



CASE NO. 1300
DATE OF HEARING 6/25

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 Brady Lynn McGilveary
Address 1973 Davis Road
City West Falls State NY ZIP 14170
Phone (716) 225-1234 Fax N/A Email bradymcgilveary@gmail.com
Interest in as 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 1973 Davis Rd
SBL# 199.03-1-33
Property size in acres .22 Property Frontage in feet 60
Zoning District R2 Surrounding Zoning R2
Current Use of Property Single family Residential

IV. REQUEST DETAIL

(check all that apply)

Variance from Ordinance Section(s) # 116-28 A
 Special Use Permit for: _____
 Use Variance for: _____
 Interpretation of _____

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)

I would like to put up a 6 foot fence (privacy) from the front of my house to the outer edge of my garage. My main reason for this fence is due to my neighbor that will not stop harrassing me and my dogs. I had a fence put up around the backyard last year to keep my dog secured, but the neighbor has still called the police saying the dog barks at him (the dog cannot see him). This neighbor also has a camera facing my front yard to watch me. As a single female, this makes me very uncomfortable. I just want to be able to sit in my front yard without him standing there staring at me.

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

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NYS Relay Number:
1(800) 662-1220

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May 28, 2020

Brady Lynn McGilveary
1973 Davis Rd
West Falls, NY 14170

The Building Department has reviewed your request to install a fence in the front yard of your property. We have denied the request because it fails to meet the requirements of the Town of Aurora Code for the Residence 2 (R2) zoning district in which it is located.

Section 116-28A

Required: A wall or fence not over 3½ feet high in any front or side-street side yard

Requested: Fence 5 feet high parallel with Davis Rd and 6 feet high on side property lines in front of residence

Variance: 1½ feet and 2½ feet

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 and fee, a letter to the ZBA explaining your difficulty, any information to support your need for a variance from the Town Code. If you have any questions contact us at 652-7591.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Cassidy".

Elizabeth Cassidy
Asst. Code Enforcement Officer

SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, NY AND REPLY TO MUNICIPALITY

DO NOT WRITE IN THIS SPACE

Note: Please complete in triplicate. Send original and one copy (with attachments) to Erie County Division of Planning, Room 1053, 95 Franklin Street, Buffalo, N.Y. 14202. Retain last copy for your files.

Case No.: ZR-20-228

Received: 6/1/20

The proposed action described herein is referred in accordance with the provisions of the General Municipal Law, which provides that if no reply is received in 30 days after receipt of full information including a SEQR EAF if applicable, the municipal agency may take final action without considering such reply. If, however, reply is received at any time prior to municipal Action, such reply must be considered.

Description of Proposed Action

1. Name of Municipality: Town of Aurora

2. Hearing Schedule: **Date** 6/25/2020 **Time** 7pm **Location** 300 Glead Ave. E. Aurora

3. Action is before: Legislative Body Board of Appeals Planning Board

4. Action consists of: New Ordinance Rezone/Map Change Ordinance Amendment
 Site Plan Variance Special Use Permit Other

5. Location of Property: Entire Municipality Specific as follows 1973 Davis Road, PO West Falls

6. Referral required as Site is within 500' of: State or County Property/Institution Municipal Boundary Farm Operation located in an Agricultural District
 Expressway County Road State Highway Proposed State or County Road, Property, Building/Institution, Drainageway

7. Proposed change or use: (be specific) Fence height in front yard higher than allowed by Town Code

8. Other remarks: (ID#, SBL#, etc.) SBL#199.03-1-33

9. Submitted by: Martha L. Librock, Town Clerk 6/1/2020
300 Glead Ave., E. Aurora, NY 14052

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 6/1/20. The Division herewith submits its review and reply under the provisions of applicable state and local law, based on the information submitted with this referral.

- 1. The proposed action is not subject to review under the law.
- 2. Form ZR-3, Comment on Proposed Action is attached hereto.
- 3. The proposed action is subject to review; the Division makes the recommendation shown on Form ZR-4, Recommendation on Proposed Action, which is attached hereto.
- 4. No recommendation; proposed action has been reviewed and determined to be of local concern

By the Division of Planning:

Sarah E. Gatti

Date: 6/2/20

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>Fence Installation in front yard</i>			
Project Location (describe, and attach a location map): <i>from front of house to outer edge of garage</i>			
Brief Description of Proposed Action: <i>I would like to have a 6' fence (privacy) installed from the front of the house to the outer edge of my garage.</i>			
Name of Applicant or Sponsor: <i>Brady Lynn McGilveary</i>		Telephone: <i>611 390 5330</i>	
		E-Mail: <i>bra...@...ol.com</i>	
Address: <i>1973 Davis Road</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"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		<i>122</i> acres	
b. Total acreage to be physically disturbed?		<i>-</i> acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<i>122</i> 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input checked="" type="checkbox"/>	<input 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: <u>N/A</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: <u>N/A</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: <u>N/A</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100 year flood plain?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: <u>Brady McGilveary</u> Date: <u>5/26/2020</u></p> <p>Signature: <u>Brady McGilveary</u></p>		

Survey Statement

- (SS1) A plat may not shown to have been based on the original survey, is handwritten in determining boundaries. The Surveyor's duty is to locate the original boundaries on the ground. The Surveyor is not to re-survey where the HOLLAND LAND COMPANY originally surveyed.
- (SS2) Farmers fences are NOT based on title, old occupied farmers since these are subsequently surveyed and occupied the property don't always satisfy title requirements.
- (SS3) Utility Aerial Photographs to locate physical evidence and utility original Holland Land Company field notes and notes is the only way a Licensed Land Surveyor can Relocate the Holland Land Company title surveys.

Copyright Information

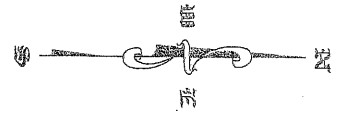
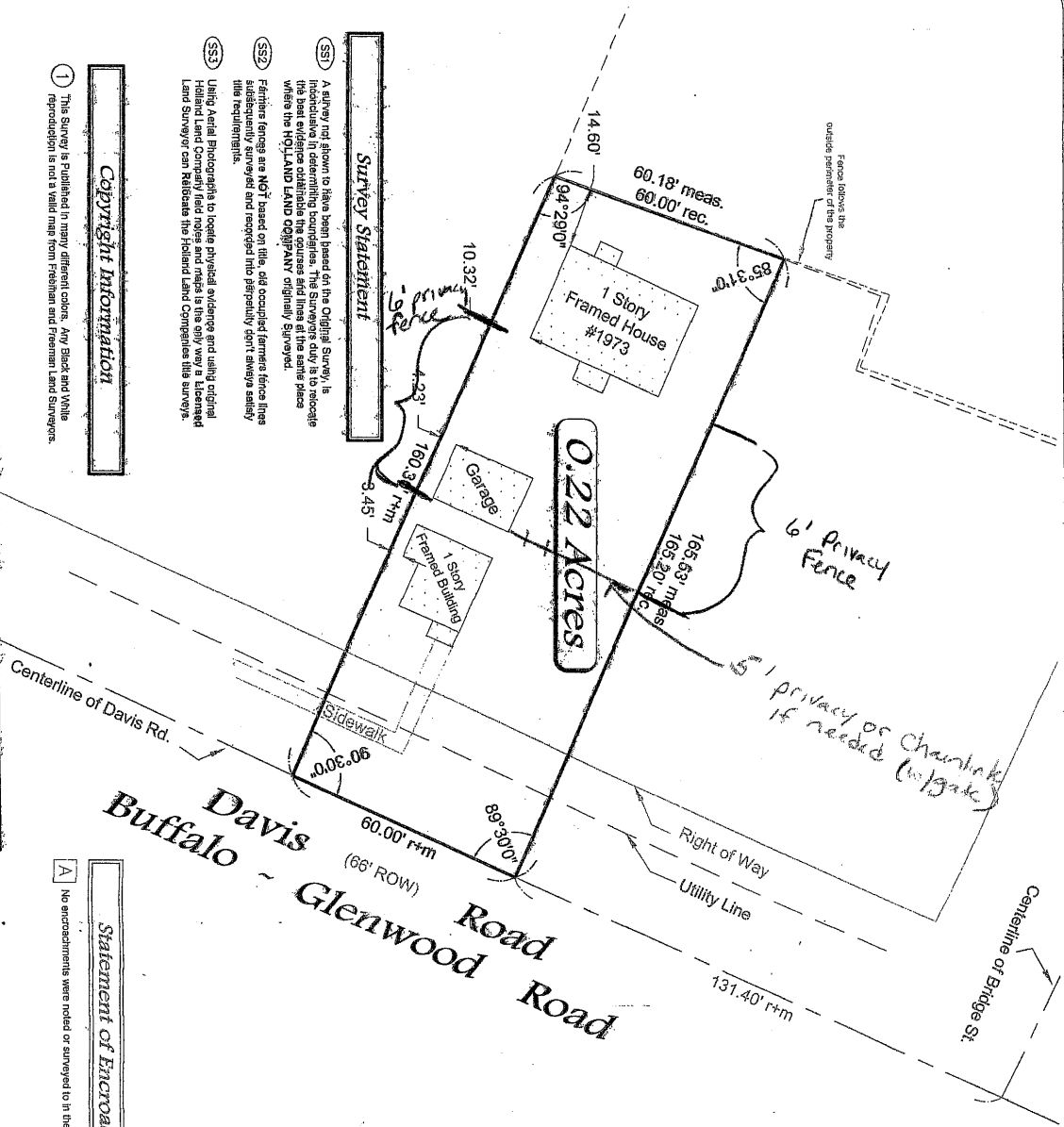
- (1) This survey is published in many different colors. Any Black and White reproduction is not a valid map from Freeman and Freeman Land Surveyors.

Reference Data

- (RD1) Maps and notes from the Holland Land Company Survey.

Statement of Encroachments

- (A) No encroachments were noted or surveyed to in the original field survey.



Miscellaneous Notes

- (MNT) Some features shown on this plat may be shown out of scale for clarity.
- (MNS) Detail encroachments and/or utility lines may or may not be shown hereon, as shown.
- (MNS) This survey was prepared without the benefit of an up-to-date astatist of title and is subject to any state of facts that may be revealed by an examination of fact.
- (MNS) THIS MAP IS NOT VALID WITH AFFIDAVIT OF NO CHANGE

Legend of Symbols & Abbreviations

● P / Redwood	N	North	Encroachment
○ Light Pole	S	South	R/W Right-of-way
☐ Gas Valve	W	West	Centerline
☐ Sewer Vent	E	East	Utility
☐ Storm Inlet	Depress	Depression	Other
☐ Water Meter	In. or Spa	In. or Spa	N/F New or Family
☐ Sewerage Vehicle	Rac. Reserved	Rac. Reserved	One Chain = 66.0 FT
☐ Sign	Prop. Leased	Prop. Leased	One Meter = 3.280833 FT
	Prop. Leasing	Prop. Leasing	One Acre = 43,560.0 Sq.Ft.

---	Property Boundary
---	Line of Record
---	Edge of Road
---	Right of Way
---	Right of Way
---	Right of Way
---	Right of Way
---	Right of Way
---	Right of Way
---	Right of Way

Survey

Being Part of
Lot 57 Township 9 Range 6
Holland Land Company Survey
Town of Aurora
Erie County, New York

Surveyor's Certificate

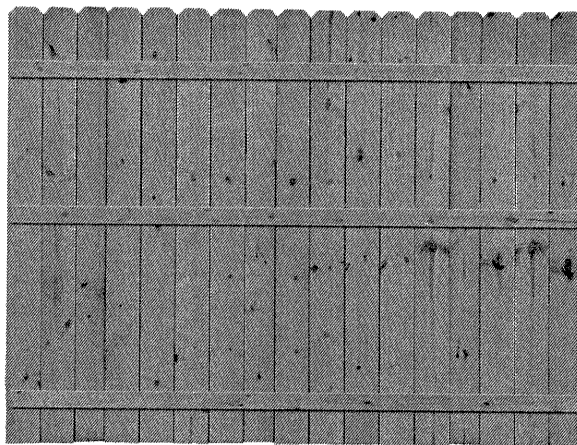
I certify that this survey was prepared in accordance with the current Code of Practice for Land Surveyors and is submitted to the Niagara Frontier Land Surveyors Association.

David Scott Freeman

Survey Prepared By:
Licensed Surveyor: David Scott Freeman
Licensed Land Surveyor No.: 090480
In the State of New York
Date of Survey: October 31, 2017
Date of Last Revision:
Drawing Scale: 1" = 30'
Freeman and Freeman Land Surveyors
Freeman and Freeman Copyright 2017



6 ft. H x 8 ft. W Pressure-Treated Pine Dog-Ear Fence Panel

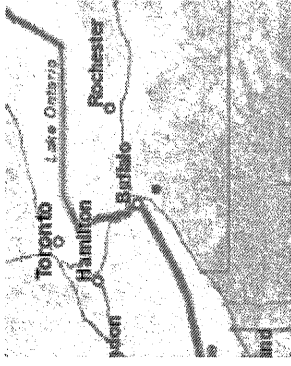


Click or Tap Image to Zoom In











Erie County On-Line Mapping Application



Legend

-  Parcels
- Streets and Highways**
-  Interstate
-  Primary State Road
-  Secondary State Road
-  County Road
-  Local Road

0 0.02 0.0Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
THIS MAP IS NOT TO BE USED FOR NAVIGATION

**ERIE COUNTY
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GIS**

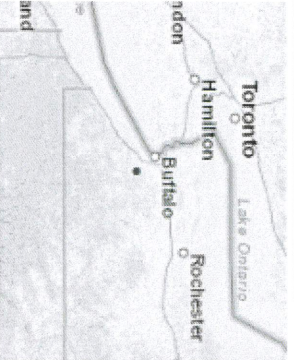
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

1: 1,128





Erie County On-Line Mapping Application



- Legend**
- Parcels
 - Streets and Highways**
 - Interstate
 - Primary State Road
 - Secondary State Road
 - County Road
 - Local Road

0 0.02 0.0 Miles
 WGS_1984_Web_Mercator_Auxiliary_Sphere
 THIS MAP IS NOT TO BE USED FOR NAVIGATION

ERIE COUNTY
 DEPARTMENT OF ENVIRONMENT & PLANNING
 OFFICE OF GIS

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1 : 1,128



Case 1360