

PLANNING & DEVELOPMENT COMMITTEE
Tuesday, January 19, 2021

6:00 pm

Council Board Room
One Batavia City Centre, Batavia NY

AGENDA

- I. Roll Call
- II. Call to Order
- III. Approval of Minutes – 11/17/20
- IV. Proposals

Address: 60 Ellicott St. (Pok A Dot)
Applicant: Mike Hodgins (sign contractor)

Proposal 1: Replace the existing internally illuminated, white background roof sign face panels with new, white background, internally illuminated face panels identifying the existing business. The signs are located within the Central Commercial District / Business Improvement District

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

Address: 301 North St.
Applicant: Emily Fraser-Branche (owner)

Proposal 2: Recommendation to the Zoning Board of Appeals for approval of a non-permitted use, food service business (Commit to Well / Eat Well Grill meal preparation service) in an existing kitchen / food preparation area of this existing multi-use building

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

- V. Setting of Next Meeting: February 16, 2021
- VI. Adjournment

PLANNING & DEVELOPMENT COMMITTEE

DRAFT MINUTES

November 17, 2020

6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

Members present: *Matt Gray, Tammy Hathaway, Robert Knipe*

Members absent: David Beatty, Edward Flynn, Duane Preston

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 Acting Chair Matt Gray declared a quorum.

II. Call to order

Mr. Gray called the meeting to order at 6:03 pm.

III. Previous Meeting Minutes

There were no corrections to the minutes. Mr. Gray assumed the motion and the minutes were approved as written by unanimous consent.

RESULT: Approval of October 20, 2020 meeting minutes.

IV. Proposals

- A. Alter the previously approved design of the second floor. The proposal is to relocate the elevator originally planned for the interior of the existing building, to a location on the exterior wall of the north elevation. This would result in an exterior alteration to a building located within the Business Improvement District (BID)

Address: 45-47 Ellicott Street (Ellicott Place)

Applicant: V.J. Gautieri Constructors (owner)

- Actions:**
1. Review application
 2. Discussion and action by the board

1. Review Application

Mr. Gray read the summary of the proposal.

2. Discussion and Action by the Board

Mr. Gautieri described the changes from the previously approved project to the new design. Originally, the design called for the elevator to be located inside, however, two problems were revealed: the elevator would be located a long walk down the entry corridor; and, a small recess would be created by the alcove in which the elevator would be located, posing a possible safety

issue. He also noted that the stairway would cause structural interference because it would have to wrap around the elevator.

Mr. Gautieri pointed out on the new drawing where the elevator will be located, in the projection directly above the Save-A-Lot sign. He noted that the elevator will look like just another projection design element, and will maintain the same esthetic scheme. Mr. Gautieri believes the changed plan will be better for tenants, safer and more esthetically pleasing.

Mr. Knipe asked if there will be a stairway at both ends of the hall, and Mr. Gautieri said yes.

MOTION: Mr. Knipe moved to approve the proposal; the motion was seconded by Ms. Hathaway, and on roll call, was approved 3-0.

RESULT: Approval of the application.

B. Recommendation to the Zoning Board of Appeals for an Area Variance to replace four existing internally illuminated sign face panels. The signs will be located within the Central Commercial District / Business Improvement District

Address: 45-47 Ellicott Street

Applicant: Mike Hodgins (sign contractor)

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

1. Review Application

Mr. Gray read the summary of the proposal.

2. Discussion and Recommendations

Mr. Hodgins told the board that the pylon as well as the signs will remain the same size. The sign panels are being changed to reflect the store's updated logo.

Mr. Gray asked about the color of the signs, which is blue. Mr. Hodgins described them as translucent with light coming through at night. Mr. Randall reminded the board that the signs are consistent with the Comprehensive Plan's preference for dark background with light letters.

Mr. Knipe asked if Mr. Hodgins had considered a plain sign without interior lighting. Mr. Hodgins explained that Save-A-Lot is a national company, which makes its own signs. He is the contractor hired to do the permitting and installation.

MOTION: Mr. Gray moved to recommend approval of the application to the ZBA; the motion was seconded by Mr. Knipe, and on roll call, was approved 3-0.

RESULT: Approval of the application.

V. Approval of 2021 Meeting Dates

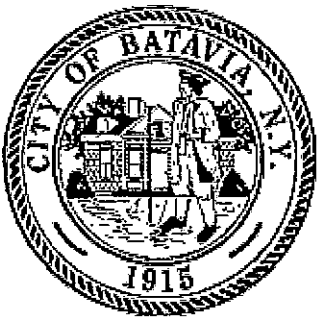
Mr. Knipe moved to approve the 2021 meeting dates; Ms. Hathaway seconded the motion, and all voted aye.

VI. Setting of Next Meeting: December 15, 2020

VII. Adjournment

Mr. Gray adjourned the meeting at 6:19 p.m.

Meg Chilano
Bureau of Inspection 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: 1/4/21

Re: 60 Ellicott St., aka 233 Ellicott St. (Pok A Dot)
Tax Parcel No.

Zoning Use District: C-3

The applicant, Mike Hodgins (sign contractor), has applied for approval to replace the existing internally illuminated, white background, roof sign face panels with new, white background, internally illuminated face panels identifying the existing business. The signs are located within the Central Commercial District / Business Improvement District.

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) (1).

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 190-43 EE., the Planning and Development Committee shall review and issue recommendations to the ZBA for variances pertaining to signs located within the Central Commercial District (C-3).

Zoning Board of Appeals- Pursuant to section 190-49 and 190-43 EE., the ZBA shall review and act on required variances.

Variance- Area

1) BMC 190-43 Z (8) Internal illumination is not permitted for signs located within the Central Commercial (C-3) District.

2) BMC 190-43 Z (2)(a) The background of the sign must be a darker color than the message.

BMC 190-43 AA (3) Existing non-conforming signs may change the face panel of a sign that does not meet the area or height standards, but the new panels must conform to the illumination standards of subsection Z.

SEND OR DELIVER TO:

GENESEE COUNTY DEPARTMENT OF PLANNING

3837 West Main Street Road

Batavia, NY 14020-9404

Phone: (585) 815-7901

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) INFORMATIONBoard(s) PDC and ZBAAddress One Batavia City CentreCity, State, Zip Batavia, NY 14020Phone (585) 345 - 6345

Ext. _____

2. APPLICANT INFORMATIONName Mike Hodgins (John's Studio signs)Address 56 Harvester Ave.City, State, Zip Batavia, NY 14020Phone (585) 345 - 1030

Ext. _____

Email mhodgins@johnsstudio.comMUNICIPALITY: ☒ 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: _____

Subdivision Proposal

☐ Preliminary☐ Final**4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:**A. Full Address 60 Ellicott St. aka 233 Ellicott St. (Pok A Dot)B. Nearest intersecting road LibertyC. Tax Map Parcel Number 84.015-1-29

D. Total area of the property _____ Area of property to be disturbed _____

E. Present zoning district(s) _____

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 190-43 Z(8) and 190-43 Z (2)(a)C. Please describe the nature of this request Approval to place internally lit, light colored background signs in existing internally lit, light colored background sign frames.**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**7. CONTACT INFORMATION** of the person representing the community in filling out this form (required information)Name Douglas RandallTitle Code Enf. OfficerPhone (585) 345 - 6327

Ext. _____

Address, City, State, Zip One Batavia City Centre, Batavia, NY 14020Email drandall@batavianewyork.com



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 21-01

Hearing Date/Time: _____

APPLICANT: Signs by John's Studio mhdgins@johnsstudio.com
Name 56 Harvester Ave. E-Mail Address 345-1030 343-4469
Street Address Batavia Phone 14020 Fax
City NY State 14020 Zip

STATUS: ☐ Owner ☐ Agent for Owner ☒ Contractor

OWNER: Bob A Oat Timbers@hotmail.com
Name 239 Ellicott St. E-Mail Address 818-581-6998 N/A
Street Address Batavia Phone 14020 Fax
City NY State 14020 Zip

LOCATION OF PROPERTY: 60 239 Ellicott St. Batavia

DETAILED DESCRIPTION OF REQUEST: To replace sign faces with new faces using existing fixtures. No changes to fixtures or building

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.

Mimi J. Hoyle
Applicant's Signature

12/28/20
Date

[Signature]
Owner's Signature

12/28/20
Date

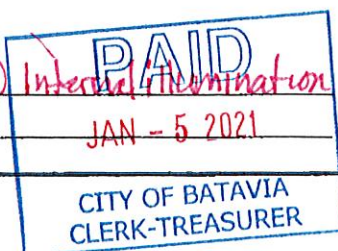
To be Filled out by Zoning Officer

TAX PARCEL: 84.815-1-29 ZONING DISTRICT: C-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: BMC 140-43 Z(8) Interior Illumination
is not permitted within the C-3 (BID)



See Attached

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.

See Page 2

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.

3. **Substantiality.** The requested area variance is not substantial.

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.

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.

Applicant's Signature

Date

Page 1

Criteria to Support Area Variance

December 28, 2020

City of Batavia

ZBA application – Pok A Dot Restaurant

1. **Undesirable Change in Neighborhood Character** - The Pok A Dot has contributed to the character of the neighborhood for over 65 years and maintaining the existing sign configuration will in fact enhance the neighborhood and the surrounding area.
2. **Alternative Cure Sought** - There is no alternative location or area for the signs. The existing fixtures are being utilized so there is no physical changes to the structure or the sign fixtures.
3. **Substantiality** - The request is not substantial as there is no change to the size or scope of the signs.
4. **Adverse Effect or Impact** - There is no adverse effect to the neighborhood. The existing size and placement of the current signs will be maintained with no changes. This iconic Batavia landmark will continue to contribute to the unique character of the neighborhood by maintaining it's visual image.
5. **Not Self-Created** - The existing signs and fixtures have been in place for over 50 years and the owner is seeking to replace and update the faces only with no change to the size or scope of the signs that display the Pok a Dot image.


Applicant's Signature


Date

Page 2



Permit No.: _____

Date: _____

Zone: _____

SIGN PERMIT APPLICATION**City of Batavia**

One Batavia City Centre, Batavia, NY 14020

(585) 345-6345 • Fax (585) 345-1385

APPLICANT/OWNER: POK A Dot

Name

60 Liberty St. (AKA 233 Elliott St.)

E-mail Address

Timbors77@hotmail.com

Street Address

229 Elliott Street

Phone

818 581-6998

Fax

N/ABatavia, NY 14020

City, State, Zip Code

ADDRESS OF SIGN:

229 Elliott Street Batavia

AREA OF SIGN:

2 @ 152" x 36"Length 2 @ 251 Width 36"38 sq. ft. = 76 sq. ft. totalArea 63 sq. ft. = 126 sq. ft. total

TYPE OF SIGN:

1. All sign applications must have an illustration of the sign with its dimensions and copy.
2. Freestanding signs must have a Sit Plan to show the sign's location on the property.
3. All other signs must include an elevation plan to show the sign's placement on the building.

- | | | | |
|--|---------------------|---------------------|------------|
| <input type="checkbox"/> Freestanding | Set Back _____ | Height _____ | |
| <input type="checkbox"/> Wall | Wall Length _____ | Wall Height _____ | Area _____ |
| <input type="checkbox"/> Projecting | | | |
| <input type="checkbox"/> Marquee | | | |
| <input type="checkbox"/> Awning / Canopy | Length _____ | Height _____ | Area _____ |
| <input type="checkbox"/> Window | Window Length _____ | Window Height _____ | Area _____ |
| <input type="checkbox"/> Portable | | | |

Lighting: ☒ Internal ☐ External

Existing Signs (Please list all existing signs with dimensions):

Replace existing faces with
new on existing fixtures2 @ 152" x 36"2 @ 251" x 36"

Applicant's Signature

Date

10/5/20

Issuing Officer

Date

Planning Board Chairperson

Date

FEES: _____ \$25 Sign Permit _____ \$50 Special Sign Permit _____ \$10 Portable Sign

East Side

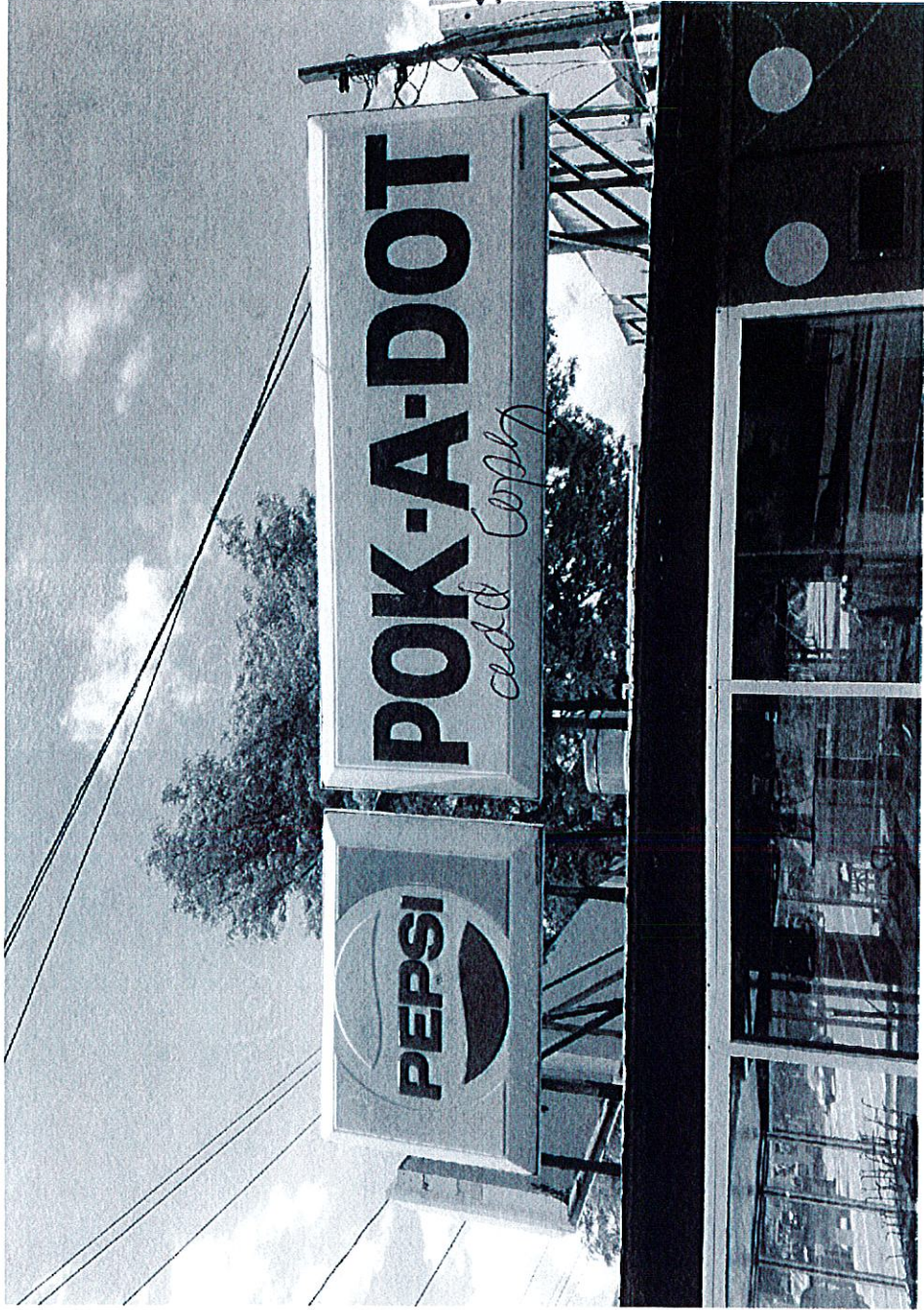
152"W



POK•A•DOT
HOTS•HAMBURGERS
BEEF ON WECK

H,9E

Existing East Side



West Side

152"W

POK•A•DOT
HOTS•HAMBURGERS
BEEF ON WECK



36"H

Existing West Side



North Side

Famous
**PEPPER
& EGG
SANDWICH**

POK•A•DOT
HOTS • HAMBURGERS • BEEF ON WECK

Since
1953

36" H

25" W

Existing North Side



251" W

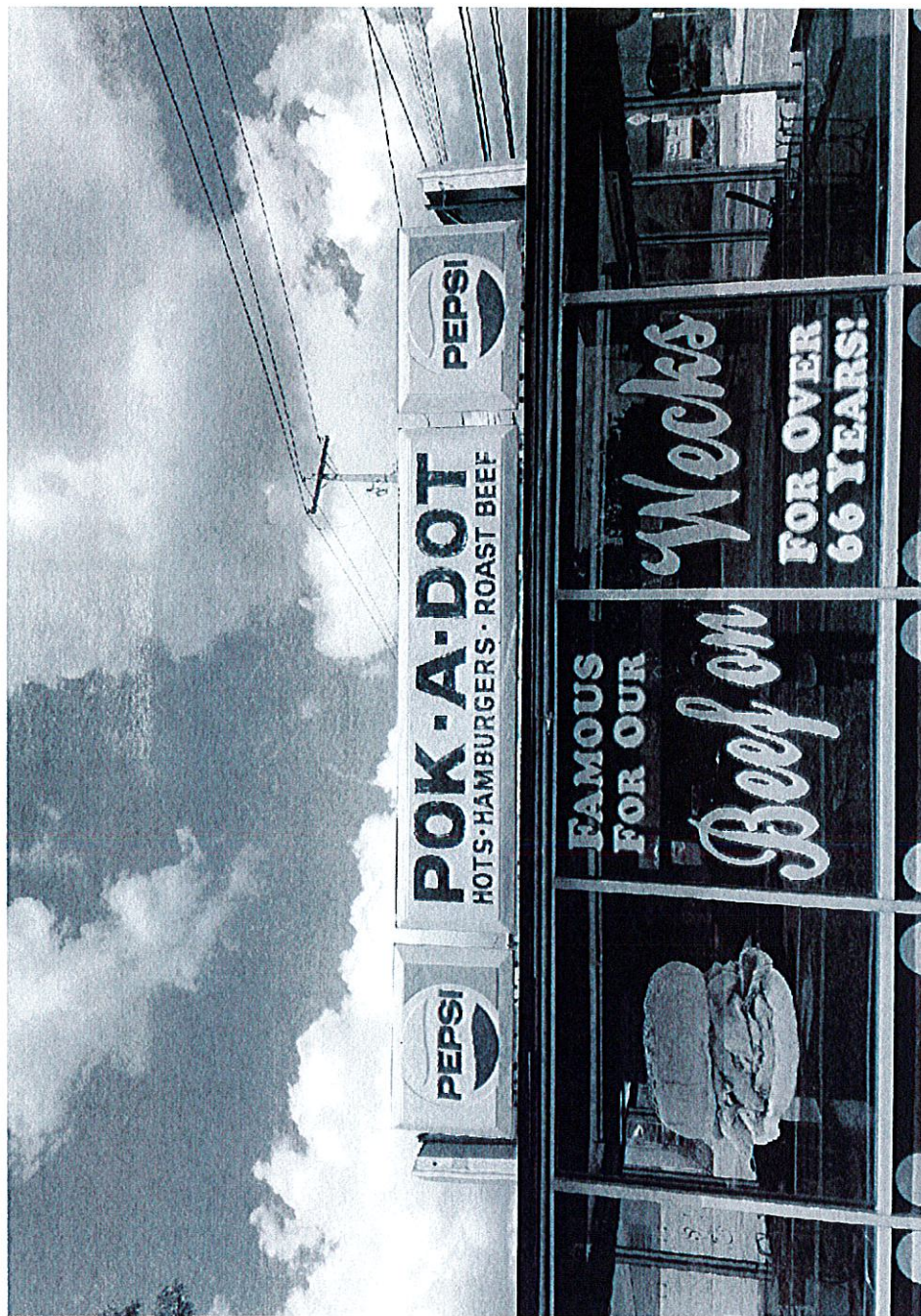
South Side

H, 96

POK•A•DOT
HOTS • HAMBURGERS • BEEF ON WECK



Existing South Side





12/16/80

DW



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: Planning and Development Committee
Zoning Board of Appeals

From: Doug Randall, Code Enforcement Officer

Date: 1/5/21

Re: **301 North St.**
Tax Parcel No. 84.008-1-7.1

Zoning Use District: R-1A

The applicant, Emily Fraser-Branche (owner), has filed an application to approve a non-permitted use, food service business (Commit to Well / Eat Well Grill meal preparation service) in an existing kitchen/food prep. area of this existing multi use building.

Review and Approval Procedures:

City Planning and Development Committee- Pursuant to section 190-49 C of the zoning ordinance, applications for variances that include non-permitted uses shall be referred to the PDC for recommendation to the ZBA.

Zoning Board of Appeals- Pursuant to BMC Sec. 190-49 F (3)(a) of the zoning ordinance, the ZBA shall review and act on required variances and has the power to grant use variances.

Use variance-

- 1) BMC 190-11 A Food service businesses are not listed as permitted principal uses in the R-1A residential use district.

The ZBA will be the lead agency to conduct SEQR.



CITY OF BATAVIA
APPLICATION TO THE ZONING BOARD OF APPEALS

Application No.: 21-02

Hearing Date/Time: _____

APPLICANT: Emily Fraser-Branche

ef tenney@gmail.com

Name

301 North Street

E-Mail Address

(585) 483-3081

(585) 483-3084

Street Address

Batavia

Phone

Fax

14020

City

State

Zip

STATUS: ☒ Owner

☐ Agent for Owner

☐ Contractor

OWNER:

Name

E-Mail Address

Street Address

Phone

Fax

City

State

Zip

LOCATION OF PROPERTY: 301 North Street

DETAILED DESCRIPTION OF REQUEST:

use variance to permit "commit to well" meal
preparation service to operate out of
commercial kitchen.

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

1/5/21
Date

Owner's Signature

Date



To be Filled out by Zoning Officer

TAX PARCEL: 84.008-1-7.1

ZONING DISTRICT: R-1A

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: BMC 190-11A Food service businesses are
not permitted uses within the R-1A residential use district.

From: Jill Kratz kratz.sjsbatavia@gmail.com
Subject: Variance Information
Date: Dec 31, 2020 at 07:49:53
To: ziggysails@gmail.com

Hi Greg!

Here is the information you requested to the best of my ability on short notice. If I have forgotten something please let me know. Thank you for your help.

Commit to Well is a healthy meal prep service. Founded with the desire from the community to have nutritious, prepared meals with easy access and at an affordable price. The company was created based on these requests and has been thriving with the help of this kitchen space. There is nothing else like this in our community.

Commit to Well has been committed to the overall health and wellness of our community and has reached out to even donate food to local organizations such as Habitat for Humanity, YWCA, UMMC, and many medical offices and local families in need. We are an asset to the community that has welcomed us and thanked us continuously for our existence.

Meal preparation is done in the kitchen. Food is prepped, cooked, cooled, and packaged. Meals are stored in the coolers that also store our fresh ingredients. Production is done from Friday through Saturday with meal pick up on

Sunday. Pick up is done from 10-11am. Customers enter the side entrance to the kitchen where their order is bagged and ready for hand off. Once handed to them they immediately exit. Customers who are unable to make pick up Sunday may do so on Monday from 11am-6pm using the same procedure.

Customers Sunday: Approx. 35
Monday: Approx. 10

Produce delivery Wednesdays Approx 9-10am

Packaging delivery Thursdays (every other) Approx 9-10am

All other supplies picked up locally by owners.

Total Employees: 4 with only 2-3 working at a time.

Use Variance Application

Statement of Unnecessary Hardship

In order for the Zoning Board of Appeals to grant a use variance, an applicant must show documentation in the record that the restrictions of the Zoning Ordinance has caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the Zoning Ordinance for the particular district where the property is located, that all four (4) requirements as per §81-b of the General City Law have been proven. Additional documentation may be included. If any one of these requirements have not been proven, the Zoning Board of Appeals must deny the variance, as per §81-b of the General City Law.

Explain how the request conforms to EACH of the following requirements (additional pages may be attached):

1. **Reasonable Return.** The subject property is not capable of yielding a reasonable rate of return if used for its present use or developed, redeveloped or used for any other use permitted in the district in which such property is located. There is no means other than the granting of the variance by which the property can yield a reasonable return. Such inability to yield a reasonable return must be shown by specific fact (dollars and cents) from an expert or authority in economic deprivation, not the unsupported opinion of the owner or those appearing for the owner.

"The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence"

SEE ATTACHED RESPONSE

(Please provide / attach competent financial evidence)

2. **Unique Hardship.** The inability to yield a reasonable return results from a unique circumstance peculiar to the subject property which does not apply to or affect other properties in the immediate vicinity that are subject to the same regulations. The personal situation of the owner shall not be considered unique.

"The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood"

SEE ATTACHED

3. Essential Character of the Neighborhood. The granting of the variance will not be materially detrimental to the public health, safety, and welfare or injurious to the enjoyment, use or development of neighboring properties or the community. Applicant must demonstrate that the proposed use will not change the essential character of the neighborhood with regard to such physical and environmental elements such as parking, traffic, signage, landscape, architectural and structural features, location and dimensions of buildings, any by-products of proposed use such as noise or smoke, and any other impacts upon adjacent or neighboring lands.

"The requested use variance, if granted, will not alter the essential character of the neighborhood"

SEE ATTACHED

4. Not Self-Created. The inability to yield a reasonable return is not the result of any action by the owner or predecessors in title. The applicant must show that when the property was purchased the zoning restrictions from which a use variance is now sought were not in existence or that some other change or factor has occurred that has resulted in an inability to yield a reasonable return. Otherwise, the hardship is self-created.

"The alleged hardship has not been self-created"

SEE ATTACHED



Applicant's Signature

12/31/20

Date

Provider of Financial Evidence

Date

301 North Street (YWCA Building) Kitchen Use Variance Application

Three Little Birds Pediatrics:

Introduction:

As Batavia natives Emily & I have a deep love for our community, which is why we chose to plant roots & raise our 6 children here. In fact I have fond memories of growing up in this neighborhood specifically. As a young boy I grew up in the house where Licata's live at 213 North Street. When I purchased my first home, it too was in this neighborhood, at 5 Seneca Avenue.

Emily is a local young lady who after graduating from Batavia High School, attended medical school at UB. She then returned to Batavia looking to make a positive difference in the small community she has much love for. Medical care has shifted, in recent years, to big hospital systems. She, instead held firm to her belief in small town, individualized patient care, with the desire of creating a health & wellness center around her pediatric practice. Her goal to create a pediatric practice small enough for her to continue being involved with the care of all her patients is of essential importance to her. In fact, once she felt obligated to separate from the current trend toward big medicine, she began creating this model of health care & wellness for not only her "little people" patients, but their families, and the local community as well. She, with much risk, opened her solo pediatric practice "Three Little Birds Pediatrics". Her reputation, and attention to maintaining a practice focused on individualized patient care has allowed her dream to begin to flourish. When the opportunity to purchase the YWCA building at 301 North Street presented itself we had many conversations with the Y Director Millie Tomidy-Pepper and her staff. We quickly realized what a wonderful opportunity we all had to collaborate on multiple programs and initiatives to revitalize existing outreach as well as to provide a unique healthcare, education, and support system which would allow for a more complete approach by caring for the whole person.

Our goal and vision is to create a community centered Health and Wellness campus whose partners and programs benefit not only our pediatric patients, but their families, YWCA clients, Pathstone housing assistance programs and clients, as well as to hopefully provide healthy lifestyle meal options and educational/programs. This includes partnering with the YWCA to help support their domestic violence & racial equality programs, as well as to help train and create opportunities for women in our community to excel in life, as female business owners, and in their families. Other programs in development, which will be open to the public, include educational clinics for child and infant CPR classes, breast-feeding clinics, approaches in positive parenting, healthy meal planning & lifestyle choices, yoga classes, personal safety as well as car seat installment clinics, a farmers market, etc... . Our goal is to help revitalize the the vision of the YWCA, and expand this vision with additional programs by providing an integrated support network of Health & Wellness focused entities. In

doing so we wish to be a positive influence in the health & wellness of our small town neighborhood & community as a whole.

We therefore feel that the healthy meal planning, education, and preparation of healthy meal options offered by Commit to Well/Eat Well Grill are of significant benefit and are a vital asset in our unique approach to/the overall health & well being of our patients and community.

This proposed variance is to request that leasing of the pre-existing commercial kitchen for the purpose of healthy meal preparation be allowed, as we feel this service is an integral part of the health & wellness programs we wish to offer as we strive to care for those in our neighborhood & small community.

Reasonable return:

The pre-existing commercial kitchen within 301 North St. is zoned for use by the YWCA to be used for their sole purpose and fundraising activities. The kitchen has not been used in this way for many years. Since the sale of the building, the YWCA has become one of the wonderful tenants who lease space within the building. They do not, however lease the kitchen space, therefore do not have access to it. Without this variance being granted the entire kitchen area will no longer be usable due to its current approved zoning restrictions. The financing for purchase of the building included lease income from existing tenants including Commit to well, who at the time of purchase had already been leasing the kitchen from the YWCA for 3 years. The current lease agreement is for \$350/mo. (\$4200/yr). Eliminating this source of income would create a large area of "dead space" within the building that can no longer provide any type of return, let alone a reasonable return. Furthermore, this would require complete removal of the commercial kitchen and extensive renovations at significant cost in order to create a useable space and reasonable return once again. At present the kitchen is fully functional and has received appropriate approval for operation by the required Farm & Agriculture Inspection agency.

Unique hardship:

The inability to yield a reasonable return on this space results from a unique circumstance peculiar to this specific property which does not apply to or affect other properties in the immediate vicinity that are subject to the same regulations. This unique situation arose as the residential neighborhood surrounding the YWCA building (built in 1967), slowly developed.

Essential character of the neighborhood:

Granting of this variance will not be materially detrimental to the public health, safety, and welfare or injurious to the enjoyment, use or development of neighboring properties or the community. In fact, several efforts are under way to improve the above stated items in an effort to create a safer property & neighborhood.

1. See attached statement from Jill Kratz (Owner of Commit to Well), which includes a detailed description of their healthy meal prep service. In this description she also outlines the minimal traffic this creates (approx. 35 vehicles on Sundays and approx. 10 vehicles on Mondays - for a brief period on each of those days for meal pick-up). No other offices in the building are open on Sundays, therefore no other traffic in & out of the building. The low number of vehicles on Mondays allow for those who can not pick up their meals on Sundays.

In contrast, if for example the kitchen space were renovated for a medical laboratory/ blood draw facility or another medical office the increased traffic and flow would be much greater than that of the healthy food prep services, and additionally would be during busy business hours.

2. Restored lighting of existing NiMo operated street lights (1 in front of property on North St., and 1 over crosswalk at entrance leading back to parking lot.

3. Restoring lighting around property for safety and to minimize vandalism and loitering. Adjustments to lighting also being made to minimize excess light on neighboring properties.

4. A painted crosswalk will be created across the entrance drive where the city sidewalk crosses the entrance driveway.

5. Yield signs and sign post visibility markers placed at entrance drive crosswalk.

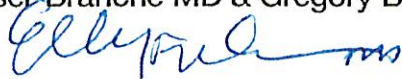
Not self-created:

The ability to yield a reasonable return is not the result of any action by the owner or predecessors in title. As outlined above, the function of the kitchen by the YWCA as originally zoned is no longer applicable. The kitchen area has not been used for those means in many years as it is no longer needed for it's original purpose. Since purchase of the building the YWCA has become a tenant with no need for, or access to the commercial kitchen. At the time of purchase Jill had been leasing the kitchen from the YWCA for 3 years, and her lease agreement was included in the financial projections used to secure financing in order to purchase the building. All health inspections remain up to date and in compliance with regulations. Unfortunately neither the YWCA nor Jill were aware that a variance was required. All effort continues to be made for

complete transparency regarding health inspections, operation, and now of course to ensure that this variance application be submitted for your review.

Thank you for your time and consideration,

Emily Fraser Branche MD & Gregory Branche

A handwritten signature in blue ink, appearing to read "Emily Fraser Branche MD".A handwritten signature in blue ink, appearing to read "Gregory Branche".

USE VARIANCE

Statement of Income and Expense

*All Entries Must be Completed and Documented for at Least Two (2) Calendar Years
or From the Date of Purchase Whichever is Less*

PROPERTY ADDRESS: 301 North Street

A. PROPERTY DATA

1. Date property was purchased by current owner September 2020
2. Was a Certificate of Occupancy issued? N/A. EXISTING BUILDING
Date of Issuance?
If so, for what use(s)?
If not, why?
3. Cost of Purchase \$350,000 building \$1,234,430 total draw
4. a) Amount of Mortgage Interest Rate 4.25% mortgage
Mortgage Holder Bank of Cashle Duration 20 years. loan
Address
- b) Amount of Mortgage Interest Rate
Mortgage Holder Duration
Address
- c) Amount of Mortgage Interest Rate
Mortgage Holder Duration
Address
5. Is the property for sale? NO
If so, for how long
asking price
for what use(s)
Have any offers been received
If so, for what amount(s)

Summarize any attempts to sell the property N/A
6. Present value of property \$530,612
Source(s) OARS

B. GROSS ANNUAL INCOME [BASED ON PERMITTED USE(S)]

USE	INCOME
1. <u>YWCA</u>	<u>\$1,000/month for 1st 12 months</u>
2. <u>Commit to Well</u>	
3. <u>Patinstone</u>	<u>\$750/month</u>
4. <u>Fraser Branch Medical, PLLC</u>	<u>TBD upon completion of construction</u>
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. <u>Commit to Well / Eat Well Grill</u>	<u>(-\$350) mo. , \$4200/yr</u>
TOTAL RENTAL INCOME	
LESS VACANCY FACTOR	
(Attach explanation if greater than 8%)	
TOTAL GROSS INCOME	<u>\$25,200</u> <u>2016</u> <u>\$23,184</u>

C. ANNUAL EXPENSES

- Annual Fixed Charges
 Real Estate Taxes (City & County) \$15,000 / year *due for 2020-2021
 Insurance..... previously exempt
 Average Annual Interest (over next 5 years) _____
- Operating Expenses
 Electric..... }
 Fuel..... } Projected \$13,200
 Water..... }
 Advertising..... }
 Miscellaneous (attach explanation) _____
- Maintenance Expenses (attach list)
 Repairs..... }
 General Building Maintenance..... }
 Yard and Ground Care..... } \$20,000 projected
 Miscellaneous..... } maintenance/supplies, snow removal

TOTAL ANNUAL EXPENSES
Profit or Loss

\$48,200

-25,016

Property: 301 North Street, Batavia, NY 14020

2020

Tenant	Suite	Total Sq. Available	Retail Leasable	Leased Sq Ft	Per Sq	Base Mo. Rent	Monthly INS/MGM	Monthly Int'lly Tax	Monthly Total	Lease Origination	Lease Expiration	Lease Options	Landlord Expense	Tenant Expense	Late Fee	Comments
YWCA of Genesee County, Inc. Commit to Well Pathstone Corp.	1	3,030	3,030	3,030	3.96	1,000.00	-	-	1,000.00	9/3/2020	9/1/2023	Y	ps. utilities.	-	N/A	increase to \$2k per month
	2	685	685	685	6.13	350.00	-	-	350.00	11/1/2020	10/31/2021	N/A	ps. utilities.	-	75	
	3	940	940	940	9.83	770.00	-	-	770.00	11/1/2020	10/31/2021	N/A	ps. utilities.	-	75	
		13,404		4,655		2,120.00										
Adm'l CAM Income						\$0.00										
Total Income						25,440.00				Total SF	4,655					
Operating Expense:										PSF Avg	5.47					
Taxes							Annual									
Insurance							Annual			Occupied	34.73%					
Utilities							To Date	JUL		Vacancy	65.27%					
R&M							To Date	JUL		PSF CAM	#DIV/0!					
Snow/Lawn							Annual									
Total Operating Expense:																
Annual Net Operating Income:						25,440.00				PSF R/E/Taxes	#DIV/0!					

D. TOTAL INVESTMENT

1. Down payment..... \$141,560 deposit / equity at closing.
2. Capital Improvements (attach list) \$7208.71
3. Principal Paid to date (original mortgage less
current principal balance)..... only 3 months since closing.

TOTAL INVESTMENT 148,768.71
(Sum of D1, D2, & D3)

E. RATE OF RETURN = Profit or Loss

TOTAL INVESTMENT \$123,752.71

Emily Ann Bell
Signature of Preparer

1/2/24
Date

mo
Profession of Preparer

1. EXTERIOR FRONT OF BLDG. - WOOD REPAIRS + PAINT

\$750

2. CONF. ROOM + WOMEN'S BATHROOM (RESTORE, BUILD CLOSET,
BUILD CABINET & COUNTERTOP, PAINT).

\$1100

CONF.

\$1400

BATH.

FLOORING (WILKS)

\$1980

CONF.

\$560

BATH.

BATHROOM CABINET DOORS (HOME DEPOT)

\$151

PAINT + SUPPLIES (SHERWIN WILLIAMS)

\$680.⁷¹

MISC. SUPPLIES

\$115

BRINDON

\$125

BRINDON

\$347

CHAZ

\$7208.71

TOTAL

CITY OF BATAVIA

BUILDING PERMIT APPLICATION

DATE: 12/30/20APPLICANT NAME & PHONE: EMILY FRASER - BRANCHEProject Location and Information

Permit #: _____ Fee: _____

Address of Project: 301 NORTH ST. BATAVIA NY 14020Owner & Address: FRASER - BRANCHE PROPERTY LLCPhone: (585) 356-4728 GREG BRANCHE(585) 356-813-5781 EMILY FRASER - BRANCHEProject Type/Describe WorkEstimated cost of work: ØStart date: N/ADescribe project: N/A Create non-permitted Food Service business in existing building located in a residential use district.Contractor Information – Insurance certificates (liability & workers comp) required to be on fileGENERALName/Address: N/A

Phone: _____

PLUMBING (City of Batavia Licensed Plumber Required)

Name/Address: _____

Phone: _____

HEATING

Name/Address: _____

Phone: _____

ELECTRICAL (Third Party Electrical Inspection Required)

Name/Address: _____

Phone: _____

FOR OFFICE USE ONLY

Zoning District: _____ Flood Zone: _____ Corner Lot: _____ Historic District/Landmark: _____

Zoning Review: _____ Variance Required: _____ Site Plan Review: _____ Other: _____

National Grid Sign Off (Pools): _____ Lot Size: _____

Existing Use: _____ NYS Building Code Occupancy Class: _____

Proposed Use: _____ NYS Building Code Occupancy Class: _____

617.20
Appendix B
Short Environmental Assessment Form

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: <i>Commit to well / eat well Grill meal preparation service</i>			
Project Location (describe, and attach a location map): <i>301 North Street Batavia</i>			
Brief Description of Proposed Action: <i>"made to order / ready to go" meal preparation service - "take out" service only</i>			
Name of Applicant or Sponsor: <i>Frustr-Brunche Property, LLC</i>		Telephone: <i>813 5781</i>	
		E-Mail: <i>efkcnney@gmail.com</i>	
Address: <i>301 North St.</i>			
City/PO: <i>Batavia</i>		State: <i>NY</i>	Zip Code: <i>14020</i>
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 <input checked="" type="checkbox"/> YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO <input checked="" type="checkbox"/> YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		<i>N/A</i> acres	
b. Total acreage to be physically disturbed?		<i>N/A</i> acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<i>N/A</i> acres <i>commercial kitchen in existing building</i>	
4. Check all land uses that occur on, adjoining and near the proposed action. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			

	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations?	<input checked="" type="checkbox"/>	<input 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: <u>existing</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input 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? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100 year flood plain?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ <input type="checkbox"/> NO <input type="checkbox"/> YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SEE
ATTACHED
VARIANCE
APPLICATION

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
	X	
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	YES
	X	
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	YES
	X	
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Emily Fraser-Branche</u>		Date: <u>12/30/20</u>
Signature: <u>[Signature]</u>		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

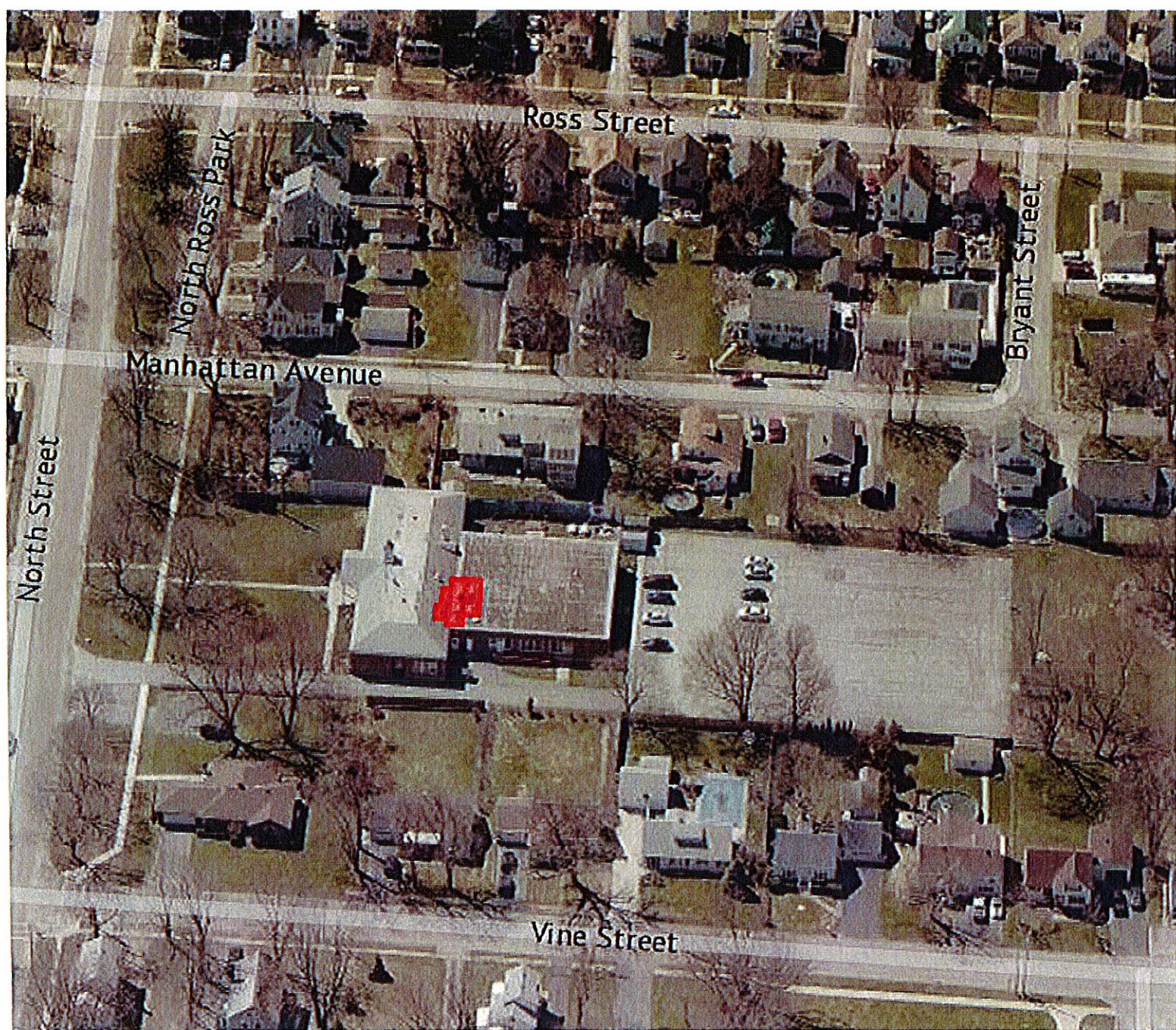
	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing:		
a. public / private water supplies?		
b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		

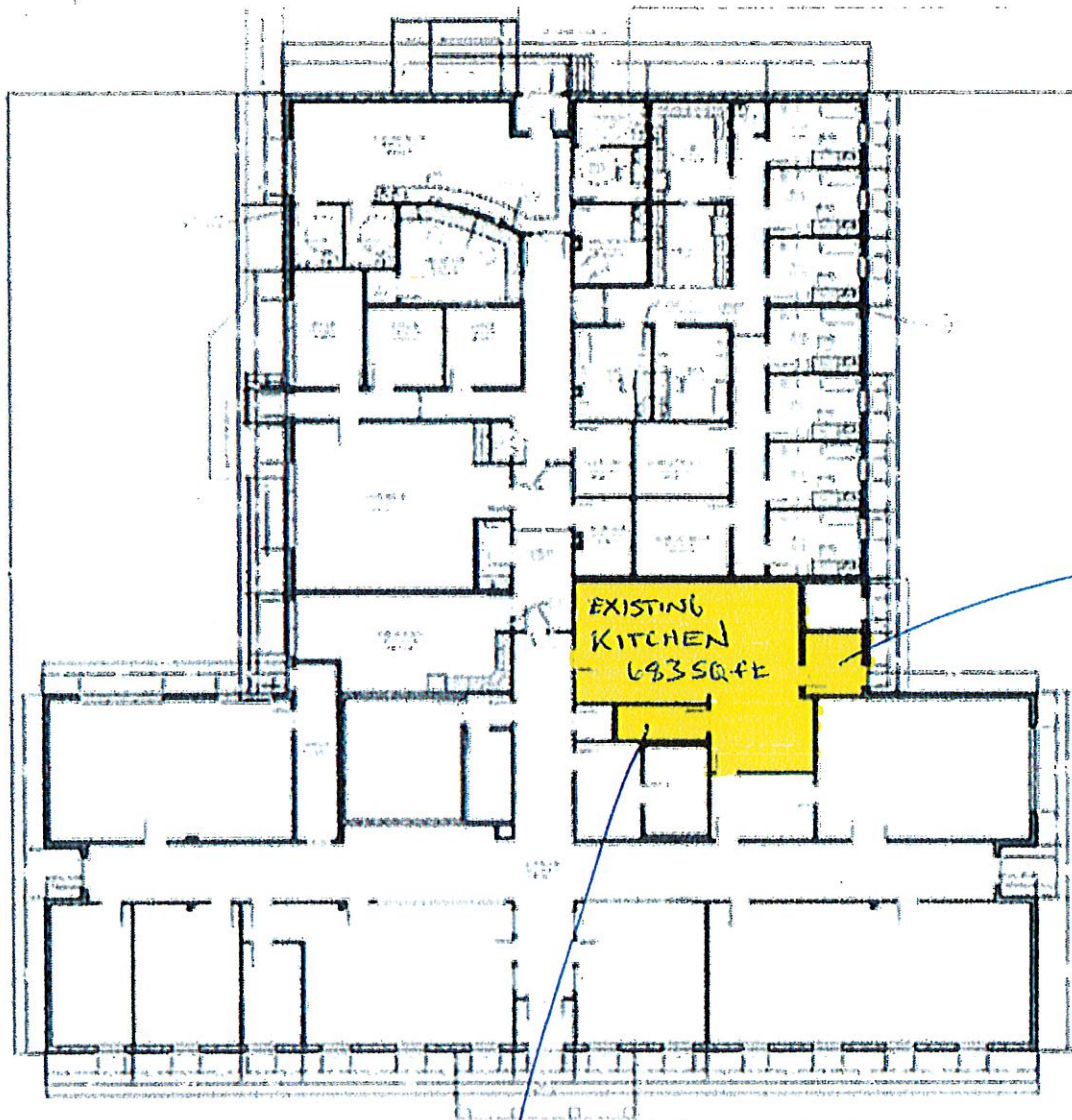
	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

_____ Name of Lead Agency	_____ Date
_____ Print or Type Name of Responsible Officer in Lead Agency	_____ Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from Responsible Officer)





PROPOSED 1st Floor

KITCHEN STORAGE
64 SQ. FT.

TOTAL KITCHEN AREA
SQ. FOOTAGE :
820