

10. In accordance with Section 325-8(A)(14)(a) of the Zoning Ordinance, an average rear lot line must first be calculated by taking the average of two side lot lines to determine the average lot depth. The graphic depiction in the Zoning Ordinance provides that side lot lines should be drawn at a 90-degree angle perpendicular to the front lot line to determine the average lot depth. Accordingly, when a parcel is irregular in shape, the side lot lines are drawn by extending lines at a 90-degree angle perpendicular to the front lot line from each end point of the front lot line and extending to the furthest rear line.

## Mr. Leonardi's Average Rear Lot Line Explanation

Base Source: Affidavit of Gino Leonardi Dated November 27,2019

# \$17.EE1

**Example of Unequal Side Lot Lines -**

## With Markups Based of Affidavit

Base Source: Zoning Ordinance Section 325-8(A)(14)(a)

# Code Analysis For Appeal

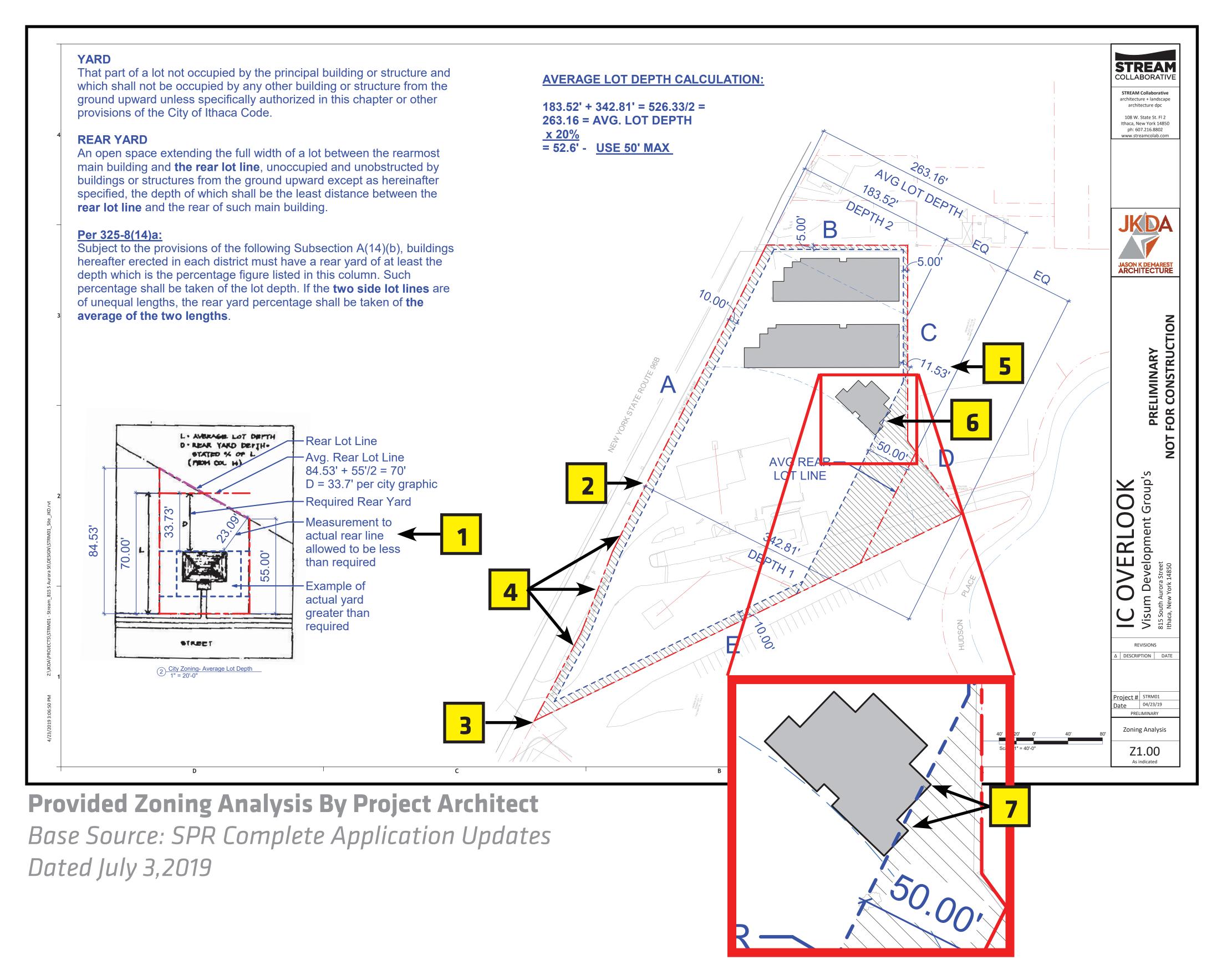
Issue 1 - Zoning: Method of Calculating Rear Yard Setback

Board of Zoning Appeals: Appeal #3202 In Regards To The Project Located At: 815 S. Aurora Street, Ithaca, NY 14850 © 2021 John Snyder Architect, PLLC

## **Keynote Legend For Sheet**

- 1 Front Lot Line Shown With Heavy Black Line. Front Lot Line Parallel To Average Lot Depth.
- 2 Side Lot Line Shown With Heavy Blue Line.
- Average Lot Depth Shown With Heavy Black Line. Average Lot Depth Parallel To Front Lot Line
- Furthest Rear Line Shown With Heavy Red Line.
- **5** End Point of Front Lot Line Center of Blue Circle.
- Side Lot Lines Drawn Perpendicular To Front Lot Line At Front Lot Line End Points.
- 7 Intersection of Side Lot Line With Furthest Rear Line at Centerof Red Circle.





# **Code Analysis For Appeal**

Issue 1 - Zoning: Method of Calculating Rear Yard Setback

Board of Zoning Appeals: Appeal #3202 In Regards To The Project Located At: 815 S. Aurora Street, Ithaca, NY 14850 © 2021 John Snyder Architect, PLLC

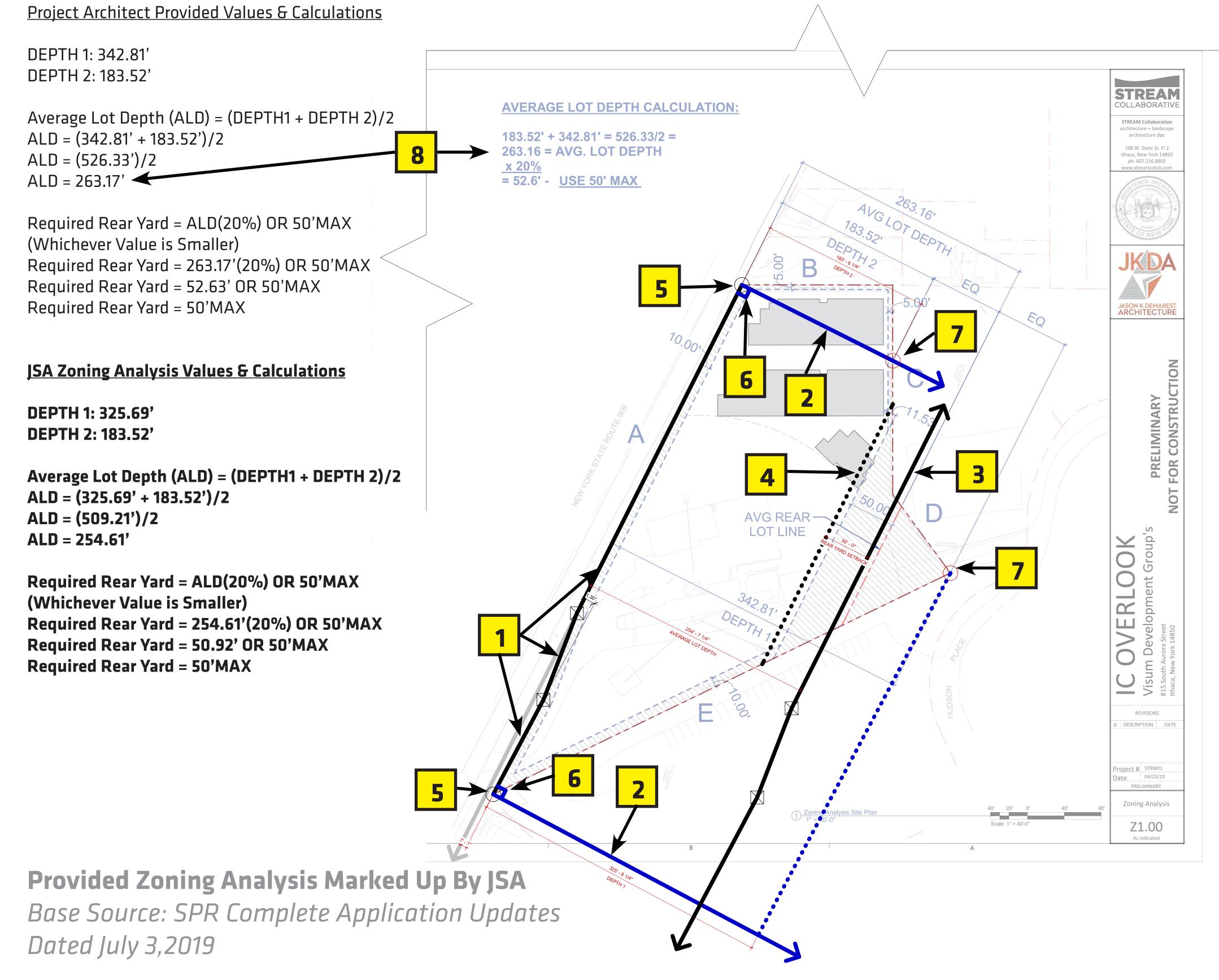
## **Keynote Legend For Sheet**

- Explanation Dimension and Placement of Dimension For Building Distance From Required Rear Yard Line is Incorrect. Dimension Should Be Perpendicular From Required Rear Yard Line To The Closest Point of The Structure Resulting in The Shortest Possible Dimension.
- Location of "DEPTH 1" is Incorrect. This Dimension Should Be Perpendicular From The End Point of Front Lot Line. Therefore "DEPTH 1" as Shown is Invalid.
- This Should Have Been The Location of "DEPTH 1".
- Note That The Front Lot Line "A" is Composed of (3) Property Lines That are Not Parallel.Sit Survey Confrims This.
- Dimension From "Building B" To Required Rear Yard Line Correctly Shown.
- Dimension From "Building C" To Required Rear Yard Line Not Shown. This Should Be Shown To Verify Compliance WIth Zoning Code.
- "Building C" as Shown is Over Required Rear Yard Line. This is a Violation of The Zoning Ordinance. This Document Should Have Been Required To Be Corrected and Resubmitted (Which is Not Indicated in Any Availble Public Documents) or Have Been Required To Seek a Variance.

#### **Reviewer's Note:**

It Does Appear in Other Documents That "Building C" Footprint Was Changed To Be in Compliance With Incorrect Rear Yard Calculation. However an Updated Zoning Analysis Should Have Been Required. Also The New Footprint is Still in Violation Of The Required Rear Due To The Incorrect Placement of "DEPTH 1". This Will Be Shown Later In This Document.





# **Code Analysis For Appeal**

Issue 1 - Zoning: Method of Calculating Rear Yard Setback

Board of Zoning Appeals: Appeal #3202 In Regards To The Project Located At: 815 S. Aurora Street, Ithaca, NY 14850 © 2021 John Snyder Architect, PLLC

## **Keynote Legend For Sheet**

- Front Lot Line Shown With Heavy Black Line. Front Lot Line is Composed of (3) Property Lines.
  - 2 Side Lot Line Shown With Heavy Blue Line.
- Average Lot Depth Shown With Heavy Black Line. Average Lot Depth is Parallel To Front Lot Line.
- Required Rear Yard Line Shown With Heavy Black Dotted Line.
- **5** End Point of Front Lot Line Center of Blue Circle.
- Side Lot Lines Drawn Perpendicular To Front Lot Line At Front Lot Line End Points.
- Intersection of Side Lot Line With Furthest Rear Line at Center of Red Circle. Note That "Depth 1" Would Never Intersect With Furtest Rear Line. Code is Unclear if Extrapolation is Allowed. Recommend Clarification in Code. Given Provided Document Chose To Extrapolate, This Provided Analysis Will As Well. Extrapolation Shown With Heavy Blue Dotted Line.
- Rounding Error.

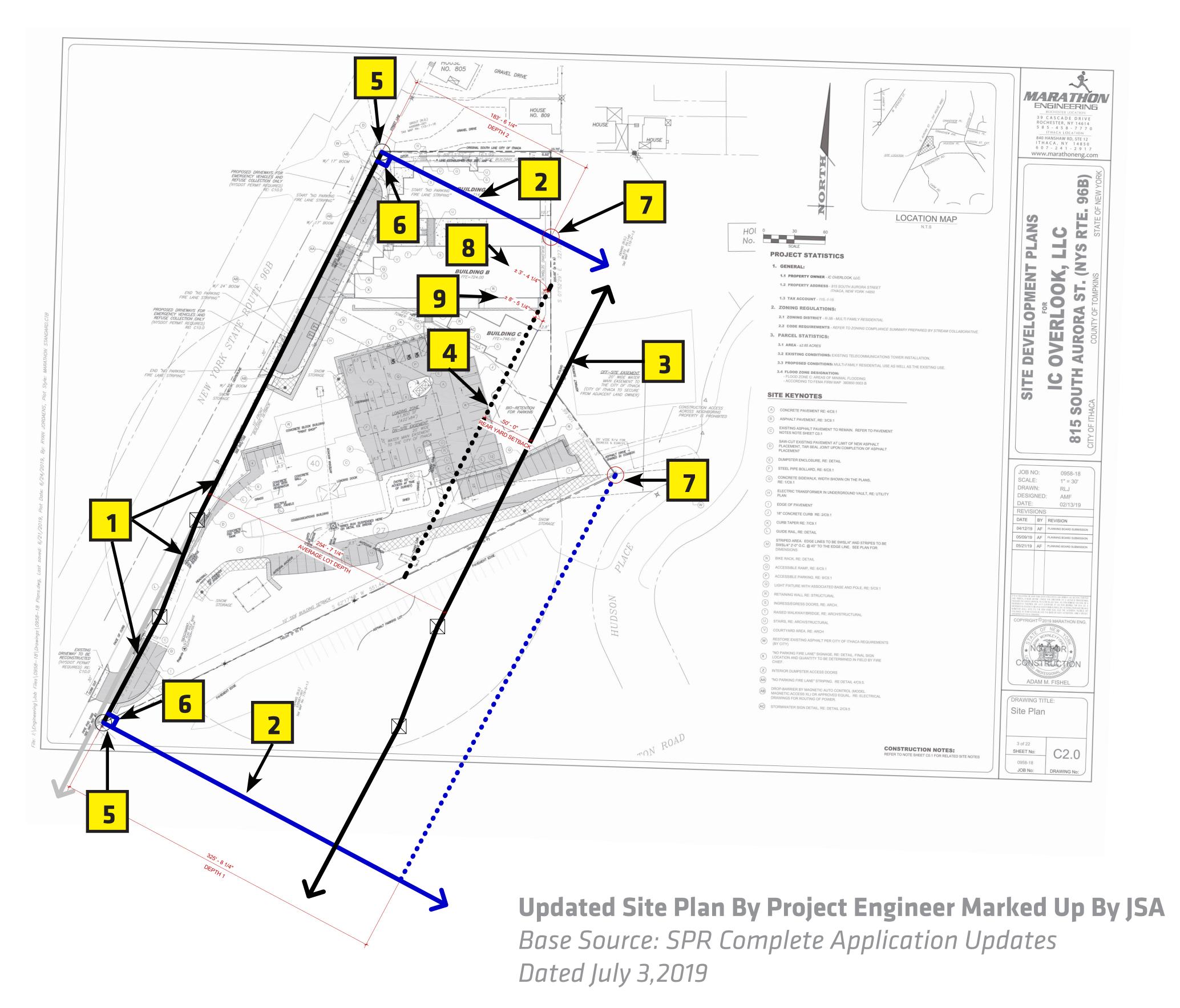
#### **Reviewer's Note:**

Project Architect's Incorrect "DEPTH 1" Resulted In:

# 8.56' ERROR OF AVERAGE LOT DEPTH

"Building C" Further Violates Required Rear Yard. "Building B" Is Approximately 3' From Required Rear Yard. Later In This Document It Will Be Shown That The Updated Footprint of "Building C" is Still in Violation.





# Code Analysis For Appeal

Issue 1 - Zoning: Method of Calculating Rear Yard Setback

Board of Zoning Appeals: Appeal #3202 In Regards To The Project Located At: 815 S. Aurora Street, Ithaca, NY 14850 © 2021 John Snyder Architect, PLLC

## **Keynote Legend For Sheet**

- Front Lot Line Shown With Heavy Black Line. Front Lot Line is Composed of (3) Property Lines.
- Side Lot Line Shown With Heavy Blue Line.
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- Required Rear Yard Line Shown With Heavy Black Dotted Line.
- End Point of Front Lot Line Center of Blue Circle.
- Side Lot Lines Drawn Perpendicular To Front Lot Line At Front Lot Line End Points.
- Intersection of Side Lot Line With Furthest Rear Line at Center of Red Circle. Note That "Depth 1" Would Never Intersect With Furtest Rear Line. Code is Unclear if Extrapolation is Allowed. Recommend Clarification in Code. Given Provided Document Chose To Extrapolate, This Provided Analysis Will As Well. Extrapolation Shown With Heavy Blue Dotted Line.
- "Building B" Distance From Required Rear Yard Line is Approximately 3'-4" Away. "Building B" is in Compliance.
- "Building C" Distance From Required Rear Yard Line is Approximately Negative 8'-5" Away. "Building B" is Not In Compliance.

### **Reviewer's Note:**

"Building C" as Currently Presented in The Approved Site Plan Application Does Not Comply With Zoning. A Variance Was Never Granted. Given This Information It Appears That The Site Plan Application Was Approval was Issued in Error.

AS THE PROJECT
CURRENTLY STANDS, AN
APPROVED ZONING
VARIANCE WAS REQUIRED

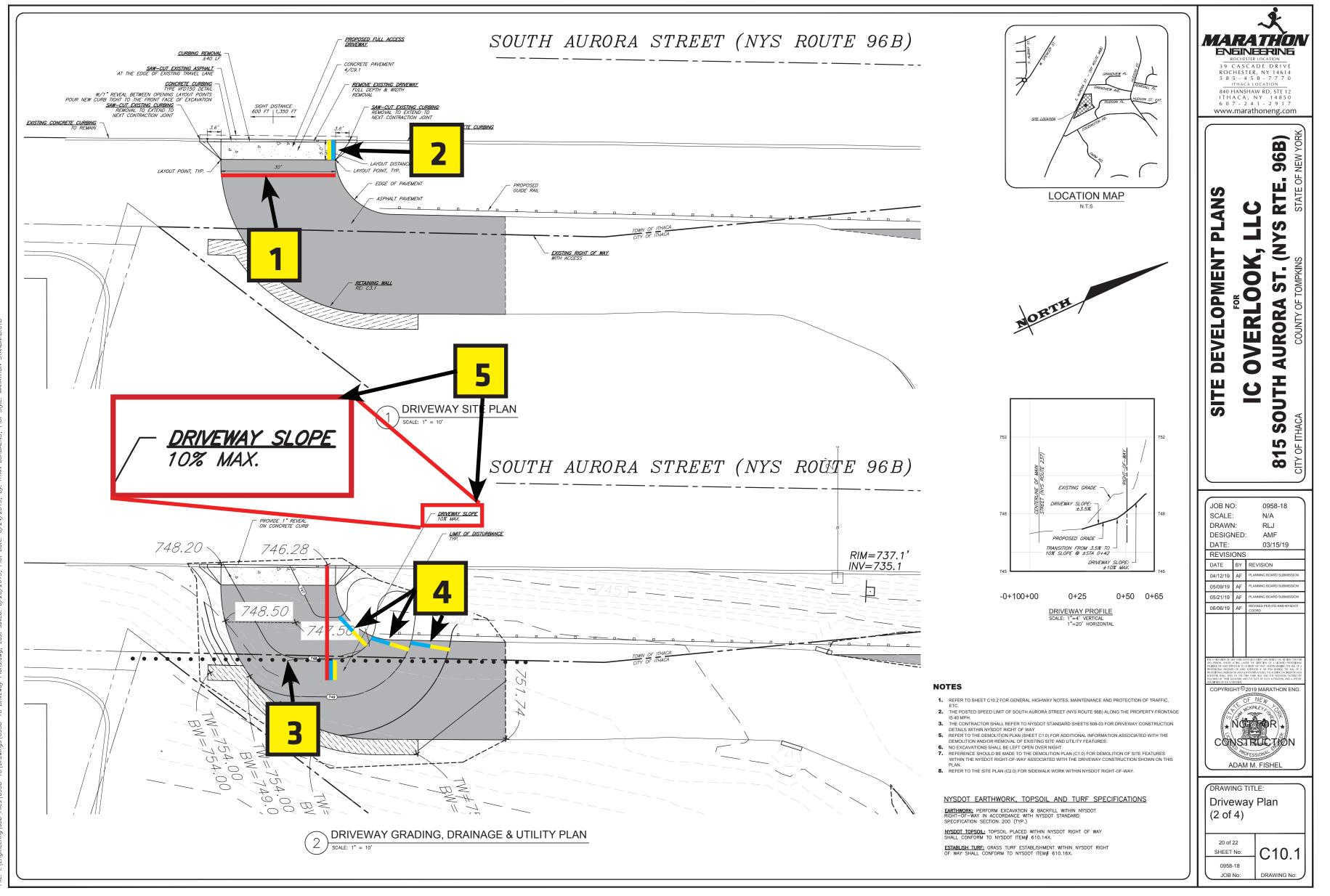




# City of Ithaca, NY / The Code / Chapter 325 Zoning

Section 325-20 Off-street parking

- D. General requirements
- (2) General standards for all offstreet parking areas, driveways and curb cuts.
- (e) Access requirements. All parking spaces shall have access to the street by way of a driveway.
- [2] Driveways must be at least eight feet wide in residential zoning districts and at least 10 feet wide in nonresidential zoning districts, and must have clear visibility to the street. Any required screening must be so designed that it shall not interfere with sight lines necessary for pedestrian and driver safety.
- [a] Maximum driveway grades. Driveways to areas containing parking spaces for three or more vehicles shall be graded to form a street entry with a maximum grade of 8% for a distance of 25 feet from the curbline.



## **Updated Driveway Plan By Project Engineer Marked Up By JSA**

Base Source: SPR Complete Application Updates

Dated July 3,2019

## **Keynote Legend For Sheet**

- Scale Reference of 30'. Indicated With Red Line Typically Unless Otherwise Noted.
- Scale Reference of 5'. Indicated With Blue or Yellow Line Typically Unless Otherwise Noted.
- 25' Distance From Curbline Indicated By Black Dotted Line.
- (3) Examples of Driveway Entrance Rising 1' for Every 10' Run Between Curbline and 25' Distance From Curb.

Driveway Grade = Rise / Run Driveway Grade = 1'/ 10' **Driveway Grade = 0.10 OR 10%** 

Project Engineer Acknowledgement That The Driveway has a 10% Grade.

#### **Reviewer's Note:**

"Building C" as Currently Presented in The Approved Site Plan Application Does Not Comply With Zoning. A Variance Was Never Granted. Given This Information It Appears That The Site Plan Application Was Approved in Error.

AS THE PROJECT
CURRENTLY STANDS, AN
APPROVED ZONING
VARIANCE WAS REQUIRED

# **Code Analysis For Appeal**

Issue 2 - Zoning: Driveway Access Requirements





City of Ithaca, NY / The Code / Chapter 325 Zoning

Section 325-20 Off-street parking

E. Parking in front yards

(3) In all residential districts, parking in the front yard of lots which have a width at the street line of more than 50 feet shall be restricted to an area not greater than 25% of the total area of the front yard, including turnaround and other vehicle maneuvering areas and driveways leading to garages and parking areas. The setback for any such parking area must meet the minimum front yard setback dimensions specified in § 325-8, District Regulations Chart,[9] for the zoning district in which the parking area is to be constructed.

[9] Editor's Note: A copy of the District Regulations Chart is on file in the City Clerk's office.

City of Ithaca, NY / The Code / Chapter 325 Zoning

Section 325-3 Definitions and word usage.

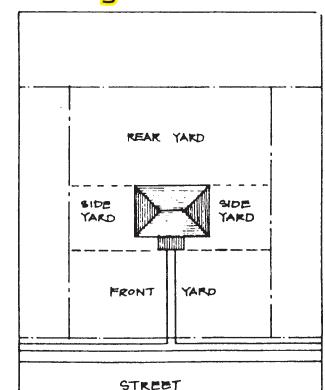
B. Specific terms or words...(Section Abrivated For Clarity)

#### **YARD**

That part of a lot not occupied by the principal building or structure and which shall not be occupied by any other building or structure from the ground upward unless specifically authorized in this chapter or other provisions of the City of Ithaca Code.

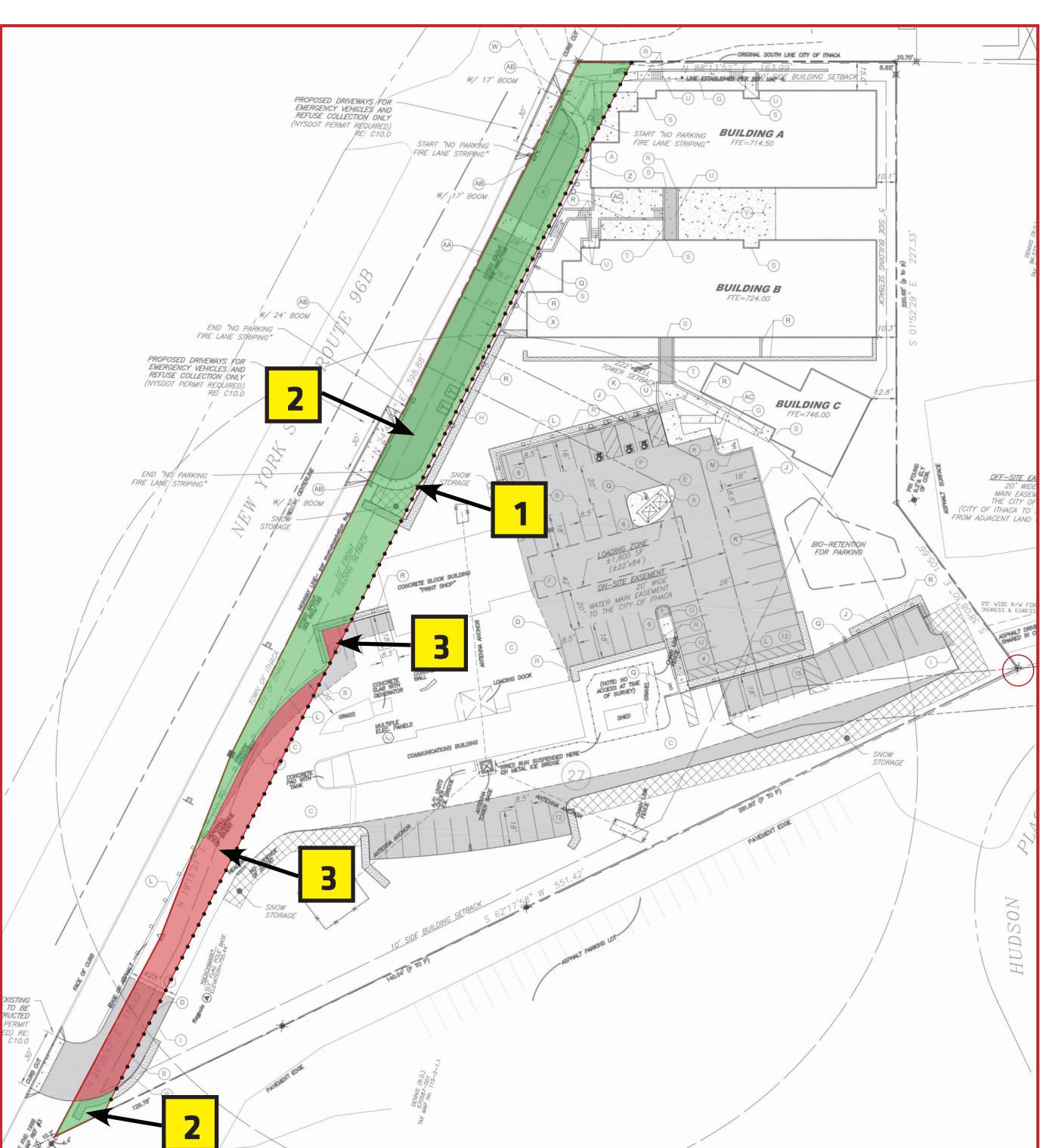
## (1) FRONT YARD

An open space extending the full width of the lot between a main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least distance between the front lot line and the front of such main building.



## **Example of Front Yard**

Base Source: Zoning Ordinance Section 325-3(Yard)



**Updated Site Plan By Project Engineer Marked Up By JSA**Base Source: SPR Complete Application Updates (Imaged Clipped) Dated July 3,2019

## **Keynote Legend For Sheet**

Furtherest Extents of Front Yard Indicated By Black Dotted Line. The Location of This Line is Determined By "Building A" As it is The Closest To The Front Lot Line at 24.3' Away.

Front Yard Not Encumbered With Parking Lot, Turnaround,Other Vehicle Maneuvering Areas, or Driveways Leading To Parking Is Indicated By Transparent Green Region.

Front Yard Encumbered With Parking Lot, Turnaround, Other Vehicle Maneuvering Areas, or Driveways Leading To Parking Is Indicated By Transparent Red Region.

**Front Yard Parking Percentage** 

Green Region: 9,561 SF (71.1%)

Red Region: 3,884 SF (28.9%)

**Total Front Yard:** 13,445 SF (100.0%)

## **Reviewer's Note:**

The Driveway and Some Parking Leading To The Required Parking For All (3) Building Exceeds The Allowable Coverage of The Front Yard.

AS THE PROJECT
CURRENTLY STANDS, AN
APPROVED ZONING
VARIANCE WAS REQUIRED



JOHN SNYDER ARCHITECTS

# **Code Analysis For Appeal**

Issue 3 - Zoning: 25% Front Yard Parking Maximum

1. Project Applied For
Building Permit Starting Site
Plan Review Process

2. First Site Plan Review
Meeting(s)

1a. JSA Currently Finds No
Reason To Contest This
Event.

2a. JSA Currently Finds No
Reason To Contest This
Event.

and Capricous Draft Determination That Zoning Variances are
Not Required And Therefore a
BZA Process Was Not Required
For This Project.

4. Neighbors Attempted To Appeal City Staff's Determination
That BZA Was Not Required. City
Staff Arbitrarily and Capriciously
Denied Neighbors Attempt To Appeal.

City Staff Made an Arbitrary

5. Project Proceeded To
Final Site Plan Review
Approval Without BZA Approval Process.

6. Neighbors Filed Article78 Lawsuit.

7. A Single Partial Building Permit Issued For Foundations of Buildings A&B Only.

8. Court Determined Neighbors Appeal Was Incorrectly Denied.

9. Single Partial Building Permit Issued For Remaining work of Buildings A&B Only.

10. Today. Neighbors Appeal Hearing Regarding City Staff's Determination That BZA Was Not Required.

3a. JSA Currently Finds Reason To Contest This Event. JSA Currently Has Found (3) Zoning Violations That **Would Either Need To Be Ad**dressed To Remove The Violation or (3) Zoning Variances Would Be Required. The City Staff Made an Abritrary and **Capricous Determination in** Error of The City of Ithaca **Zoning Ordinance.** Based on the State Uniform Code and The City of Ithaca Code The Project Should Be Required To Stop All Progress and **Return To This Point. From** This Point It May Proceed **Through The Proper Process** Again To Address These Vio4a. JSA Currently Finds No Reason To Contest This Event. The Court Addressed This Event and The City Is Currently Hearing The Neighbors Appeal.

# 5a. JSA Currently Finds Reason To Contest This Event.

JSA Currently Has Found That The Preliminary and Final Site Plan Approval Was Issued in Error.

**5b.**City of Ithaca, NY / The Code / Chapter 276 Site Plan Review

276-4 Other permits and approvals

B. Variances

(1) Any required variance must be obtained from the Board of Zoning Appeals before the Planning Board will issue preliminary or final site plan approval.

6a. JSA Currently Finds No Reason To Contest This Event. The Court Addressed This Event and The City Is Currently Hearing The Neighbors Appeal.

## 7a. JSA Currently Finds Reason To Contest This Event.

JSA Currently Has Found That The Building Permit Was Issued in Error and Therefore Should Be Suspended. This Would Trigger a Stop Work Order as Well. Also JSA Discovered That City Code 146-5(M) Regarding Partial Permits May Be In Conflict With The NYS Uniform Code. Please See "Concerns With Issuing Partial Permits" Sheet.

7b.City of Ithaca, NY / The Code / Chapter 146 Building Code Enforcement
146-5 Building Permits

P. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code, the Energy Code, the City of Ithaca Zoning Ordinance, or other applicable code, the Code Enforcement Officer shall revoke the building permit, or suspend the building permit until such time as the permit holder demonstrates that:

All work proposed to be performed shall be in compliance with all applicable provisions of the Energy Code, the City of Ithaca Zoning Ordinance, or other applicable

7c.City of Ithaca, NY / The Code / Chapter 146 Building Code Enforcement 146-7 Stop-work orders

A. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:

(1) Any work that is determined by Code Enforcement Officer to be contrary to any provision of the Uniform Code, the Energy Code, or the City of Ithaca Zoning Ordinance,[1] without regard to whether such work is or is not work for which a building permit is required, and without regard as to whether a building permit has or has not been issued; or

[1]Editor's Note: See Ch. 325, Zoning.

8a. JSA Currently Finds No Reason To Contest This Event. The Court Addressed This Event and The City Is Currently Hearing The Neighbors Appeal.

# 9a. JSA Currently Finds Reason To Contest This Event.

JSA Currently Has Found That The Building Permit Was Issued in Error and Therefore Should Be Suspended. See Items 7a., 7b, & 7c.

10a. JSA Currently Finds No Reason To Contest This Event. The City Is Currently Hearing The Neighbors Appeal.

# **Code Analysis For Appeal**

Current Sequence of Events For The Project and Concerns





## OLD 2015 NYS Building Code

2015 International Building Code (3rd Printing as Adopted By New York State)

<u>Chapter 1 - Scope and Administration</u>
<u>Section 107 Submittal Documents</u>

#### 107.3.3 Phased Approval

The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's risk with the building operation and without assurance that a permit for the entire structure will be granted.

#### Reviewer's Note:

This Code Section Was Apart of The Old Building Code However Has Been Removed From The Current Code. This is Cause For Concern That This Practice is No Longer Allowed.

# City of Ithaca Code

City of Ithaca, NY / The Code / Chapter 146 Building Code Enforcement

Section 146-5 Building Permits

M. Permit to erect part of a building. Nothing in this chapter shall be construed to prevent the Code Enforcement Officer from issuing a permit for the construction of part of a building or structure, other conditions having been complied with, before the entire plans and a detailed statement concerning said building or structure have been submitted or approved, provided that, when a foundation permit is applied for, sufficient information shall be furnished about the superstructure to enable satisfactory determination of the strength of the proposed work.

#### Reviewer's Note:

This code section implies that a partial permit can be issued based on partial construction documents. This is a less strict requirement comparied to the current Uniform Code.

# **CURRENT 2020 NYS Building Code**

#### **2020 Building Code of New York State**

**Chapter 1 - Scope and Administration** 

Section 105 Building Permits, Construction Inspections, Stop Work Orders, Certificates of Occupancy, and Operating Permits 105.2.2 Applications for building permits

A person or entity applying for a building permit shall submit an application to the authority having jurisdiction. An application for a building permit shall include all of the following:

- 1. Construction Documents that satisfy the requirements of Section 106.2;
- 2. Any and all other submittal documents required by Section106;
- 3. Any and all other information and documentation that may be required by the stricter of the authority having jurisdiction's Code Enforcement Program or a Part 1203 Compliant Code Enforcement.
- 4. Such other information and documentation as the authority having jurisdiction may determine to be necessary to allow the authority having jurisdiction to determine whether the proposed work conforms with the Uniform Code, the Energy Code, and other applicable laws.

Reviewer's Note: This indicates that New York State's intent is municipalities can be more restrictive, not less.

## 105.2.4 Validity of building permit

The issuance or granting of a building permit shall not be construed to be a permit for, or an approval of, any violation of any provision of the Uniform Code, the Energy Code, or any other applicable law of the Uniform Code, the Energy Code, or any other applicable law shall not be valid. The issuance of a building permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data.

Reviewer's Note: If the State is no longer allowing partial permits then the currently issued permits would be invalid.

#### **Section 106 Submittal Documents**

#### 106.2.1 Information on construction documents

Construction documents (1) shall define the scope of the proposed work: (2) shall be of sufficient clarity to indicate the location, nature and extent of the proposed work; (3) shall show in detail that the proposed work will conform to the provisions of the Uniform Code, the Energy Code, and other applicable codes, laws, ordinances, and regulations; (4) shall include all information required by any provision of this code (including but not limited to the information described in Sections 106.2.2 through 106.2.8), all information required by any other application provision of the Uniform Code, and all information required by an application provision of the Energy Code; and (5) shall include any and all additional information and documentation that may be required by the stricter of the Code Enforcement Program of the authority having jurisdiction or a Part 1203 - Compliant Code Enforcement Program. [highlight, bold, and underline added]

Reviewer's Note: This indicates that a complete submission of documents must be made to get a permit as the construction documents "shall include <u>all</u> information required by any provision of this code" [Underline added]. Being that Section 105.2.2 refers to this section it appears that partial submissions or partial permits are not permissible.

#### **Reviewer's Note:**

The Original Building Permit Application Was For (3) Buildings, and Currently a Partial Permit Has Been Issued For Buildings "A" & "B" Only. It is Assumed This is Because Construction Documents Have Been Provided and Approved For Only Those (2) Buildings. It Appears The City Code is Less Strict Than The Current NYS Uniform Code In Regards To Submission Requirements of Construction Documents. Based On These Items JSA Believe's Seperately From The Zoning Violations That The Currently Issued Partial Buildings When The Project Name on The Permit is "IC Overlook - 3 buildings" is Invalid. A Complete Submission of Construction Documents For All (3) Buildings Would Be Required By The Uniform Code.

# **Code Analysis For Appeal**

Concerns With Issuing Partial Permits

