

NARRATIVE DESCRIPTION
IN CONNECTION WITH AN APPLICATION FOR
AREA VARIANCE
FROM USDO § 375-4(F)(8)(b)(i)(A)
IN REFERENCE TO

INSTALLATION OF SECURITY FENCE AT
CONGREGATION BETH ABRAHAM JACOB
No. 380 WHITEHALL ROAD
ALBANY, NY

Prepared by:

Hershberg & Hershberg
Consulting Engineers and Land Surveyors

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March 25, 2021

INTRODUCTION

Hershberg & Hershberg, Consulting Engineers and Land Surveyors, were retained by Congregation Beth Abraham Jacob (hereinafter the “Applicant”) to assist with their application to construct a security fence at No. 380 Whitehall Road. On November 24, 2020, as the design engineer wrote to Christopher P. Spencer, Chief Planning Official, requesting an interpretation of USDO to determine if a variance was required.

REASONS CITED IN LETTER FOR DENIAL

On February 4, 2021 a denial letter was received (see Appendix 1) included the following:

While I fully understand the security need for this fencing, it does not comply with the requirements in the USDO. As noted in § 375-4(F)(8)(b)(i)(A) “Walls and fences may be located in any front yard or exterior side yard facing a street provided they are no more than four feet in height and no more than 60 percent opaque, except as required to comply with screening requirements in Section 375- 4(F)(5) and (6) above.” The design of the fence as proposed is eight (8) feet in height and as such would not comply with the height limitations of this section. It does appear to comply with the 60% opacity requirement.

DESCRIPTION OF WORK UNDER PROPOSED BUILDING PERMIT

The Applicant proposes to construct an 8-foot fence enclosure to provide security for a Jewish synagogue at No. 380 Whitehall Road. A decorative metal fence with brick pillars at the limits of the fence parallel to Whitehall Road and at the gate into the front entrance is proposed. The 8 foot decorative metal fencing will continue along the South side to beyond the driveway entrance, where a 24 foot wide pivot gate will control ingress and egress. This will be electronically controlled and actuated by individuals who are permitted to park. The balance of the site will be enclosed with either 8 foot vinyl coated chain link fence or with an 8 foot vinyl

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privacy fence. The privacy fence will enclose the playground area. That portion of the fence will not comply with the 60% opacity requirement.

NEED FOR CONSTRUCTION OF A SECURITY FENCE

The Applicant believes that the need for security provisions at Jewish synagogues around the world has been established by many local, state and national police or security organizations. ADL's (Anti-Defamation League) Center on Extremism tracks incidents of antisemitic harassment, vandalism and assault in the United States. Since 1979, they have published this information in an annual Audit of Antisemitic Incidents. In 2019, ADL tabulated 2,107 antisemitic incidents throughout the United States. This is a 12% increase from the 1,879 incidents recorded in 2018 and marks the highest number on record since ADL began tracking antisemitic incidents in 1979. More than 50% of the violent attacks occurred in New York city and its' environs. The easy accessibility to Albany from New York City maker Congregation Beth Abraham Jacob a prime potential target.

APPLICABILITY OF AN AREA VARIANCE

An area variance is the appropriate relief as noted in USDO §375-6(B) AREA VARIANCE which states that:

The authorization by the BZA for the use of land in a manner which is not allowed by the dimensional or **physical requirements** of the applicable regulations of this USDO. (*Emphasis added*)

CONSIDERATIONS FOR AN AREA VARIANCE

The USDO at §375-5E(21)(c)(i) states:

In making its determination regarding a request for an Area Variance, the BZA 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. In making such determination, the BZA shall also consider:

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

The sections below address these matters.

CHANGE IN CHARACTER OF THE NEIGHBORHOOD OR DETRIMENT TO NEARBY PROPERTIES

The proposed fence installation will not change the character of the neighborhood. The decorative metal fence parallel to Whitehall Road has been located 31+/- feet from the ROW line and 40+/- feet from the sidewalk to reduce the visual impact. The decorative metal fence parallel to South Manning Boulevard Ext. has been located 136+/- feet from the ROW line and 141+/- feet from the sidewalk to reduce the visual impact. The closest fence from South Manning Boulevard Ext. is the 8' vinyl coated chain link fence which has been located 88+/- feet from the ROW line and 93+/- feet from the sidewalk.

WHETHER CHANGE CAN BE ACHIEVED BY ANOTHER MEANS

In order to secure the site from potential intruders the 8 foot is the minimum fence required. Since many of the violent anti-Semitic incidences have

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been carried by a lone individual, a 4 foot or 6 foot fence would not create a suitable.

WHETHER VARIANCE IS SUBSTANTIAL

The Applicant does not believe that this variance requested is substantial. The fence design is attractive and should not be considered obtrusive in any substantial manner.

WHETHER VARIANCE WILL HAVE AN ADVERSE EFFECT

The Applicant does not believe that granting this variance will result in the creation of any adverse impacts.

LACK OF SELF CREATED SITUATION

The Applicant believes that this situation may be considered “self-created”. The need to provide a safe and secure facility from the increasing number of violent attacks is certainly not self-created. Even if present, it constitutes only one factor to be considered by the board of appeals; it does not, in and of itself, act as a bar to the grant of an area variance.”

QUALITY OF LIFE IMPACTS

This reconstruction will have no potential quality of life impacts.:

APPROVALS

This fence installation requires review and approval by Division of Building & Codes for a Building Permit in addition to this Variance request.

CONCLUSION:

The proposed installation of the security fence has been designed to minimize the impact of items addressed herein. It is the engineer's conclusion that this project can be completed with minimum impact on the environment or on surrounding properties. It is, furthermore, the Engineer's opinion that the area variance from §375-4(G)(4)(a) and building permit can be granted in accordance with the *USDO*.



Prepared by:

A handwritten signature in black ink, appearing to read "D. Hershberg", written over a horizontal line.

HERSHBERG & HERSHBERG
Daniel R. Hershberg, P.E. & L.S.

file/dan/NarrRep2020240AREAVARIANCE.doc

Appendix 1

Letter from Chief Planning Official



DEPARTMENT OF
PLANNING & DEVELOPMENT

MAYOR: KATHY M. SHEEHAN
COMMISSIONER: CHRISTOPHER P. SPENCER

February 4, 2021

Daniel R. Hershberg, PE & LS
Hershberg & Hershberg | Consulting Engineers & Land Surveyors
18 Locust Street
Albany, New York 12203

RE: 380 Whitehall Road | Congregation Beth
Abraham Jacob Fence Permit Request

Dear Mr. Hershberg:

Thank you for sharing your proposal for fencing along the perimeter of Congregation Beth Abraham Jacob at 380 Whitehall Road. Based on the drawings and site plan, the proposed fencing would be located along the front of the property at 380 Whitehall, extending along the side yard to the west and along Whitehall Court, and continue along the front of the property.

While I fully understand the security need for this fencing, it does not comply with the requirements in the USDO. As noted in § 375-4(F)(8)(b)(i)(A) “Walls and fences may be located in any front yard or exterior side yard facing a street provided they are no more than four feet in height and no more than 60 percent opaque, except as required to comply with screening requirements in Section 375-4(F)(5) and (6) above.” The design of the fence as proposed is eight (8) feet in height and as such would not comply with the height limitations of this section. It does appear to comply with the 60% opacity requirement.

Therefore, any application for fencing as proposed or depicted on your drawing would be denied. As noted in § 375-5(E)(21)(a) “If an application to the Chief Building Official or Chief Planning Official under this USDO does not comply with the provisions of this USDO, the Chief Building Official or Chief Zoning Official shall issue a denial. The applicant may then apply for a variance from the dimensional or development standards or the permitted use regulations of this USDO pursuant to this Section 375-5(E)(21).”

Please let me know if you have any questions regarding this denial or the process for applying for a variance. Sincerely,

Christopher P. Spencer | Commissioner of Planning & Development / Chief Planning Official

Appendix 2

Excerpt from Audit of Antisemitic Incidents

Each year, ADL's (Anti-Defamation League) Center on Extremism tracks incidents of antisemitic harassment, vandalism and assault in the United States. Since 1979, we have published this information in an annual Audit of Antisemitic Incidents.

- In 2019, ADL tabulated 2,107 antisemitic incidents throughout the United States. This is a 12% increase from the 1,879 incidents recorded in 2018 and marks the highest number on record since ADL began tracking antisemitic incidents in 1979.
- Of the 2,107 incidents recorded in 2019, 1,127 were cases of harassment, a 6% increase from 1,066 in 2018, and 919 were cases of vandalism, a 19% increase from 774 in 2018. The 61 incidents of antisemitic assault (a 56% increase from 39 in 2018), involved 95 victims and led to five deaths. More than half of the assaults nationwide took place in the five boroughs of New York City.
- There were three major attacks on the Jewish community in 2019: A white supremacist opened fire at the Chabad of Poway, California, on April 27, killing one. Two individuals, at least one of whom was associated with an antisemitic Black Hebrew Israelite sect, attacked a Jewish grocery store in Jersey City, New Jersey, on December 10, killing three. On December 28 an individual attacked a Hanukkah party at the home of a rabbi in Monsey, New York, with a knife, resulting in four injuries and one fatality. The assailant was charged with a federal hate crime, but has since been declared unfit to stand trial and was ordered committed to a psychiatric facility for continued evaluation. State charges are still pending.
- In 2019, ADL recorded 270 antisemitic incidents attributed to known extremist groups or individuals inspired by extremist ideology. This represents 13% of the total number of incidents.
- K-12 schools, as well as colleges and universities, continue to experience a significant number of antisemitic incidents. ADL recorded 411 incidents at K-12 non-Jewish schools in 2019 (up 19% from 344 in 2018), and 186 incidents at colleges and universities (down 10% from 201 in 2018).
- In 2019, there were 234 reported incidents at Jewish institutions such as synagogues, Jewish community centers and Jewish schools, a decrease of 12% from 265 in 2018. 171 were incidents of harassment and 60 were incidents of vandalism. There were three incidents of physical assault, one of which was the fatality at the Poway synagogue shooting. Fifty of these incidents were perpetrated by extremists.
- 171 antisemitic incidents in 2019 involved references to Israel or Zionism. Of those, 68 took the form of white supremacist groups' propaganda efforts, which attempt to foment anti-Israel and antisemitic beliefs. Most of the remaining incidents were expressions of anti-Israel animus that incorporated antisemitic imagery or harassment and demonization of Jewish students for their real or assumed connection to Israel.

- ADL has included a comprehensive set of policy recommendations to help civil society, governmental and technology sector leaders fight the scourge of antisemitism. These recommendations, found at the end of this report, focus on assessing and combating the rise of online antisemitism, which, although not tracked in this report beyond specific instances of direct targeting, ADL has analyzed in other reports.
- The complete dataset of antisemitic incidents for 2016-2019 is available on ADL's [H.E.A.T. Map](#), an interactive online tool that allows users to geographically chart antisemitic incidents and extremist activity nationally and regionally. Some details have been removed from the incident listings to protect the victims' privacy.

Appendix 3
Site Photographs



View from Whitehall Road



**View from intersection of Whitehall Road and
South Manning Boulevard Ext.**



View from South Manning Boulevard Ext.



View from South Manning Boulevard Ext.

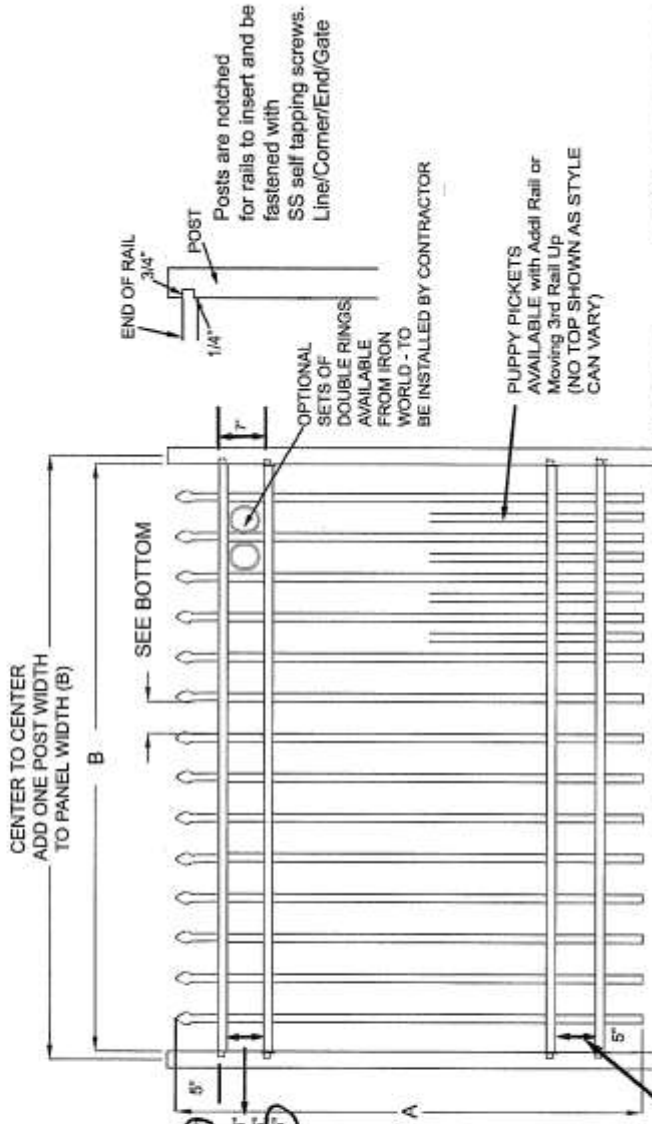
Appendix 4

Fence Shop Drawing

IRON WORLD
 9390 DAVIS AVENUE
 HOWARD COUNTY, MD 20723
 PHONE: (301) 776-7630
 TOLL FREE: 1-866-310-2747
 FAX: (301) 776-7449
 www.ironworldfencing.com

IRON WORLD

* Refer to Pricing Guide For
 Rail Requirements for All 94 1/2" W
 Panels, Double Pickets and
 Puppy Pickets Panels



Exact Panel Ht. (A)	
3' 0"	Industrial 6"
3' 6"	Res 6"
4' 0"	Comm. 5.75"
4' 6"	Indust. 5.375"
5' 0"	
6' 0"	
7' 0" N/A Res.	
8' 0" N/A Res.	

PANEL WIDTH (B)	
Residential	70 1/2"
Commercial	70 1/2" & 94 1/2"
Industrial	70 1/2" & 94 1/2"

Picket Screws:	#8 x 3/4"
Post/Rail Screws:	
2" Post:	#10 x 1"
3" Post:	#10 x 1"
4" Post:	#10 x 1 1/2"

NOT TO SCALE
 Res. 6"
 Comm. 5.75"
 Indust. 5.375"

MAVERICK™

ORNAMENTAL ALUMINUM FENCING
 BARCELONA 4 RAIL TRADITIONAL BOTTOM

INDUSTRIAL	
POSTS	2 1/2" X 2 1/2" .080 Wall
	2 1/2" X 2 1/2" .125 Wall
	3" x 3" .125 Wall
	4" x 4" .125 Wall
RAILS	1 5/8" X 1 5/8" .100 Wall
PICKET SIZE	1" x 1" .060 Wall
PICKET SPACING	3 3/4" (+/-)

COMMERCIAL	
POSTS	2" X 2" .062 Wall
	2" X 2" .093 Wall
	2 1/2" X 2 1/2" .080 Wall
	2 1/2" X 2 1/2" .125 Wall
RAILS	1 1/4" X 1 1/4" .080 Wall
PICKET SIZE	3/4" X 3/4" .050 Wall
PICKET SPACING	3 3/4" (+/-)

RESIDENTIAL	
POSTS	2" X 2" .062 Wall
	2" X 2" .093 Wall
	2 1/2" X 2 1/2" .080 Wall
	2 1/2" X 2 1/2" .125 Wall
RAILS	1" X 1" .080 Wall
PICKET SIZE	5/8" x 5/8" .045 Wall
PICKET SPACING	3 7/8"