

DRAFT MINUTES – NOT TO BE USED AS AN OFFICIAL DOCUMENT

A regular meeting of the Zoning Board of Appeals was held on July 13, 2022. Present: Jeremy Gutman/Acting Chairman, Bruce Gombos and Joseph Capasso, Dan Roemer/Building Inspector and Ms. Valerie Monastra/Village Consulting Planner. Excused: Trustee Liaison Michael Patino, Chairman Peter Hofmann, and Jon Maass.

Acting Chairman Gutman called the meeting to order. Mr. Gutman said he is filling in for Chairman Hofmann who is away.

1. 72 Colonial Avenue – Public Hearing for proposed plans of landscaping including driveway alteration, retaining wall and fence

72 Colonial Avenue ZBA submission is as follows:

RECEIVED
MAY 28 2022
VILLAGE OF DOBBS FERRY
BUILDING DEPARTMENT

APPLICATION TO ZONING BOARD OF APPEALS
VILLAGE OF DOBBS FERRY

Note: Four copies of the application must be filed with the Clerk of the Board, no later than 2:00 p.m., twenty-one (21) days prior to the date of the meeting.

Date Filed: 5/17/2022

Applicant's Name: NIAL CAIN Telephone: 914-478-3418

Property Location: 72 COLONIAL AVE

Sheet: 3.120 Block: 113 Lots/Parcel: 10

The undersigned applicant requests a hearing before the Zoning Board of Appeals based on the following: (check one)


☒ Appeals decision of Building Inspector _____ Special Permit

Every application or appeal must be accompanied by an accurate plot plan to scale showing location of all existing structures, and also drawings showing the exact location, dimensions, and the nature of all proposed structures. These requirements will ordinarily be best met with surveys and architect's drawings. The Board may require that surveys and/or drawings be prepared and signed by duly accredited surveyors, engineers, or architects. Applicant is required to show proof of title to or legal interest in the premises, by deed or contract of sale, or other document. This application or appeal is made pursuant to the authorization contained in the Building Zoning Ordinance:

Article: 300 Section: 42 Subdivisions: B2

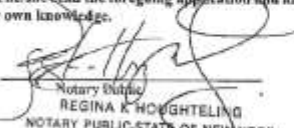
The basis of the relief sought by the undersigned pursuant to the provisions of the Building Zoning Ordinance is as follows: (Set forth briefly all pertinent facts and use additional sheets if necessary).

RELIEF SOUGHT FOR CORTHFORD OF PROPOSED FENCE APPROXIMATELY 37'-0" LONG ON COLONIAL AVE STREET FRONTAGE.


Applicant

STATE OF NEW YORK
COUNTY OF WESTCHESTER) ss:

On this 17 day of May, 20 22 before me personally came Niall Cain, who came duly sworn and says that he/she read the foregoing application and knows the content thereof and that the same is true to his/her own knowledge.


Notary Public
REGINA K HOUGHTELING
NOTARY PUBLIC-STATE OF NEW YORK
No. 01H08378181
Qualified in Westchester County
My Commission Expires 08-08-20 22

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(Note: In the event of joint tenancy, the singular will be construed as necessary)
The following documents must be submitted or the application will not be accepted:

- | | | |
|----|-------------------------------------------------------------------------|---------------|
| 1. | Copy of deed or contract of sale | <u>✓</u> |
| 2. | Application completely filled out | <u>✓</u> |
| 3. | Environmental Assessment form | <u>✓</u> |
| 4. | Survey of property | <u>✓</u> |
| 5. | Plans showing profiles of proposed alteration/addition | <u>✓</u> |
| 6. | Copy of denial from Building Inspector or Architectural Board of Review | <u> </u> |

Note: Certification of noticing to area property owners must be submitted to the Village Clerk's Office no later than 2:00 p.m. on the Friday preceding the meeting.

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Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: 7s Colonial Avenue landscaping			
Project Location (describe, and attach a location map): 72 Colonial Avenue, Dobbs Ferry, NY			
Brief Description of Proposed Action: Landscaping of entire property including alteration to driveways, raising of the existing rear lawn, construction of retaining wall and 6 ft perimeter deer fence.			
Name of Applicant or Sponsor: Niall Cain		Telephone: 914-478-3448 E-Mail: ncain@ncstudio.com	
Address: 5 Atilda Avenue			
City/PO: Dobbs Ferry		State: NY	Zip Code: 10522
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		23,108 SF acres	
b. Total acreage to be physically disturbed?		23,108 SF acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		23,108 SF acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			

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5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ No waste water is produced by the proposed action.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

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14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The proposed work includes proposed infiltrators to mitigate existing stormwater run-off. No additional stormwater run-off is created by this proposed action.		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Niall Cain</u> Date: <u>06/28/2022</u> Signature: <u>Niall Cain</u> Title: <u>Principal - NoC Studio Architecture P.C.</u>		

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Letter dated June 27, 2022 from Mr. Dan Roemer/Building Inspector to Mr. Robert Dickey is as follows:



VILLAGE OF DOBBS FERRY
Building Department
112 Main Street
Dobbs Ferry, New York 10522
TEL: (914) 231-8511 • Droemer@dobbsferry.com • FAX: (914) 693-3470

6/27/2022

Robert W. Dickey
72 Colonial Ave.
Dobbs Ferry, NY 10522

Re: 72 Colonial Ave.

S/B/L 3.120-113-10

Dear Mr. Dickey

Pursuant to a review of the submitted proposed plans to construct a new fence, the following determinations were made.

The property is located in the OF-5 Zone. Requiring one variance.

1. The Maximum front yard fence height is 4' and shall be no greater than 60% opacity the proposed fence height in the front yard is 6' thus requiring a height variance for 2' in the front yard.

For these reasons your proposal, as submitted, is denied pending zoning board review.

If you have any questions, please contact the Building Department at (914) 231-8511.

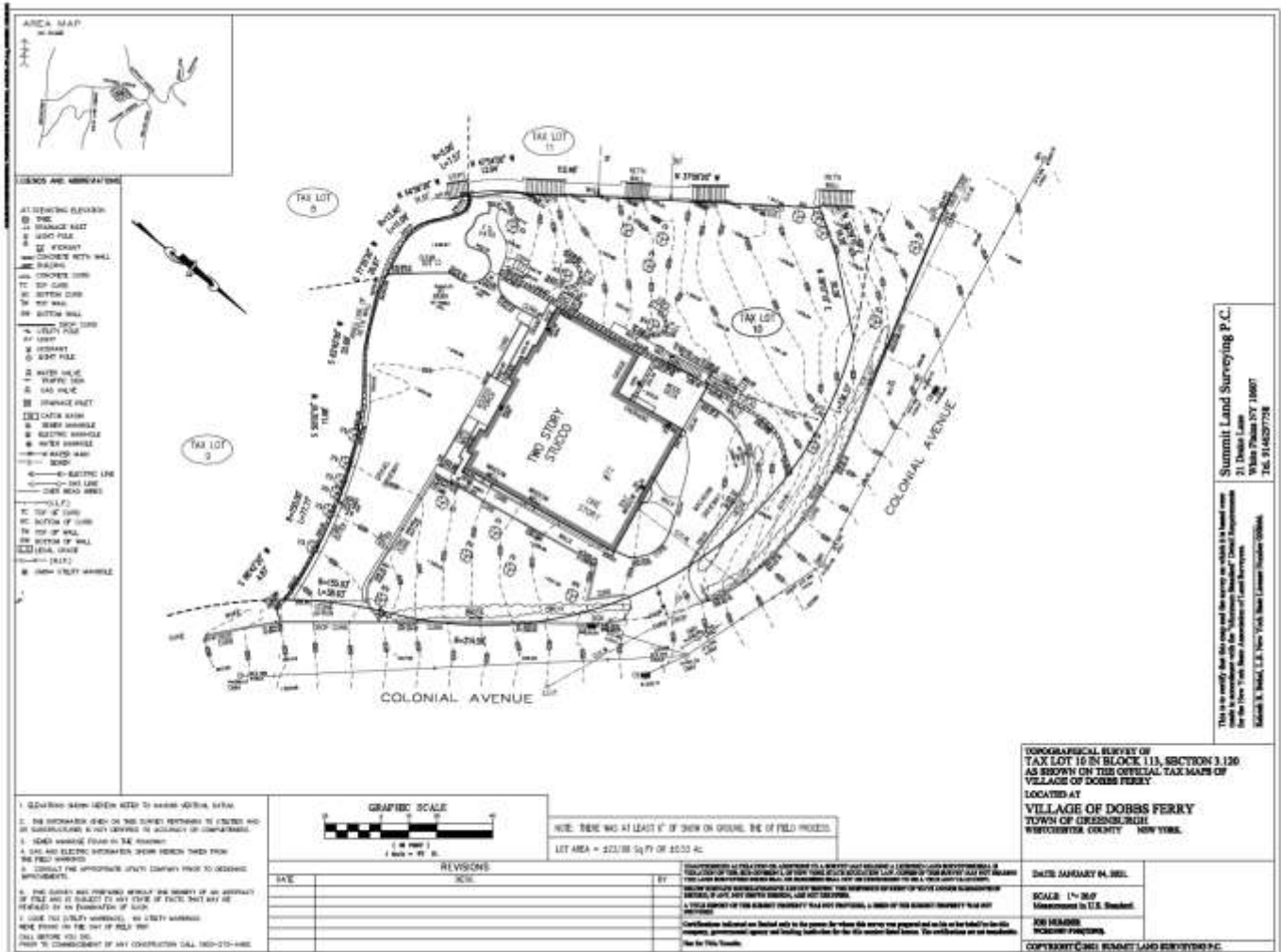
Respectfully,

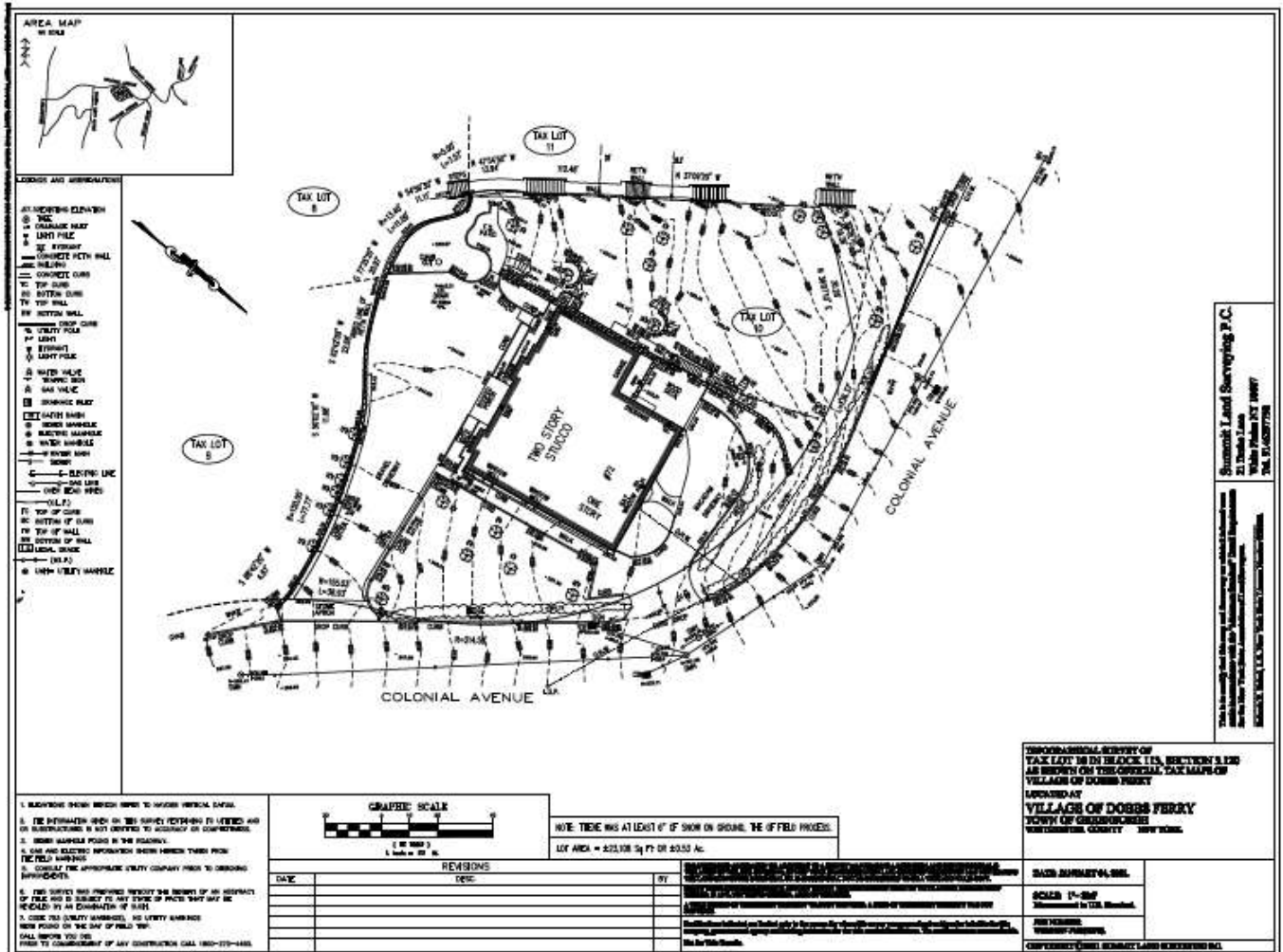
A handwritten signature in blue ink, appearing to read "Dan", followed by a long horizontal flourish.

Dan Roemer
Building Inspector

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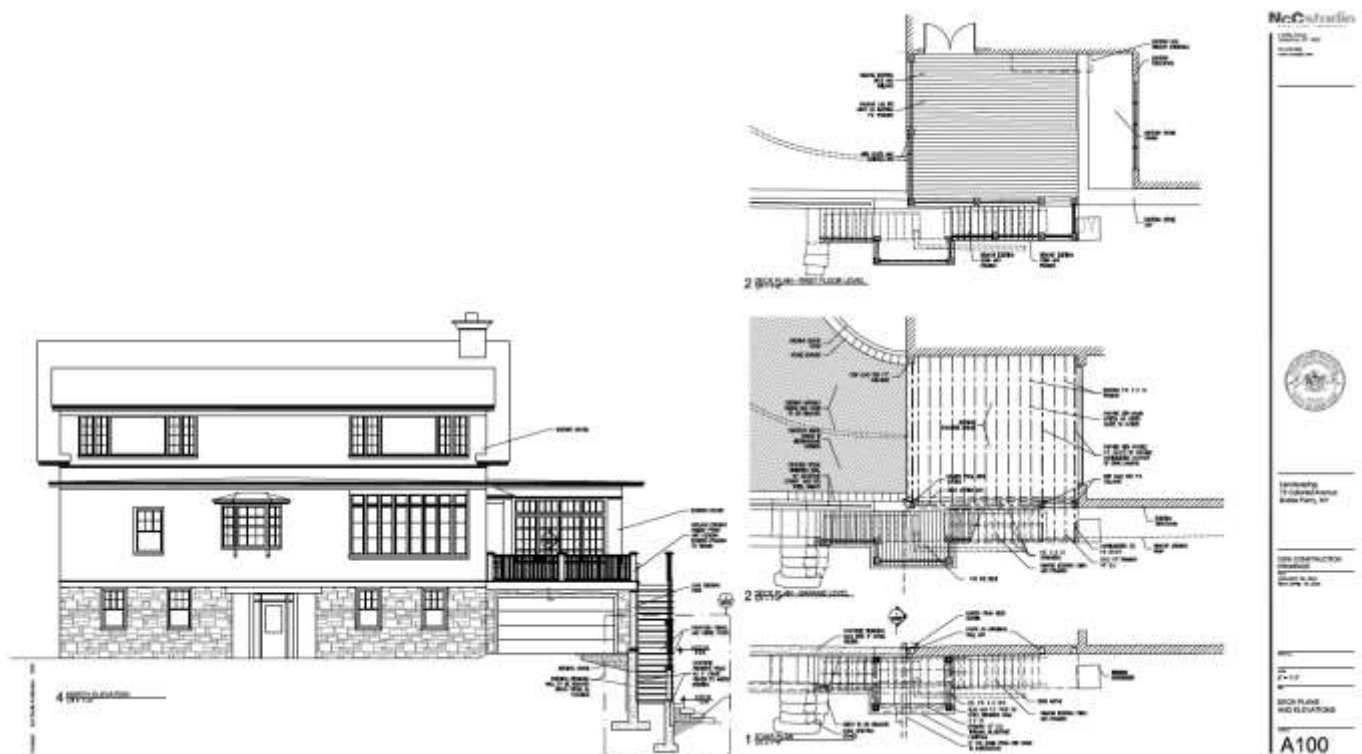
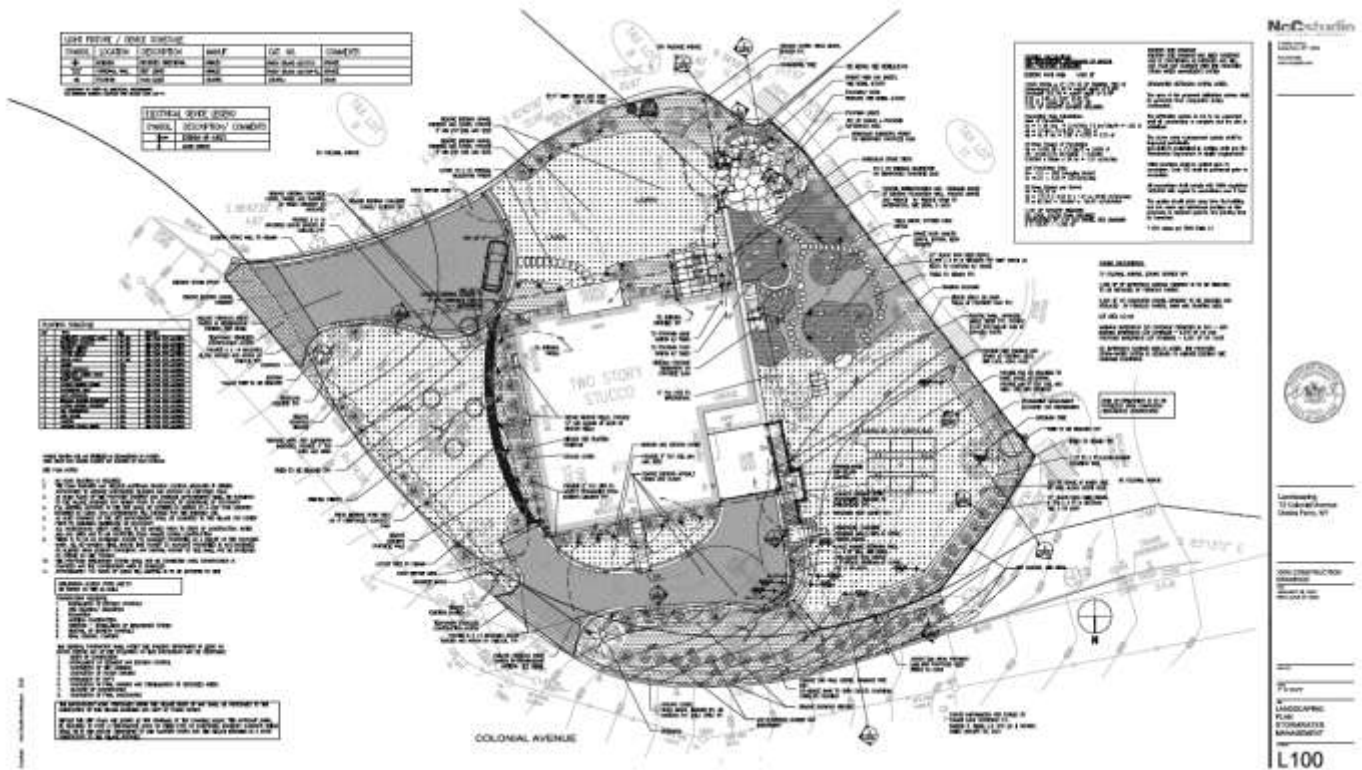
72 Colonial Avenue topographical survey is as follows:



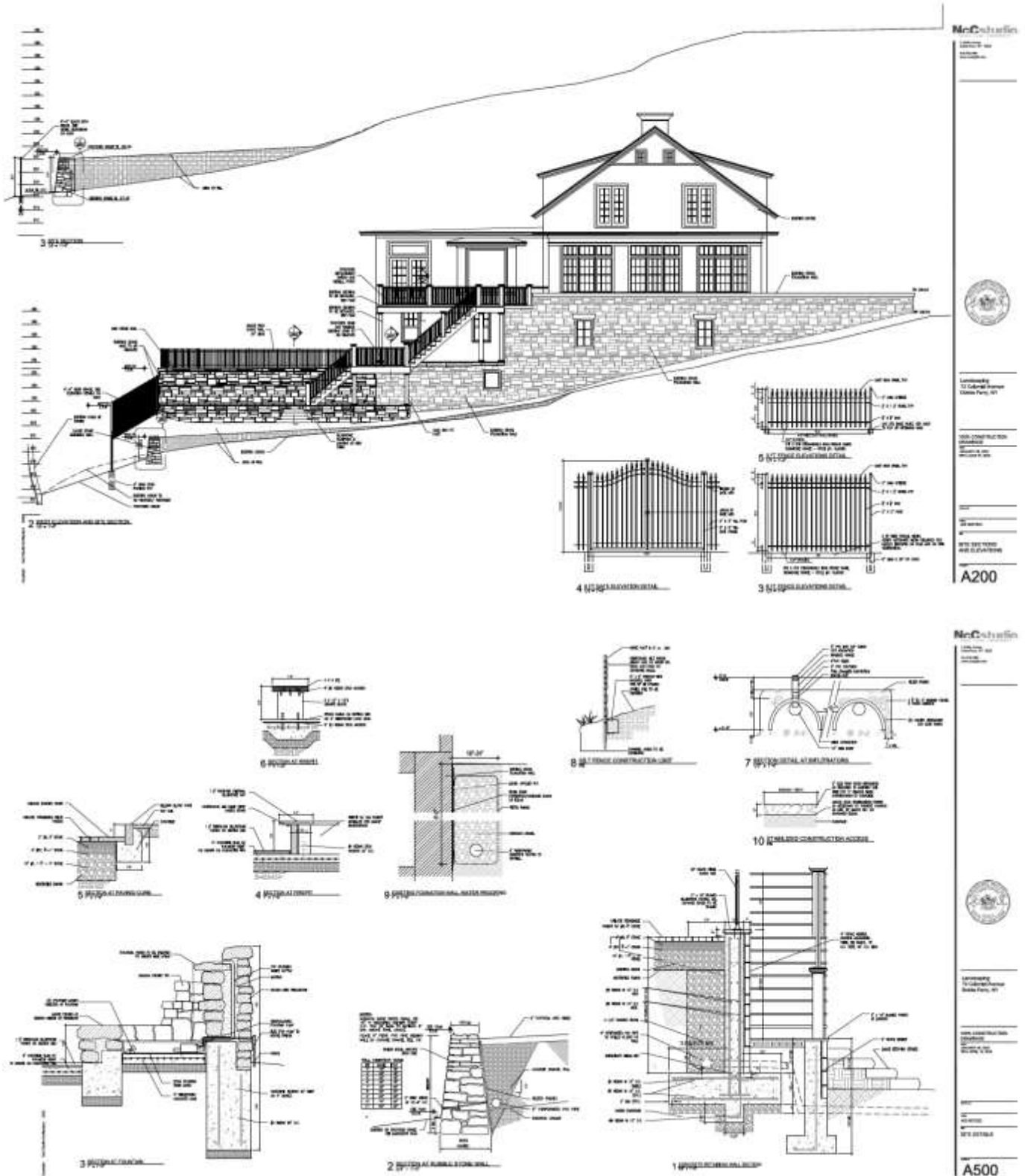




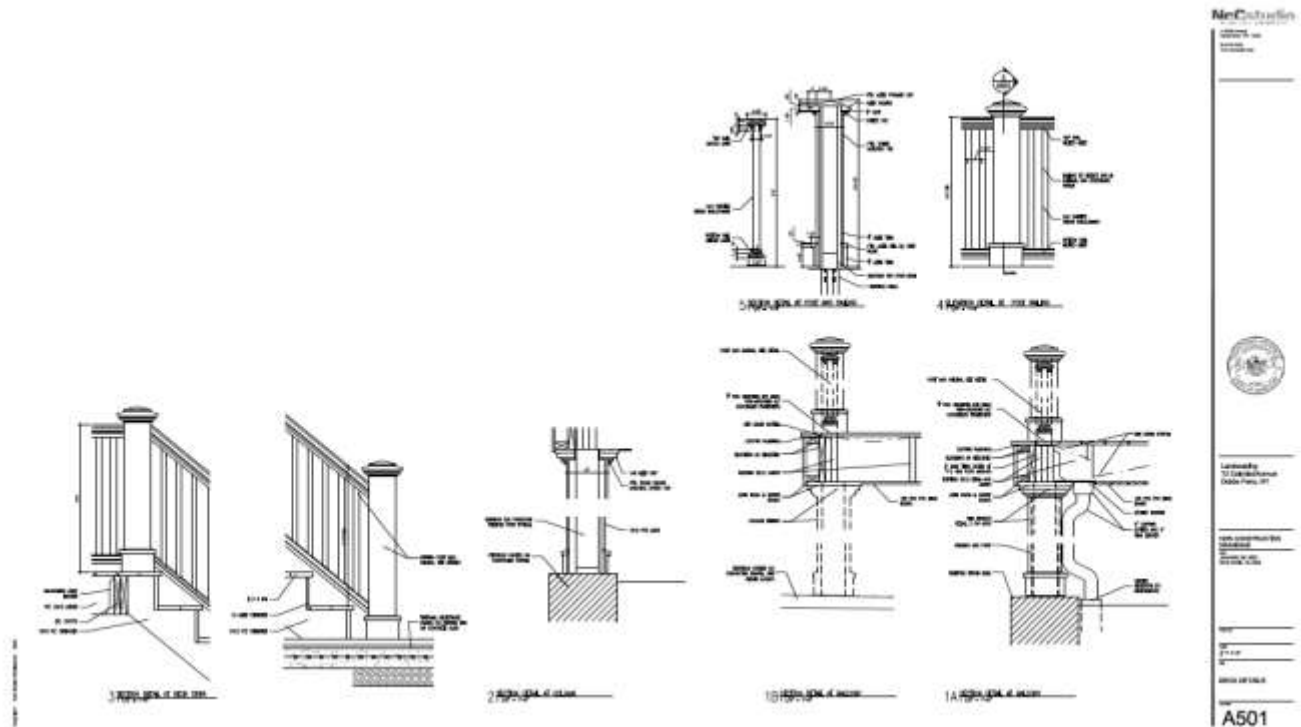
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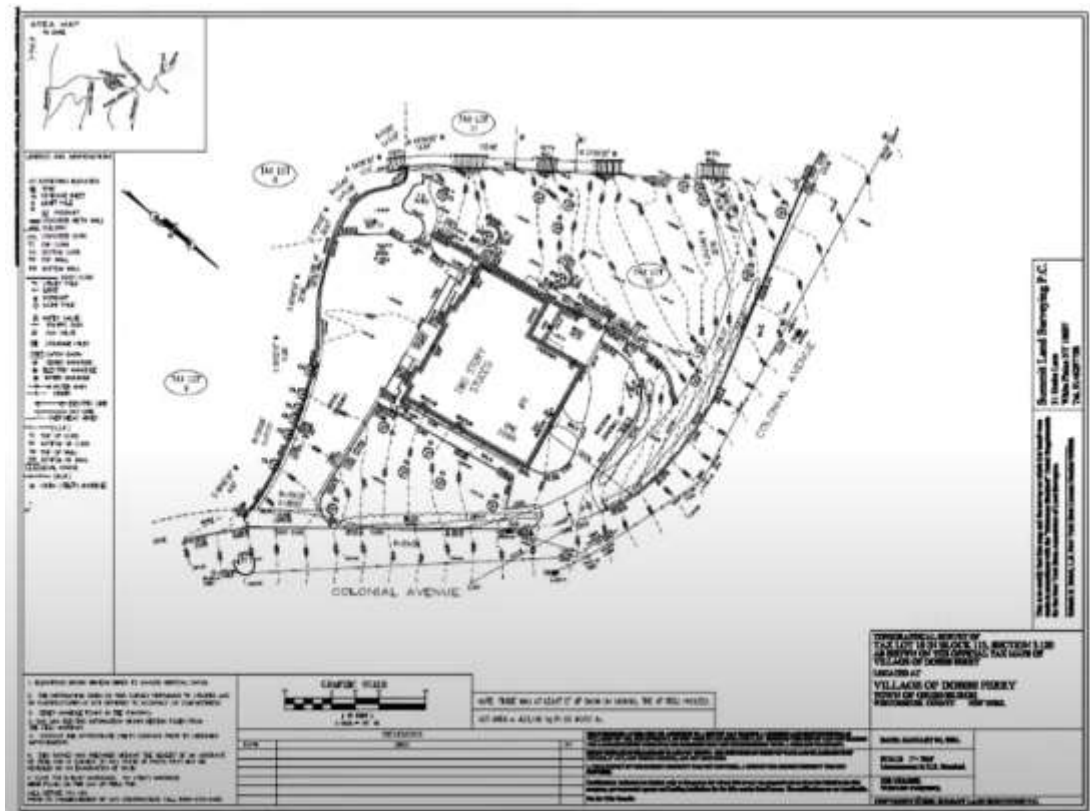
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Mr. Niall Cain/Architect and Mr. Robert Dickey/Homeowner were present to represent the application.

Mr. Cain discussed the proposed application and displayed the following slides:

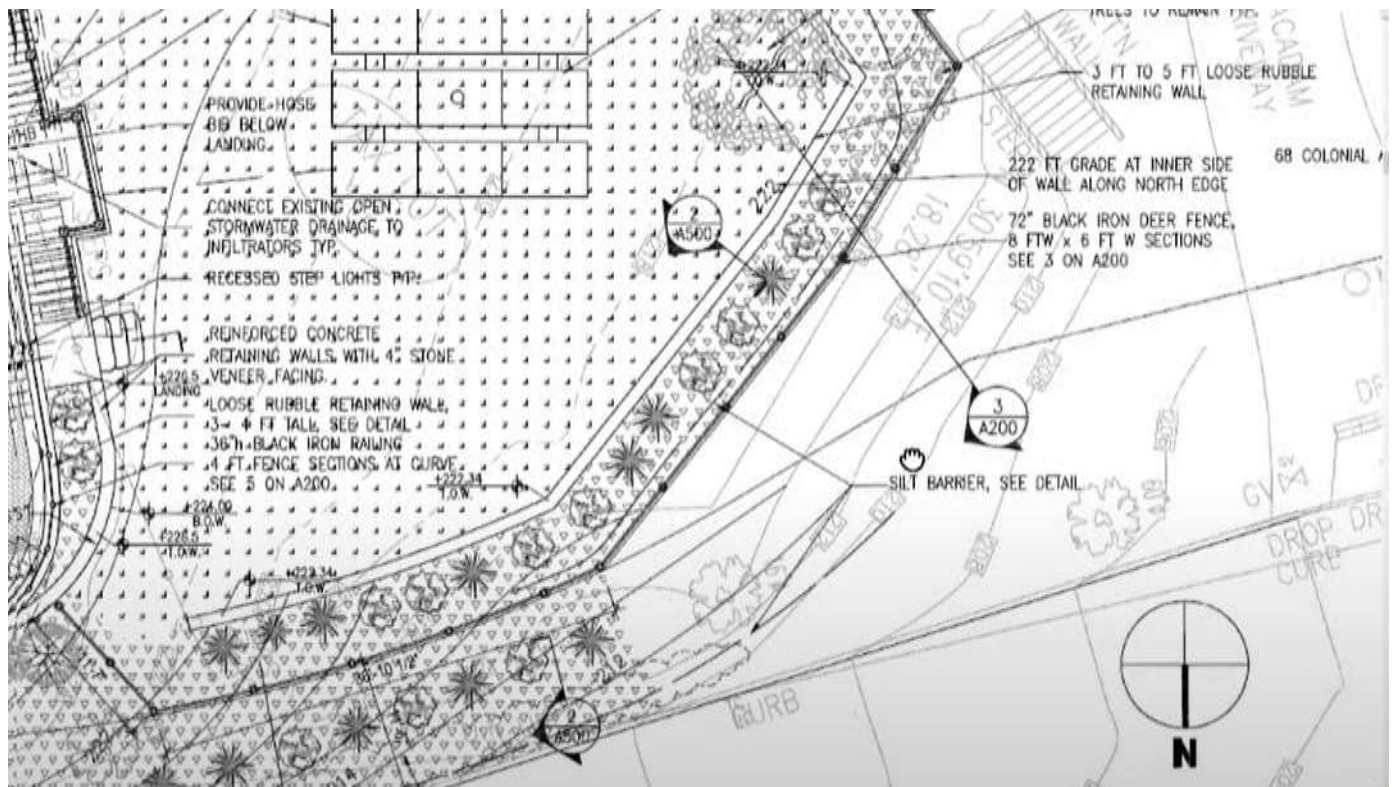
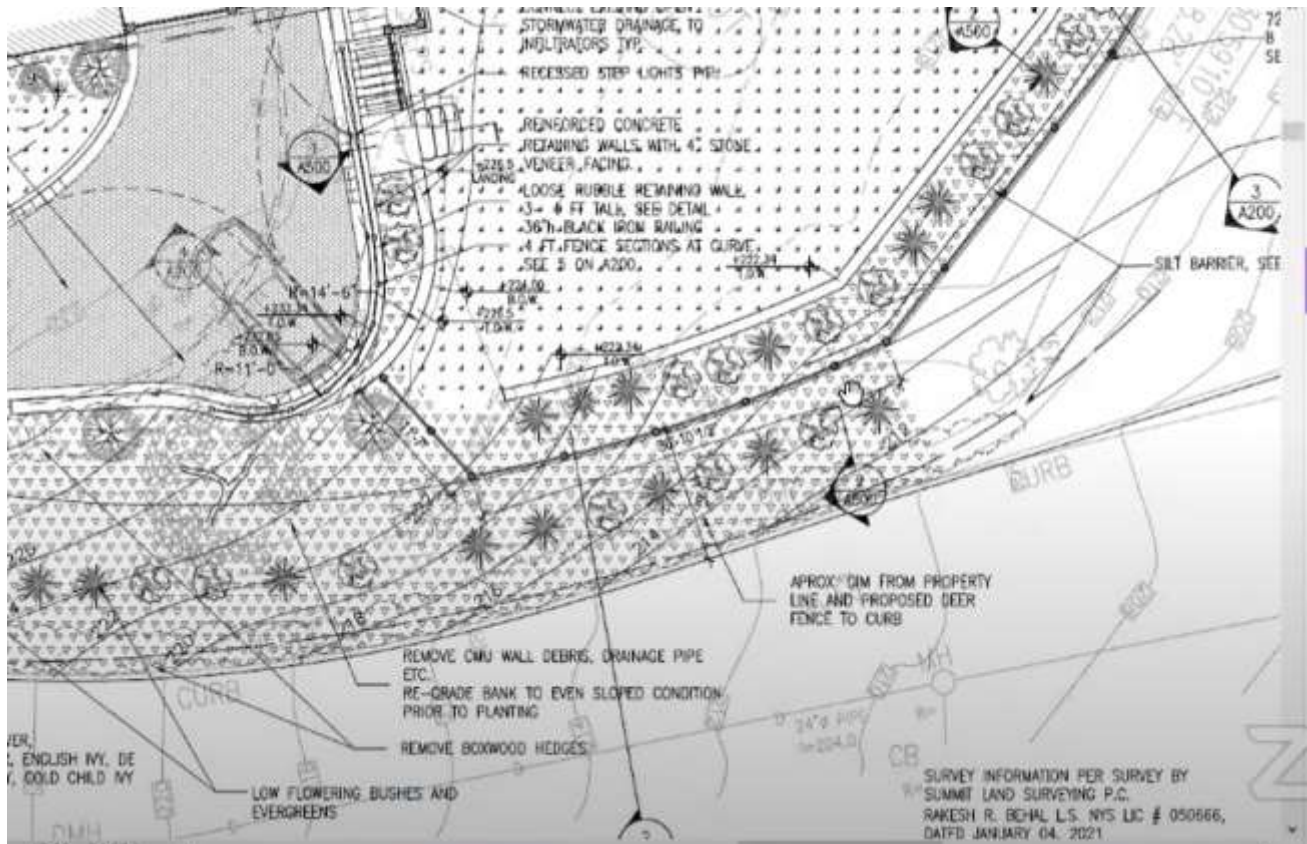
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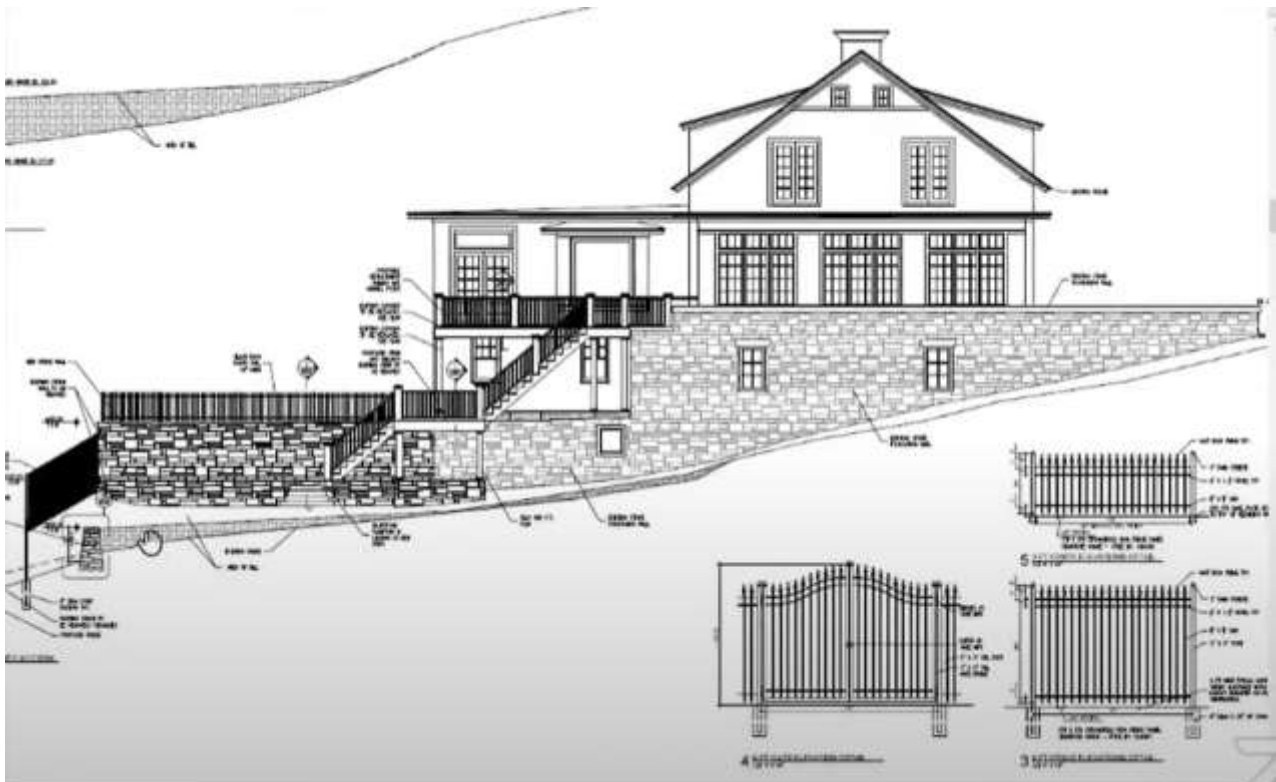
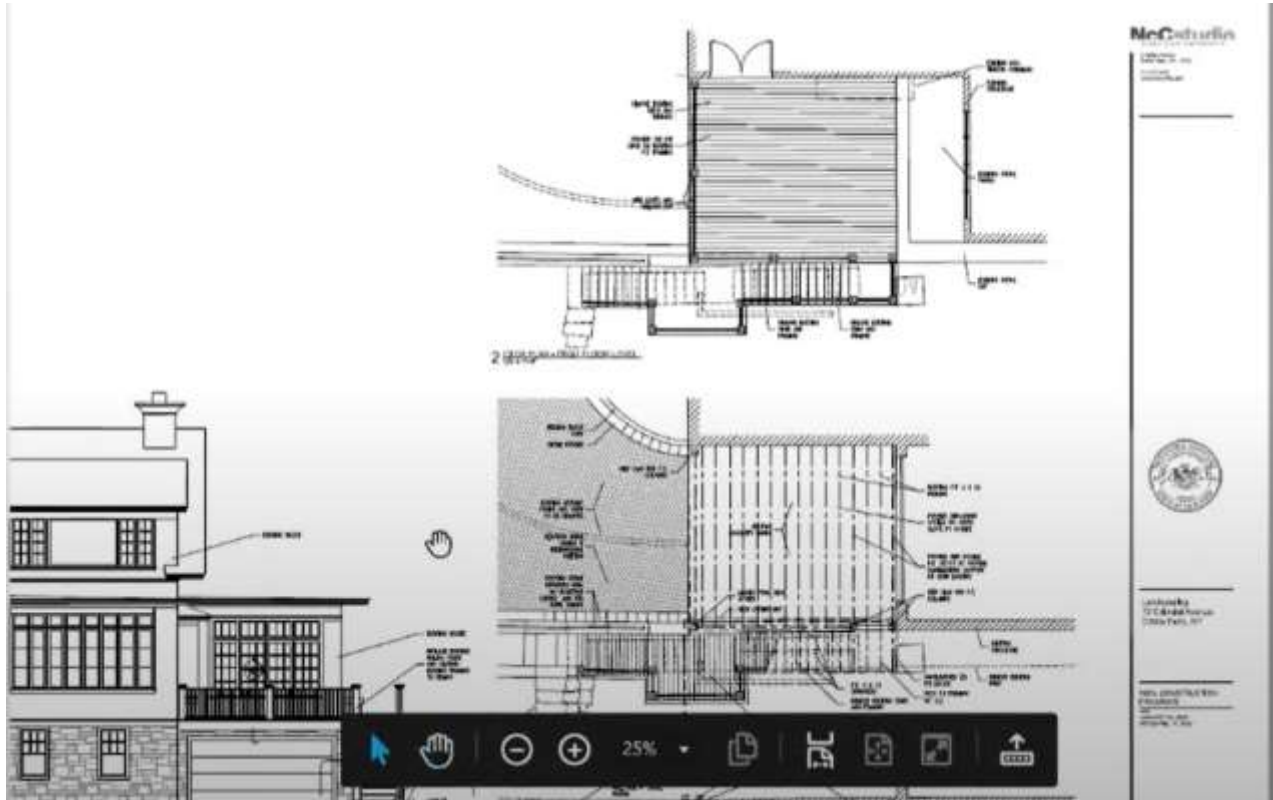
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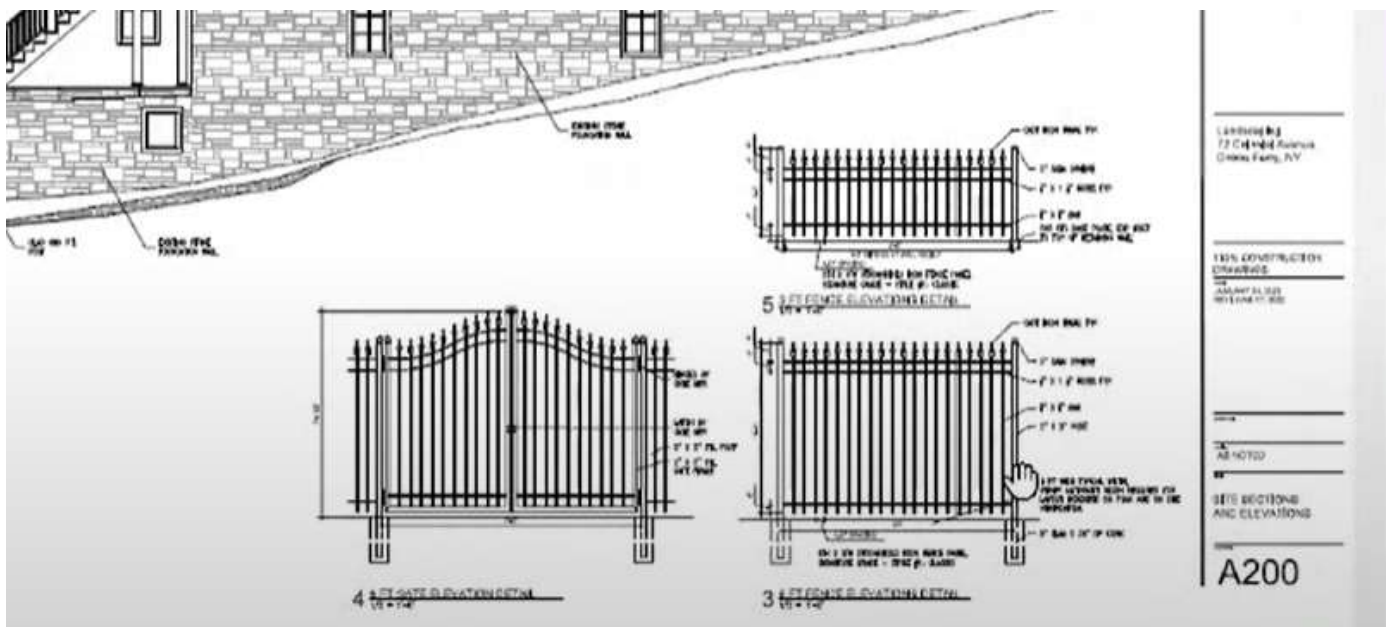
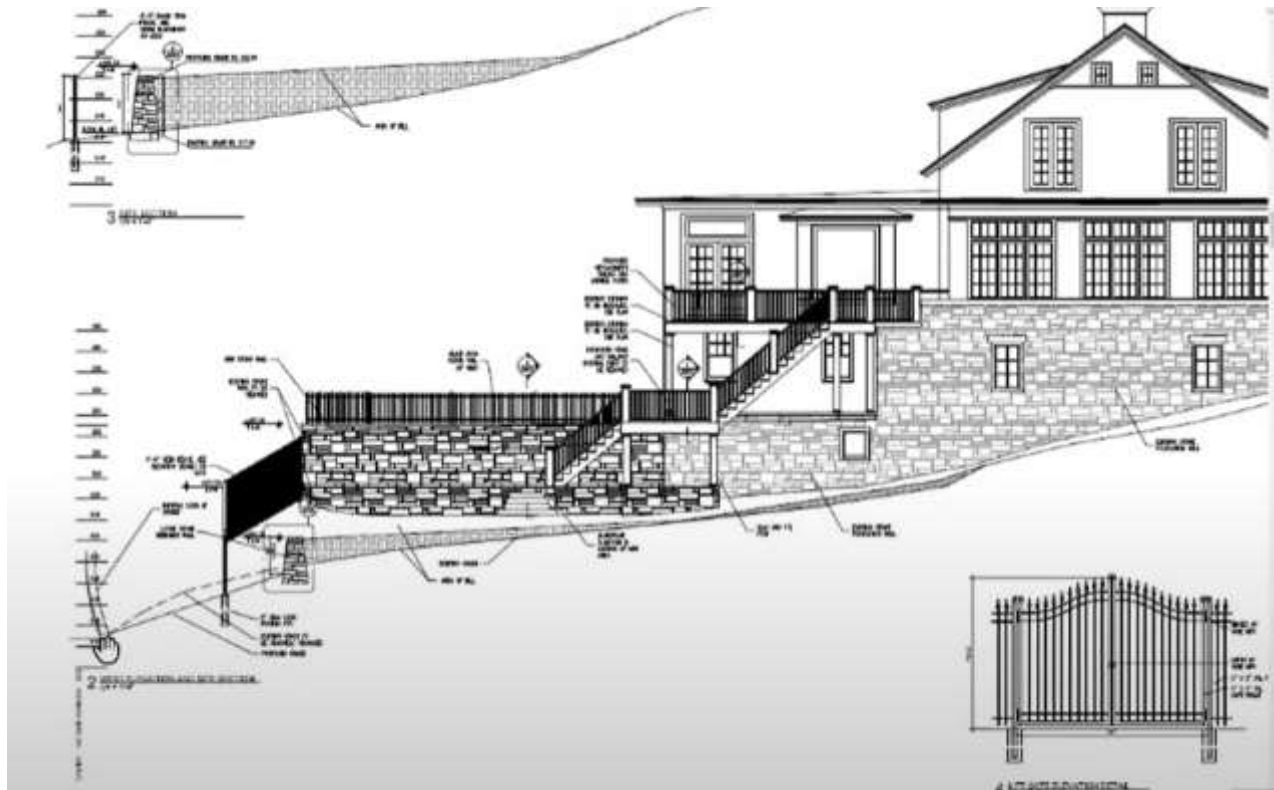
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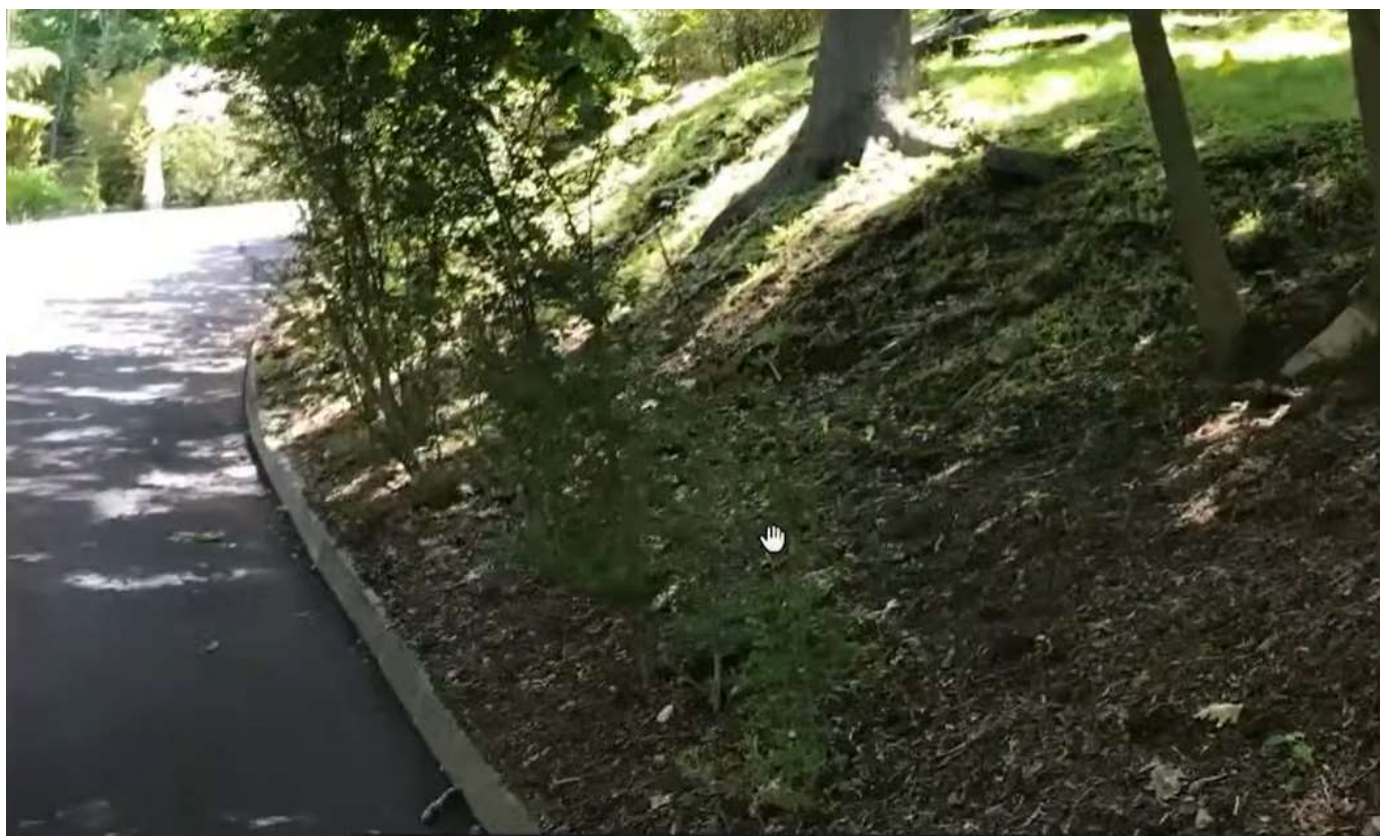
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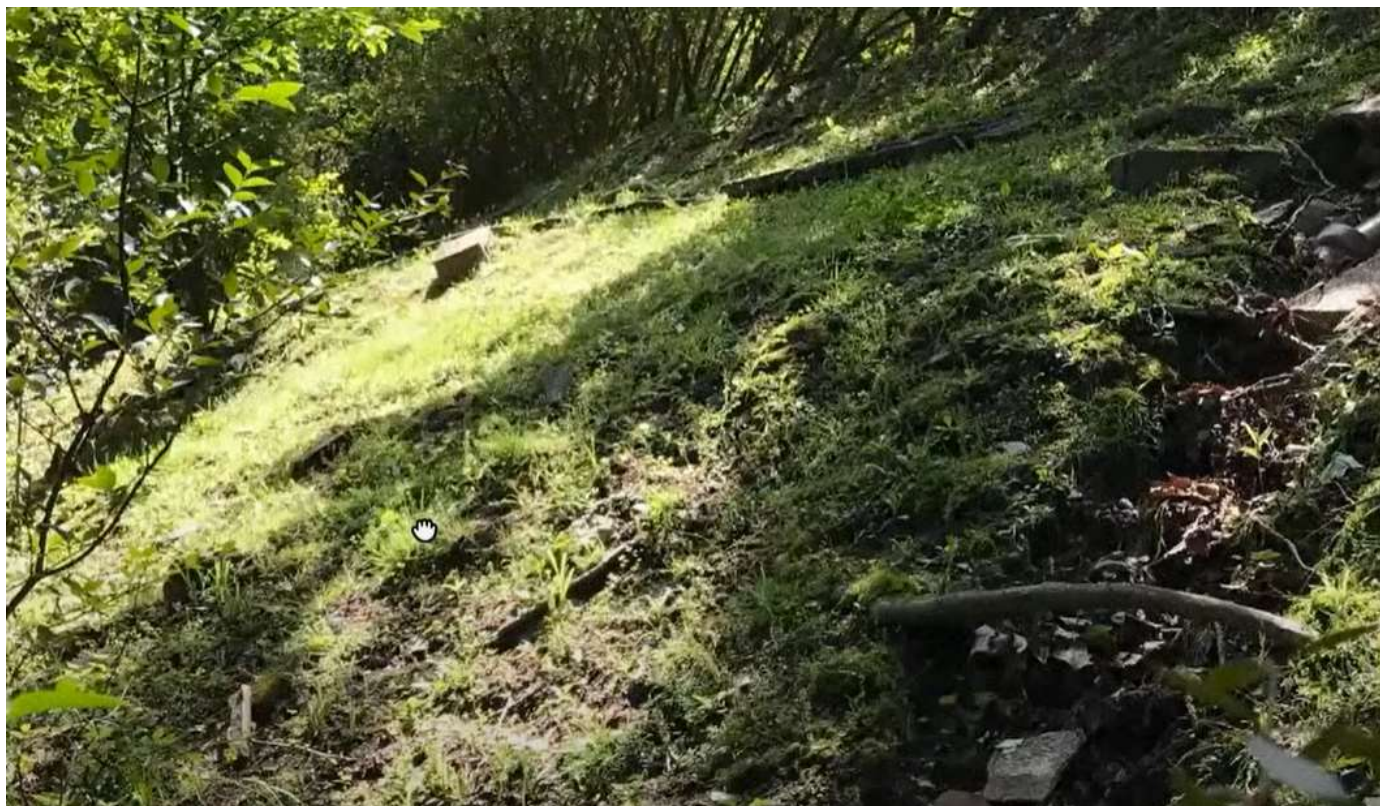
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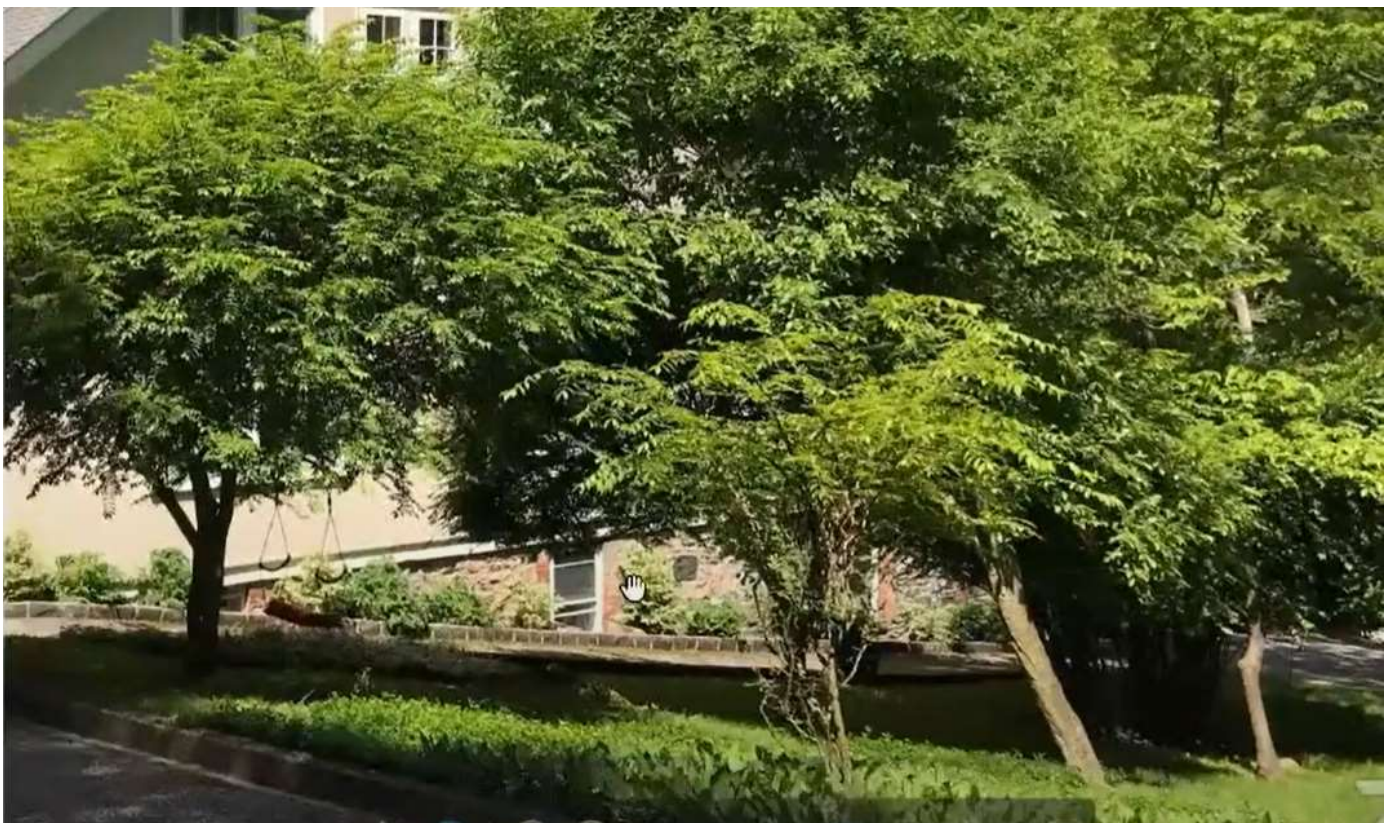
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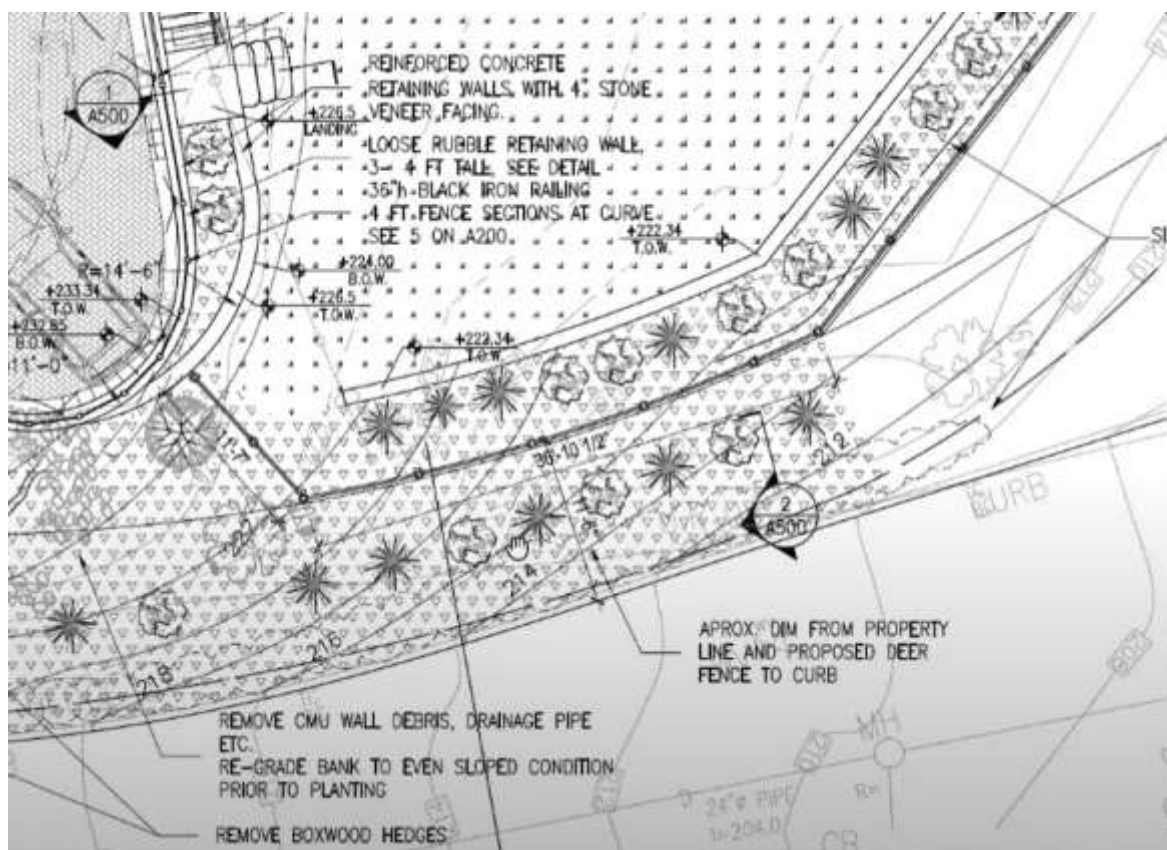


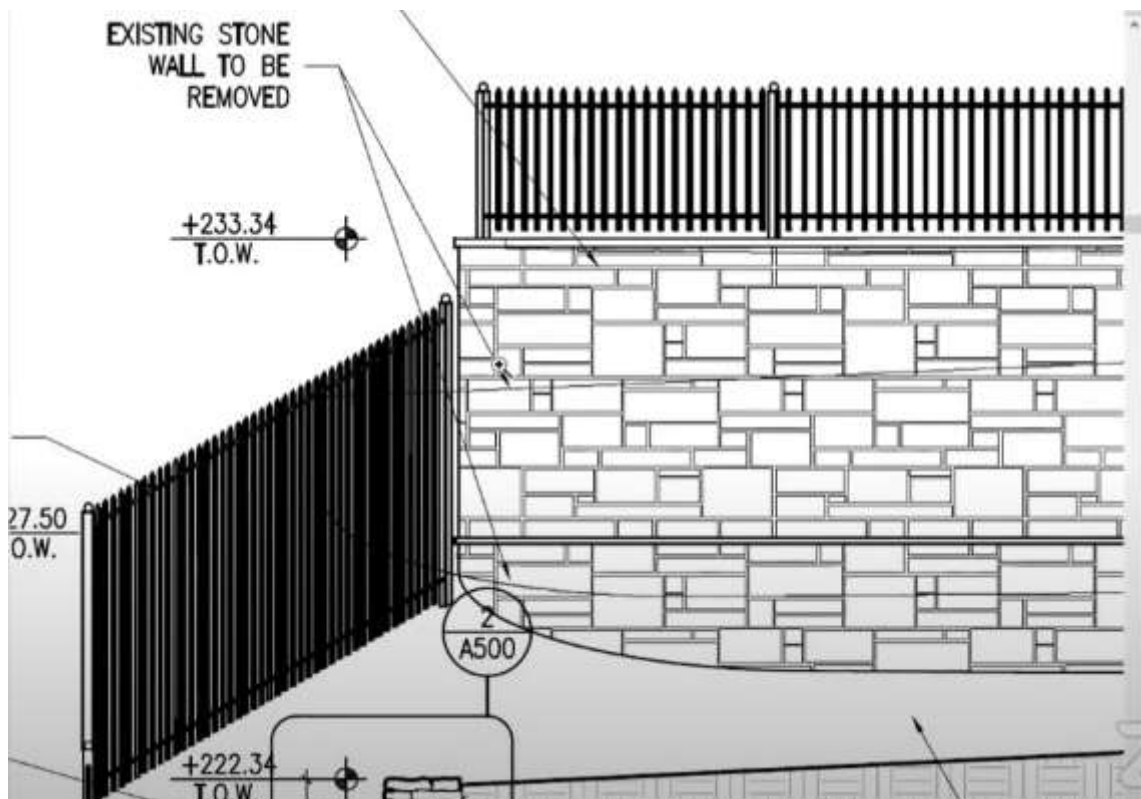
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A discussion was held and Mr. Cain and Mr. Dickey addressed questions from the board.

Motion by Mr. Gombos, seconded by Mr. Capasso to close the public hearing for the application of 72 Colonial Avenue for proposed plans of landscaping including driveway alteration, retaining wall and fence.

The Board discussed the proposed application and Mr. Cain addressed questions from the Board.

CHAIRMAN HOFMANN	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
BRUCE GOMBOS	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JEREMY GUTMAN	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JON MAASS	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
JOSEPH CAPASSO	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
VOTE TOTALS	3 AYE	0 NAY	0 ABSTAIN	0 RECUSE	2 ABSENT/EXCUSED
RESULT:	MOTION: PASSES				

The public hearing is closed.

Motion by Mr. Gombos, seconded by Acting Chairman Gutman to deny the applicant's request with this variance.

CHAIRMAN HOFMANN	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
BRUCE GOMBOS	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JEREMY GUTMAN	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JON MAASS	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
JOSEPH CAPASSO	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
VOTE TOTALS	3 AYE	0 NAY	0 ABSTAIN	0 RECUSE	2 ABSENT/EXCUSED
RESULT:	MOTION: PASSES				

Our Planner is directed to prepare a written decision reflecting the deliberations and vote of the Zoning Board on this matter. The written decision will be signed by the Chair and filed with the Village Clerk with a copy attached to tonight's meeting minutes.

Motion by Mr. Gombos, seconded by Mr. Capasso to close the meeting.

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CHAIRMAN HOFMANN	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
BRUCE GOMBOS	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JEREMY GUTMAN	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JON MAASS	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
JOSEPH CAPASSO	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
VOTE TOTALS	3 AYE	0 NAY	0 ABSTAIN	0 RECUSE	2 ABSENT/EXCUSED
RESULT:	MOTION: PASSES				

The meeting closed at 8:50 p.m.

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RESOLUTION 6-2022

**RESOLUTION OF THE ZONING BOARD OF APPEALS
OF THE VILLAGE OF DOBBS FERRY IN THE MATTER OF THE APPEAL AND
APPLICATION OF ROBERT DICKEY (“OWNER”) OF PROPERTY LOCATED AT 72
COLONIAL AVENUE, DOBBS FERRY, N.Y., (“PROPERTY”) WHICH APPEAL IS FROM A
DECISION OF THE BUILDING INSPECTOR OF THE VILLAGE OF DOBBS FERRY
AFFECTING THE PREMISES DESIGNATED ON THE TAX ASSESSMENT MAPS OF THE
VILLAGE OF DOBBS FERRY AS SECTION 3.120, BLOCK 113, LOT 10 IN THE OF-5 ,ONE-
FAMILY RESIDENTIAL 5 ZONING DISTRICT**

WHEREAS, this application involves property located at 72 Colonial Avenue, Village of Dobbs Ferry, County of Westchester and State of New York and designated as Section Block and Lot 3.120-113-10, in the OF-5, One-Family 5, Zoning District; and

WHEREAS, the Owner sought relief from Chapter 300, Zoning and Land Use, of the Village of Dobbs Ferry, New York and requests a variance to construct a six (6) foot fence in the front yard; and

WHEREAS, in accordance with Article 8 of the Environmental Conservation Law (SEQRA) and the implementing regulations (6 NYCRR Part 617), the Zoning Board of Appeals (“ZBA”) has considered all of the impacts of the action and has determined that the Proposed Action is a Type II because it consists of the construction and placement of a fence not changing land use or density (6 NYCRR § 617.5(c)(12)); and

WHEREAS, the Zoning Board of Appeals has reviewed the application materials including the following:

1. Zoning Board of Appeals application dated May 15, 2022;
2. Building Inspector denial letter dated June 27, 2022;
3. Survey prepared by Summit Land Surveying P.C. dated January 4, 2021; and

WHEREAS, the Owner is seeking a fence height of six (6) feet where the maximum front yard fence height is four (4) feet; and

WHEREAS, pursuant to the applicable provisions of law and after due notice and publication, a public hearing was held on July 13, 2022, at which time all those wishing to be heard were given the opportunity to be heard, and the public hearing was closed on July 13, 2022; and

WHEREAS, members of the ZBA are familiar with the property and its location;

NOW, THEREFORE, BE IT RESOLVED, the Zoning Board of Appeals has investigated this application and has given its full consideration to the testimony presented at the hearing and hereby finds that based upon the findings, reasoning, and conditions set forth below the application to the Zoning Board of Appeals for the requested variance is denied:

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1. In accordance with Section 7-712-b of the New York State Village Law and Section 300-24 of the Zoning and Land Use chapter of the Village of Dobbs Ferry, the ZBA must determine whether the benefit to the Applicant, if the variance is granted, outweighs the detriment to the health, safety, and welfare of the neighborhood and community. In rendering its determination and decision, the Zoning Board of Appeals finds the following:

A. Whether an undesirable change will be produced in the character of the neighborhood or be detrimental to nearby properties.

The ZBA finds that the benefits to the applicant do not outweigh the possible detriment to the neighborhood. The property owner is seeking to install a six (6) foot fence in the front yard where the maximum front yard fence height is four (4) feet. The property owner stated that his interest in installing the higher fence was to deter deer from entering the yard as well as privacy for a play area. The Board found that the reasons identified by the property owner for the variance are not unique to this property because all properties in Dobbs Ferry are subject to deer entering their yard, and the Board also found that a four (4) foot fence would provide adequate privacy and a measure of deer deterrence and a six (6) foot fence was not needed. The Board also found that approving the variance would create an undesirable character in the neighborhood by creating a visual barrier in a front yard that is not intended in the zoning code.

B. Whether the benefit sought can be achieved by some method other than an area variance.

The property owner would be able to install a fence and obtain privacy and a measure of deer deterrence without the variance.

C. Whether the variance is substantial.

The ZBA finds that a six (6) foot fence facing the street would be a substantial variance.

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

The ZBA finds that the proposed fence would create an adverse effect on the physical or environmental conditions in the neighborhood if the requested variance is granted because it would not contextually fit into the neighborhood and would have a forbidding appearance that is inconsistent with the character of the neighborhood and the district.

E. Whether the alleged difficulty was self-created.

The ZBA finds the alleged difficulty is self-created because the owner acquired the property subject to the restriction from which he now seeks relief.

This order was duly made by the Zoning Board of Appeals on the 13th day of July 2022.

Motion by: Mr. Gombos Seconded by Acting Chairman Gutman

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BRUCE GOMBOS	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JEREMY GUTMAN	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JON MAASS	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
JOSEPH CAPASSO	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
VOTE TOTALS	3 AYE	0 NAY	0 ABSTAIN	0 RECUSE	2 ABSENT/EXCUSED
RESULT:	MOTION: PASSES				

I hereby attest that the application was approved by the Zoning Board of Appeals at its July 13, 2022, meeting, and that I have been authorized to sign this Resolution by decision of the Zoning Board of Appeals.



Jeremy Gutman, Acting Chairman

Date: July 13, 2022