building regulations, the Chief Building Inspector and Zoning Coordinator shall disapprove the application and shall return the plans and specifications

to the applicant. Upon the request of the applicant, the Chief Building Inspector and Zoning Coordinator shall cause the refusal, together with the reasons therefor, to be transmitted to the applicant, in writing."

There is no indication in Mr. Bauer's application that the 130 feet long fence that is 4 feet high will be a decorative fence. The application fails to indicate why or how the fence will qualify as a decorative fence, fails to indicate what material the proposed 130 foot long fence will be made of, and fails to demonstrate that the decorative side of the fence will be turned toward the Norman Vale Estate home. The sketch provided by Mr. Bauer shows that the 130 foot long fence which is 4 feet high is located in the front yard of the Norman Vale Estate home owned by my client.

Without a complete application, the Chief Building Inspector and Zoning Coordinator cannot properly evaluate whether a building permit should be granted or denied. As discussed above, Mr. Bauer's application to construct the fence should be denied because it does not accurately describe the proposed work, because the sketch submitted is not a plot plan as required by the application, and because it does not conform with all the requirements of the applicable building regulations. The Zoning Board of Appeals should reverse the approval of the permit.

POINT II

Second, the application for construction of the fence should have been denied because it is located in the front yard of the historic Norman Vale Estate home and therefore requires an area variance from the Zoning Board of Appeals.

Since the proposed fence is located in the front yard of the Norman Vale Estate at 1 Norman Vale Lane, the Chief Building and Zoning Officer, who is the Zoning Administrative Officer for the town, should have denied the application to construct the fence because it required an area variance.

The Town of Guilderland Zoning Code at section 280-5 defines an area variance as an authorization by the Zoning Board of Appeals for use of land in a manner which is not allowed by the dimensional or other requirements of the Zoning Code. Section 280-5 defines an "Area Variance" as follows:

"VARIANCE, AREA An authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or other requirements of this chapter."

The Town of Guilderland Zoning Code at section 280-51 entitled "Variances" provides that the Zoning Board of Appeals should grant or deny an application for an area variance pursuant to the conditions enumerated in New York State Town Law 267-b, as follows:

"§ 280-51 Variances.

- A. Purpose. Where the strict application of certain provisions of this chapter may result in practical difficulties, unnecessary hardships and results inconsistent with the general purposes thereof, variances may be granted as provided in this chapter.
- B. Authorization to grant or deny variances. A variance to this chapter shall be authorized by the Zoning Board in accordance with the standards and procedures set forth in this section. In granting a variance, the Zoning Board may impose conditions similar to those provided for a special use permit to protect the best interests of the surrounding property, the neighborhood or the Town as a whole.
- C. Application for a variance. A property owner or his agents may initiate a request for a variance by filing an application with the Zoning Inspector using forms provided for such requests by the Town. Such application shall be accompanied by a legal description of the property, a map showing the property and all properties within a radius of 500 feet of the exterior boundaries thereof, plans and elevations necessary to show the proposed variance, other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties and a filing fee as required in the Town's fee schedule.
- D. Circumstances for granting variances. The Zoning Board may grant an area variance or a use variance pursuant to NYS Town Law §267-b. All applications for an area variance or a use variance shall include written responses to the conditions enumerated in NYS Town Law §267-b in order for the application to be considered by the Zoning Board.
- E. Public hearing on a variance. Before the Zoning Board may act on a request for a variance, it shall hold a public hearing. Notice of the hearing shall be given as provided in §280-50 and a decision shall be rendered within 62 days of the final hearing date."

Town Law 267-b(3)(b) provides that in deciding whether to grant or deny an application for an area variance a zoning board of appeals should take into consideration factors such as the extent of the area variance requested, the potential impact of granting the area variance the potential impact of granting the area variance on nearby properties, the potential impact on the character of the neighborhood, whether the benefit sought by the area variance can be achieved by other methods, whether the applicant would suffer a financial hardship if the area variance were denied, and whether the financial hardship was self-created by the applicant. Relevant portions of Town Law 267-b(3)(b) provide as follows:

"(3)(b) 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 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 conditions 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 Town Code at Section 177-4B(23)(1) defines "Historic Structure" as a structure that is listed individually in the National Register of Historic Places maintained by the Department of the Interior. The Norman Vale Estate, owned by my client Mr. Reuter, is listed individually on the National Register of Historic Places maintained by the Department of the Interior.

The Norman Vale Estate (Nott Mansion) is part of the original Simon J. Veeder farm in 1716, is located within a small one-mile section of the Normanskill corridor and is arguably the most significant area in the history in the Town of Guilderland, showcasing great examples of Dutch and Dutch Vernacular

architecture which have their beginnings prior to Guilderland's formation in 1803 when it separated from the Town of Watervliet to become its own distinct municipality. Norman Vale, "The Nott Mansion" circa 1770-1780, is the manor house and was once the central artifact of an expansive 400-500 acre estate acquired by Lt. Governor John Tayler in 1813 from the Veeder family.

The New York State Office of Parks, Recreation, and Historic Preservation, in its SEQRA comment letter dated August 24, 2018 to the Town of Guilderland about the application by Mr. Bauer for the Norman Vale Minor Subdivision, stated that the rural character of the Norman Vale home should be protected, as follows:

"We note that the Norman Vale/Nott House is listed in the State and National Registers of Historic Places. The National Register listing includes the nearly ten acre mostly wooded parcel which maintains a sense of the building's historic rural setting. The proposed subdivision and new construction will significantly alter this historic setting.

We recommend siting any new construction so that it maintains a clear separation between the historic building and new properties. A direct link/view between the historic building and the road should be maintained and tree-line buffers should be maintained or established to screen views to the new houses. Avoid obstruction of buildings or driveways in front of the house. Judging by the submitted the site plan, it appears that some of these features have been considered. In addition, design of the new construction should be sympathetic to the surroundings and the historic building. Avoid out of scale designs or tall structures, use natural cladding materials as much as possible, and employ appropriate colors."

Under the circumstances, the Zoning Board of Appeals should deny Mr. Bauer's application to construct a fence because the fence will be a detriment to nearby properties, specifically to the Norman Vale home owned by my client Mr. Reuter. The fence would be located in the front yard of the historic Norman Vale home in violation of the Zoning Code, and would destroy or significantly impair the viewshed from the historic Norman Vale Estate home into the front yard toward Nott Road. Any possible benefit from a fence could be achieved by alternative methods more in the rural character of the Norman Vale Estate such as by planting trees. A fence would

also create financial hardship for owners of the Norman Vale home, and make it difficult for future owners to pay the taxes and maintain the condition and repair of the historic property.

The Chief Building and Zoning Officer should have denied Mr. Bauer's application to construct a fence, and the Zoning Board of Appeals should reverse the approval of the permit.

POINT III

Third, the application for construction of the fence should have been denied because it violates the Shared Driveway Agreement approved by the Town of Guilderland.

Since the proposed fence violates the Shared Driveway Agreement approved by the Town of Guilderland, the Chief Building and Zoning Officer should have denied the application to construct the fence because it required an area variance.

Under "Proposed Construction" and as shown in the sketch, Mr. Bauer proposes to construct 4-foot-high fence near the boundary line of the shared driveway and Mr. Reuter's Norman Vale estate property on Lot 2. The 4-foot-high fence would violate the terms of the Shared Driveway Agreement because the said agreement requires "unobstructed access" to the entire shared driveway by both parties, and because the 4-foot-high fence would block Mr. Reuter from ingress and egress from his property to the shared driveway which leads to Nott Road.

On August 31, 2023 Douglas J. Bauer and Matthew Reuter entered into a Common Driveway/Roadway Easement & Maintenance Agreement (Shared Driveway Agreement), which was subsequently filed in the office of the Albany County Clerk on September 7, 2023 as instrument #R2023-16038. The Shared Driveway Agreement establishes a private driveway which serves as a common driveway between the three (3) parcels referenced in the map entitled "Final Plat, Norman Vale Minor Subdivision" 6030 Nott Road, Town of Guilderland, County of Albany, State of New York, filed in the office of the Albany County Clerk on September 21, 2020 as instrument #13914.

The Shared Driveway Agreement provides that:

"(1) Each of the parties hereby grants and conveys to each of the other parties an easement over that portion of the driveway/roadway which is located on their premises and which is shown on the annexed map.

(2) Each of the parties agrees to work cooperatively to maintain appropriate clearance over said common driveway/roadway.

(3) Each of the parties shall have full and free right and authority to enter and exit over said common driveway/roadway for the purpose of permitting the travel of motor vehicles and persons over the common roadway to the party's respective residence/parcel.

(4) None of the parties will park any vehicles, allow any vehicles to be parked, obstruct the roadway or interfere with the use of the common driveway/roadway, nor prevent ingress and egress of persons and motor vehicles over the common driveway/roadway." [See Shared Driveway Agreement].

The application by Mr. Bauer for construction of the fence violates the Shared Driveway Agreement because the agreement provides that none of the parties will "obstruct the roadway" or interfere with use of the common driveway, nor "prevent ingress and egress of persons and motor vehicles over the common driveway." The fence Mr. Bauer proposes to construct will both obstruct and interfere with ingress and egress of persons and vehicles between the shared driveway and Mr. Reuter's home at the Norman Vale Estate. Currently persons and vehicles can access the Norman Vale Estate at any point along the boundary of the shared driveway, but the proposed fence would eliminate or substantially limit and interfere with the ingress and egress of persons and vehicles to the Norman Vale Estate along the entire course of the proposed fence.

The Zoning Board of Appeals should deny Mr. Bauer's application for an area variance to construct a fence in violation of the Shared Driveway Agreement because the fence would be a detriment to the Norman Vale home, and because the applicant Mr. Bauer completely failed to present any evidence whatsoever of substantial financial hardship required by Town Law 267-b which would flow from the denial of the permit to construct the fence. Mr. Bauer has not presented one iota of evidence, and could not possibly present any evidence, of financial hardship from denial of the fence permit because he has created his own hardship by proposing to construct a fence that is unsightly, unwelcome, unneeded, and unnecessary.

Moreover, the fence would create a dangerous condition for the safety of the Norman Vale Estate home owned by Mr. Reuter

because it would block access between the shared driveway and the historic Norman Vale home by fire trucks, ambulances, emergency medical technicians, and other emergency services.

The Chief Building and Zoning Officer should have denied Mr. Bauer's application to construct the fence, and the Zoning Board of Appeals should reverse the approval of the permit.

The applicant has completed the attached form outlining conditions from Section 267-b of New York State Town Law pertaining to area variances.

The applicant hereby certifies that he or she is the owner of record of the above property that is making this application to the Zoning Board of Appeals.

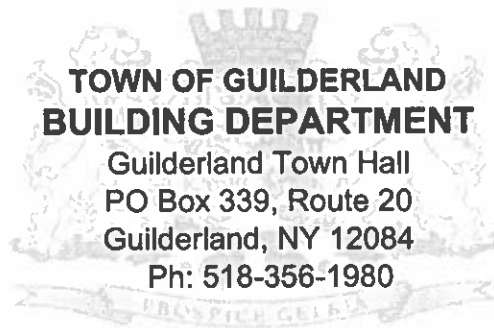
Dated: October 9, 2025



MATTHEW REUTER

CC:

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AREA VARIANCE CONDITIONS

The Zoning Board of Appeals will not consider any application for an area variance until the following application is completed in full and submitted to the Zoning Department. The Zoning Board of Appeals will evaluate the applicant's responses and determine whether the applicant has adequately met the conditions for an area variance. The applicant is encouraged to attach additional sheets if necessary to fully answer the questions. The following conditions for an area variance are from Section 267-b of the New York State Town Law.

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;

See attachment #2.

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;

See attachment #2.

3. Whether the requested area variance is substantial;

See attachment #2.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

See attachment #2.

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance;

See attachment #2.

ATTACHMENT #2

1. The fence will be a detriment to nearby properties and the character of the immediate neighborhood because it will impair the rustic setting and rural character of the Norman Vale Estate. Norman Vale is listed individually in the National Register of Historic Places maintained by the Department of the Interior and originally was the Manor House of a 400-to-500-acre estate. During the subdivision process the New York State Office of Parks, Recreation, and Historic Preservation recommended to the Zoning Board of Appeals that the rural setting of the nearly 10 acre mostly wooded parcel should be preserved.

2. The benefit of creating a barrier between Norman Vale at 1 Norman Vale Lane on Lot #2 and the new construction at 3 Norman Vale Lane on Lot #3 can be achieved by planting trees between the two properties which will not require an area variance. The Office of Parks, Recreation, and Historic Preservation recommended that there be a clear separation between Norman Vale and the new construction when it stated "... tree-line buffers should be maintained or established to screen views to the new houses." Planting trees between the properties, rather than a 4-foot-high fence, will create an effective visual and noise barrier between the properties and help preserve the rural setting of Norman Vale. Mr. Reuter agrees with the recommendation of the Office of Historic Preservation that planting trees is the best way to achieve the benefit sought by the applicant.

3. An area variance to construct a fence between Norman Vale and the new house constructed on Lot #3 would be substantial because the fence would alter the rural setting of Norman Vale, would not create a visual barrier between Norman Vale and the new house because of its decorative/transparent character, would interfere with the use of the common driveway, and would create unnecessary access problems to Norman Vale by fire trucks, ambulances, emergency medical technicians, and other emergency services.

4. An area variance to construct a fence would have an adverse effect or impact on the physical and environmental conditions in the immediate neighborhood because of the damage to the rustic setting and rural character of the Norman Vale Estate as set forth

in item 2 above, and because of the physical conditions and problems which would be caused as explained in item 3 above.

5. It is not clear what difficulty Mr. Bauer is seeking to correct by the construction of a fence between Norman Vale and the new house which he plans to live in himself with his wife. Whatever the hardship or difficulty that requires an area variance may be, Mr. Bauer has self-created the issue because he located his new house so close to the Norman Vale Estate and failed to implement the recommendation of the Office of Historic Preservation to plant a barrier of trees between the two houses. Mr. Bauer has also failed to implement the recommendation that the new construction be sympathetic to the surroundings of the historic building, and did not follow the recommendation to avoid out of scale designs and tall structures.

Dated: October 9, 2025


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