



CASE NO. 1315

DATE OF HEARING 1-18-18

Town of Aurora Zoning Board of Appeals
300 Glead Avenue, East Aurora, New York 14052

Zoning Board of Appeals Application Form

I. TYPE OF REQUEST

AREA VARIANCE SPECIAL USE PERMIT USE VARIANCE INTERPRETATION

II. APPLICANT/PETITIONER

Applicant's Name Donald J Kress
Address 2031 Davis Rd
City West Falls State NY ZIP 14170
Phone 716 783-1731 Fax _____ Email dkress38@gmail.com
Interest in the property (ex: owner/purchaser/developer) owner

III. PROPERTY OWNER INFORMATION (If different from applicant information.)

Property Owner(s) Name(s) _____
Address _____
City _____ State _____ ZIP _____
Phone _____ Fax _____ Email _____

III. PROPERTY INFORMATION

Property Address 737 W Falls Rd West Falls NY 14170
SBL# 199,03-2-32
Property size in acres .43 AC Property Frontage in feet 124.08
Zoning District R3 Surrounding Zoning R3, R2, B2
Current Use of Property RESIDENTIAL

IV. REQUEST DETAIL

(check all that apply)

Variance from Ordinance Section(s) # 116-B, 3 F (1) 111-8.3 A (1)
 Special Use Permit for: _____
 Use Variance for: _____
 Interpretation of _____

V. SIGNATURES (This application must be signed by the applicant/petitioner. If the applicant is not the owner of the property, a separate owner authorization form must be submitted – see pg. 5)

Donald J. Kress

Signature of Applicant/Petitioner

Donald J Kress

Print name of Applicant/Petitioner

State of New York; County of Erie

On the 7 day of Dec in the year 2017 before me, the above individual appeared, personally known to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same for the purposes therein stated.

Martha L. Librock

Notary Public

MARTHA L. LIBROCK
Notary Public, State of New York
No. 01LI5028312
Qualified in Erie County
My Commission Expires May 31, 2018

(Notary stamp)

Office Use Only: Date received: _____ Receipt #: _____

Application reviewed by: _____

ECDP ZR-1 form sent to EC: _____ Hearing publication date: _____

PREVIOUS APPEAL(S):

A previous appeal to the Zoning Board of Appeals () has () has not been made with respect to this property.

Previous appeals:

Date: _____ Type of Appeal: _____ Granted _____ Denied _____

Date: _____ Type of Appeal: _____ Granted _____ Denied _____

PETITIONER'S LETTER OF INTENT

Please describe in detail the proposed project, reason the variance and/or special use permit is being requested and any additional information that may be helpful to the Zoning Board of Appeals in deciding this appeal: (attach additional pages if needed)

Rebuild AND Add ON TO EXISTING STRUCTURE, WILL NEED TO MOVE SOUTH TOWARDS NEIGHBOR AND EAST TOWARDS Rd.

TO BE COMPLETED ONLY WHEN A USE VARIANCE IS BEING REQUESTED:

A Use Variance is requested because the applicable regulations and restrictions in the Zoning Code of the Town of Aurora have caused unnecessary hardship as demonstrated by the following:

1) I cannot realize a reasonable return on my property for each and every permitted use allowed in the current zoning classification as demonstrated by the accompanying financial evidence (provide financial evidence to support your argument).
Financial Evidence Provided Yes ___ No ___ (financial evidence is required per NYS Town Law)

2) Describe why your alleged hardship relating to the subject property is unique and does not apply to other properties in the zoning district or neighborhood: _____

3) Describe why you believe that the essential character of the neighborhood/community will not change if the Zoning Board of Appeals grants you a use variance: _____

4) Is your need for a use variance a result of you own actions (is your difficulty self-created)? Please explain: _____

(Attach additional pages if needed)

SUPERVISOR
James J. Bach
(716) 652-7590
jbach@townofaurora.com

TOWN CLERK
Martha L. Libroek
(716) 652-3280
townclerk@townofaurora.com

TOWN OF AURORA
Southside Municipal Center
300 Glead Avenue, East Aurora, NY 14052
www.townofaurora.com

TOWN COUNCIL MEMBERS

Susan A. Friess
sfriess@townofaurora.com

Jeffrey T. Harris
jbarris@townofaurora.com

Jolene M. Jeffe
jjeffe@townofaurora.com

Charles D. Snyder
csnyder@townofaurora.com

SUPT. OF HIGHWAYS
David M. Gunner
(716) 652-4050
highway@townofaurora.com

SUPT. OF BUILDING
Patrick J. Blizniak
(716) 652-7591
building@townofaurora.com

ASSESSOR
Richard L. Dean
assessor@townofaurora.com
(716) 652-0011

DIR. OF RECREATION
Christopher Musshafen
(716) 652-8866
chris@townofaurora.com

TOWN ATTORNEY
Ronald P. Bennett

TOWN JUSTICE
Jeffrey P. Markello
Anthony DiFilippo IV

HISTORIAN
Robert L. Goller
(716) 652-7944
historian@townofaurora.com

FAX: (716) 652-3507
NYS Relay Number:
1(800) 662-1220

Donald Kress
2037 Davis Rd
West Falls, NY 14170

12/11/2017

Re: front yard & side yard setback at 737 West Falls Rd.

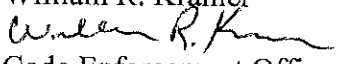
Donald,

The Building Dept. has reviewed your application for an addition at 737 West Falls Rd. We have denied your application because the proposed addition does not meet the following setback regulations as specified in the R3 District of the Town Code. We therefore request that you apply to the Town Zoning Board of Appeals for an area variance if you wish to continue with this project.

116-8.3F(1)
Existing legal non-conforming residence: 6.64'
Required front yard setback: a minimum of setback: 50'
Requested: 5.16'
Variance required: 44.84'

116-8.3G(1)
Required Side yard setback: a minimum of 12.5'
Requested: 9.33'
Variance required: 3.17'

If you wish to pursue this matter further you must apply to the Town of Aurora Zoning Board of Appeals for an Area Variance. You must include your application, application fee, and any information you need to support your need for a variance from the Town Code. If you have any questions contact us at 652-7591.

William R. Kramer

Code Enforcement Officer

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: <i>Kress residence</i>			
Project Location (describe, and attach a location map): <i>737 West Falls Rd</i>			
Brief Description of Proposed Action: <i>ADDITION TO EXISTING STRUCTURE</i>			
Name of Applicant or Sponsor: <i>Donald J Kress</i>		Telephone: <i>716-183-1731</i>	
Address: <i>2037 DAVIS RD</i>		E-Mail: <i>dkress38@gmail.com</i>	
City/PO: <i>WEST FALLS</i>		State: <i>NY</i>	Zip Code: <i>14170</i>
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		<i>.43</i> acres	
b. Total acreage to be physically disturbed?		_____ acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation service(s) available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: <u>septic</u>	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

FOR COUNTY USE ONLY

C1. SNYS Code

142489

C2. Date Deed Recorded

2/9/17

C3. Book

11309

C4. Page

1653



New York State Department of Taxation and Finance

Office of Real Property Tax Services

RP-5217-PDF

Real Property Transfer Report (R/10)

PROPERTY INFORMATION

1. Property Location: 737 West Falls Road, Aurora, NY 14170

2. Buyer Name: Kress, Donald J. and Elizabeth F.

3. Tax Billing Address: 2037 DAVIS Rd, West Falls, NY 14170

4. Indicate the number of Assessment Roll parcels transferred on the deed: 1 # of Parcels

5. Deed Property Size: 0.00 ACRES

6. Seller Name: Hewitt, William R.

7. Select the description which most accurately describes the use of the property at the time of sale: A. One Family Residential

8. Ownership Type is Condominium

9. New Construction on a Vacant Land

10A. Property Located within an Agricultural District

10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District

SALE INFORMATION

11. Sale Contract Date: 10/27/2016

12. Date of Sale/Transfer: 2/9/17

13. Full Sale Price: 32,000.00

14. Indicate the value of personal property included in the sale: .00

15. Check one or more of these conditions as applicable to transfer:

- A. Sale Between Relatives or Former Relatives
- B. Sale between Related Companies or Partners in Business
- C. One of the Buyers is also a Seller
- D. Buyer or Seller is Government Agency or Lending Institution
- E. Deed Type not Warranty or Bargain and Sale (Specify Below)
- F. Sale of Fractional or Less than Fee Interest (Specify Below)
- G. Significant Change in Property Between Taxable Status and Sale Date
- H. Sale of Business is Included in Sale Price
- I. Other Unusual Factors Affecting Sale Price (Specify Below)
- J. None

16. Comment(s) on Condition:

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken (YY): 16

17. Total Assessed Value: 30,600

18. Property Class: 210

19. School District Name: East Aurora

20. Tax Map Identifier(s)/Roll Identifier(s) (If more than four, attach sheet with additional Identifier(s))

CERTIFICATION

I Certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

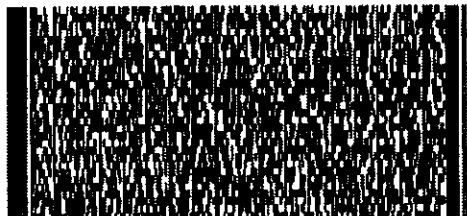
SELLER SIGNATURE

William R. Hewitt 12/12/2016
 Donald J. Kress 2/9/17
 Elizabeth F. Kress 2/9/17

BUYER CONTACT INFORMATION

(Enter information for the buyer. Note: If buyer is LLC, society, association, corporation, joint stock company, estate or entity that is not an individual agent or fiduciary, then a name and contact information of an individual responsible party who can answer questions regarding the transfer must be entered. Type or print clearly.)

Kress, Donald J.
 737 West Falls Road, Aurora, NY 14170
 Buyer's Attorney: Stark, Richard L., (716) 580-3921



ERIE COUNTY CLERK'S OFFICE



County Clerk's Recording Page

Return to:

DONALD & ELIZABETH KRESS
2037 DAVIS RD
W FALLS, NY 14170

Book Type: D Book: 11309 Page: 1653

Page Count: 2

Doc Type: DEED

Rec Date: 02/09/2017

Rec Time: 09:23:11 AM

Control #: 2017028748

UserID: Janet H

Trans #: 17024750

Document Sequence Number

TT2016014576

Party 1:

HEWITT WILLIAM R

Party 2:

KRESS DONALD J

Recording Fees:

Consideration Amount: 32000.00

RECORDING	\$30.00
COE CO \$1 RET	\$1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75
RP5217 CNTY \$9	\$9.00
RP5217 ST-RES \$116	\$116.00
TP584	\$10.00

BASIC MT	\$0.00
SONYMA MT	\$0.00
ADDL MT/NFTA	\$0.00
SP MT/M-RAIL	\$0.00
NY STATE TT	\$128.00
ROAD FUND TT	\$160.00

Total: \$473.00

STATE OF NEW YORK
ERIE COUNTY CLERK'S OFFICE

WARNING – THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

Peggy A. Lagree
Acting County Clerk

THIS INDENTURE, made the 12th day of December Two Thousand Sixteen,

between William R. Hewitt, Individually and as Surviving Spouse of K. Leslie Bennett, residing at 737 West Falls Road, Aurora, NY 14170, Grantor

and

Donald J. Kress and Elizabeth F. Kress, residing 2037 Davis Road, West Falls, NY 14170, Grantees
a s husband & wife

WITNESSETH, that the said Grantor in consideration of one and more dollars (\$1.00 and more) and other good and valuable consideration lawful money of the United States, paid by the Grantee does hereby grant and release unto the Grantee, her heirs and assigns forever.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot Number 49, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

Beginning in the center line of West Falls Road formerly known as Darby Road and at the southeast corner of land formerly owned by William Corah as recorded in Liber 461 of Deeds at page 103 and now owned by Lowell H. Bouquin and Bernice W., his wife as recorded in Liber 6587 of Deeds at page 535; running thence northwesterly forming an angle at the northeast quadrant of 89° 30' and along the southwesterly line of Corah's and Bouquin's deeds as aforesaid, 138 feet more or less to the center line of Cazenovia Creek; running thence southwesterly along the center line of Cazenovia Creek, 125 feet more or less to a point on a line drawn northwesterly at right angles to the center line of West Falls Road, 124.08 feet southwesterly from the point of beginning as measured along the center line of West Falls Road, said point being the northeasterly line of land owned and occupied by David C. Schroeder and Bonnie Schroeder his wife as recorded in Liber 7254 of Deeds at page 311; running thence southeasterly along the northeasterly line of David C. Schroeder as aforesaid, 143 feet more or less to the center line of West Falls Road; running thence northeasterly along the center line of West Falls Road, 124.08 feet to the point of beginning.

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to the said premises.

TO HAVE AND TO HOLD, the above granted premises unto the said Grantee.

AND the said Grantor does covenant with said Grantee as follows:

FIRST. That the Grantee shall quietly enjoy the said premises.

SECOND. That the Grantor will forever **WARRANT** the title to said premises.

THIRD. Subject to the trust fund provisions of section thirteen of the lien law.

IN WITNESS WHEREOF, the GRANTOR hereunto sets his hand and seal the 12th day of December, 2016

William R. Hewitt

Is

William R. Hewitt, Individually and as Surviving Spouse of K. Leslie Bennett

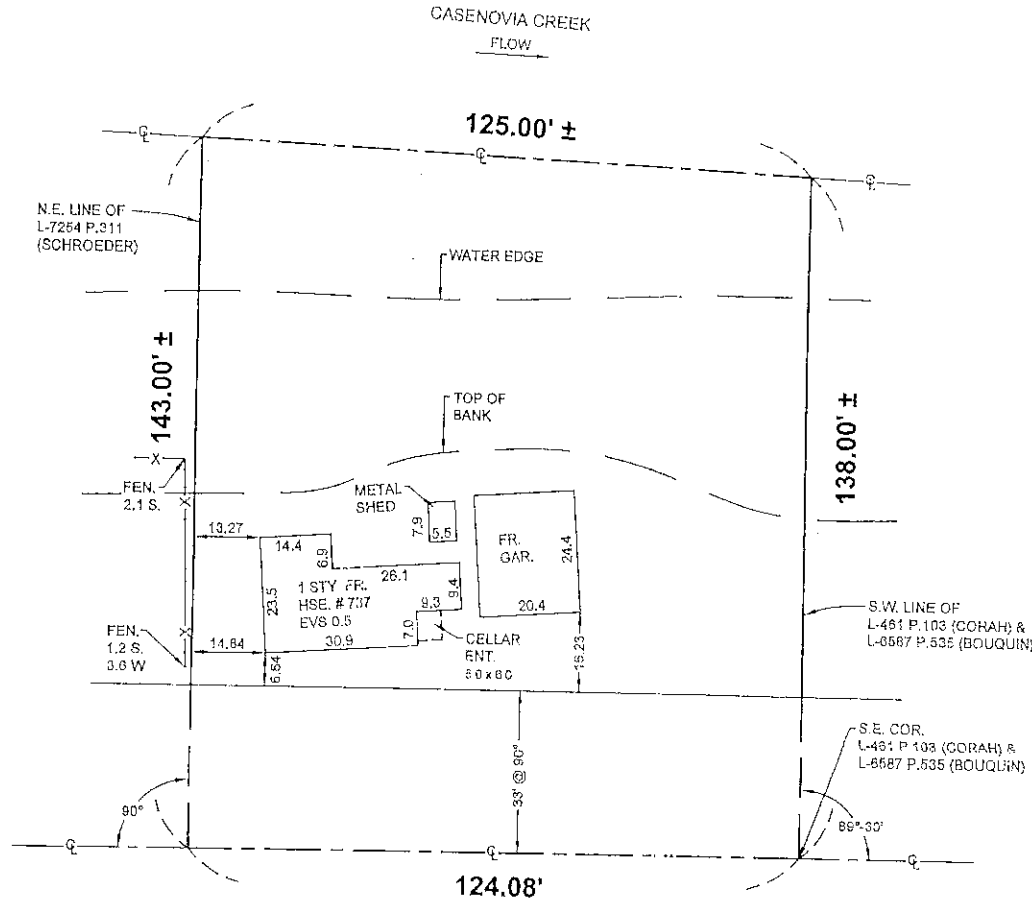
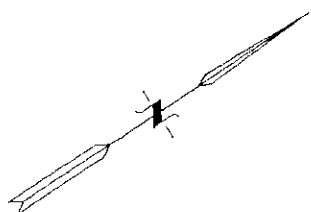
IN THE PRESENCE OF

STATE OF NEW YORK
COUNTY OF ERIE

On the 12th day of December in the year 2016, before me, the undersigned, personally appeared William R. Hewitt, Individually and as Surviving Spouse of K. Leslie Bennett, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that executed the same in capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Donald J. Kress

207118



WEST FALLS (66' WIDE) ROAD
(DARBY RD.)

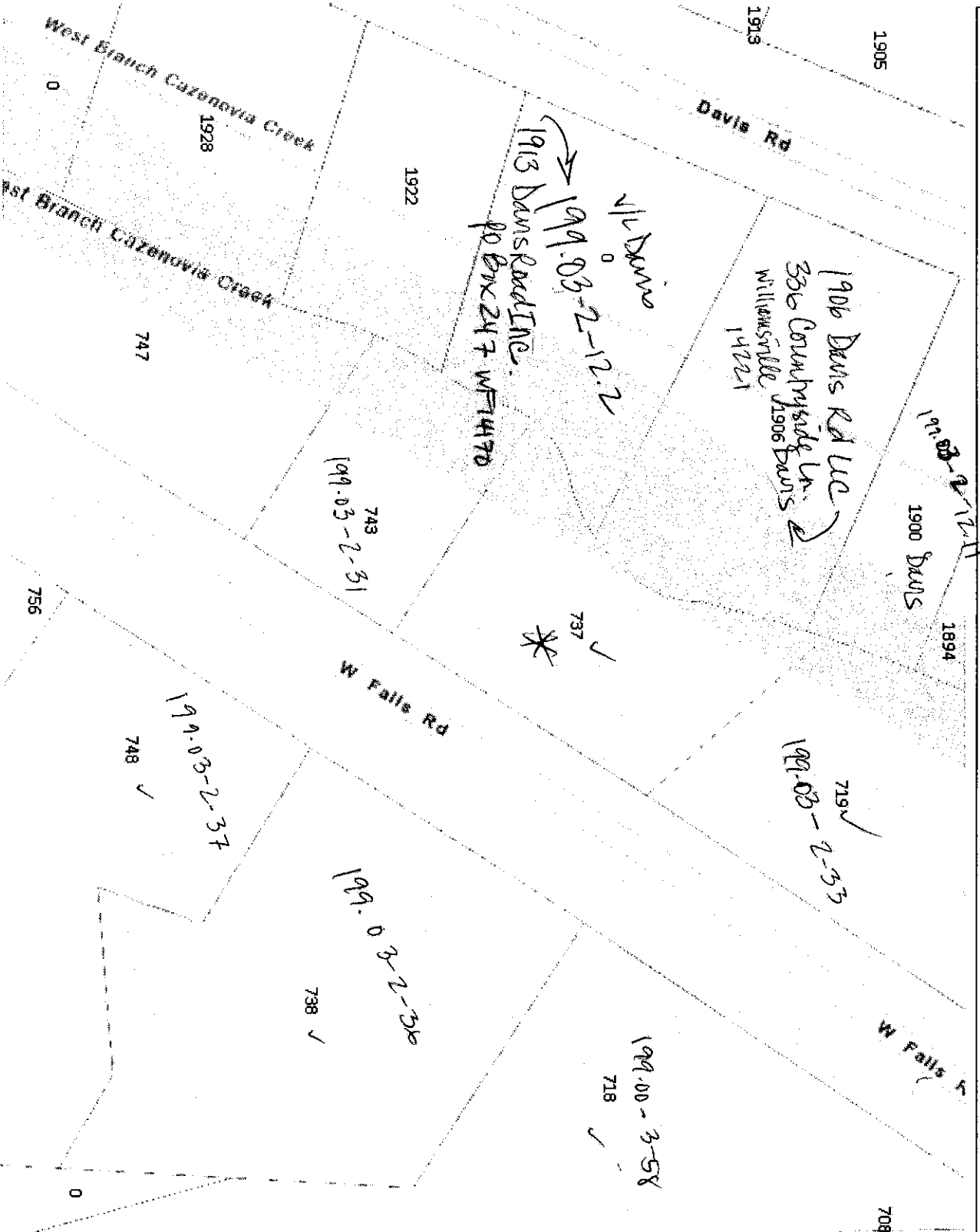
NOTE: THIS SURVEY MAP IS VALID ONLY FOR THE DATED INTENT. MAP IS NOT VALID AND VOIDS ALL LIABILITY WITH UNAUTHORIZED REPRODUCTION, ALTERATION AND/OR ADDITION TO THIS SURVEY MAP. IT IS A VIOLATION OF SECTION 7209, PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN UPDATED ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

<p>©2001 Landmark Land Surveying Co. All Rights Reserved</p> <p style="text-align: center;">Over 100 years of Records</p> <p style="text-align: center;">LANDMARK LAND SURVEYING CO. TM</p> <p style="text-align: center;">PO Box 182 · Sanborn, NY 14132</p> <p>Niagara County (716) 731-4080 Erie County (716) 854-6338 > Fax (716) 731-4499</p>	<p><i>Successor to the Records of:</i></p> <table style="width: 100%; border: none;"> <tr><td>Newton Land Surveying</td><td>Est. 1995</td></tr> <tr><td>Skiba, P.</td><td>Est. 1991</td></tr> <tr><td>Wilson, M.F.</td><td>Est. 1989</td></tr> <tr><td>Nowacki, M.L.</td><td>Est. 1986</td></tr> <tr><td>Newton, W.J.</td><td>Est. 1960</td></tr> <tr><td>Poyer, F.J.</td><td>Est. 1956</td></tr> <tr><td>Covey, J.E.</td><td>Est. 1955</td></tr> <tr><td>Richards, E.S.</td><td>Est. 1955</td></tr> <tr><td>Basinski, I.S.</td><td>Est. 1950</td></tr> <tr><td>Devlin, J.</td><td>Est. 1945</td></tr> <tr><td>Kuster, A.S.</td><td>Est. 1922</td></tr> <tr><td>Houliston, G.</td><td>Est. 1904</td></tr> </table> <p style="text-align: center;"><i>Residential & Commercial Licensed in the State of New York and Florida</i></p>	Newton Land Surveying	Est. 1995	Skiba, P.	Est. 1991	Wilson, M.F.	Est. 1989	Nowacki, M.L.	Est. 1986	Newton, W.J.	Est. 1960	Poyer, F.J.	Est. 1956	Covey, J.E.	Est. 1955	Richards, E.S.	Est. 1955	Basinski, I.S.	Est. 1950	Devlin, J.	Est. 1945	Kuster, A.S.	Est. 1922	Houliston, G.	Est. 1904	<p style="text-align: right; font-size: 2em; font-family: cursive;"><i>Pauline AS</i></p> <p style="font-size: 0.8em;">THIS MAP VOID UNLESS EMBOSSED WITH NYSPLS SEAL 42969</p>
Newton Land Surveying	Est. 1995																									
Skiba, P.	Est. 1991																									
Wilson, M.F.	Est. 1989																									
Nowacki, M.L.	Est. 1986																									
Newton, W.J.	Est. 1960																									
Poyer, F.J.	Est. 1956																									
Covey, J.E.	Est. 1955																									
Richards, E.S.	Est. 1955																									
Basinski, I.S.	Est. 1950																									
Devlin, J.	Est. 1945																									
Kuster, A.S.	Est. 1922																									
Houliston, G.	Est. 1904																									
TOWN OF AURORA	COUNTY OF ERIE	NEW YORK																								
PART OF LOT - 49	TOWNSHIP - 9	RANGE - 6																								
REF. DEED L - 10061 PG. 402		HOLLAND LAND CO.																								
SBL # 199.03-2-32	SCALE 1" = 30'	JOB # 2160507																								
		DATE : 11/16/2016																								



Erie County On-Line Mapping Application



Small Kew
737 West Falls Rd
Sec: 199.03-2-32

Mary: 2037 Davis Rd
WF 14170

- Legend**
- Parcels
 - Municipal Boundaries

Kyle Hennessey-Snow
719 West Falls Rd
WF 14170

Timothy Carvine
718 West Falls Rd
WF 14170

Robert Wiegorek
738 West Falls Rd
WF 14170

Laurence & Judy Dieb
748 West Falls Rd
WF 14170

David & Bernice Schrader
743 West Falls Rd
WF 14170

Georgia Magruder
1900 Davis Rd WF 14170
mailing PO box 15 WF 14170

plus 300 map
to left
1 : 1,128

0 94.04 188.1 Feet
WGS_1984_Web_Mercator_Auxiliary_Sphere
THIS MAP IS NOT TO BE USED FOR NAVIGATION

ERIE COUNTY
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GIS

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.