



CASE NO. 1428
DATE OF HEARING 2/16/23

Town of Aurora Zoning Board of Appeals
575 Oakwood 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 Scott L. Marshall
Address 1432 Emery Road
City East Aurora State NY ZIP 14052
Phone [redacted] Fax [redacted] Email [redacted]
Interest in [redacted] (owner/purchaser/developer) Owner

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

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

III. PROPERTY INFORMATION

Property Address 1432 Emery Road, East Aurora NY 14052
SBL# 187.00-4-52.121
Property size in acres 5.08 Property Frontage in feet 60'
Zoning District RR/A Surrounding Zoning RR/A
Current Use of Property SFR

IV. REQUEST DETAIL

(check all that apply)
 Variance from Ordinance Section(s) # _____
 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)

Scott L. Marshall
Signature of Applicant/Petitioner

SCOTT L. Marshall
Print name of Applicant/Petitioner

State of New York; County of Erie

On the 18 day of January in the year 23 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.

KARIN L. DOJNIK
Notary Public, State of New York
Reg. # 01DO6445148
Qualified in Erie County
Commission Expires December 12, 2026

Karin L. Dojnik
Notary Public

(Notary stamp)

Office Use Only: Date received: 1/19/2023 ck#1095 Receipt #: 5108127 (KB)

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)

I am requesting permission to construct a detached garage on my property located at 1432 Emery Rd, East Aurora, NY 14052. My ODA lot does not meet today's code requirements, so I am requesting variances in order to build my garage.

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. Librock
(716) 652-3280
townclerk@townofaurora.com

TOWN OF AURORA

Aurora Municipal Center
575 Oakwood Avenue, East Aurora, NY 14052
www.townofaurora.com

TOWN COUNCIL MEMBERS

Charles D. Snyder
csnyder@townofaurora.com

Luke Wochensky
lwochensky@townofaurora.com

James F. Granville
jgranville@townofaurora.com

Joseph M. McCann
jmccann@townofaurora.com

January 10, 2023

Scott L. Marshall
1432 Emery Rd
East Aurora, NY 14052

Scott:

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

CODE ENFORCEMENT
OFFICER
Elizabeth Cassidy
(716) 652-7591
building@townofaurora.com

ASSESSOR
Roger P. Pigeon
assessor@townofaurora.com
(716) 652-0011

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

TOWN ATTORNEY
Brigid M. Maloney

TOWN JUSTICE
Jeffrey P. Markello
Anthony DiFilippo IV

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

FAX: (716) 652-3507

The Building Department has reviewed your request to construct a detached garage at your ODA lot at 1432 Emery Rd. The request has been denied because it fails to meet the current ODA code requirements for the Town. To alleviate an additional variance request, you have agreed to install the bump out that is required from the ROW to the turnoff of the neighbor's property.

Section 99-31A(2)

Required: The flagpole portion of the lot must have a minimum of 75' of frontage on an existing ROW and maintain a minimum 75' wide right of way retained by the property owner.

Requested: 2014 approved ODA lot with 60' frontage and width of right of way.

Variance: 15'

99-31A(6)

Required: Side yard setback of 50'

Requested: 20'

Variance: 30'

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

Sincerely,

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

Elizabeth Cassidy
Code Enforcement Officer

**SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, N.Y.
AND REPLY TO MUNICIPALITY**

Submit this form with full statement of proposed action (as described in GML 239-m(c)) at www.Erie.gov/IRonline, OR mail a hard copy (retain a copy for your files) to: Erie County Division of Planning, 95 Franklin Street, Room 1053, Buffalo, N.Y., 14202

DO NOT WRITE IN THIS SPACE

Case No.: ZR-23-90

Postmark/Delivery Date: 1/19/23

The proposed action described herein is referred in accordance with the provisions of NYS General Municipal Law §239 l - nn. A Municipal Referral Map is available to help determine whether an applicable action is subject to referral.

Description of Proposed Action

1. Name of Municipality: Town of Aurora

§239-m(4)(b) provides that the county shall have 30 days after receipt of a full statement of the proposed action to reply. If the county fails to reply within such period, the referring body may take final action.

However, any county reply received after 30 days but 2 or more days prior to final action by the referring body shall be subject to §239-m(5). The referring body shall file a report of its final action with the county within 30 days per §239-m(6).

2. Hearing Schedule: Date 02/16/2023 Time 7:00pm Location 575 Oakwood 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 Address: 1432 Emery Rd

5a. S.B.L. of Property: 187.00-4-52.121

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: erect accessory building on an ODA (flag lot)
(specify the action, such as the scope of variances or site plans)

8. Other remarks: _____

9. Submitted by: Martha Libroch, Town Clerk Email: townclerk@townofaurora.com

10. Return Address: 575 Oakwood Ave., East Aurora, NY 14052

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 1/23/23. 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. Comment on proposed action is attached hereto.
3. The proposed action is subject to review; Recommendation on Proposed Action 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: 1/30/23

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:			
Project Location (describe, and attach a location map): <i>1432 Emery Road, East Aurora NY 14052</i>			
Brief Description of Proposed Action: <i>Relief from current ODA Code to construct a garage</i>			
Name of Applicant or Sponsor: <i>Scott L. Marshall</i>		Telephone: <i>716</i> [REDACTED]	
		E-Mail: <i>lck</i> [REDACTED] <i>com</i>	
Address: <i>1432 Emery Rd</i>			
City/PO: <i>East Aurora</i>		State: <i>NY</i>	Zip Code: <i>14052</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 government Agency? If Yes, list agency(s) name and permit or approval: <i>ODA Approval and Building permit</i>			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> <i>5.08</i> acres <i>0</i> acres <i>5.08</i> acres
4. Check all land uses that occur on, are adjoining or 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,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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?	NO <input type="checkbox"/>	YES <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 <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input 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: _____ _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <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? 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 <input type="checkbox"/> <input checked="" type="checkbox"/>	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 <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" 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"/>

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	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"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Scott J. Mesheff / Scott L. Mesheff</u> Date: <u>1/18/23</u> Signature: <u>Scott J. Mesheff</u> Title: <u>property owner</u>		

N.E. COR. OF
L.10970, P.8122

MIN
20'

E. LINE OF L.10970, P.8122
1137.45'

S.E. COR. OF LAMBS DEEDED
TO BRUNN, S. KELLY & CHRISTINE L. KELLY
L.10970, P.8122

LOT 1
S.A. (L.10970, P.8122)

HOUSE NO. 1432
(FRONT TO COR. FOUNDATION)

LOT 2

637.78'

240.00'

475.00'

PARALLEL WITH THE S. LINE OF LOT 27

500.00'

400.00'

80.00'

74.00'

S. LINE OF LOT 27

134.00'

755.00'

EMERY (66' WIDE) ROAD

POND

POND 7.453

CONCRETE SET ON ROAD AT PROPERTY
CORNER. THIS SURVEY HAS BEEN MADE
IN ACCORDANCE WITH THE REQUIREMENTS
OF THE STATE ENGINEERING BOARD
AND THE STATE DEPARTMENT OF
CONSTRUCTION.

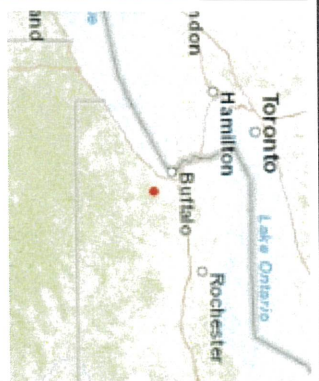
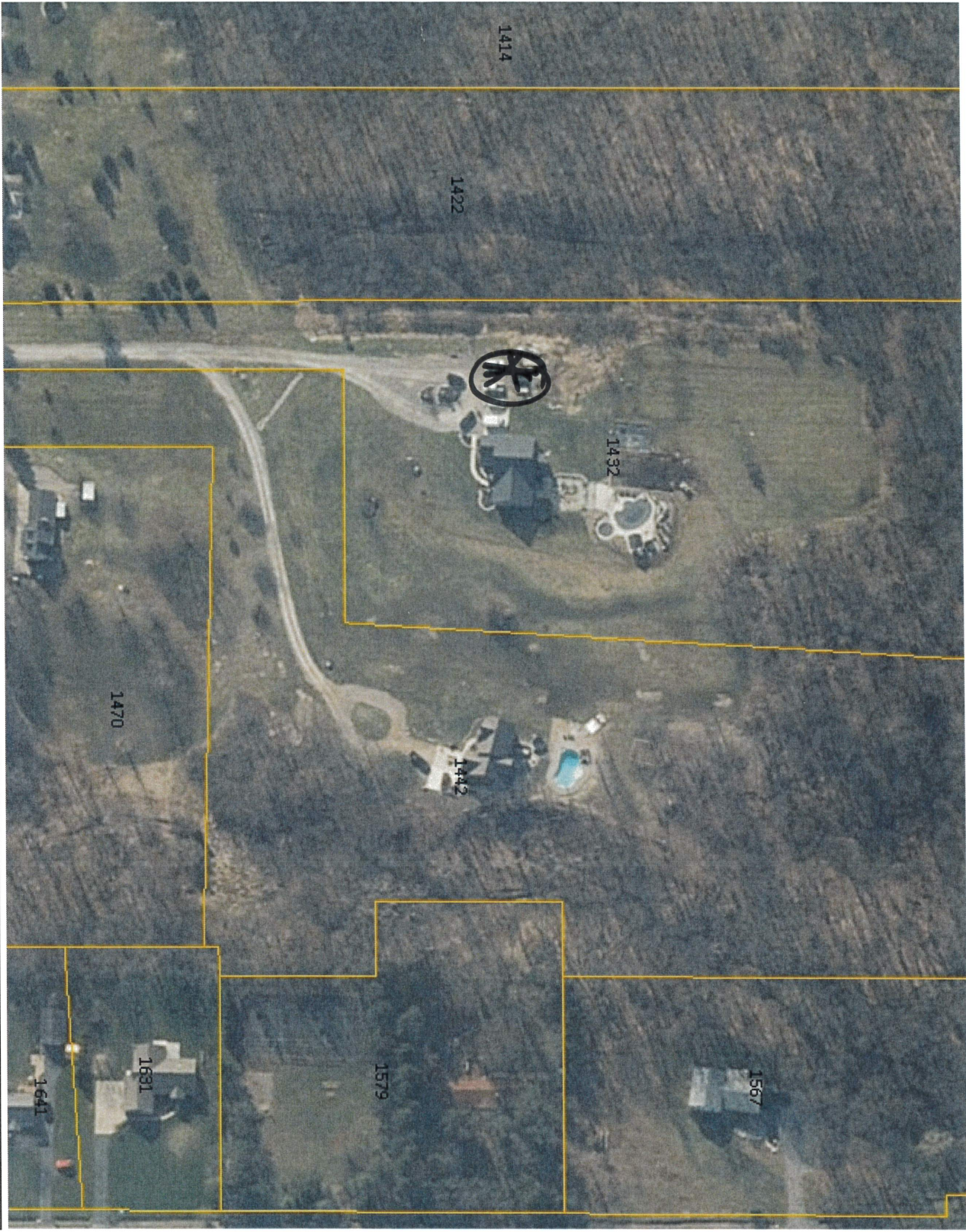
NOTE: UNLAWFUL ALTERATIONS OR ADDITIONS TO ANY
REPORT OR VIOLETION OF SECTION 1000 OR
2 OF THE NEW YORK STATE EDUCATION LAW
CONVICTION @ 2004 NOVEMBER 10 AM, NY

Successors to the records of Great Land Surveyors

SCALE	
DATE	
DRAWN	



Erie County On-Line Mapping Application



Legend
□ Parcels

0 0.04 0.1 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**

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: 2,257



Case 1428

1432 emery

1422 Emery	Timothy + Maureen Kenney	1470 Bruner + Carol Nelson
1429	Frank + Martha Harker	1553 Carter
1432	SCOTT + Krystal Marshall	Yousey Valley
1442	Jason + Alison Pierce	Denise Eckis
1459	Darryl + Cheryl Casata	

