



CASE NO. 1378

DATE OF HEARING 3/18/2021

Town of Aurora Zoning Board of Appeals  
300 Gleed 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 William and Rebecca Heidt  
Address 10 Ellis Drive  
City West Falls State NY ZIP 14170  
Phone (716) 338-1111 Fax \_\_\_\_\_ Email wh@heidts.com  
Interest in the property (owner/lessee/agent/buyer/seller/lessee/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 10 Ellis Drive, West Falls, NY 14170  
SBL# 199.01-1-49.11  
Property size in acres ~17.53 Property Frontage in feet 75.0  
Zoning District A - Agricultural Surrounding Zoning A, R2, B2 and I  
Current Use of Property Single Family Residence

#### IV. REQUEST DETAIL

(check all that apply)  
 Variance from Ordinance Section(s) # 116-8.5 F. (2) and 116-8.5C. (2)  
 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 )

William A. Heidt  
Signature of Applicant/Petitioner

WILLIAM A. HEIDT  
Print name of Applicant/Petitioner

State of New York; County of Erie

On the 5 day of Feb in the year 2021 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.

Theresa Von Vreckin  
Notary Public

(Notary stamp)

Theresa Von Vreckin  
Notary Public, State of New York  
Reg. No. 01V06367900  
Qualified in Erie County  
Commission Expires 12/4/2021

Office Use Only: Date received: 2/8/21 Receipt #: 364685 103

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 \_\_\_\_\_

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



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

## TOWN OF AURORA

Aurora Municipal Center  
575 Oakwood 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)

Charles D. Snyder  
[csnyder@townofaurora.com](mailto:csnyder@townofaurora.com)

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OFFICER  
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ASSESSOR  
Roger P. Pigeon  
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(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*

February 8, 2021

William & Rebecca Heidt  
10 Ellis Dr  
West Falls, NY 14170

Dear Mr. & Mrs. Heidt:

The Building Department has reviewed your submittal for the construction of a new single family residence at 10 Ellis Dr at which time the existing single family residence will be converted to an accessory building. The request has been denied because it fails to meet the requirements of the Town of Aurora Code for the Agricultural (A) zoning district in which it is located.

Section 116-8.5C(2)

Required: Maximum mean height: two story, not to exceed 20 feet for an accessory building

Requested: 20'5"

Variance: 5"

Section 116-8.5F(2)

Required: No accessory building in the front yard

Requested: Accessory building in the front yard

Variance: Accessory building in the front yard

This letter serves as notice that we have received your application and fee for the Zoning Board of Appeals. You will receive notification from the Town Clerk with the date and time of your hearing next month. If you have any questions contact our office at 652-7591.

Sincerely,

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

Elizabeth Cassidy  
Asst. Code Enforcement Officer



**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)

We currently live in a dwelling residing at 10 Ellis Drive (the property under review). The current house is a single bedroom and single bathroom residence that will not meet the needs of a family. We would love to build a family home on our property that can meet the needs of a growing family. Per the approved single lot ODA, from 2014, the property can only house one residence, so we would propose converting the existing dwelling into an accessory structure, to be used for storage and maintaining of the families vehicles/equipment.

If the existing dwelling is to be converted to an accessory structure, it will no longer be complaint with the Town Code, as the mean height of the highest roof of the dwelling is 20'-5", which exceeds the zoning code allowable mean height of 20'-0" for accessory structures. Additionally, we are seeking a variance to allow an accessory structure to be located in the front yard as the family home we are proposing to build would be further from the front lot line.

Continued on the next page.

**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)



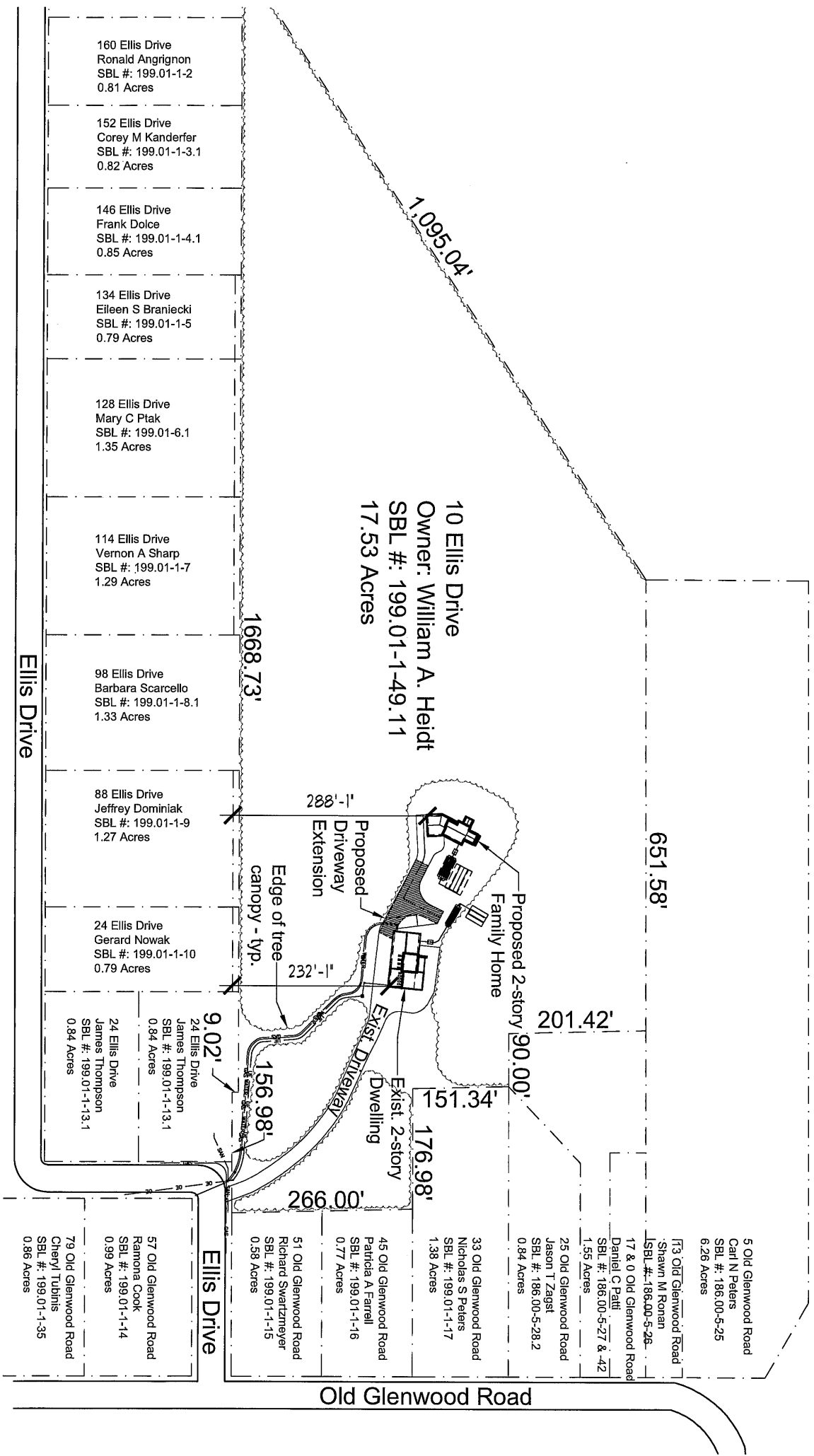
The existing dwelling is located ~232 ft from the front lot line, and the proposed family home is proposed to be ~288 ft from the front lot line. The existing dwelling converted to accessory structure would not meet the Town Code requirement of "no accessory structure to be erected in the front yard", but both structures would greatly exceed the minimum front yard setback requirement of 75 ft. We are proposing to locate the family home further from the front lot line, because our property is a bit unique in the fact that we are a flag lot with our front property line being over 1,800 ft long, and yet we only have 75 ft of frontage. This means that the remaining ~1,725 ft of our front property line abuts our neighbors backyards. We view a homes rear yard as its private space and do not wish to be impeded on our neighbors by locating our house any closer to their backyard than we need to. Our property is fully wooded, which provides us and our neighbors the separation and privacy that is sought after in our Town.

Our current dwelling would become an accessory structure located in the front yard, but it will still remain well hidden (nearly impossible to see) from the road, as we will not be changing the nature or character of the property until you go past the existing dwelling along the driveway. Also, as the proposed accessory structure is currently a dwelling, it blends with the Town's vernacular for a home more than a barn or accessory structure, so that it won't change the look or feel of the neighborhood.

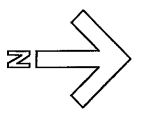
In regards to the variance for the mean height, the future accessory structure (existing dwelling) technically exceeds the maximum allowed, but there are several characteristics of the building to help diminish its verticality. First off the building is primarily horizontal, made up of three volumes, with the smallest volume being the highest and the only one to exceed the allowable 20'-0" mean height. The largest volume has a mean height of only 12'-3" and the volume closest to the road has a mean height of 15'-11". The varying heights of the volumes helps to minimize the overall height of the building. Additionally, the dwelling is at approximately the same elevation as the road, but the driveway slopes down away from the road and then rises over a small crest before going back down to the grade around the dwelling. This slight (~5 ft rise and fall) elevation change significantly reduces the appearance of the structures height from the roadway.

Thank you very much for your consideration and we look forward to discussing this with you.

# 1. OVERALL SITE PLAN



SCALE: 1" = 200'-0"





# 2. PARTIAL SITE PLAN - AREA OF WORK

98 Ellis Drive  
 Owner: Barbara Scarcello  
 SBL #: 199.01-1-8.1  
 1.33 Acres

88 Ellis Drive  
 Owner: Jeffrey J Dominiak  
 SBL #: 199.01-1-9  
 1.27 Acres

62 Ellis Drive  
 Owner: Gerard Nowak  
 SBL #: 199.01-1-10  
 0.79 Acres

24 Ellis Drive  
 Owner: James B Thompson  
 SBL #: 199.01-1-13.1  
 0.84 Acres

10 Ellis Drive  
 Owner: William A. Heidt  
 SBL #: 199.01-1-49.11  
 17.53 Acres

150' maximum dead end w/o a turnaround per NYS Fire Code 2020 - Appendix D - Table D103.4

Edge of tree canopy - typical

Edge of tree canopy - typical

Edge of tree canopy - typical

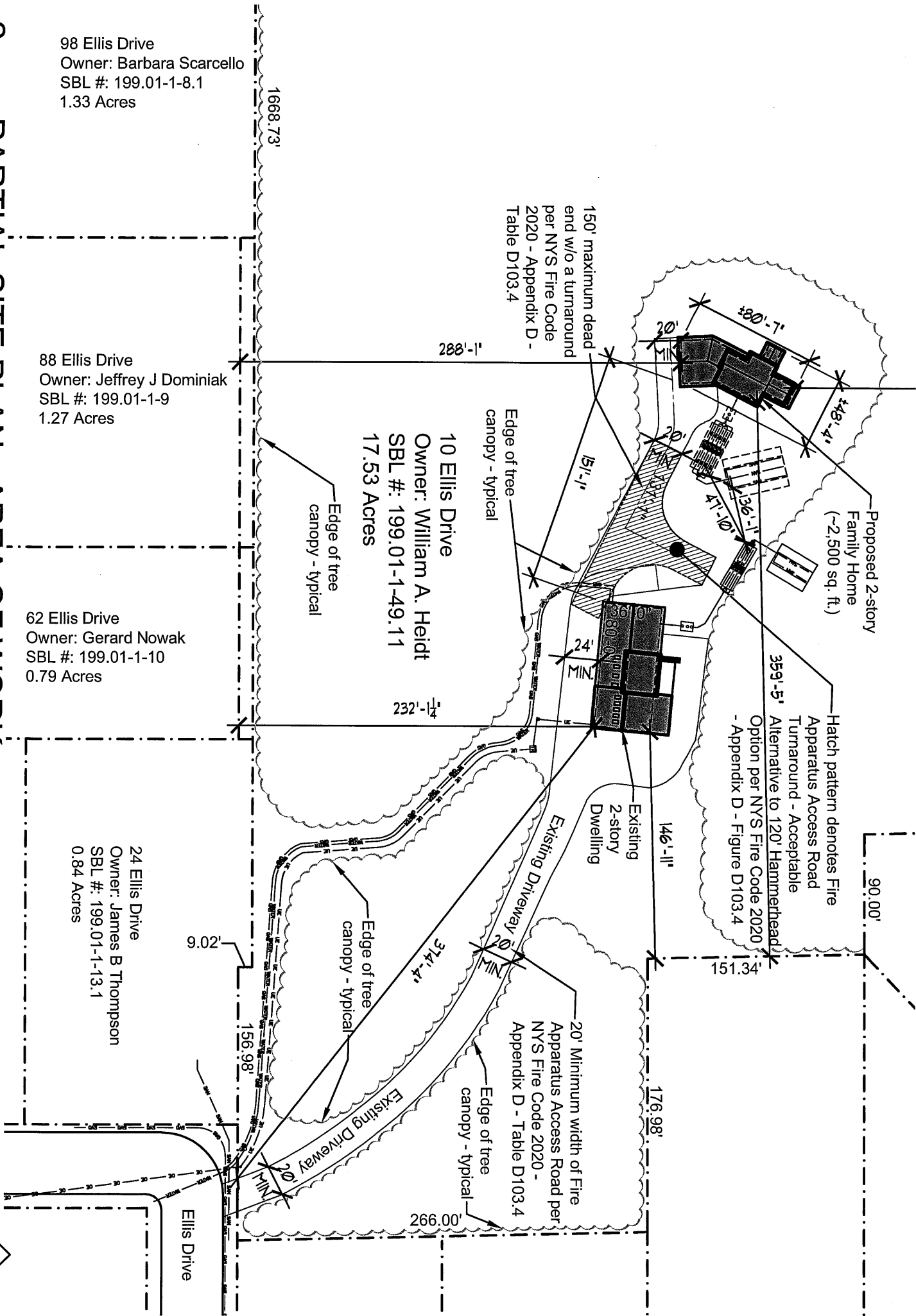
Edge of tree canopy - typical

Hatch pattern denotes Fire Apparatus Access Road Turnaround - Acceptable Alternative to 120' Hammerhead - Option per NYS Fire Code 2020 - Appendix D - Figure D103.4

Proposed 2-story Family Home (~2,500 sq. ft.)

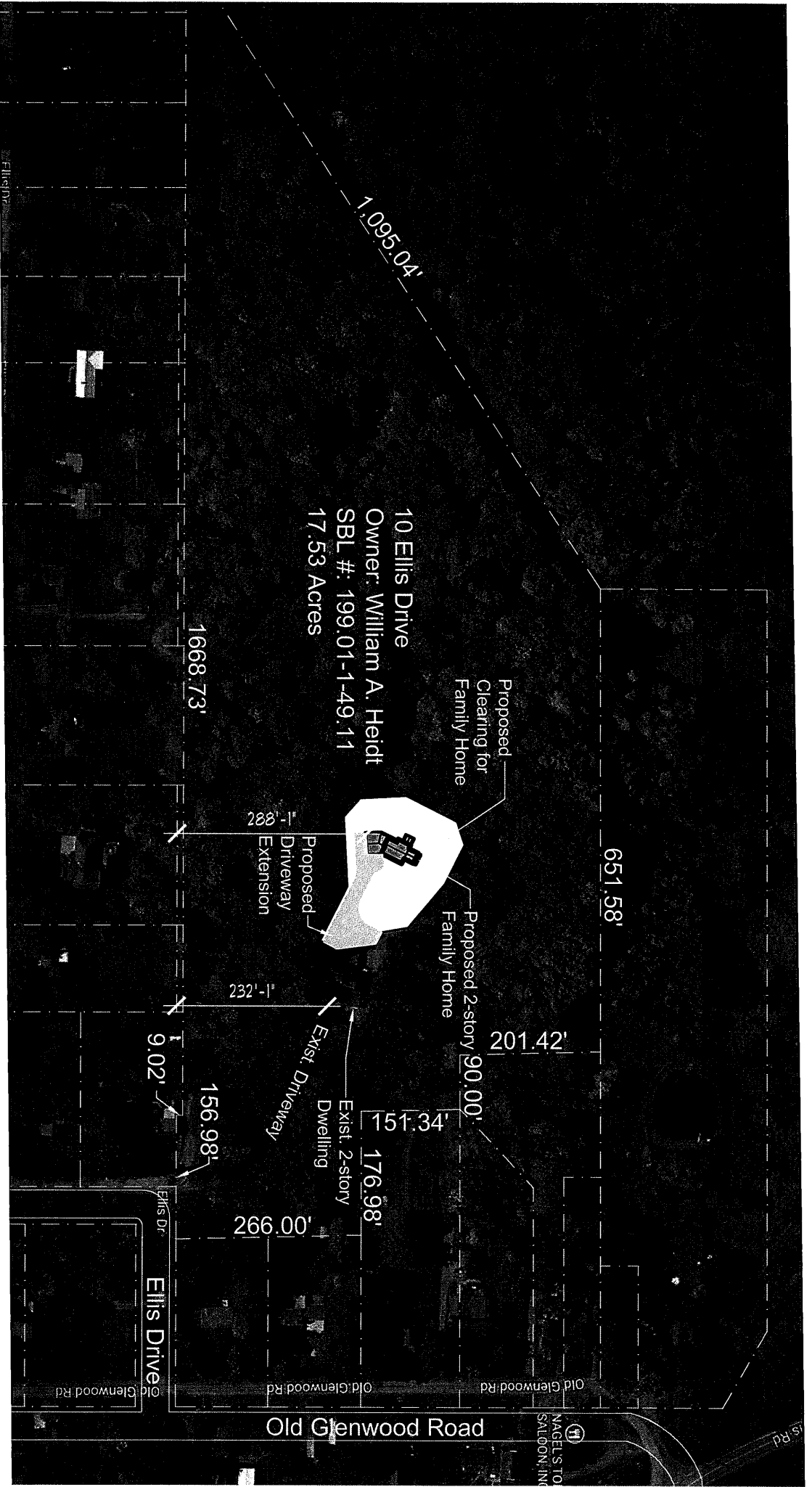
Existing 2-story Dwelling

20' Minimum width of Fire Apparatus Access Road per NYS Fire Code 2020 - Appendix D - Table D103.4



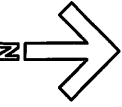
SCALE: 1" = 80'-0"





3. OVERALL SITE PLAN - AERIAL IMAGE

SCALE: 1" = 200'-0"







View from Ellis Drive – Spring 2014 prior to purchasing property



View from Ellis Drive – Summer 2015 – After the driveway is installed





View from Ellis Drive – Winter 2020



View from Ellis Drive – Winter 2020 – Glimpse of Dwelling





View of Dwelling from Midpoint of Existing Driveway – Fall 2018

# 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.

<b>Part 1 - Project and Sponsor Information</b>							
Name of Action or Project: Heidt Residence							
Project Location (describe, and attach a location map): 10 Ellis Drive, SBL: 199.01-1-49.11							
Brief Description of Proposed Action: The proposed action seeks to build a family home on the property further from the front lot line than the existing dwelling, which will become an accessory structure at the time of completion of the family home.							
Name of Applicant or Sponsor: William and Rebecca Heidt	Telephone	[Redacted]					
Address: 10 Ellis Drive		E-Mail	[Redacted]				
City/PO: West Falls	State: New York	Zip Code: 14170					
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 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"/>						
3.a. Total acreage of the site of the proposed action? <span style="float: right;">_____ 17.5 acres</span>							
b. Total acreage to be physically disturbed? <span style="float: right;">_____ .75 acres</span>							
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? <span style="float: right;">_____ 17.5 acres</span>							
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 checked="" 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							







<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><b>NO</b></p> <p><input checked="" type="checkbox"/></p>	<p><b>YES</b></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><b>NO</b></p> <p><input checked="" type="checkbox"/></p>	<p><b>YES</b></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><b>NO</b></p> <p><input checked="" type="checkbox"/></p>	<p><b>YES</b></p> <p><input type="checkbox"/></p>
<p><b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b></p> <p>Applicant/sponsor name: <u>William A. Heidt, R.A.</u> Date: <u>02/04/2021</u></p> <p>Signature: _____</p>		

## OPEN DEVELOPMENT AREA PERMIT

Pursuant to Chapter 79 of the Codes of the Town of Aurora, establishing regulations for Open Development Area, approval is hereby granted pursuant to the terms and conditions stated herein.

1. APPLICANT: William A. Heidt  
316 Behm Road, West Falls, NY
2. PREMISES: SBL 186.00-5-28.121 and SBL 199.01-1-49.1  
Ellis Drive, PO West Falls, Town of Aurora, NY now 10 Ellis
3. TERMS AND CONDITIONS:
  - A. Development: The development will consist of a single family residence.
  - B. Specifications: All specifications of Chapter 79 of the Codes of the Town of Aurora shall be complied with, including but not limited to the following:
    - 1) The ODA permit is for a single-family dwelling. Any additional buildings require a permit review and approval by the Town Board.
    - 2) An Erie County Health Department Permit for septic must be received prior to the issuance of a building permit.
    - 3) A building permit shall be applied for and issued for a single-family dwelling to be located on the subject property.
    - 4) Any future development will require an amendment to this ODA permit.
  - C. Town Attorney: The Town Attorney shall review the ODA permit to insure compliance.
  - D. SEQRA: This ODA permit is issued on the basis of a Short Environmental Assessment form submitted by the applicant and a subsequent Negative Declaration declared by the Town Board based upon the information submitted.
4. DOCUMENTS: All documents relevant to this application are included by reference. Such documents include, but are not limited to the application and supporting documents, minutes and recommendations of the Planning Board and minutes of the Town Board.
5. PROHIBITION: No other development or use of the premises is permitted unless an application is filed with the Town requesting approval of the proposed amendments by the Town Board.
6. APPROVAL: The Open Development Area in accordance with the terms and conditions of the application and proceedings were approved at a regular meeting of the Town of Aurora Town Board held on the 14 day of July, 2014.

RESOLVED, the Town Board agrees, as Lessor, to extend the present Lease effective November 1, 2014 and terminating on October 31, 2017, with an increase of 3% plus \$21,817.00 for the additional 1589 square feet to be leased by Windham Professionals, payable on the 1<sup>st</sup> day of November, 2014, and be it further

RESOLVED, the terms and conditions of the present Lease Agreement with approved addendums shall remain in full force and effect during the period from November 1, 2014 to October 31, 2017.

Action #224  
Windham  
lease  
amendment  
and extension  
approved.

Duly adopted this 14<sup>th</sup> day of July, 2014.

Councilwoman Friess seconded the motion. Upon a vote being taken:  
ayes – five          noes – none          Motion carried.

Councilwoman Friess moved to approve the request from Windham Professionals to remodel an area on the second floor (1589 square feet area between the current Windham office area and the main north-south hallway) to be used for a break room according to the specs submitted. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five  
noes – none          Motion carried.

Action #225  
Windham  
approval to  
remodel area  
on 2<sup>nd</sup> fl for  
break room

Quotes to repair the nosing on the exterior warehouse stairs at Southside Municipal Center were received from:

Alp Steel Corp.	\$1,275.00
Buffalo Iron Corp.	\$ 700.00
General Welding	\$ 945.00

Action #226  
Quote from  
Buffalo Iron  
approved for  
repair of  
SSMS  
warehouse  
stairs

Councilwoman Jeffe moved to approve the quote from Buffalo Iron Corporation, 461 Tonawanda Street, Buffalo, NY in the amount of \$700.00 to repair the nosing on the warehouse stairs at Southside Municipal Center. Funds will be disbursed from ER1621.422. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – four          noes – none  
Supervisor Bach recused himself from voting due to a relationship with Buffalo Iron Corp.          Motion carried.

Councilman Snyder moved to declare the Town as lead agency for purposes of SEQR for the one-lot Open Development Area project at SBL186.00-5-28.121 and 199.01-1-49.1 Ellis Drive, (PO West Falls) and issued a negative declaration (no adverse environmental effect) for the project. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five          noes – none          Motion carried.

Action #227  
Negative  
SEQR for  
Ellis Dr. ODA

Councilwoman Friess moved to approve the one-lot Open Development Area application of William Heidt for SBL186.00-5-28.121 and 199.01-1-49.1 Ellis Drive (PO West Falls) Town of Aurora. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five          noes – none          Motion carried.

Action #228  
Ellis Dr. one-  
lot ODA  
approved.

Councilman Snyder moved to declare the Town as lead agency for purposes of SEQR for the Site Plan for a proposed building submitted by Donald Pressing, Jr. at 992 Olean Road, and issued a negative declaration (no adverse environmental effect) for the project. Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five          noes – none          Motion carried.

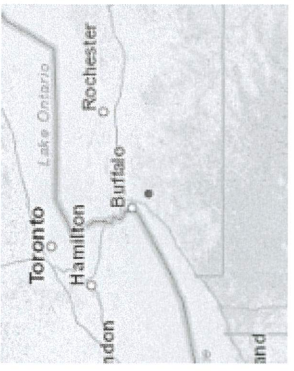
Action #229  
Negative  
SEQR for 992  
Olean site plan

Upon review of the site plan submitted for a proposed building at 992 Olean Road, it was determined that the plan does not include the 14' by 50', 3-sided/roof enclosure lean-to that is specified in the Restrictive Covenant Agreement for this property dated April 15, 2014.



Case 1378

# Erie County On-Line Mapping Application



**Legend**

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

*RICHARDS SWARTZMEYER*  
*SUSAN KRAJEWSKI - SWARTZMEYER*

1: 4,514



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.

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

0 0.07 0.1 Miles

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
 THIS MAP IS NOT TO BE USED FOR NAVIGATION