

PLANNING & DEVELOPMENT COMMITTEE

Tuesday, March 20, 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 – 9/19/17

IV. Proposals

Address: *13 Porter Ave.*

Applicant: Gerald Freeman (agent for owner)

Proposal: Increase parking by the addition of 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

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

V. Other/ New Business/Updates: Approval of 2018 meeting dates

VI. Setting of Next Meeting: April 17, 2018

VII. Adjournment

PLANNING & DEVELOPMENT COMMITTEE

MINUTES

September 19, 2017

6:00 pm

Council Board Room

One Batavia City Centre, Batavia NY

Members present: *Edward Flynn, Matt Gray, Tammy Hathaway, Robert Knipe, Duane Preston*

Members absent: Marc Staley

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

I. Roll Call

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

II. Call to order

Mr. Preston called the meeting to order at 6:01 pm.

III. Previous Meeting Minutes

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

RESULT: Approval of July 18, 2017 meeting minutes.

IV. Proposals

- A. Recommendation to the ZBA for an Area Variance: widen an existing 10' wide asphalt driveway to 23.5' by removing the existing driveway and placing a new one to match the attached plan

Address: 7 Richmond Ave.

Applicant: Matt Jolliff (owner)

- Actions:
1. Review application
 2. Discussion and recommendation to the ZBA for Area Variance

1. Review Application

Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board recommended approval of the project.

2. Discussion and Recommendation to the ZBA

Mr. Jolliff explained that he removed the single door from the two car garage and replaced it with it with a double door. He would like to widen the driveway to accommodate the family vehicles and those of visiting friends as well, without creating a sidewalk hazard.

Mr. Knipe asked if Mr. Jolliff is basically just adding a few feet of asphalt to the driveway where it tapers down to the street, and Mr. Jolliff said that is correct.

MOTION: Mr. Knipe moved to recommend approval of the application; the motion was seconded by Ms. Hathaway, and on roll call, was approved 4-0-1.

Votes in favor: 4 (Matt Gray, Tammy Hathaway, Robert Knipe, Duane Preston)

Votes opposed: 0

Votes abstained: 1 (Edward Flynn)

RESULT: Recommendation to the ZBA for approval of the Area Variance.

B. Recommendation to the ZBA for a Use Variance: change the use of six automobile repair bays to individual storage units for rent

Address: 643-645 East Main St. (existing auto repair bays)

Applicant: Daniel Mattice (owner)

- Actions:
1. Review application
 2. Discussion and recommendation to the ZBA for Use Variance

1. Review Application

Mr. Preston read the summary of the proposal. He reported that the Genesee County Planning Board recommended disapproval based on their belief that the hardship is self-created.

2. Discussion and Recommendation to the ZBA

Mr. Mattice stated that he did not purchase the building with the intention to turn it into a storage facility. Mr. Mattice bought the property because it abuts his own property and he wanted to protect his investment. For several months, he tried unsuccessfully to rent the property. He attempted, also unsuccessfully, to open an auto repair shop. He said that he was then approached by someone who wished to use the front portion of the building as a florist's shop. However, Mr. Mattice said he still could not find a use for the six auto repair bays in the rear and decided to turn them into storage units. At this point, Mr. Mattice did not realize that storage is not an acceptable use in an Industrial zone.

Mr. Preston asked if the florist's shop is still open and Mr. Mattice said it is.

Mr. Flynn asked if there is only one building on the property. According to Mr. Mattice, there are two buildings. The one in the rear is rented out as an auto repair shop.

Mr. Mattice had brought photos and indicated that he had cleaned up the property.

Attorney Michael DelPlato pointed out that the property known as Triangle Storage abuts the Mattice property and is also used for storage.

Mr. Flynn asked about the type of storage that would be allowed and Mr. Randall answered that if the proposal is approved, the applicant will be allowed to have any type of storage he wishes (with the exception of hazardous materials). Mr. Mattice said that the bays are large enough to store boats or cars.

Mr. DelPlato said that he disagrees with the County Planning Board's assessment that the hardship is self-created because Mr. Mattice did not start out intending to use the building for storage; but when it turned out that he could not rent the property for its intended use, he did what any creative business owner does: he tried to imagine a different way to make the property useful and profitable.

Mr. DelPlato pointed out that the storage rental Mr. Mattice is proposing will be clean and quiet and present a minimal amount of traffic.

Mr. Flynn asked if there would be any outside storage and Mr. Mattice said no.

Mr. Knipe asked if there would be any future request for expansion of storage space and Mr. Mattice answered no.

Mr. Preston asked if the florist's shop would remain a store front and Mr. Mattice responded that it would.

Mr. DelPlato noted that the surrounding businesses submitted letters of approval.

MOTION: Mr. Gray moved to recommend approval of the Use Variance to the ZBA on the basis that the use is compatible with the neighborhood, and also that there is a neighboring property with similar usage; the motion was seconded by Mr. Flynn, and on roll call, was approved 5-0.

RESULT: Recommendation to the ZBA for approval of the Use Variance.

- C. Site plan approval for construction of a 2,700 sq.' one story addition to the rear of the building known as 439 East Main St., for use as a clinic. This project also modifies a previously approved plan to expand the parking lot on portion of this property and the neighboring property at 432 East Main St. The PDC previously approved the parking lot expansion on 10/18/16.

Address: 424 East Main St.

Applicant: Raymond Murphy, RA (architect for the owner)

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

1. Review Application

Mr. Preston read the summary of the proposal.

2. Public Hearing

MOTION: Mr. Preston moved to open the public hearing; the motion was seconded by Mr. Gray, and on roll call, was approved 5-0.

RESULT: Public hearing opened at 6:29 pm.

John Bennett, Executive Director for GCASA, and Raymond Murphy, architect for the project, spoke about the proposal. Mr. Bennett explained that GCASA had been awarded a

grant by the federal government to build a clinic designated for addiction treatment with the use of methadone.

According to Mr. Bennett, treatment times at the methadone clinic will be staggered, with treatment for those who are employed beginning at 6:00 a.m., and treatment for those who are unemployed beginning at 8:00 a.m. Treatment at the regular clinic begins at 9:30 a.m., so traffic flow is not expected to be a problem.

Mr. Bennett told the board that GCASA has rented parking space from the neighboring Cornell Cooperative Extension for three years, but the methadone clinic will require 10-12 new employees with the need for additional parking. Since GCASA owns three acres, Mr. Bennett said it makes sense to build their own parking area.

Mr. Murphy pointed out that additional parking had been approved by the PDC last year, but when Mr. Bennett reported that GCASA had applied for a grant to build an additional clinic, construction was held up because the layout of the parking would be slightly impacted.

Mr. Bennett said that the Genesee County Planning Board questioned why GCASA would need more space when they had just put up a community residence addition the previous year, however, they in turn needed more program space for the additional residents.

Mr. Bennett described how the new building is designed to afford maximum privacy; that is why the entrance is on the side away from the Main Street area. Also, he affirmed that the design of the new building adheres to the historic character of the other buildings.

Mr. Flynn asked if GCASA had SHPO approval, and Mr. Bennett responded that SHPO approval was part of the grant process.

Mr. Flynn asked about the distance the addition will extend beyond the existing building, and Mr. Murphy answered about 10-15'.

According to Mr. Bennett, several public forums had been held and no opposition had been expressed. He believes that part of the reason for the lack of opposition was education. He said that educating the community about methadone treatment had begun a year prior to the project, and the community responded with a lot of support.

MOTION: Mr. Flynn moved to close the public hearing; the motion was seconded by Ms. Hathaway, and on roll call, was approved 5-0.

RESULT: Public hearing closed at 6:48 pm.

3. Discussion and Action by the Board

There was no further discussion.

MOTION: Ms. Hathaway moved to approve the Site Plan; the motion was seconded by Mr. Gray, and on roll call, was approved 4-0-1.

Votes in favor: 4 (Edward Flynn, Matt Gray, Tammy Hathaway, Duane Preston)

Votes opposed: 0

Votes abstained: 1 (Robert Knipe)

RESULT: Site Plan approval.

D. Site plan approval for construction of a 20,075 sq.' one story addition to this industrial use building

Address: 165 Cedar St.

Applicant: Michael Feeney, Engineer Tech. for Napierala Consulting
(agent for the 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.

2. Public Hearing

MOTION: Mr. Knipe moved to open the public hearing; the motion was seconded by Mr. Flynn, and on roll call, was approved 5-0.

RESULT: Public hearing opened at 6:51 pm.

Mr. Feeney said that once again OATKA has grown and is in need of more space. The building will be used as an industrial warehouse.

Mr. Flynn asked if employed will be increased, and Mr. Feeney responded that it is for operational use only and there will be no change in employment, parking, or circulation. The need is for more space with greater room to move around.

Mr. Knipe asked about the reduction in the number of loading doors, and Mr. Feeney said there are enough doors on the existing building so that the new one does not need to have more loading doors.

Mr. Preston noted that the Genesee County Planning Board recommended approval of the project.

MOTION: Mr. Gray moved to close the public hearing; the motion was seconded by Mr. Flynn, and on roll call, was approved 5-0.

RESULT: Public hearing closed at 6:55 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. Flynn moved to approve a negative declaration of SEQR; the motion was seconded by Mr. Knipe, and on roll call, was approved 5-0.

RESULT: Negative declaration of SEQR

4. Discussion and Action by the Board

There was no further discussion.

MOTION: Mr. Flynn moved to approve the Site Plan; the motion was seconded by Mr. Gray, and on roll call, was approved 5-0.

RESULT: Site Plan approved.

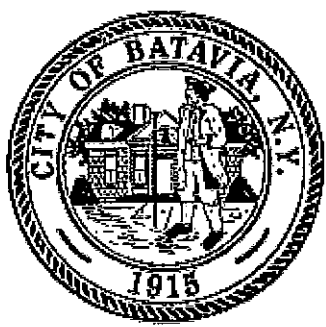
V. Other/New Business/Updates: none

VI. Setting of Next Meeting: October 26, 2017

VII. Adjournment

Mr. Flynn moved to adjourn the meeting at 7:03 pm; the motion was seconded by Mr. Knipe. All voted in favor.

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: 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	<u>15 S. Spruce St</u>	E-Mail Address	<u>(914) 912-7665</u>
Street Address	<u>Batavia</u>	Phone	<u>14020</u>
City	<u>NY</u>	State	<u>Zip</u>

 STATUS: ☒ Owner ☐ Agent for Owner ☒ Contractor
OWNER: Jeff Freeman

Name	<u>15 S. Spruce</u>	E-Mail Address	<u>716 912 1090</u>
Street Address	<u>Batavia</u>	Phone	<u>14020</u>
City	<u>NY</u>	State	<u>Zip</u>

LOCATION OF PROPERTY: 13 Porter 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.

 Applicant's Signature: [Signature]

 Date: 2/15/18

 Owner's Signature: [Signature]

 Date: 2/15/18

To be Filled out by Zoning Officer

 TAX PARCEL: 84.040-2-30 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.

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

BATAVIA, C.

Board Name

ZONING BOARD OF APPEALS

Applicant's Name

Gerald Freeman

Referral Type

Variance(s)

Area Variance(s)

Description:

Area Variances to expand front yard parking and to construct two entry stairs.

Front Yard Setback

Minimum required: 20 ft.

Existing building: 20 ft.; Proposed stairs: 14.24 ft.

Side Yard Setback

Minimum required: 8 ft.

Existing building: approx. 3 ft.; Proposed stairs: 6.3 ft.

Driveway Width

Maximum allowed (25% of lot frontage): 11 ft.

Existing: 11 ft. (25%); Proposed: 32.3 ft. (73%)

Location

13 Porter Ave., Batavia

Zoning District

Residential (R-3) District

PLANNING BOARD DECISION

APPROVAL WITH MODIFICATION(S)

EXPLANATION:

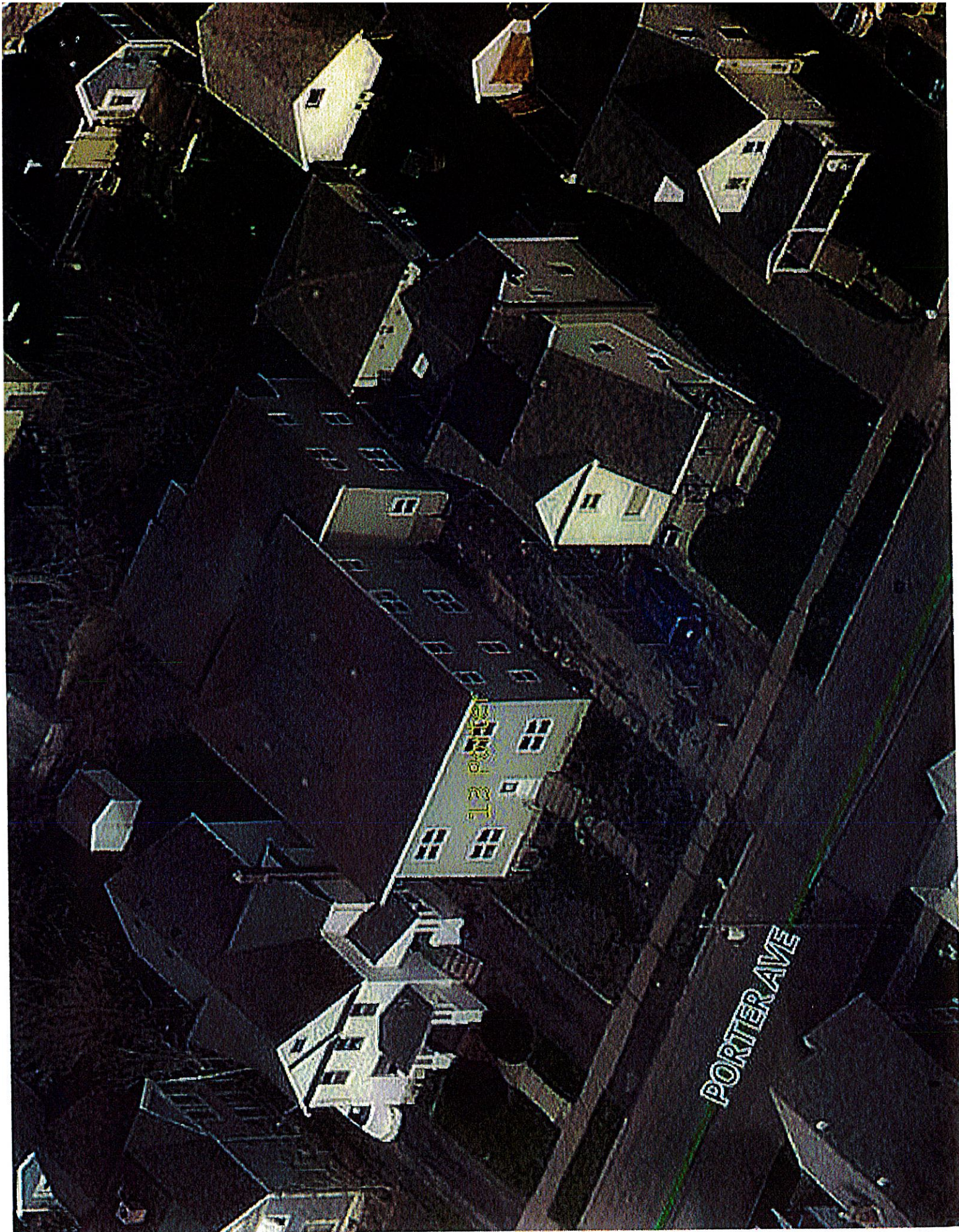
The variances for front and side yard setback are approved as they are not significant and should pose no significant county-wide or inter-community impact. The variance for driveway width is disapproved as it is nearly three times the maximum allowed and converts almost the entire front yard of the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

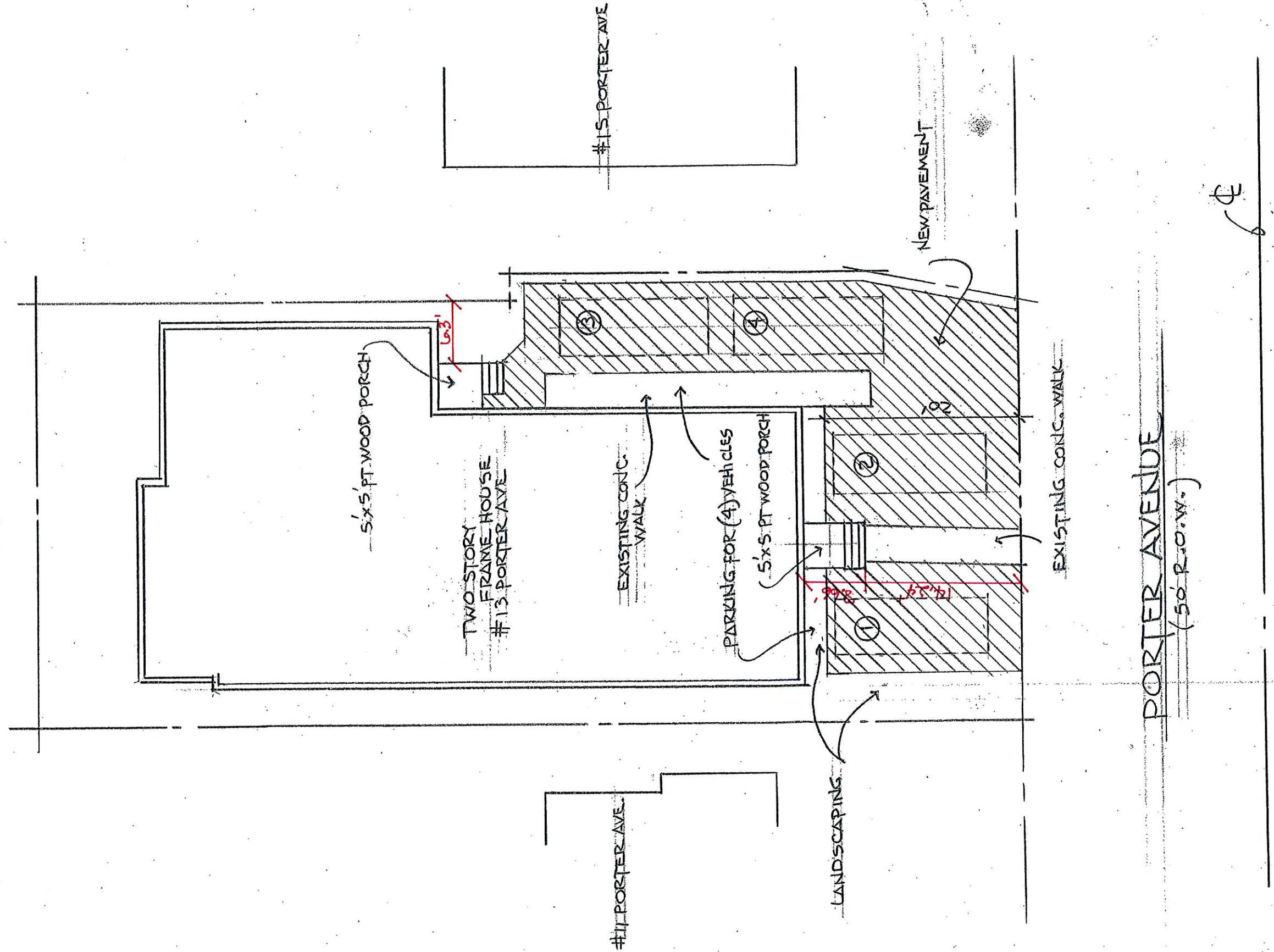
Director

March 8, 2018

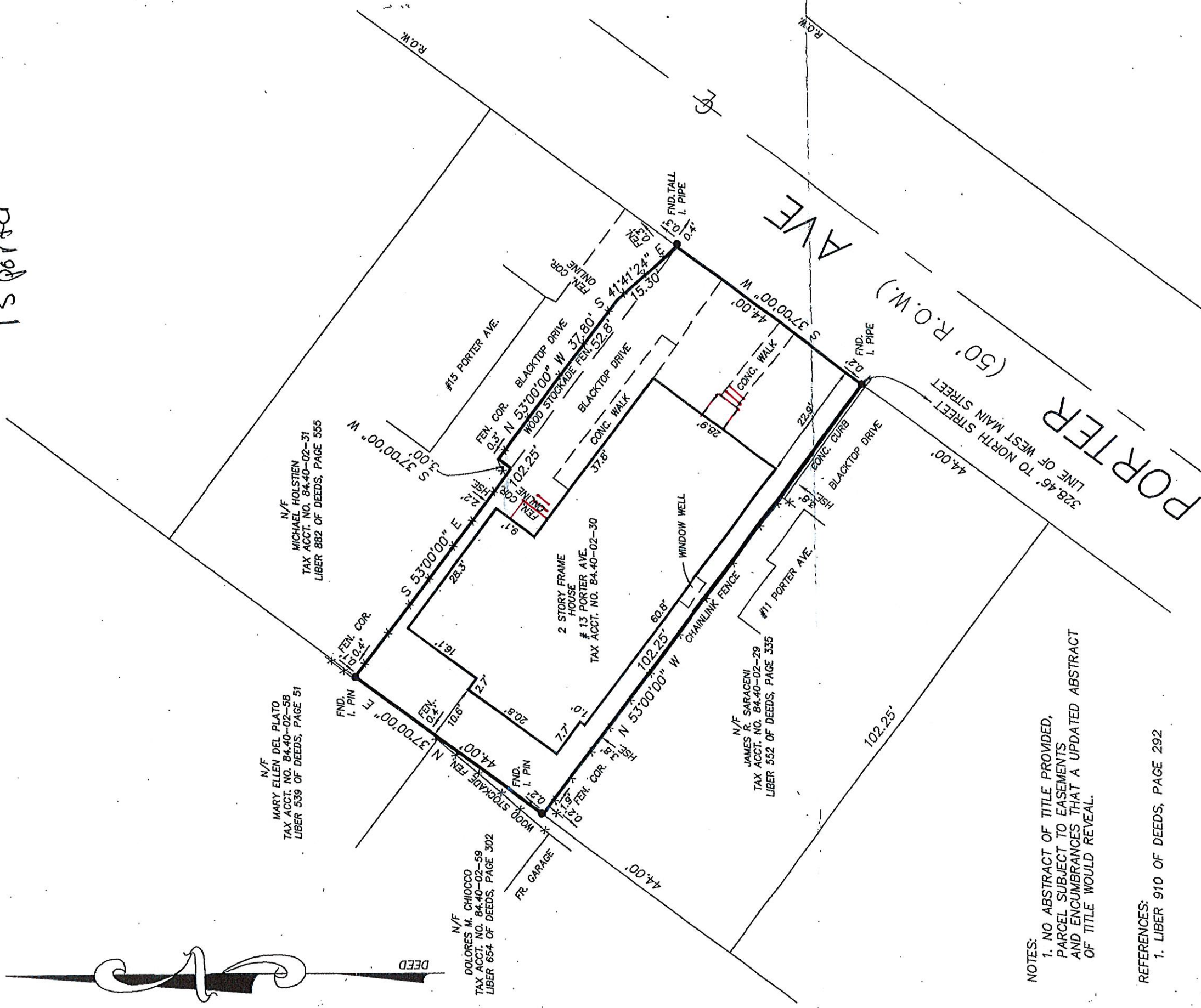
Date

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.





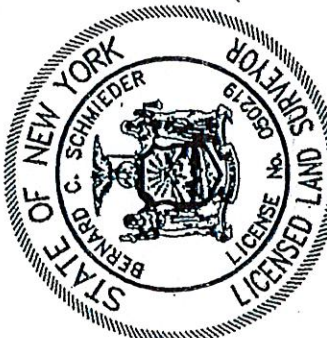
13 Porter



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
[Signature]
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 EDUCATION 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
11172 SILVER ROAD EAST BETHANY, NEW YORK 14054
(585) 345-0747

SCALE: 1" = 20'

JUNE 10, 2016

[Signature]

2018
Meeting Dates for
Planning and Development Committee
Deadline for applications is the last Thursday of the month

Planning and Development Committee

January 16	6:00 p.m.
February 20	6:00 p.m.
March 20	6:00 p.m.
April 17	6:00 p.m.
May 15	6:00 p.m.
June 19	6:00 p.m.
July 17	6:00 p.m.
August 21	6:00 p.m.
September 18	6:00 p.m.
October 16	6:00 p.m.
November 13	6:00 p.m.
December 18	6:00 p.m.