



CASE NO. 1306

DATE OF HEARING 10/15/2020

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 JOHN E. NAGEL  
Address 705 JEWETT HOLMWOOD RD.  
City EAST AURORA State NY ZIP 11952  
Phone 716- [REDACTED] Email JNI [REDACTED] .COM  
Interest in the property as [REDACTED] (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 705 JEWETT HOLMWOOD RD.  
SBL# 174.00-2-40.2  
Property size in acres 21.3 Property Frontage in feet 780±  
Zoning District \_\_\_\_\_ Surrounding Zoning \_\_\_\_\_  
Current Use of Property RESIDENCE

#### IV. REQUEST DETAIL

(check all that apply)  
 Variance from Ordinance Section(s) # 116-17D  
 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)

PLEASE SEE SEPARATE LETTER DATED 9-7-2020

**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)

To Whom it May Concern,

I, John E. Nagel, residing and owning the property at 705 Jewett Holmwood Rd. East Aurora, NY am petitioning the Town of Aurora Zoning Board of Appeals for a variance on a 20' x 56' Morton Building (aka a "barn") I want to construct on my property adjacent to my residence. I was informed, after submitting my application for a building permit, that the two overhead garage doors listed in my stamped plans do not conform height-wise to the existing zoning requirements. I desire a ten (10) foot height to my two overhead doors and existing zoning requirements list a maximum height of nine (9) feet. **I am therefore petitioning the Town of Aurora Zoning Board of Appeals for a variance to allow for the two 10 foot overhead garage doors only.** All other aspects of the proposed build is, to my knowledge, in compliance with existing zoning laws.

Why do I seek such a variance? I want to use the new building to store my 75 horsepower Case IH CX-70 tractor and some attachments that I use with that tractor, plus two other tractors, nearly all of which are currently stored outside. The overall height of my CX-70 tractor with its operator cab is 101 inches, seemingly enough clearance for an allowed 9 foot door until you account for the *open* door projecting several inches below the nine foot opening, and the fact that for safety reasons, I want to install a revolving light on top of the cab to help protect me and others when traversing the roadway in the tractor. (I own contiguous property on both sides of Jewett Holmwood Rd.) This safety light would add roughly another 12 inches on top of the tractor's already 101 inch height. There would also likely will be a clearance problem with a 9 foot door in the winter when the tractor (even without a revolving safety light) rides up on packed snow getting into the building.

It is my understanding that I can "get around" the 9 foot door height limitation if the building is located at least 301 feet back from the road. I thoroughly explored this possibility but my land "falls off" enough behind my proposed site to greatly increase the site work necessary to construct the building, adding significant extra cost to the project. Where I want to locate the building is 222 feet back from the pavement edge, and is a specially chosen level surface portion of land in an otherwise 19 foot drop front to back in the property topography.

One final point. I am sure you will agree by looking at the plans as originally submitted that, ascetically, the extra overhead door height makes no difference to the "look" of the building. Additionally, the proposed building is not readily visible from either passing traffic on Jewett Holmwood Road or my nearest neighbors due to numerous trees and bushes blocking its view.

I respectfully ask The Zoning Board of Appeals for this variance of just one foot on the overhead door height from a zoned 9 foot maximum opening to a desired 10 foot opening.

John E. Nagel, owner

September 7, 2020

SUPERVISOR  
James J. Bach  
(716) 652-7590  
[jbach@townofaurora.com](mailto:jbach@townofaurora.com)



TOWN CLERK  
Martha L. Librock  
(716) 652-3280  
[townclerk@townofaurora.com](mailto:townclerk@townofaurora.com)

**TOWN OF AURORA**  
**Southside Municipal Center**  
300 Glead Avenue, East Aurora, NY 14052  
[www.townofaurora.com](http://www.townofaurora.com)

TOWN COUNCIL MEMBERS

Susan A. Friess  
[sfriess@townofaurora.com](mailto:sfriess@townofaurora.com)

Jolene M. Jeffe  
[jjeffe@townofaurora.com](mailto:jjeffe@townofaurora.com)

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Roger P. Pigeon  
[assessor@townofaurora.com](mailto:assessor@townofaurora.com)  
(716) 652-0011

DIR. OF RECREATION  
Christopher Musshafen  
(716) 652-8866  
[chris@townofaurora.com](mailto: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](mailto:historian@townofaurora.com)

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

*This institution is  
an equal opportunity  
provider and  
employer.*

September 9, 2020

John Nagel  
705 Jewett Holmwood Rd  
East Aurora, NY 14052

The Building Department has reviewed your request construct a pole barn at your property. The request has been denied because it fails to meet the requirements of the Town of Aurora Code for the Rural Residential (RR) zoning district in which it is located.

Section 116-17D

Required: In any R district, the permitted accessory use shall not include a private garage with vehicular entrance headroom more than nine feet high.

Requested: 2-10' overhead doors

Variance: 1' for each door

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 the office 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**

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.

DO NOT WRITE IN THIS SPACE

Case No.: ZR-20-413

Received: 9/24/20

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

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**2. Hearing Schedule:**      **Date** 10/15/2020      **Time** 7:00pm      **Location** 300 Glead Ave., E. Aurora, NY

**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      705 Jewett Holmwood Road

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**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)**      Garage doors in accessory building higher than allowed by Town Code

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**8. Other remarks: (ID#, SBL#, etc.)**      SBL#174.00-2-40.2

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**9. Submitted by:**      Martha L. Librock, Town Clerk      9/23/2020

575 Oakwood Avenue, East Aurora, NY 14052

**Reply to Municipality by Erie County Division of Planning**

Receipt of the above-described proposed action is acknowledged on 9/24/20. 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: 9/28/20

# Short Environmental Assessment Form

## Part 1 - Project Information

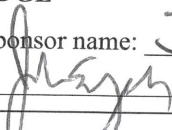
### Instructions for Completing

**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: <b>ZONING VARIANCE</b>							
Project Location (describe, and attach a location map): <b>705 JEWETT HOLMWOOD</b>							
Brief Description of Proposed Action: <b>ACCESSORY BUILDING</b>							
Name of Applicant or Sponsor: <b>JOHN E. NAGEL</b>		Telephone: [REDACTED]					
		E-Mail: [REDACTED]@L.COM					
Address: <b>705 JEWETT HOLMWOOD ROAD</b>							
City/PO: <b>EAST AURORA</b>		State: <b>NY</b>	Zip Code: <b>14052</b>				
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.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO</th> <th style="width: 50%;">YES</th> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<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:			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO</th> <th style="width: 50%;">YES</th> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
3.a. Total acreage of the site of the proposed action? _____ 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 checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____							
<input type="checkbox"/> Parkland							



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)? If Yes, explain purpose and size: _____ _____ _____	NO   <input checked="" type="checkbox"/>	YES   <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO   <input checked="" type="checkbox"/>	YES   <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO   <input checked="" type="checkbox"/>	YES   <input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: <u>JOHN E. NAGEL</u>	Date: <u>9/7/2020</u>	
Signature: <u></u>		



FORMER W. LINE B. COOPER  
L-7693, P-597

ED TO N.W. COR. L-7693, P-597

TOWNSHIP OF AURORA  
DEPT. OF P.L.G.S.  
7/6/1923

House

2020  
Proposed building

Proposed  
30x40' Storage  
Building  
EXISTING

JEWETT - HOLMWOOD RD. (66')

REC. & MEAS. - 767.58  
N 89° 36'E

SET IRON

R.O.W.

R.O.W.

SET IRON

FIND IRON  
0.76'E  
1.57'S

FIND. MON.  
1.32'S  
0.16'W

FIND. I.P.  
2.17'S  
ON LINE

S 1° 35' 30" W  
- 435.60 -

WALTER E. ALLEN & WIFE  
L-6115, P-403

1 ACRE ±  
INCLUDING R.O.W.

- 435.60 -

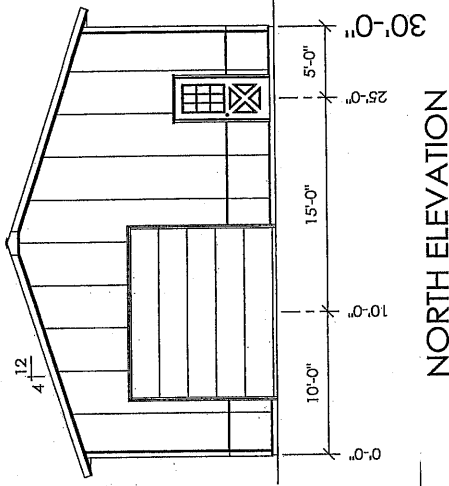
N 89° 36' E  
100.00

- 100.00 -

DRAWN BY:	ANW
DATE:	8/6/2020
CHECKED BY:	DJS
DATE:	8/10/2020
REVISED DATE:	---
REVISED DATE:	---
REVISED DATE:	---

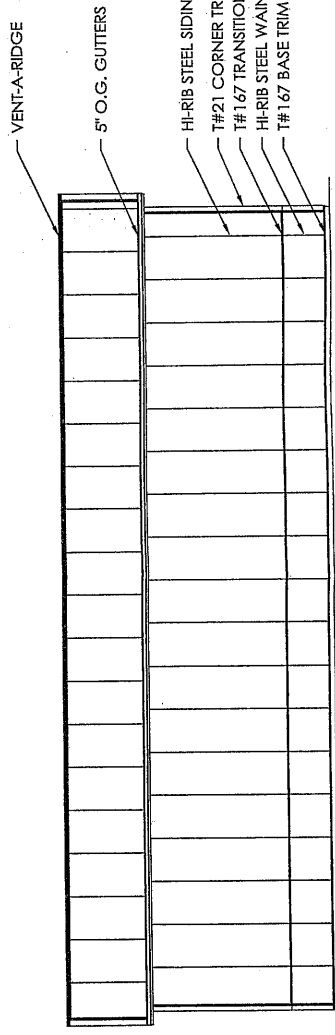


SCALE: AS NOTED  
 SHEET NO.  
 S4 OF S6

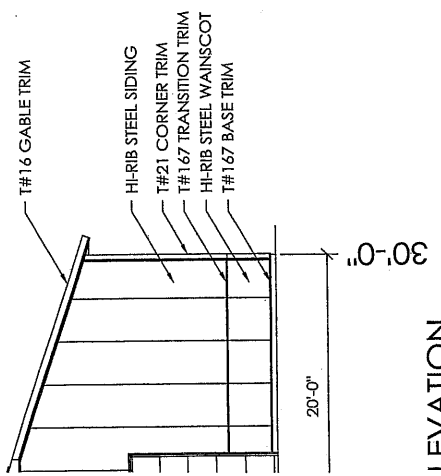


NORTH ELEVATION

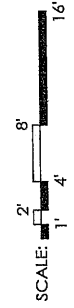
M.H. = 14'10"



EAST ELEVATION

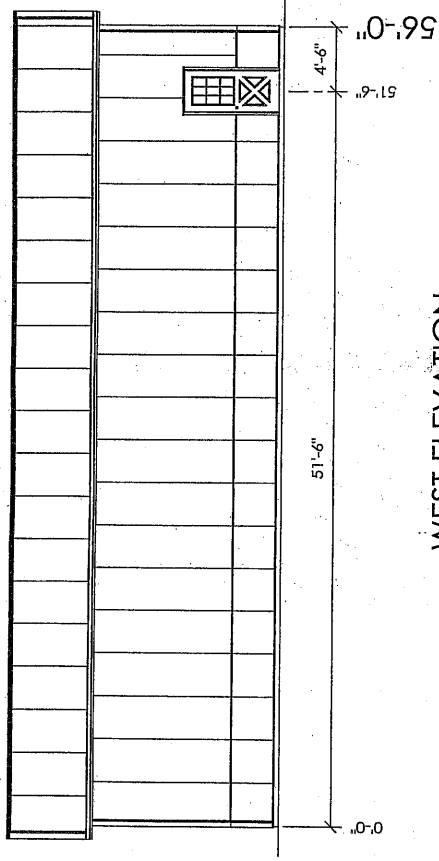


WEST ELEVATION



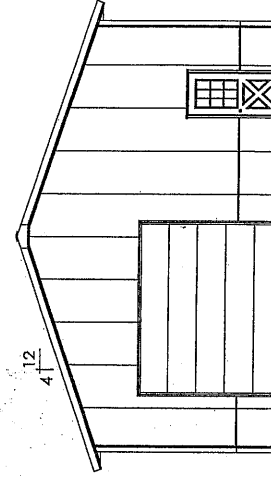
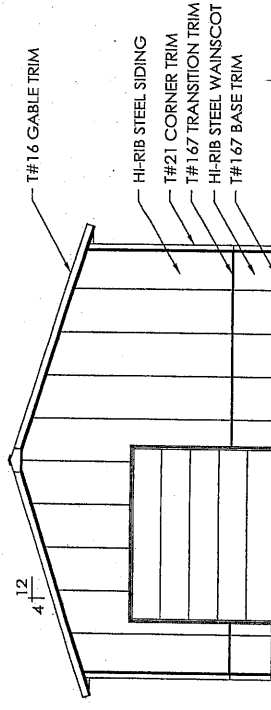
**DESIGN AND EXPLANATORY N**

1.) EXTERIOR DOOR LOCATIONS ARE TAKEN FROM THE EXTERIOR FAC NAILERS AND ARE TO THE CENTER OF THE DOOR UNITS. VERIFY ALL LOCATIONS WITH THE OWNER.



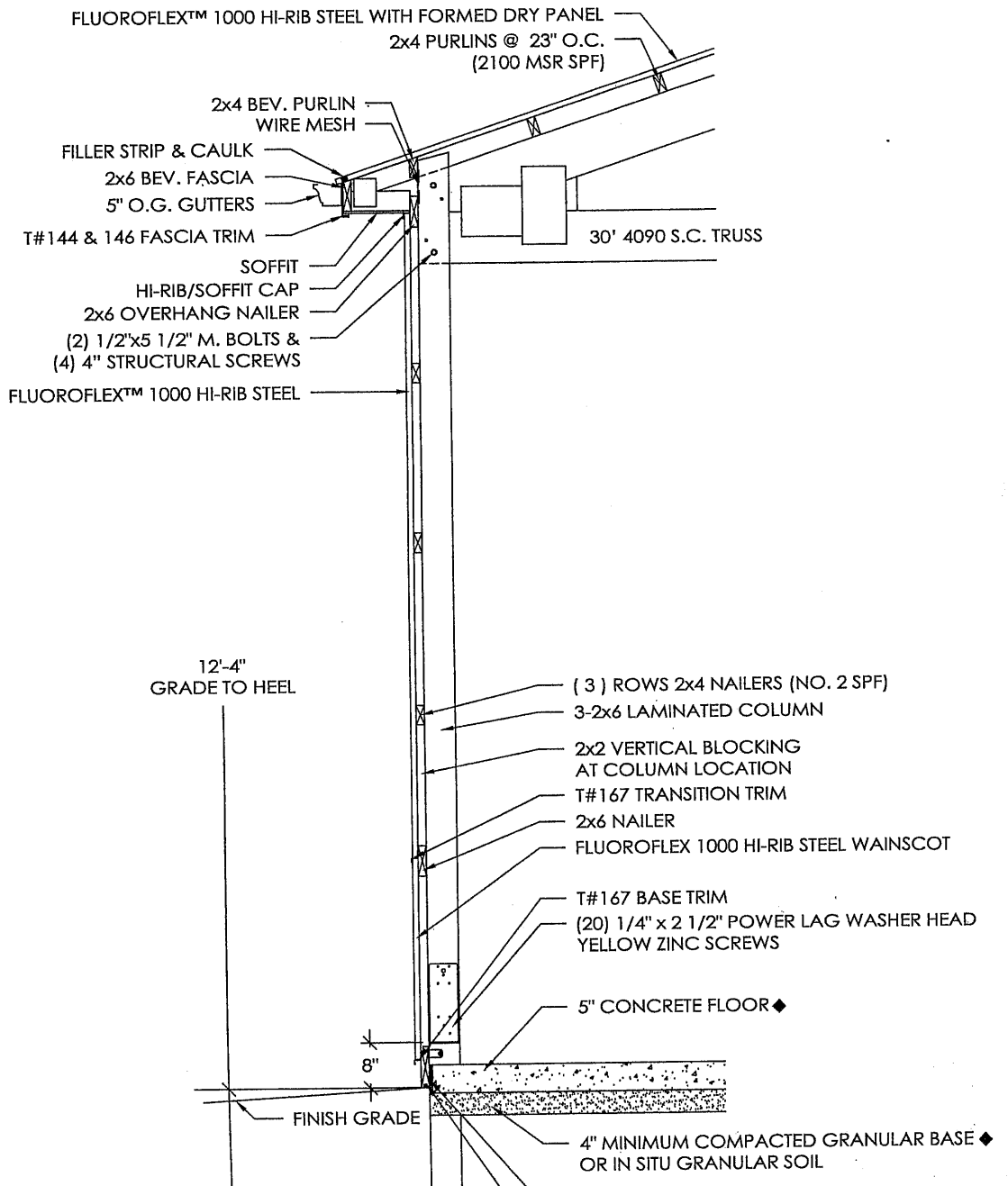
**WEST ELEVATION**

*SOUTH ELEVATION*

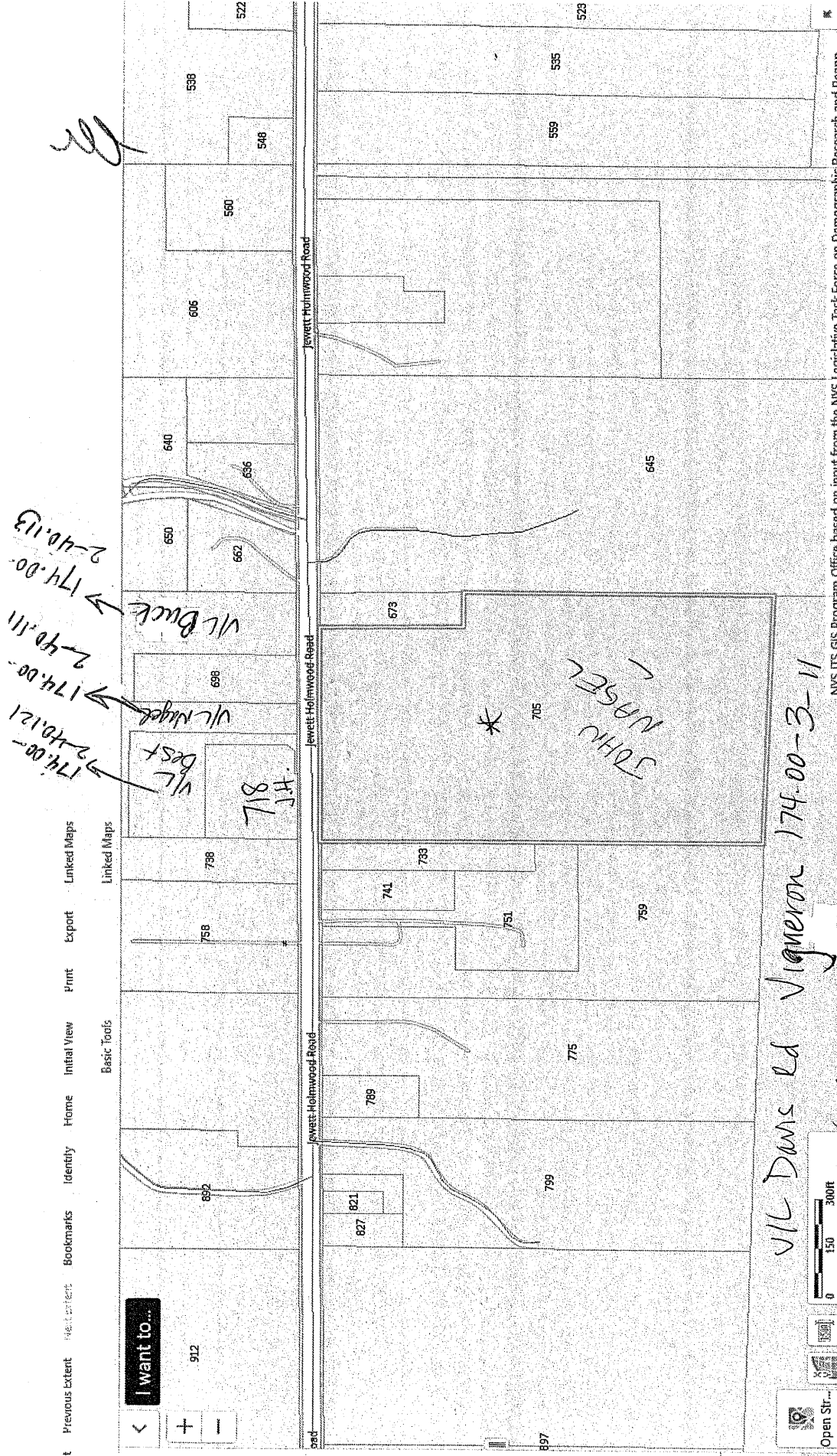








2107 1366



V/L Davis Rd Vigneron 174-00-3-11

John + Joseph Vigneron 3830 N Bldg OPK 14127

NYS ITS GIS Program Office based on input from the NYS Legislative Task Force on Demographic Research and Reapp...

John + Barbara Best  
548 JH

718 JH Alexandria Jucaloni

733 James Stelzle

738 Barbara Fillett LLC  
Kerri Piketti

751 Frank + Cheryl Sergi Jr

759 Frank + Betty Sergi  
maul 775 JH

698 Keith + Susan Buck

673 Michael + Jodi Betts

645 645 JH LLC

~~PO Box 718~~ OPK 14127

718 Kristin Myer

718 Scherer oil + gas 1500 Market Ave Ste 1  
Panoram Note  
Canton OH 44714