



**ZONING BOARD OF APPEALS  
STAFF REPORT  
September 15, 2016**

**Area Variance**

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**Case #1:**

Staff Reviewer: Jill Symonds

**File Number:** V-023-16-17

**Applicant:** Vernis Fletcher

**Project Address:** 181 Cottage Street

**Zoning District:** R-1 Low-Density Residential District

**Section of Code:** 120-160

**Request:** To legalize the enclosure of an open front porch on a single family dwelling.

**Code Compliance:** The subject property is a single family dwelling. The front porch was enclosed without a permit. Section 120-160 prohibits the enclosure of an open porch visible from any public right-of-way.

**Code Enforcement:** This property is not in code enforcement.

# 181 COTTAGE ST



August 29, 2016

## City of Rochester, NY

This map is intended for general reference only.  
The City of Rochester makes no representation  
as to the accuracy or fitness of the data presented.



City of Rochester, NY  
Lovely A. Warren, Mayor

PROJECT INFORMATION

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 181 Cottage Street, Rochester, Ny 14608

2. APPLICANT: VERNIS FLETCHER COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: (585) 436-7088 FAX: \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

INTEREST IN PROPERTY: Owner  Lessee \_\_\_\_\_ Other \_\_\_\_\_

3. PLAN PREPARER: VERNIS FLETCHER

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

4. ATTORNEY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

5. ZONING DISTRICT: \_\_\_\_\_

6. DETAILED PROJECT DESCRIPTION (additional information can be attached): \_\_\_\_\_

Porch enclosed with siding and windows

7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased:) \_\_\_\_\_

APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE:  DATE: 8/4/16

OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_



City of Rochester, NY

AREA VARIANCE  
STATEMENT OF DIFFICULTY  
Section 120-195B(4)(b)

An area variance shall be granted only if the applicant can establish the existence of EACH of the following conditions:

A. Benefits. The benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community by the granting of the variance.

- (1) The main reason for closing the porch is to have a safe space between me and certain individuals. I have had disturbing experiences with the house door knob being turned and also by other persons who came on the porch and can't say exactly why
- (2) I have also had a previous car broken in and last week my licence plates were stolen. Plus holes were poked in the screens of the previously screen enclosed porch.

B. Essential character of the area. No undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the variance.

Enclosing the porch does not negatively affect the neighborhood for it consists of enclosed and open porches

most of the steps, porches and roofs in this neighborhood including mine is in disrepair and could do with some spruceing. I have begun such improvement - though I have constant problem with cars knocking down my fence and damaging the steps and porch because of the angle and curve of the road. There is a "Slow Sign" but it doesn't help all the time

C. No other remedy. There is no other means feasible for the applicant to pursue, other than the granting of this area variance.

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**D. Significance.** The requested variance is not substantial.

Replace screen with sidings and windows

**E. Physical and environmental conditions.** The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

No negative impact on neighborhood  
mixed open and enclosed porches

**F. Not self created.** The alleged difficulty was not self created, the consideration of which shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance.

9 Tried putting up screen for safety but holes were poked in it. I have also called the police for stoning of property by neighbors children and friends



City of Rochester, NY

\* 2 Copies of Statement of difficulty submitted \*

AREA VARIANCE  
STATEMENT OF DIFFICULTY  
Section 120-195B(4)(b)

An area variance shall be granted only if the applicant can establish the existence of EACH of the following conditions:

**A. Benefits.** The benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community by the granting of the variance.

I can now sit on my porch with a feeling of safety  
The enclosed porch ~~is~~ acts as a barrier between me and the front door which on more than two occasions I heard and observe the doorknob being turned.

**B. Essential character of the area.** No undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the variance.

The change falls in line with the character of the neighborhood which consists of closed and enclosed porches

**C. No other remedy.** There is no other means feasible for the applicant to pursue, other than the granting of this area variance.

there was no alternative that would provide the safety and improve the appearance required and desired

**D. Significance.** The requested variance is not substantial.

*# my neighbor has an enclosed porch and there are many others in my neighborhood*

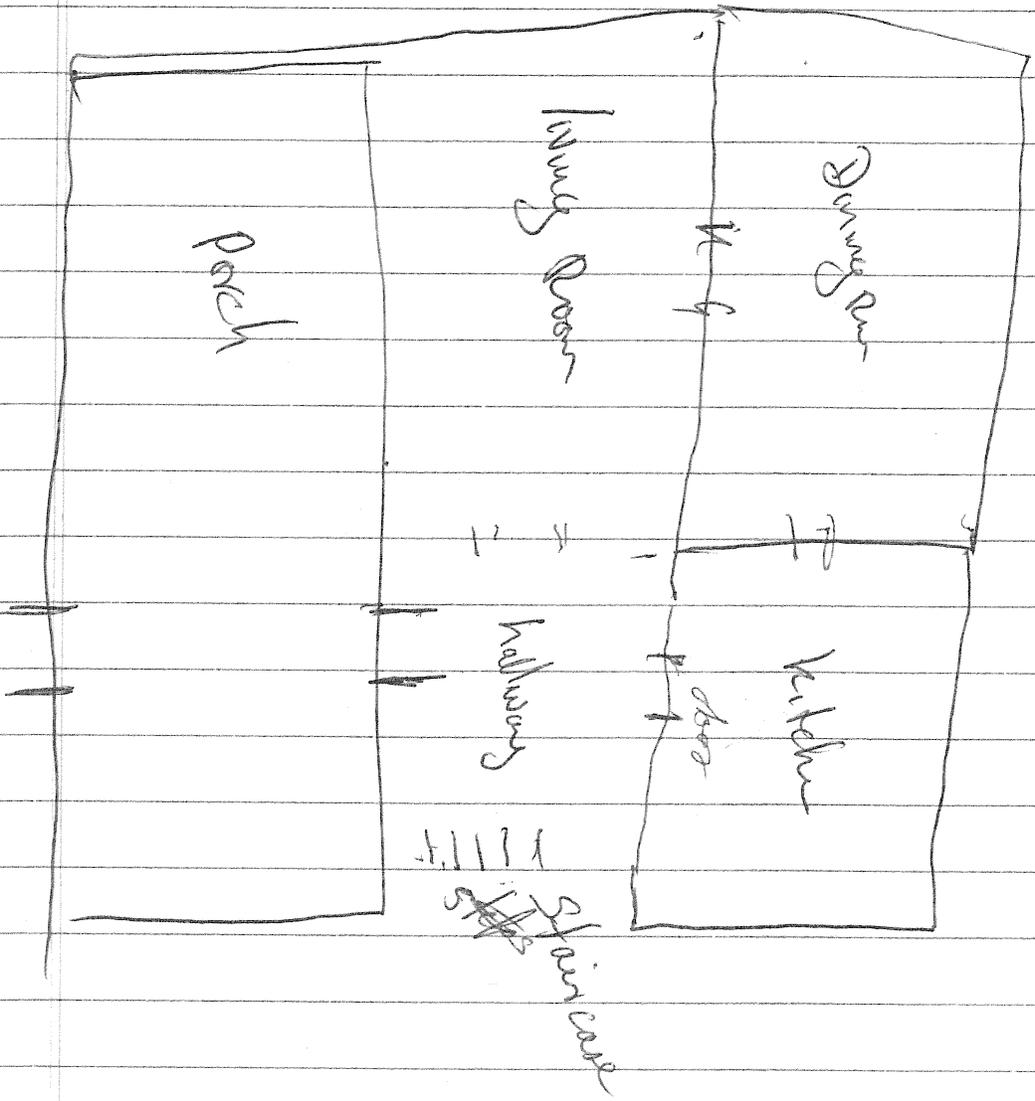
**E. Physical and environmental conditions.** The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

*The house falls reflects the character of the neighborhood*

**F. Not self created.** The alleged difficulty was not self created, the consideration of which shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance.

*The in-my-face contact with undesirable individuals people is solved, I can safely see who is knocking at the door*

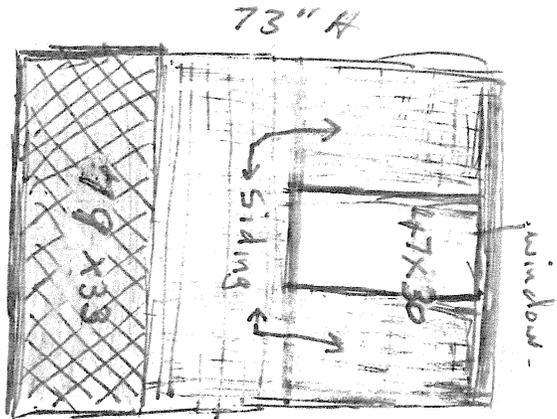
# First Floor



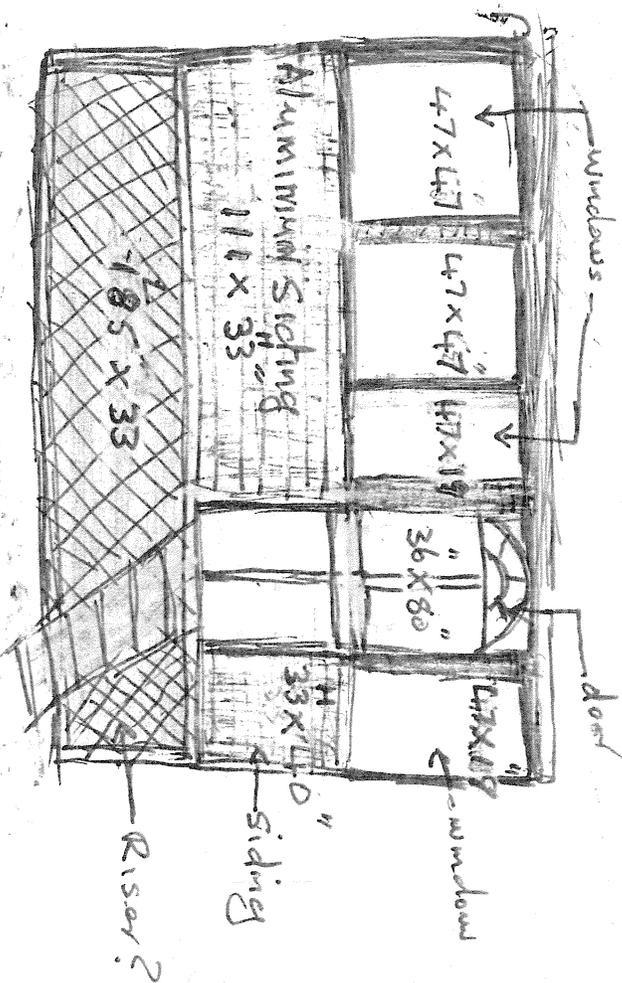
181 Cottage St

east x west

Side view  
both sides identical



front view



$L$        $H$        $W$   
 Floor Plan 180" x 73" x 72"  
 Height 94"



Google Earth - Nov. 2015



Photo, August 2016



**ZONING BOARD OF APPEALS  
STAFF REPORT  
September 15, 2016**

**Area Variance**

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**Case #2:**

Staff Reviewer: Jill Symonds

**File Number:** V-024-16-17

**Applicant:** Scott Spring

**Project Address:** 174-176 Colvin Street, 25 and 43-57 Syke Street

**Zoning District:** M-1 Industrial District

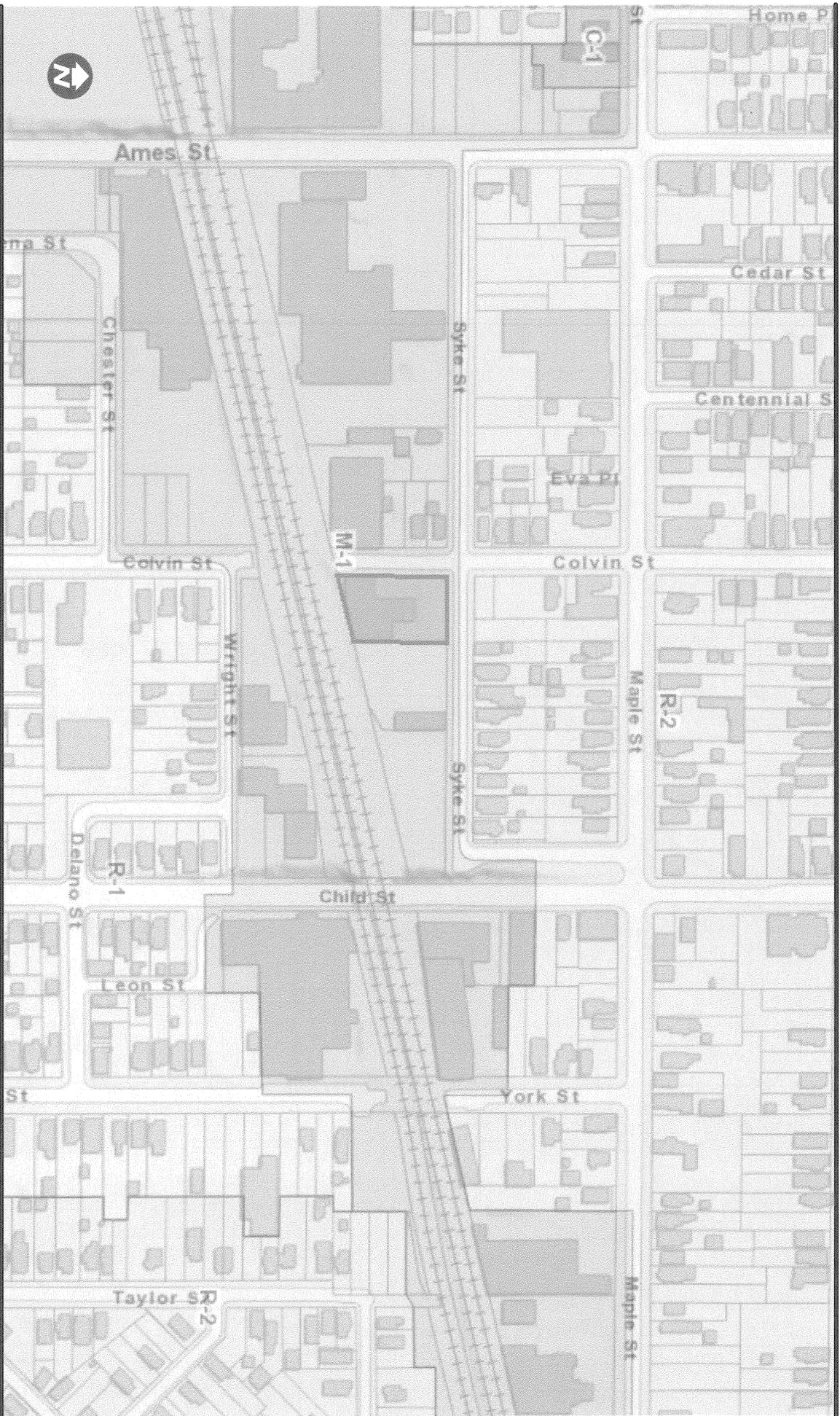
**Section of Code:** 120-152, 120-154.1, 120-167

**Request:** To waive the distance separation, landscaping, screening, and fencing requirements associated with the legalization of a vehicle repair operation and a contractor's business.

**Code Compliance:** Preliminary Site Plan Findings are attached, which identify all required variances.

**Code Enforcement:** This property is not in code enforcement.

# 174-176 COLVIN ST



August 29, 2016

This map is intended for general reference only.  
The City of Rochester makes no representation  
as to the accuracy or fitness of the data presented.

## City of Rochester, NY



City of Rochester, NY  
Lovely A. Warren, Mayor

**PROJECT INFORMATION**

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 174-176 Colvin Street

2. APPLICANT: Scott Spring COMPANY NAME: Colvin Street Garage

ADDRESS: 174 Colvin St. CITY: Rochester ZIP CODE: 14611

PHONE: 585-233-2755 FAX: 585-436-5437

E-MAIL ADDRESS SSpring1@Frontiernet.net

INTEREST IN PROPERTY: Owner  Lessee  Other

3. PLAN PREPARER: Scott Spring

ADDRESS: Same CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

4. ATTORNEY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

5. ZONING DISTRICT: \_\_\_\_\_

6. DETAILED PROJECT DESCRIPTION (additional information can be attached): \_\_\_\_\_

To get zoning use/zoning approved for actual use. property has been used for vehicle repair use and zoned accordingly but never had c/o for use

7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased): \_\_\_\_\_

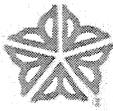
APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: Scott Spring DATE: 8/4/16

OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

BUILDING BUREAU  
ROOM 437  
1:48PM Aug 4/16  
01-0002 001 Mary  
#30452  
Zonins \$250.00  
INFO  
174 176 COLVIN ST  
Charge \$250.00  
BUILDING BUREAU  
ROOM 121  
1:46PM Aug 4/16  
01-0002 001 Mary  
#30450  
Zonins \$250.00  
Zonins \$250.00  
INFO  
174 176 COLVIN ST  
Charge \$500.00



July 15, 2016

Mr. Scott Spring  
174-176 Colvin Street  
Rochester, NY 14611

**Re: Preliminary Site Plan Findings  
SP-031-15-16, 174-176 Colvin Street, 25 & 43-57 Syke Street  
M-1 Industrial District**

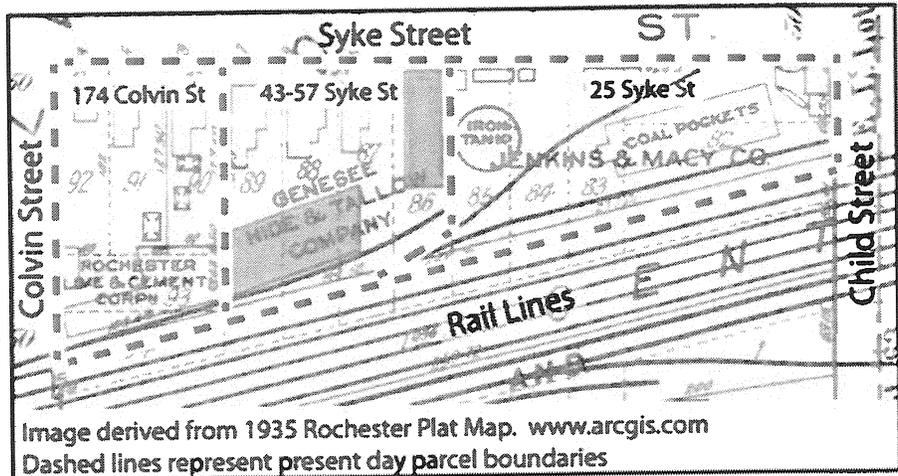
Dear Mr. Spring:

A preliminary review of your application to maintain use of 174-176 Colvin Street, 25, and 43-57 Syke Street as vehicle repair, contractor's and vehicle repair offices, and vehicle storage has been completed.

The following findings & recommendations have resulted from this review. It is your responsibility to familiarize yourself with the content of this document and apply for additional approvals that may be required.

**Existing Conditions:**

The site is comprised of three parcels, a total of 1.68 acres, located in an M-1 Industrial District on the southeast corner of Colvin Street and Syke Street. These properties have been zoned for manufacturing/ industrial uses since



1929. Historic maps and directories indicate that the site was used for such purposes at least as far back as the 1870s before the current homes across Syke Street were built. There were previously houses on the subject site, but all were demolished by 1961. The site currently consists of three parcels which are in the process of being combined into a single parcel (resubdivision application submitted 12/1/15).

174-176 Colvin Street is a 0.51 acre parcel that contains a 10,206 sqft garage structure with five 15ft tall overhead doors and an attached office. The rear portion of the parcel was historically used as a limestone and cement company from the 1930's to late 1950's. Permit records indicate building additions were constructed in the 1960s for truck sales and service. Office and storage space were later added.

**Preliminary Site Plan Findings**  
**SP-031-15-16**  
**174-176 Colvin Street**  
**Page 2**

43-57 Syke Street is a 0.55 acre parcel that contains a 4,434 sqft 1&2 story garage/warehouse structure with three 15ft tall overhead doors. The parcel has never had a C of O or a permit establishing use, however historic maps show industrial uses were present since at least as far back as 1935.

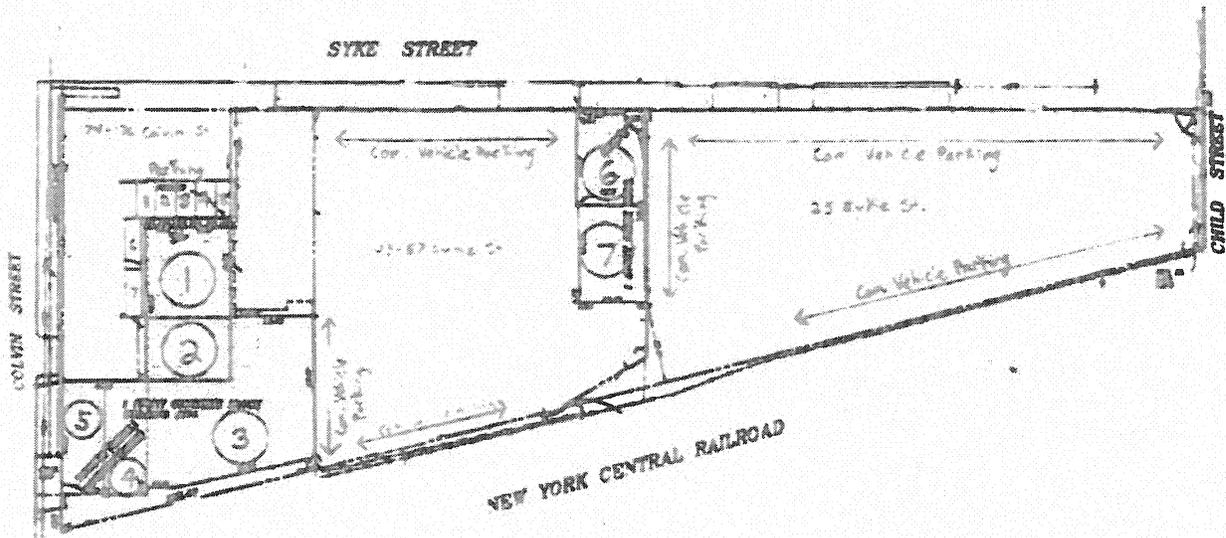
25 Syke Street is a 0.62 acre gravel lot which has never had a C of O or a permit establishing use. Historic maps indicate the site was used for coal storage/shipping from the 1880s through the 1950s.

An 8ft tall chain link fence with barbed wire surrounds 25 & 43-57 Syke Street and a portion of 174-176 Colvin Street. The entire site is a mix of gravel and pavement.

**Scope of the Project:**

The proposed uses for the site are listed in the table below. The building tenant spaces and parking are labeled on the site plan sketch below.

Building 1 - 10,206 sqft	Space 1 - contractor and vehicle repair offices, 7 parking spaces, and outdoor storage of commercial vehicles
	Space 2 - 2 bay - vehicle storage
	Space 3 - 1 bay - commercial vehicle repair
	Space 4 - 1 bay - commercial vehicle storage, commercial vehicle repair
	Space 5 - 1 bay - commercial vehicle repair
Building 2 - 4,434 sqft	Space 6 - 1 bay - indoor storage (contractor materials, tools, and supplies), no outdoor storage
	Space 7 - 2 bay - vehicle storage



**Code Compliance:**

1. Minor Site Plan Review approval by the Director of Planning and Zoning is required for conversion to or from any vehicle related use (repair, storage, service, etc).
2. Vehicle repair and vehicle storage is permitted in the M-1 District, subject to additional requirements for specified uses in Section 120-152 and Section 120-154.1 of the Zoning Code. Many of the requirements of Sections 120-152 and 120-154.1 are similar and should be reviewed collectively. Where the proposal is not in compliance with these sections, an Area Variance approved by the Zoning Board of Appeals (ZBA) is required (see table below).

<b>Code Requirements of Section 120-152: Vehicle Repair Stations</b>	<b>In Compliance?</b>
A. Vehicle repair shall not be established on a property located within 50 ft. of any residential district.	No. The south side of Syke Street is zoned R-2 and within 50ft of the north site border. However, the repair bay doors over 150 ft from nearest homes, and the vehicle storage area is just over 50ft from the nearest homes.
B. All repairs shall be performed within an enclosed principal building on the premises.	Yes. Repair is proposed within the garage bays at 174 Colvin Street.
C. No outdoor storage of materials, merchandise, and equipment shall be permitted during nonbusiness hours. Storage shall take place within the principal building or within closed, secure containers, such as outdoor storage cabinets. Outdoor storage may be permitted in the M-1 Districts subject to the requirements for outdoor storage set forth in § 120-175B.	Yes. Outdoor storage is not proposed. Storage will be within enclosed buildings.
D. Perimeter landscaping shall be a minimum of 10 ft. along street frontage(s).	No. Landscaping is not proposed along either street frontage. An existing fence is located on the lot line of the Syke Street frontage. The area within 10ft of the street frontage consists primarily of gravel and pavement.
E. Sufficient screening shall be provided along all lot lines adjacent to residentially zoned or developed property to block any view of repair operations from the residential property from ground level.	No. The chain-link fence along Syke Street does not screen the property from the R-2 Residential District located across the street. (See Finding 3)
G. No partially dismantled, wrecked or unlicensed vehicle shall be stored for more than 72 hours outside of a completely enclosed building.	Yes. Not proposed.
<b>Code Requirements of Section 120-154.1: Vehicle Storage</b>	<b>In Compliance?</b>
A. No such use shall be established on a property located within 50 feet of any residential district boundary line.	See 152.A. above
B. Perimeter landscaping shall be a minimum of 10 feet along a street frontage(s).	See 152.D. above

C. No fence shall be constructed within 10 feet of any street frontage.	No. The existing fence is built up to the lot line on Syke Street.
D. An office structure shall be located on the same lot for all towing operations.	N/A
E. No partially dismantled, wrecked or unlicensed vehicle shall be stored for more than 72 hours outside of a completely enclosed building.	See 152.G. above
F. Vehicle towing and storage lots shall be subject to the requirements in § 120-173, Off-street parking.	Yes. Off-street parking is adequate. Existing lot design is preexisting.
G. Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.	See 152.E. above

3. Eight foot high chain link fence is permitted in the M-1 District subject to Requirements Applying to All Districts in Section 120-167 of the Zoning Code. Where the proposal is not in compliance with this section, an Area Variance approved by the Zoning Board of Appeals (ZBA) is required (see table below).

<b>Code Requirements of Section 120-167B: Fences and walls</b>	<b>In Compliance?</b>
(6) Within nonresidential districts, a 10ft perimeter landscaped setback shall be required in conjunction with any fence or wall proposed along any street frontage, except a decorative fence or wall of no more than three feet in height in conjunction with landscaping may encroach in the required setback area.	No. The existing 8ft chain link fence is built to the property line along Syke Street, however the existing pavement and gravel make up the majority of the potential 10ft setback and the location of the fence seems consistent with the historic use of the site.

**SEQR/Chapter 48 Compliance:**

In accordance with Article 8 of the New York State Conservation Law and Chapter 48 of the Rochester City Code, this project has been classified as an Unlisted Action. A Negative Declaration was issued on July 13, 2016, indicating that the proposed action is one which will not have a significant impact on the environment.

**Findings:**

1. **Uses.** Vehicle repair, and vehicle storage are permitted uses in the M-1 district subject to Requirements Applying to All Districts in Section 120-152 and Section 120-154.1 (see table above). Vehicle repair by definition is "engine repair, body work, frame straightening, painting, upholstery, steam cleaning, electrical work, tuneups and all other passenger vehicle repair activities not specifically listed in the definition of vehicle service station. Note that the definition of vehicle repair is specific to passenger vehicles. The repair proposed onsite will be for commercial vehicles which are defined as "all trucks, vans, construction equipment and limousines, bearing

commercial license plates and vehicles with a gross vehicle weight, as defined by the manufacture that is in excess of four tons". The Zoning Code does not define *commercial vehicle repair*, however the Site Plan Review Committee has determined that *commercial vehicle repair* will fall under the definition of *vehicle repair* because the repair operations and techniques are the same, and because the Zoning Code does not define or address *commercial vehicle repair* individually.

2. **Parking.** Seven off-street parking spaces are available in front of the office for customers and employees. Additional parking within the fenced portion of the site is sufficient for any additional employee parking needs, and for trucks that are awaiting repair. Large trucks awaiting repair will park adjacent to the easternmost garage, and construction vehicles (dump trucks) will be parked along Syke Street within the site (see site plan sketch in Scope of the Project).
3. **Tenant Spaces.** The New York State Uniform Fire Prevention and Building Code requires permits to establish separate tenant spaces located within the same building. The applicant will need to apply for a permit to establish the spaces as a condition of Site Plan Approval.
4. **Fencing.** The existing chain-link fence does not screen the property from the adjacent residential homes. Replacing the fence with a stockade fence was discussed with the applicant however he stated that this would be cost prohibitive as he would need to replace over 500 ft of fencing. The applicant made a strong argument that the fence transparency has helped to deter crime from occurring on site after hours, and maintaining this transparency would be beneficial from a safety standpoint.

Barbed wire is present above the fence along the Syke Street frontage which is not permitted and must be removed as a condition of Site Plan approval.

5. **Drainage.** The pavement and gravel parking areas onsite are preexisting. The stormwater from the two buildings onsite drains to the combined storm sewer, and a small grass area between the site and sidewalk acts as a border to absorb some stormwater. New York State and City of Rochester stormwater regulations require all stormwater to be managed onsite. There are no proposed site alterations at this time, however any site redevelopment proposed in the future such as replacement or adding another layer of pavement will require the use of stormwater management techniques such as grading, the installation of storm drains, and/or green infrastructure techniques to manage stormwater onsite.
6. **Lighting and Security.** The property is lit from dusk until dawn and is equipped with security cameras. The Zoning Code requires lighting to be designed to cast downward and not onto adjacent properties. The applicant advised that maintaining fence transparency in conjunction with onsite lighting is an added security measure as neighbors have called him in the past when they see activity on the site after hours.
7. **Signage.** A request for signage was not included in the site plan application. If the applicant wishes to install signage, additional review and approval is required by the Bureau of Planning and Zoning.

- 8. Public Right-of-Way.** The existing parking area on 174-176 Colvin Street abuts the sidewalk with no separation or barrier. The Site Plan Review Committee recommends that a pipe bumper rail (or bollards) be installed along the northwestern corner of the lot line between curb cuts to prevent the vehicle repair operation and parking from encroaching on the public sidewalk and right-of-way.
- 9. DES Review.** This project was referred to the City of Rochester Department of Environmental Services (DES) for review. No concerns were raised regarding the site. Street improvements including curb replacement may occur in the distant future, at which point the existing curb cuts will be reviewed to determine if they should be reduced in size and/or eliminated based on the use of the site.
- 10. Monroe County DOT Review.** MCDOT reviewed the site plan and did not have significant concerns regarding traffic.
- 11. Business Permits.** In accordance with Chapter 90 Article II of the City Code, if approved, vehicle related uses are required to obtain and maintain a business permit.

Enclosed is the Variance application. Please follow the instruction for submission of this application. If you have any questions regarding this process, please contact Jill Symonds at 428-7364 or [jill.symonds@cityofrochester.gov](mailto:jill.symonds@cityofrochester.gov).

A copy of these Preliminary Site Plan Findings will be provided to the Zoning Board of Appeals to be considered in their review. Final Site Plan Review approval will not be issued until the Notice of Decision has been issued and all conditions imposed by the ZBA have been addressed, as well as any additional requirements as noted in these findings.

Please contact Tom Kicior, Senior City Planner at 428-7762 or [Thomas.Kicior@cityofrochester.gov](mailto:Thomas.Kicior@cityofrochester.gov) if you have any questions regarding these preliminary findings.

Sincerely,



Zina Lagonegro, AICP, EIT  
Director of Planning and Zoning

xc:

Jason Haremza, Bureau of Planning and Zoning  
Jill Symonds, Zoning Board of Appeals



Scott Spring  
174 Colvin Street  
Rochester, NY 14611

# 174 Colvin Street Variance

August 3, 2016

Neighborhood and Business Development  
City Hall Room 125B  
30 Church Street  
Rochester, NY 14614

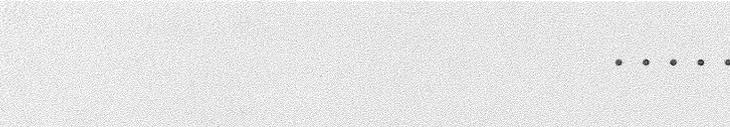
Dear Sir or Madam:

RE: Variance of 174 Colvin Street

1. Vehicle repair shall not be established located within 50 ft of any residential District. The repair doors are over 150 ft. from nearest home and vehicle storage is just over 50ft from nearest home. The property has been zoned M1 and used for auto repair for 20+ years with no C of O.
2. Perimeter landscaping min. of 10 ft. along street frontage  
There is no green space to put in Landscaping , frontage consists of gravel and pavement and broken Sidewalk.
3. No fence shall be constructed within 10 feet of street frontage.  
The existing 8' fence is built up to lot line and face of building. This fence is consistent with the historic use of the site. This fence or parts of it has been there For 50+ years. Without a fence around property people would be crossing the tracks through our property. This would create a dangerous situation, something we would not want.

In closing what I am asking for the board to waive some of the requirements listed above do to the fact that in reality I am not asking for anything different from what has been there for a long, long time and makes sense. I am not asking for anything that would have a negative impact on the neighborhood.

Scott Spring  
Owner





City of Rochester, NY

**AREA VARIANCE  
STATEMENT OF DIFFICULTY  
Section 120-195B(4)(b)**

An area variance shall be granted only if the applicant can establish the existence of EACH of the following conditions:

**A. Benefits.** The benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community by the granting of the variance.

The benefits that I see by approving this variance request will be shared by the neighborhood and I equally. For me, it is the ability to utilize the property for the reason that I purchased it, Auto / Truck repair and storage. For the neighborhood it is having somebody actually on site and maintaining the property instead of letting the property get run down. The installation of security cameras and lighting at night which has reduced undesirable foot traffic at night. I have had several neighbors stop by and thank me for the improvements to the neighborhood.

**B. Essential character of the area.** No undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the variance.

The variance that I am requesting will not change the character of the neighborhood in any way. For the following reasons:

1. I am not adding or changing any structures or use.
2. The property has been zoned M1 and used for Truck / Trailer repair for the last 20 or so years (without permits or C of O).
3. There is no room for perimeter landscaping do the fact that the frontage consists of gravel and broken sidewalks.
4. Transparency of the fence is actually a advantage for security at night, with lighting and security cameras it deters unwanted intruders.

The only change that I am asking for is to do what has been going on for many years with no permits or C of O.

**C. No other remedy.** There is no other means feasible for the applicant to pursue, other than the granting of this area variance.

Without this variance I would not be able to utilize this property for the purpose that I purchased it for. It would create a financial hardship on me and probably put me out of business.

**D. Significance.** The requested variance is not substantial.

The requested variance is not a substantial change to the neighborhood do to the fact that nothing has changed, if the variance is approved the facility will be utilized the same way that it has been for the last 20+ years.

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**E. Physical and environmental conditions.** The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

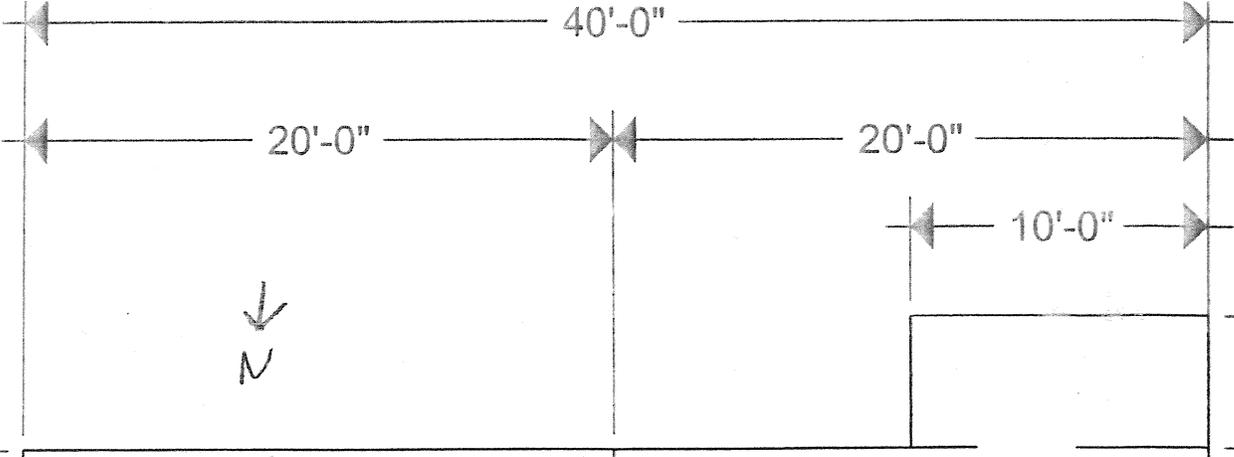
The requested variance will have no physical or environmental implications to the property since there are no physical changes requested. A negative Declaration was issued on July 13,2016 indicating that the proposed action is one which will not have a significant impact on the environment.

**F. Not self created.** The alleged difficulty was not self created, the consideration of which shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance.

The fact that the property was not zoned for the proper use or no C of O was not self created. I thought that when I purchased the property and the fact that there was a repair facility there for 20 years, had a M1 zoning and the description of the property address on tax bills is " auto repair/tire" I was in compliance from day 1. I just hope that by applying for zoning changes and C of O for the proper use does not hurt me in the long run.



①



Garage/Storage  
for Tenant #3

Garage for  
Tenant #1

#4

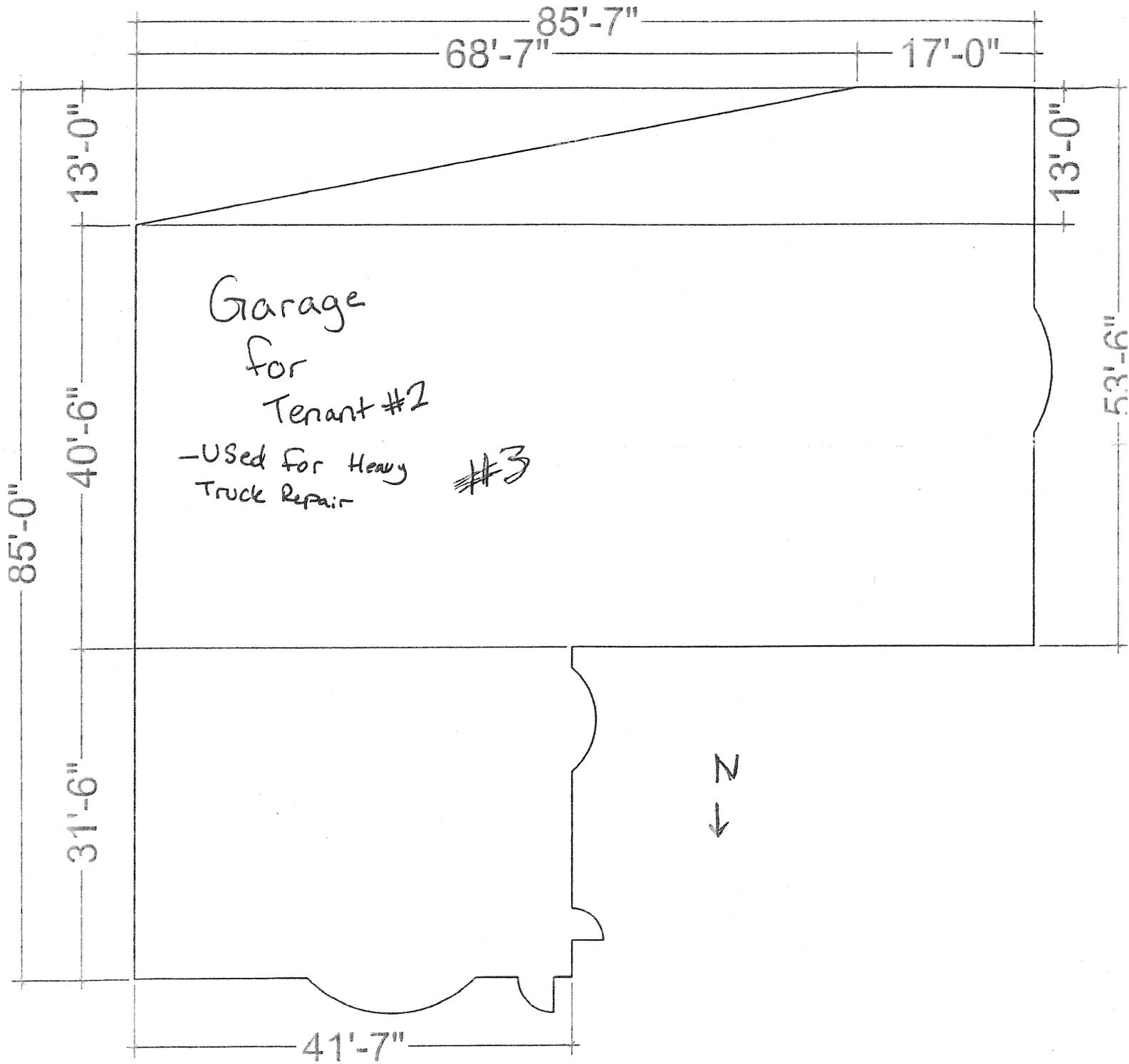
#5

- Hours of operation → 10am - 4pm
- Used for personal vehicle repairs & Large Truck Storage
- One employee

- Minor Vehicle Repairs + Heavy Truck Repairs
- Hours of operation → 8am - 6pm
- Two Employees

52'-0"

2



- Uses office Space in Figure No1
- Five Employees
- Hours of Operation → 7am - 5pm

3

N  
↑

39'-5"

32'-7"

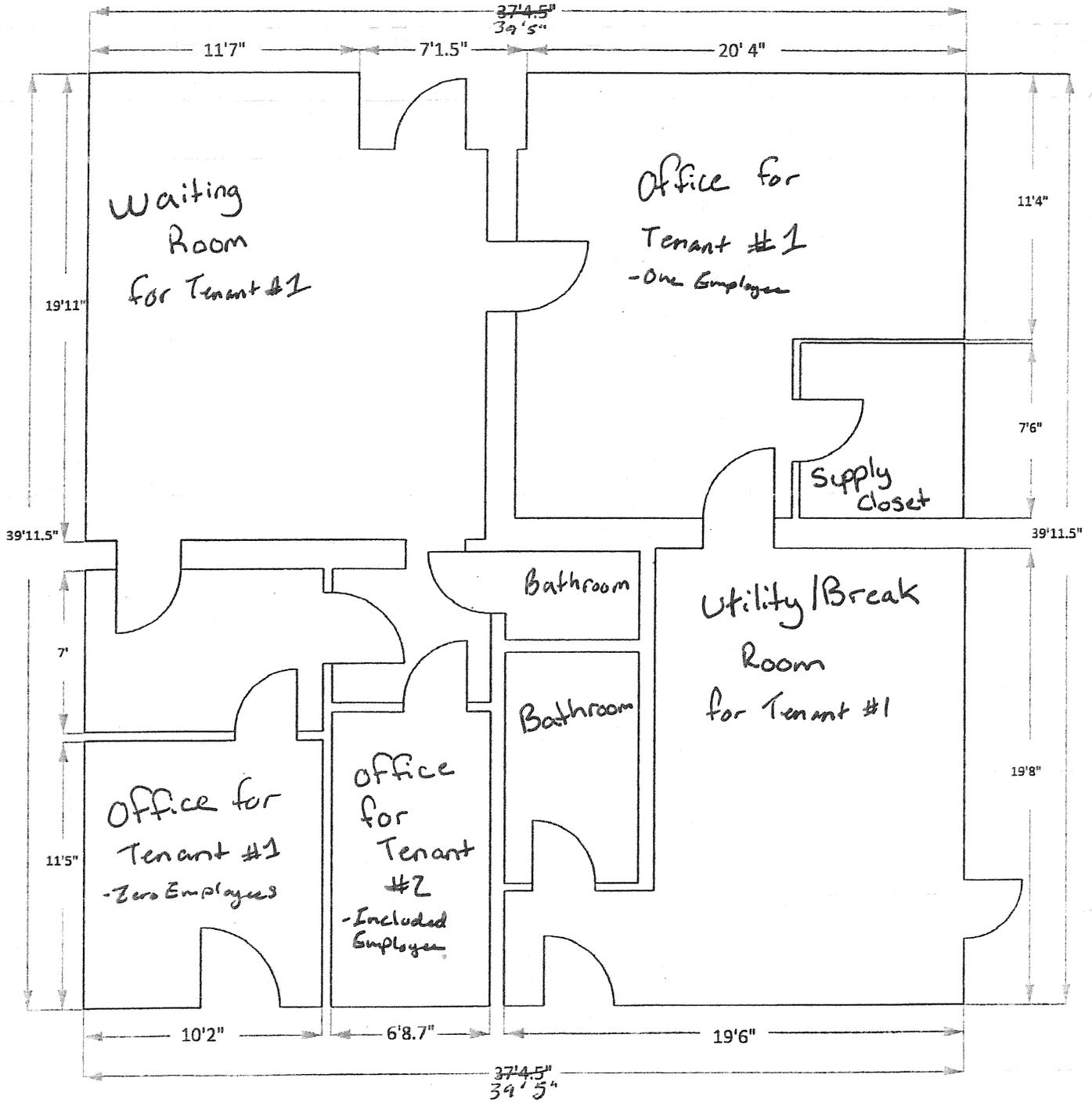
Vehicle  
Storage  
for Tenant #1

#2

- Storage for winter equipment ex) Salt Trucks
- Hours of operation 8am - 5pm
- Zero Employees

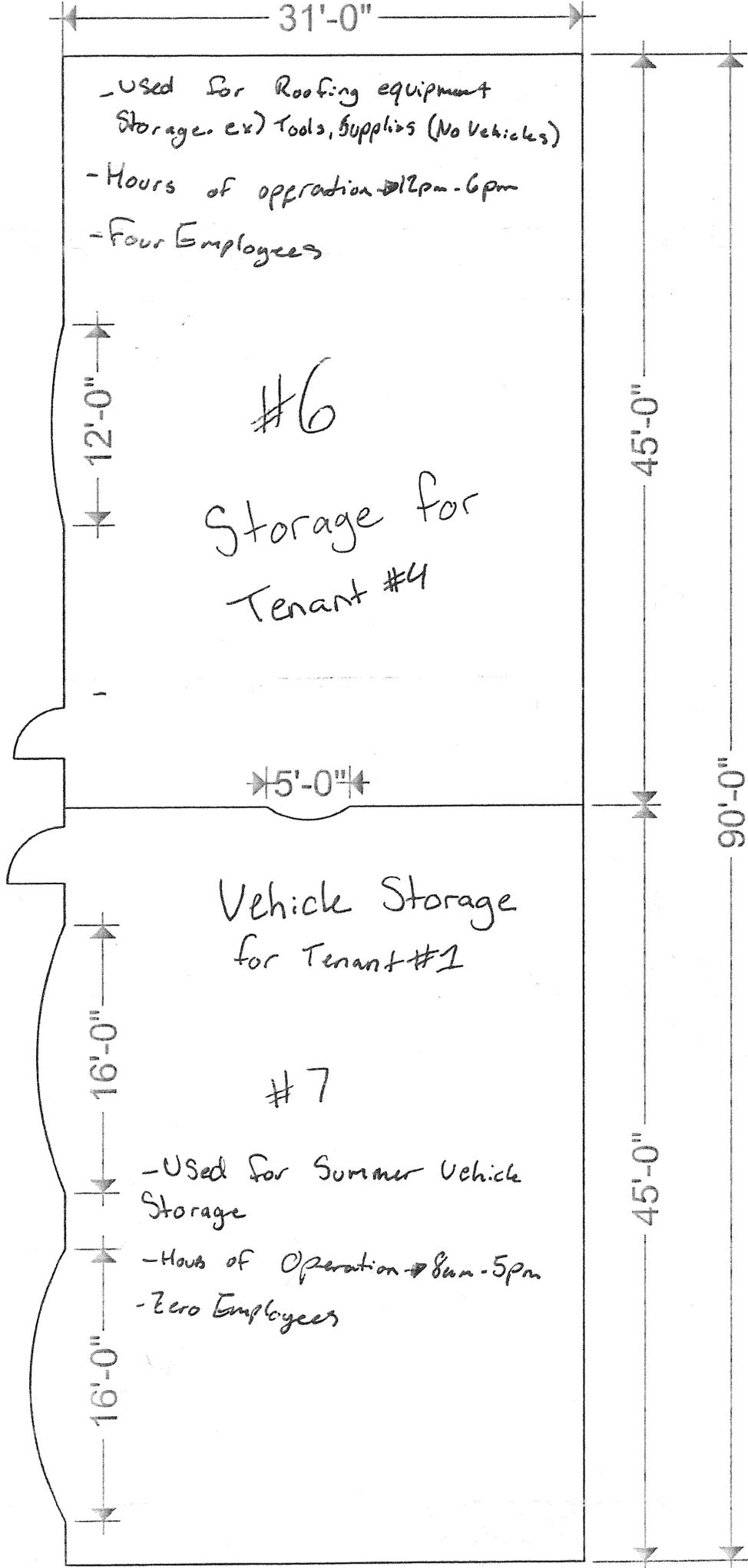
④

#1



Hours of operation → 6am - 6pm

\*Employees Included on Following Pages

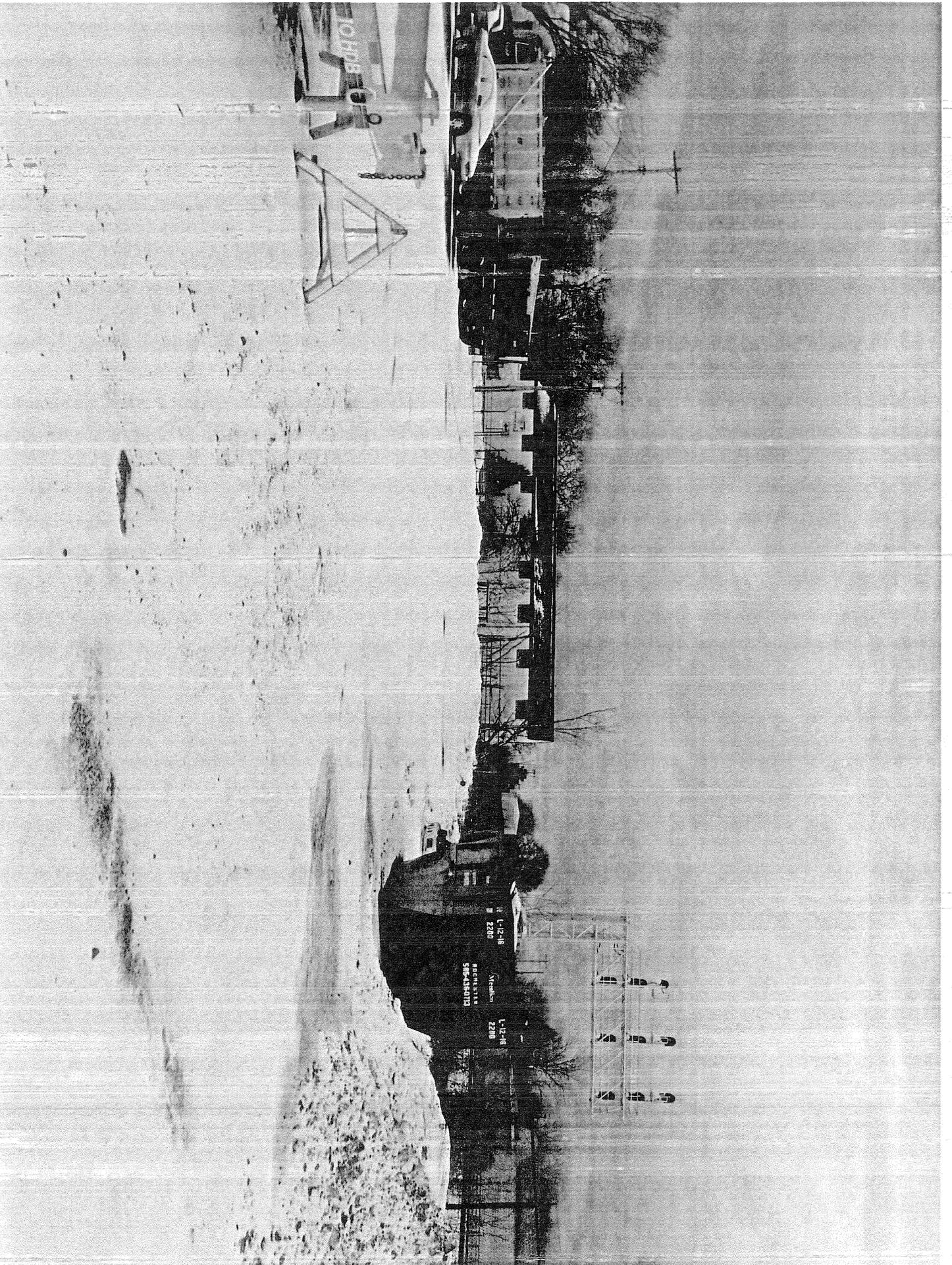


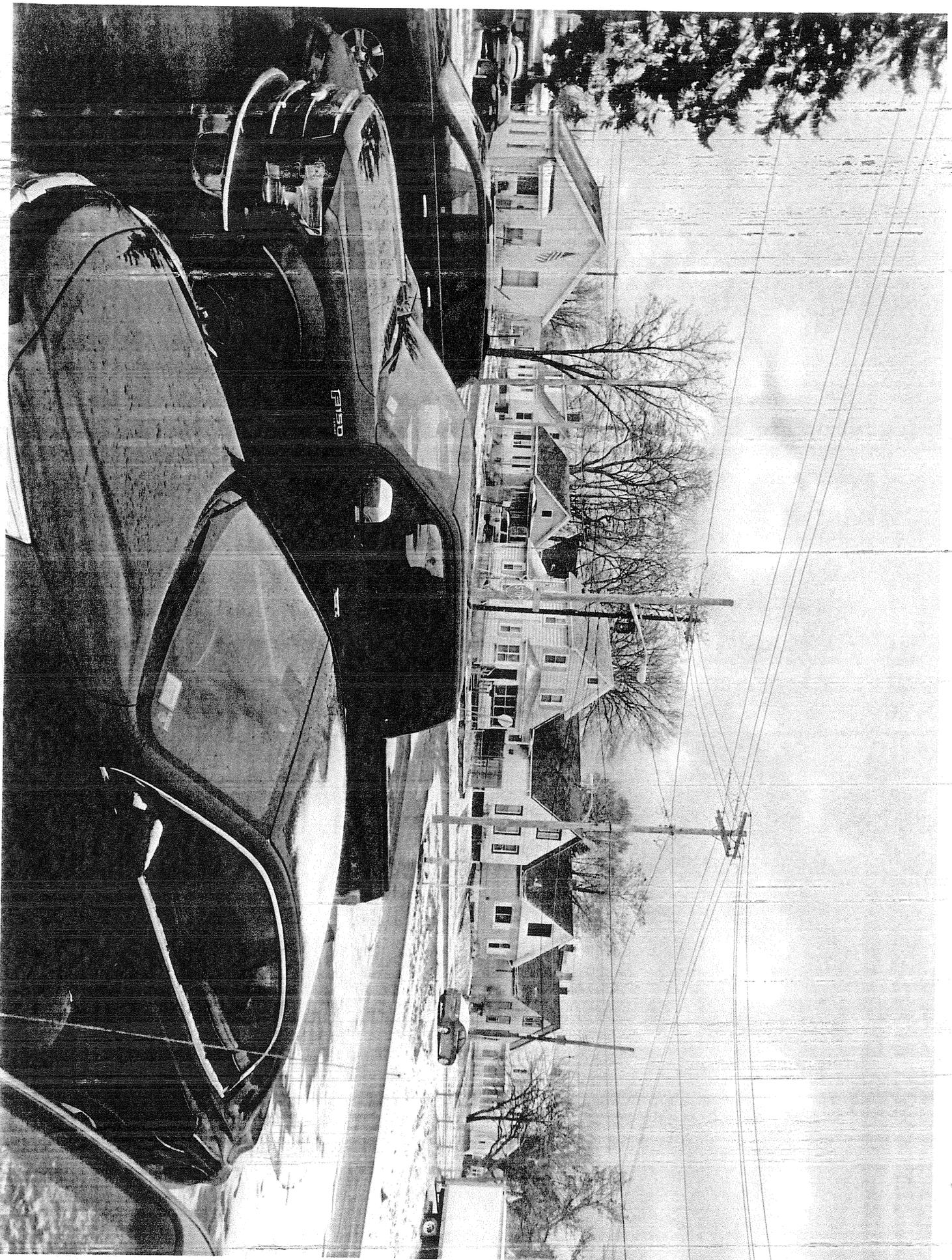
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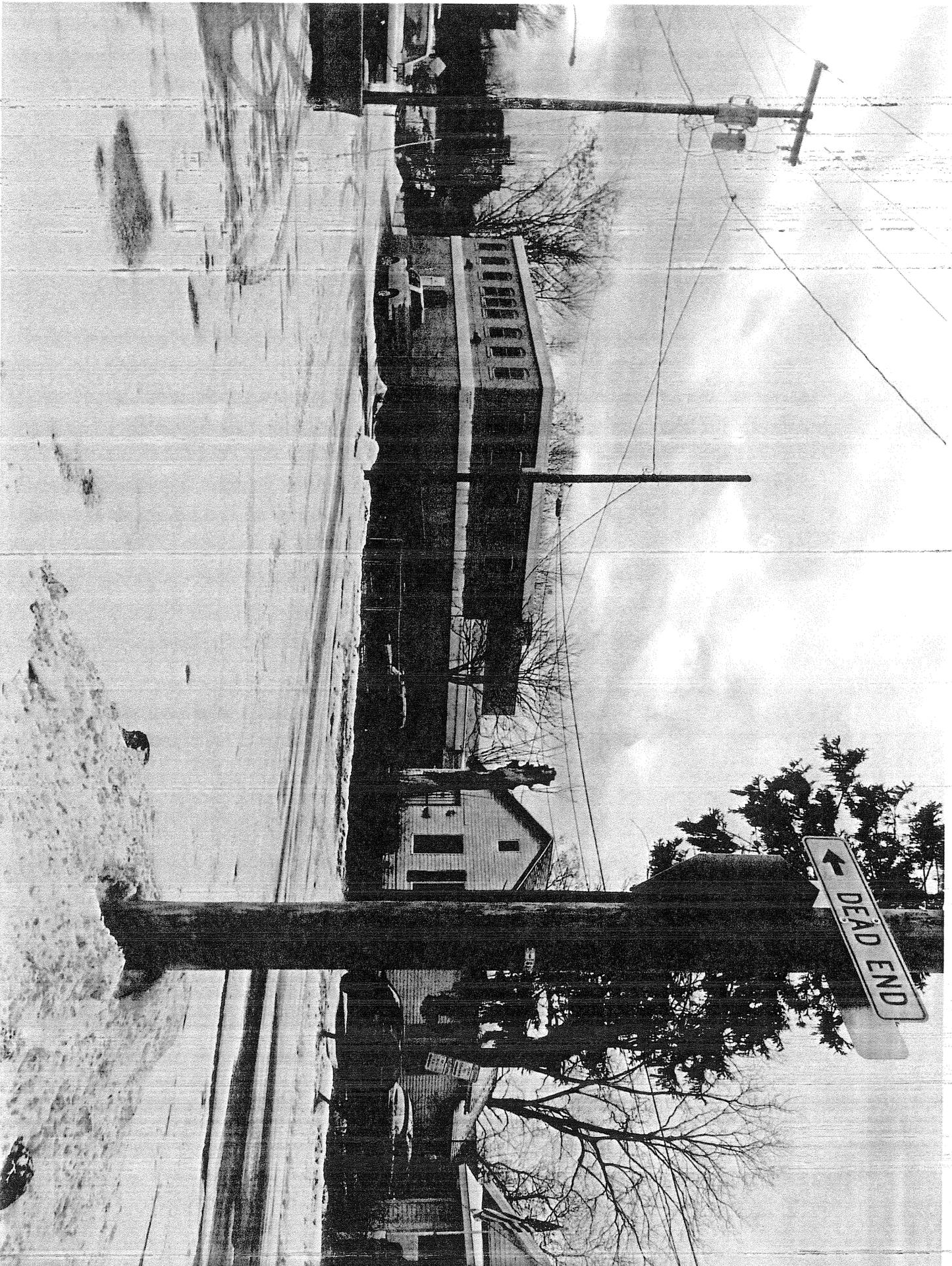


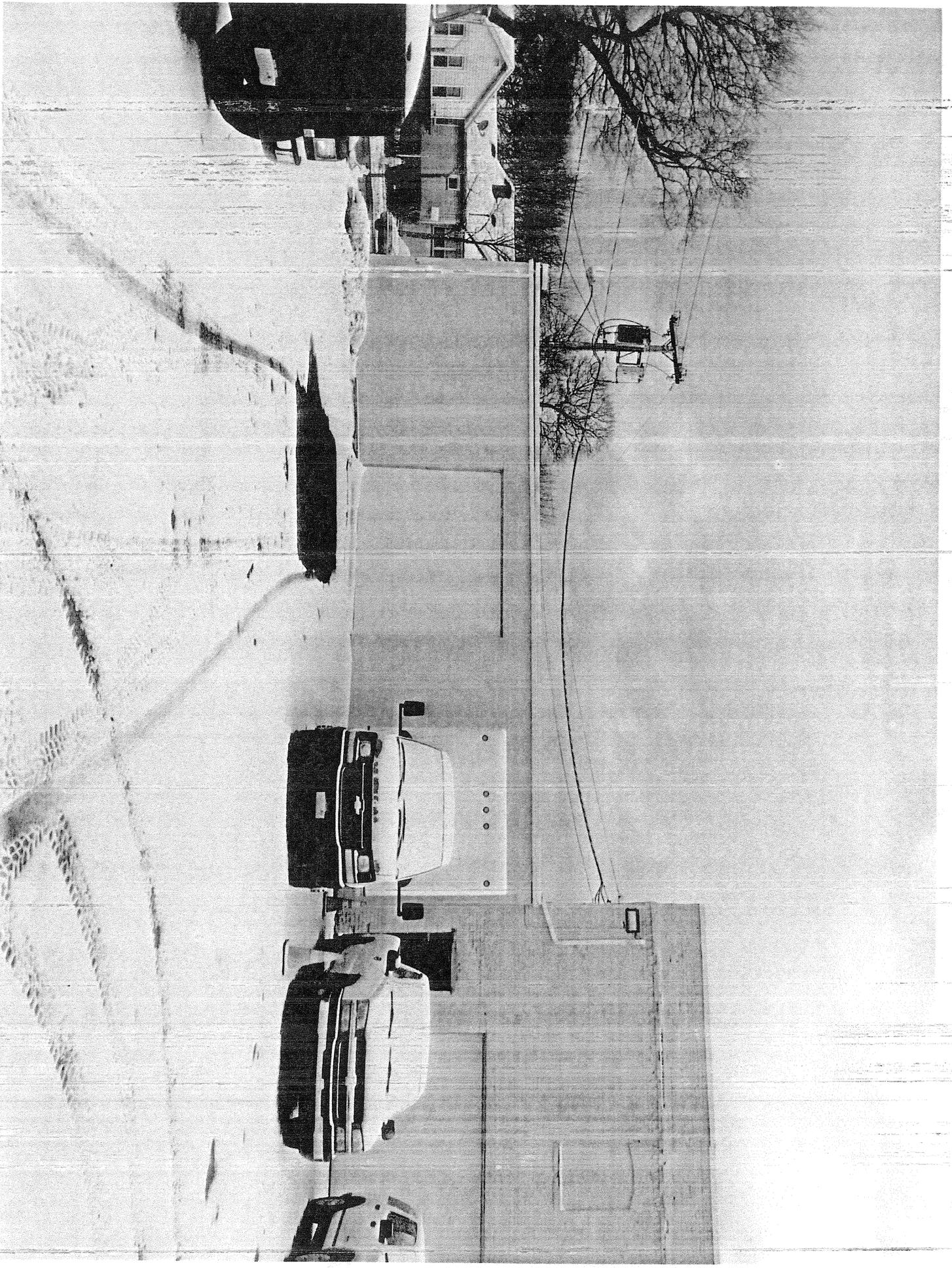
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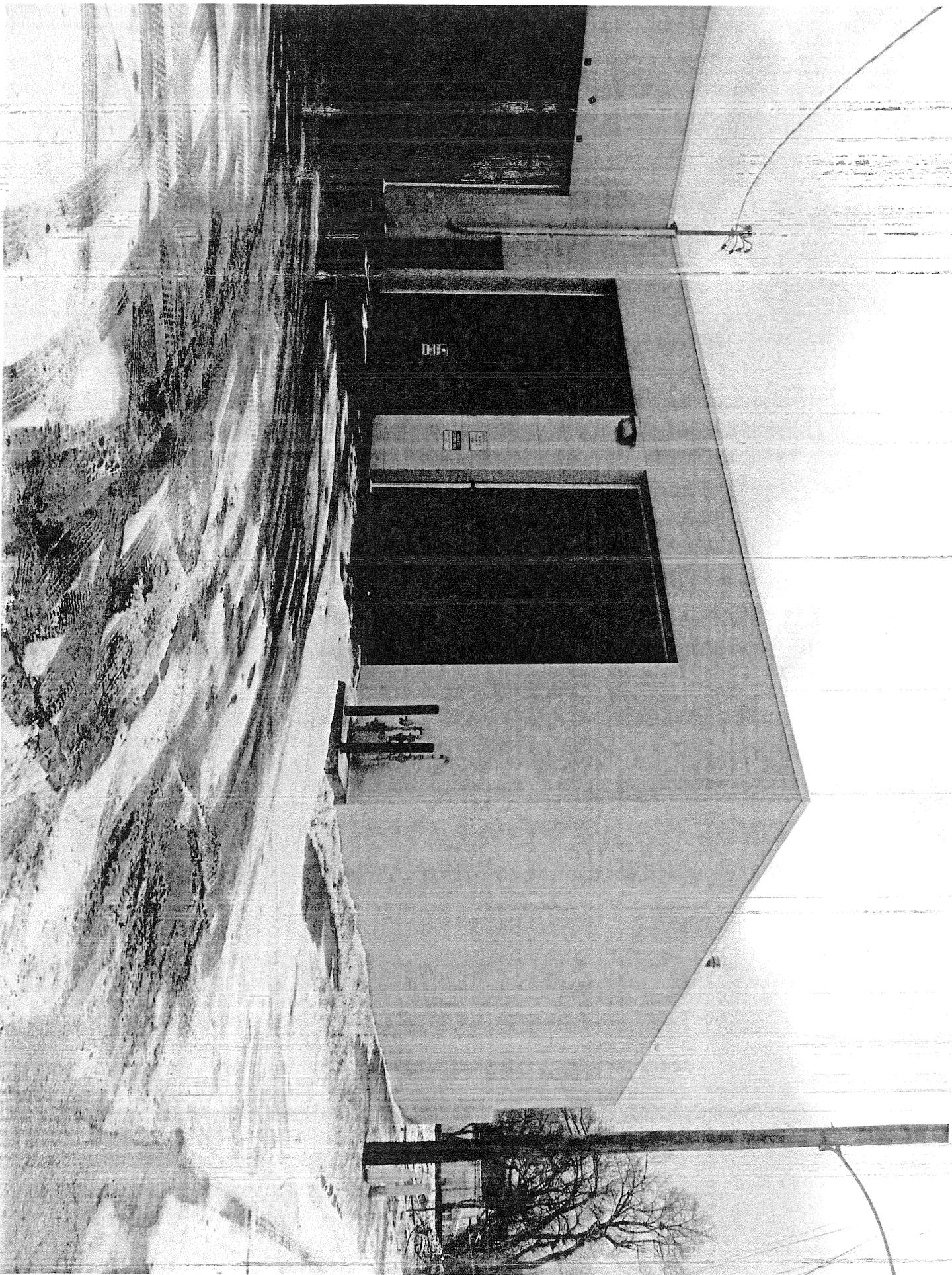


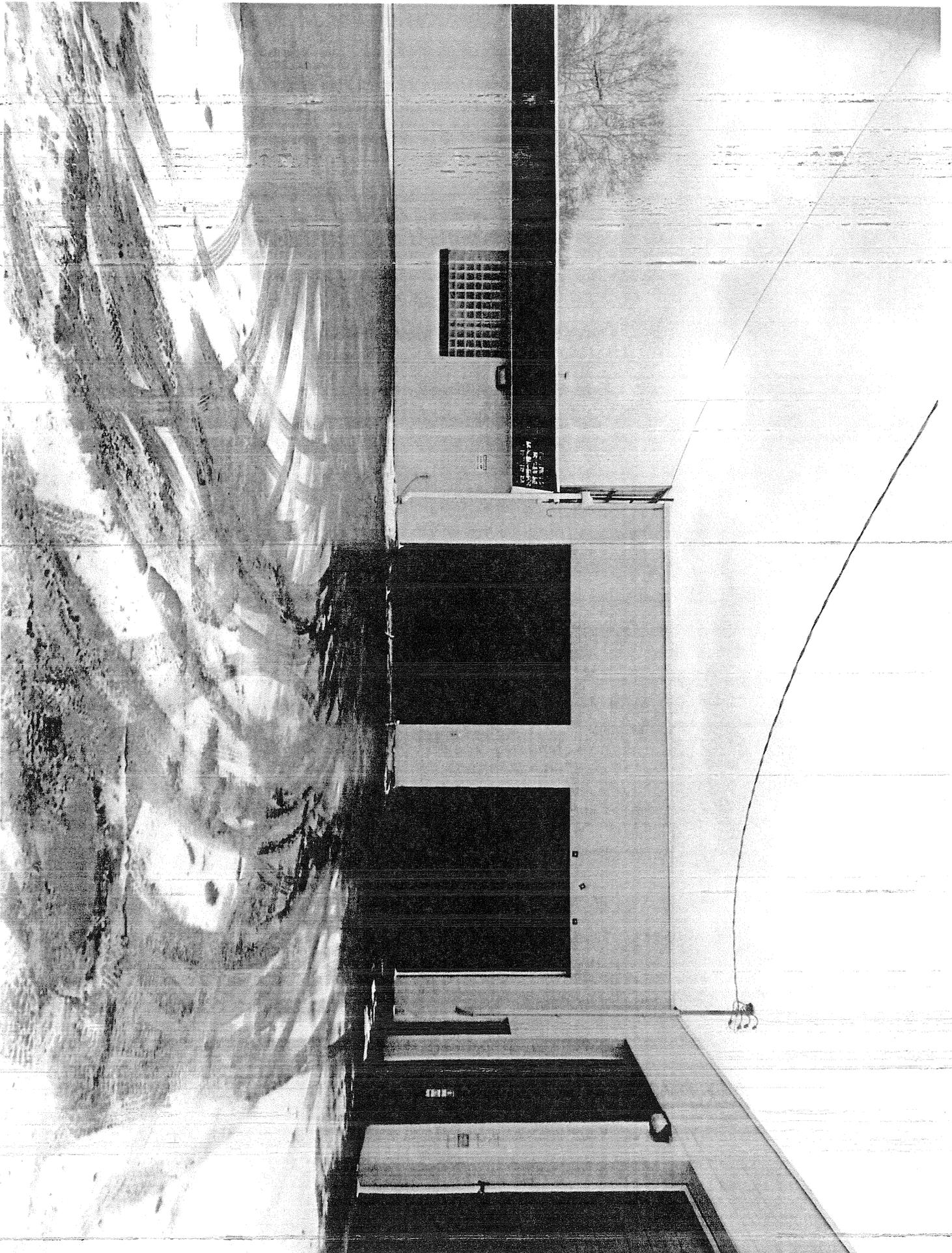






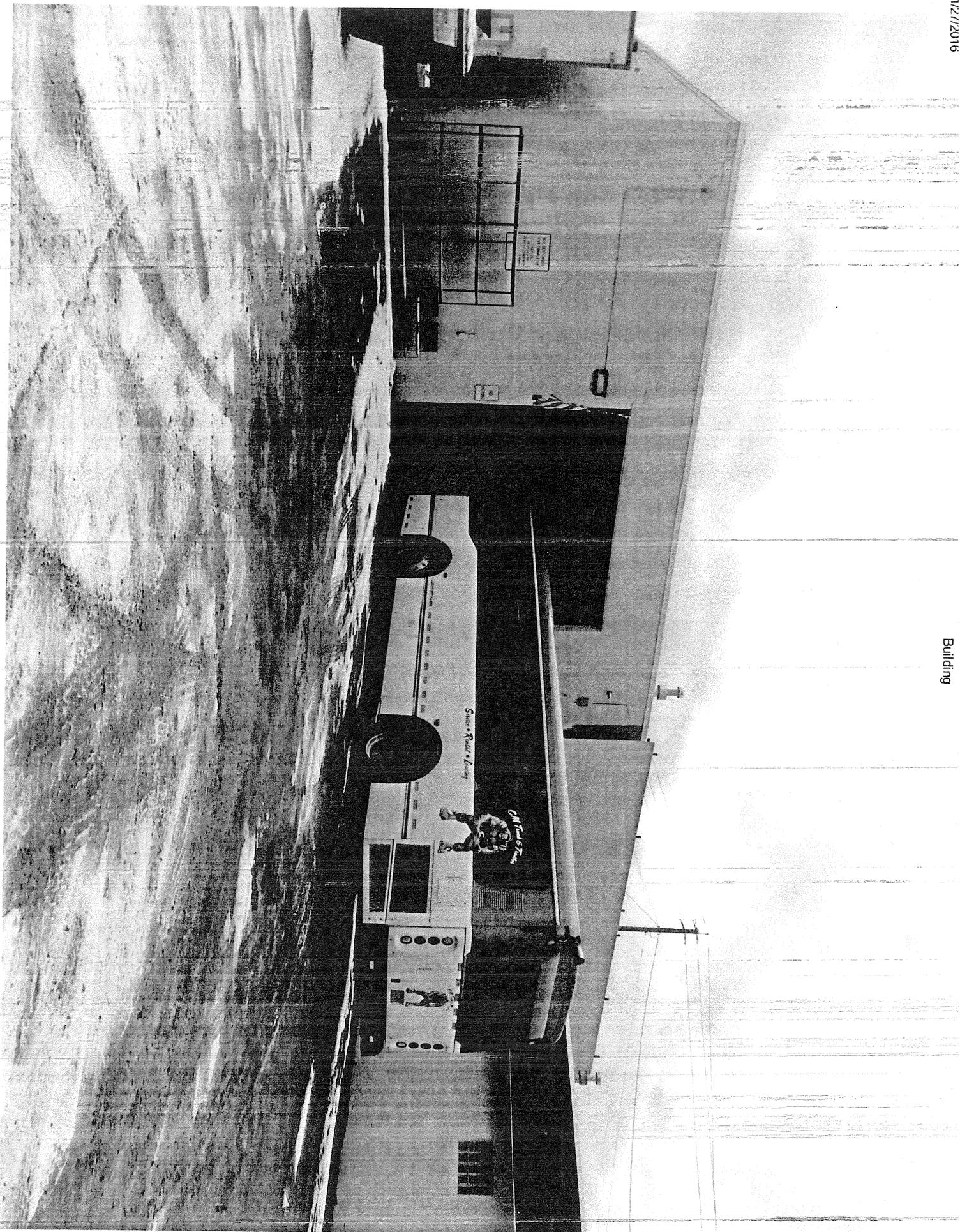


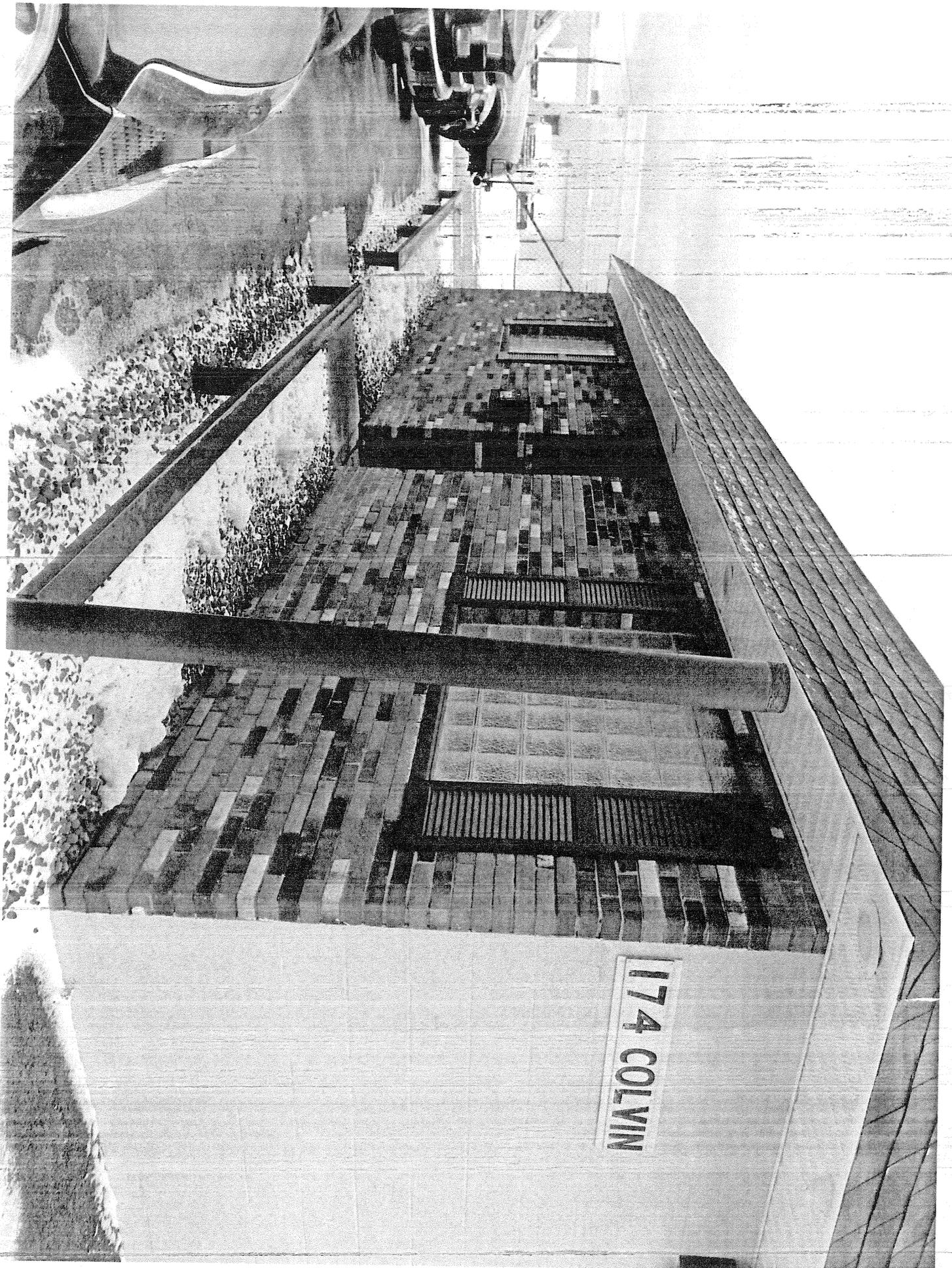






Building







**ZONING BOARD OF APPEALS  
STAFF REPORT  
September 15, 2016**

**Area Variance**

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**Case #3:**

Staff Reviewer: Jill Symonds

**File Number:** V-025-16-17

**Applicant:** Scott Spring

**Project Address:** 645-647 Norton Street

**Zoning District:** R-1 Low-Density Residential District

**Section of Code:** 120-159

**Request:** To change the use of the first floor from a print shop and accessory storage to an office, not meeting the transparency requirements.

**Background:** The subject property is a two-story building located in the R-1 Low-Density Residential District. In August 2015, the City issued a permit for the following: to convert the vacant commercial space on the first floor to a dwelling unit with new residential windows installed on the Norton façade. First floor rear – 1 apartment to remain and 2<sup>nd</sup> floor – 2 apartments to remain, thereby resulting in a 4-family. Section 120-159C(1) provides that when a commercial storefront is converted to residential, the applicant can either retain the storefront features or remove the entire storefront and redesign the façade to a residential appearance. The applicant decided to redesign the façade by installing residential windows. The applicant installed the windows but did not complete the interior renovations to change the use from commercial to residential.

In June 2016, the applicant decided to change the first floor front space from an apartment (incomplete) to an office. The proposed use is permitted, however, commercial windows must be installed. The applicant is proposing to retain the existing, residential style windows.

**Code Compliance:** 120-159B(1) provides that renovations of the first floor of existing buildings shall not decrease the area of transparency (**area variance required**).

**Code Enforcement:** This property is not in code enforcement.

# 645-647 NORTON ST



August 29, 2016

This map is intended for general reference only.  
The City of Rochester makes no representation  
as to the accuracy or fitness of the data presented.

## City of Rochester, NY



City of Rochester, NY  
Lovely A. Warren, Mayor

PROJECT INFORMATION

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 645-647 Norton Street

2. APPLICANT: Frank Cornier COMPANY NAME: \_\_\_\_\_

ADDRESS: 18209 Holland House Loop CITY: Land O Lakes ZIP CODE: 34638

PHONE: 813-965-2052 FAX: \_\_\_\_\_

E-MAIL ADDRESS frankcornier@gmail.com

INTEREST IN PROPERTY: Owner  Lessee  Other

3. PLAN PREPARER: Danny Torres

ADDRESS: 171 Highview Dr. CITY: Rochester ZIP CODE: 14609

PHONE: 585-490-8665 FAX: \_\_\_\_\_

4. ATTORNEY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL ADDRESS torresinvestors@gmail.com

5. ZONING DISTRICT: C/MU

6. DETAILED PROJECT DESCRIPTION (additional information can be attached):  
Legalize existing use of property. Variance request for 2 windows in front of property.

7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased:) 0

APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: [Signature] DATE: July 31, 2016

OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

SIGNATURE: [Signature] DATE: 8/1/16



City of Rochester, NY

AREA VARIANCE  
STATEMENT OF DIFFICULTY  
Section 120-195B(4)(b)

An area variance shall be granted only if the applicant can establish the existence of EACH of the following conditions:

A. Benefits. The benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community by the granting of the variance.

The granting of this variance will allow the use of the existing windows in the storefront of 645-647 Norton Street. The benefit to the applicant is that there will be no need to demolish existing windows, frame and installation of new windows. The existing windows do not pose any health, safety or welfare concerns to the community. Not granting this variance may pose health or safety risks due to demolition and construction work being completed close to the public right of way.

B. Essential character of the area. No undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the variance.

Granting the variance will allow the existing windows to remain in place. The existing windows are not visually undersirable and do not change the character of the neighborhood, and are not detrimental to any nearby properties.

C. No other remedy. There is no other means feasible for the applicant to pursue, other than the granting of this area variance.

The applicant wishes to legalize the use of the building and obtain a certificate of occupancy. This granting of this variance expedites the c of o process and brings the building into compliance with the City of Rochester. The existing windows are weather tight, are trimmed out and have newer siding around them. Having to replace existing windows is not practicle, reasonable, or financially feasible.

**D. Significance.** The requested variance is not substantial.

The requested variance does not require modification or changes to existing property condition. The existing windows offer visibility, natural lighting and ventilation.

Replacing windows to those requested do not allow for proper ventilation for acceptable indoor air quality.

The requested variance is not of considerable importance to the neighborhood or community.

**E. Physical and environmental conditions.** The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

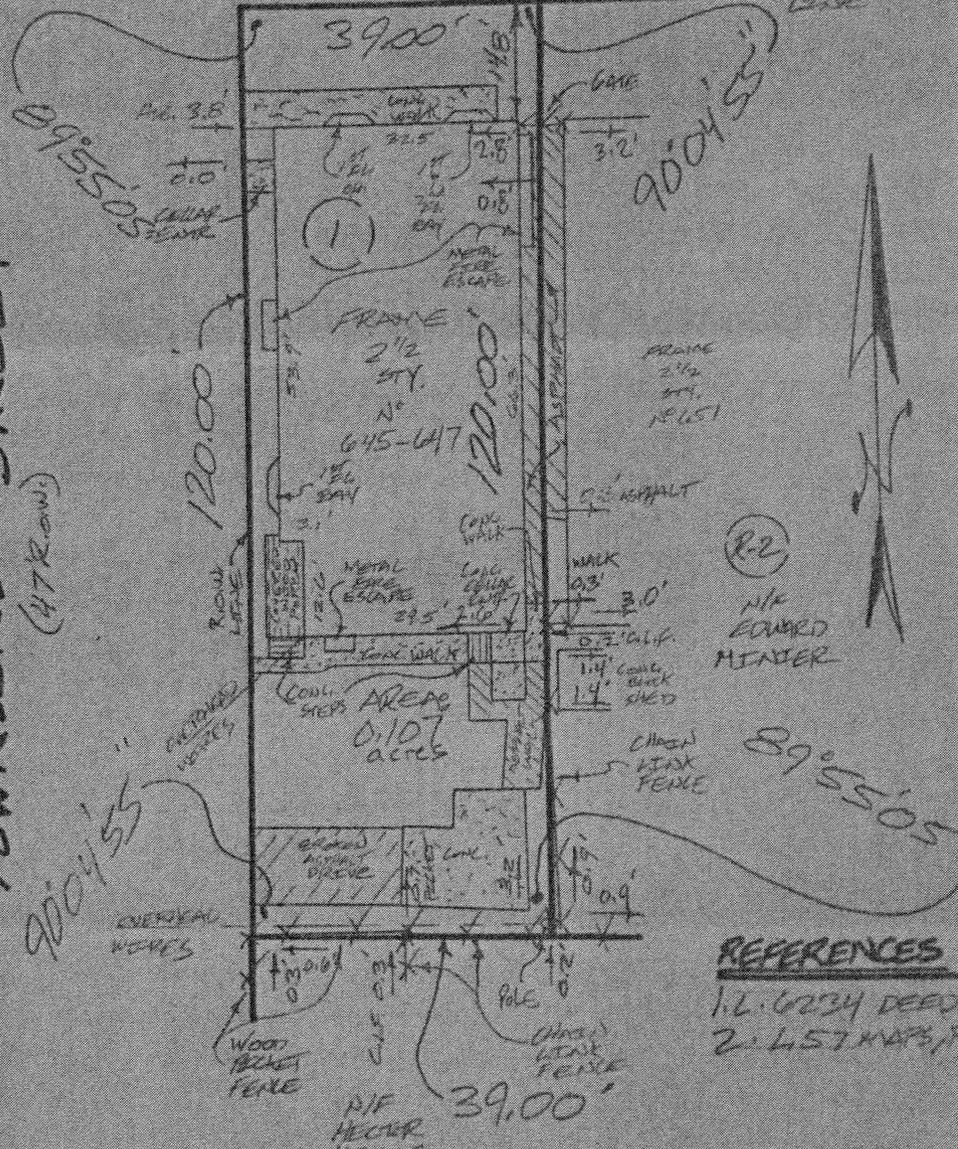
The requested variance has absolutely no effect, adverse or otherwise, or impact on the physical or environmental conditions of the neighborhood or community.

**F. Not self created.** The alleged difficulty was not self created, the consideration of which shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance.

The condition for which the variance is being requested, has existed for may years prior to the acquisition by the applicant.

# NORTON STREET (66' ROW)

# TOWNSEND STREET (47' ROW)



- REFERENCES**
1. L. 6234 DEEDS
  2. L. 57 MAPS, P.

GUARANTEES OR CERTIFICATIONS INDICATED HEREON SHALL RUN ONLY TO THE PERSON FOR WHOM THE SURVEY IS PREPARED, AND ON HIS BEHALF TO THE TITLE COMPANY, GOVERNMENTAL AGENCY AND LENDING INSTITUTION LISTED HEREON, AND TO THE ASSIGNEES OF THE LENDING INSTITUTION. GUARANTEES OR CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

COPIES OF THIS SURVEY MAP NOT BEARING THE LAND SURVEYOR'S INKED SEAL OR EMBOSSED SEAL SHALL NOT BE CONSIDERED TO BE A VALID TRUE COPY.

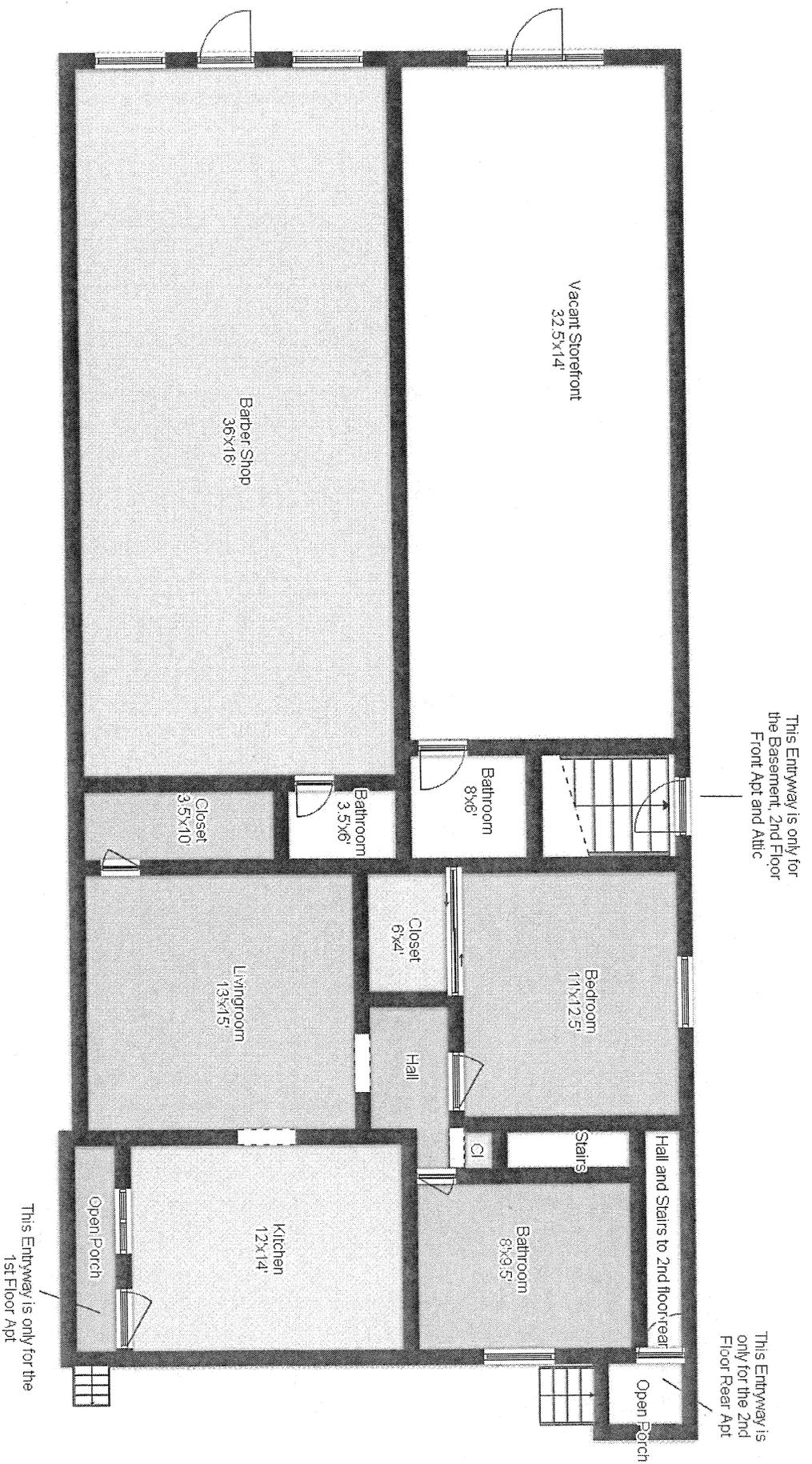
UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 2209 OF THE NEW YORK STATE EDUCATION LAW.

**CERTIFIED TO:**

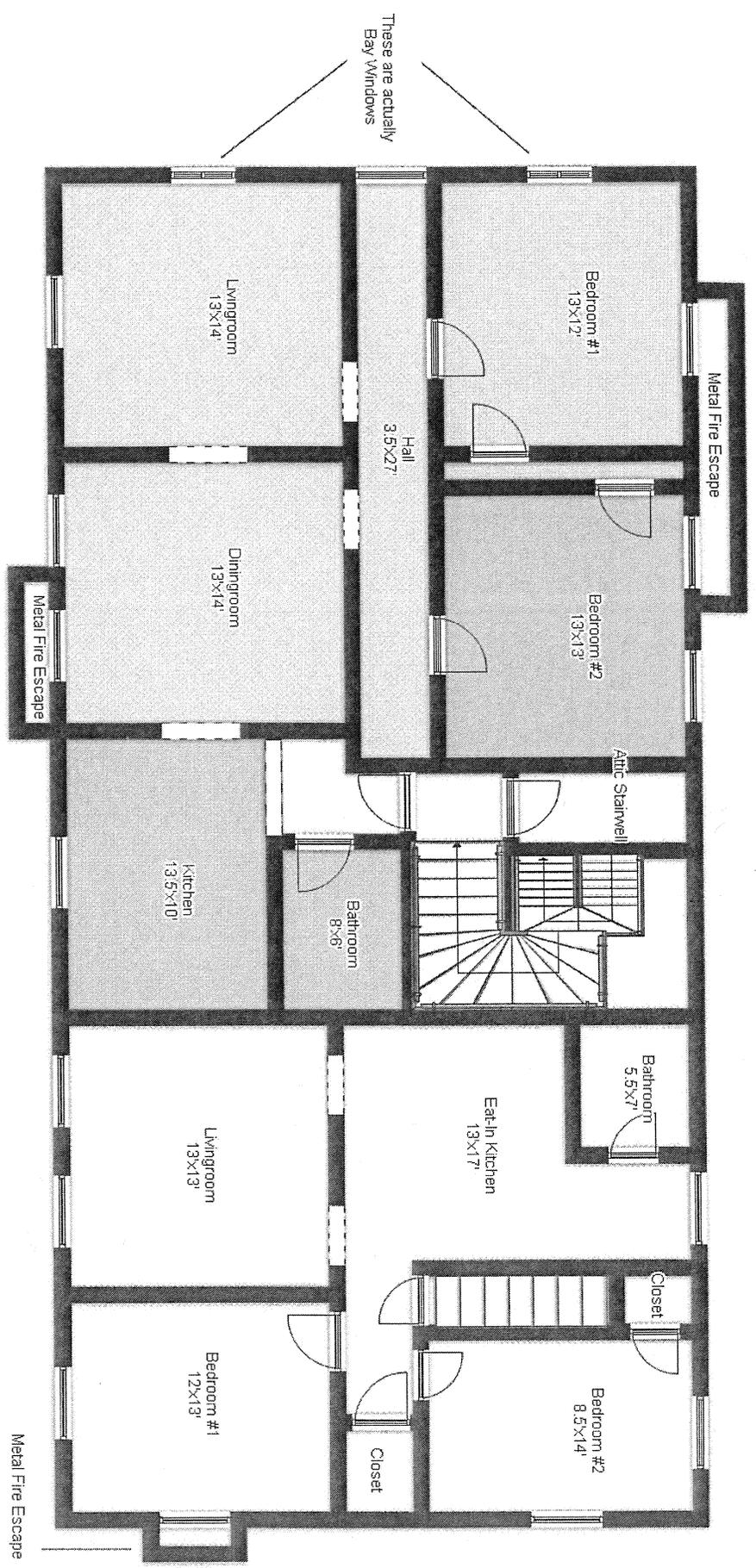
1. CORBAIN CORP.
2. JOHN F. D'AUROZIO
3. THE TITLE INSURANCE COMPANY

I HEREBY CERTIFY TO THE PARTIES LISTED HEREON THAT THIS MAP WAS COMPLETED ON SEPTEMBER 29, 2007

# First Floor - existing



# Second Floor - existing



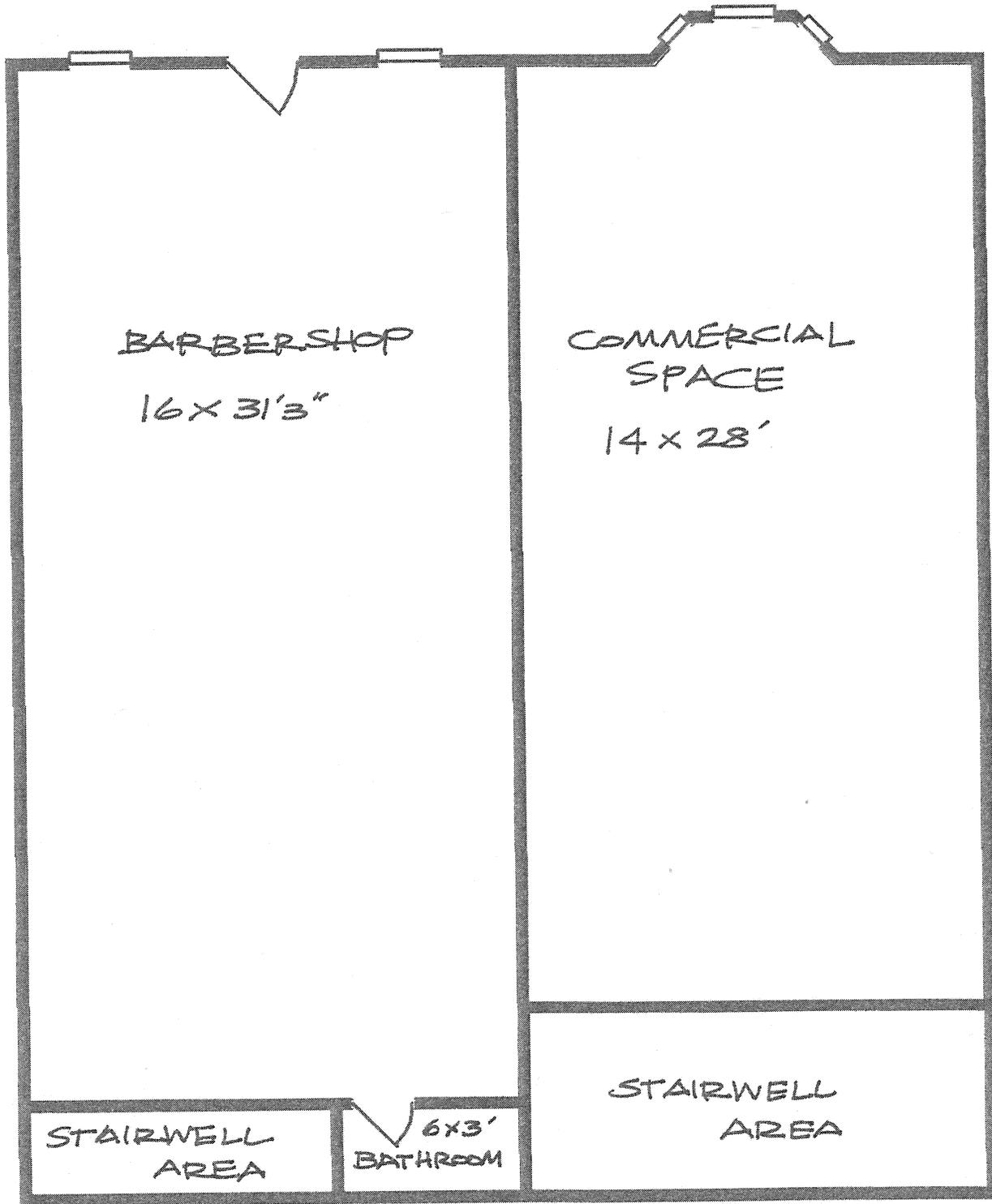
These are actually Bay Windows



Existing front

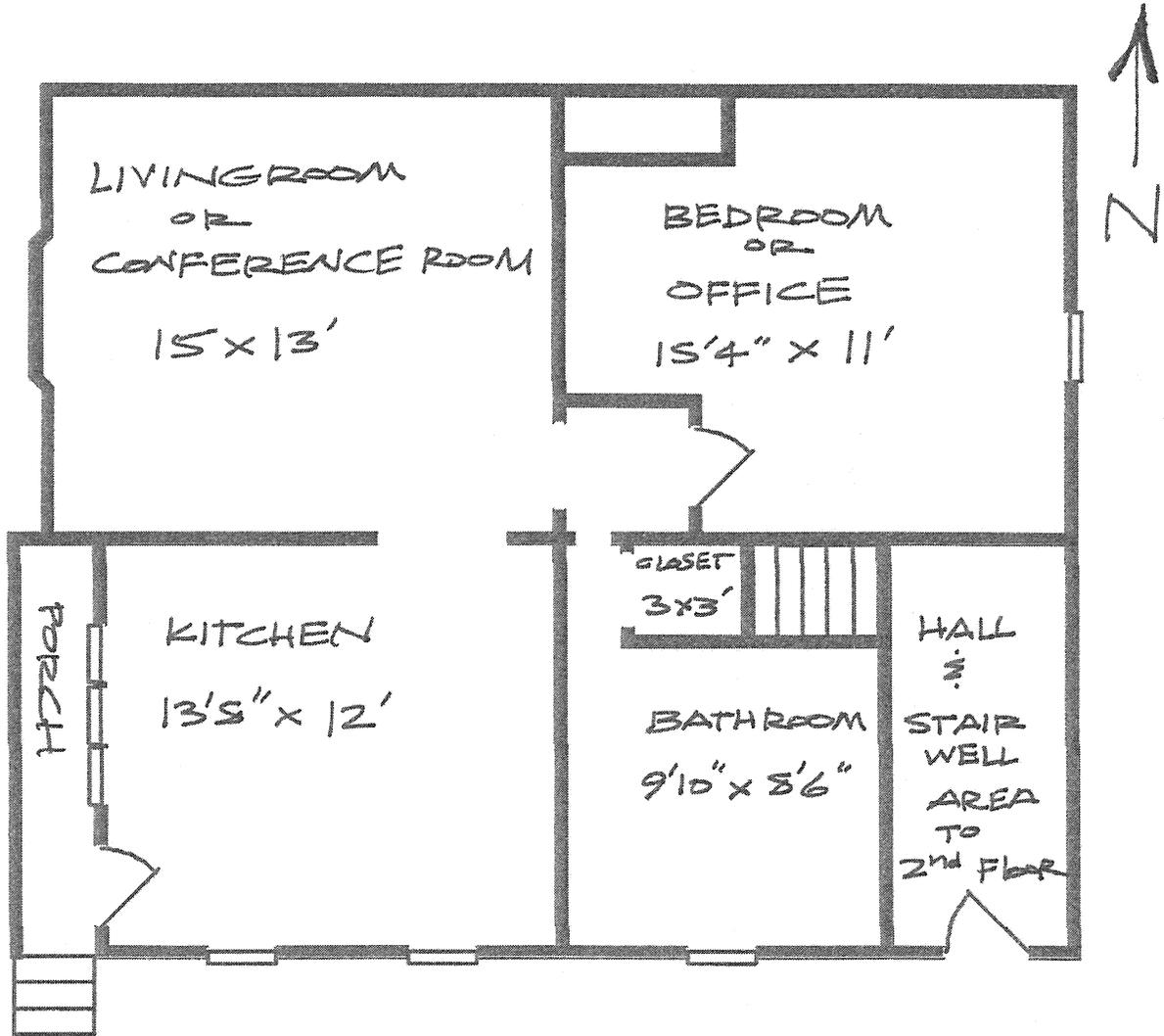
1<sup>st</sup> FLOOR COMMERCIAL AREA

645-647 NORTON ST.



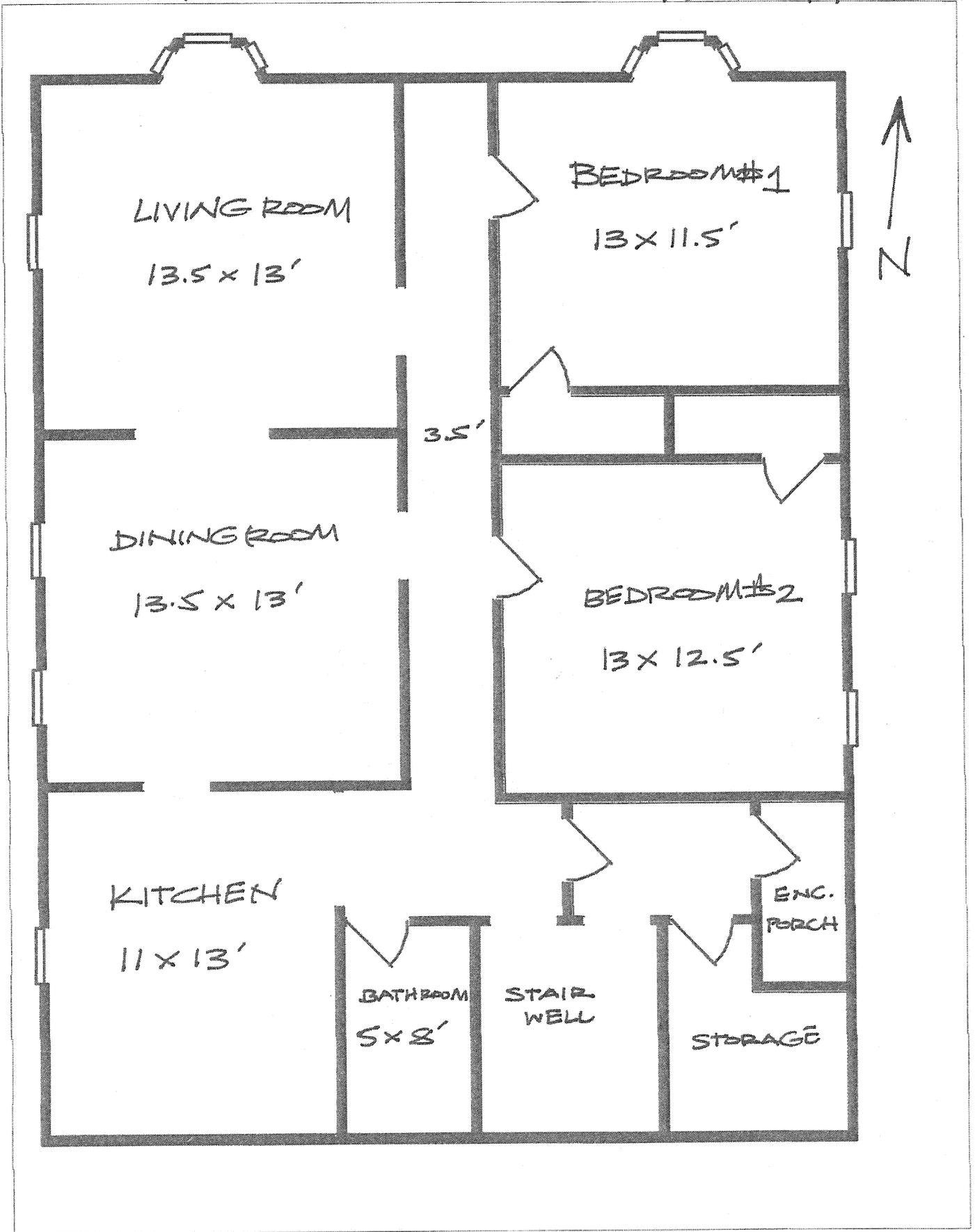
645-647 NORTON ST.

Existing rear  
1<sup>ST</sup> FLOOR OFFICE/APT.



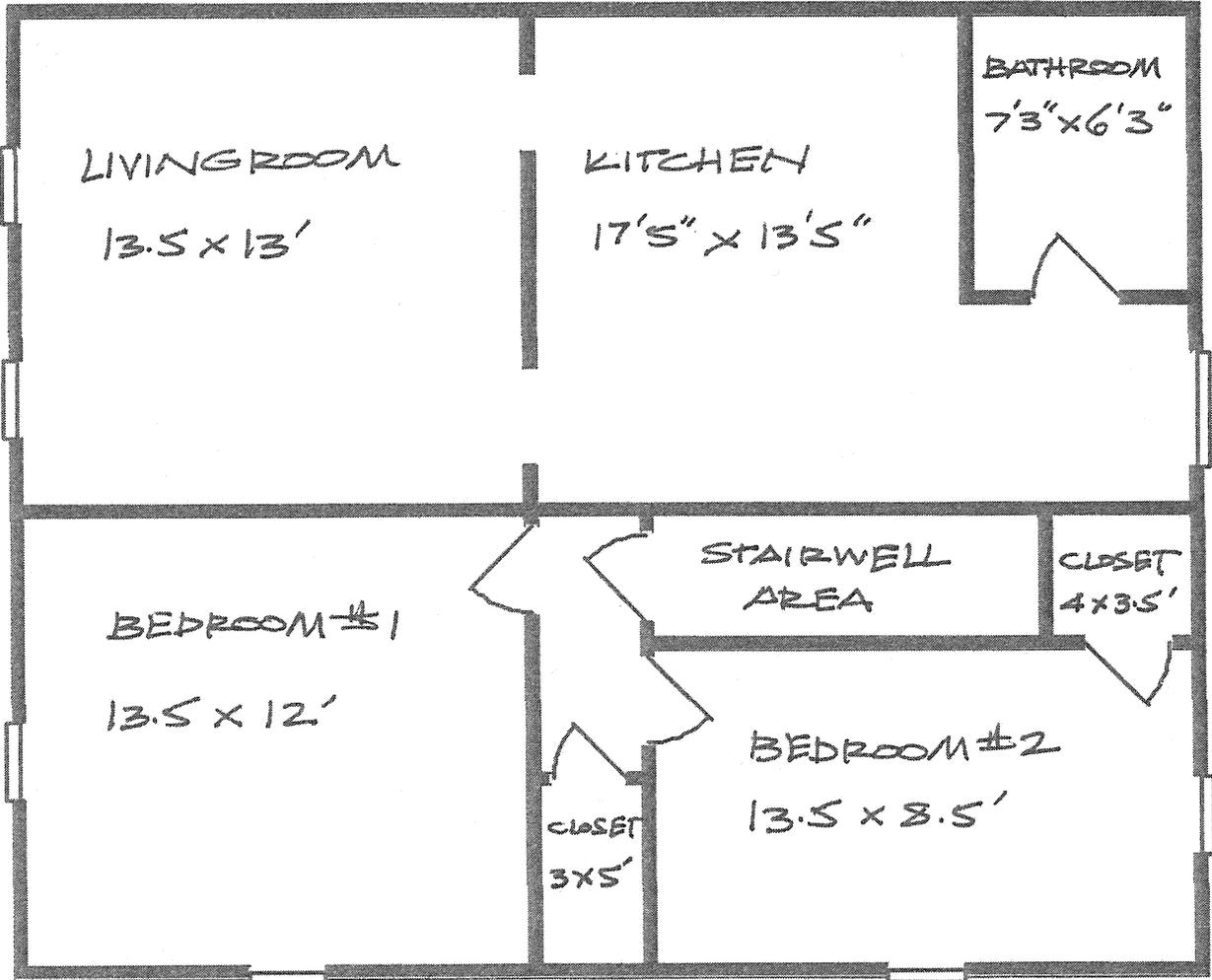
645-647 NORTON ST.

2<sup>ND</sup> FLOOR APT. FRONT

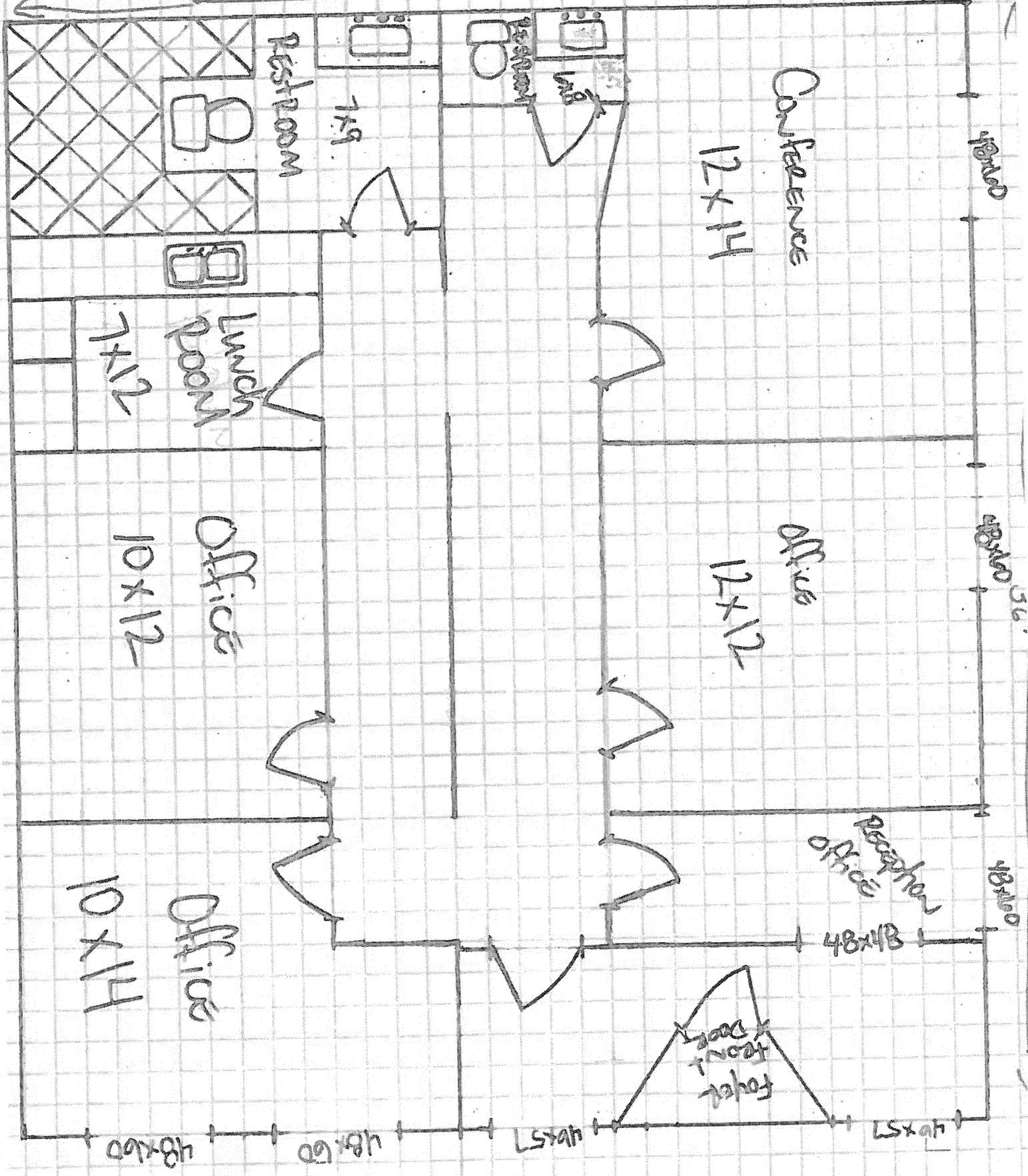


645-647 NORTON ST.

2<sup>nd</sup> FLOOR REAR APT

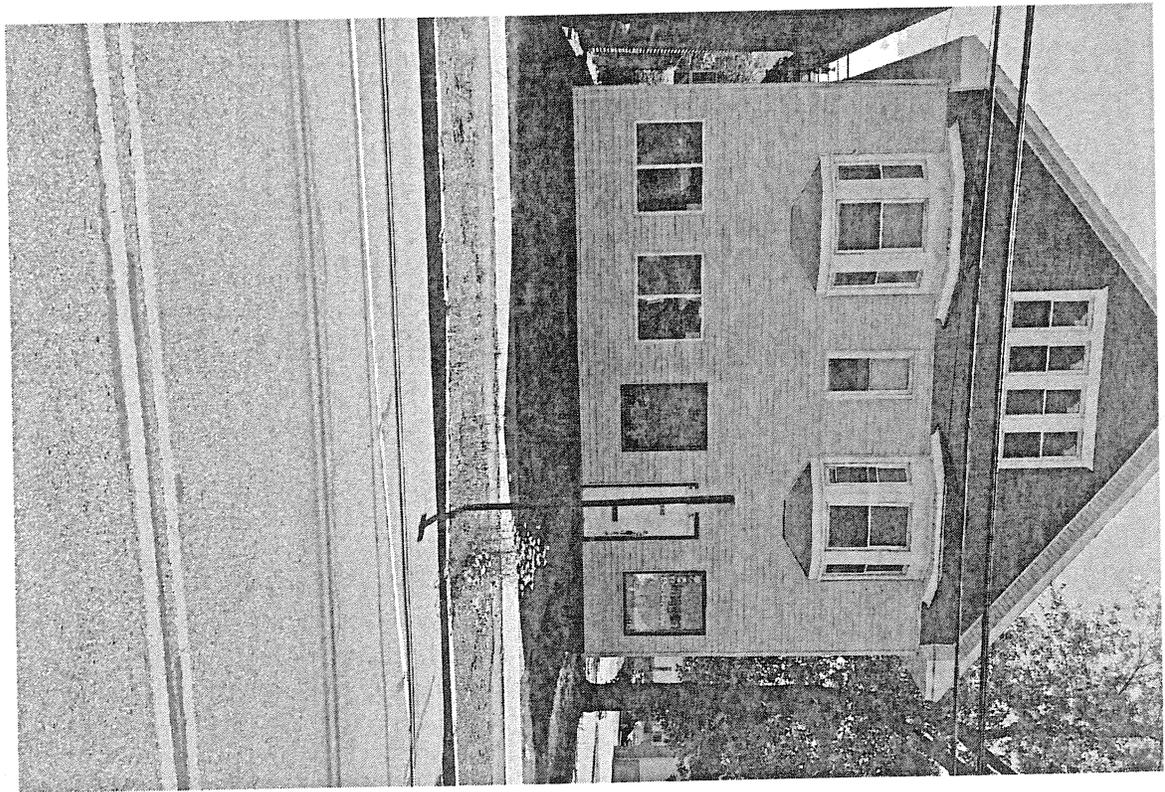


645-647 Norton St  
31'



PROPOSED OFFICE LAYOUT







**ZONING BOARD OF APPEALS  
STAFF REPORT  
September 15, 2016**

**Use Variance**

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**Case #4:** Staff Reviewer: Jill Symonds

**File Number:** V-026-16-17

**Applicant:** Patti Billard

**Project Address:** 294 Clay Avenue

**Zoning District:** R-1 Low-Density Residential District

**Section of Code:** 120-199

**Request:** **To re-establish use of a property as a three-family dwelling that has lost its rights due to a period of vacancy greater than nine months.**

**Background:** The subject property is a vacant built-as single family dwelling. At a time when the zoning district permitted it, the dwelling was converted to a three-family dwelling. With the adoption of the 2003 Zoning Code, when the property was rezoned to R-1, the use as a three-family dwelling became a nonconforming use. In accordance with Section 120-199 of the Zoning Code, nonconforming uses are subject to abandonment if there is a period of vacancy greater than 9 months. City records show that the dwelling has been vacant since at least 2010, and therefore, has lost its rights to the three-family dwelling. The applicant is applying to re-establish the nonconforming three-family dwelling.

In June 2014, the applicant applied to the Zoning Board for a use variance to re-establish the property as a three-family and the request was denied. In March, 2015, the applicant submitted a request that the building has been structurally altered to such an extent that it cannot be restored to a built-as single family dwelling. City staff reviewed the request and it was denied.

**Code Compliance:** In accordance with section 120-199, a use variance is required to re-establish the use of the structure as a three-family dwelling since it has been vacant for a period of greater than nine months.

**Code Enforcement:** This property is in code enforcement.



PROJECT INFORMATION

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 294-296 Clay Avenue, Rochester, New York

2. APPLICANT: Patti Billard COMPANY NAME: Mass Factory, Inc.

ADDRESS: 150 Seneca Parkway CITY: Rochester ZIP CODE: 14613

PHONE: 585-330-4082 FAX: \_\_\_\_\_

E-MAIL ADDRESS Billardone@aol.com

INTEREST IN PROPERTY: Owner  Lessee  Other

3. PLAN PREPARER: Patti Billard

ADDRESS: 150 Seneca Parkway CITY: Rochester ZIP CODE: 14613

PHONE: 585-330-4082 FAX: \_\_\_\_\_

4. ATTORNEY: Alan J. Knauf

ADDRESS: 1400 Crossroads Bldg., 2 State St. CITY: Rochester ZIP CODE: 14614

PHONE: 585-546-8430 FAX: 585-546-4324

E-MAIL ADDRESS aknauf@nyenvlaw.com

BUILDING BUREAU  
ROOM 121  
12:23PM Aug 25/16  
01-0002 001 BUD  
#31715

5. ZONING DISTRICT: R-1

Zoning \$250.00  
INFO 294 CLAY

6. DETAILED PROJECT DESCRIPTION (additional information can be attached): \$250.00

To re-establish use of the vacant structure as a 3-family dwelling that has lost its nonconforming rights due to a period of vacancy greater than nine months. The Property has been a 3-family dwelling since before 1950. The Project will renovate and refurbish the Property in order to rent it as a 3-family home.

7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased): 120 days from approval

APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: Patti Billard DATE: August 1st, 2016

OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

SIGNATURE: Patti Billard DATE: August 1st, 2016



# USE VARIANCE STATEMENT OF INCOME AND EXPENSE

**PLEASE NOTE:** AT HEARING TIME, APPLICANTS MAY BE ASKED TO PROVIDE AT LEAST TWO (2) CALENDAR YEARS OF FINANCIAL INFORMATION, OR FROM THE DATE OF PURCHASE, WHICHEVER IS LESS.

PROPERTY ADDRESS: 294-296 Clay Avenue, Rochester NY 14613

**A. PROPERTY DATA**

1. Date property was purchased by current owner May 11, 2012

2. Was a Certificate of Occupancy issued? NO

Date of issuance? \_\_\_\_\_

If so, for what use(s)? \_\_\_\_\_

If not, why? Need use variance prior to renovation investment

3. Cost of Purchase \$ 15,000

4. Original Amount of Mortgage(s) None

Mortgage Holder(s) N/A

Address \_\_\_\_\_

Interest Rate(s) \_\_\_\_\_ Term of mortgage(s) \_\_\_\_\_

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 \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. Present value of property \$ 15,000

Source of valuation Most recent sale at City Auction

**B. GROSS ANNUAL INCOME** (Information provided must be for permitted uses, not the proposed use)

USE (# of Apts., Retail Store, Office, etc.)	UNIT SIZE (sq. ft.; # of bedrooms)	MONTHLY RENT AMOUNT	ANNUAL RENT AMOUNT
1. <u>Single-family dwelling</u>	<u>2100 sq ft. / 4 BR</u>	<u>\$925 (estimated)</u>	<u>\$11,100 (estimated)</u>
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
<b>TOTAL ANNUAL INCOME:</b>			_____
<b>LESS (8%) VACANCY FACTOR:</b> (Explain, if greater than 8%)			_____
<b>TOTAL ADJUSTED GROSS INCOME:</b>			_____

\* Property currently vacant

**C. ANNUAL EXPENSES**

<b>1. <u>Annual Fixed Charges</u></b>		
Real Estate Taxes (City & County) .....		<u>\$ 4,190</u>
Insurance .....		<u>\$ 900</u>
Average Annual Interest (over next 5 years).....		<u>0</u>
<b>2. <u>Operating Expenses</u></b>		
Electric .....		<u>Tenant's responsibility</u>
Fuel.....		<u>" "</u>
Water .....		<u>\$ 320</u>
Pure Waters .....		<u>unknown</u>
Advertising.....		<u>\$ 50</u>
Miscellaneous (attach explanation) .....	<u>* See Appraisal Report</u>	<u>\$ 300</u>
<b>3. <u>Maintenance Expenses (attach list)</u></b>		
Repairs .....		<u>\$ 1,200</u> ←
General Building Maintenance .....		<u>See above</u>
Yard and Ground Care.....		<u>\$ 540</u>
Miscellaneous.....	<u>\$ 555 (vacancy) ; \$ 1,110 (management)</u>	
<b>TOTAL ANNUAL EXPENSES:</b>		<u>\$ 1,935</u>
<b>PROFIT or (LOSS)</b>		_____

**D. TOTAL INVESTMENT**

1. Down payment .....	<u>\$ 15,000</u>	
2. Capital Improvements (attach list) .....	<u>\$ 44,500</u>	
3. Principal paid to date (original mortgage less current principal balance) .....	<u>0</u>	
<b>TOTAL INVESTMENT:</b>		<u>\$ 59,500</u>

**E. RATE OF RETURN/YR. [Profit or Loss divided by Total Investment]**

SIGNATURE OF PREPARER Patti Bellard DATE August 1<sup>st</sup>, 2016



City of Rochester, NY

# USE VARIANCE STATEMENT OF UNNECESSARY HARDSHIP

★ See letter of intent for more information ★

A use variance shall be granted only if the applicant can establish the existence of **EACH** of the following, in accordance with Section 120-195B(3) of the Zoning Ordinance:

**A. No 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 the 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, and not the unsupported opinion of the owner or those appearing for the owner.

If de-conversion was required, it would result in a 4-bedroom dwelling that would only yield a monthly rental amount of about \$925/month. Annual expenses would amount to \$9,165. Capital improvement would be \$44,500, and the acquisition cost was \$15,000, making the total investment amount \$59,500. This results in only a 3.3% rate of return. Therefore, de-conversion would result in an unnecessary hardship. The Appraisal Report states: "Therefore, it is concluded that the subject property is not capable of yielding a reasonable rate of return if de-converted back to a single family dwelling." This home should remain a three-family home, which result in a 21.1% rate of return.

**B. Unique circumstances.** The inability to yield a reasonable return results from a unique circumstances peculiar to the subject property which do 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 a unique circumstance.

This Property was constructed around 1910, and has been a three-family since before 1950. The Property is large, about 2,100 square feet, is in total disrepair, and has suffered vandalism. As such, the total investment is uniquely high, and is more than a "mere inconvenience to the owner." The Property is neither physically nor aesthetically suited to be marketed and used a single-family residence. According to the City of Rochester Online Property Information database, the Property is directly in between two multi-family dwellings, and immediately adjacent to an R-2 zoning district, creating a unique circumstance necessitating a use variance.

**C. Not self created.** The inability to yield a reasonable return is not the result of any action or inaction by the owner or their predecessors in title. Acquisition or improvement of the subject property at any time after the enactment of the provision sought to be varied shall raise a rebuttable presumption that the owner's inability to realize a reasonable return is the result of the owner's action.

The nature of the Property was determined over 65 years ago. The Applicant was not a party to the design or construction of any of the features that make this Property a uniquely difficult task to convert to single-family use. The Applicant was unable to inspect the Property before purchasing, and therefore, had no way to assess the cost of bringing it back to a rentable state. Additionally, the City of Rochester's Online Property Information database states that the Property is a three-family residence. The inability of the Applicant to yield a reasonable rate of return is not the result of any action or inaction by the Applicant or her predecessors in title.

**D. Essential character of the area - surrounding uses and facilities.** 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 and the community or the general plan (i.e. Zoning Ordinance and Comprehensive Plan intent).

The Property has been a part of the urban landscape of the Maplewood Neighborhood for over a century.

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There would be no physical changes to the neighborhood or alterations to the exterior of the Property (other than maintenance and repair).

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The Property has been a 3-family dwelling since before the 1950's. The essential character of the neighborhood is multi-family residential and would remain so with the Project. In fact, the essential character will actually improve because there will no longer be a vacant property in the neighborhood. Although the Property is within an R-1 District, it is immediately adjacent to an R-2 District.

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In fact, the house immediately to the east is a multi-family dwelling, in the R-2 District. Furthermore, the Property is located directly in between two multi-family dwellings. The area is a mix of single and multi-family dwellings. Therefore, the Project will not alter the essential character of the neighborhood.

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**E. No other remedy.** There is no means other than the granting of the variance by which the hardship can be avoided or remedied to permit the economic use of the subject property.

There is no means other than the requested Variance by which the hardship can be avoided or remedied to a degree sufficient to permit the economic use of the Property. De-converting the Property to a single-family requires a substantial investment with an unreasonable rate of return, thereby creating an unnecessary hardship. However, if the Variance is granted, it will alleviate the unnecessary hardship and will enable the Applicant to renovate and rehabilitate a vacant property in the desirable Maplewood Neighborhood.

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August 3, 2016

VIA HAND DELIVERY

Zoning Board of Appeals  
City of Rochester  
30 Church Street  
Rochester, New York 14614

**Re: Use Variance for 294 Clay Avenue, Rochester, NY**

Ladies and Gentlemen:

We are attorneys for the applicant, Patti Billard, sole member of Mass Factory, Inc., (“Applicant”), the owner of 294 Clay Avenue, Rochester 14613 (“Property”). This letter serves as the letter of intent in support of the Applicant’s application for a use variance (“Variance”). Pursuant to §120-195(B)(5)(c), we request that this Board permit the re-establishment of use of the Property as a three-family dwelling that has lost its nonconforming rights due to a period of vacancy greater than nine months. A prior application for a use variance was presented and denied by this Board on June 12, 2014. However two years has passed, and therefore, the Applicant is eligible to re-apply. Included in this application package is the following:

- Tab A-** Appraisal Consulting Report (Economic Hardship Analysis) (“Appraisal Report”), prepared by Bruckner, Tillett, Rossi, Cahill & Associates
- Tab B-** Cost estimate for single-family prepared by Atkisson & Associates Architects (including floor plans, site plans, and photographs) (“Atkisson Report”)
- Tab C-** Denied Certificate of Zoning Compliance
- Tab D-** Variance application with Statement of Unnecessary Hardship and Statement of Income and Expenses
- Tab E-** Short Environmental Assessment Form
- Tab F-** Instrument Survey Map
- Tab G-** Cost estimate for three-family (including site plan, and floor plans) (“Three-Family Cost Estimate”)
- Tab H-** Rochester Property Database Information
- Tab I-** ZBA Decision and Application for 200 Parkway- File No. V-082-15-16
- Tab J-** ZBA Decision for 28 Locust Street -File No. V-071-15-16
- Tab K-** ZBA Decision for 1058 Exchange Street-File No. V-059-15-16
- Tab L-** Deed

Pursuant to §120-195(B)(6)(a), a decision by the Director of Planning and Zoning was made on March 13, 2015, denying the certificate of zoning compliance, *see* **Tab C**. Therefore, this Board is able to grant the desired Variance. As demonstrated below, the current zoning as a single-family dwelling would cause an unnecessary hardship, however, the re-establishment of the Property as a three-family dwelling (“Project”) would yield a reasonable rate of return, thereby alleviating the hardship. Therefore, the Variance should be granted.

### USE VARIANCE TEST

The Project would alleviate the unnecessary hardship that the Applicant would face if required to de-convert to single-family, and the Applicant has established each condition of the five-part test for a use variance set forth in City Code §120-195(B)(3), as explained in detail below, but also briefly on the Statement of Unnecessary Hardship.

#### 1. No Reasonable Rate of Return

The Property is not capable of yielding a reasonable return rate if used as a single-family dwelling. Such inability to yield a reasonable return has been shown by specific facts that can be found in the Appraisal Report in **Tab A**. §120-195(B)(3)(a). The Appraisal Report states: **“Therefore, it is concluded that the subject property is not capable of yielding a reasonable rate of return if de-converted back to a single family dwelling.”**

The single-family resident (R-1) zoning designation of this Property results in a 4-bedroom dwelling, which according to the Appraisal Report, commands a maximum monthly rental of about \$925 per month, or \$11,100 per year. *See Tab A*, page 2. The estimated annual expenses are as follows: real estate taxes at \$4,190; insurance at \$900; water at \$320; advertising at \$50; miscellaneous and unforeseen expenses at \$300; repairs at \$1,200; yard and ground care at \$540; miscellaneous vacancy (5% gross income) at \$555; and management fee (10% gross income) at \$1,110, totaling to \$9,165 in annual expenses. This is in addition to the \$15,000 for acquisition cost, and about \$44,500 to de-convert and restore the structure to a single-family dwelling, which can be further broken down as follows: \$7,000 for kitchen and bath; \$5,000 for flooring; \$2,500 for paint; \$1,500 for doors; \$2,000 for plumbing; \$1,500 for furnace; \$1,000 for hot water tank; and \$24,000 for electric, windows, and fire escape. *See Tab A*, Appraisal Report, page 1, **Tab B**, Atkission Report, **Tab G**, Three-Family Cost Estimate.

Thus, the rate of return to de-convert the Property to a single-family structure would be 3.3%. A minimum rate of return in New York is 12%-15%. *See Tab A*, Appraisal Report, page 3. Further, recent use variance approval decisions by this Board are instructive on this part of the test:

V-082-15-16- 200 Parkway rate of return was 5%, and the estimated monthly rent of a single-family was \$850 (**APPROVED re-establish use of three-family**) (**Tab I**).

V-071-15-16- 28 Locust Street: rate of return was 3%, and it would cost \$40,000 to de-convert to a single-family (**APPROVED use of two-family dwelling**) (**Tab J**).

V-059-15-16 1058 Exchange Street: rate of return was 0.3%, the estimated monthly rent of a single-family was \$950, and the cost of de-converting the property was \$33,000 (**APPROVED re-establish use as two-family**) (**Tab K**).

Here, this Property would yield a similar unreasonable rate of return, and thus, the Applicant will suffer an unnecessary hardship if required to de-convert to a single-family. However, if

permitted to re-establish use of the Property to a three-family the unnecessary hardship would be alleviated, as the rate of return would be 21.1%. The total investment would cost \$54,000, as compared to de-converting the Property to a single-family, which would cost \$59,500. *See Tab A*, Appraisal Report, page 3-4.

## 2. Unique Circumstances

The Applicant's inability to yield a reasonable return results from unique circumstances peculiar to the Property. §120-195(B)(3)(b). This Property was constructed around 1910, and has been a three-family since before 1950. The Property is large, about 2,100 square feet, is in total disrepair, and has suffered vandalism. As such, the total investment is uniquely high, and is more than a "mere inconvenience to the owner." The Property is neither physically nor aesthetically suited to be marketed and used a single-family residence. According to the City of Rochester Online Property Information database, the Property is directly in between two multi-family dwellings, and immediately adjacent to an R-2 zoning district, creating a unique circumstance necessitating a use variance. *See Tab H*, Rochester Property Database Information.

Further, a recent decision by this Board approving a use variance is instructive on this part of the test:

V-059-15-16 1058 Exchange Street: property was 1,808 square feet and had six bedrooms, making it an undesirable single-family home (**APPROVED re-establish use as two-family**)(**Tab K**).

## 3. Not Self-Created

The inability of the Applicant to yield a reasonable rate of return is not the result of any action or inaction by the Applicant or her predecessors in title. §120-195(B)(3)(c). The nature of the Property was determined over 65 years ago. The Applicant was not a party to the design or construction of any of the features that make this Property a uniquely difficult task to convert to single-family use. The Applicant bought this Property as an investment, and although possibly should have known that it had lost its nonconforming rights, she did not. However, she was unable to inspect the Property before purchasing, and therefore, had no way to assess the cost of bringing the Property back to a rentable state. More importantly however, the City of Rochester's Online Property Information database still states that the Property is a three-family residence. *See* Screen shot below, and *see Tab H* for full document.

Owner Name:	BILLARD PATTI
Owner Address:	5320 LONG ISLAND DR NW ATLANTA GA 30327
Frontage:	42
Depth:	119.5
Acreage:	0.12
Use Code:	230 - THREE FAMILY RESIDENCE
Zoning:	R-1

The Property is currently assessed as a three-family home, and the Applicant pays taxes in accordance with such designation, and should be afforded the benefit of such use.

Further, recent Use Variance approval decisions by this Board are instructive on this part of the test:

V-082-15-16- 200 Parkway: owner purchased property after nonconforming rights had been lost; owner did not design property, relied on the City of Rochester's online Property Information database designation as a three-family structure, and pays taxes in accordance with that designation. (**APPROVED re-establish use of three-family**) (**Tab I**).

V-071-15-16- 28 Locust Street: applicant was unable to inspect inside the property to assess the cost of bringing it back to a rentable state (**APPROVED use of two-family dwelling**) (**Tab J**).

V-059-15-16 1058 Exchange Street: applicant was unable to inspect inside the property to assess the cost of bringing it back to a rentable state (**APPROVED re-establish use as two-family**) (**Tab K**).

#### 4. Essential Character of the Area

The variance would not result in a use or development on the Property which would be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvements permitted in the vicinity; would not materially impair an adequate supply of light and air to properties and improvements in the vicinity; would not substantially increase congestion in the public streets due to traffic or parking or increase the danger of flood or fire; and would not unduly tax public utilities and facilities in the area; or would endanger the public health or safety. City Code §120-195(B)(3)(d).

The Property has been a part of the urban landscape of the Maplewood Neighborhood for over a century. There would be no physical changes to the neighborhood or alterations to the exterior of the Property (other than maintenance and repair). The Property has been a 3-family dwelling since before the 1950's. The essential character of the neighborhood is multi-family residential and would remain so with the Project. In fact, the essential character will actually improve because there will no longer be a vacant property in the neighborhood.

Although the Property is within an R-1 District, it is immediately adjacent to an R-2 District. In fact, the house immediately to the east is a multi-family dwelling, in the R-2 District. See City of Rochester Zoning Map, **Tab H**. Furthermore, and as previously stated, the Property is located directly in between two multi-family dwellings. See **Tab H**. The area is a mix of single and multi-family dwellings. Therefore, the Project will not alter the essential character of the neighborhood.

Recent use variance approval decisions by this Board are instructive on this part of the test:

V-082-15-16- 200 Parkway: essential character of neighborhood is residential, and would remain with multi-family (**APPROVED re-establish use of three-family**) (**Tab I**).

V-059-15-16 1058 Exchange Street: neighborhood included a mix of single-family and two-family residences, and would remain that way (**APPROVED re-establish use as two-family**) (**Tab K**).

**5. No Other Remedy**

There are no means other than the requested Variance by which the hardship can be avoided or remedied to a degree sufficient to permit the economic use of the Property. City Code §120-195(B)(3)(e). De-converting the Property to a single-family requires a substantial investment with an unreasonable rate of return, thereby creating an unnecessary hardship. However, if the Variance is granted, it will alleviate the unnecessary hardship and will enable the Applicant to renovate and rehabilitate a vacant property in the desirable Maplewood Neighborhood.

Therefore, the Applicant has sufficiently established each condition of the five-part test for the a use variance set forth in City Code §120-195(B)(3), and thus the Variance should be granted.

Thank you for your consideration.

Sincerely,

**KNAUF SHAW LLP**



ALAN J. KNAUF

pc: Ms. Patti Billard

Capital Improvements -

39,000.-

3 Kitchens - Cabinets, Countertops Faucets, Appliances Flooring, electrical, plumbing	- 12,500.-
3 Baths - Cabinets, Countertops Faucets, Flooring, electrical, plumbing	- 8500.-
<u>Floors</u> - Hardwood, Ceramic, Carpeting	- 5000.-
Paint - all walls - entire house	- 2500.-
Doors - locks, hardware	- 1500.-
Electric	- 2000.-
Plumbing	- 2000.-
Furnace	- 1500.-
Hot Water Tank	- 1000.-
Fire Escape	- 1000.-
Windows -	- 1500.-

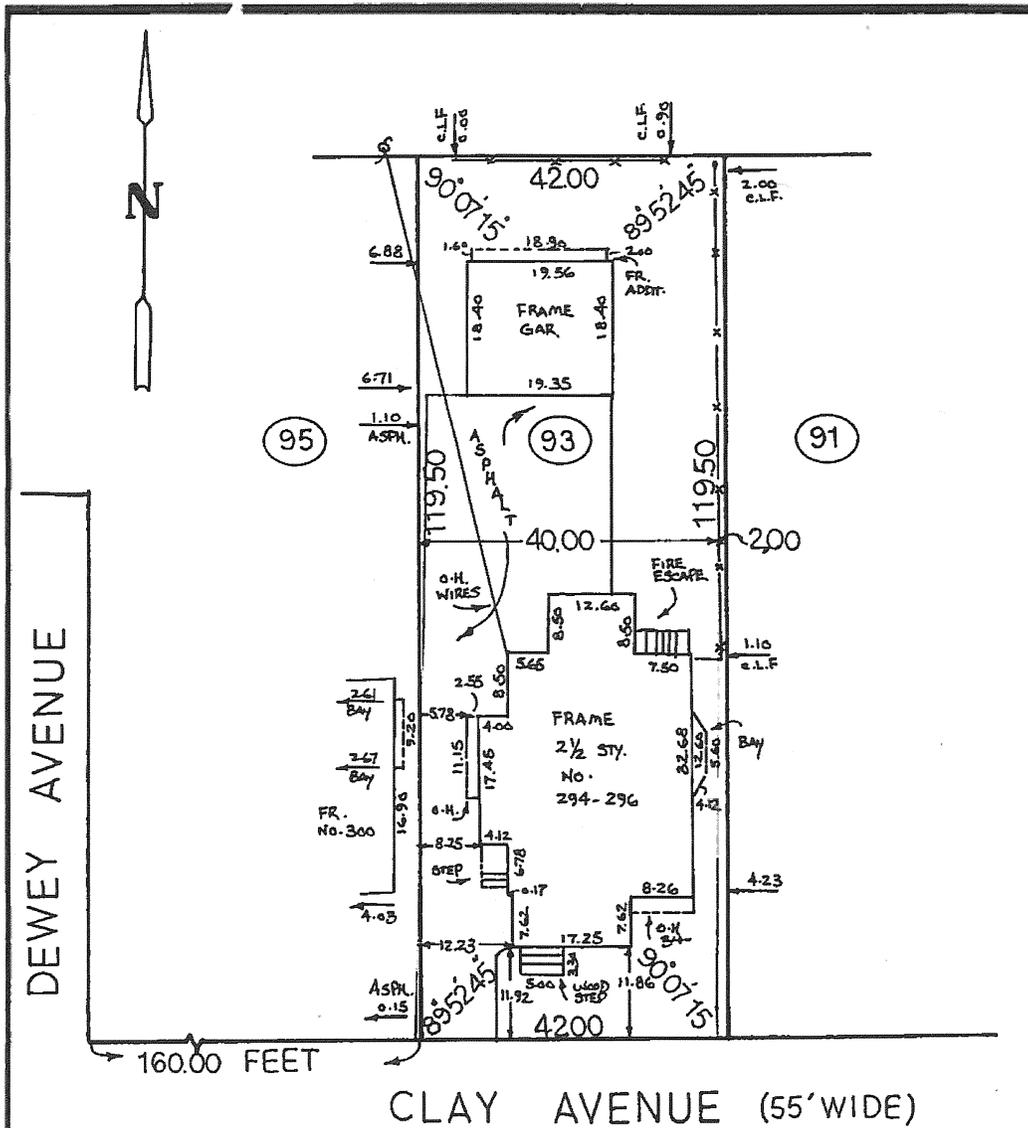
## Maintenance repairs

repairs — plumbing, electrical  
Furnace, Hot Water tank 1200. —

General maintenance — windows, doors, locks  
Appliances 1200. —

Yard care / Ground care / snow removal  
Landscaping  
Driveway 1200. —

Misc — normal wear and tear  
Painting, Carpeting, hardware 1200. —



**CERTIFY TO:**

PATTI BILLARD  
 MASS FACTORY, INC.

**REFERENCES:**

- 1) LIBER 9 OF MAPS PAGE 37
- 2) LIBER 10118 OF DEEDS PAGE 122.
- 3) TAX ACCT. No. 090.500-2-55
- 4) LIBER 11148 OF DEEDS PAGE 182

This survey is certified to those named above during the period that the currently issued title insurance policy is in effect only. Certifications are not transferable to additional institution or subsequent owners. Copies of this survey map not bearing the land surveyors linked seal or embossed seal are not considered to be a true and valid copy. Unauthorized alteration or addition to this survey map is in violation of section 7209 of the New York State Education Law.

This map is subject to any easements or encumbrances that an updated abstract of title may show. The word "certify" or "certification" as shown and used herein means an expression of professional opinion regarding the facts of the survey and does not constitute a warranty or guarantee expressed or implied. Updated abstract of title not provided.

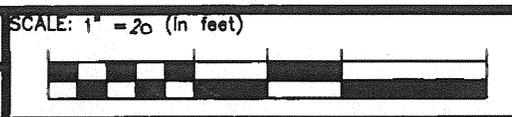
**CERTIFICATION:**  
 I GREGORY T. PAULY HEREBY CERTIFY THAT THIS MAP WAS MADE FROM NOTES OF AN INSTRUMENT SURVEY COMPLETED 3-31-14 AND FROM REFERENCES LISTED ABOVE.  
*Gregory T. Pauly*  
 GREGORY T. PAULY, L.S. # 50373

**GREGORY T. PAULY**  
 LICENSED LAND SURVEYOR  
 71 BUTCHER ROAD  
 HILTON, NEW YORK 14468  
 (585) 392-4999

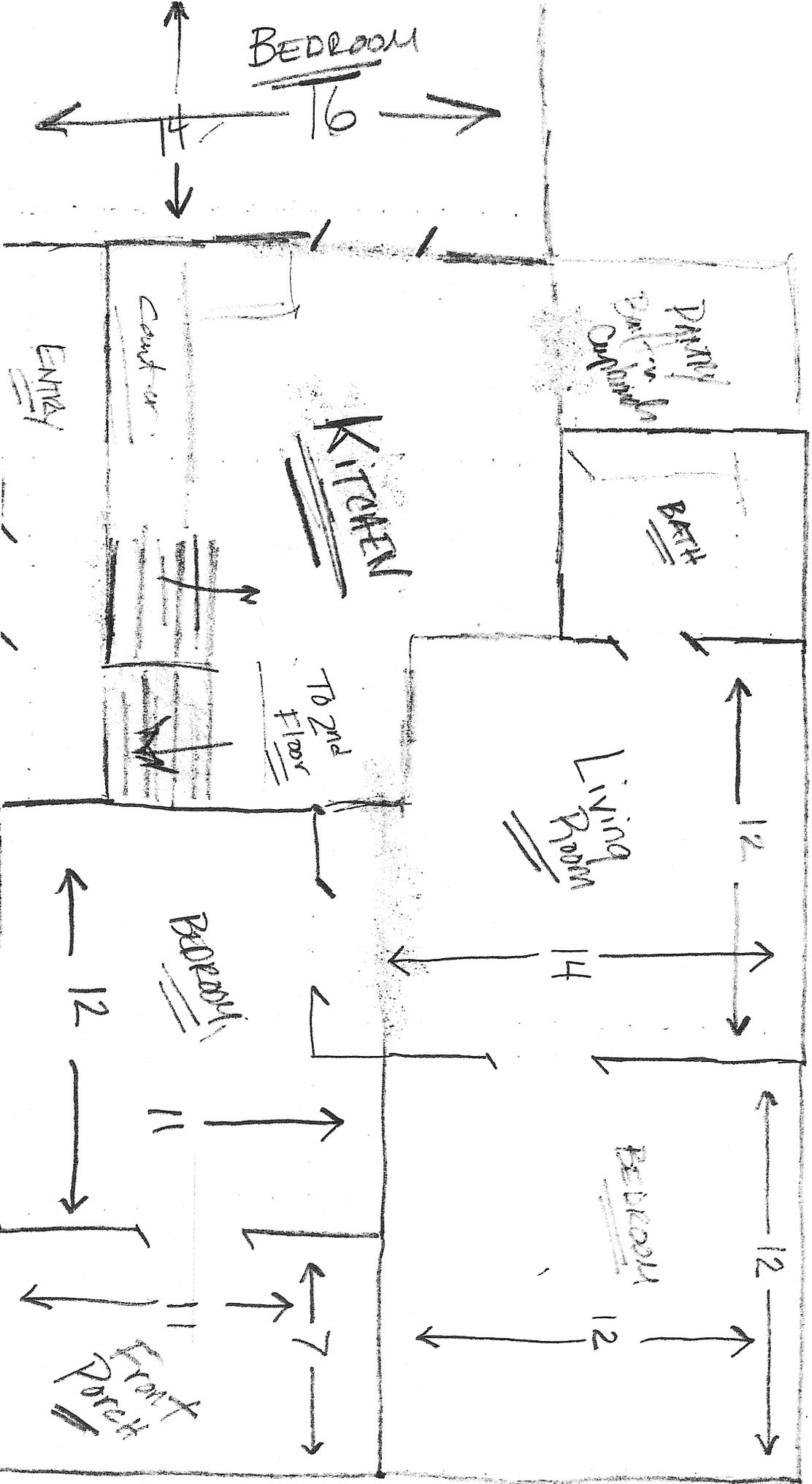
TITLE: INSTRUMENT SURVEY OF LOT 93 OF THE MCKEE TRACT, (PART OF LOT 91) CITY OF ROCHESTER MONROE COUNTY STATE OF NEW YORK



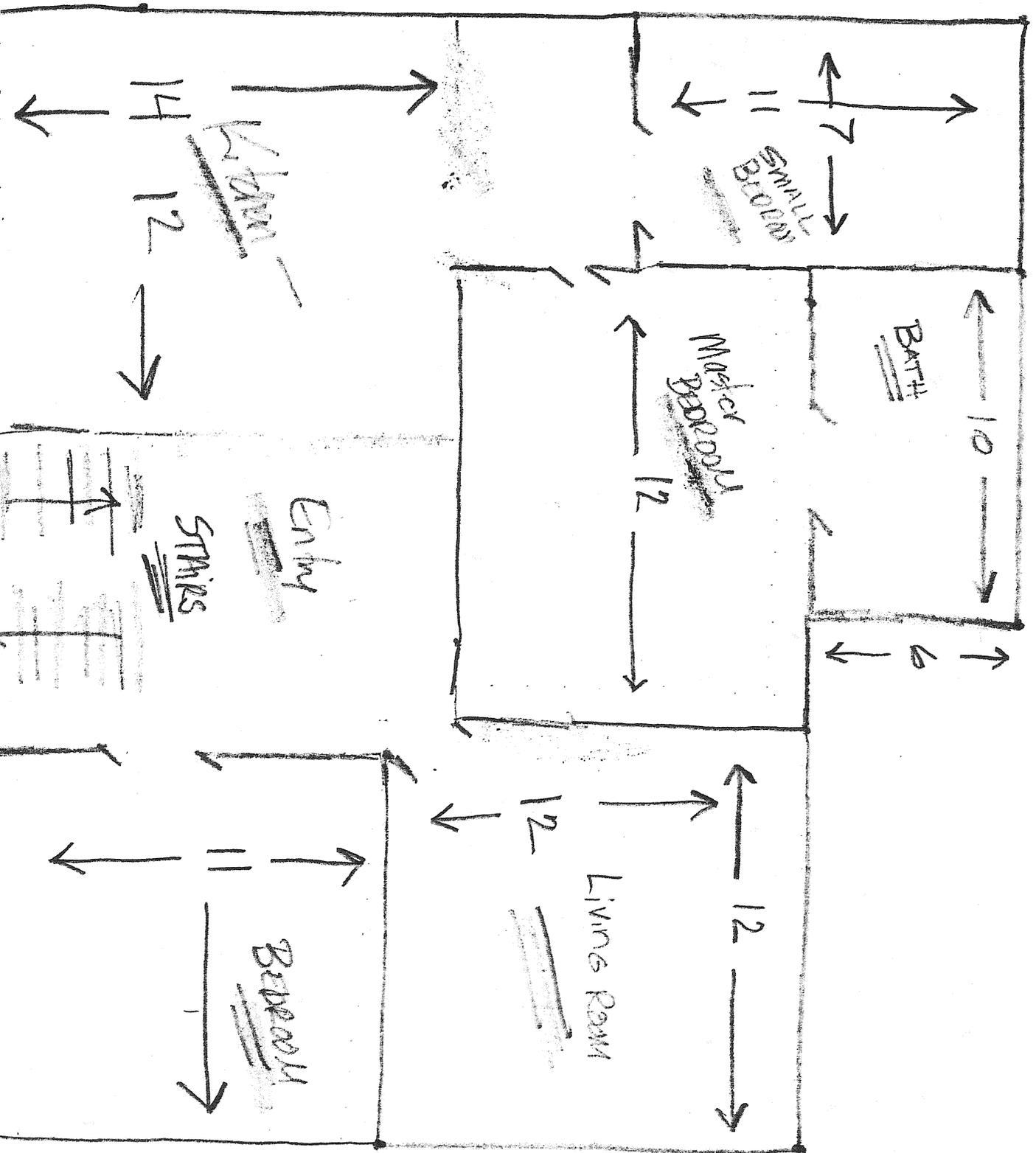
DATE: 4-1-14  
 FILE: 5539-14

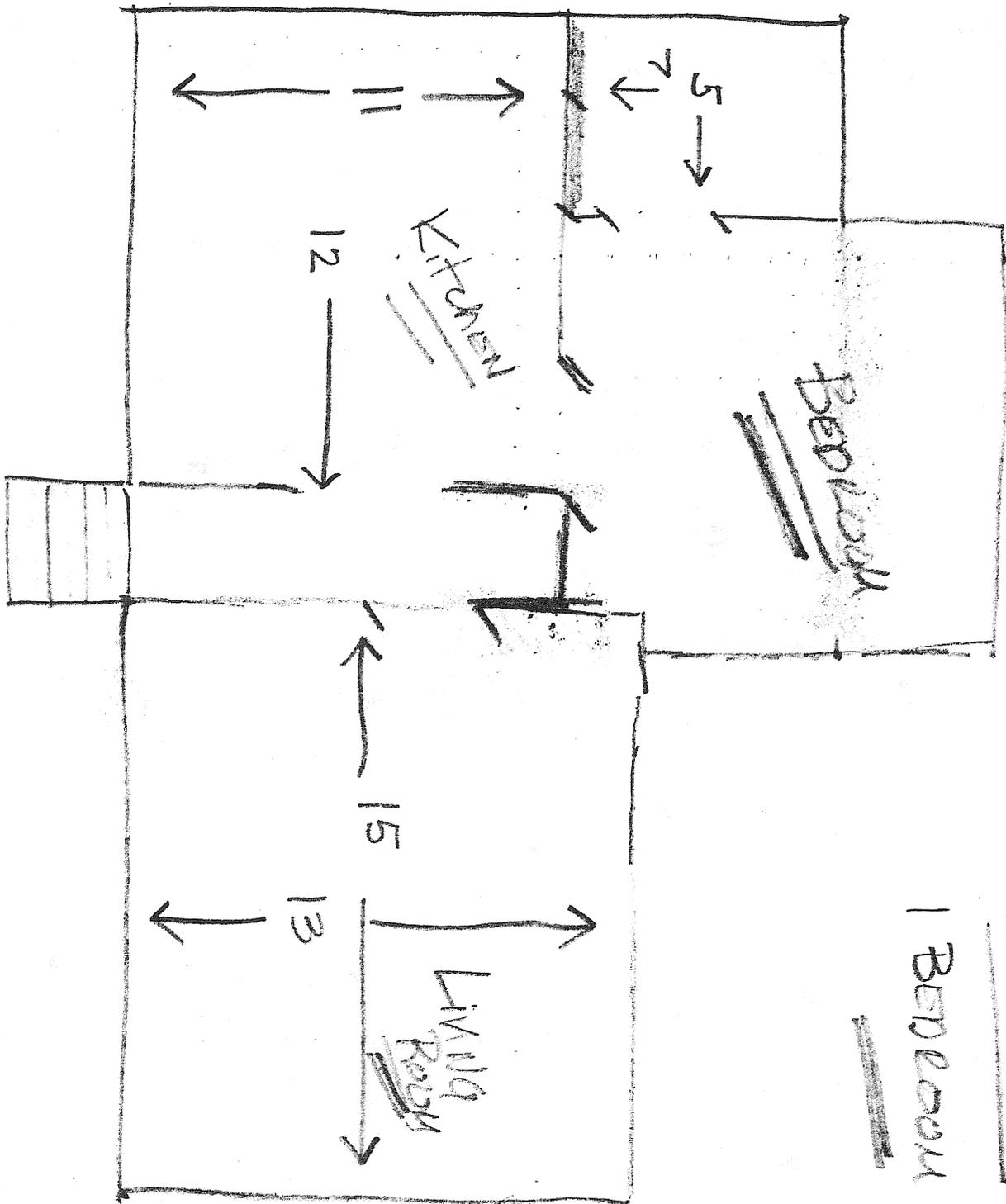


1st Floor — 3 Bedroom Apt.



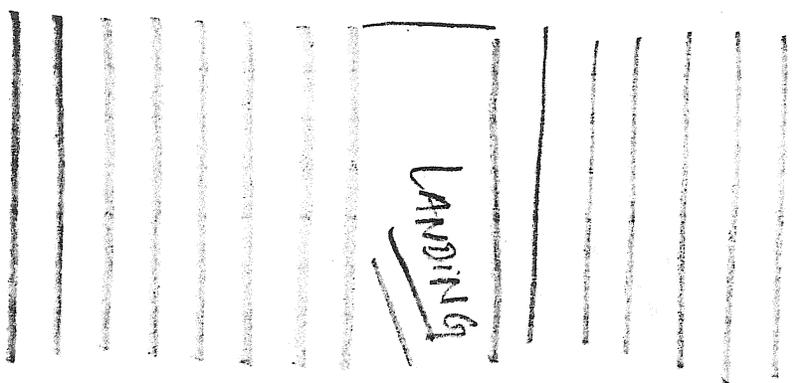
2nd Floor  
3 Bedrooms  
Apt.



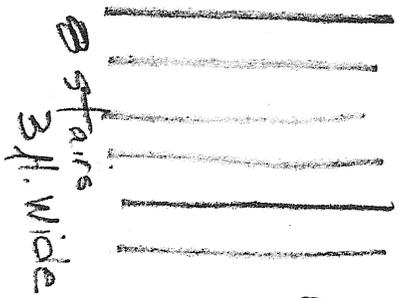


3rd floor  
1 Bedroom Apt

22



10 stairs  
3 FT. WIDE



6 stairs  
3 FT. WIDE

LANDING  
and to 3rd Floor



LOT SIZE - 40 X 130

GARAGE - 19 X 18

2 car garage

36 x 30 parking lot -

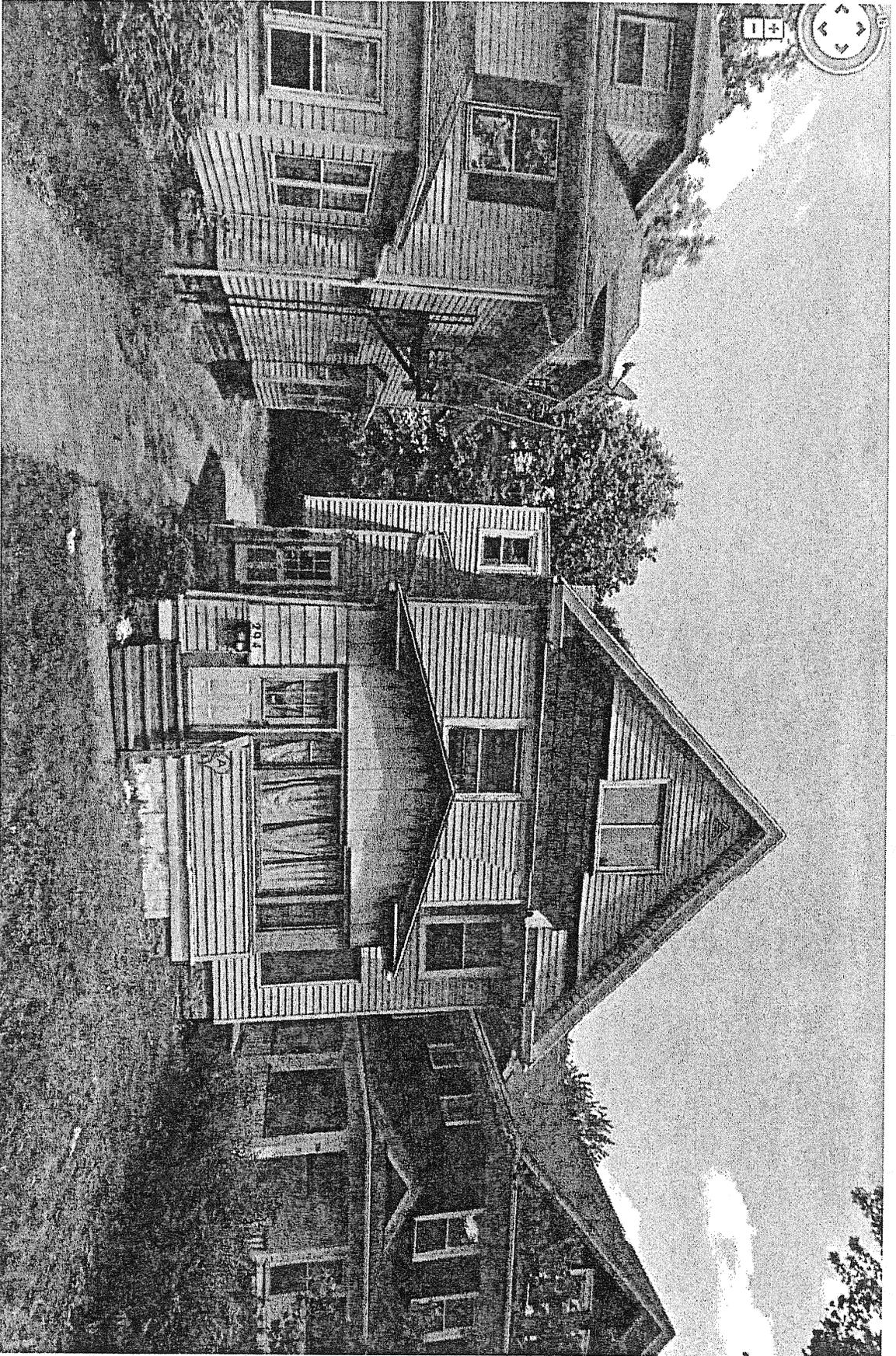
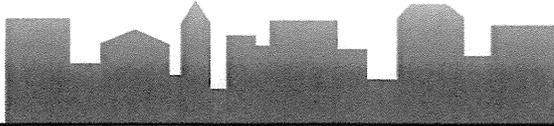


Photo from google earth



**BRUCKNER, TILLET, ROSSI, CAHILL & ASSOCIATES**

A full-service real estate appraisal, analysis and consulting group

Christopher S. Tillett, MAI, SRA  
Kevin L. Bruckner, MAI, CCIM  
Patrick W. Cahill, SRA  
Justin R. Martin, MAI

Alfred T. Rossi, SRA (Ret.)

July 21, 2016

Alan J. Knauf  
Knauf Shaw LLP  
1400 Crossroads Building  
2 State Street  
Rochester, NY 14614

Re: 294 Clay Avenue - Use Variance Application, A "Dollars and Cents" Analysis

Dear Mr. Knauf:

At your request, I have prepared the following report with addenda for submission as part of a use variance application before the City of Rochester Zoning Board of Appeals.

***Background***

The property at 294 Clay Avenue was purchased in May 2012 for \$15,000 at a City auction. The property was originally built circa 1910 as a single family dwelling and later converted to a three-family dwelling. It had been vacant since 2010 and is located in an R-1 Residential zoning district. Since the subject was vacant for more than nine months the nonconforming use status terminated. The owner, Patti Billard, prepared a list of capital improvements necessary to make the dwelling marketable for a 3-family use totaling \$39,000. In addition, an estimate was prepared by Ed Atkisson of Atkisson & Associates Architects stating that de-converting the improvements to a single family would cost an estimated \$24,000. Note that Atkisson stated, "Costs associated with restoring the home due to deferred maintenance conditions and vandalism were not considered." These additional costs of restoring the home are taken from Ms. Billard's estimates which appear reasonable. Those additional costs would be \$7,000 for a single kitchen and bath ( $(\$12,500 + \$8,500) \div 3$ ), flooring of \$5,000, paint at \$2,500, doors at \$1,500, plumbing at \$2,000, furnace at \$1,500, and hot water tank at \$1,000. The electric, windows and fire escape costs are included in the Atkisson total of \$24,000. Thus, the total cost of de-conversion and restoration back to a single family dwelling is estimated at \$44,500. This is actually higher than the cost to simply restore the dwelling to its current three-family use of \$39,000 because of the added cost of de-conversion.

***Use Variance Requirements***

Although there are four requirements that must be met in order to obtain a use variance, this report only addresses the requirement relating to financial hardship. In order to obtain a use variance, an applicant is required to show unnecessary hardship by demonstrating, among other requirements, that the property cannot provide a reasonable return as it is currently zoned. In order to qualify for a Use Variance, the applicant must show by "Dollars and Cents"

July 21, 2016

Page - 2

Re: 294 Clay Avenue - Use Variance Application, A "Dollars and Cents" Analysis

proof that the property cannot yield a reasonable return if its use is limited to only those permitted in the zoning district - in this case conversion back to a single family dwelling. In demonstrating this, I have followed the format in the City of Rochester Use Variance Statement of Income and Expense sections B, C, D & E.

The first step in the "Dollars and Cents" analysis is to evaluate the subject as a single family dwelling. Section B addresses Gross Annual Income. De-conversion to a single family would create a 4-bedroom home. Rental data on 4-bedroom homes throughout the subject's neighborhood is rather limited; however, there is plenty of rental data on 3-bedroom homes and apartment units in converted homes within ½ mile of the subject. A review of that data indicates a range of \$600-\$775/mo plus utilities for a 3-bedroom unit. To estimate what a 4-bedroom unit would rent for, the search area was expanded to 2 miles. Two current rentals were found of two-families where each had one 3-bedroom unit and one 4-bedroom unit. With this information, the difference between a 3- and 4-bedroom unit can be established. The first property is 1259 N. Clinton Ave. The 3-bedroom unit here rents for \$750/mo plus utilities (being within the same range as the immediate subject neighborhood) and the 4-bedroom unit rents for \$900/mo plus utilities. In the second example at 532 Remington Street, the 3-bedroom unit rents for \$725/mo plus utilities (again within the range of the subject neighborhood) and the 4-bedroom unit rents for \$825/mo plus utilities. Thus, the difference in rent between a 3-bedroom and 4-bedroom unit in a comparable property and neighborhood is concluded to be \$100-\$150/mo. Given the assumed restored condition of the subject, a rental at the upper end of the range is estimated at \$775/mo for a 3-bedroom unit adding \$150/mo for the difference between a 3- and 4-bedroom unit from the market indicates a market rent for a restored 4-bedroom single family home of \$925/mo plus utilities for the subject.

With respect to expenses, the current assessment is \$70,000 and the taxes are \$4,930. The assessment is based upon the classification as a three family dwelling. As a single family dwelling, the total investment would be \$59,500 from above and an argument could be made that the assessment if the property were classified as a single family would be lower, say \$59,500. Therefore, the taxes as a single family dwelling are estimated at \$4,190 ( $\$4,930 \div 70 * 59.5$ ). Ms. Billard has an estimate of insurance at \$900 which appears reasonable. As a single family dwelling, the tenant would pay their gas and electric. The landlord would pay for water but there have been no recent water billings at the subject so reference is made to a nearby single family dwelling at 282 Clay Avenue where the billings are \$80/quarter or \$320 for the year. Advertising is estimated at a nominal \$50. Repairs are estimated at \$1,200 which appears reasonable. Lawn mowing is estimated at \$15/cut for 26 weeks or \$390 with \$150 added for snow plowing totaling \$540 for yard and ground care. Miscellaneous covers any unforeseen expenses, legal and accounting estimated at \$300. Vacancy MUST be considered because investment property is never 100% occupancy ALL the time. A standard vacancy rate is 5% of gross income and is considered under miscellaneous expenses. Management MUST be considered, if a property is an investment property. Even if the property is self-managed, the owner must be compensated in the analysis for their time. For a single family dwelling, the typical management fee charged by management companies in the City is 10% of gross income. The above information is used to complete sections B, C and D. Section E is simply the Rate of Return calculation whereby the total of B less C divided by D equals the rate of return.

July 21, 2016

Page - 3

Re: 294 Clay Avenue - Use Variance Application, A "Dollars and Cents" Analysis

Section B - Gross Annual Income	
\$925/mo x 12 months =	\$ 11,100
Section C - Annual Expenses	
Real Estate Taxes	\$ 4,190
Insurance	\$ 900
Electric	Tenant
Fuel	Tenant
Water	\$ 320
Pure Waters	In Taxes
Advertising	\$ 50
Miscellaneous	\$ 300
Repairs	\$ 1,200
General Building Maintenance	In Repairs
Yard & Ground Care	\$ 540
Miscellaneous (Vacancy @ 5%)	\$ 555
Management @ 10%	\$ 1,110
Total Annual Expenses	<u>\$ 9,165</u>
TOTAL PROFIT (LOSS)	\$ 1,935
Section D - Total Investment	
Down Payment (Acquisition)	\$ 15,000
Capital Improvements	\$ 44,500
Principal Paid to Date	<u>\$ -</u>
TOTAL INVESTMENT	\$ 59,500
 RATE OF RETURN/YR (PROFIT/INVESTMENT)	 3.3%

### ***Rate of Return Requirements***

A key component of this analysis is determining the appropriate threshold for a reasonable rate of return. Investors who own small residential income property in the City expect to receive annual rates of return in the 12%-15% range as a minimum. This is further supported by a decision from the Third Department of the Appellate Division for the State of New York in the case of *Family of Woodstock v. Auerbach* for case law guidance on the minimum rate of return. The decision is quoted as saying in the summation, "Here, the undisputed proof shows that petitioner would receive a zero return on investment if the property was used for commercial purposes and only a 3% return if utilized as residential rental property, well below the reasonable expected return of 12% to 15% before taxes." The decision establishes a minimum rate of return of 12%-15%.

July 21, 2016

Page - 4

Re: 294 Clay Avenue - Use Variance Application, A "Dollars and Cents" Analysis

***De-conversion to Single Family - Conclusion***

The above analysis conclusively demonstrates that the de-conversion back to a single family dwelling generates an annual rate of return of only 3.3% whereas the market and case law indicates that the minimum rate of return is at least 12%-15%. **Therefore, it is concluded that the subject property is not capable of yielding a reasonable rate of return if de-converted back to a single family dwelling.**

***Continued Use as a 3-Family - Conclusion***

As discussed above, the cost to correct the deferred maintenance and vandalism is \$39,000 to maintain the property as a 3-family. There would be two 3-bedroom units with market rents of \$775/mo plus utilities each and one 1-bedroom unit estimated at \$400/mo plus utilities for a total gross income of \$23,400. Expenses would be the same with the exception of the taxes at \$4,930, water at \$150/quarter and management/vacancy which are dependent upon a percentage of gross income. Since the rate of return exceeds the minimum range of 12%-15%, it is concluded that continuing the use as a 3-family dwelling subject to the proposed renovations is capable of yielding a reasonable rate of return.

Section B - Gross Annual Income		
\$775/mo x 12 months =	\$	9,300
\$775/mo x 12 months =	\$	9,300
\$400/mo x 12 months =	\$	<u>4,800</u>
Total Gross Annual Income	\$	23,400
Section C - Annual Expenses		
Real Estate Taxes	\$	4,930
Insurance	\$	900
Electric	Tenant	
Fuel	Tenant	
Water	\$	600
Pure Waters	In Taxes	
Advertising	\$	50
Miscellaneous	\$	300
Repairs	\$	1,200
General Building Maintenance	In Repairs	
Yard & Ground Care	\$	540
Miscellaneous (Vacancy @ 5%)	\$	1,170
Management @ 10%	\$	2,340
Total Annual Expenses	\$	<u>12,030</u>
TOTAL PROFIT (LOSS)	\$	11,370
Section D - Total Investment		
Down Payment (Acquisition)	\$	15,000
Capital Improvements	\$	39,000
Principal Paid to Date	\$	-
TOTAL INVESTMENT	\$	<u>54,000</u>
RATE OF RETURN/YR (PROFIT/INVESTMENT)		21.1%

July 21, 2016

Page - 5

Re: 294 Clay Avenue - Use Variance Application, A "Dollars and Cents" Analysis

If you have any questions, please feel free to contact me.

Sincerely,  
**BRUCKNER, TILLET, ROSSI,  
CAHILL & ASSOCIATES**

A handwritten signature in black ink, appearing to read "Kevin L. Bruckner", written over a horizontal line.

**Kevin L. Bruckner, MAI, CCIM**

July 21, 2016

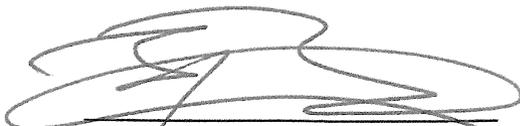
Page - 6

Re: 294 Clay Avenue - Use Variance Application, A "Dollars and Cents" Analysis

## CERTIFICATION

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice; and the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.
- I have made a personal inspection of the property that is the subject of this report.
- no one provided significant professional assistance to the person signing this report.
- the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- as of the date of this report, I have completed the requirements of the continuing education program for Designated Members of the Appraisal Institute.
- as of the date of this report, I am a New York State Certified General Real Estate Appraiser, certification #46-3998, expiration November 18, 2017.
- I have not performed a professional service, as an appraiser or in another capacity, with respect to the subject property within the immediate past three years of the effective date of this report.



**Kevin L. Bruckner, MAI, CCIM**

**Date: July 21, 2016**

## **EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS**

**Extraordinary Assumption Defined:** An assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis. An extraordinary assumption may be used in an appraisal only if it is required to properly develop credible opinions and conclusions; there is a reasonable basis for the extraordinary assumption; and the use of the extraordinary assumption results in a credible analysis.

### **Extraordinary Assumptions Related to this Assignment:**

✓ None

**Hypothetical Condition Defined:** A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis. Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis. A hypothetical condition may be used in an assignment only if the use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison; and the use of the hypothetical condition results in a credible analysis.

### **Hypothetical Conditions Related to this Assignment:**

✓ None

## **INTENDED USE AND USERS**

The intended use of the appraisal is to assist the client with a use variance application. The client and intended user is Alan J. Knauf as attorney for the property owner.

July 21, 2016

Page - 8

Re: 294 Clay Avenue - Use Variance Application, A "Dollars and Cents" Analysis

### ADDENDA

UNIQUE ID NUMBER 46000003978	State of New York Department of State DIVISION OF LICENSING SERVICES	FOR OFFICE USE ONLY Control No. 86791
PURSUANT TO THE PROVISIONS OF ARTICLE 6E OF THE EXECUTIVE LAW AS IT RELATES TO R. E. APPRAISERS.		EFFECTIVE DATE MO. DAY YR. 11 19 15
BRUCKNER KEVIN L C/O BRUCKNER, TILLET & ROSSI J 500 LINDEN OAKS STE 180 ROCHESTER, NY 14625-3684		EXPIRATION DATE MO. DAY YR. 11 18 17
HAS BEEN DULY CERTIFIED TO TRANSACT BUSINESS AS A R. E. GENERAL APPRAISER		In Witness Whereof, The Department of State, has caused its official seal to be hereunto affixed.
		CESAR A. PERALES SECRETARY OF STATE
DOS-1098 (Rev. 3/01)		

# 294 CLAY AV - 14613

SBL: 090.50-2-55

SBL20: 0905000002055000000



City of Rochester, NY  
 Lovely A. Warren, Mayor



Owner Name: BILLARD PATTI  
 Owner Address: 5320 LONG ISLAND DR NW  
 ATLANTA GA 30327

Frontage: 42  
 Depth: 119.5  
 Acreage: 0.12  
 Use Code: 230 - THREE FAMILY RESIDENCE  
 Zoning: R-1  
 Land Value: \$6,000.00  
 Assessed Value: \$75,000.00  
 Tentative Land Value: \$6,000.00  
 Tentative Total Value: \$70,000.00  
 Sale Date: /  
 Sale Price: \$0.00

## Structures

OLD STYLE	Beds	4	First Floor Area	1,065
	Baths	3	Second Floor Area	970
	Stories	2.5	Additional Story	0
	Year	1910	Half Story	412
	Exterior Wall Type	ALUMINUM/VINYL	Finished Basement	0
	Heat Type	HOT AIR	Finished Rec Room	
	Fuel Type	GAS	Finished Attic	
	Central Air		Finished Over Garage	
	Fireplaces		Total Living Area	2,447
	Basement Type	FULL		
	Basement Garage			

## Other Structures

Accessory	Dimension 1	Dimension 2	Year Built
ENCLOSED PORCH	136		1910

# 294 CLAY AV - 14613

SBL: 090.50-2-55

SBL20: 09050000020550000000



City of Rochester, NY  
 Lovely A. Warren, Mayor

## Taxes

Installments	Amount Due	Date Paid	Payment
7/31/2017	\$830.00		-- \$0.00
9/30/2017	\$588.00		-- \$0.00
1/31/2016	\$588.00		-- \$0.00
3/31/2016	\$588.00		-- \$0.00
Total Taxes Paid to Date:			\$0.00
Current Annual Tax:			\$2,594.00
Principal Due:			\$2,594.00
Interest Due:			\$191.26
Annual Taxes without Exemptions, Interest, Delinquencies, and Code Violation Charges:			\$2,594.00

## Tax Exemptions

No tax exemptions found.

## Special Districts

Special District Code	Special District Desc	Units
RP600	ROADWAY SNOW PLOW	42
SC400	STREET MAINT. FULL	42
SP700	SIDEWALK SNOW PLOW	42
RF230	REFUSE THREE FAMILY	1
HSR00	HAZARD SDWLK REPLACE	42
CE015	CODE ENFORCEMENT	0
CV100	CODE VIOLATION	0
DR009	DELINQUENT REFUSE	0

Map displaying adjacency to other multi-family dwellings

The map displays a street grid with Clay Ave running vertically. Two pop-up windows provide details for specific properties. The first window, titled '300 CLAY AV', shows property information for 300 Clay Av, including owner name, address, zoning, and lot details. The second window, titled '286-288 CLAY AV', shows property information for 286-288 Clay Av, including owner name, address, zoning, and lot details. Arrows point from these windows to their respective locations on the map. A central label 'P R O P E R T Y' is also visible on the map.

Property	Assessment	Tax
300 Clay Av	220	1388-1390
286-288 Clay Av	220	286-288

**300 CLAY AV**

**RESIDENTIAL PROPERTY**

SBL: 090.50-2-56  
 SBL 20: 09050000020560000000

Property Address: 300 CLAY AV  
 Owner Name: BONSIGNORE JASON M  
 Mailing Address: 2152 EDGEEMERE DR ROCHESTER NY 14612

Use Code: 220  
 TWO FAMILY RESIDENCE

Zoning: R-2

Lot Frontage: 40 ft.  
 Lot Depth: 119.5 ft.  
 Shape Acreage: 0.11 acres

**286-288 CLAY AV**

**RESIDENTIAL PROPERTY**

SBL: 090.50-2-54  
 SBL 20: 09050000020540000000

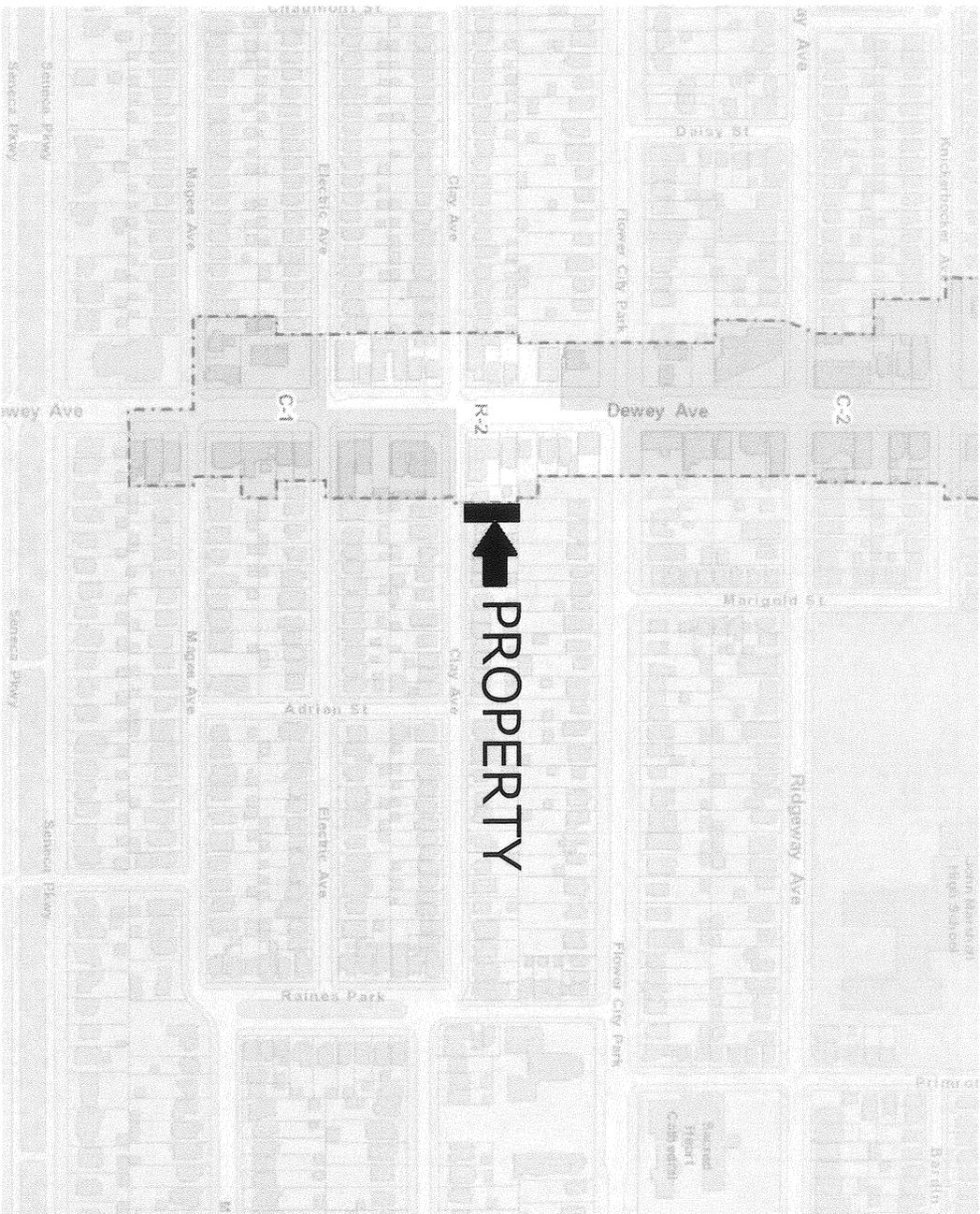
Property Address: 286-288 CLAY AV  
 Owner Name: KNAPP JON  
 Mailing Address: 2117 BUFFALO RD BOX 221 ROCHESTER NY 14624

Use Code: 220  
 TWO FAMILY RESIDENCE

Zoning: R-1

Lot Frontage: 48 ft.  
 Lot Depth: 119.5 ft.  
 Shape Acreage: 0.13 acres

# 294 CLAY AV



June 17, 2016

This map is intended for general reference only.

The City of Rochester makes no representation as to the accuracy or fitness of the data presented.

## City of Rochester, NY

Created by Knauf Shaw LLP from City of Rochester online Property Information Database



City of Rochester, NY  
Lovely A. Warren, Mayor

Application for structurally altered

ATKISSON & ASSOCIATES ARCHITECTS

Edwin B. Atkisson, AIA  
72 Lapham Park • Webster, NY 14580  
(585) 905-5675 • [ed@edatkisson.com](mailto:ed@edatkisson.com)

---

March 4, 2015

Mr. Tony Favro, City of Rochester  
30 Church Street, Room 125B  
Rochester, NY 14614

RE: 294-295 Clay Street  
Non-Conforming Use

Dear Mr. Favro,

As previously discussed, the above mentioned property has been vacant since 2010 and has lost its pre-existing rights to a three family status. It is our understanding that this property may qualify for use as originally permitted prior to 2010 if evidence can be submitted to show that it is impractical to restore the structure to its built-as condition, which was a single family home. .

Based on our research and job site observations of the structure, it would appear that significant alterations would be required to restore the home to single family use, as it was originally intended. We would assert that the following brief outline of alterations and associated costs would be required to restore the home to its built-as condition, both in a practical basis and in a marketable basis for single family use. These alterations are as follows:

- A.) Demolish communicating stair addition on side of home and restore exterior wall finishes and windows.
  - Approximate Cost \$7,500.00
- B.) Restore interior stairs to built-as condition.
  - Approximate Cost \$3,500.00
- C.) Restore electrical service to single occupancy.
  - Approximate Cost \$3,000.00
- D.) Remove kitchen on 2<sup>nd</sup> and 3<sup>rd</sup> floors and restore rooms to previous built-as condition.
  - Approximate Cost \$5,000.00
- E.) Remove partition walls on 2<sup>nd</sup> and 3<sup>rd</sup> floors and restore rooms to original size and use.
  - Approximate Cost \$3,500.00
- F.) Removal and disposal of fire escape located at the rear of the home.
  - Approximate Cost \$1,500.00

The total cost to restore the home to single family use is approximately \$24,000.00 based on a cursory review of the existing conditions. Costs associated with restoring the home due to deferred maintenance conditions and vandalism were not considered. It is our belief that it is impractical to restore this structure to its built-as condition as a single family home due to the current market value of the home and surrounding homes in the neighborhood.

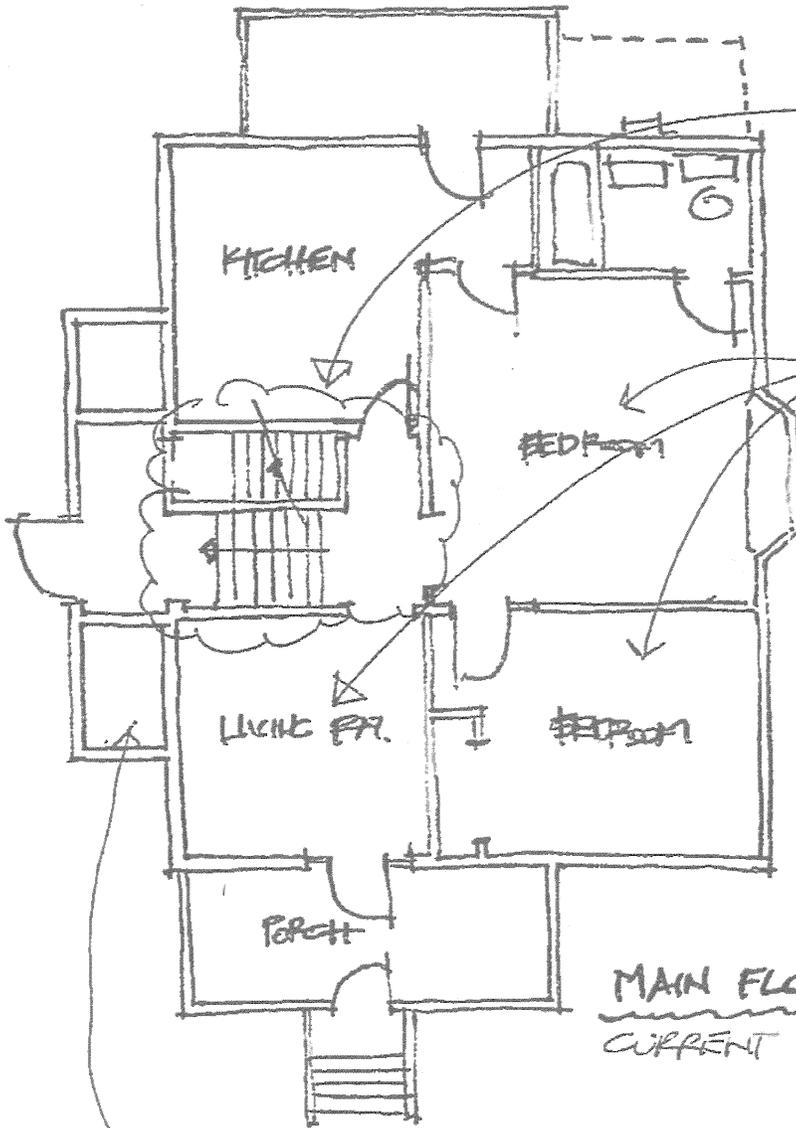
On behalf of the owner we request that this home be granted non-conforming use as a two family residence. Please refer to the attached floor plan sketches and exterior photographs for additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Atkisson". The signature is fluid and cursive, with the first name "Ed" written in a larger, more prominent script than the last name "Atkisson".

Ed Atkisson, Architect

cc: Patti Billard, Owner

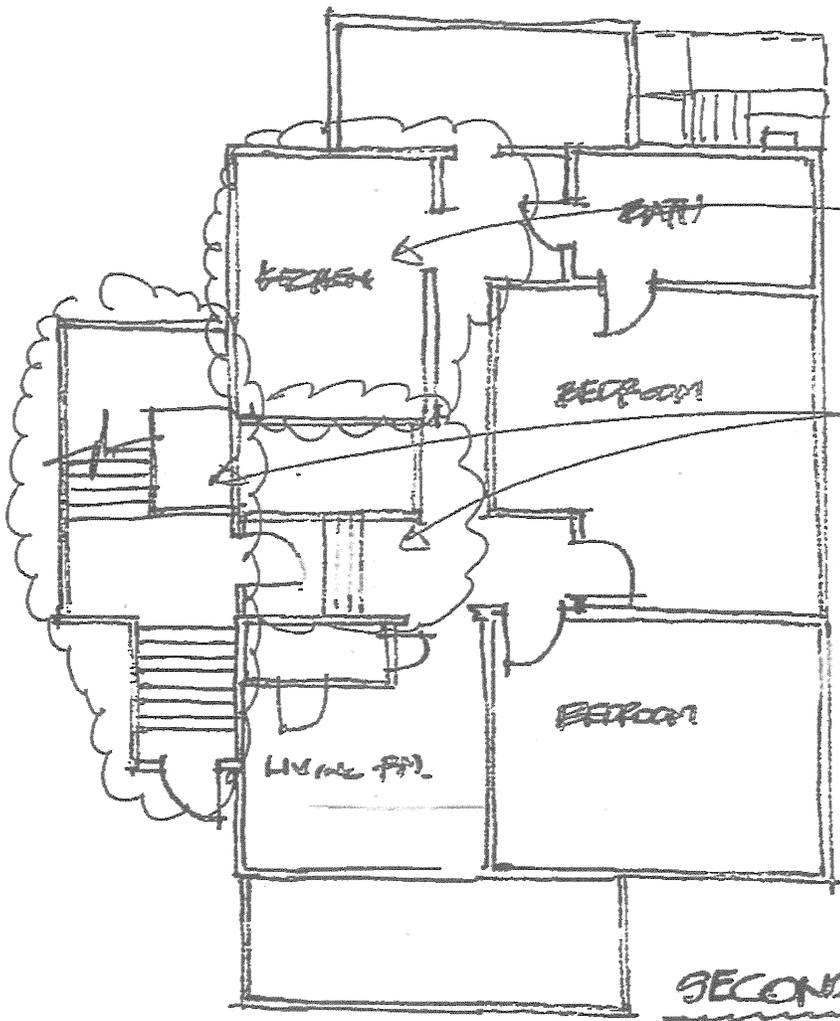


INTERIOR STAIRS TO BE RESTORED TO BUILT-AS CONDITION

ROOMS TO BE RE-CONFIGURED TO LIVING RM. + DINING RM PER BUILT-AS CONDITION

MAIN FLOOR LEVEL  
CURRENT CONDITIONS

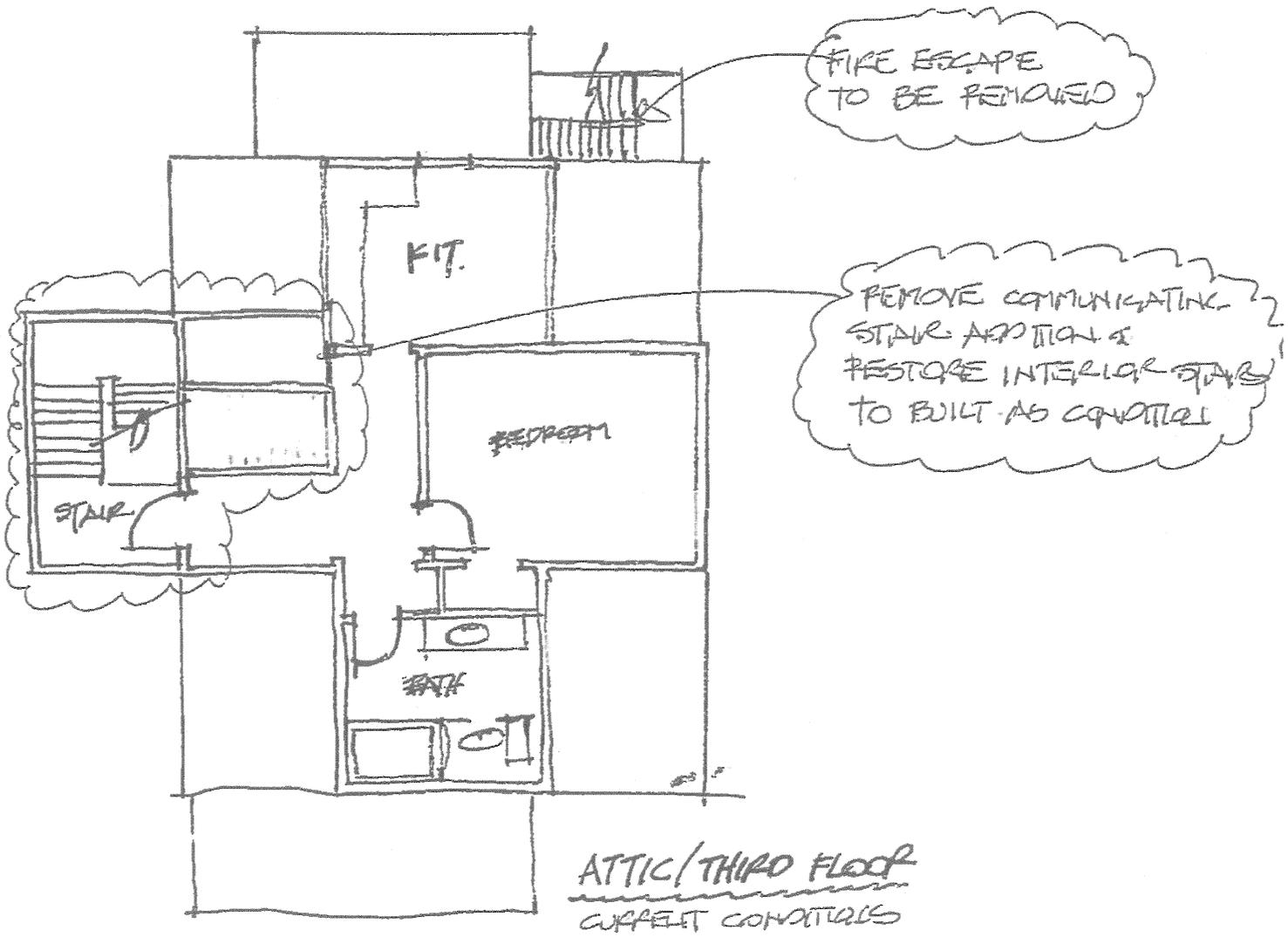
REMOVE EXTERIOR COMMUNICATING STAIR ADDITION



REMOVE KITCHEN & RESTORE TO BUILT-AS CONDITION

REMOVE EXTERIOR COMMUNICATING STAIR. ADDITION & RESTORE INTERIOR STAIRS TO BUILT-AS CONDITION

SECOND FLOOR  
CURRENT CONDITIONS

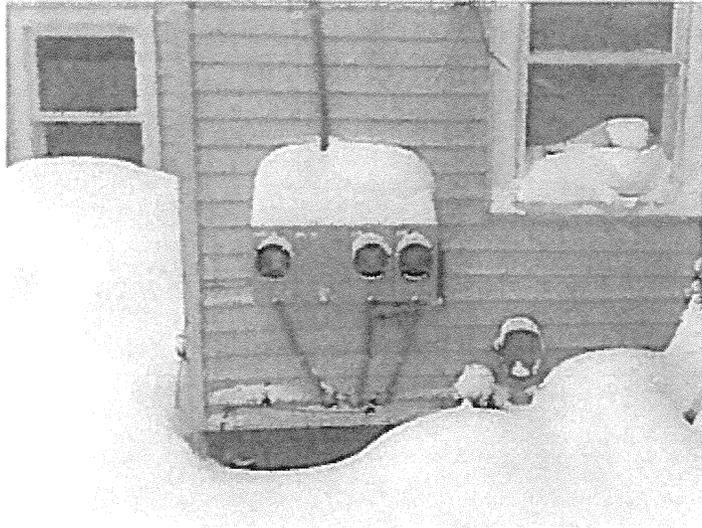


FIRE ESCAPE  
TO BE REMOVED

REMOVE COMMUNICATING  
STAIR ADDITION &  
RESTORE INTERIOR STAIRS  
TO BUILT AS CONVITAL

ATTIC/THIRD FLOOR  
CURRENT CONVITALS





From: **Patti Billard** [Billardone@aol.com](mailto:Billardone@aol.com)  
Subject: **294/296 Clay Avenue**  
Date: **March 19, 2016 at 2:30 PM**  
To: **Jill Symonds** [symonds@cityofrochester.gov](mailto:symonds@cityofrochester.gov)

---

Hi Jill,

Since I spoke with you last concerning my Clay Avenue property I have been in contact with Gary Kirkmire and Jeff West. Jeff visited the property with me and, after a thorough walk-through, he completely agreed that returning this property to a single family home made no sense at all. Jeff then consulted with Gary, who also agreed with Jeff's conclusion. Gary then asked me to contact you and tell you that he suggests that this property be deconverted to a two family home with third floor usage.

As you know, I'm anxious to start renovations on this property as soon as possible so that it can occupied by fall. I'm asking for your support to get the appropriate approvals from the planning board at the earliest possible time.

Please get back to me as soon as you can.

Patti Billard  
585.330.4082

City's response re structurally altered.



## City of Rochester

Neighborhood and Business Development  
City Hall Room 125B, 30 Church Street  
Rochester, New York 14614-1290  
www.cityofrochester.gov



Bureau of Planning  
and Zoning

March 13, 2015

Mr. Edwin B. Atkisson, AIA  
72 Lapham Park  
Webster, New York 14580

Re: 294 Clay Avenue

Dear Mr. Atkisson:

Your request and supporting documentation for a Certificate of Zoning Compliance to maintain the structure at 294 Clay Avenue as a multi-family dwelling, per § 120-208 of the Zoning Code, has been thoroughly reviewed. My staff and I have determined that the building was not structurally altered to the extent that it is impracticable to restore to its built-as condition. Our decision was based on a review of the documentation you submitted and an interior inspection of the property, most notably:

1. Conversion to a single-family residence will not require the removal of any structural components.
2. Specific alterations to the original structure were limited to: nonbearing interior partitions added to create baths and closets; exterior stairs added for convenience, while leaving the interior stairs intact; doors added to convert existing rooms to bedrooms; an exterior fire escape added for safety.

The following options are available to you:

1. **Deconvert the property to its built-as status of a single-family dwelling.** City records show the property was originally constructed as a single-family dwelling in 1910. To apply for a deconversion permit, please submit floor plans showing how the two discontinued dwelling units will be permanently and fully integrated in the legal built-as single dwelling unit with unimpeded access throughout the units. According to § 120-166B of the Zoning Code, evidence of unimpeded access includes the removal of all partitions, inoperable doorways, and other obstructions that impede or prevent access throughout the dwelling unit. It also includes the removal of appurtenances that previously supported the discontinued dwelling units, such as kitchens (including appliances, cupboards, plumbing, utility connections, etc.), as well as utility meters in excess of one house meter.
2. **Apply for a use variance.** A use variance may be sought to re-establish the prior legal nonconforming use as a multi-family dwelling. According to City records, the structure



was converted from a one-family to a two-family dwelling in 1946, and from a two-family to a three-family dwelling in 1949. The structure lost its rights as a pre-existing nonconforming use in the current R-1 zoning district when it became vacant for more than nine months. The applicant must prove unnecessary hardship to be granted a use variance, in accordance with § 120-195B(3) of the Zoning Code.

3. **Appeal the enclosed Certificate of Zoning Compliance denial to the Zoning Board of Appeals.** An appeal of this denial for Certificate of Zoning Compliance can be taken to the Zoning Board of Appeals within 60 days of this decision, in accordance with § 120-189G(1) of the Zoning Code.

Please contact Tony Favro of my staff for assistance with any questions or if wish to proceed with one of the available options, and he will assist you in this process. Tony can be reached at [favroa@cityofrochester.gov](mailto:favroa@cityofrochester.gov) or 428-7762.

Sincerely,

  
C. Mitchell Rowe  
Director of Planning and Zoning

Enc.

Cc: Tony Favro, City Planner  
Tom Mann, Permit Office Manager



**ZONING BOARD OF APPEALS  
STAFF REPORT  
September 15, 2016**

**Area Variance**

---

**Case # 5:**

Staff Reviewer: Jill Symonds

**File Number:** V-027-16-17

**Applicant:** Amina Ibrahim

**Project Address:** 200 Warner Street

**Zoning District:** R-1 Low-Density Residential District

**Section of Code:** 120-11

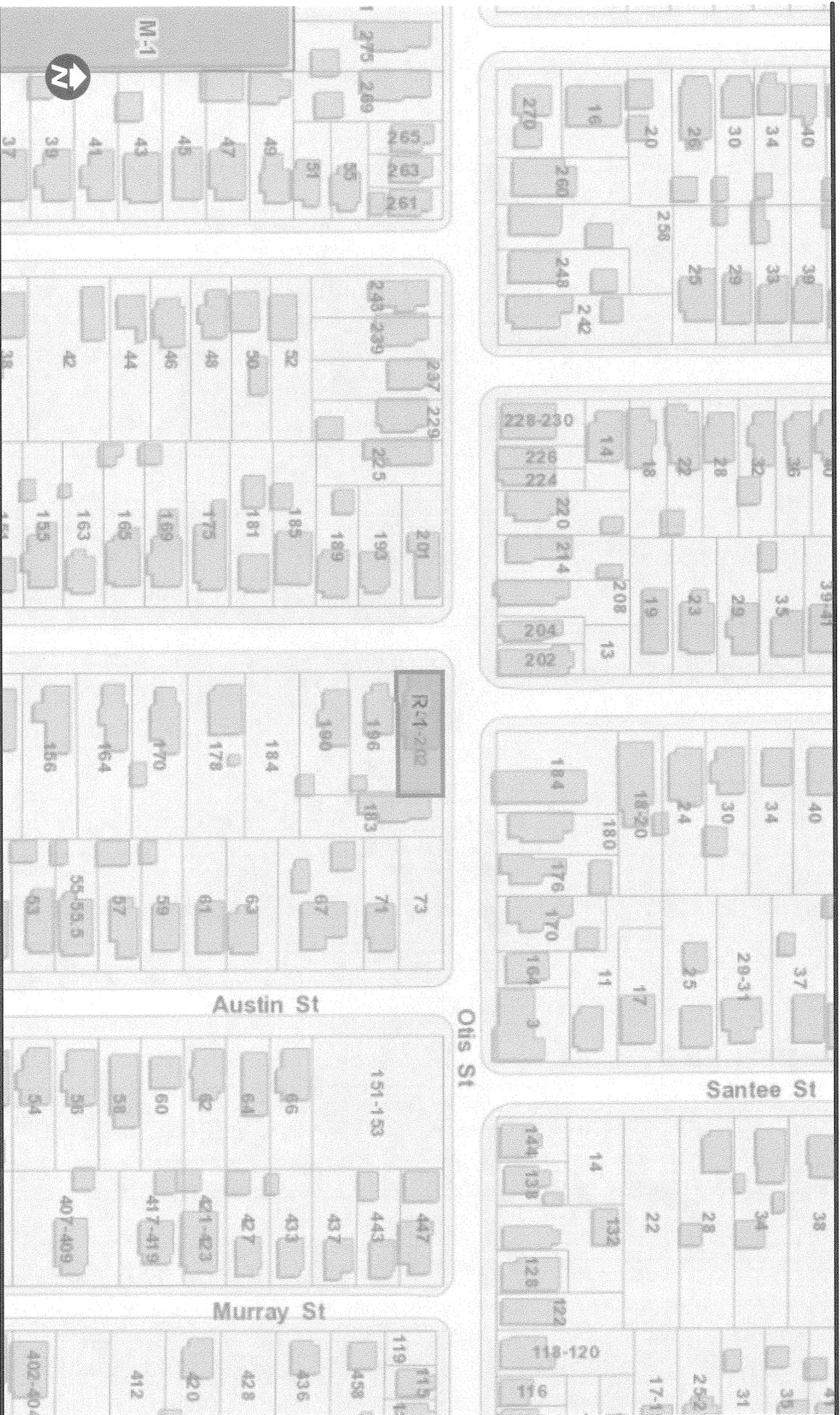
**Request:** To legalize the expanded parking area in the rear yard of a mixed-use building, thereby exceeding the lot coverage requirement.

**Analysis:** The subject property is a mixed use building that is legal for the following: first floor front – store (hours of operation not to exceed 7 am to 11 pm); first and second floor rear – two families side-by-side; no third floor occupancy. The property is located on the corner of Otis Street and Warner Street. The driveway for the property is on the Otis Street frontage. The applicant expanded the parking area by paving the area between the rear of the building and the driveway (the total paved area is approximately 33' x 37').

**Code Review:** Section 120-11 provides that lot coverage in the R-1 Low Density Residential District cannot exceed 50%. The proposed parking area increases lot coverage to 73% (**area variance required**).

**Code Enforcement:** The subject property is in code enforcement for paving the rear yard.

# 200-202 WARNER ST



August 29, 2016

This map is intended for general reference only.  
The City of Rochester makes no representation  
as to the accuracy or fitness of the data presented.

## City of Rochester, NY



City of Rochester, NY  
Lovely A. Warren, Mayor

**PROJECT INFORMATION**

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 200-202 Warner St.

2. APPLICANT: Amina Ibrahim COMPANY NAME: \_\_\_\_\_

ADDRESS: 200 Warner St CITY: Rochester ZIP CODE: 14606

PHONE: 230-2588 FAX: \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

INTEREST IN PROPERTY: Owner  Lessee  Other

3. PLAN PREPARER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

4. ATTORNEY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

5. ZONING DISTRICT: \_\_\_\_\_

6. DETAILED PROJECT DESCRIPTION (additional information can be attached): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased): \_\_\_\_\_

**APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.**

SIGNATURE: Amina Ibrahim DATE: 7-24-16

**OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.**

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_



City of Rochester, NY

AREA VARIANCE  
STATEMENT OF DIFFICULTY  
Section 120-195B(4)(b)

An area variance shall be granted only if the applicant can establish the existence of EACH of the following conditions:

A. **Benefits.** The benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community by the granting of the variance.

- 1. CLEANER area
- 2. Parking for A Two Family
- 3. Yard for Kids

B. **Essential character of the area.** No undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the variance.

Commercial Building Accross The Street.  
Vacant Burned out House Next Door.

C. **No other remedy.** There is no other means feasible for the applicant to pursue, other than the granting of this area variance.

There was only one parking space Before Now  
There is space for 3 cars.

**D. Significance.** The requested variance is not substantial.

Fence Blocks cars From sidewalk.  
Pave area is also use as a play area and get together  
with friends.

**E. Physical and environmental conditions.** The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Around the area there is grass and Dirt along the Edge  
of paved area.

**F. Not self created.** The alleged difficulty was not self created, the consideration of which shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance.

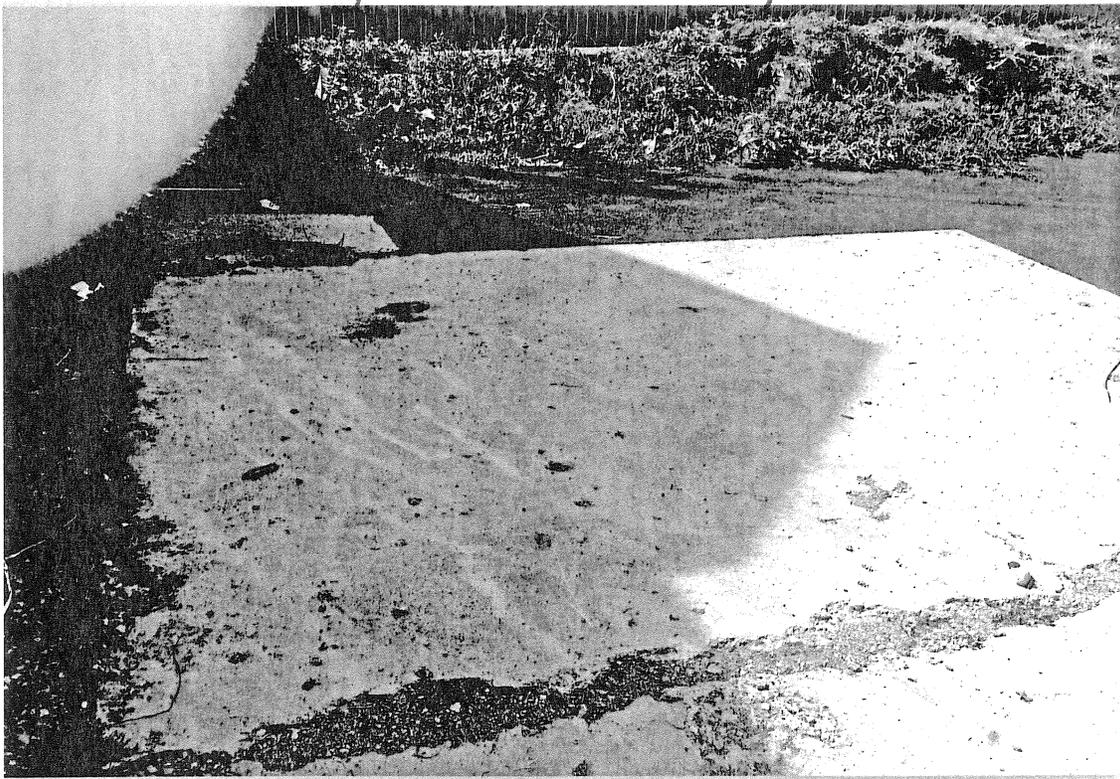
Tenant always complain of parking. They have kids and  
didn't think it was safe getting in car on a  
Busy street like Otis St.



# Rear yard, Nov. 2015



Yrear yard, currently.





**ZONING BOARD OF APPEALS  
STAFF REPORT  
September 15, 2016**

**Area Variance**

---

**Case # 6:**

Staff Reviewer: Jill Symonds

**File Number:** V-028-16-17

**Applicant:** Dominic Cimino

**Project Address:** 121-127 Pool Street

**Zoning District:** M-1 Industrial District

**Section of Code:** 120-84, 120-167

**Request:** To construct a 50' x 30' warehouse/storage building, not meeting the front or rear yard setback requirement; and to install a 6' tall chain link fence, not meeting the landscape setback requirement.

**Analysis:** 121 and 127 Pool Street are vacant parcels that are being combined by the applicant. The proposal is to construct a 30' x 50' warehouse/storage building for storing personal items. The applicant does not intend to store vehicles on the site. The applicant is also proposing to remove the existing wood fence that surrounds the property and replace it with a 6' tall chain link fence.

**Code Review:** The setbacks requirements are outlined in section 120-84:

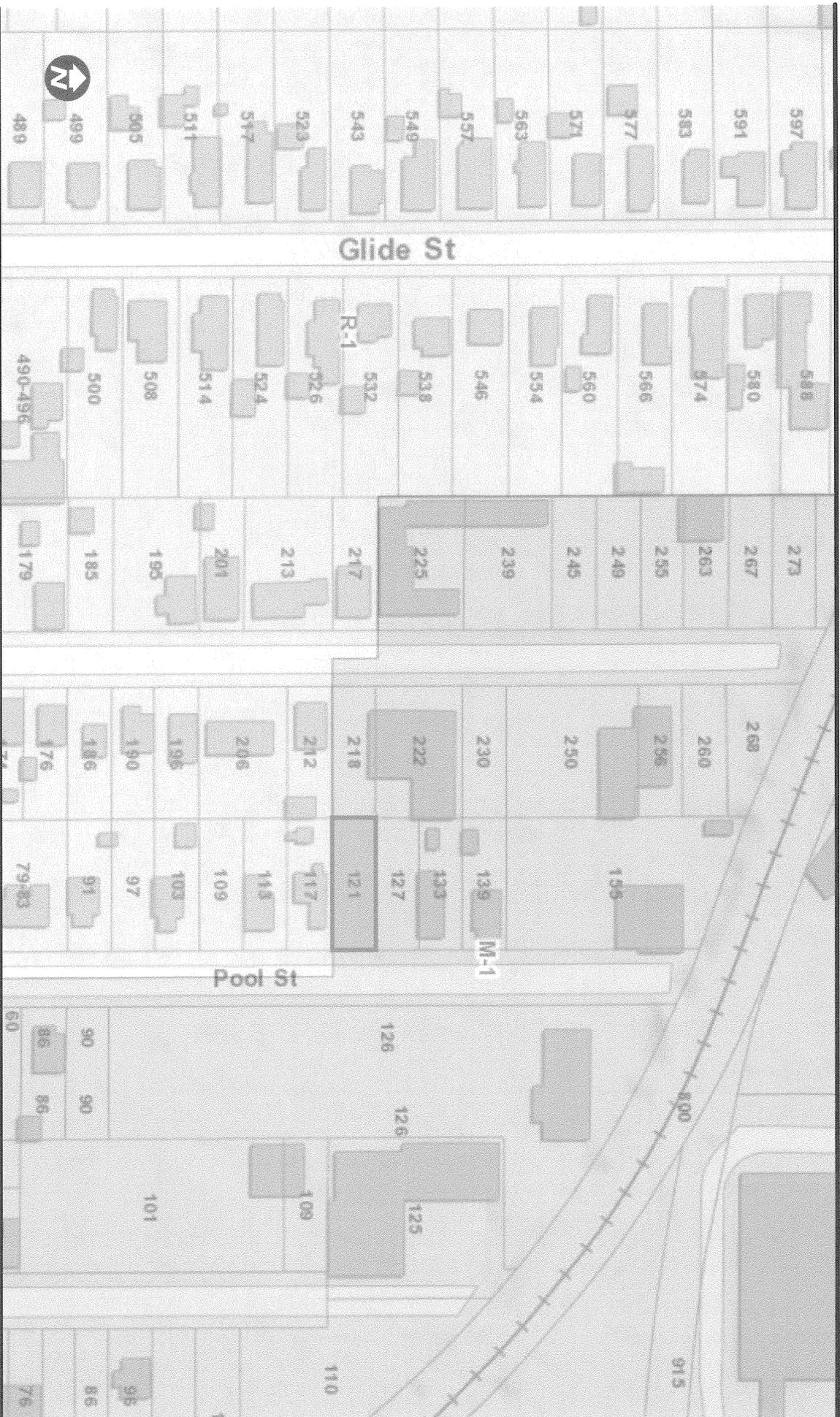
Minimum front yard setback: the average front yard depth of buildings on the two lots adjoining a property. The setback at 133 Pool Street is 10' and the setback at 117 Pool Street is 20', therefore the setback at 121-127 Pool Street should be 15'. **As the applicant is proposing an 86' front yard setback, an area variance is required.**

Minimum rear yard setback: 20' or the average rear yard setback on the block on which the property is located, but in no case less than 10'. The average setback on the block on which the property is located is 50'. **As the applicant is proposing a 4' rear yard setback, an area variance is required.**

Section 120-167 permits a 6' tall chain link fence in the front yard in conjunction with a ten-foot perimeter landscaped setback. **As there is no landscaped setback proposed, an area variance is required.**

**Code Enforcement:** The subject property is not in code enforcement.

# 121 POOL ST



August 29, 2016

This map is intended for general reference only.  
The City of Rochester makes no representation  
as to the accuracy or fitness of the data presented.

## City of Rochester, NY



City of Rochester, NY  
Lovely A. Warren, Mayor

PROJECT INFORMATION

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 121-127-Pool 51

2. APPLICANT: Demareck Conroy COMPANY NAME: DC

ADDRESS: 483 Mt Pearl Blvd CITY: Rocheleau ZIP CODE: 14606

PHONE: 750-7230 FAX: 254-1115

E-MAIL ADDRESS \_\_\_\_\_

INTEREST IN PROPERTY: Owner  Lessee \_\_\_\_\_ Other \_\_\_\_\_

3. PLAN PREPARER: RANDY SALATINO

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: 943-2419 FAX: \_\_\_\_\_

4. ATTORNEY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

5. ZONING DISTRICT: M-1

6. DETAILED PROJECT DESCRIPTION (additional information can be attached): \_\_\_\_\_

Build Three Bay Storage Space.  
office, storage, etc (personal storage)

Replace fence w/ 6' tall chain link fence.

7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased): \_\_\_\_\_

APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

x SIGNATURE: Demareck Conroy DATE: 7-19-16

## DOMINICK CIMINO

---

483 Mount Read Blvd.  
Rochester, NY 14624  
Phone (585) 750-7230

August 25, 2016

City of Rochester  
30 Church Street  
Rochester, NY 14614  
Attention: Jill Symones

Dear Ms. Symones,

I am writing this letter to verify that the pole barn to be built at 121 & 127 Pool Street Rochester, NY 14606 is to be used for storage only. The storage will consist of outdoor furniture, children's toys, bicycles and hand tools for my children and grand children who live at 460 and 458 Campbell Street Rochester, NY 14611.

There will not be any vehicles located on the property at 121 & 127 Pool Street Rochester, NY 14606. There also will not be a bathroom built in the pole barn.

Again the pole barn will be used for storage of personal items for my children and my grand children.

Thank you,  
Dominick Cimino



City of Rochester, NY

AREA VARIANCE
STATEMENT OF DIFFICULTY
Section 120-195B(4)(b)

An area variance shall be granted only if the applicant can establish the existence of EACH of the following conditions:

A. Benefits. The benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community by the granting of the variance.

Granting the request for fence is in character with neighboring properties and will allow us to keep the property free from loiterers. It will also allow us maximum use of our lot.

In regard to the location of the structure's rear setback, the requested variance will again allow maximum use of the property footage while allowing access behind for maintenance.

B. Essential character of the area. No undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the variance.

Granting the variance will not change the character of the neighborhood as there is an existing fence in place at this time and has been there since before taking possession. Also, as noted there are several properties with fencing similar to this with same setback. The rear setback proposed would also be greater than the structure on the adjoining property to the west on Dakota street being 1.7' and similar to property on opposite side of pool street.

C. No other remedy. There is no other means feasible for the applicant to pursue, other than the granting of this area variance.

There is no other way in which we can arrange the property and get maximum land use unless variances are granted

**D. Significance.** The requested variance is not substantial.

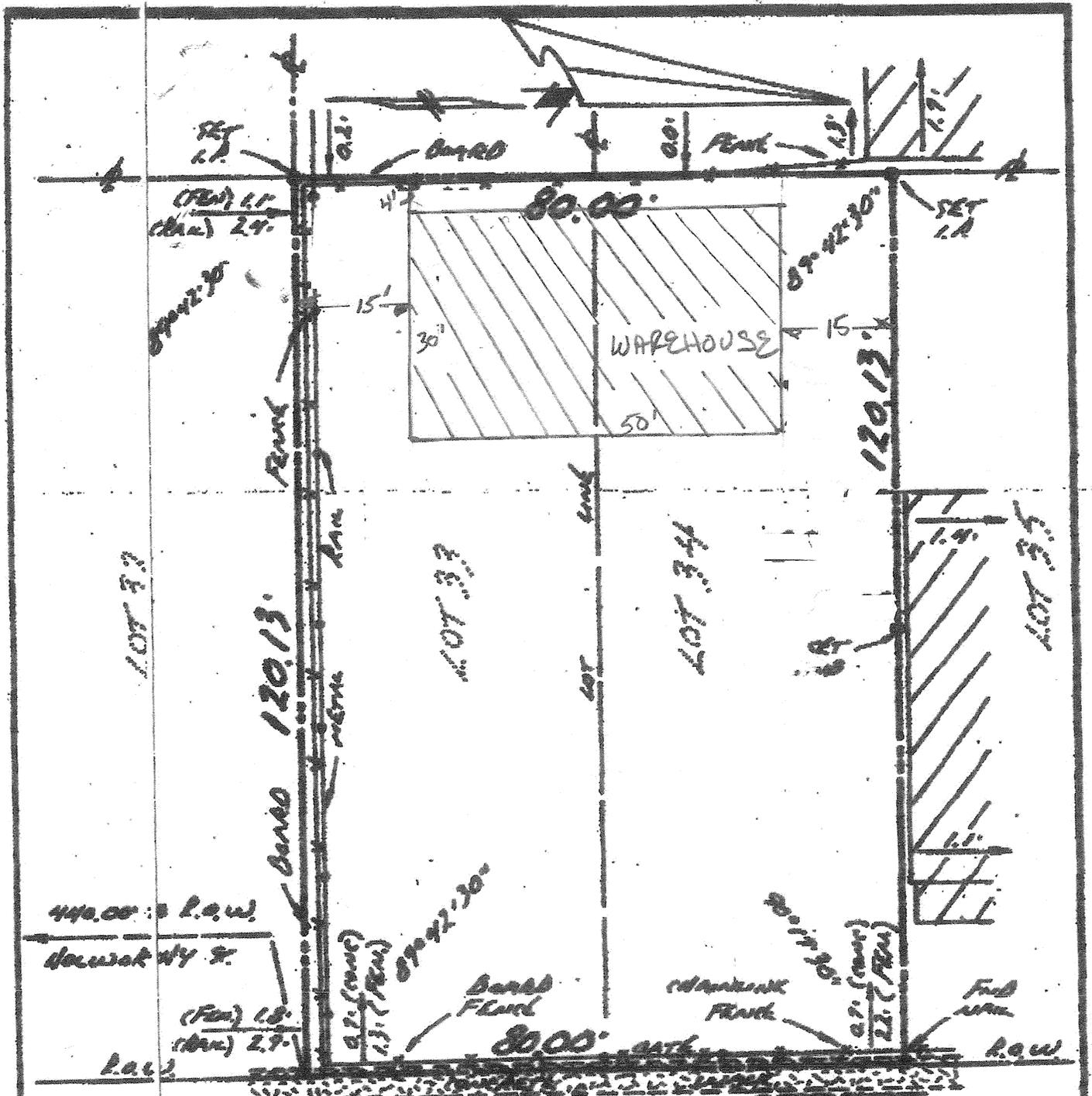
There is no substantial difference in proposed use than what is existing on area properties. Existing shed on property to be removed also has rear setback of 3.3'. Applicant is requesting 5' rear setback while maintaining side setback requirements.

**E. Physical and environmental conditions.** The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

There will be no adverse effect or impact to physical or environmental conditions caused by granting requested relief.

**F. Not self created.** The alleged difficulty was not self created, the consideration of which shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance.

The variance requested is due to the fact there is an existing fence in location requested in addition to an existing structure on premise. This lead applicant to believe existing conditions would be code and a simple building permit would be required to remove existing structure and replace with new to meet applicant's needs. Applicant is merely attempting to gain maximum use of property footage.



**POOL ( 50' ROW ) STREET**

- REFERENCES:**
- 1) ADITRYANT OF TITLE NOT PROVIDED
  - 2) LIBER 3 OF MAPS, PAGE 123 - POOL FARM SUBDIVISION
  - 3) LIBER 8592 OF DEEDS, PAGE 54
  - 4) CITY OF ROCHESTER, DISTRICT 19, MAP 38

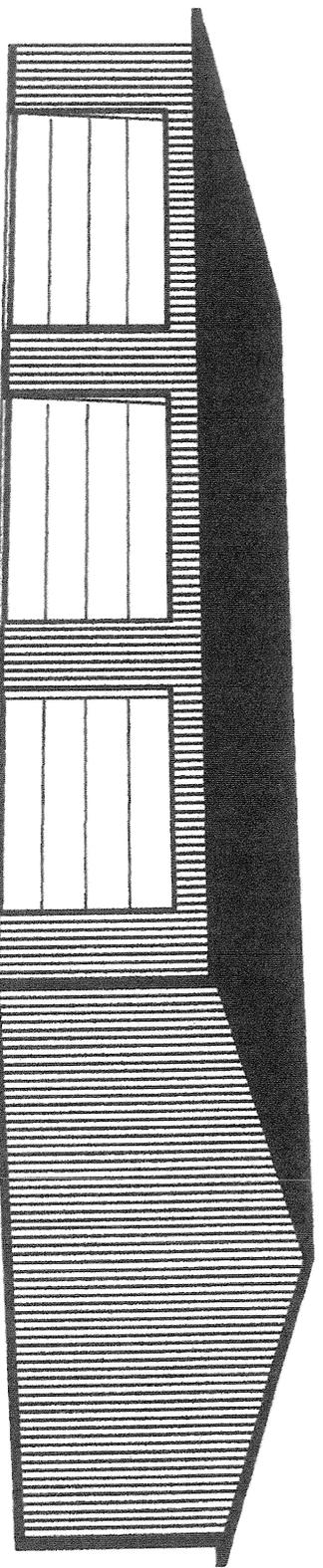
**CERTIFICATION:**  
 I hereby certify to: *DORIANE CURTIS*



that this map was made *Nov 18 2009* from notes of an instrument  
 Survey completed *APR 10 2009* and from references listed hereon.



**EAVE SIDE 1/GABLE SIDE 1 3D PERSPECTIVE**

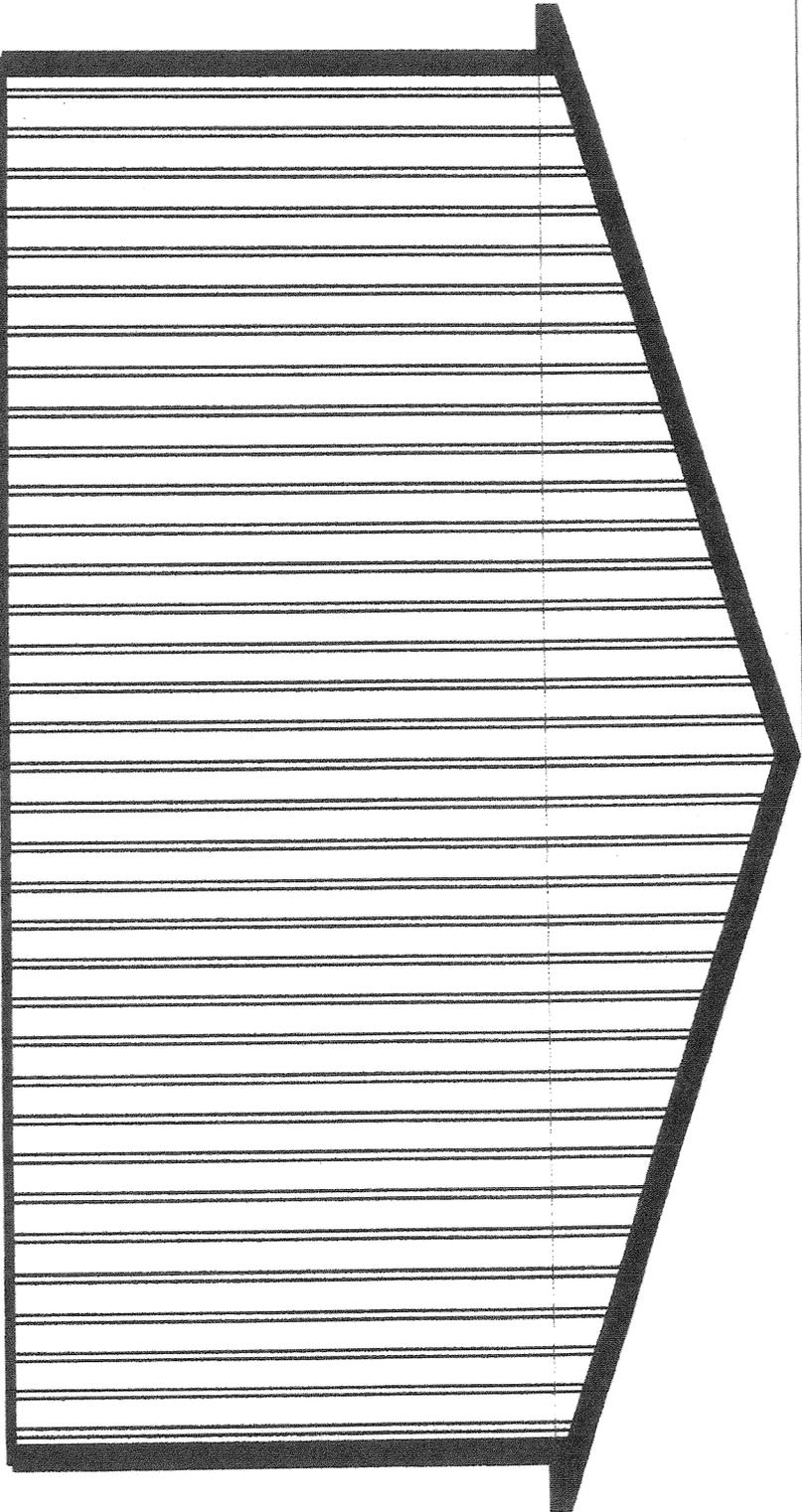


Qhr  
Estimate Number: 168  
5/3/2016



SOUTH

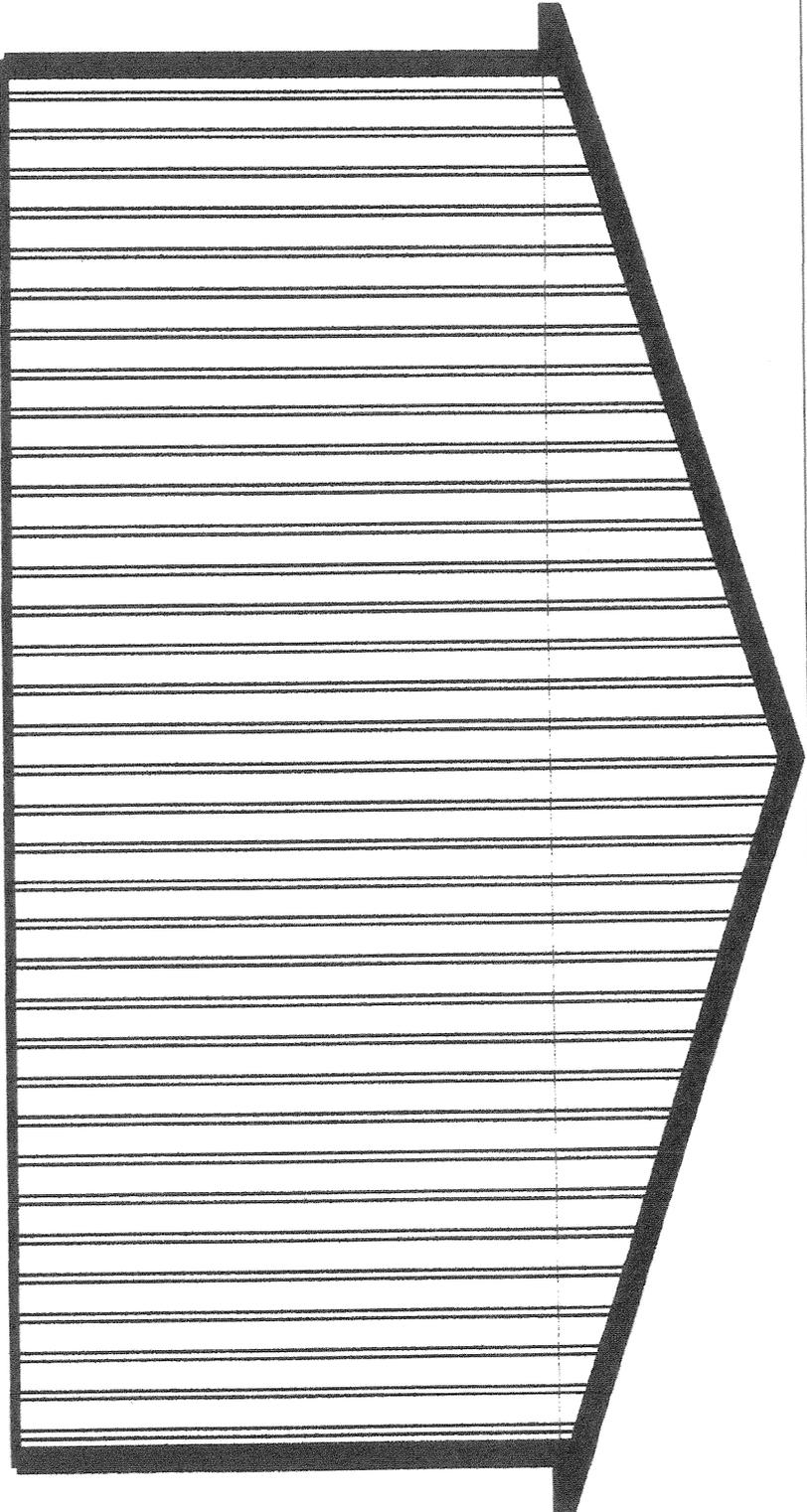
# SIDE-GABLE SIDE 1 ELEVATION



Construction  
**Maestro**  
Roof Framing & Gables  
Estimating Software Version 3.0



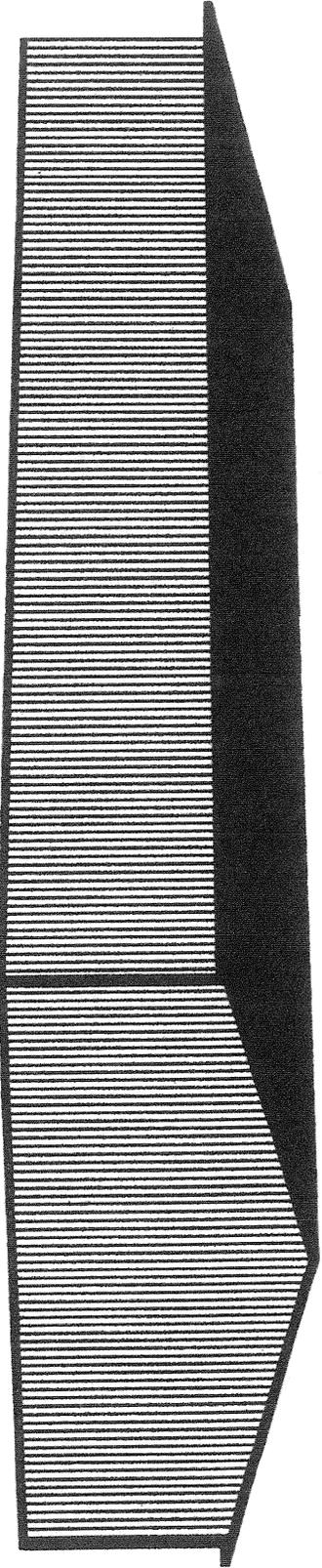
*North* · **SIDE-GABLE SIDE 2 ELEVATION**



Construction  
**Maestro**  
Paint Prints & Garage  
Estimating Software Version 3.0



**EAVE SIDE 2/GABLE SIDE 2 3D PERSPECTIVE**

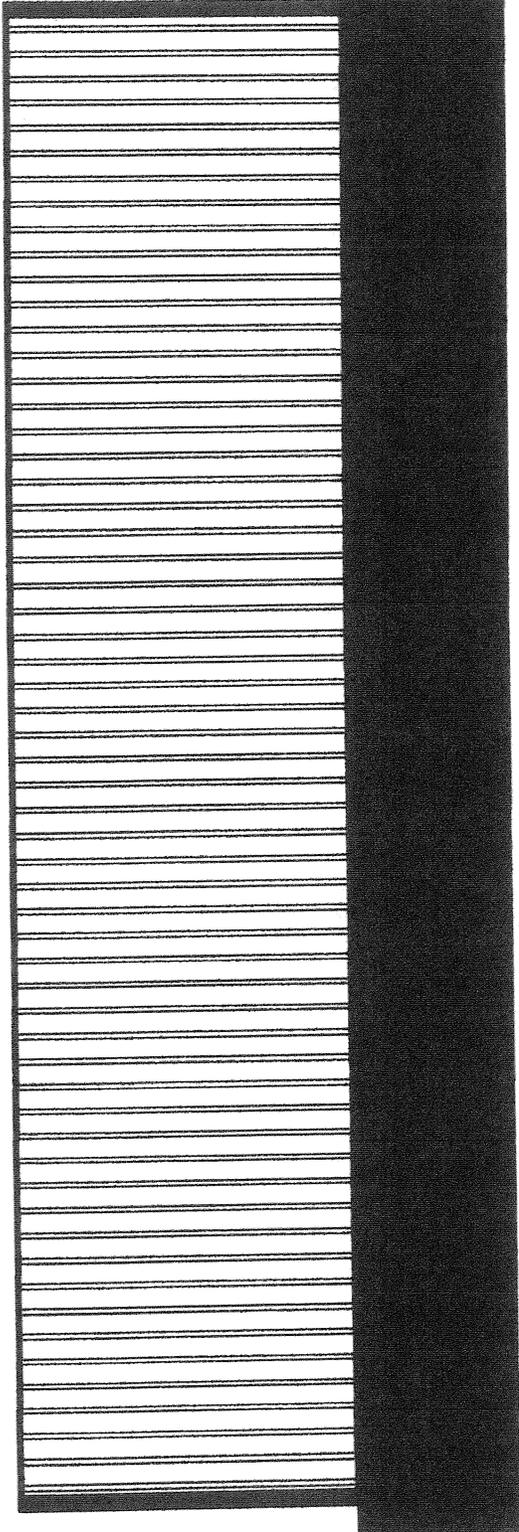




*WEST*

**SIDE-EAVE SIDE 2 ELEVATION**

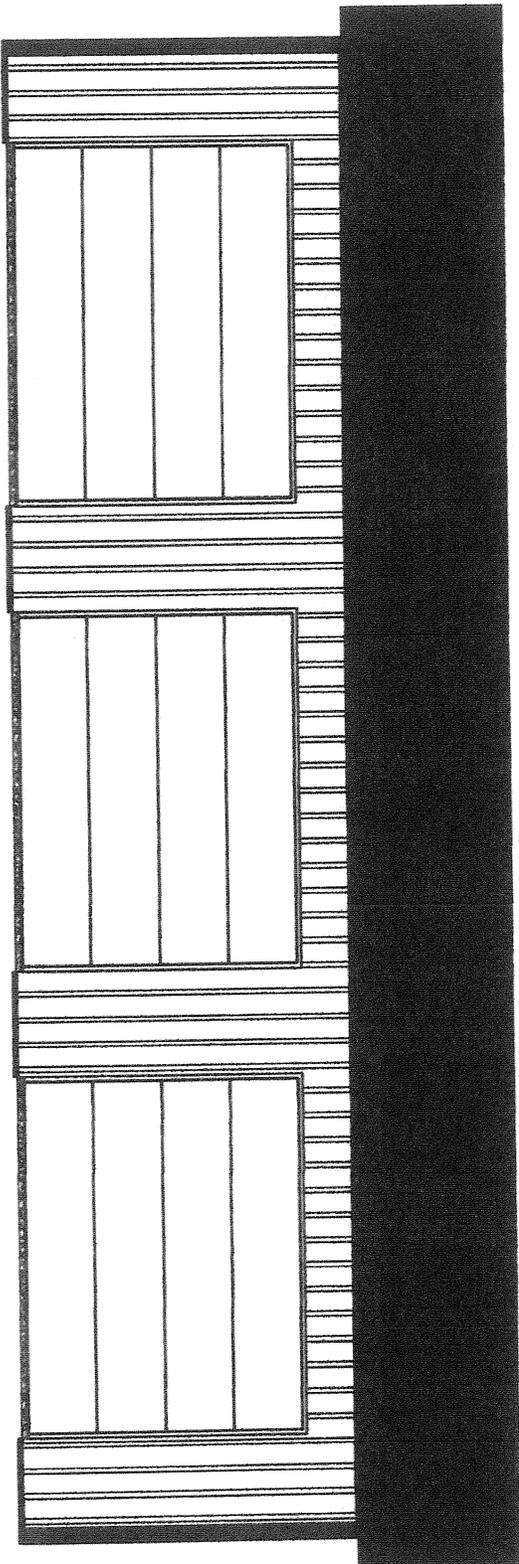
Construction  
**Masonry**  
Building Systems & Services, LLC





*EAST SIDE-EAVE SIDE 1 ELEVATION*

Construction  
**Maestro**  
Building Systems & Products, Inc.





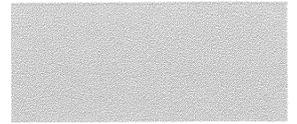
Vintage White



Polar White  
(also available in G-90 Galvanized)



Saddle Tan



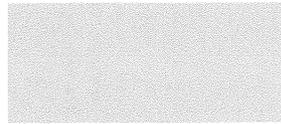
Clay



Buckskin



Gray



Light Stone



Regal White



Charcoal Gray



Burnished Slate



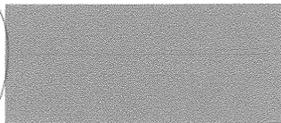
Hawaiian Blue



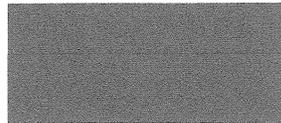
Evergreen



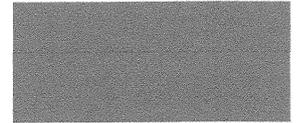
Radiant Red  
*SIDING*



Rustic Red



Burgundy



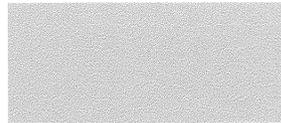
Koko Brown



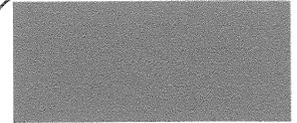
Coal Black



Cobalt Blue



Desert Sand



Ivy Green  
*ROOF*



Galvanized



Galvalume Plus<sup>®</sup>

Final color selection should be made from actual color chips.

For the most current information available, visit our website at [www.abcmetal.com](http://www.abcmetal.com)

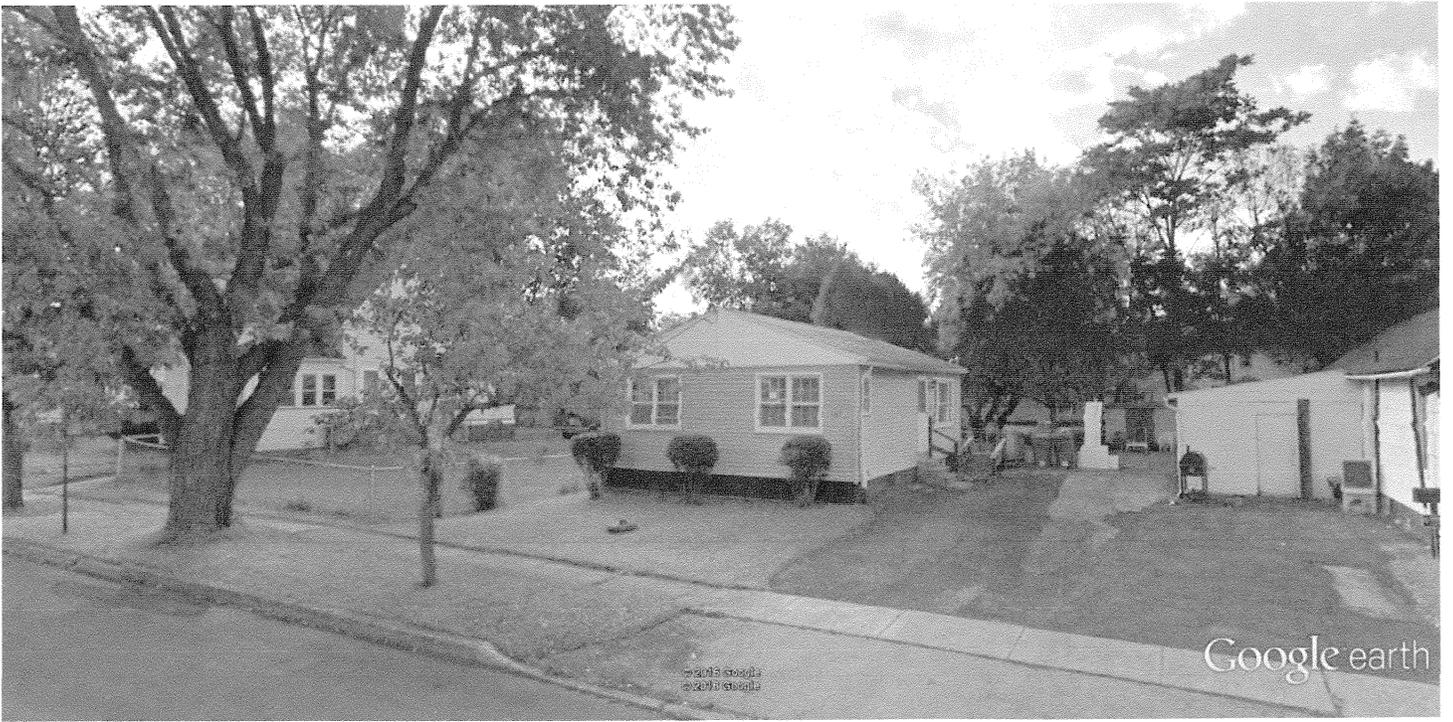
See color selection chart for gauge and warranty availability.



Google earth

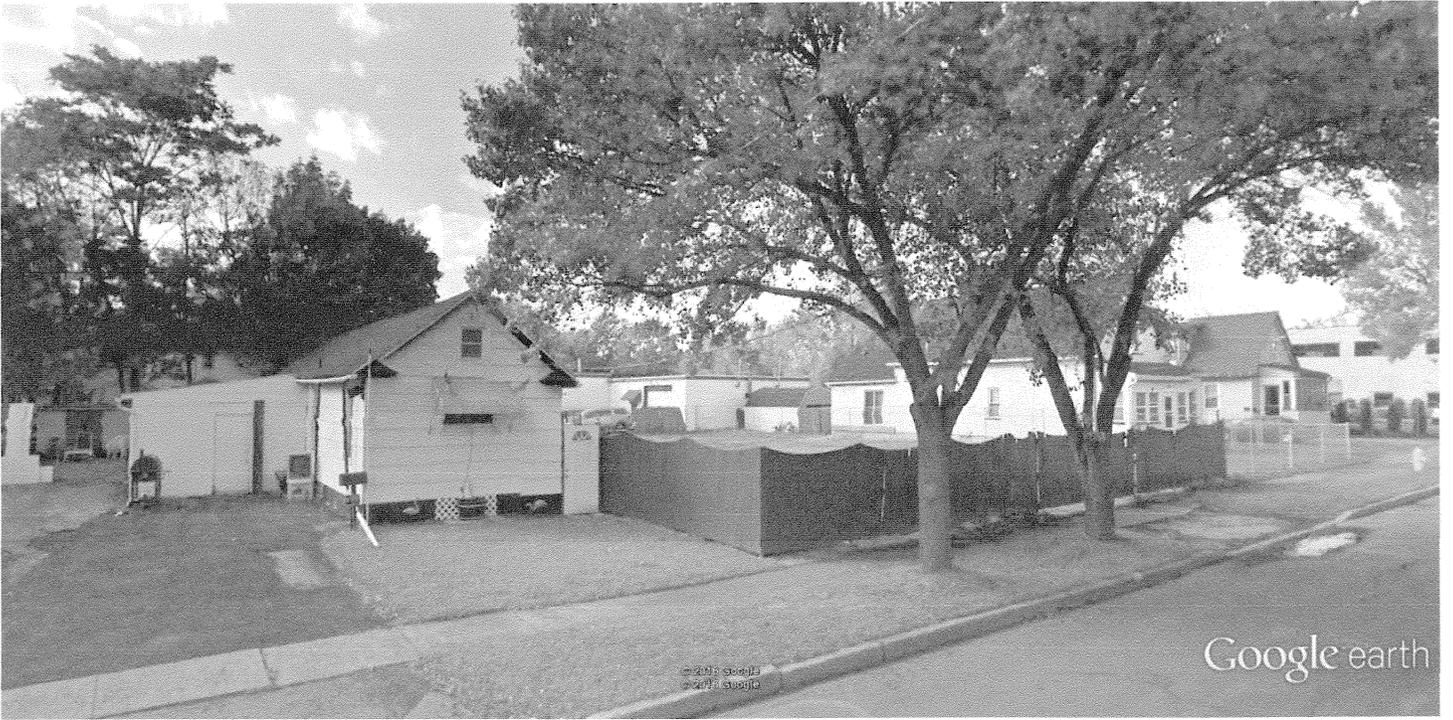
feet  
meters





Google earth





Google earth





Google earth





Google earth

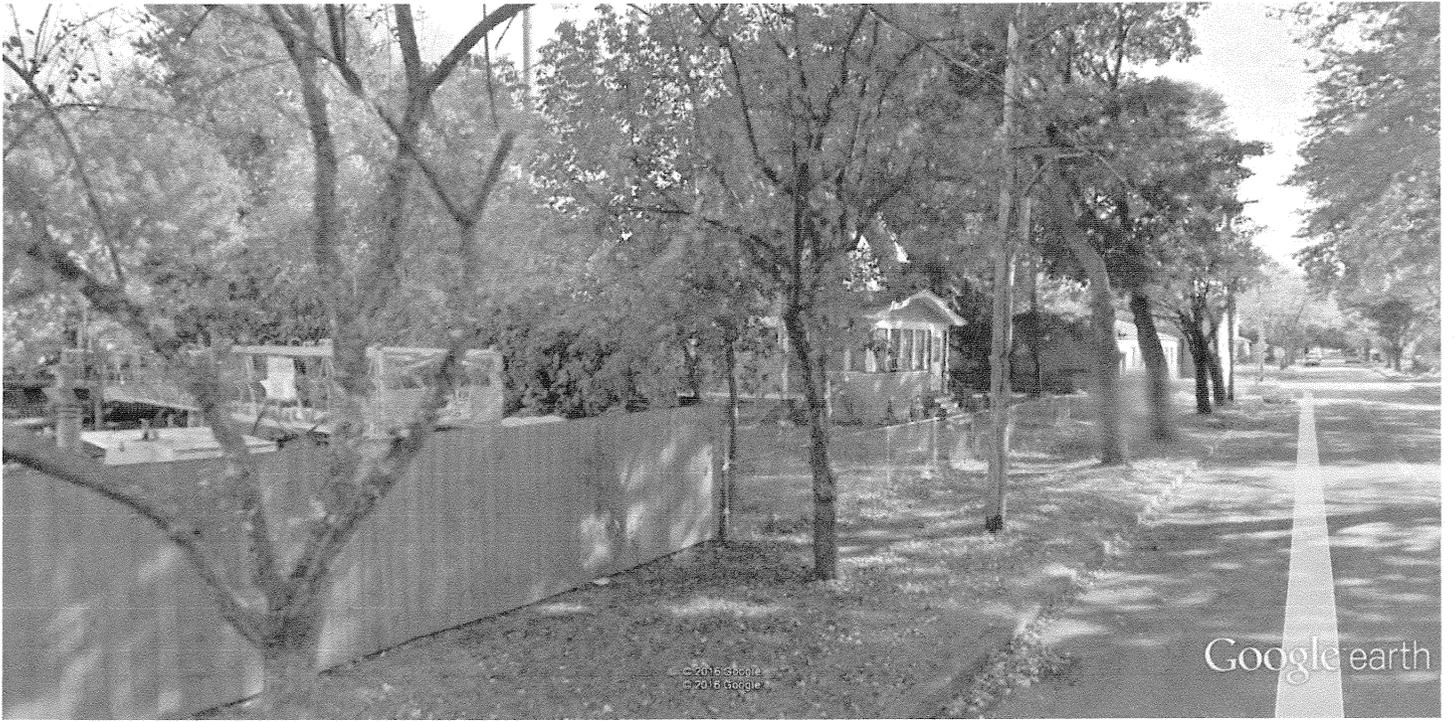
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Google earth





Google earth

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meters

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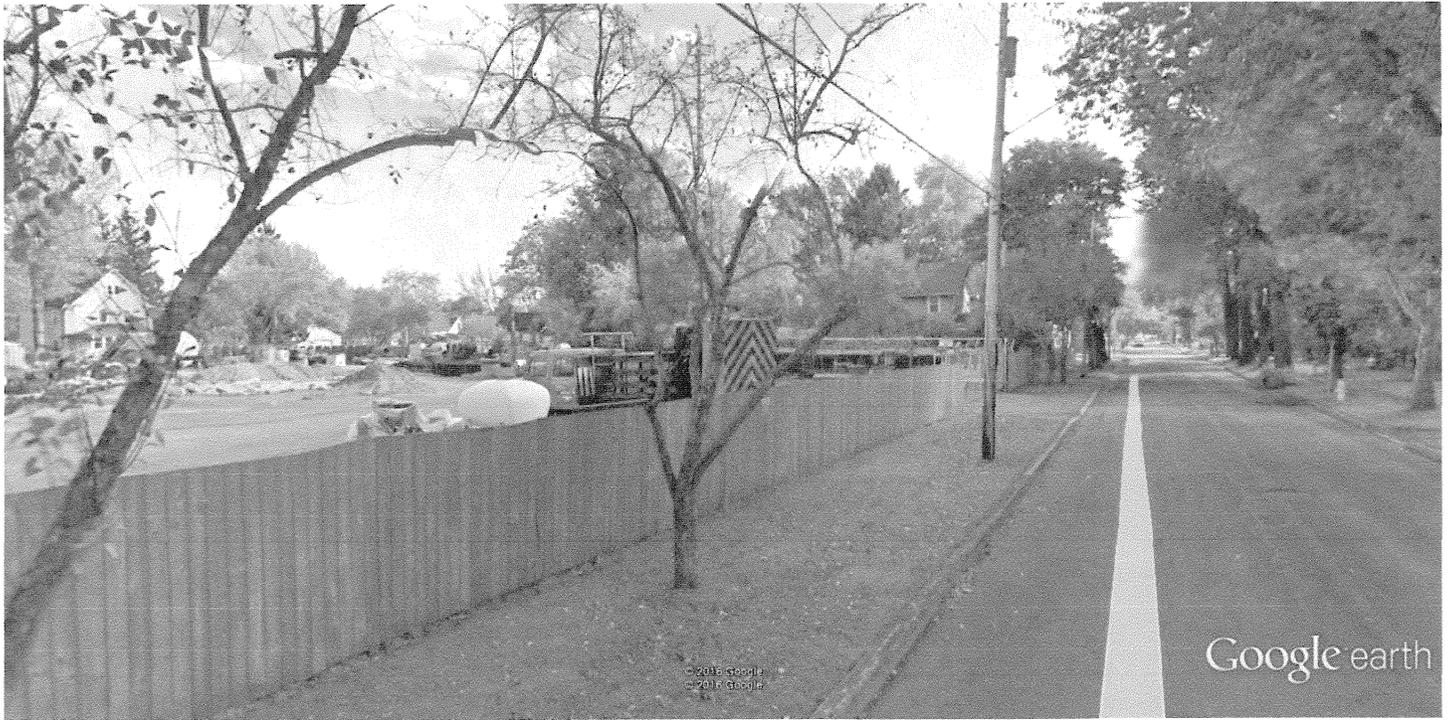




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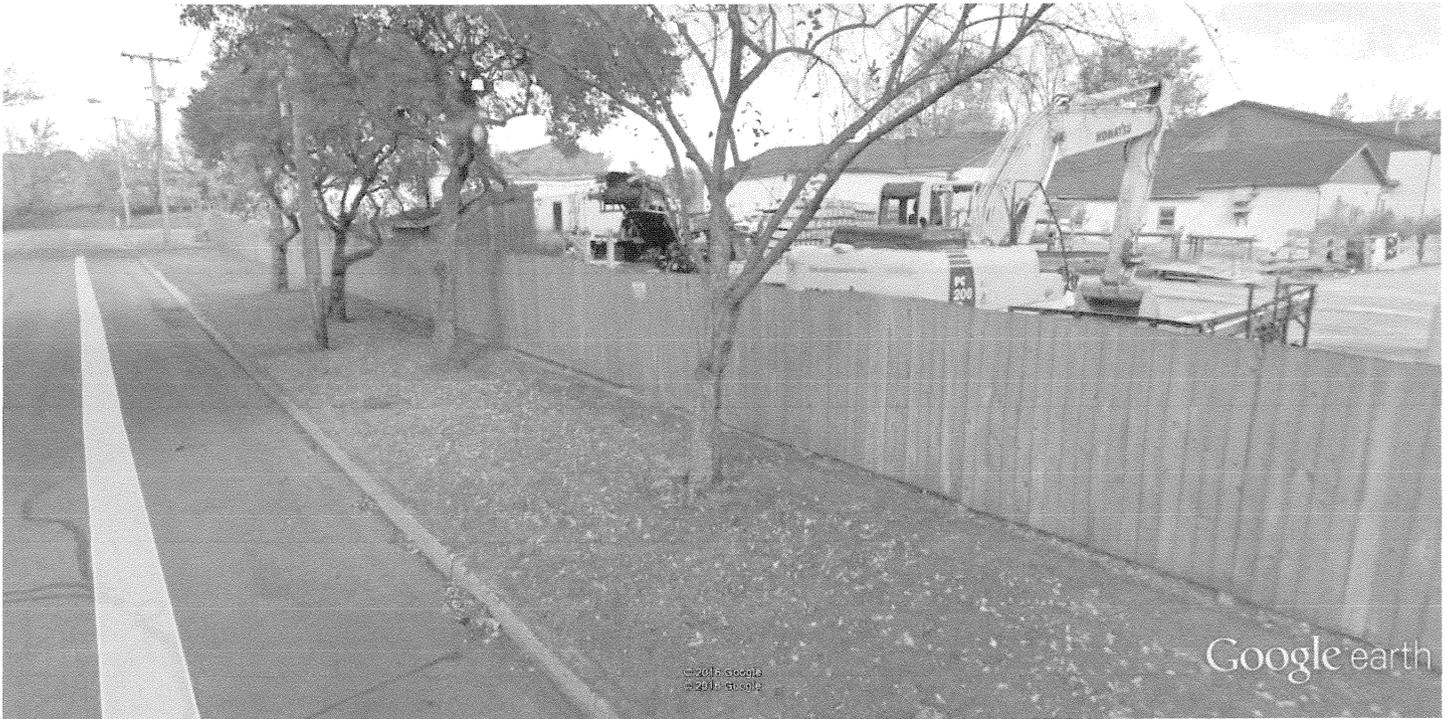




Google earth

feet  
meters





Google earth



*\* more photos available  
in variance file*



**ZONING BOARD OF APPEALS  
STAFF REPORT  
September 15, 2016**

**Use Variance**

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**Case # 7:**

Staff Reviewer: Jill Symonds

**File Number:** V-029-16-17

**Applicant:** Saba Gebreamlak

**Project Address:** 14 Vetter Street

**Zoning District:** R-1 Low-Density Residential District

**Section of Code:** 120-199

**Request:** **To re-establish use of the property as a two-family dwelling that has lost its rights due to a period of vacancy greater than nine months.**

**Analysis:** The subject property is a vacant built-as single family dwelling. At a time when the zoning district permitted it, the dwelling was converted to a 2-family dwelling. Under the 2003 Zoning Code, the use as a 2-family dwelling in an R-1 district is nonconforming. In accordance with Section 120-199 of the Zoning Code, nonconforming uses are subject to abandonment if there is a period of vacancy greater than 9 months. City records show that the dwelling has been vacant since December 12, 2014, and therefore, has lost its rights to the two-family dwelling. The applicant is proposing to re-establish the nonconforming two-family dwelling.

**Code Compliance:** In accordance with section 120-199, a use variance is required to re-establish the use of the structure as a two-family dwelling since it has been vacant for a period of greater than nine months.

**Code Enforcement:** The subject property has been cited for loss of rights.



PROJECT INFORMATION

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 14 Vetter Rochester N.Y 14605

2. APPLICANT: Saba Gebreamlak COMPANY NAME: \_\_\_\_\_  
Russell U.V. sees

ADDRESS: 45 Brookhaven Terrace CITY: Rochester ZIP CODE: 14621

PHONE: 585-576-9100 FAX: \_\_\_\_\_

E-MAIL ADDRESS Sabagebreamlak@yahoo.com

INTEREST IN PROPERTY: Owner  Lessee \_\_\_\_\_ Other \_\_\_\_\_

3. PLAN PREPARER: Kevin All inclusive Home Improvement

ADDRESS: 136 Rosemary CITY: Rochester ZIP CODE: 14621

PHONE: 585-702-7769 FAX: \_\_\_\_\_

4. ATTORNEY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

5. ZONING DISTRICT: \_\_\_\_\_

6. DETAILED PROJECT DESCRIPTION (additional information can be attached): \_\_\_\_\_

Painting, Electrical, ~~plumbing~~, gutting,  
and carpentry. Estimated amount  
for labor is \$22,000.  
1/2 Labor and materials

7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased): 3 months

APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: [Signature] DATE: \_\_\_\_\_

OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

SIGNATURE: Saba Gebreamlak DATE: 8-2-16



# USE VARIANCE STATEMENT OF INCOME AND EXPENSE

**PLEASE NOTE:** AT HEARING TIME, APPLICANTS MAY BE ASKED TO PROVIDE AT LEAST TWO (2) CALENDAR YEARS OF FINANCIAL INFORMATION, OR FROM THE DATE OF PURCHASE, WHICHEVER IS LESS.

PROPERTY ADDRESS: 14 Vetter St. Rochester N.Y 14605

**A. PROPERTY DATA**

1. Date property was purchased by current owner 12-18-2015

2. Was a Certificate of Occupancy issued? No

Date of issuance? \_\_\_\_\_

If so, for what use(s)? \_\_\_\_\_

If not, why? Home was purchased in auction as a two family, city will not issue FFO because property lost its zoning right as two family

3. Cost of Purchase 18,000

4. Original Amount of Mortgage(s) 0

Mortgage Holder(s) None

Address \_\_\_\_\_

Interest Rate(s) None Term of mortgage(s) None

5. Is the property for sale? NO

If so, for how long? \_\_\_\_\_

asking price? \_\_\_\_\_

for what use(s) \_\_\_\_\_

Have any offers been received? NO

If so, for what amount(s)? \_\_\_\_\_

Summarize any attempts to sell the property The house can sell as a two family for \$44,657. As a

6. Present value of property \$ 30,000.00

Source of valuation City property info Website

**B. GROSS ANNUAL INCOME** (Information provided must be for permitted uses, not the proposed use)

USE (# of Apts., Retail Store, Office, etc.)	UNIT SIZE (sq. ft.; # of bedrooms)	MONTHLY RENT AMOUNT	ANNUAL RENT AMOUNT
1. <u>single</u>	_____	<u>800.00</u>	<u>9600</u>
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
TOTAL ANNUAL INCOME:			<u>9600</u>
LESS (8%) VACANCY FACTOR: (Explain, if greater than 8%)			<u>768</u>
TOTAL ADJUSTED GROSS INCOME:			<u>8832</u>

**C. ANNUAL EXPENSES**

1. <u>Annual Fixed Charges</u>	
Real Estate Taxes (City & County) .....	<u>20,447.11</u>
Insurance .....	<u>1359.00</u>
Average Annual Interest (over next 5 years).....	<u>0</u>
2. <u>Operating Expenses</u>	
Electric .....	<u>2880.00</u>
Fuel .....	<u>\$100.58</u>
Water .....	<u>200.00</u>
Pure Waters .....	_____
Advertising.....	_____
Miscellaneous (attach explanation) .....	_____
3. <u>Maintenance Expenses (attach list)</u>	
Repairs .....	<u>400</u>
General Building Maintenance .....	<u>600.00</u>
Yard and Ground Care.....	<u>300.00</u>
Miscellaneous.....	<u>600.00</u>
TOTAL ANNUAL EXPENSES:	<u>7884.29</u>
PROFIT or (LOSS)	<u>948</u>

**D. TOTAL INVESTMENT**

1. Down payment .....	<u>18000.00</u>
2. Capital Improvements (attach list) .....	<u>54,000.00</u>
3. Principal paid to date (original mortgage less current principal balance) .....	<u>0</u>
TOTAL INVESTMENT:	<u>72,000</u>

**E. RATE OF RETURN/YR.** [Profit or Loss divided by Total Investment] 0.013%

SIGNATURE OF PREPARER John Vibranak DATE 8-2-16

Rain #1 Inclusive Home Improvements Inc.  
 phone #: 585 802 1169

NOTES

Whole house needs to be rewired, panel boxes need to be replaced. Two panels will be changed to into a single panel. meters must also be moved outside after being reduced into one whole house including ceilings, etc needs to be repainted.

walls need to be removed to change house into a one family home. Plugs and walls switches needs to be relocated. Floors will have to be repaired where the walls use to sit.

some pipes will need to be replaced/relocated.

Two furnaces needs to be replaced with one larger furnace to heat the whole house.

Kitchen needs to be ~~renovated~~ renovated.

Some of the windows need to be replaced.

all doors need to be replaced; All frames need to be replaced as well.

Bath needs to be completely renovated.

	CDS T	maintain as duplex	Convert to single
Item			
Electric	7,000	9,000	
Paint	2,000	2,000	
Flooring	30,000	10,000	
Plumbing	5,000	8,000	
Heating	4,000	19,000	
Kitchen 1 1/2	30,000	7,000	
Windows	1,000	1,000	
doors	4,000	4,000	
Bath 1 1/2	3,000	3,000	
	32,000	54,000	



City of Rochester, NY

# USE VARIANCE STATEMENT OF UNNECESSARY HARDSHIP

A use variance shall be granted only if the applicant can establish the existence of EACH of the following, in accordance with Section 120-195B(3) of the Zoning Ordinance:

**A. No 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 the 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, and not the unsupported opinion of the owner or those appearing for the owner.

The house at 14 Vetter was presented at the November auction as a two family home that is the reason my ~~Business~~ partner and business partner and I decided to spend eighteen thousand. This property was bought as an investment property.

**B. Unique circumstances.** The inability to yield a reasonable return results from a unique circumstances peculiar to the subject property which do 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 a unique circumstance.

did not see inside of place before purchase

**C. Not self created.** The inability to yield a reasonable return is not the result of any action or inaction by the owner or their predecessors in title. Acquisition or improvement of the subject property at any time after the enactment of the provision sought to be varied shall raise a rebuttable presumption that the owner's inability to realize a reasonable return is the result of the owner's action.

Find out if at what other prop around area sold for  
talk to a realtor agent

**D. Essential character of the area - surrounding uses and facilities.** 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 and the community or the general plan (i.e. Zoning Ordinance and Comprehensive Plan intent).

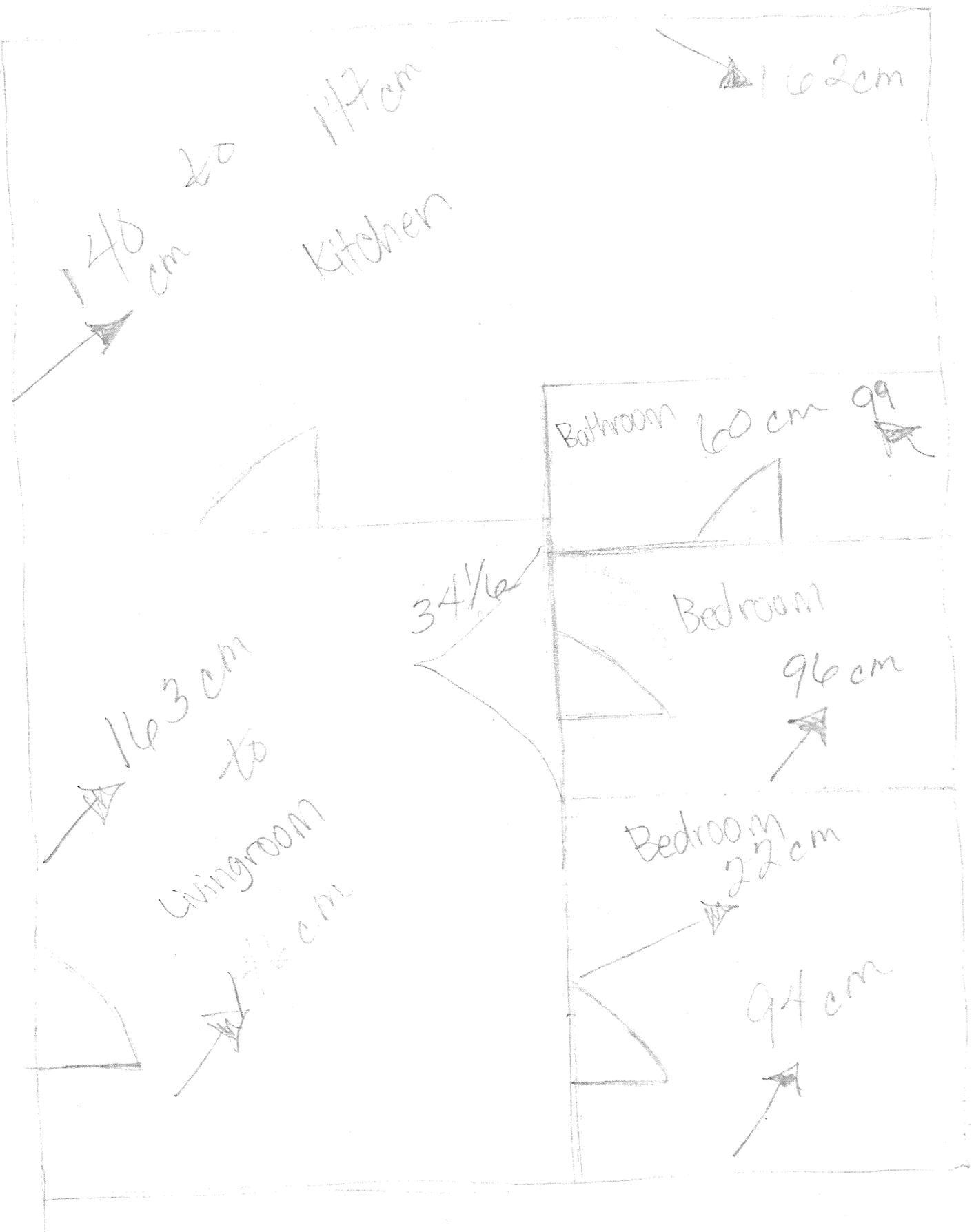
*No, it will not be detrimental to the public health.*

**E. No other remedy.** There is no means other than the granting of the variance by which the hardship can be avoided or remedied to permit the economic use of the subject property.

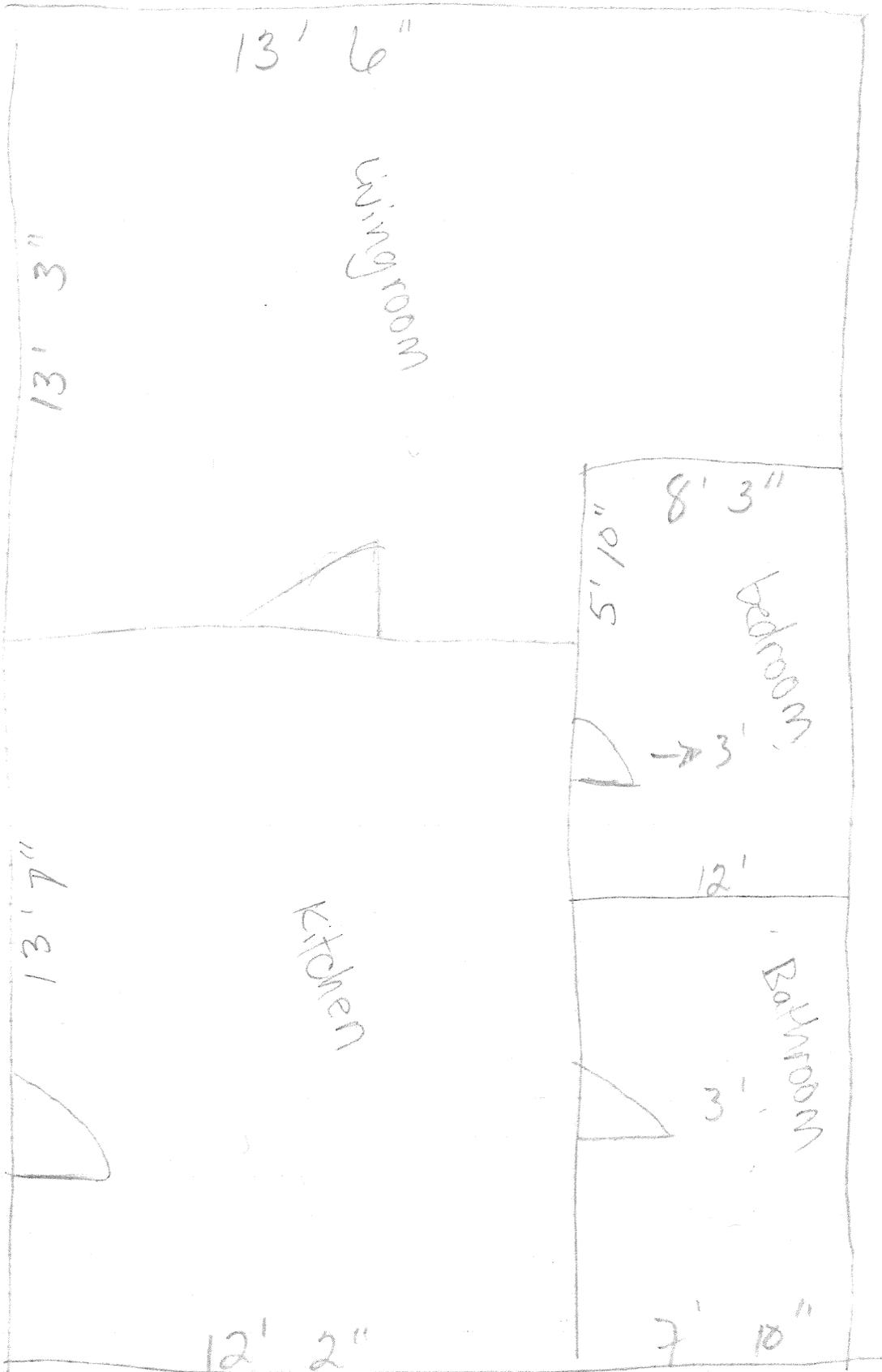
*No, there is no other remedy.*

DINA

71



Dwn  
A.2

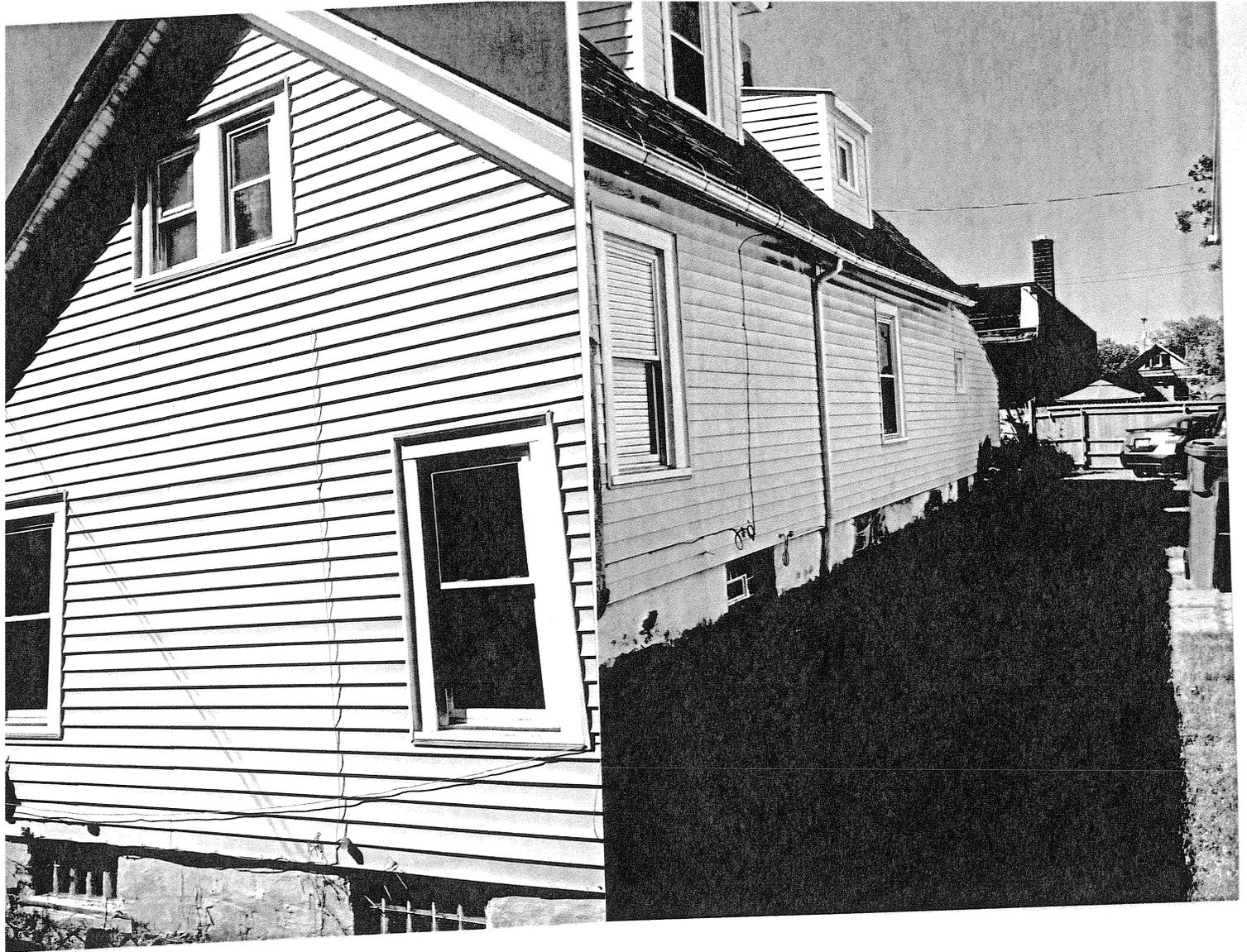


A3

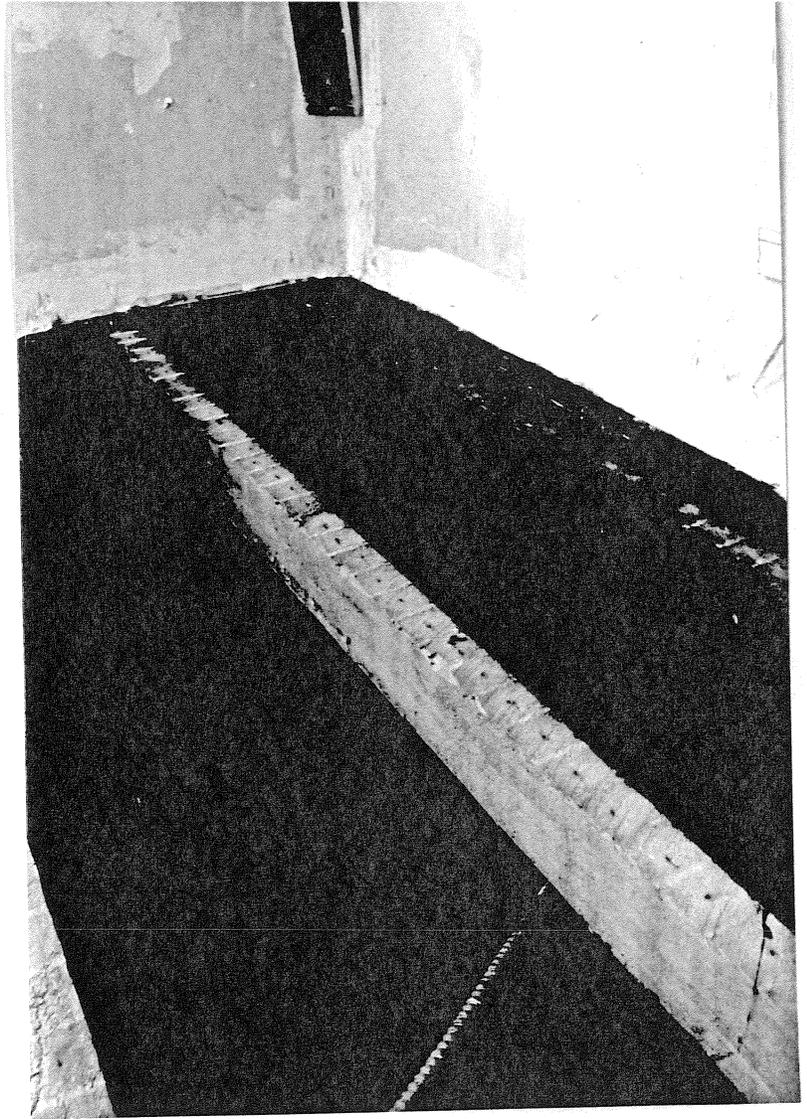
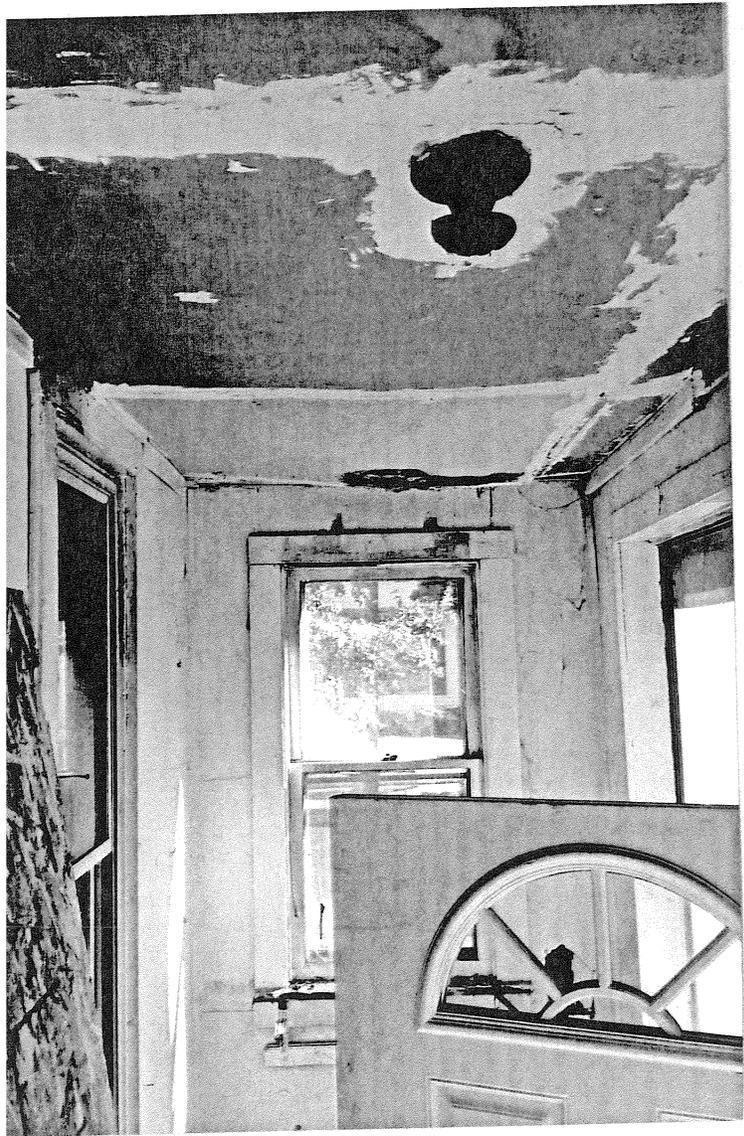
27 1/2

"upstairs"





\* More photos available in file





**ZONING BOARD OF APPEALS  
STAFF REPORT  
September 15, 2016**

**Use Variance**

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**Case # 8:**

Staff Reviewer: Jill Symonds

**File Number:** V-046-15-16

**Applicant:** Loretta Spezio

**Address:** 111 Industrial Street

**Zoning District:** CCD-C Center City – Cascade-Canal District

**Section of Code:** 120-64

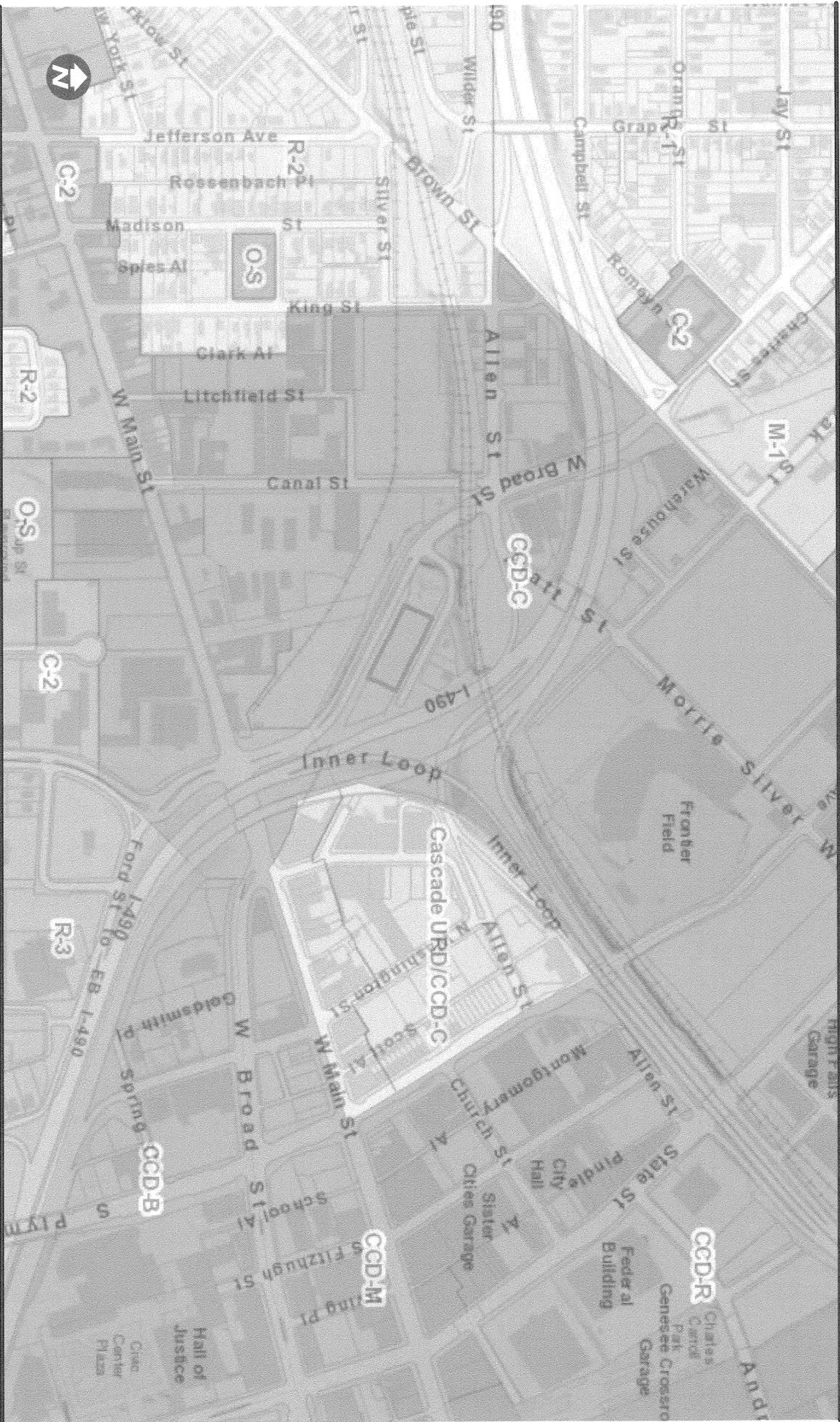
**Request:** To establish use of the property for truck and equipment storage to serve the existing paving and trucking company located at 100-106 Industrial Street. Outdoor uses are prohibited in this District.

**Background:** On February 18, 2016, the Zoning Board approved the economic hardship of the use variance. The applicant subsequently submitted an application for Site Plan Review. Preliminary Site Plan Findings are attached, which identify the required variance. The Zoning Board is asked to consider the remaining four use variance standards (e.g. unique circumstances, not self-created, essential character of the area, no other remedy).

**Code Compliance:** Section 120-64 prohibits any use that is not in a fully enclosed building (**use variance required**).

**Code Enforcement:** The subject property is in code enforcement.

# 115 INDUSTRIAL ST



August 29, 2016

This map is intended for general reference only.  
The City of Rochester makes no representation  
as to the accuracy or fitness of the data presented.

## City of Rochester, NY



City of Rochester, NY  
Lovely A. Warren, Mayor

PROJECT INFORMATION

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 111 Industrial Street

2. APPLICANT: Loretta Spezio COMPANY NAME: Regional Gravel Products, Inc.  
 ADDRESS: 8222 Routes 5 & 20, PO Box 65 CITY: West Bloomfield ZIP CODE: 14585  
 PHONE: (585) 657-8001 FAX: (585) 657-8093  
 E-MAIL ADDRESS ELAMSAND@aol.com

INTEREST IN PROPERTY: Owner  Lessee  Other

3. PLAN PREPARER: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
 PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

4. ATTORNEY: Kurt B Odenbach  
 ADDRESS: 28 E. Main St., Ste 1700 CITY: Rochester ZIP CODE: 14614  
 PHONE: 585-784-4809 FAX: 585-784-4849  
 E-MAIL ADDRESS kodenbach@davidsonfink.com

BUILDING BUREAU  
ROOM 121

1:07PM Jan 20 2016  
01:00Z 001 BUD

Zoning \$250.00  
INFO 111 INDUSTRIAL

5. ZONING DISTRICT: CCD-C CHECK \$250.00

6. DETAILED PROJECT DESCRIPTION (additional information can be attached): \_\_\_\_\_  
 The property is to be sold to Tandai Asphalt & Paving and will be used in the same manner that the neighboring property is currently being used, as a home base for the asphalt and paving trucks. The property is currently vacant land and will be used in a manner that will allow Tandai Asphalt to expand its operations in the same location that they are currently operating.

7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased): N/A

APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

SIGNATURE: Loretta J. Spezio DATE: 1/20/16



## City of Rochester

Neighborhood and Business Development  
City Hall Room 125B, 30 Church Street  
Rochester, New York 14614-1290  
[www.cityofrochester.gov](http://www.cityofrochester.gov)

Bureau of Planning  
and Zoning

September 1, 2016

Mr. Michael Tandoi  
Tandoi Asphalt and Sealcoating  
106 Industrial Street  
Rochester, NY 14608

**Re: Preliminary Site Plan Findings, SP-46-15-16**  
**115 Industrial Street (formerly 111 Industrial Street)**

**Zoning: CCD-C Center City District – Cascade/Canal**

Dear Mr. Tandoi:

A preliminary review of your application for site plan approval to establish storage yard for construction vehicles and equipment, has been completed. The review was based on the site plan prepared by Marathon Engineering, dated May 26, 2016.

Please email or call Jason Haremza at [jason.haremza@cityofrochester.gov](mailto:jason.haremza@cityofrochester.gov) or 585-428-7761 if you have any questions.

### **Neighborhood Context**

This area on the western edges of downtown has been a transportation nexus since the opening of the Erie Canal in the 1820s. Later transportation infrastructure including the Genesee Valley Canal, New York Central Railroad, Buffalo, Rochester, and Pittsburgh Railroad, Rochester Subway, and Interstate 490 show the changes in transportation over nearly 200 years.

This site, for much of the 19<sup>th</sup> century, was along the north side of the Erie Canal. By 1900 and throughout the first half of the 20<sup>th</sup> century, this site operated as the Yates Coal Company and was served by the Erie Canal until 1919 and a rail siding, likely until the 1950s.

The neighborhood still reflects a long history of transportation and industrial uses. However, nearby properties such as 90 Canal Street, 69 Cascade Drive (the Knowlton Building), and 242 West Main Street (Bridge Square) have been converted to a mix of residential, office, and other uses, reflecting the continuing evolution of this part of the city.

In addition, since the completion of Interstate 490 in the early 1970s, with access ramps a short distance to the northwest at Brown and Allen Streets, this stretch of West Broad Street has become a gateway into downtown Rochester for motorists arriving from the west. West Broad Street was reconstructed within the past 10 years by the City of

Rochester and improved with new sidewalks, curbing, street trees, decorative lighting, and a planted median.

### **Existing Conditions**

The 0.74 acre site consists of a single parcel zoned Center City District – Cascade/Canal (CCD-C). The parcel was subdivided in October 2015 from a larger parcel known as 111 Industrial Street. The remaining portion of 111 Industrial, to the east of 115 Industrial, has been retained by the former owner, Regional Gravel Products, and is vacant land with a billboard.

The subject property is vacant land covered with gravel, broken concrete, and other debris. The last permit on record is an uncompleted permit from 2003 for the demolition of a frame garage.

The site is highly visible from both West Broad Street and Interstate 490.

### **Project Scope**

The proposal is to establish the use of the site for storage of construction vehicles and equipment used in the asphalt paving business. The site will be cleared of debris and paved with gravel and/or asphalt millings. A six foot tall chain link fence is proposed to be installed just inside the property line. A light pole with security lighting is proposed for the north side of the property, along Industrial Street.

Two 20 foot wide driveways are proposed on Industrial Street.

### **Findings:**

#### **1. Environmental Determination**

Pursuant to New York State Environmental Conservation Law and Chapter 48 of the Rochester City Code, this project has been classified as an **Unlisted Action**.

A Notice of Environmental Determination was issued on August 31, 2016, with a **Conditioned Negative Declaration**. The proposed action, as conditioned, is one which will not have a significant adverse impact on the environment.

#### **2. Use**

Uses not in a fully enclosed building are not permitted anywhere in the Center City District, including Center City District – Cascade/Canal. As Center City District requires that all uses be in a fully enclosed building, the proposed outdoor storage use is not specifically addressed by the form-based requirements of the CCD-C zoning. Therefore Section 120-72G(1)(b) which contains the requirements for parking lots, was determined to be most appropriate by the Director of Planning and Zoning and has been applied to this proposal. See Code Compliance Review #2

The specific use, outdoor storage, is not permitted anywhere in the City, and is only Specially Permitted in the C-3 Regional Center and M-1 Industrial Districts, subject to requirements in Section 120-175. Therefore Section 120-175B(2) which contains the requirements for outdoor storage, was determined to also be appropriate by the Director of Planning and Zoning and has been applied to this proposal. See Code Compliance Review #3

### 3. Site Design

**a. Surface:** The proposed surface of gravel or asphalt millings is likely to create dust that could become airborne and carried on the prevailing westerly winds into the residential and office uses to the east of the site, across Interstate 490.

In addition, this surface material will be difficult to maintain in a neat and tidy manner, particularly after any snow removal operations. Gravel and millings are also prone to be tracked into the public streets by vehicle movements.

**b. Screening:** The site is highly visible from both West Broad Street, a primary gateway into downtown from the west, and Interstate 490.

It is recommended that the site be screened from West Broad Street and, due to the high visibility of the site, both side property lines should be screened as well, with a solid wall 8 to 14 feet tall, combined with landscaping. Although the Zoning Code only requires a wall between three and four feet tall, this requirement is appropriate for parking lots for passenger vehicles, but not for large trucks and construction equipment. Therefore, the additional fence/wall height is recommended.

The code also requires that any wall have articulated columns every 18 to 24 feet, to break up the long visual plane of a wall. In conjunction with this, it is recommended that a solid wall have some regular pattern of openings in it, so as to appear as the ruin wall of an industrial building and draw on the built form heritage of this neighborhood. An example can be seen a short distance away on the Morrie Silver Way side of Frontier Field:



Alternatively, the applicant may wish to consider constructing a long narrow building along the Broad Street frontage to screen the site and the proposed construction vehicle and equipment storage. This building need not be extravagant; a single story garage structure with the overhead doors facing north and landscaping along the south wall would be sufficient. The design of such a structure could draw on the industrial heritage of the area.

**c. Landscaping:** As previously noted, the City has recently reconstructed West Broad Street. There are street trees on the north side of West Broad, between the curb and sidewalk. It is recommended that these be augmented with a formal row of trees along the back side of the sidewalk, planted in a landscaped setback of no less than 10 feet.

#### **5. Department of Environmental Services (DES) comments**

DES made several comments based on their review of the project. Please see the attached memo from Albert Giglio, to Terry Mott, dated June 13, 2016.

Prior to final site plan approval, DES will have the opportunity to review and comment on any revised drawings.

#### **Code Compliance Review:**

##### **1. Site Plan Review.** Site plan review is required for the following:

**Section 120-65D.** Applications not meeting the design criteria, within the specified tolerance limits set forth in the Design Checklist tables, shall require site plan approval.

##### **2. Site Plan Review, Specific Design Criteria**

**Section 120-72G(1) Site**  
**Section 120-72G(1)(b) Parking Lot**

The Center City District zoning code is a form-based code that regulates the form buildings and site development. As Center City District requires that all uses be in a fully enclosed building, the proposed outdoor storage use is not specifically addressed by the form-based requirements of the CCD-C zoning. Therefore Section 120-72G(1)(b) which contains the requirements for parking lots, was determined to be most appropriate by the Director of Planning and Zoning and has been applied to this proposal.

1. Parking lots shall not be located at intersecting city streets.  
*Proposal meets requirement.*
2. Access to parking lots shall be from alley streets.

*Proposal does not meet requirement. Access is from Industrial Street, which has been designated as a 'neighborhood street'. **Minor deviation.***

3. Parking lots shall have setbacks to accommodate the required wall on all streets except alley streets.  
*Proposal does not meet requirement. No wall is proposed. **Minor deviation.***
4. Side and rear yard setback shall be a minimum 7.5 feet and a maximum nine feet.  
*Proposal does not meet requirement. This proposal has two sides. No setback is proposed. **Minor deviation.***
5. Parking lots shall be hard surfaced and concrete or granite curbed.  
*Proposal does not meet requirement. The proposed surface is gravel and/or asphalt millings. **Minor deviation.***
6. Parking aisles shall be oriented perpendicular to the front yard.  
*Proposal meets requirement.*
7. Parking lots shall be screened on city, district and neighborhood streets by a wall conforming to district building materials.  
*Proposal does not meet requirement. The site fronts on Industrial Street (a neighborhood street) and Broad Street (a district street). No screening is proposed. **Minor deviation.***
8. The wall shall be a minimum three feet high and a maximum four feet high.  
*Proposal does not meet requirement. No wall is proposed. **Minor deviation.** A three to four foot high wall is appropriate for a parking lot for passenger vehicles, but not for parking and storage of trucks and construction vehicles. (See also, Finding #3b)*
9. Walls shall have pedestrian openings eight feet to 10 feet wide aligned with the center line of the parking aisles. Pedestrian walks, the full width of the opening, shall be a hard surface and equal in material and pattern to the adjacent sidewalk.  
*Proposal does not meet requirement. No wall is proposed. **Minor deviation.** (See also, Finding #3b)*
10. Parking lots shall be landscaped with trees and continuous ground cover in curbed islands so that the parking lot is shaded to a minimum 40% at tree maturity.  
*Proposal does not meet requirement. No landscaping is proposed. **Minor deviation.** (See also, Finding #3c)*
11. Columns shall be expressed in the wall 18 feet to 24 feet on center.  
*Proposal does not meet requirement. No wall is proposed. **Minor deviation.** (See also, Finding #3b)*

12. Wall columns shall create a relief from the plane of the wall a minimum four inches.  
*Proposal does not meet requirement. No wall is proposed. Minor deviation. (See also, Finding #3b)*
13. Column width shall be 16 inches to 24 inches.  
*Proposal does not meet requirement. No wall is proposed. Minor deviation. (See also, Finding #3b)*
14. Lighting shall conform to Illumination Engineers Society of North America (IESNA) guidelines and shall be maintained from dusk to dawn.  
*Unable to assess.*
15. Light fixtures shall not exceed 18 feet in height. No light shall be cast upwards.  
*Proposal meets requirement.*

### **3. Outdoor storage requirements**

#### **Section 120-175**

1. Outdoor storage shall not be allowed in the front yard setback.  
*Not applicable.*
2. All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent residential properties.  
*Proposal does not meet requirement. No screening is proposed.*
3. Screening shall be of sufficient height and density to completely hide the storage from public view.  
*Proposal does not meet requirement. No screening is proposed.*
4. Screening shall be of sufficient height and density to completely hide storage from major highways, passenger rail lines and other accessways.  
*Proposal does not meet requirement. No screening is proposed.*
5. Contractor storage must be a minimum of 200 feet from a residential or open space district.  
*Proposal meets requirement.*

### **4. Use Variance approval by the Zoning Board of Appeals is required for:**

**Section 120-64C.** Uses, excluding building parking or outdoor seating/assembly areas, not in a fully enclosed building.

On February 18, 2016, the Zoning Board of Appeals determined that the economic hardship standards have been met for development of the storage yard for construction vehicles and equipment, Part 1 of the Use Variance process. The

granting of the economic hardship determination merely authorizes the preparation, filing and processing of applications for site plan review and the remaining standards for the Use Variance process (Part 2), which relate to (1) the essential character of the area; and (2) no other remedy.

The project must return to the Zoning Board of Appeals for the decision on the remaining aspect of the Use Variance request.

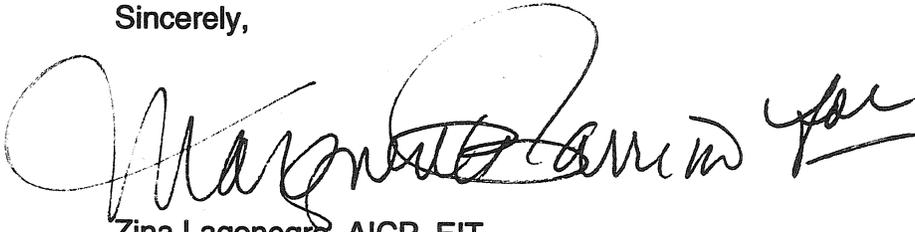
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A copy of these Site Plan findings will be provided to the Zoning Board of Appeals so that they may be taken into consideration while making their decisions on Part 2 of the Use Variance. If you have any questions regarding the Variance process, please contact Jill Symonds at 585-428-7364 or [jill.symonds@cityofrochester.gov](mailto:jill.symonds@cityofrochester.gov).

Site Plan Review will not be completed until the Zoning Board of Appeals has filed its Notice of Decision.

If you have questions about the Site Plan Review process, please call or email Jason Haremza at 585-428-7761 or [jason.haremza@cityofrochester.gov](mailto:jason.haremza@cityofrochester.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Zina Lagonegro". The signature is fluid and cursive, with a large loop at the beginning and a smaller loop at the end.

Zina Lagonegro, AICP, EIT  
Director of Planning and Zoning

xc: Lucas Bushen, Marathon Engineering  
Terry Mott, DES Permit Office  
Jill Symonds, Bureau of Planning and Zoning, ZBA staff  
Project file



# City of Rochester

## Inter-Departmental Correspondence

To: Terry L. Mott, DES/Permits  
From: Albert J. Giglio, P.E., DES/Managing Engineer/Street Design  
Date: June 13, 2016  
Subject: SP #046-15-16: 115 Industrial Street – Tandai Asphalt Company parking

Our office has completed its review of the May 24, 2016 site plan for developing property for parking and maneuvering of paving equipment for Tandai Asphalt Company.

The existing site is located between Industrial Street to the north and West Broad Street to the south. Industrial Street is a dead end street that is north of West Main Street. The existing site is vacant and a mix of broken pavement, gravel, brush and debris piles. Along Industrial Street there is little to no existing curb reveal and no existing driveway aprons to access the subject property.

The site plan submitted does not adequately depict the existing conditions and should be revised and resubmitted. Site plans must show all existing features, such as, existing curb, utility poles, signage and retaining walls. Utility and grading plans are also required to indicate provisions for surface drainage and utility adjustments due to proposed site changes.

The applicant has proposed to pave two 20 foot wide asphalt driveway aprons on the south side of Industrial Street to access the site. The site will be utilized to store and maneuver dump trucks, backhoes, and rollers. Additionally, the site will be enclosed with a 6 foot high chain link fence with gates installed at each driveway opening.

The City allows commercial two-way driveway openings to be a maximum of 24 feet not including transitions. One-way driveway openings are to be 16 feet maximum. The applicant may propose a driveway opening that is in excess of 24 feet, if necessary to support larger sized vehicles that will be accessing the site on a regular basis. The proposed width of the driveway opening is to be one that is sufficient to provide for safe and adequate vehicular access into and out of the site, without causing any unsafe or hazardous turning movements, or requiring any encroachment into the opposing traffic lanes, nor onto any lawn or curb park areas immediately adjacent to and opposite the driveway opening.

It is unclear whether the proposed 20 foot wide driveway openings are one-way or two-way access and a vehicle turning template analysis is to be done and submitted to the City Engineer's office for review and approval.

Our office recommends that the proposed driveway openings off of Industrial Street be increased from 20 foot wide to 24 foot wide to adequately accommodate the large paving equipment accessing the site.

The proposed driveway openings must be constructed per the City's standard transition style driveway apron. The driveway must include transition curb and new header curb at the driveway opening must have 1 to 1-1/2 inch curb reveal. Curbing provides structural support to the pavement edge and keeps pavement from unraveling.

A minimum 3 foot of straight full height curb must be installed beyond the transition curb before the new curb ends at the unimproved road with radius curb, since Industrial Street has little to no existing curb reveal. See City of Rochester detail S609-10 New Curb at Unimproved Street.

Additionally, the City requires commercial driveways be constructed of concrete for material longevity.

The proposed parking lot off of Industrial Street is a mixture of broken pavement, gravel, brush and debris piles. It is unclear how the parking lot surface will drain or be defined with striping with a menagerie of surface materials and no indication of new asphalt resurfacing.

Off-street parking lots are required to be constructed to provide an all-weather, durable and dustless surface and must be graded to drain and dispose of surface water accumulation by means of positive storm water drainage system connected to a public sewer system.

It is unclear how an unpaved parking lot would be successfully cleared of snow. The plan must indicate a snow storage area.

Additionally, individual parking stalls must be clearly identified by pavement markings 4 inches to 6 inches wide. The plan must indicate the number of vehicles and equipment to be parked on the lot.

Any areas of the existing public sidewalk or curb, including underdrain pipe, that are damaged or negatively impacted by any portion of the work must be replaced, with the sidewalk being replaced to the nearest control joint and in full flag segments only, and the curb being replaced to the nearest joint. All proposed sidewalk in the public right-of-way must be constructed to be sloped such that water drains away from private property and towards the street. There is to be no saw cutting or partial replacement of the existing sidewalk or curb to accommodate any of required work within the public right-of-way. New curb must match the existing curb reveal at both ends of the proposed work.

The proposed chain link fence along West Broad Street must be setback. The site is within a nonresidential district which requires a 10-foot perimeter landscaped setback in conjunction with any fence proposed along any street frontage.

A more effective screening may be appropriate given the proposed use of the site. A wood board-on-board fence along West Broad Street would provide full screening of the operations and provide a more aesthetic perspective from the street view.

A full grading plan for the site that include both existing and proposed contours, as well as spot elevations was not provided with the submission. The existing site directs storm water runoff onto the Industrial Street public right-of-way and is unacceptable. Proposed grading and drainage plans are required for review.

The site is to be graded such that storm water runoff is managed on-site either through green infrastructure methods or conveyed to the public sewer system, but in no case is the runoff to be conveyed onto the public right-of-way or an adjoining property.

City of Rochester construction details R608-5 Driveway Apron, R608-6 Concrete Sidewalk and Driveway, R609-1 Stone Curb, S609-10 New Curb at Unimproved Street, S609-16 Stone Curb Replacement – Asphalt Base, and S609-17 Stone Curb Replacement – Concrete Base must be included in the plans.

All required improvements within the public right-of-way or on City-owned property are to be done to the City of Rochester standard construction specifications and details, and as approved of by the City Engineer. The City of Rochester standard construction specifications and details for any improvements within the public right-of-way or City-owned property are to be included with the construction documents, in their latest version, and without any alterations. A PDF version of the City's standard construction specifications and details can be found on the City of Rochester's website, under "Services – Contracts, Bids, RFPs – Public Works Construction Documents".

All improvements within the public right-of-way are to be secured by a letter-of-credit in an amount sufficient to cover the cost of the required work, plus thirty-five per cent (35%) for administration costs. The letter-of-credit is to be filed with the DES/Permit Office for work within the public right-of-way, is to be effective the same day the permit is issued, and is to run for a period of 18 months.

The applicant will have 6 months from the date the permit is issued to complete the required improvements. If the work is not completed within the 6 month period, the City will take over the work and draw on the letter-of-credit as necessary.

These comments reflect concerns from the Street Design section only, and do not reflect any issues or comments that may arise from other City or County departments.

AJG: kmb *kmb*

xc: Willard VanDame, DES/Permits

G:\DIV\STD\SITEPLANS\115IndustrialSt-parkinglot(5-24-16).docx



City of Rochester, NY

# USE VARIANCE STATEMENT OF INCOME AND EXPENSE

**PLEASE NOTE:** AT HEARING TIME, APPLICANTS MAY BE ASKED TO PROVIDE AT LEAST TWO (2) CALENDAR YEARS OF FINANCIAL INFORMATION, OR FROM THE DATE OF PURCHASE, WHICHEVER IS LESS.

PROPERTY ADDRESS: 111 Industrial Street

**A. PROPERTY DATA**

1. Date property was purchased by current owner September 22, 1988

2. Was a Certificate of Occupancy issued? No

Date of issuance? \_\_\_\_\_

If so, for what use(s)? \_\_\_\_\_

If not, why? The property is a vacant lot

3. Cost of Purchase \$190,000.00

4. Original Amount of Mortgage(s) \$140,000.00

Mortgage Holder(s) Victor and James Ciaccia

Address Rochester, NY

Interest Rate(s) 10.5% Term of mortgage(s) 10 years

5. Is the property for sale? Yes

If so, for how long? 5 Years

asking price? \_\_\_\_\_

for what use(s) \_\_\_\_\_

Have any offers been received? Yes

If so, for what amount(s)? 8/5/13 - \$180,000.00; 10/29/15 - \$80,000.00

Summarize any attempts to sell the property Before Joe Spezio passed away, numerous attempts were made to sell the property. He worked with Nothnagle Comm., and various others. After that, the estate worked with Pyramid.RGP received an offer directly from Spoleta that did not materialize due to lack of funding.

6. Present value of property \$160,000.00

Source of valuation Midland Appraisal Assoc. Inspected 6/14/13

**B. GROSS ANNUAL INCOME (Information provided must be for permitted uses, not the proposed use)**

USE (# of Apts., Retail Store, Office, etc.)	UNIT SIZE (sq. ft.; # of bedrooms)	MONTHLY RENT AMOUNT	ANNUAL RENT AMOUNT
1. Vacant Land	N/A	N/A	N/A
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
<b>TOTAL ANNUAL INCOME:</b>			_____
<b>LESS (8%) VACANCY FACTOR:</b> (Explain, if greater than 8%)			_____
<b>TOTAL ADJUSTED GROSS INCOME:</b>			_____

**C. ANNUAL EXPENSES**

<b>1. <u>Annual Fixed Charges</u></b>	
Real Estate Taxes (City & County) .....	\$521.60
Insurance .....	\$500.00
Average Annual Interest (over next 5 years).....	\$0.00
<b>2. <u>Operating Expenses</u></b>	
Electric .....	\$0.00
Fuel .....	\$0.00
Water .....	\$0.00
Pure Waters .....	\$0.00
Advertising.....	\$0.00
Miscellaneous (attach explanation) .....	\$0.00
<b>3. <u>Maintenance Expenses (attach list)</u></b>	
Repairs .....	\$0.00
General Building Maintenance .....	\$0.00
Yard and Ground Care.....	\$10,000.00
Miscellaneous.....	\$ 500.00
<b>TOTAL ANNUAL EXPENSES:</b>	
<b>PROFIT or (LOSS)</b>	
	\$11,521.60
	(\$11,521.60)

**D. TOTAL INVESTMENT**

1. Down payment .....	_____
2. Capital Improvements (attach list) .....	\$0.00
3. Principal paid to date (original mortgage less current principal balance) .....	_____
<b>TOTAL INVESTMENT:</b>	
_____	

**E. RATE OF RETURN/YR. [Profit or Loss divided by Total Investment]**

**SIGNATURE OF PREPARER** Ritamarie Dreimiller Digitally signed by Ritamarie Dreimiller  
Date: 2016.01.13 15:25:26 -05'00' **DATE** \_\_\_\_\_



City of Rochester, NY

## USE VARIANCE STATEMENT OF UNNECESSARY HARDSHIP

A use variance shall be granted only if the applicant can establish the existence of EACH of the following, in accordance with Section 120-195B(3) of the Zoning Ordinance:

**A. No 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 the 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, and not the unsupported opinion of the owner or those appearing for the owner.

The subject lot is currently vacant land and, thus, currently incapable of yielding a reasonable return as the current owner is an estate that is only able to sell the land and cannot develop it. The Center City District-Cascade Canal (CCD-C) zoning requires that all uses be conducted within a completely enclosed building. The proposed use, however, is to expand the paving/construction operation that is across the street, which will not be in a completely enclosed building. Without the use variance, the current owner and proposed purchaser will not be able to use the property in any manner that will yield a return of any kind.

**B. Unique circumstances.** The inability to yield a reasonable return results from a unique circumstances peculiar to the subject property which do 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 a unique circumstance.

The aforesaid inability to yield a reasonable return results from the inability to sell or use the subject property in conformity with the zoning code. This property and the property across the street (the "Tandai Property") were originally one parcel and the original intent when the Tandai sale occurred was to transfer the subject parcel to Mr. Tandai at a later date in order to allow him to expand his business. Without a change of use, the current owner will not be able to sell the subject lot to the owner of the neighboring lot and Mr. Tandai will need to move to a new location in order to expand his business.

**C. Not self created.** The inability to yield a reasonable return is not the result of any action or inaction by the owner or their predecessors in title. Acquisition or improvement of the subject property at any time after the enactment of the provision sought to be varied shall raise a rebuttable presumption that the owner's inability to realize a reasonable return is the result of the owner's action.

The use was changed to CCD-C after the property was purchased by the current owner and prior to the Tandai parcel was transferred. Mr. Tandai was in operations before the change and, therefore is able to operate as a prior nonconforming use. The aforesaid inability to yield a reasonable return is not the result of any action or inaction by the owner or their predecessors in title, but rather because the change in use is restricting the sale to the proposed purchaser.

The property has been listed on and off with several Brokers, including Nothnagle and Pyramid and has been consistently listed for sale for five years and, to date, we have been unable to sell the Property. The owner has reduced the purchase price from \$180,000 in 2013 to \$80,000 for the pending offer.

**D. Essential character of the area - surrounding uses and facilities.** 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 and the community or the general plan (i.e. Zoning Ordinance and Comprehensive Plan intent).

The only party in the immediate vicinity is the current proposed purchaser of the subject property, Michael Tandoi with his business Tandoi Asphalt & Paving. The surrounding land is being used in the same manner that is being sought with this use variance. The denial of this use variance would be detrimental to the neighboring properties, as the current business owner occupying the surrounding properties would be required to relocate outside of the city.

**E. No other remedy.** There is no means other than the granting of the variance by which the hardship can be avoided or remedied to permit the economic use of the subject property.

There is no means other than the requested variance by which the hardship can be avoided or remedied to a degree sufficient to permit the economic use of the subject lot or parcel. The only manner in which the current owner can economically use the subject property is to sell it to the neighboring business. The current owner is part of an estate which is being settled and, therefore, unable to develop the property. Moreover, the only means in which the neighboring business can continue its operations is by expanding onto the subject property or relocating its entire operation.

**From:** M Tandoi [mailto:mtandoi18@gmail.com]  
**Sent:** Monday, January 11, 2016 12:32 PM  
**To:** Kurt B. Odenbach  
**Subject:** Re: Zoning Application

The property at 111 industrial street is the final factor for Tandoi Asphalt & Sealcoating and if they continue to do business in the city of Rochester. Tandoi has out grown the property at 106 industrial st and have a major problem with organization and storage and parking of equipment that allows them to operate their business. Due to the growth of the business a family owned business since the 1970s they now employ 18 plus employees. The property needs to be zoned exactly the same as the property at 106 industrial st and or a trucking depot. The property will have trucks and equipment on the premises stored out doors. If we had to build a building to store all this equipment the building would have to be the size of the lot which would be out of the question financially and would not fit right in the district. Across the street from us we have factories and Morse Lumber who store everything outdoor. We are a dead end street with no activities.. We have cleaned this area up and will continue to keep everything neat and organized. We love working in the city and have built a year around service that The city of Rochester utilizes with our company as we plow and pave for them. Also the property that connects to the property at 111 industrial is owned by the city of rochester and they use that for out door storage for snow piles that comes from all the city properites that they service and the pile becomes 100ft high and 100 ft wide. Please let us continue to do business in the City

--

*Tandoi Asphalt & Sealcoating INC.*

Michael Tandoi  
106 Industrial Street.  
Rochester, NY 14608-1917  
Email: [mtandoi18@gmail.com](mailto:mtandoi18@gmail.com)  
Office: 585-454-6590

January 4, 2016

Bureau of Planning and Zoning  
City Hall, 30 Church Street, Room 125B  
Rochester, New York 14614

**RE: City of Rochester Use Variance Request  
111 Industrial Street, City of Rochester**

To whom it may concern:

I am the accountant for the Joseph Spezio Estate (the Estate) and Regional Gravel Products, Inc. (RGP), owner of the above noted property located at 111 Industrial Street. RGP is seeking a use variance for this property in connection with its planned sale to a third party, Michael Tandoi.

Please be advised that Mr. Joseph Spezio passed away unexpectedly in October 2012. He was the 100% owner and operator of RGP, as well as other related entities conducting business in the Rochester area. When Mr. Spezio passed, RGP and other business entities and assets became part of his estate. Mr. Spezio did not have a succession plan for his businesses at the time of his death and considerable difficulty has been encountered throughout the process of negotiating the administration of his very complex estate.

To date, nearly all of Mr. Spezio's employees have been terminated, and his business interests have been liquidated in order to meet the liquidity demands of the Estate. RGP/the Estate does not have the ability or intent to continue to maintain and hold the property located at 111 Industrial Street. The property frequently requires clean-up and maintenance of junk and debris that is dumped on the site without authorization. Removal of the junk and clean-up of the site is costly and time consuming. RGP/the Estate does not have the resources to continue to maintain the property and does not have the ability to develop this property. Several attempts to liquidate the property have failed. It is in the best interest of RGP/the Estate to liquidate this property as soon as possible.

The sale to Mr. Tandoi will not be possible without obtaining the use variance. My understanding is that Mr. Tandoi will utilize the property to benefit his existing business located across the street from the parcel. It would seem that it would be in the best interest of the City of Rochester to continue to assist a local employer with the expansion of its operations in the City of Rochester.

I hope that this information will help assist you with your decision concerning the use variance request at 111 Industrial Street. Please feel free to contact me should you have questions about the contents of this letter.

Sincerely,

Michael Marafioti, CPA  
Insero & Co. CPAs, LLP

# **REGIONAL GRAVEL PRODUCTS, INC.**

**8222 ROUTES 5 & 20  
PO Box # 65  
WEST BLOOMFIELD, NY 14585**

**PHONE (585) 657-8001 FAX (585) 657-6575**

January 13-2016

Bureau of Planning and Zoning  
City Hall, 30 Church St, Room 125B  
Rochester, NY 14614

RE: City of Rochester Use Variance Request  
111 Industrial Street, Rochester

To whom it may concern:

I am writing to give some background on Regional Gravel Products position on the use variance that we are seeking for the sale of a piece of property located at 111 Industrial Street.

I have worked for Joseph Spezio and his companies for over 25 years in various capacities. Upon his untimely death on October 13-2012, I have been working with his family, the estate, accountant, and attorneys to finalize his very complex estate. Mr. Spezio did not have partners in his business ventures therefore, a lot of information on his discussions, meetings, and negotiations were known only to him. Unfortunately, the foreman that worked for Mr. Spezio for over 20 years died of lung cancer last year. So that knowledge is not available to us.

The first point that I would like to bring to your attention is the fact that when Mr. Spezio originally purchased this property back in 1988, it included 3 parcels known as 106, 111 & 112 Industrial Street. In 1994 he sold 106 & 112 Industrial Street to Mr. Tandoi and kept the other side of the road which is 111 Industrial Street. Now Mr. Tandoi wants to purchase 111 Industrial Street which would put the original parcels together again. Hopefully there is some type of Grandfathers rights that could be taken into consideration for this use variance.

Throughout the years of owning this property, I do know that Mr. Spezio always told his foreman and gravel salesman to mention to the various contractors that were working in the downtown Rochester area, about using this property for their construction yard and potentially purchasing the property. A couple of contractors did use the property for a very short time, but neither of these contractors was interested in buying the property. I know that Mr. Spezio met and spoke to someone at Nothnagle Realty and Pyramid Brokerage at different times about selling the property. Nothing transpired with those discussions either. At one point in time there were

discussions with a contractor for the Open Door Mission, but again I have no specific details other than funding issues as to why this did not materialize.

This property at 111 Industrial Street has been a problem for years. Numerous times we have had to clean the property up from trespassers leaving construction debris, tires, junk, even a boat for us to discard of at a great expense. Trespassing and vandalism are huge issues at this property. We even tried to put up security cameras to try and catch the trespassers, only to have the cameras stolen within days.

At this point in time, Mr. Spezio's business operations are being finalized. I am the only employee left to help liquidate his property. Mr. Tandoi is the only person that has made a viable offer to purchase this property and has followed thru. It is imperative that they cut their losses and sell this property to Mr. Tandoi. This creates a huge hardship for the Spezio family by not being able to sell this property to Mr. Tandoi for his intended use as a continuation of his business across the street. If this sale does not go forward, I do not know what will happen to the property as there are no employees or resources to maintain this property. Mr. Spezio's immediate family lives out of state and will not be able to maintain the property.

Without this variance, it is my understanding that Mr. Tandoi would have to relocate from the City of Rochester. This is not only a hardship for the Spezio family but for the Tandoi family as well. I would hope that this property could be grandfathered and the parcels put back together with the original use intact. Mr. Tandoi told me that his intentions were to install a fence at this property, the same as he has done at 106 Industrial Street. That would alleviate years of trespassers and violations issued by the City of Rochester.

We ask for your help in resolving this issue so this sale can proceed and ultimately benefit all parties involved, including the City of Rochester by keeping a local business in the city and resolving issues at a nuisance property in a positive way. Thank you for your consideration.

Sincerely,



Ritamarie Dreimiller  
Secretary/Administrative Assistant

# REGIONAL GRAVEL PRODUCTS, INC.

8222 ROUTES 5 & 20

PO Box # 65

WEST BLOOMFIELD, NY 14585

PHONE (585) 657-8001 FAX (585) 657-6575

January 13-2016

Bureau of Planning and Zoning  
City Hall, 30 Church St, Room 125B  
Rochester, NY 14614

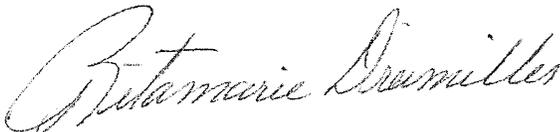
RE: City of Rochester Use Variance Expense Attachment  
111 Industrial Street, Rochester

## SECTION C: Annual Maintenance Expenses

Yard and Ground Care: Please note that previously, Mr. Spezio had employees, equipment, and resources from his other businesses that he could maintain this property as needed. When trespassers would drop off debris he could send his own trucks and employees to take the necessary action. I can't provide exact yearly costs as the maintenance was completed as needed when he had people available. At least once a year, he would have to send people to clean up this property. Now that his assets are liquidated, these clean up costs and maintenance would have to be hired to complete. Attached is the proposal for the necessary clean up last year, so you can see how costly this cleanup and disposal of the unsolicited debris is. Quote was not to exceed \$10,000 for one cleanup.

Miscellaneous: The posting of No Trespassing signs, installation of cables and security cameras had to be done several times a year. Due to the location, the cameras were stolen and had to be replaced. I would average a cost of \$500 a year for these items.

Thank you for your consideration,



Ritamarie Dreimiller

**GLOBALSOFT ENVIRONMENTAL INC.**

837 BUFFALO ROAD  
ROCHESTER, NEW YORK 14624  
585-471-5549 PHONE  
585-270-4841 FAX  
[globalsoftenviro@gmail.com](mailto:globalsoftenviro@gmail.com)

**PROPOSAL**

October 8, 2015

Elam Sand & Gravel  
8222 Rt. 5 & 20 PO Box 65  
West Bloomfield, New York 14585

Job Location: 111 Industrial  
Phone – 585-458-2951

We propose to furnish, equipment, labor, trucking and supervision to remove debris piles of asphalt, concrete, soil & mulch at the Industrial Street site.

Load out Tri-axles and Truck to Buffalo Road reclamation facility.

Loader.....	\$140.00 per/hr
Tri-axles.....	\$85.00 per/hr
Dump Fees.....	\$75.00 per/load
Approximately 50 Loads	
Price Not To Exceed.....	\$10,000.00

Acceptance of Proposal by Customer \_\_\_\_\_

Date \_\_\_\_\_

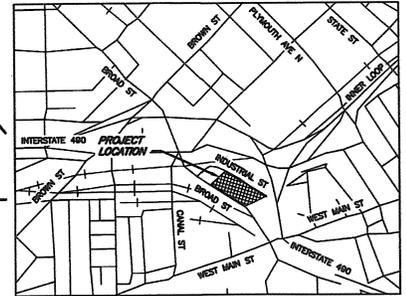
Authorized Signature by Globalsoft \_\_\_\_\_

Date \_\_\_\_\_

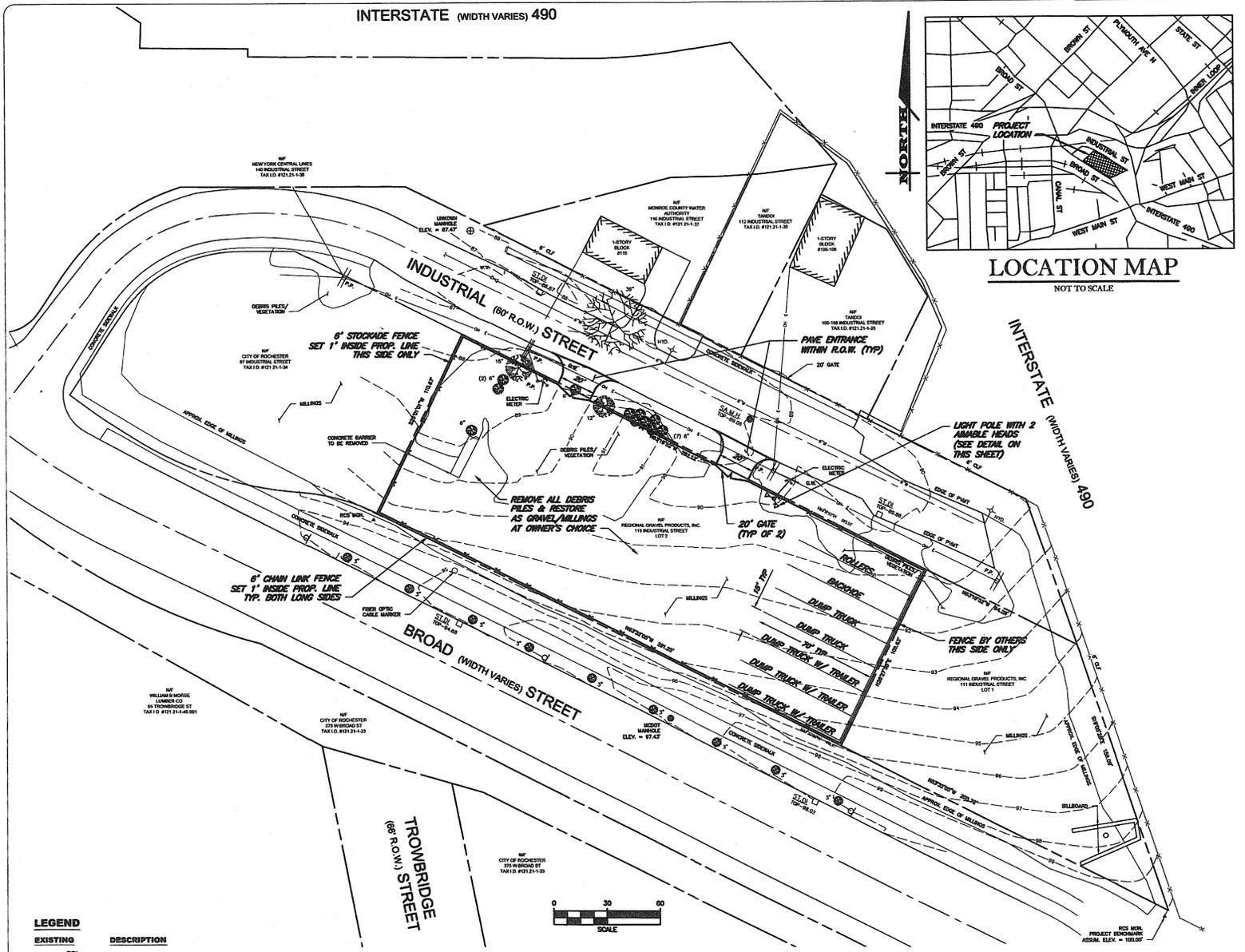




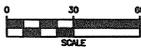
INTERSTATE (WIDTH VARIES) 490



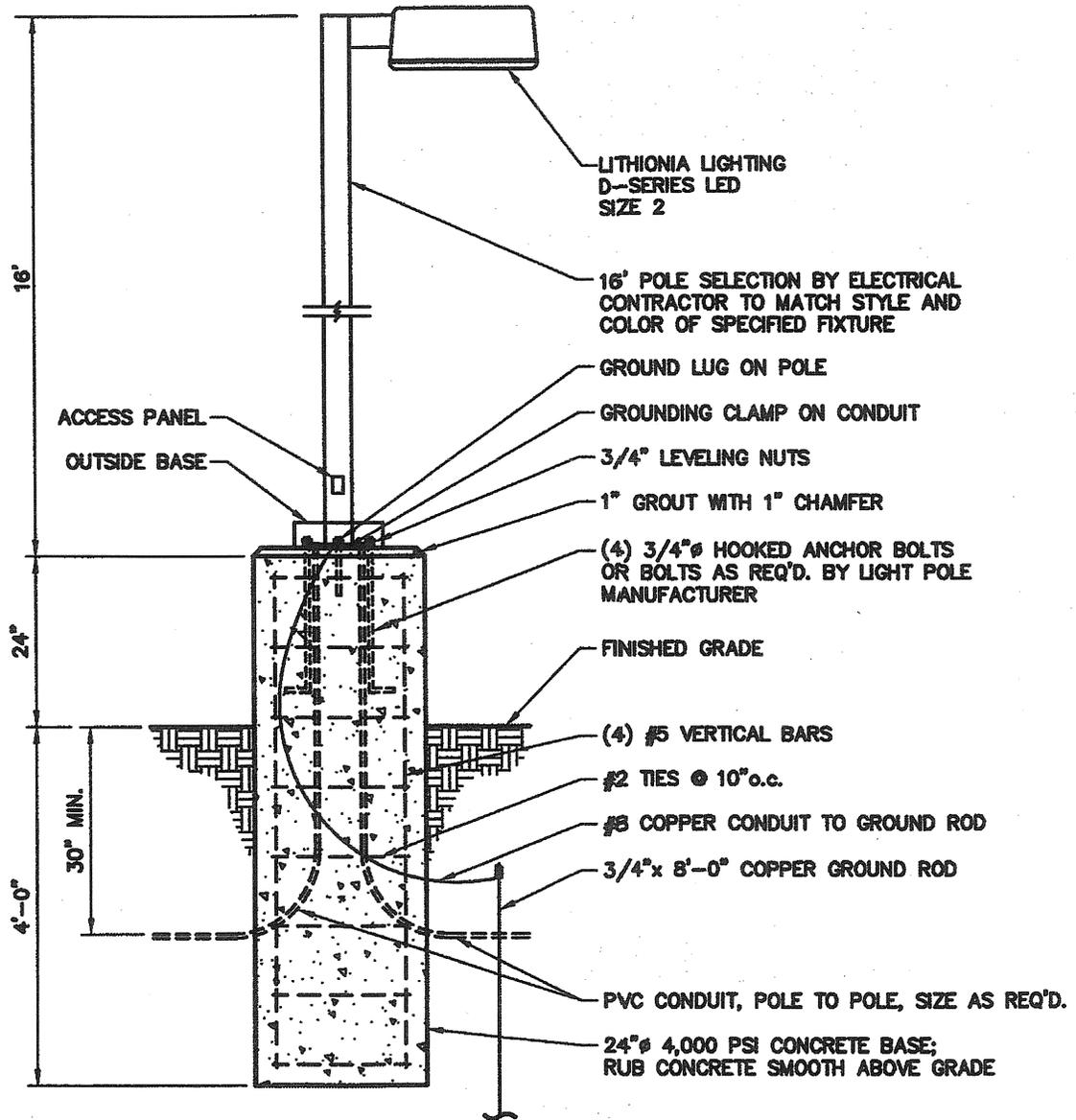
LOCATION MAP  
NOT TO SCALE



LEGEND	
EXISTING	DESCRIPTION
(Symbol)	(Symbol)



RCS MOB  
PROJECT BENCHMARK  
ASSUM. ELEV. = 100.00'



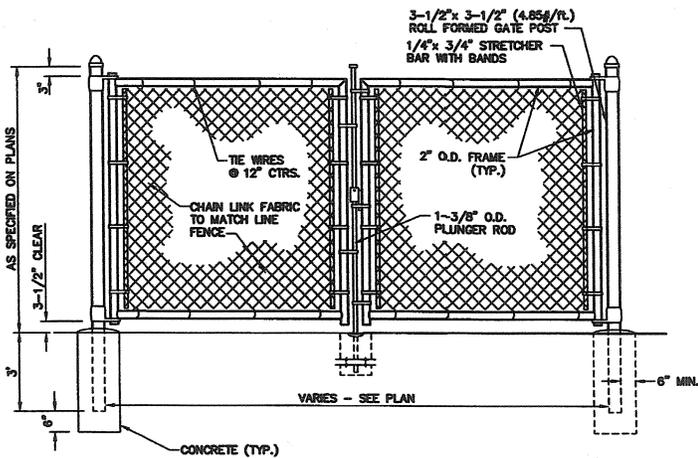
**NOTES:**

1. POLE BASE MAY BE PRECAST BY LAKELANDS (LB24D)
2. LIGHT POLE MANUFACTURER TO SUPPLY ANCHOR BOLTS, OUTSIDE BASE, AND BOLT PATTERN TEMPLATES.
3. IN PAVEMENT AREAS CONCRETE BASE SHALL EXTEND 24" MINIMUM ABOVE ASPHALT. IN PROTECTED LANDSCAPE AREAS (BEHIND CURB) BASES SHALL HAVE A MINIMUM OF 6" REVEAL ABOVE FINISHED GRADE.

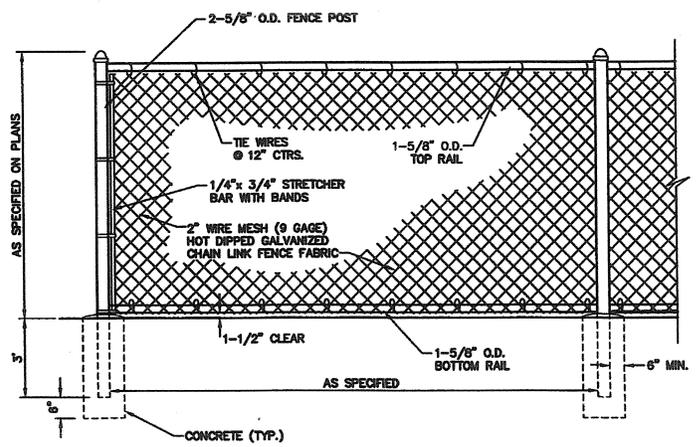


**LIGHT BASE**

N.T.S.



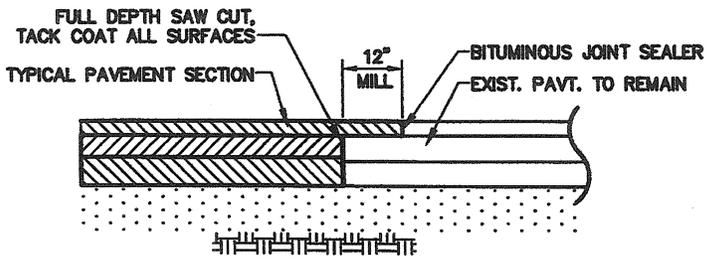
GATE



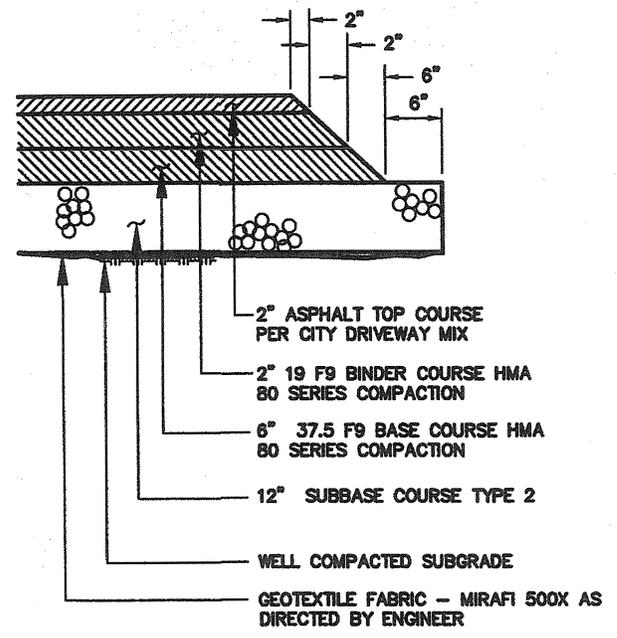
FENCE SECTION (TYP.)

YARD

2 CHAIN LINK FENCE  
N.T.S.



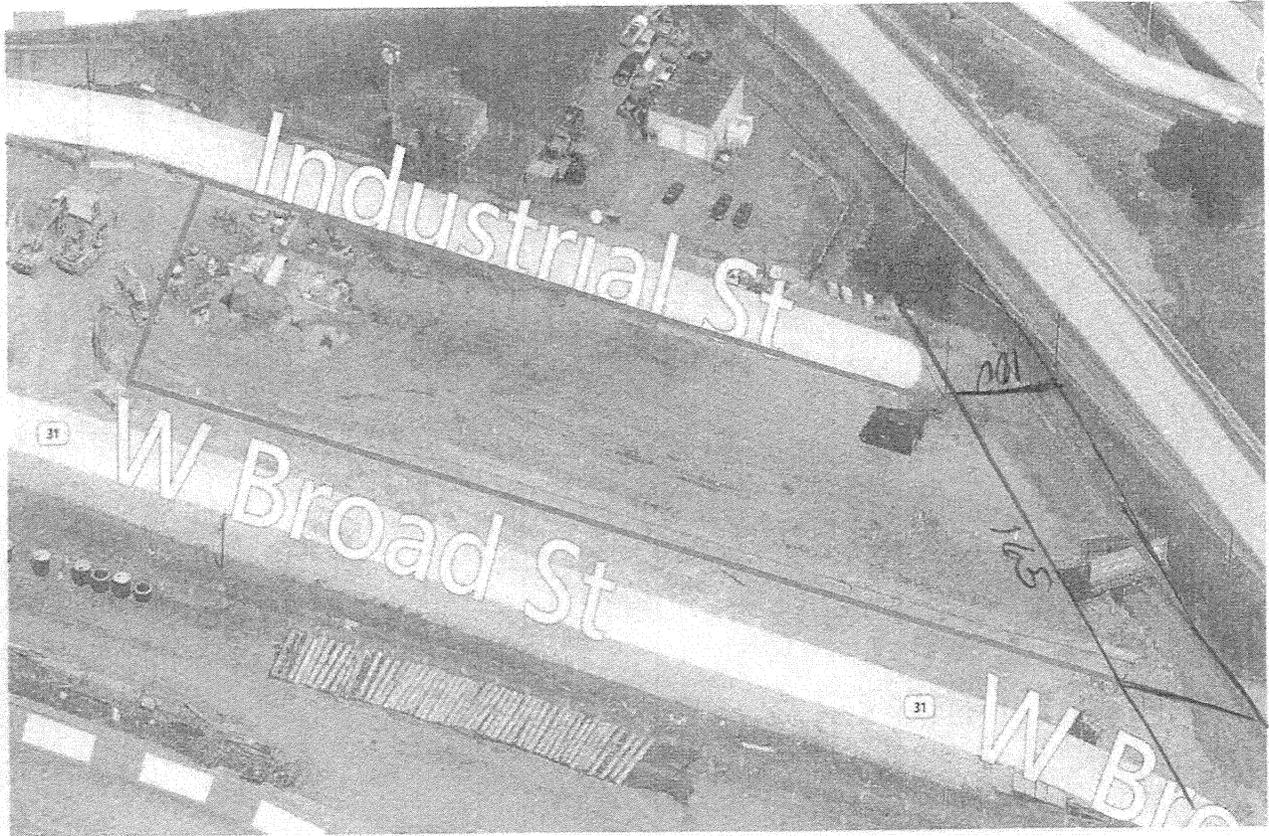
**3 PAVEMENT MATCH**  
N.T.S.

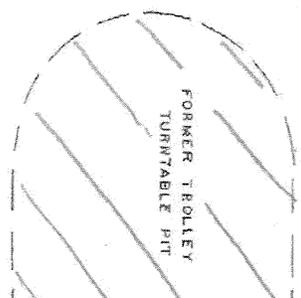
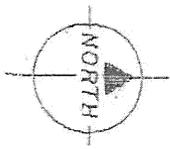


**4 PAVEMENT SECTION**

NOTE: CONTRACTOR TO CLEAN AND TACK COAT BEFORE PLACING TOP COAT IF BINDER IS CONTAMINATED OR GREATER THAN 30 DAYS PASSES BETWEEN PLACEMENT OF BINDER AND TOP

AERIAL PHOTO





CITY OF ROCHESTER

110.67'

BROAD STREET

496.87'

CONCRETE RETAINING WALL

PARKING AND STORAGE YARD

386.38'

INDUSTRIAL STREET

ASPHALT & GRAVEL  
PARKING & STORAGE AREA

CONRAIL TRACKS

ONE  
STORY  
BLDG.  
NO. 106

BOUNDARY ALLEY

CITY OF ROCHESTER

INTERSTATE

890

156.09'

LAMP  
SIGN

Realtor  
Rob Remilen  
585-342-3300

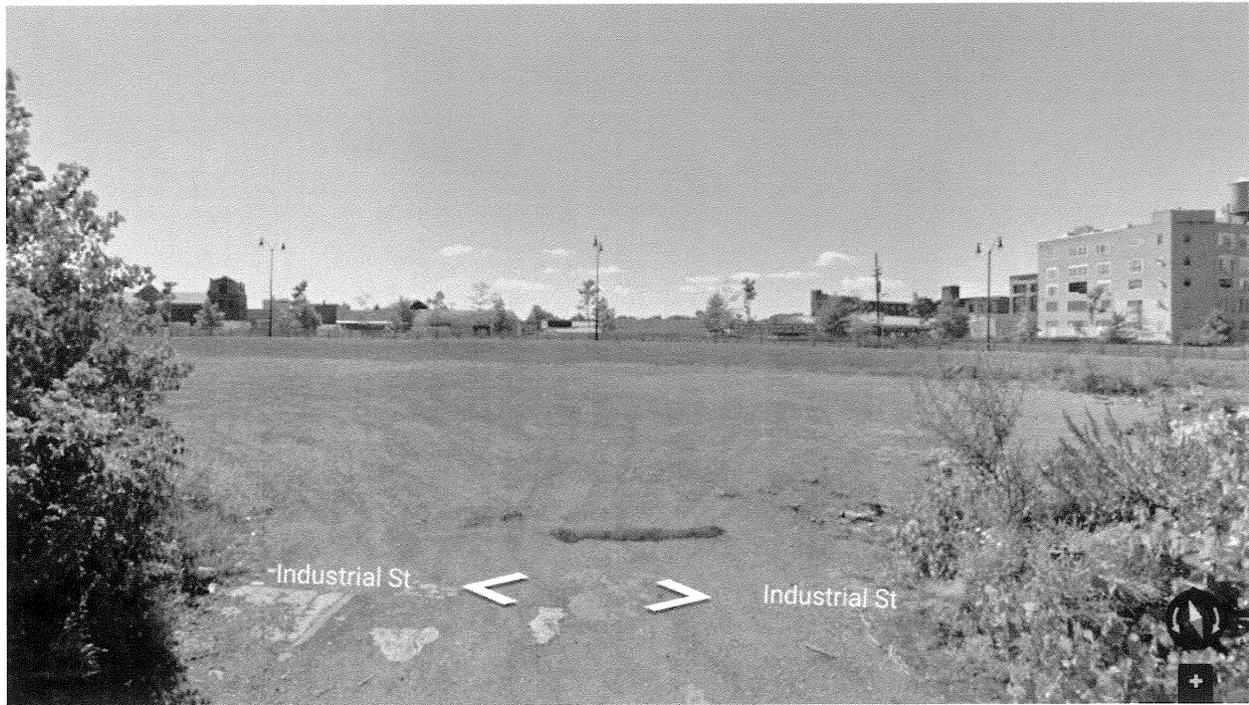
Lamar  
Bob Nersinger  
244-5330

SITE F
Joseph SE Regional Products, Industria Rochester

111 Industrial Street, Rochester, NY

Industrial St  
Rochester, NY 14608

Directions





**City of Rochester**

Neighborhood and Business Development  
City Hall Room 125B, 30 Church Street  
Rochester, New York 14614-1290  
www.cityofrochester.gov

Bureau of Planning  
and Zoning

March 3, 2016

Loretta Spezio  
Regional Gravel Products, Inc.  
8222 Route 5 & 20  
P.O. Box 65  
West Bloomfield, NY 14585

Location: 111 Industrial Street  
Zoning District: CCD-C Center City – Cascade-Canal District  
File Number: V-046-15-16  
Vote: 4-2-0

*- economic hardship only*

**NOTICE OF DECISION**

In the matter of the request to consider the economic hardship associated with the proposal to store trucks and equipment on the vacant lot at 111 Industrial Street to serve the existing paving and trucking company located at 100-106 Industrial Street, please take notice that at the Zoning Board of Appeals meeting held on February 18, 2016, said application was **APPROVED**.

The next step in the process is to apply for site plan review (please see application, enclosed). If you have any questions or concerns, please contact Jill Symonds at (585) 428-7364 or [Jill.Symonds@cityofrochester.gov](mailto:Jill.Symonds@cityofrochester.gov).

Zina Lagonegro, EIT, AICP  
Secretary to the Zoning Board of Appeals

cc: Kurt B. Odenbach, 28 E. Main St., Suite 700, Rochester, NY 14614

RECEIVED  
CITY OF ROCHESTER  
CLERK/COUNCIL OFFICE  
2016 MAR -7 AM 10:37

**Resolution and Findings of Fact:**

1. Can the applicant realize a reasonable return as shown by competent financial evidence? Yes \_\_\_ No X

**Finding:** In testimony, an employee of Regional Gravel Products explained that there have been two offers to purchase the property since the owner, Joseph Spezio, passed away in 2012. In 2013, there was an offer of \$180,000 from Spoleta Construction. The offer was contingent on finding someone to construct a building within a year. As this did not occur, the sale did not go through. In 2015, Tandoi Asphalt & Sealcoating Inc. made an offer on the property of \$80,000. Mr. Tandoi would like to purchase the property to store trucks and equipment associated with his asphalt and paving company that is currently located at 100-106 Industrial Street.

A real estate agent testified that the prospects for development of this parcel are limited, given its location outside of the Inner Loop and across the street from a lumber yard.

In testimony, Mr. Tandoi also noted that he has obtained a quote of \$840,000 to construct a building on the property in order to store his trucks and equipment.

Given the challenge of selling the property and the cost to construct a building, the Zoning Board determined that there is financial hardship on the property.

**Record of Vote:**

D. Carr	Deny
R. Khaleel	Deny
D. O'Brien	Approve
J. O'Donnell	Approve
M. Tilton	Approve
E. Van Dusen	Approve

This decision was based on the following testimony and evidence:

**Supporting Testimony:**

Kurt Odenbach  
T.J. Cushetto  
Michael Tandoi  
Ritamarie Dreimiller

**Opposing Testimony:**

None

V-046-15-16  
111 Industrial Street  
Page 3

**Evidence:**

Staff Report and Variance Application  
GIS Property Location Map  
Use Variance Statement of Income and Expense  
Use Variance Statement of Unnecessary Hardship  
Email from Tandoi Asphalt & Sealcoating, dated 01/11/16  
Letter from Michael Marafioti, dated 01/04/16  
Two letters from Regional Gravel Products, dated 01/13/16  
Quote from Globalsoft Environmental, Inc. dated 10/08/15  
Subdivision Map  
Aerial Photos  
Site Plan Map  
Google Earth Photos  
Letter from Cascade Historic District, dated 02/16/16  
Personal Appearance Notice, Affidavit of Notification and Speakers' List



City of Rochester, NY

REQUEST FOR REHEARING
(Section 120-1880)
BUREAU OF PLANNINGS AND ZONING
CITY HALL, 30 CHURCH STREET, ROOM 125-B
ROCHESTER, NEW YORK 14614
(585) 428-7043

INSTRUCTIONS TO APPLICANT

APPLICATIONS MAY BE SUBMITTED TO A ZONING REPRESENTATIVE AT THE PERMIT OFFICE, CITY HALL, 30 CHURCH STREET, ROOM 121B.

Table with 2 columns: Office Use, APPLICATION REQUIREMENTS:
1. Two (2) copies of this application.
2. One (1) copy of all information or documentation supporting and relating to your application.

1. APPLICANT: David P. Blauth COMPANY NAME:
ADDRESS: 320 Castleman Road CITY: Rochester ZIP CODE: 14620
PHONE: (585) 442-2595 FAX:
E-MAIL ADDRESS:

INTEREST IN PROPERTY: Owner X Lessee Other

2. PROPERTY ADDRESS(ES): 320 Castleman Road/188 Edgemont Road
3. FILE NUMBER OF ORIGINAL SPECIAL PROCESS TO BE REHEARD: V-042-15-16
4. DATE OF ORIGINAL SPECIAL APPROVAL: Denied 2/4/16
5. PURPOSE OF ORIGINAL REQUEST: Variance for width of driveway

6. LIST OF CONDITIONS APPLIED TO ORIGINAL SPECIAL APPROVAL (IF ANY): None

7. DESCRIBE PROPOSED REQUEST: Permission requested to submit application calling for variance conditioned with a no parking restriction on portion of driveway which is wider than the garage. See also attached Schedule A for other grounds.

APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: [Signature] DATE: 8-9-16

OWNER (if other than above): I have read and familiarized myself with the content of this application and do hereby consent to its submission and processing.

SIGNATURE: DATE:

**WEIDMAN & WEIDMAN**  
ATTORNEYS AND COUNSELORS AT LAW  
674 RIDGE ROAD  
WEBSTER, NEW YORK 14580

---  
Telephone (585) 671-0711

Fax (585) 671-6363

WILLIAM B. WEIDMAN(dec'd 2004)

ANDREW J. WEIDMAN  
aweidman@frontiernet.net

August 9, 2016

Jill Symonds  
City of Rochester Planning & Zoning  
30 Church St. Rm. 121B  
Rochester, NY 14614

Re: David P. Blauth  
320 Castleman Road  
File Number V-042-15-16

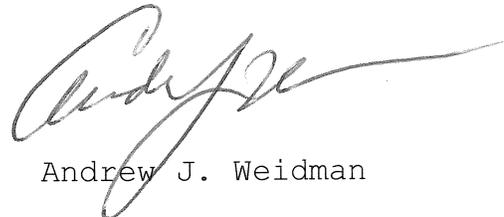
Dear Ms. Symonds:

On behalf of David P. Blauth I enclose in duplicate a Request for Rehearing in connection with the above-referenced variance matter. Kindly advise me of the date on which it will be heard by the Board.

Please be advised that consideration was given to removing the widened east apron. However, that widening was done, with a permit, at the suggestion of the engineers, to facilitate drainage to the street and is deemed vital for proper drainage.

Should you have any questions regarding the enclosed Request For Rehearing or desire additional documentation, please advise. Thank you.

Sincerely yours,



Andrew J. Weidman

AJW/a  
cc: David P. Blauth

## SUCCESSIVE APPLICATION STANDARDS

Whenever any application, appeal or other request filed pursuant to this Chapter has been finally denied on its merits or approved subject to specified conditions, a second application, appeal or other request seeking essentially the same relief, shall not be brought within two years unless, in the unanimous opinion of all members present on the Board or Commission before which the request is brought, one of the following standards has been met:

1. **There is a substantial change in circumstances relevant to the issues and/or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application.**

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2. **New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.**

See attached Schedule A

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3. **A new application is proposed to be submitted that is materially different (e.g., proposes new uses, or a substantial decrease in proposed densities and intensities) from the prior application.**

See attached Schedule A

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4. **The final decision on the application was based on a material mistake of fact or mistake of law.**

See attached Schedule A

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## REQUEST FOR REHEARING

### SCHEDULE A

David P. Blauth  
320 Castleman Road  
File No. V-042-15-16

2. New or Additional Information. See attached affidavit of David P. Blauth indicating other driveways in the immediate neighborhood that would indicate that granting of the application would not materially affect the character of the neighborhood.

3. New Application Proposed. Applicant paid upwards of \$8,500.00 to redo existing driveway to resolve water damage problems with regard to his owner-occupied house and garage following recommendations made by Monroe County and City of Rochester engineers/public works representatives. This plan involved use of concrete lips, depressed sidewalk and wider apron to funnel rainwater and snow melt down to street drain. It was water drainage, not a need for parking, which caused applicant to contract with Roman Development Corporation to install the improvement, including application for permits.

To that end, if this portion of the Application is granted, Applicant proposes to submit a new application for a driveway width variance which will be subject to the condition that the portion of the driveway that exceeds the width of the garage will not be used for parking. To that end, Applicant proposes to install planters on the excess width in front of the garage, strategically placed to prevent use by motor vehicles and trailers.

4. Material Mistake Of Law Or Fact. This was not a self-created difficulty. The additional width in front of the garage was a pre-existing use when Applicant purchased the property in 1990. It was not a desire for additional parking but a need to solve drainage issues which caused Applicant to undertake the remedial work which led to the variance application.

AFFIDAVIT

STATE OF NEW YORK)  
COUNTY OF MONROE ) ss.:

I, DAVID P. BLAUTH, being duly sworn, hereby deposes and says that:

1. I reside at 320 Castleman Road, County of Monroe, State of New York

2. I make this Affidavit in support of a Request for a Rehearing of a variance application I made for my residence.

In my immediate neighborhood (with ten houses), I believe there are four (301 Castleman Road, 139 and 203 Westmoreland Road and 175 Edgemont Road that have driveways that are three car wide or wider.

Additionally, again within ten houses of my house, I believe 314, 301, 308, 300, 296, 196 and 274 Castleman Road, 174, 156, 150, 137, 132, 120, and 119 Edgemont Road, 203, 225, 235, 243, 255, 251, 178, 139, 160, 148, 140, 134, 128, 129, 120 and 98 Westmoreland Road have driveways wider than their garages.

I am offering this affidavit as evidence of the character of the neighborhood with respect to driveway width.

  
\_\_\_\_\_  
DAVID P. BLAUTH

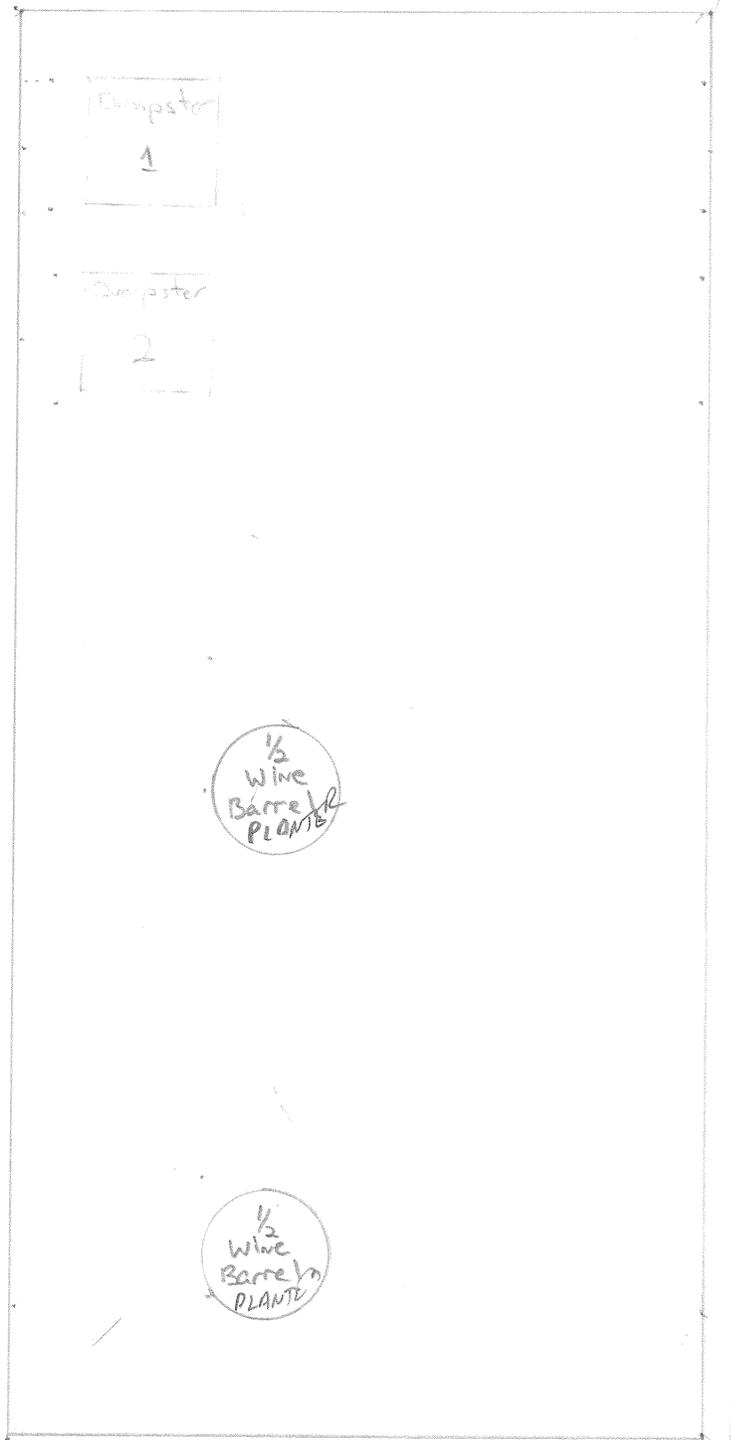
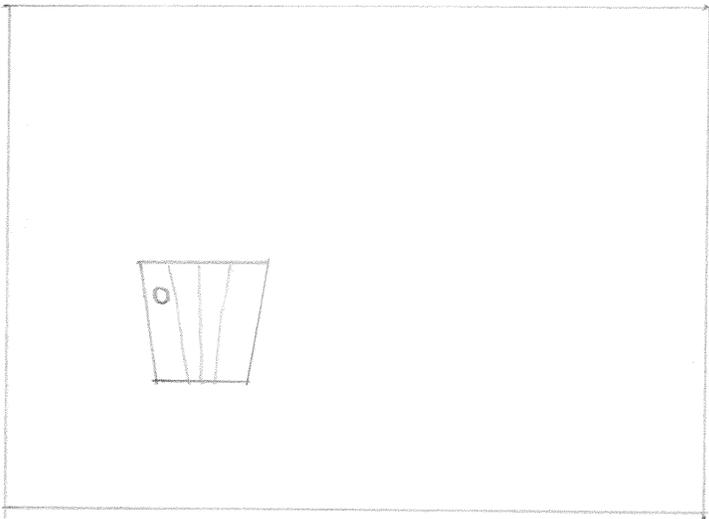
Sworn to before me this  
24 day of August, 2016.

  
\_\_\_\_\_  
Notary Public

ANDREW J. WEIDMAN  
Notary Public, State of New York  
No. 02WE4689339  
Qualified in Monroe County  
Commission Expires Aug. 31, 2017

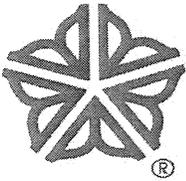


# Garage



22'

11'



**ZONING BOARD OF APPEALS  
STAFF REPORT  
January 21, 2016**

**Area Variance**

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**Case # 4:**

Staff Reviewer: Jill Symonds

**File Number:**

V-042-15-16

**Applicant:**

David Blauth

**Project Address:**

320 Castleman Road

**Zoning District:**

R-1 Low-Density Residential District

**Section of Code:**

120-173

**Request:**

**To legalize the driveway expansion of a two-family dwelling, thereby resulting in front yard parking.**

**Analysis:**

The subject property is a two-family dwelling with a detached two-car garage facing Edgemont Road. The property is on the corner of Castleman and Edgemont Road and thus has two front yards. The applicant repaved the driveway, including the area to the east of the garage that is approximately 12' x 45'.

**Code Review:**

In accordance with section 120-173, parking for residential uses shall not be located in the required side or front yard setback except in a legal driveway that provides access to the rear yard, a detached or an attached garage. **An area variance is required for the portion of the driveway to the east of the garage.**

**Code Enforcement:**

The subject property is in code enforcement for the driveway.

PROJECT INFORMATION

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 320 Castleman Rd Roch, 14607

2. APPLICANT: David Blauth COMPANY NAME: Roman

ADDRESS: 188 Edgemont Rd CITY: Roch ZIP CODE: 14607

PHONE: 442-2595 FAX: \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

INTEREST IN PROPERTY: Owner  Lessee  Other

3. PLAN PREPARER: Drive way replacement

ADDRESS: 188 Edgemont Rd CITY: Roch ZIP CODE: 14607

PHONE: 442-2595 FAX: \_\_\_\_\_

4. ATTORNEY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

5. ZONING DISTRICT: \_\_\_\_\_

6. DETAILED PROJECT DESCRIPTION (additional information can be attached): \_\_\_\_\_

Drive way replacement.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased:) 2 days

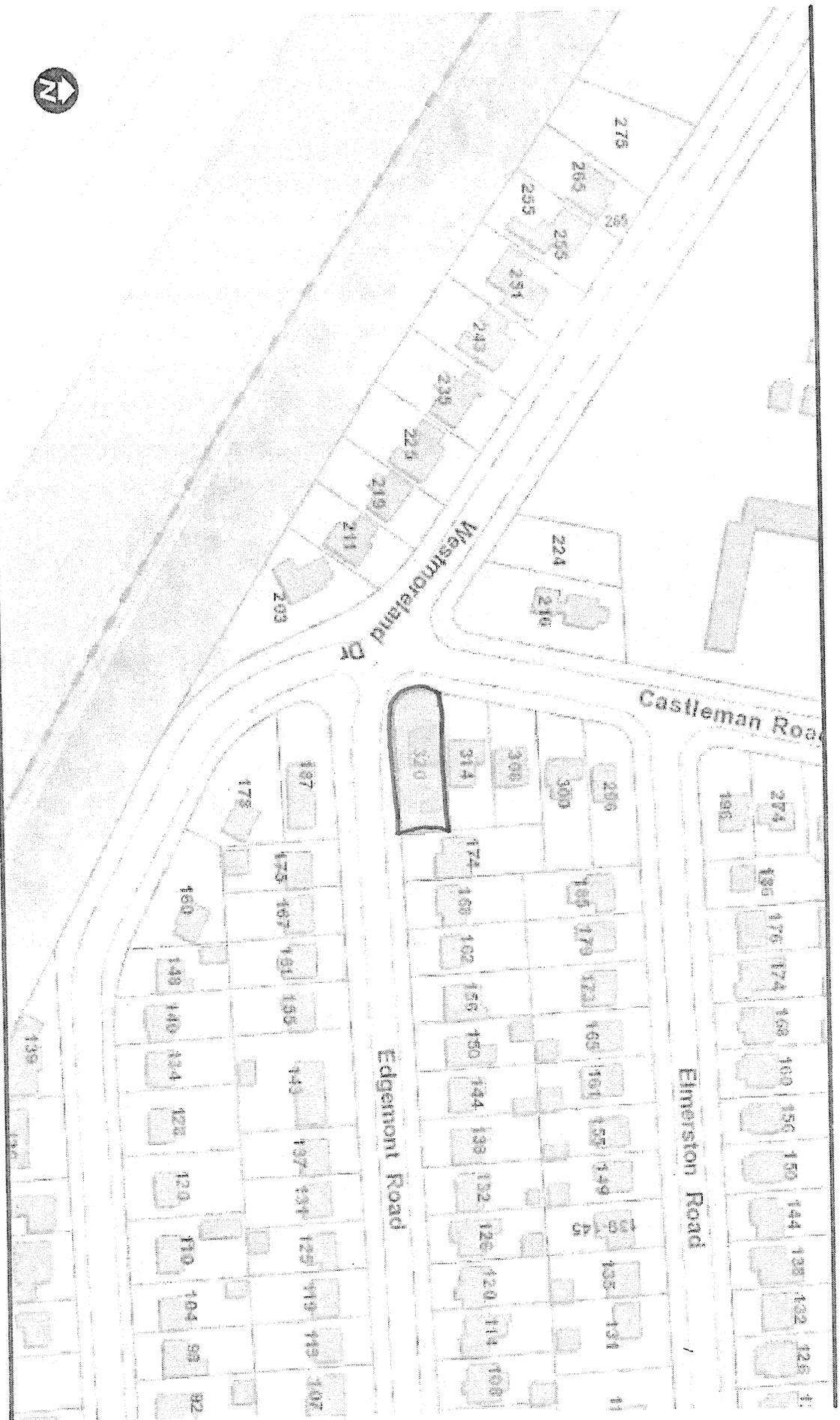
APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: David P. Blauth DATE: 12-9-2015

OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

# 320 CASTLEMAN RD



January 8, 2016

This map is intended for general reference only.  
The City of Rochester makes no representation  
as to the accuracy or fitness of the data presented.

## City of Rochester, NY



City of Rochester, NY  
Lovely A. Warren, Mayor



City of Rochester, NY

AREA VARIANCE  
STATEMENT OF DIFFICULTY  
Section 120-195B(4)(b)

An area variance shall be granted only if the applicant can establish the existence of EACH of the following conditions:

A. Benefits. The benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community by the granting of the variance.

Old Driveway was crack, pot holed and trees had heaved. This caused water damage to the garage.  
The benefits are even look and construction of Driveway, ie. Blacktop & Gravel to and even look of concrete.

B. Essential character of the area. No undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the variance.

Which with this change it stopped the water damage to my and neighbors property.

C. No other remedy. There is no other means feasible for the applicant to pursue, other than the granting of this area variance.

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

D. Significance. The requested variance is not substantial.

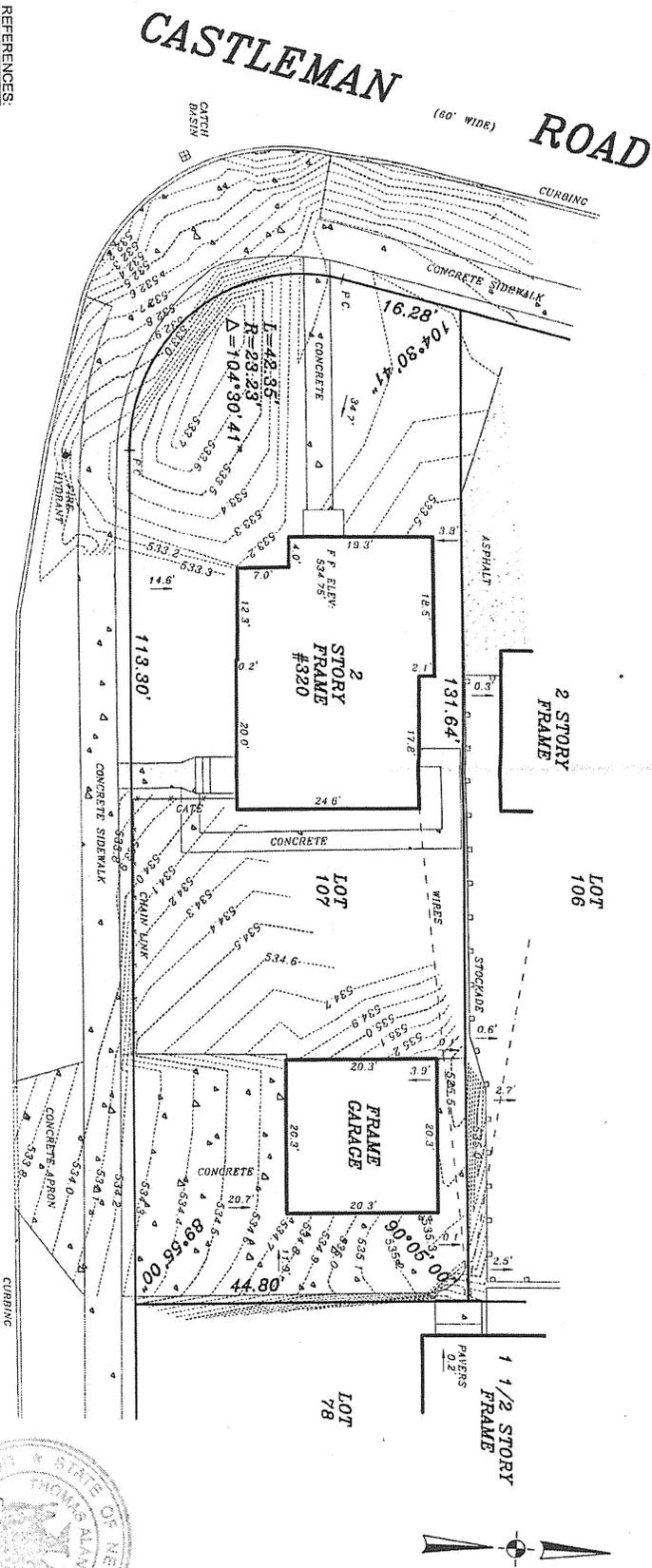
replaced cracked Driveway with  
new concrete to have all look the  
same.

E. Physical and environmental conditions. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Prevent water to flow into garage and  
neighbors property.

F. Not self created. The alleged difficulty was not self created, the consideration of which shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance.

Contractor said he had a permit  
but, didn't. I'm requesting a variance  
to get a extended drive way permit.  
I purchest home in 1980 and it had  
a ekeale Driveway.



**REFERENCES:**

LIBER 8037 OF DEEDS, PAGE 482  
LIBER 59 OF MAPS, PAGE 18

**NOTES:**

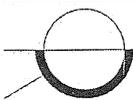
ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NYS CORS NETWORK BY USING GPS AND ARE ON NAVD 88 DATUM.  
CONTOURS SHOWN HEREON ARE IN 0.1 FOOT INTERVALS.  
PARCEL TAX ID #135 84-1-69

WE, ONEILL-RODAK LAND SURVEYING ASSOCIATES, P.C., CERTIFY TO DAVID P. BLAUTH THAT THIS MAP WAS PREPARED FROM NOTES OF AN INSTRUMENT SURVEY COMPLETED NOVEMBER 10, 2015.

*Thomas A. Rodak*  
THOMAS A. RODAK, P.L.S. #050246

**EDGEMONT**

**ROAD**

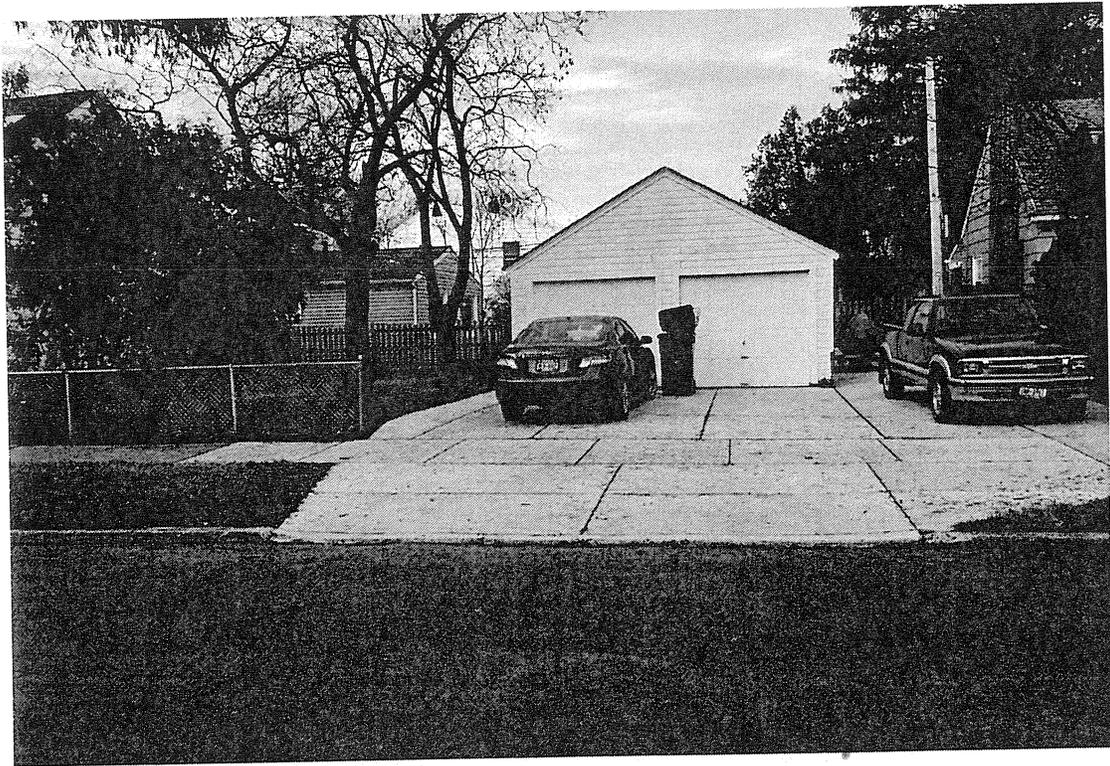


ONEILL-RODAK  
LAND SURVEYING ASSOCIATES, P.C.  
LAND SURVEYORS - PLANNERS  
BOUNDARY CONSULTANTS  
FLOOD ZONE DETERMINATIONS  
ALTAACSM SURVEYS

5 SOUTH FITZLUUGH STREET  
ROCHESTER, NY  
14614  
PHONE (585) 325-7520 FAX (585) 325-1708  
e-mail oneillrodak@frontiernet.net

MAP OF A SURVEY	CLIENT	MR. DAVID P. BLAUTH	PROJECT NO.
LOT 107	SCALE	DATE	2015-1117
UNIVERSITY HEIGHTS	1" = 15'	11/12/2015	
CITY OF ROCHESTER			
MONROE COUNTY, NEW YORK			









## City of Rochester

Neighborhood and Business Development  
City Hall Room 125B, 30 Church Street  
Rochester, New York 14614-1290  
[www.cityofrochester.gov](http://www.cityofrochester.gov)

Bureau of Planning  
and Zoning

February 4, 2016

David Blauth  
188 Edgemont Road  
Rochester, NY 14607

Location:	320 Castleman Road
Zoning District:	R-1 Low-Density Residential District
File Number:	V-042-15-16
Vote:	0-4-0

### **NOTICE OF DECISION**

In the matter of the request for an Area Variance to legalize the driveway expansion of a two-family dwelling, thereby resulting in front yard parking, please take notice that at the Zoning Board of Appeals meeting held on January 21, 2016, said application was **DENIED**.

Please be advised that as a result of this decision, you must remove the paving next to the garage. This permit should be obtained in the immediate future, or enforcement will continue, which may result in fines.

If you have any questions or would like to obtain a building permit, please contact Jill Symonds at (585) 428-7364 or [Jill.Symonds@cityofrochester.gov](mailto:Jill.Symonds@cityofrochester.gov).

Zina Lagonegro, EIT, AICP  
Secretary to the Zoning Board of Appeals

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**Resolution and Findings of Fact:**

1. Do the benefits to the applicant outweigh any detriments to the health, safety and welfare of the neighborhood or the community by granting the variance? Yes \_\_\_ No X

**Finding:** The subject property is a two-family dwelling located on the corner of Castleman and Edgemont Roads, and thus has two front yards. In testimony, the applicant explained that he repaved the driveway in order to resolve a drainage issue on his property. He also explained that the configuration of the driveway has not changed since he purchased the property in 1990.

The driveway leads to a detached, two car-garage and is 30' wide. The area to the east of the garage constitutes front yard parking. The Zoning Board determined that there is sufficient legal parking (i.e. 2 spaces in the garage and 2 spaces in front of the garage), and the additional paving should be removed. Having three cars parked alongside each other is inconsistent with the design of other parcels in the area.

2. Will the proposed use produce an undesirable change in the character of neighborhood or be a detriment to nearby properties? Yes X No \_\_\_

**Finding:** One of the intents of the zoning regulations for the R-1 district is to "preserve and promote neighborhoods characterized by unobstructed front yards and pedestrian-scale streetscapes." Front-yard parking obstructs the front yard and does not support a pedestrian environment. The Upper Mount Hope Neighborhood is an increasing walkable area that is surrounded by employment, recreation, shopping, and amenities. Excessive paving in the front yard detracts from this environment.

3. Can the benefit sought by the applicant be achieved by a feasible alternative to the variance? Yes X No \_\_\_

**Finding:** There are four legal parking spaces available on this property.

4. Is the requested variance substantial? Yes X No \_\_\_

**Finding:** Legalizing the front yard parking area is a substantial variance request. Triple-wide driveways are uncommon in this neighborhood and will have a negative visual impact on the residential character of the area.

5. Will the variance create an adverse impact on the physical or environmental conditions in the neighborhood? Yes X No \_\_\_

**Finding:** The variance request would have an adverse impact on the physical and environmental conditions of the neighborhood by permitting an overly wide driveway, a portion of which is in the front yard. This variance request would have a negative visual impact on the neighborhood.

6. Is the alleged difficulty self-created?

Yes X No \_\_\_

**Finding:** In testimony, the applicant explained that the contractor obtained a permit to repave the apron but not the driveway. The lack of permit and the desire for additional parking is a self-created difficulty.

**Record of Vote:**

D. Carr	Deny
R. Khaleel	Absent
D. O'Brien	Deny
J. O'Donnell	Absent
M. Tilton	Deny
E. Van Dusen	Deny

This decision was based on the following testimony and evidence:

**Testimony:**

**Support:**

David Blauth

**Opposition:**

None

**Evidence:**

Staff Report

City Property Information Map

Area Variance Application and Statement of Difficulty

Survey Map

Photos

Email from Bruce Mellen, dated 01/10/16

Email from Nancy Rice, dated 01/19/16

Email from Jerry Reynolds, dated 01/20/16

Personal Appearance Notice, Affidavit of Notification and Speakers' List



City of Rochester, NY

**REQUEST FOR REHEARING**  
(Section 120-1880)  
**BUREAU OF PLANNINGS AND ZONING**  
CITY HALL, 30 CHURCH STREET, ROOM 125-B  
ROCHESTER, NEW YORK 14614  
(585) 428-7043

**INSTRUCTIONS TO APPLICANT**

**APPLICATIONS MAY BE SUBMITTED TO A ZONING REPRESENTATIVE AT THE PERMIT OFFICE, CITY HALL, 30 CHURCH STREET, ROOM 121B.**

<b>Office Use</b>	<b><u>APPLICATION REQUIREMENTS:</u></b>
<input type="checkbox"/>	1. Two (2) copies of this application.
<input type="checkbox"/>	2. One (1) copy of all information or documentation supporting and relating to your application.

- APPLICANT:** Michael A. Perri      **COMPANY NAME:** Perri Franchising Inc  
**ADDRESS:** 1881 East Ave      **CITY:** Rochester      **ZIP CODE:** 14610  
**PHONE:** 585-957-6252      **FAX:** N/A  
**E-MAIL ADDRESS:** mike.perri@perrispizza.com  
**INTEREST IN PROPERTY:** Owner       Lessee       Other
- PROPERTY ADDRESS(ES):** 1881 East Ave Rochester, NY 14610
- FILE NUMBER OF ORIGINAL SPECIAL PROCESS TO BE REHEARD:** V-077-15-16
- DATE OF ORIGINAL SPECIAL APPROVAL:** 06/16/16
- PURPOSE OF ORIGINAL REQUEST:** Original request included a variance of 2 additional for a total of 4 signs (one on each side of the building) which also included a size variance totaling 51sqft per sign, to be placed in dormers post window removal on each side of building.
- LIST OF CONDITIONS APPLIED TO ORIGINAL SPECIAL APPROVAL (IF ANY):** No conditions applied variance application was denied.
- DESCRIBE PROPOSED REQUEST:** New proposed request would include 4 signs (one on each side of the building) each sign measuring 32"x60" for a total of 13.3 sq ft. Place in dormer above salvaged windows. (see attachments)

**APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.**

**SIGNATURE:**       **DATE:** 8/16/2016

**OWNER (if other than above): I have read and familiarized myself with the content of this application and do hereby consent to its submission and processing.**

**SIGNATURE:** \_\_\_\_\_      **DATE:** \_\_\_\_\_

## SUCCESSIVE APPLICATION STANDARDS

Whenever any application, appeal or other request filed pursuant to this Chapter has been finally denied on its merits or approved subject to specified conditions, a second application, appeal or other request seeking essentially the same relief, shall not be brought within two years unless, in the unanimous opinion of all members present on the Board or Commission before which the request is brought, one of the following standards has been met:

- 1. There is a substantial change in circumstances relevant to the issues and/or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application.**

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- 2. New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.**

Our previous plan included two identifying brand logos Perriê Pizzeria & The Brighton Pub

---

Our new design only includes the identification of the Perriê Pizzeria Brand

---

Our previous plan to eliminate 4 sets of windows

---

Our new plan to restore 4 sets of windows

---

- 3. A new application is proposed to be submitted that is materially different (e.g., proposes new uses, or a substantial decrease in proposed densities and intensities) from the prior application.**

Our previous design 4 signs 51 sq ft per sign total signage of 204 sq ft

---

Our new design(s) 4 signs 13.3 sq ft per sign total signage of 53.2 sq ft

---

\* Our new design size totals are actually less square footage than what we are currently

---

allowed our applicable front and back signs alone based on code/size per foot = 32sf per side

---

- 4. The final decision on the application was based on a material mistake of fact or mistake of law.**

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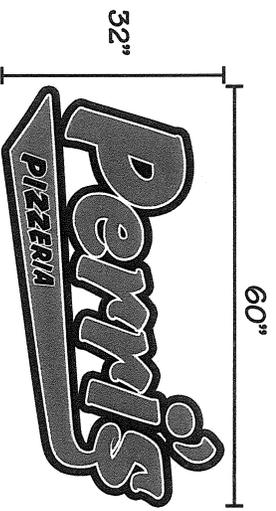
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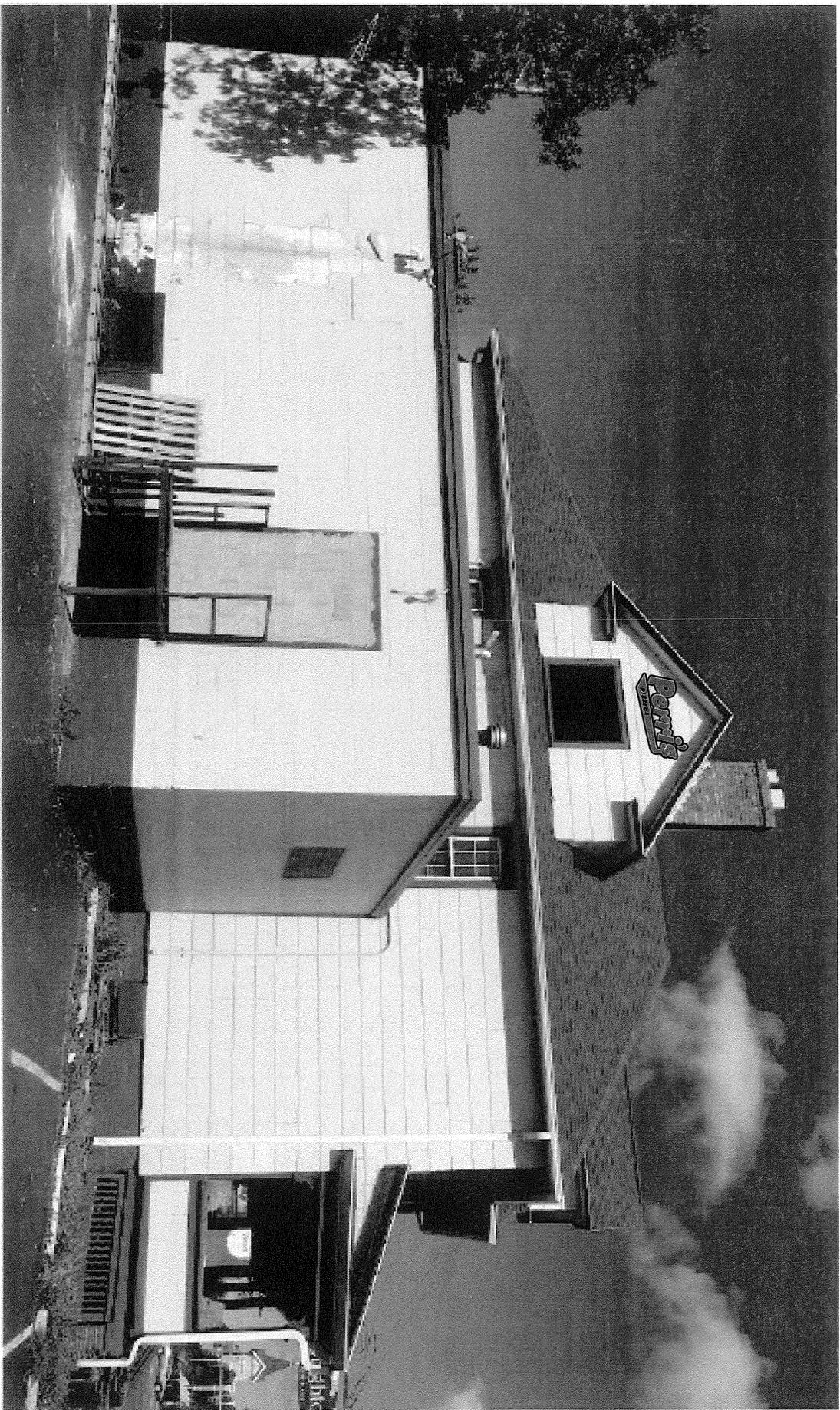
North Side



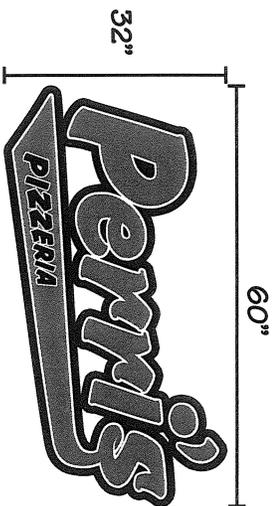
- Channel Letter Cloud Sign
- 3" Black Aluminum Returns
- High Performance Translucent Vinyl Graphics
- 12v LED internal illumination
- Flush mount installation
- 13.3 square feet



East Side



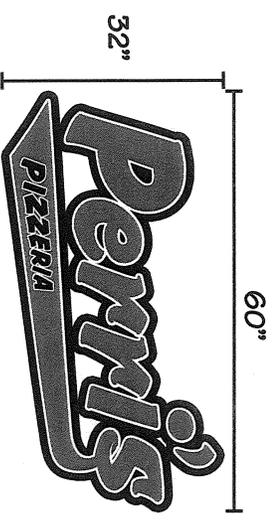
- Channel Letter Cloud Sign
- 3" Black Aluminum Returns
- High Performance Translucent Vinyl Graphics
- 12v LED internal illumination
- Flush mount installation
- 13.3 square feet



West Side



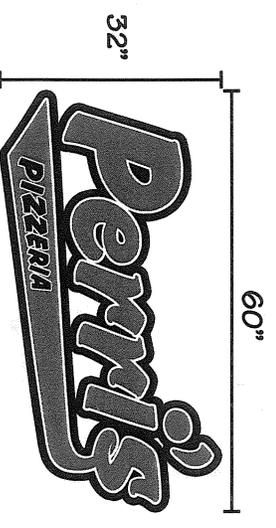
- Channel Letter Cloud Sign
- 3" Black Aluminum Returns
- High Performance Translucent Vinyl Graphics
- 12v LED Internal Illumination
- Flush mount installation
- 13.3 square feet



South Side



- Channel Letter Cloud Sign
- 3" Black Aluminum Returns
- High Performance Translucent Vinyl Graphics
- 12v LED internal illumination
- Flush mount installation
- 13.3 square feet





**ZONING BOARD OF APPEALS  
STAFF REPORT  
June 16, 2016**

**Area Variance**

**Case # 4:**

Staff Reviewer: Jill Symonds

**File Number:** V-077-15-16

**Applicant:** Michael Cimino

**Project Address:** 1881 East Avenue

**Zoning District:** C-2 Community Center District

**Section of Code:** 120-177

**Request:** To install four internally illuminated signs that are 7.5' x 5.5' each for "Perri's Pizzeria at the Brighton Pub" and to legalize an existing pendant sign, thereby exceeding certain sign requirements.

**Background:** The subject property is legal as bar/restaurant on the first floor and office and accessory storage on the second floor. The applicant is proposing to install four internally illuminated signs that are 7.5' x 5.5' (41 square feet) each for "Perri's Pizzeria at the Brighton Pub". There will be one sign on each of the four sides of the building. The applicant would also like to legalize the existing pendant sign on the East Avenue façade.

**Code Compliance:** Section 120-177 provides that the property is permitted to have 1 attached sign identifying uses or services on the premises that includes 0.5 square foot in area for every foot of the building frontage per street frontage.

The subject property is permitted one sign on the East Avenue and Highway 490 facades that are 31 square feet each. **An area variance is required for the number and size of the proposed signs.**

**Code Enforcement:** This property is not in code enforcement.

**PROJECT INFORMATION**

XC: Michael Perri  
585-957-6252  
1835 N. Union St.  
Spencerport, NY  
14559

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 1881 East Ave, Rochester, NY 14610

2. APPLICANT: MICHAEL CIMINO COMPANY NAME: Perri's Pizza at The Brighton Pub

ADDRESS: 1881 EAST AVE CITY: Rochester ZIP CODE: 14610

PHONE: (585) 370-8704 FAX: \_\_\_\_\_

E-MAIL ADDRESS CIMINOMARKETING@GMAIL.COM

INTEREST IN PROPERTY: Owner  Lessee  Other

3. PLAN PREPARER: Kurt Edens

ADDRESS: 55 Ice Rose Lane CITY: Rochester ZIP CODE: 14623

PHONE: 585-857-6594 FAX: crystalcitysigns@gmail.com

4. ATTORNEY: MICHAEL PATTISON

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: 585 944-5444 FAX: \_\_\_\_\_

E-MAIL ADDRESS MPATTISON.LAW@GMAIL.COM

5. ZONING DISTRICT: C-2

6. DETAILED PROJECT DESCRIPTION (additional information can be attached): \_\_\_\_\_

~~Proposed Variance for allowing business logos to be installed on all 4 sides of the building to allow for equal exposure as adjacent businesses with signage on all sides. Also, due to the size of the building and proximity to the roads, signage will only be visible from all direction if it is installed on all sides.~~

7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased): \_\_\_\_\_

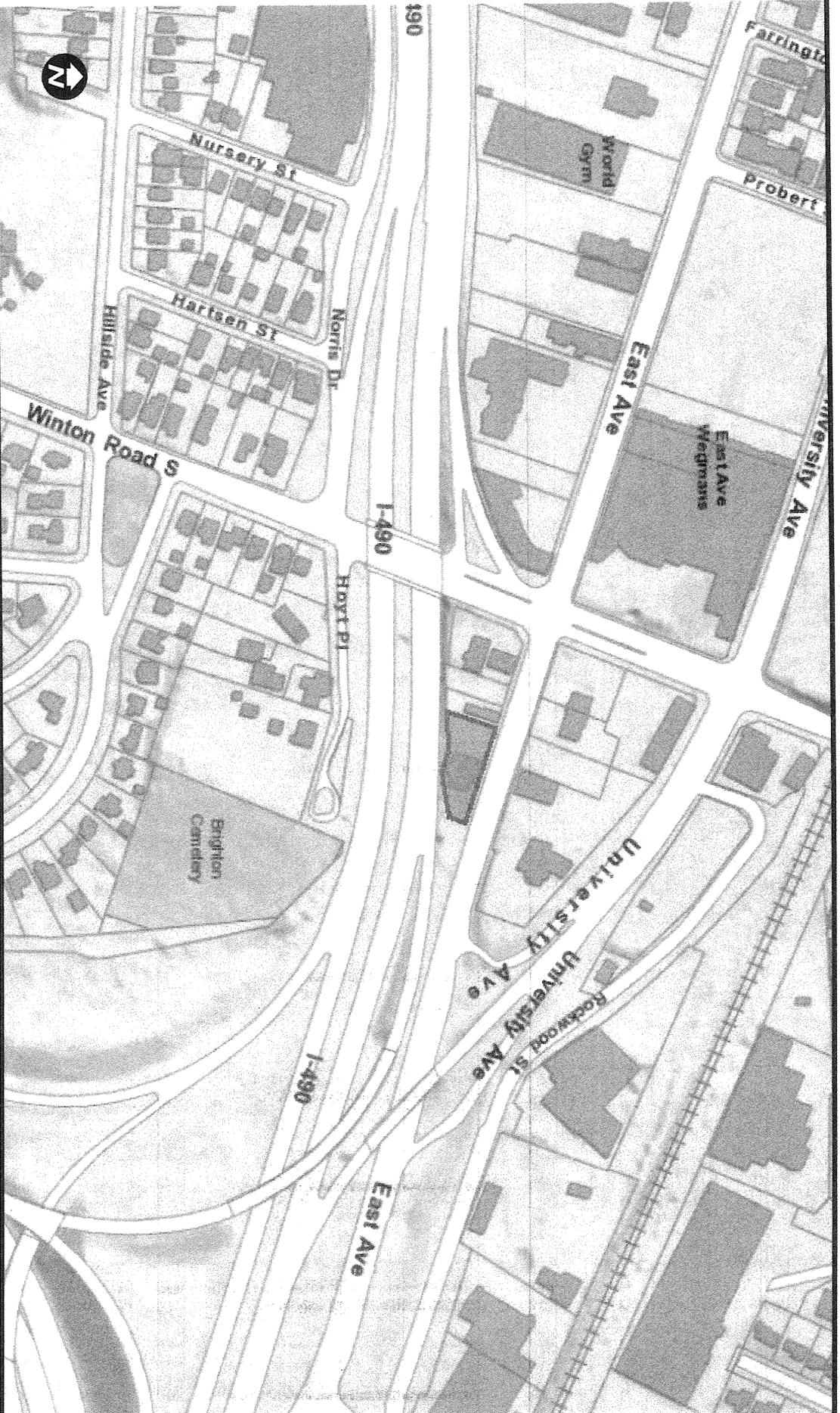
APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: [Signature] DATE: 5-12-16

X OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

# 1881-1887 EAST AV



June 3, 2016

This map is intended for general reference only.

The City of Rochester makes no representation as to the accuracy or fitness of the data presented.

## City of Rochester, NY



City of Rochester, NY  
Lovely A. Warren, Mayor



City of Rochester, NY

**AREA VARIANCE  
STATEMENT OF DIFFICULTY  
Section 120-195B(4)(b)**

An area variance shall be granted only if the applicant can establish the existence of EACH of the following conditions:

**A. Benefits.** The benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community by the granting of the variance.

The proposed variance allows for brand exposure in all directions matching that of all adjacent businesses  
The proposed signage is being installed at a height in which the size chosen is the minimum needed to maintain adequate visibility and readability. The benefit of the proposed signage is that it allows for fair and equivalent exposure of the brand and business name amidst the local businesses, all of which have signage on all sides of their buildings.

**B. Essential character of the area.** No undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the variance.

The proposed signage was designed in such a way to complement the aesthetics of the neighborhood and the building on which they will be installed. The design is made to be clean, and easily readable to pedestrian and vehicular traffic while portraying the level of class and quality offered by Perri's Pizzeria and the local neighborhood.

**C. No other remedy.** There is no other means feasible for the applicant to pursue, other than the granting of this area variance.

The proposed variance is the only means with which "Perri's Pizzeria at the Brighton Pub" can maintain the same level of exposure and apparent quality as that of adjacent businesses. Without the proposed signage, Perri's Pizzeria at the Brighton Pub would be at an unfair disadvantage in regards to brand exposure to consumer traffic as all nearby businesses also have signage on all sides of their buildings.

**D. Significance.** The requested variance is not substantial.

The building signs of any business is the first impression customers have regarding the quality of that business. With other food service competitors immediately adjacent to this building, it is imperative that we are successful in matching the portrayed quality offered by their signage on all sides.

That aside, structure of this building is such that signage will not be visible from all directions unless it is installed on all sides. The requested variance is not one with substantial effects, it will simply allow this business to start on equal footing as the adjacent businesses, and will have no impact on the neighborhood or other businesses.

**E. Physical and environmental conditions.** The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

This variance will have no impact at all on the physical or environmental conditions of the neighborhood.

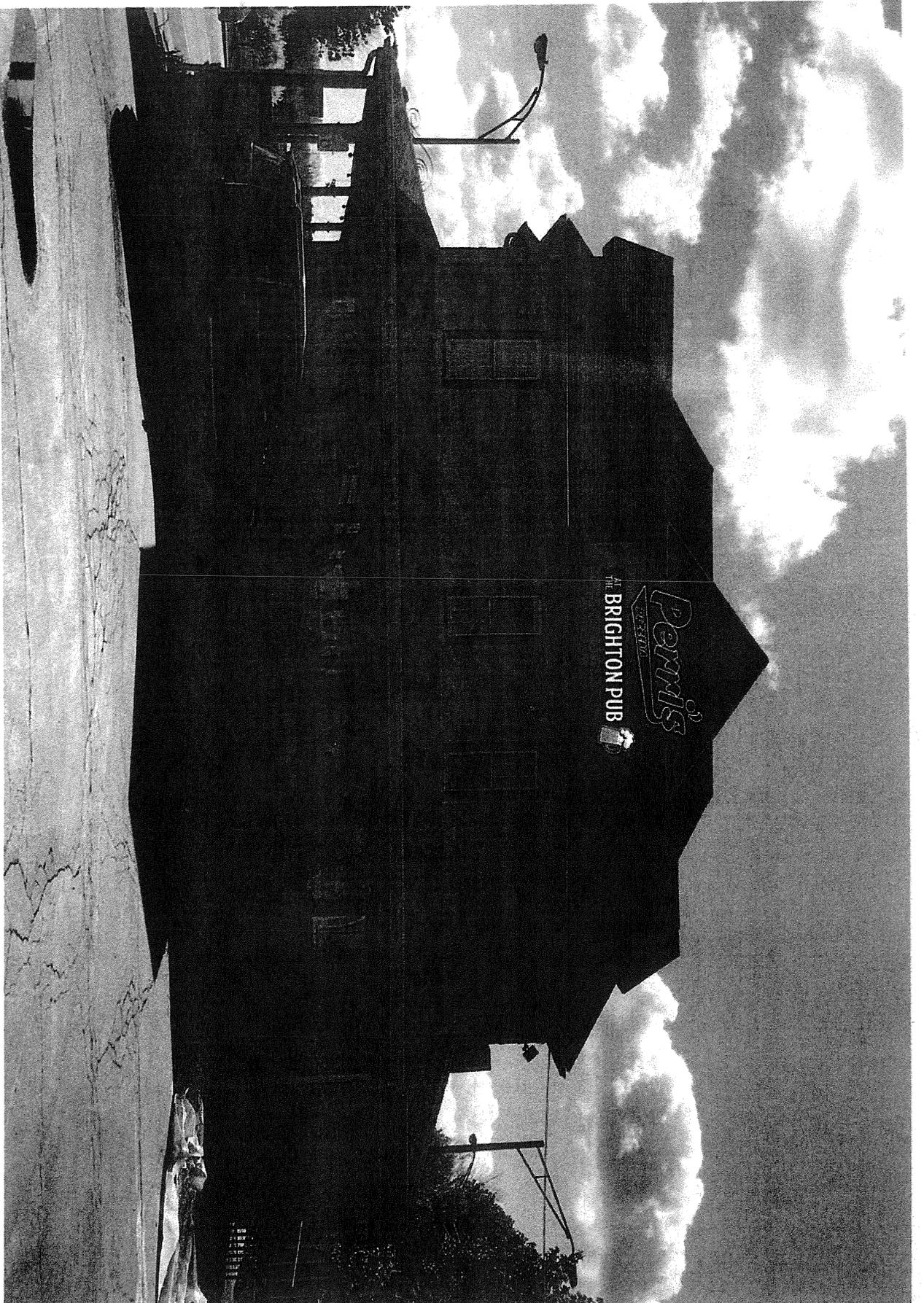
**F. Not self created.** The alleged difficulty was not self created, the consideration of which shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance.

The proposed variance exists because of the existing conditions of the neighborhood and businesses therein. In order to be competitive and successfully in this neighborhood, the building signage must meet or exceed the quality and level of exposure portrayed by the signage of adjacent buildings.

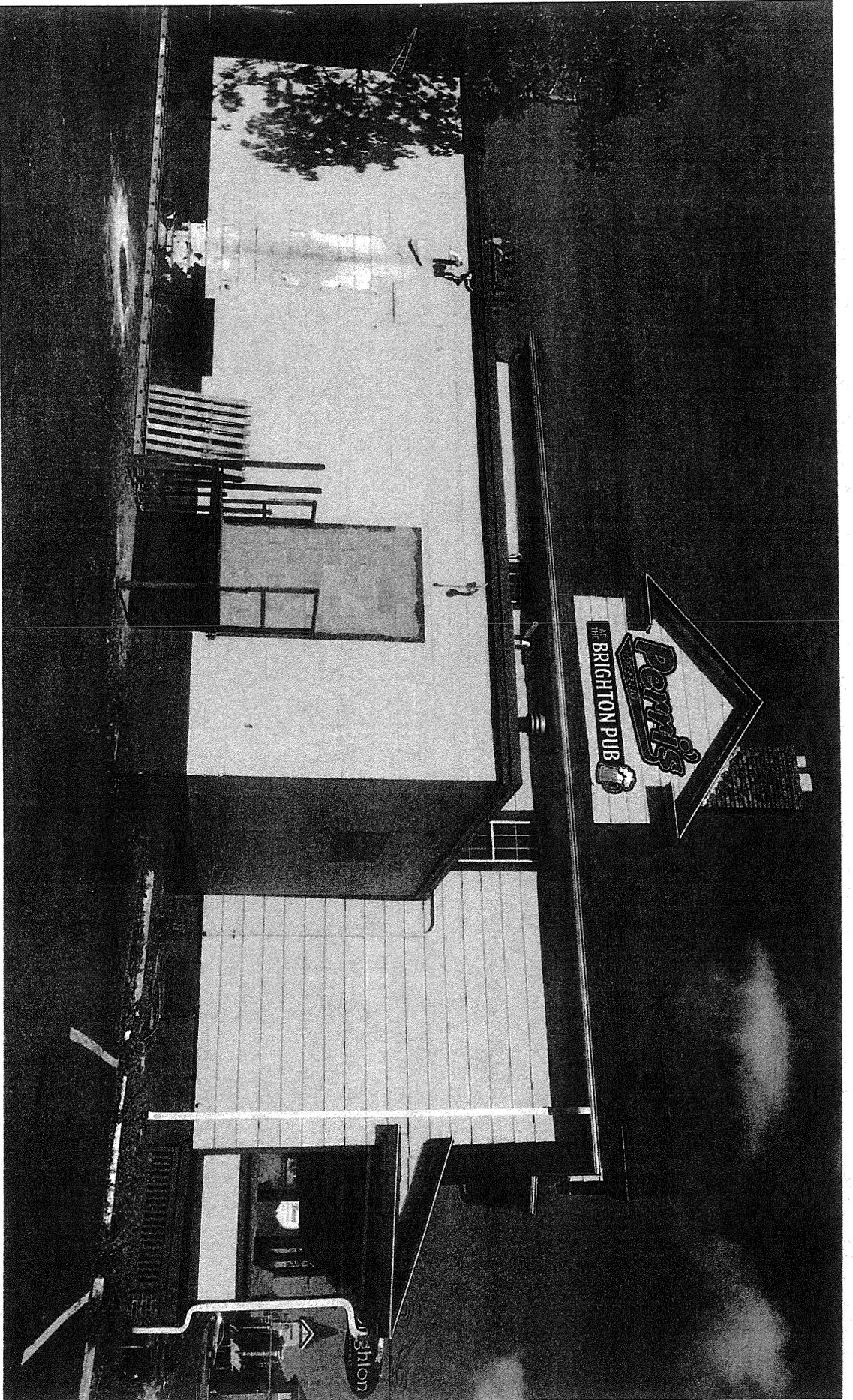
With other food service competitors immediately adjacent to this building, it is imperative that we are successful in matching the portrayed quality offered by their signage on all sides. That aside, the structure of this building is such that signage will not be visible from all directions unless it is installed on all sides.



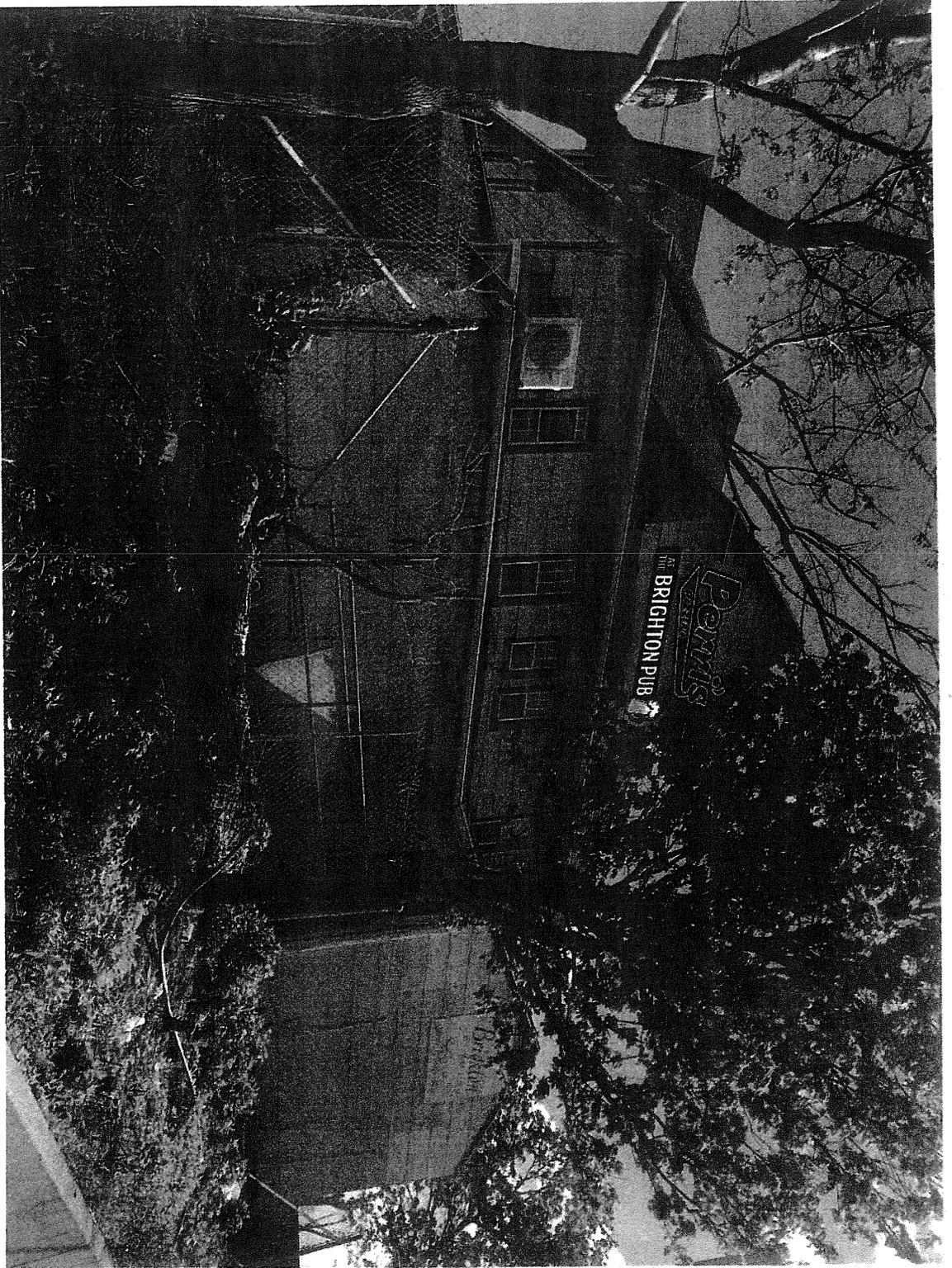
**Crystal City Signs**  
55 Ice Rose Lane  
Rochester, NY 14623  
585-766-5659



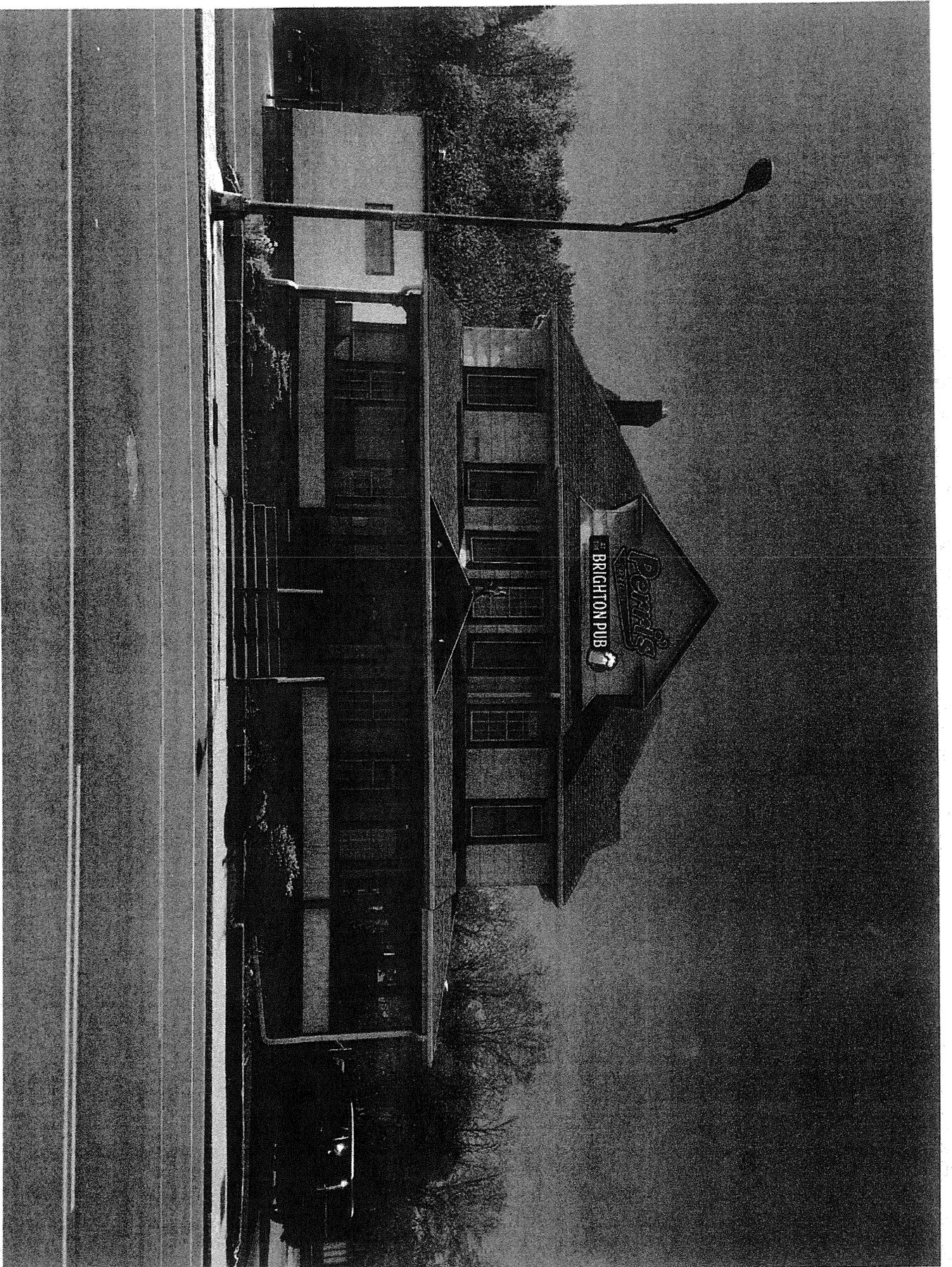
FULL VIEW WEST SIDE (RIGHT) - FACING WINTON RD



FULL VIEW EAST SIDE (LEFT)



FULL VIEW SOUTH SIDE (REAR) - FACING 1-490



FULL VIEW NORTH SIDE (FRONT) - FACING EAST AVE



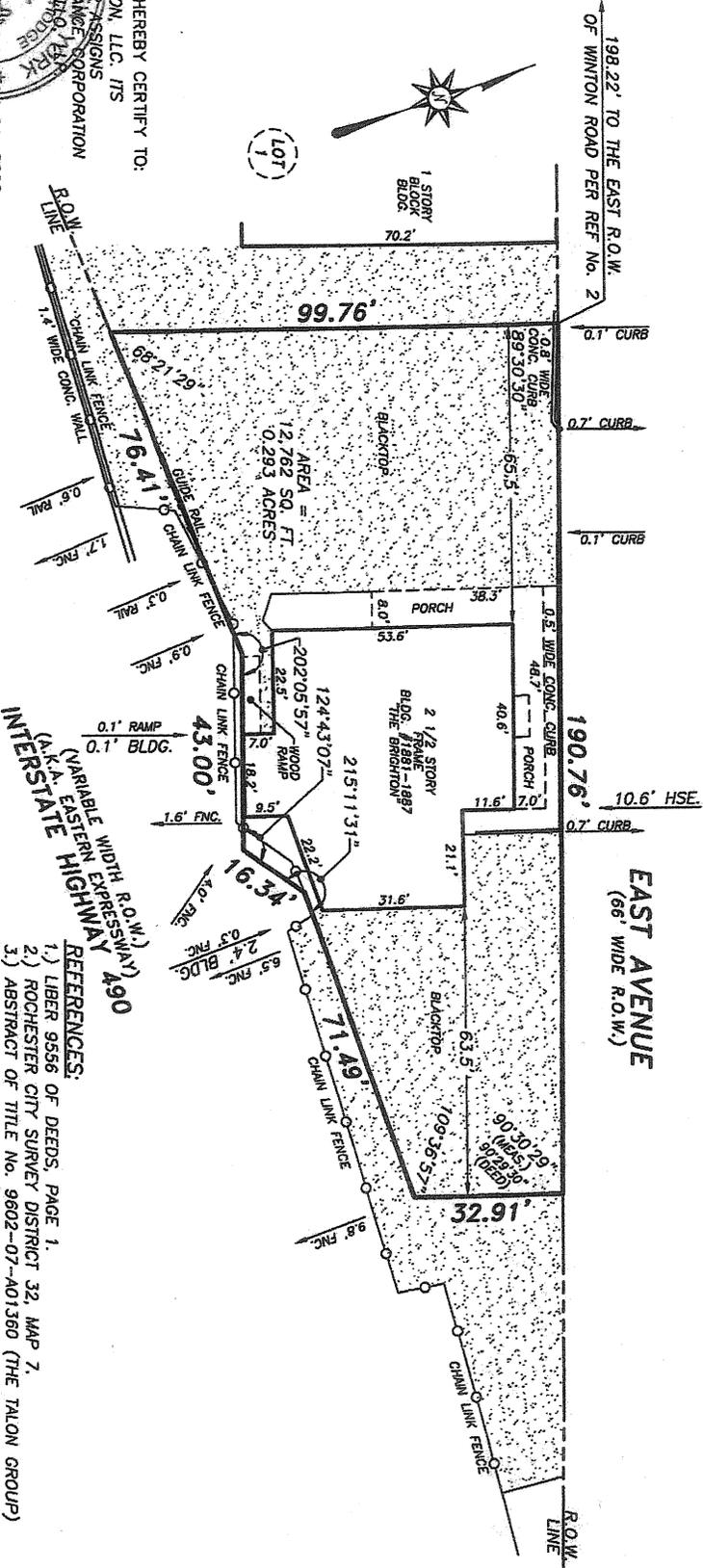
existing  
sign doesn't  
have a  
permit

1881 TO 1887 EAST AVENUE  
 BEING PART OF TOWN LOT No.20, TOWNSHIP 13,  
 RANGE 7, 2ND DIVISION, CITY OF ROCHESTER,  
 COUNTY OF MONROE, STATE OF NEW YORK

INSTRUMENT SURVEY MAP

N.Y.S.R.L.S. No. 50619 DATE 3/27/08

CERTIFICATION:  
 I, ANDREW M. HODGE, HEREBY CERTIFY TO:  
 -EAST AVENUE BRIGHTON, LLC, ITS  
 SUCCESSORS AND/OR ASSIGNS  
 -MONROE TITLE INSURANCE CORPORATION  
 -REDMOND & PARRINELLO, LLP  
 -EVANS & FORBES, LLP  
 THAT THIS MAP WAS MADE MARCH 24, 2008  
 FROM NOTES OF AN INSTRUMENT SURVEY  
 COMPLETED DEC. 15, 2007  
 AND REFERENCES LISTED HEREOF.



AREA = 12,762 SQ. FT.  
 0.293 ACRES

INTERSTATE HIGHWAY 190  
 (VARIABLE WIDTH R.O.W.)  
 (A.K.A. EASTERN EXPRESSWAY)

- REFERENCES:
- 1.) LIBER 9556 OF DEEDS, PAGE 1.
  - 2.) ROCHESTER CITY SURVEY DISTRICT 32, MAP 7.
  - 3.) ABSTRACT OF TITLE No. 9602-07-A01360 (THE TALON GROUP)
  - 4.) LIBER 25 OF MAPS, PAGE 29.
  - 5.) NYSDOT APPROPRIATION PER LIBER 7160 OF DEEDS, PAGE 43.
  - 6.) EASEMENT TO R.T.C. & R.G.&E. PER LIBER 3281 OF DEEDS, PAGE 196.
  - 7.) NYSDOT APPROPRIATION PER LIBER 3217 OF DEEDS, PAGE 307.
  - 8.) NYSDOT APPROPRIATION PER LIBER 3214 OF DEEDS, PAGE 500.

\*UNAUTHORIZED ALTERATION OR REMOVAL OF A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 22-A, SUB-DIVISION 2 OF THE NEW YORK STATE EDUCATION LAW. ANY SUCH VIOLATION SHALL BE CONSIDERED TO BE A VIOLATION OF SECTION 22-A, SUB-DIVISION 2 OF THE NEW YORK STATE EDUCATION LAW. ANY SUCH VIOLATION SHALL BE CONSIDERED TO BE A VIOLATION OF SECTION 22-A, SUB-DIVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

CERTIFICATION: I, ANDREW M. HODGE, HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE CURRENT CODE OF PROFESSIONAL STANDARDS FOR LAND SURVEYING AND MAPPING IN THE STATE OF NEW YORK. I AM A LICENSED LAND SURVEYOR IN THE STATE OF NEW YORK AND I AM NOT PROVIDING ANY PROFESSIONAL OPINION OR GUARANTEE TO THE ACCURACY OF THIS SURVEY. ANY SUCH VIOLATION SHALL BE CONSIDERED TO BE A VIOLATION OF SECTION 22-A, SUB-DIVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

SCALE: 1" = 30'

TAX ACCOUNT: 122.57-1-033

JOB No. 1686-07 DATE: MARCH 24, 2008

TRI-COUNTY LAND SURVEYORS, LLC  
 16 EAST MAIN STREET, SUITE 320  
 ROCHESTER, NEW YORK, 14614  
 Phone: (585) 263-9950  
 Fax: (585) 263-9981



**City of Rochester**

Neighborhood and Business Development  
City Hall Room 125B, 30 Church Street  
Rochester, New York 14614-1290  
www.cityofrochester.gov

Bureau of Planning  
and Zoning

June 30, 2016

Michael Cimino  
Perri's Pizza at the Brighton Pub  
1881 East Avenue  
Rochester, NY 14610

Location: 1881 East Avenue  
Zoning District: C-2 Community Center District  
File Number: V-077-15-16  
Vote: 0-7-0

RECEIVED  
CITY OF ROCHESTER  
CLERK/COUNCIL OFFICE  
2016 JUL -1 PM 12:46

**NOTICE OF DECISION**

In the matter of the request for an Area Variance to install four internally illuminated signs that are 7.5' x 5.5' each for "Perri's Pizzeria at the Brighton Pub", thereby exceeding certain sign requirements, please take notice that at the Zoning Board of Appeals meeting held on June 16, 2016, said application was **DENIED**.

If you have any questions or concerns about this decision, please contact Jill Symonds at 585-428-7364 or [Jill.Symonds@cityofrochester.gov](mailto:Jill.Symonds@cityofrochester.gov).

Zina Lagonegro, EIT, AICP  
Secretary to the Zoning Board of Appeals

cc: Michael Perri, 1835 N. Union St., Spencerport, NY 14559

The matter of an application for an Area Variance to install four internally illuminated signs that are 7.5' x 5.5' each for "Perri's Pizzeria at the Brighton Pub", thereby exceeding certain sign requirements, please take notice that at the Zoning Board of Appeals meeting held on June 16, 2016, said application was **DENIED**.

**Resolution and Findings of Fact:**

1. Do the benefits to the applicant outweigh any detriment to the health, safety and welfare of the neighborhood or the community? Yes  No

**Finding:** The subject property is legal as a bar/restaurant on the first floor and office and accessory storage on the second floor. Despite the commercial use, the architecture of the building is residential in nature. The applicant is proposing to block the third floor dormer windows and install a sign on each of the four sides of the building. The Zoning Board determined that the location of the proposed signs would significantly detract from the architectural character of the building and would be a detriment to the health, safety, and welfare of the community.

2. Will the proposal produce an undesirable change in the character of neighborhood or be a detriment to nearby properties? Yes  No

**Finding:** The subject property is located in a C-2 Community Center District where internally illuminated signs are permitted. However, the Zoning Board determined that externally illuminated signs would be more appropriate at this location given the architecture of the building. Moreover, the elimination of the third floor dormer windows would detract from the character of the façade. The proposed signage would produce an undesirable change in the character of the building and the surrounding properties.

3. Can the benefit sought by the applicant be achieved by a feasible alternative to the variance? Yes  No

**Finding:** The applicant did not provide any evidence that alternatives were considered. The Zoning Board noted that there are several other locations on the property where the applicant could consider installing a sign that would not require the removal of windows.

4. Is the requested variance substantial? Yes  No

**Finding:** Given the impact on the appearance of the building, the variance request is substantial.

5. Will the variance create an adverse impact on the physical or environmental conditions in the neighborhood? Yes  No

**Finding:** The proposal will result in the elimination of the third story dormer windows which are an important architectural feature of the building. Given the location of the property along East Avenue and adjacent to the 490, the Zoning Board acknowledged that signage is important to the business, however a sign request that was more sensitive to the aesthetics of the property would be a preferable solution.

6. Is the alleged difficulty self-created?

Yes X No \_\_\_

**Finding:** The desire to have additional signage that would eliminate the third story dormer windows is a self-created difficulty.

**Record of Vote:**

J. Best	Deny
L. Boose-Stanford	Deny
D. Carr	Deny
J. De Mott (alternate)	Deny
M. Morales	Deny
J. O'Donnell	Deny
M. Tilton	Deny

This decision was based on the following testimony and evidence:

**Supporting Testimony:**

Kurt Edens  
Michael Cimino

**Opposing Testimony:**

Mary Coffey  
Holly Petsos  
Marilyn Shutte  
John Lembach

**Evidence:**

Staff Report  
Area Variance Application  
City Property Information Map  
Statement of Difficulty  
Sign Renderings  
Photographs  
Survey Map  
Personal Appearance Notice  
Affidavit of Notification  
Speakers List

Mary Coffey  
Holly Petsos  
Marilyn Shutte  
John Lembach