

# PLANNING & DEVELOPMENT COMMITTEE

**Tuesday, May 15, 2018**

*6:00 pm*

Council Board Room

One Batavia City Centre, Batavia NY

---

## **AGENDA**

I. Roll Call

II. Call to Order

III. Approval of Minutes – 4/17/18

IV. Proposals

**Address:** *13 Porter Ave.*

**Applicant:** Gerald Freeman (agent for owner)

Proposal 1: Recommendation to the ZBA to increase parking for this proposed two family dwelling by adding two 9' x 20' asphalt parking spaces in the front (east) yard of this former four family dwelling. Two parking spaces are already provided in the existing 14.3/ x 52' asphalt driveway

Proposal 2: Recommendation to the ZBA for construction of two sets of wood frame entry stairs, one at the front entrance and one at the north side entrance. Both sets will project into the required clear spaces

Actions: 1. Review application  
2. Discussion and recommendation to the ZBA

**Address:** *316 East Main St.*

**Applicant:** Ryan Macdonald (agent for purchaser)

Proposal 3: Rooming house permit for operation of an existing 11-room rooming house structure. The applicant is purchasing this property from the present operator, Terrence L. Platt.

Actions: 1. Review application  
2. Public hearing  
3. Discussion and action by the board

V. Other/ New Business/Updates

VI. Setting of Next Meeting: June 19, 2018

VII. Adjournment

# PLANNING & DEVELOPMENT COMMITTEE

## *MINUTES*

**Tuesday, April 17, 2018**

**6:00 pm**

Council Board Room

One Batavia City Centre, Batavia NY

Members present: *Matthew Gray, Robert Knipe, Duane Preston*

Members absent: Edward Flynn, Tammy Hathaway, Marc Staley (Alt.)

Others present: Meg Chilano – Recording Secretary, Doug Randall – Code Enforcement Officer

### **I. Roll Call**

Roll call of the members was conducted. Three members were present and Chairman Duane Preston declared a quorum.

### **II. Call to order**

Mr. Preston called the meeting to order at 6:04 pm.

### **III. Previous Meeting Minutes**

**MOTION:** Mr. Gray moved to approve the minutes; the motion was seconded by Mr. Knipe, and on roll call, was approved 3-0.

**RESULT: March 15, 2018 meeting minutes approved.**

### **IV. Proposals**

[The proposal for 13 Porter Ave. was removed from the agenda.]

Site Plan approval for construction of a 7,522 sq.' one story warehouse with loading dock. Includes removal of principal and accessory structures from 73 and 75 Franklin St., and merging three parcels into one lot

Address: *73, 75, and 77 Franklin St.*

Applicant: John Harrower (owner)

- Actions:
1. Review application
  2. Public hearing
  3. SEQR
  4. Discussion and action by the board

#### **1. Review Application**

Mr. Preston read the summary of the proposal. The applicant explained that the three parcels have already been merged, and now he wishes to construct a warehouse for the purpose of storing windows and doors. Mr. Harrower said that his eldest son is joining the business so he is planning an additional investment in the company.

Mr. Gray noted that a portion of the property is within the floodplain and asked what plans have been made for this situation. Mr. Harrower responded that the property has been mapped and the building will be constructed entirely out of the floodplain within the setbacks required by the City.

Mr. Preston asked if the building needs to have a sprinkler system. Mr. Harrower said that the sprinkler system is dependent on the type of materials being stored, and since the warehouse will not be used to store lumber and is under 10,000 sq. ', a sprinkler system is not required.

Mr. Gray observed that the drawings do not show landscaping plans. According to Mr. Harrower, the project will include landscaping.

## **2. Public Hearing**

**MOTION:** Mr. Knipe moved to open the public hearing; the motion was seconded by Mr. Gray, and on roll call, was approved 3-0.

**RESULT: Public hearing opened at 6:13 pm.**

There was no one present who wished to speak, and no calls, letters, or email concerning the proposal.

**MOTION:** Mr. Gray moved to close the public hearing; the motion was seconded by Mr. Knipe, and on roll call, was approved 3-0.

**RESULT: Public hearing closed at 6:14 pm.**

## **3. SEQR**

Mr. Preston asked if the board had reviewed part one of the SEQR application and they indicated they had. The board went through the questions for part two.

**MOTION:** Mr. Gray moved to approve a negative declaration of SEQR; the motion was seconded by Mr. Knipe, and on roll call, was approved 3-0.

**RESULT: Negative declaration of SEQR**

## **4. Discussion and Action by the Board**

**MOTION:** Mr. Gray moved to approve the Site Plan; the motion was seconded by Mr. Knipe, and on roll call, was approved 3-0.

**RESULT: Site Plan approval.**

**V. Other/New Business/Updates:** none

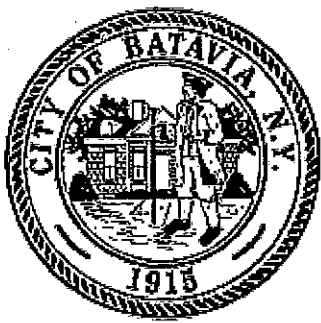
**VI. Setting of Next Meeting:** May 15, 2018

## **VII. Adjournment**

Mr. Gray moved to adjourn the meeting at 6:18 pm; the motion was seconded by Mr. Knipe. All voted in favor.

---

Meg Chilano  
Recording Secretary



*City of Batavia*  
*Department of Public Works*  
*Bureau of Inspections*

One Batavia City Center, Batavia, New York 14020

(585)-345-6345

(585)-345-1385 (fax)

To: Genesee County Planning  
Planning and Development Committee  
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 2/15/18

Re: 13 Porter Ave.  
Tax Parcel No. 84.040-2-30

Zoning Use District: R-3

The applicant, Gerald Freeman (agent for owner), is requesting two variances:

1) Approval to increase parking for this proposed two family dwelling by adding two 9' x 20' asphalt parking spaces in the front (east) yard of this former four family dwelling. Two parking space are already provided in the existing 14.3' x 52' asphalt driveway. Note: BMC 190-39 A.(2)(a) requires 2 off street parking spaces per dwelling unit.

2) Approval to construct two sets of wood frame entry stairs, one at the front entrance and one at the north side entrance. Both sets will project into the required clear spaces.

**Note: This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQR 6 NYCRR Part 617.5 (c) (13).**

**Review and Approval Procedures:**

**County Planning Board-** Pursuant to General Municipal Law 239 m, referral to the County Planning Board is required since the property is within 500 feet of the right of way of a state road or highway.

**City Planning and Development Committee-** Pursuant to section 190-49 C. of the zoning ordinance, the Planning and Development Committee shall review and make recommendations to the ZBA for applications that include parking variances.

**Zoning Board of Appeals-** Pursuant to BMC Sec. 190-49 of the zoning ordinance, the ZBA shall review and act on required variances.

1) Required variances- Area

**BMC Sec. 190-39 E (1)** The width of driveways and parking spaces shall not exceed 25% of the lot frontage.

	<u>Permitted</u>	<u>Proposed</u>	<u>Difference</u>
Driveway width	11' (25%)	32.3' (73%)	21.3 (48%)

2) Required variances- Area

**BMC Sec. 190-29 A. and Schedule I**

	<u>Required</u>	<u>Proposed</u>	<u>Difference</u>
Front yard clear space	20'	14.24'	5.76'
Side yard clear space	8'	6.3'	1.7'



FEB 15 2018

CITY OF BATAVIA  
CLERK-TREASURER

CITY OF BATAVIA  
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 18-01  
Hearing Date/Time: \_\_\_\_\_

APPLICANT: Gerald Freeman

Name 15 S. Spruce St E-Mail Address (716) 912-7665  
Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
City Batavia State NY Zip 14020

STATUS: ☒ Owner ☐ Agent for Owner ☒ Contractor

OWNER: Jeff Freeman

Name 15 S. Spruce E-Mail Address 716 912 1090  
Street Address \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
City Batavia State NY Zip 14020

LOCATION OF PROPERTY: 13 Parker Ave.

DETAILED DESCRIPTION OF REQUEST: Approval of an area variance for  
front yard parking and set backs for front and side entry  
stairs and landings.

Applicant must be present at the hearing date. Failure to do so will result in the application being discarded. It is the responsibility of the applicant to present evidence sufficient to satisfy the Zoning Board of Appeals that the benefit of the applicant does not outweigh the health, safety, morals, aesthetics and general welfare of the community or neighborhood.

[Signature]  
Applicant's Signature

2/15/18  
Date

[Signature]  
Owner's Signature

2/15/18  
Date

To be Filled out by Zoning Officer

TAX PARCEL: 84.040-5-30 ZONING DISTRICT: R-3 FLOOD PLAIN: C

TYPE OF APPEAL: ☒ Area Variance ☐ Use Variance ☐ Interpretation ☐ Decision of Planning Committee  
FEE: ☒ \$50 (One or Two Family Use) ☐ \$100 (All other Uses)

Provision(s) of the Zoning Ordinance Appealed: ① BMC 190-39 E. (1)-driveways and parking  
spaces located in front yards may not exceed 25% of lot frontage.  
② BMC 190-29 A and Schedule I - Construction is not permitted within  
required clear yard spaces.



## Criteria to Support Area Variance

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, moral, aesthetics and welfare of the neighborhood or community. The Zoning Board of Appeals shall consider the following test, as per §81-b of the General City Law when making its determination:

Explain how the proposal conforms to EACH of the following requirements:

1. **Undesirable Change in neighborhood Character.** The granting of the variance will not produce an undesirable change in the neighborhood or a detriment to nearby properties.  
no
2. **Alternative Cure Sought.** There are no other means feasible for the applicant to pursue that would result in the difficulty being avoided or remedied, other than the granting of the area variance. no
3. **Substantiality.** The requested area variance is not substantial. Yes it's a driveway Playground near By kids can play @ it
4. **Adverse Effect or Impact.** The requested variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or community.  
no
5. **Not Self-Created.** The alleged difficulty existed at the time of the enactment of the provision or was created by natural force or governmental action, and was not the result of any action by the owner or the predecessors in title. no

  
Applicant's Signature

2/15/18  
Date



## GENESEE COUNTY PLANNING BOARD REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID **C-01-BAT-3-18**  
Review Date **3/8/2018**

Municipality  
Board Name  
Applicant's Name  
Referral Type  
Variance(s)  
Description:

Municipality	<b>BATAVIA, C.</b>
Board Name	<b>ZONING BOARD OF APPEALS</b>
Applicant's Name	<b>Gerald Freeman</b>
Referral Type	
Variance(s)	<b>Area Variance(s)</b>
Description:	<b>Area Variances to expand front yard parking and to construct two entry stairs.</b>  <b>Front Yard Setback</b> Minimum required: 20 ft. Existing building: 20 ft.; Proposed stairs: 14.24 ft. <b>Side Yard Setback</b> Minimum required: 8 ft. Existing building: approx. 3 ft.; Proposed stairs: 6.3 ft. <b>Driveway Width</b> Maximum allowed (25% of lot frontage): 11 ft. Existing: 11 ft. (25%); Proposed: 32.3 ft. (73%)
Location	<b>13 Porter Ave., Batavia</b>
Zoning District	<b>Residential (R-3) District</b>

### PLANNING BOARD DECISION

**APPROVAL WITH MODIFICATION(S)**

### EXPLANATION:

The variances for front and side yard setback are approved as they are not significant and should pose no significant county-wide or inter-community impact. The variance for driveway width is disapproved as it is nearly three times the maximum allowed and converts almost the entire front yard of the property into a parking lot thus affecting the residential nature of the neighborhood.

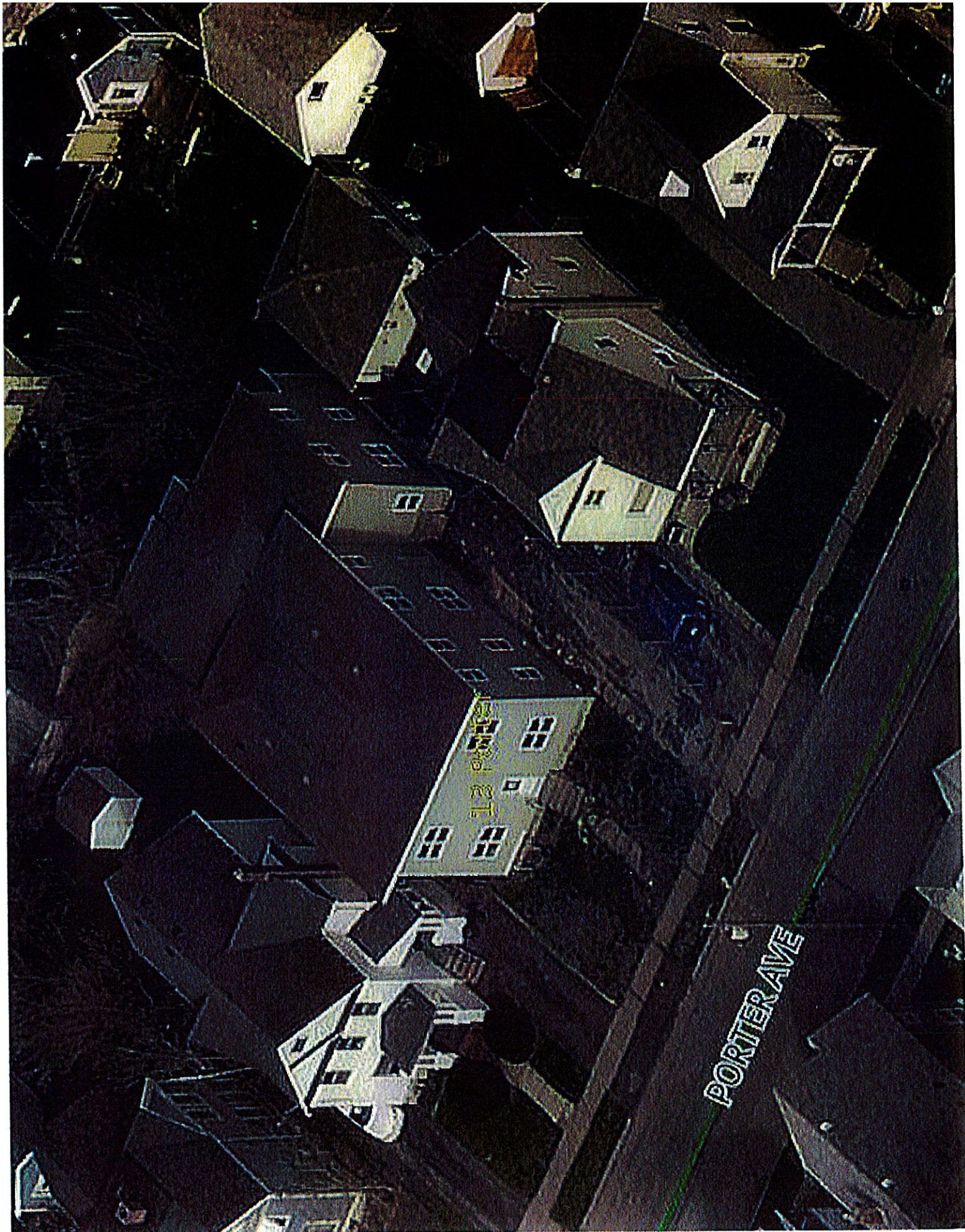
Director

March 8, 2018

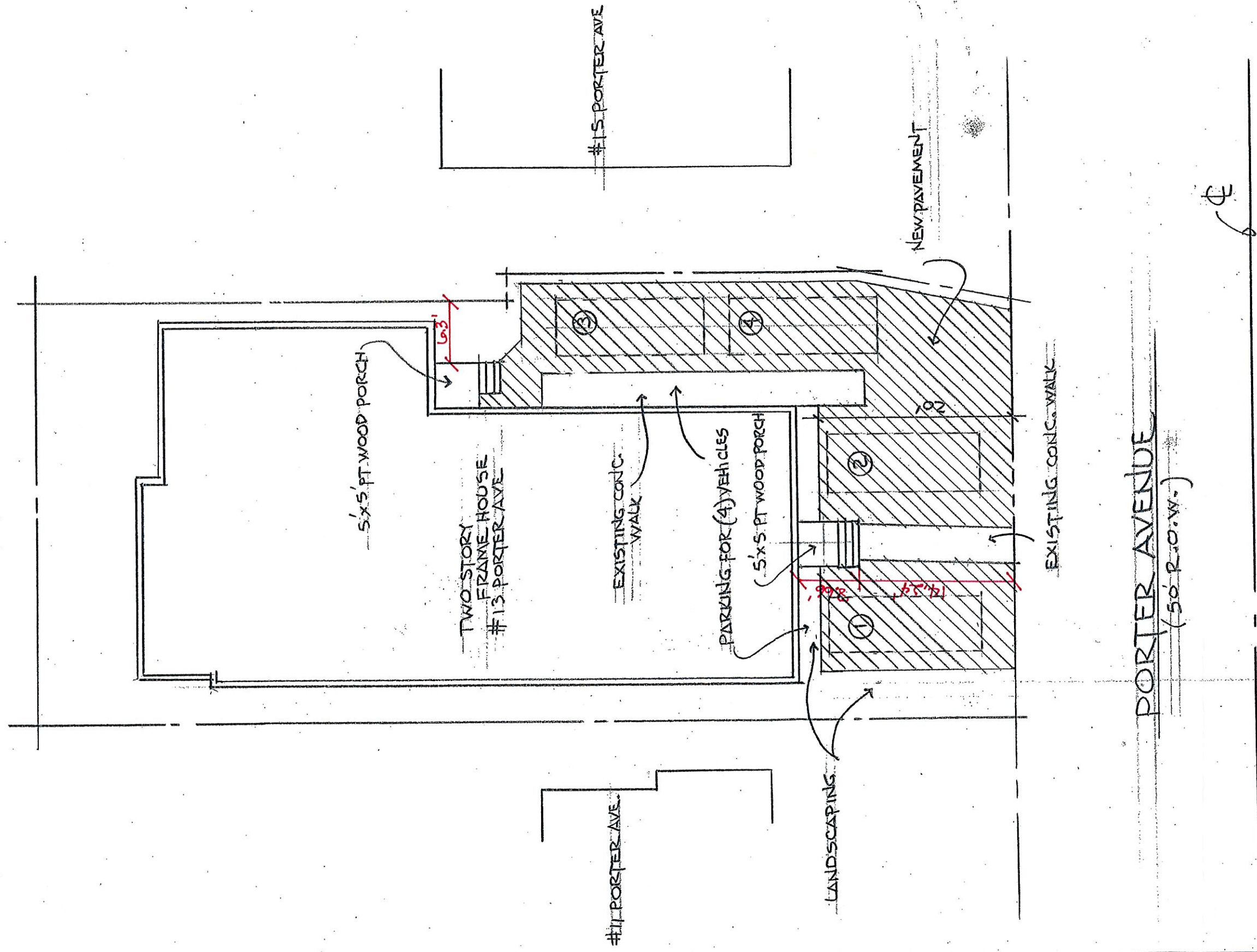
Date

If the County Planning Board disapproved the proposal, or recommends modifications, the referring agency shall NOT act contrary to the recommendations except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within 30 days after the final action the referring agency shall file a report of final action with the County Planning Board. An action taken form is provided for this purpose and may be obtained from the Genesee County Planning Department.









PORTER AVENUE  
(50 P.O.W.)

# SITE PLAN



13 Porter

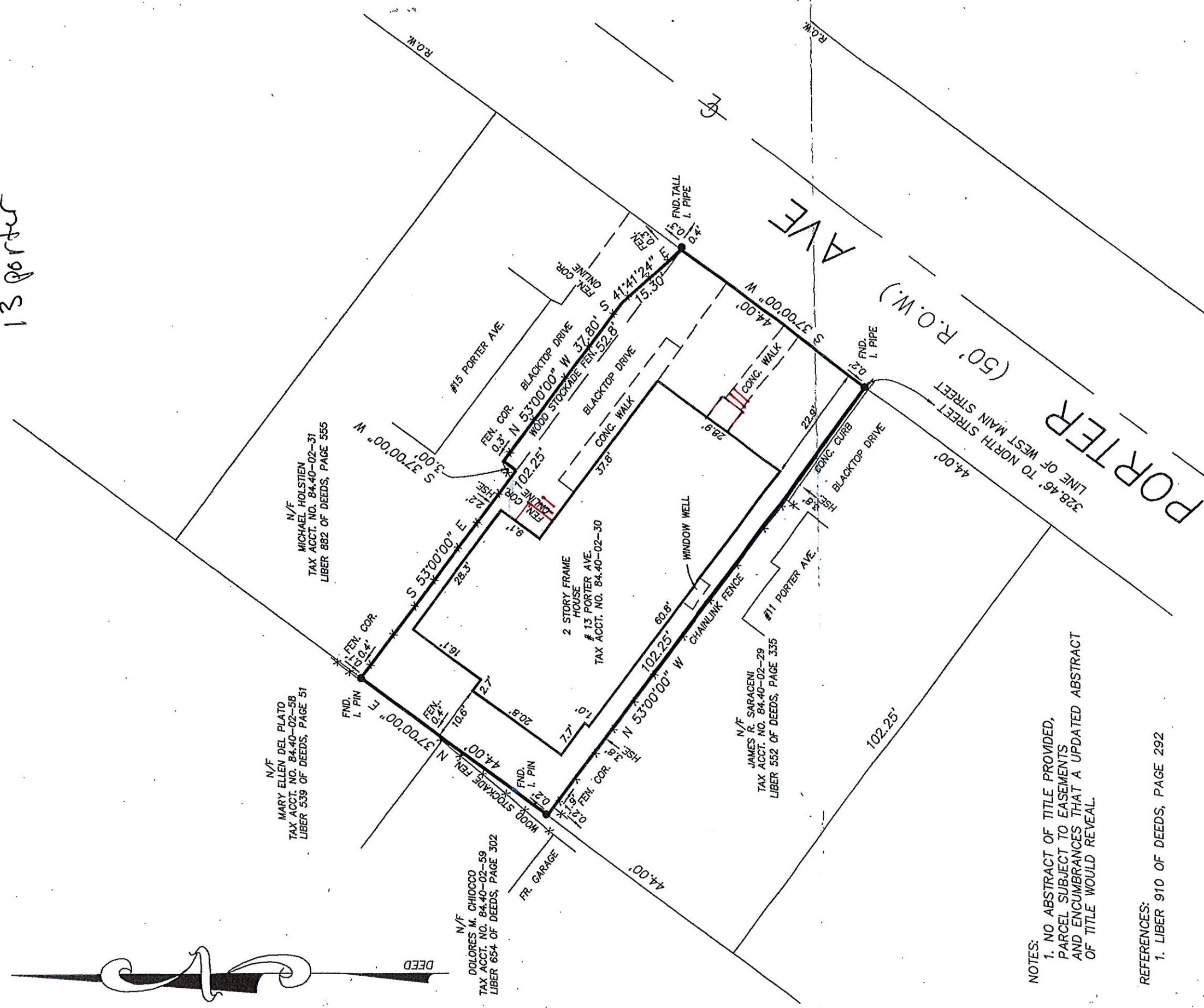
N/F  
MARY ELLEN DEL PLATO  
TAX ACCT. NO. 84-40-02-58  
LIBER 539 OF DEEDS, PAGE 51

N/F  
MICHAEL HOLSTEN  
TAX ACCT. NO. 84-40-02-31  
LIBER 882 OF DEEDS, PAGE 555

N/F  
DOLORES M. CHIODO  
TAX ACCT. NO. 84-40-02-59  
LIBER 654 OF DEEDS, PAGE 302

N/F  
JAMES R. SARACENI  
TAX ACCT. NO. 84-40-02-29  
LIBER 552 OF DEEDS, PAGE 335

2 STORY FRAME  
HOUSE  
# 13 PORTER AVE.  
TAX ACCT. NO. 84-40-02-30



NOTES:  
1. NO ABSTRACT OF TITLE PROVIDED,  
PARCEL SUBJECT TO EASEMENTS  
AND ENCUMBRANCES THAT A UPDATED ABSTRACT  
OF TITLE WOULD REVEAL.

REFERENCES:  
1. LIBER 910 OF DEEDS, PAGE 292

I HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY  
ME FROM NOTES OF AN INSTRUMENT SURVEY COMPLETED ON  
JUNE 14, 2016 AND REFERENCES LISTED HEREON.



CERTIFIED THIS 21 DAY OF APRIL 2016  
*Bernard C. Schmieder*  
BERNARD C. SCHMIEDER, N.Y.S.P.L.S. NO. 50219

"UNAUTHORIZED ALTERATION OR ADDITION  
TO A SURVEY MAP BEARING A LICENSED  
LAND SURVEYOR'S SEAL IS A VIOLATION  
OF SECTION 7209, SUBDIVISION 2, OF  
THE NEW YORK STATE EMBLEMATIC LAW."

# INSTRUMENT LOCATION PLAN OF #13 PORTER AVENUE

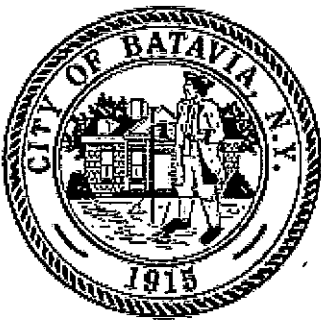
SITUATE IN  
PART OF ORIGINAL VILLAGE LOT 15  
OF THE HOLLAND LAND COMPANY'S LAND  
CITY OF BATAVIA  
COUNTY OF GENESEE, STATE OF NEW YORK

FOR  
**JEFFERY FREEMAN**  
15 S. SPRUCE STREET, BATAVIA, NEW YORK 14020  
BY  
**BERNARD C. SCHMIEDER, P.E., L.S.**  
CONSULTING ENGINEER & LAND SURVEYOR  
11772 SILVER ROAD EAST BETHANY, NEW YORK 14054  
(585) 345-0747

SCALE: 1" = 20'

JUNE 10, 2016

*E Mac*



*City of Batavia*  
*Department of Public Works*  
*Bureau of Inspections*

One Batavia City Center, Batavia, New York 14020

(585)-345-6345

(585)-345-1385 (fax)

To: Genesee County Planning  
Planning and Development Committee

From: Doug Randall, Code Enforcement Officer

Date: 4/24/18

Re: 316 East Main St.  
Tax Parcel No. 84.058-1-16

Zoning Use District: C-1

The applicant, Ryan Macdonald (agent for purchaser, 316 East Main LLC), has applied for a rooming house permit to operate an existing 11 room, Rooming House structure. The applicant is purchasing this property from the present operator, Terrence L. Platt.

**Note:** This is a type II action as defined by Environmental Conservation Law and is not subject to review under SEQ 6 NYCRR Part 617.5 (c) (24).

**Review and Approval Procedures:**

**County Planning Board-** Pursuant to General Municipal Law 239 m, referral to the County Planning Board is required since the property is within 500 feet of the right of way of a state road or highway.

**City Planning and Development Committee-** Pursuant to section 143-4A of the zoning ordinance, the Planning and Development Committee shall, prior to issuance, approve rooming house permit applications in compliance with Chapter 143.

**SEND OR DELIVER TO:**

GENESEE COUNTY DEPARTMENT OF PLANNING  
3837 West Main Street Road  
Batavia, NY 14020-9404  
Phone: (585) 344-2580 Ext. 5467

**DEPARTMENT USE ONLY:**

GCDP Referral # \_\_\_\_\_



**\* GENESEE COUNTY \***  
**PLANNING BOARD REFERRAL**

Required According to:

**GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N**

(Please answer ALL questions as fully as possible)

**1. REFERRING BOARD(S) INFORMATION**Board(s) Planning and Development CommitteeAddress One Batavia City CentreCity, State, Zip Batavia, NY 14020Phone (585) 345 - 6347 Ext. \_\_\_\_\_**2. APPLICANT INFORMATION**Name Ryan MacdonaldAddress 7566 South Pearl Rd.City, State, Zip Oakfield, NY 14125Phone (585) 343 - 1225 Ext. \_\_\_\_\_ Email \_\_\_\_\_MUNICIPALITY: ☒ City ☐ Town ☐ Village of Batavia**3. TYPE OF REFERRAL:** (Check all applicable items)

- ☐ Area Variance  
☐ Use Variance  
☐ Special Use Permit  
☐ Site Plan Review

- ☐ Zoning Map Change  
☐ Zoning Text Amendments  
☐ Comprehensive Plan/Update  
☒ Other: ERooming House Perr

Subdivision Proposal

☐ Preliminary☐ Final**4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:**A. Full Address 316 East Main St.B. Nearest intersecting road SwanC. Tax Map Parcel Number 84.058-1-16

D. Total area of the property \_\_\_\_\_ Area of property to be disturbed \_\_\_\_\_

E. Present zoning district(s) C-1**5. REFERRAL CASE INFORMATION:**

A. Has this referral been previously reviewed by the Genesee County Planning Board?

☒ NO ☐ YES If yes, give date and action taken \_\_\_\_\_

B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law

BMC 143-4AC. Please describe the nature of this request Approval of a rooming house permit to the purchaser of an existing rooming house.**6. ENCLOSURES** – Please enclose copy(s) of all appropriate items in regard to this referral

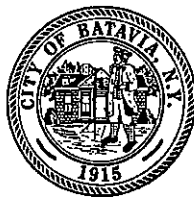
- ☒ Local application  
☐ Site plan  
☐ Subdivision plot plans  
☐ SEQR forms

- ☐ Zoning text/map amendments  
☐ Location map or tax maps  
☐ Elevation drawings  
☐ Agricultural data statement

☐ New or updated comprehensive plan☒ Photos☒ Other: cover letter

If possible, please provide a reduced version or digital copy of any supporting documentation larger than 11 x 17.

Email to [planning@co.genesee.ny.us](mailto:planning@co.genesee.ny.us)**7. CONTACT INFORMATION** of the person representing the community in filling out this form (required information)Name Douglas Randall Title Code Enf. Officer Phone (585) 345 - 6327 Ext. \_\_\_\_\_Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020 Email drandall@batavianewyork.com



City of Batavia  
One Batavia City Centre  
Batavia, NY 14020  
(585) 345-6345 Fax: (585) 345-1385

## APPLICATION FOR ROOMING HOUSE

NAME 316 East Main LLC (84.058-1-16) DATE 4/20/2018  
ADDRESS 7566 S. Pearl Rd Oakfield, NY 14125 PHONE 585-343-1225  
LOCATION OF ROOMING HOUSE 316 E. Main St Batavia, NY 14020  
ZONE C-1 NO. OF ROOMS 11 NO. OF ROOMERS 11

**\*\*APPLICATION SHALL INCLUDE PLOT PLAN AND PROPOSED FLOOR PLAN WITH DIMENSIONS\*\***

APPLICANT'S SIGNATURE [Signature] DATE 4/20/2018

ISSUING OFFICER \_\_\_\_\_ DATE \_\_\_\_\_

State of New York) On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
County of Genesee) ss.: the above applicant appeared before me.  
City of Batavia) \_\_\_\_\_  
(Notary Public)

CITY PLANNING BOARD \_\_\_\_\_

CITY CLERK \_\_\_\_\_ APPLICATION NO. \_\_\_\_\_

COMMENTS \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_









Source: Esri, USGS, NOAA, Source: Esri, Garmin, USGS, NPS

City of Batavia, NY  
Tuesday, April 24, 2018

## Chapter 143. Rooming Houses

[HISTORY: Adopted by the City Council of the City of Batavia 1-26-1981 as Ch. 28 of the 1981 Code; amended in its entirety 7-13-2015 by L.L. No. 3-2015. Subsequent amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. 51.

Zoning — See Ch. 190.

### § 143-1. Title.

This chapter shall be known and may be cited as the “City of Batavia Rooming House Ordinance.”

### § 143-2. Purpose and intent.

In recognition of the saturation of rooming houses in the City, it is the intent of this chapter to permit existing owners of dwellings to maintain sanitary, safe and attractive rooming houses for persons, in order to promote the public health, welfare and safety of the community. It is also the intent of this chapter to prevent new rooming houses from being established after the enactment of this amendment.

### § 143-3. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires, the following definitions shall apply:

#### ROOMER

Any person renting or hiring habitation space in a dwelling unit hereinbefore defined who is not within the second degree of kindred and who does not occupy such space as an incident of employment therein.

#### ROOMING HOUSE

A dwelling unit used wholly for habitation, where rooms for more than two and up to 10 people who would not be classified as a family unit, as described in the City of Batavia zoning regulations,<sup>[1]</sup> are offered for hire, with or without meals, with or without kitchen facilities.

[1] Editor's Note: See Ch. 190, Zoning.

### § 143-4. Applicability.

- A. In order to protect the public health, welfare and safety of the community, no person shall operate a rooming house within the City of Batavia without obtaining a permit issued by the

Code Enforcement Officer upon the approval of the Planning and Development Committee. Such permit may be issued, provided that the procedures and standards of this chapter have been complied with.

- B. This chapter shall apply to existing buildings and dwelling houses that have already received a permit to operate a rooming house prior to July 1, 2015. No new permits shall be issued by the Planning and Development Committee following July 1, 2015, other than renewal permits as outlined in § 143-5 of this chapter.
- C. All provisions of the City of Batavia Municipal Code shall apply to the provisions of this chapter, except where exemptions are specifically authorized by this chapter.

## § 143-5. Renewal of permits.

The renewal of a permit to operate a rooming house shall be granted upon the approval of the Code Enforcement Officer subject to specific terms and conditions as herein provided. If any of these conditions are violated, the permit is subject to revocation or not being renewed.

- A. General provisions. The following general provisions shall apply:
  - (1) All rooming house permits shall be renewed each and every year prior to January 1, and such permit shall be valid for the ensuing calendar year only.
  - (2) The annual fee for renewing a rooming house permit shall be as set from time to time by resolution of the City Council.
  - (3) In the event that a rooming house is sold or the ownership is in any way changed, the existing permit shall be terminated and a new application shall be made as hereinabove set forth. Under no circumstances shall a permit for a rooming house be assigned. Change of ownership without a new application being made shall be grounds for revocation of such permit.
  - (4) Rooming houses legally operating and duly licensed at the time of adoption of the ordinance from which this chapter is derived, and/or which may constitute nonconforming uses under the zoning regulations of the City of Batavia,<sup>[1]</sup> shall be entitled to the issuance of a license under this chapter upon compliance with all of the provisions of this chapter except those restrictions contained in § 143-6.
- [1] *Editor's Note: See Ch. 190, Zoning.*
- B. Procedures for renewing a rooming house permit or new application due to change in ownership. In order to renew a rooming house permit within the City of Batavia, the following procedures shall be followed:
  - (1) An application for a rooming house permit renewal shall be completed. It shall be furnished by the office of the Code Enforcement Officer. The application shall consist of a sworn statement setting forth:
    - (a) The name, address and telephone number of all persons involved as owners and/or operators of the proposed rooming house; a statement detailing a description of the building; and information regarding the number of roomers to be accommodated, with specific information on the number of persons in each bedroom.
    - (b) Where the applicant for a rooming house permit is a nonresident, the application shall identify the name, address and telephone number of a local agent designated to act on behalf of the owner and responsible for the maintenance of the rooming house.

- (c) An inspection by the Code Enforcement Officer of the property and compliance with § 143-6 of this chapter.
  - (2) In considering the renewal or new application for a permit to operate a rooming house, the Code Enforcement Officer shall take into consideration:
    - (a) Potential traffic problems that have arisen without resolve;
    - (b) The present safety and/or sanitary condition of the structure, and the appearance of the building in the neighborhood;
    - (c) Refusal to permit an inspection of the property by the Code Enforcement Officer;
    - (d) False statements on the application permit;
    - (e) Permittee's conviction of a crime;
    - (f) Any act or conduct of the permittee which indicates his/her unfitness to operate a rooming house;
    - (g) Any activity which affects the safety or tranquility of the surrounding community;
  - (3) In the event the application is denied, the Code Enforcement Officer shall notify the applicant of such action and indicate the reasons for such denial in writing.
  - (4) In the event that the application is approved, the Code Enforcement Officer shall set forth all the details and conditions for the granting of such permit, in writing, to the applicant. In such instances, all and any repairs or improvements, pursuant to the report of the Code Enforcement Officer, shall be considered as conditions for the granting of a permit and shall be made by the applicant as directed prior to the issuance of the permit.
  - (5) The granting of such a permit shall also include the conditions necessary for maintenance and renewal of such permit. Under the terms and conditions of this chapter of the City of Batavia Municipal Code, a rooming house permit shall be subject to revocation if prescribed terms and conditions upon which the permit was issued are not kept and/or it is found that the operations of such rooming house create an adverse impact upon the neighborhood. Adverse impact may include, but shall not be limited to, excessive noise, criminal activity by the roomers on the premises, undue disturbances affecting the neighborhood and inadequate property maintenance and upkeep.
- C. Enforcement. The Code Enforcement Officer shall have all the powers and duties to enforce this chapter and to make inspections, serve notices and orders, and take any other appropriate action, except as otherwise provided in this chapter.
- D. Revocation of permit.
- (1) The Code Enforcement Officer, if he or she determines that reasonable grounds exist, may refer to the City Planning and Development Committee for a hearing to revoke any permit issued under this chapter.
  - (2) The Code Enforcement Officer shall give written notice, to the holder of the rooming house permit, of the charges, and the time, date and place that they will be presented to the Planning and Development Committee. Any permit may be revoked for making any false statement in the application for a permit; for a violation of any of the terms and conditions upon which the permit was issued; for any disorderly, indecent or immoral conduct on the premises; or for a violation of any of the rules or regulations, ordinances or laws of the United States, State of New York, County of Genesee or the City of Batavia.

- (3) The Code Enforcement Officer shall cause notice of such referral and the reason or reasons therefor to be served upon the persons named in the application as the owner or holder and also upon the owner of record of the premises so used as a rooming house. Said service shall be by registered mail with a return receipt, directed to the holder of the permit at the subject premises and to the owner of the address of said owner last known to the Code Enforcement Officer, or by personal or substituted service.
- (4) If the City Planning and Development Committee finds reasonable cause, the City Planning and Development Committee shall set a public hearing to consider revocation of the permit and shall cause a notice thereof, specifying the time, date and place of the public hearing, to be served in the same manner as above provided. If the City Planning and Development Committee finds, after the public hearing, that revocation of the permit is in the best interest of the community, the operator shall be notified of this decision, in writing, and an appropriate time for discontinuance of the rooming house established.

## § 143-6. Standards.

The following standards shall be met by an applicant for a rooming house permit:

- A. All applicable provisions of the New York State Uniform Fire Prevention and Building Code, 9 NYCRR Executive Volume B, shall apply to this chapter and shall be the standard imposed by the Bureau of Inspection in determining the fitness of the building for a rooming house, as hereinbefore provided, and shall determine the standards for violations.
- B. The owner or operator of any such rooming house shall provide one car space for each roomer owning and/or keeping a motor vehicle.
- C. A rooming house, as hereinbefore provided, must conform to the zoning requirements as set forth in Chapter 190, Zoning, of this Code.
- D. The maximum number of occupants permitted shall be in compliance with the provisions of the New York State Uniform Fire Prevention and Building Code, 9 NYCRR Executive Volume B, and its applicable standards.
- E. To ensure compliance with the New York State Uniform Fire Prevention and Building Code, any plans and specifications for the structure shall be prepared by either a New York State registered architect or licensed professional engineer.
- F. No sign advertising the location of a rooming house or the availability of rooms shall be permitted.

## § 143-7. Penalties for offenses.

- A. The penalties for a violation of any of the provisions of this chapter shall be as prescribed in Chapter 1, General Provisions, Article II, General Penalty, of the City of Batavia Municipal Code. In addition to other remedies, the City of Batavia may institute appropriate action to restrain, prevent, enjoin, abate, correct or remove any violation and to take such other legal action as is necessary to carry out the terms and provisions of this chapter.
- B. The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law; and all remedies may be pursued concurrently or consecutively, and the pursuit of any remedy shall not be construed as an election or waiver of the right to pursue any and all of the others.

## § 143-8. Appeals.

Any person affected by any notice of violation or order issued in connection with the enforcement of any provision of this chapter concerning buildings or structures, or of any rule or regulation adopted pursuant thereto or the denial of issuance of permit, may request and shall be granted a hearing before the City Planning and Development Committee, provided that such person shall file in the Department of Public Works a written request for such hearing, setting forth a brief statement of the grounds therefor, designating the person and his or her address upon whom orders may be served, and setting forth the reasons why such notice of violation or order should be modified or withdrawn. If filed within 10 days after the service of notice of violation or order, compliance with such notice shall not be required while the hearing is pending, except in emergencies or as otherwise provided.