

ORIGINAL



CASE NO. 1449

DATE OF HEARING 9/21/2023

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 - **Jeffrey & Amie Simmons**

Address - **4479 Transit Rd.**

City - **Orchard Park, NY 14127**

Phone - [redacted] Fax ----- Email - a [redacted] **mail.com**

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 - **4479 Transit Rd., Orchard Park, NY 14127**

SBL# **142489-174-000-0001-035.120**

Property size in acres= **1.29**

Property Frontage in feet= **205'**

Zoning District- **RR**

Surrounding Zoning

Current Use of Property - **Single Family Residence**

IV. REQUEST DETAIL

(check all that apply)

Variance from Ordinance Section(s) #

Special Use Permit for: **A second dwelling unit on the property (in-law apartment)**

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)

Jeffrey and Amie Simmons
Signature of Applicant/Petitioner

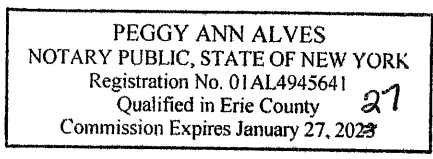
Jeffrey and Amie Simmons
Print name of Applicant/Petitioner

State of New York; County of Erie

On the 3rd day of August in the year 2023 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.

Peggy Ann Alves
Notary Public

(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)

We are proposing to remodel approximately 1/2 of the the interior of the existing garage into an "in-law" apartment for [my] parents.

We would be installing new septic system - (previously approved by civil engineer - letter included here)

We would run new Erie County Water line from Old Transit Rd.

We would run a new gas line from Old Transit Rd.

Electric is existing.

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:

There will be no changes made to the exterior of the existing garage (built in 2010)

- 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

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opportunity provider and employer.*

August 23, 2023 - Revised

Amie Simmons
4479 Transit Road
East Aurora, NY 14052

Ms. Simmons:

The Building Department has reviewed the request Special Use Permit (SUP) in an RR zoning district at 4479 Transit Road, East Aurora, NY (SBL: 174.00-1-35.12). The request has been denied because the barn side yard setbacks and lot size will not meet zoning requirements if lots are separated.

Section 116-8.4 B (1)(a)

Required: Each dwelling shall be situated on the lot in such a manner that in the event the property is split, each dwelling will meet the zoning requirements with regards to lot size and property line setbacks of the district in which the dwelling is located.

Requested: Lot width to accommodate a dwelling group.

Variance: Lot width to accommodate a dwelling group.

Section 116-8.4 F (1)

Required: 20' Minimum side yard setback

Requested: 11.6' side yard setback to north side property line

Variance: 8.4' from property line.

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 your hearing. If you have any questions, please contact us at 652-7591.

Sincerely,

Richard Miga
Assistant 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.: _____

Postmark/Delivery Date: _____

The proposed action described herein is referred in accordance with the provisions of NYS General Municipal Law §239 1 - 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** 9/21/2023 **Time** 7:00pm **Location** 575 Oakwood 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 Address: 4479 Transit Road, PO Orchard Park, Town of Aurora

5a. S.B.L. of Property: 174.00-1-35.12

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: Dwelling group (2 residences) on parcel that is not wide enough to split into legal lots as required by Town Code. One of the dwellings will be closer to the side lot line than allowed by Town Code.
(specify the action, such as the scope of variances or site plans)

8. Other remarks: Petitioner intending to convert a portion of an existing pole barn/garage into living space for parents.

9. Submitted by: Martha Librock, 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 _____. 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: _____ Date: _____

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: REMODEL INTERIOR OF EXISTING GARAGE			
Project Location (describe, and attach a location map): 4479 TRANSIT RD., ORCHARD PARK, NY 14127			
Brief Description of Proposed Action: REMODEL 1/2 OF GARAGE (EXISTING) INTO A SMALL IN-LAW APARTMENT. INSTALL NEW, SMALL SEPTIC SYSTEM. BRING E.C. WATER FROM STREET. BRING NAT. FUEL GAS FROM ST. ELECTRIC IS EXISTING. NO CHANGE TO EXTERIOR OF GARAGE.			
Name of Applicant or Sponsor: JEFFREY AND AMIE SIMMONS		Telephone: <div style="background-color: yellow; width: 100px; height: 20px;"></div>	
Address: 4479 TRANSIT RD.		E-Mail: am@mail.com	
City/PO: ORCHARD PARK		State: NY	Zip Code: 14127
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	YES
		<input checked="" type="checkbox"/>	<input 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: ECHO Septic permit, TOA Building Permit		NO	YES
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		<u>1.29</u> acres	
b. Total acreage to be physically disturbed?		<u>0</u> acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<u>1.29</u> 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 checked="" 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 type="checkbox"/>	YES <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 <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: <u>NEW SEPTIC SYSTEM</u> <u>APPROVED BY CIVIL ENGINEER</u>	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 checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <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 checked="" 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 plan?	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? 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"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<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	YES
	<input checked="" type="checkbox"/>	<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	YES
	<input checked="" type="checkbox"/>	<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	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Annie Simmons</u> Date: <u>4/24/23</u> Signature: <u>Annie Simmons</u> Title: <u>owner</u>		

Mr. Chris Revett
4479 Transit Road
Orchard Park, NY 14127

July 24, 2022

Mr Revett;

This letter is in response to a request for evaluation of the parcel located at 4479 Transit Road. A field visit was made on 7/23/22. The parcel was evaluated to determine if there is adequate room to install a 220 GPD private on-site sewage system for a proposed new In-Law residence.

The parcel size does meet the minimum lot size required by the Erie County Department of Health for private on-site sewage. Additionally, the east and southeast portion of the lot will provide adequate space to accommodate the new septic system and provide for the minimum system offsets required by the health department code. This area will also avoid any conflict with other utilities coming from Transit Road. The field evaluation is limited to the installation of a private on-site sewage system only. The installation of other utilities is not part of this evaluation.

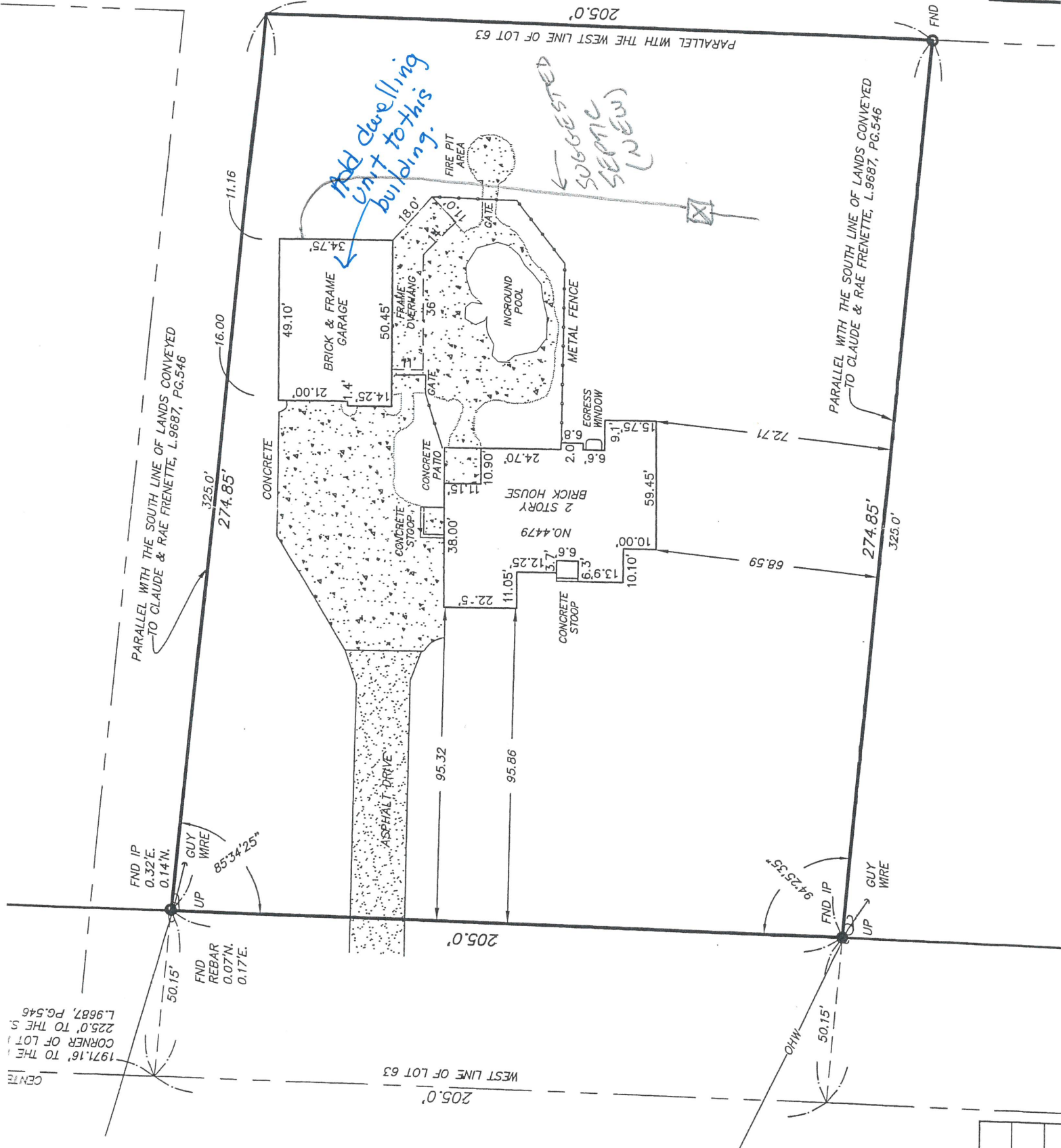
The field evaluation is not to be confused with a final approval. The system will need to be designed by a licensed professional engineer and approved by the Erie County Department of Health.

If you have any questions, please feel free to contact me.

Richard L. Felber, P.E.

Richard Felber P.E.

TRANSIT ROAD (100' WIDE)



ADD dwelling unit to this building.

SUGGESTED SEPTIC (NEW)

TOWN OF AURORA

575 OAKWOOD AVENUE, EAST AURORA, NY 14052
BUILDING DEPARTMENT
(716) 652-7591

MEMO

TO: Zoning Board of Appeals

FROM: Richard Miga, Assistant Code Enforcement Officer

DATE: August 7, 2023

The Building Department has accepted a Zoning Application for 4479 Transit Road, by Amie Simmons, for the proposed dwelling unit to be constructed in the existing barn on the property. Based on the currently lot size and locations of the existing barn and principal residence, the barn will not meet the zoning requirements as a separate dwelling for lot size (3/4-acre) and side yard setback (20') if properties were to be separated in the future per zoning 116-8.4B(1)(a).

Zoning code 116-8.4B was amended to allow for RR - Rural Residential zoning district to have the same allowance as R3 zoning district for, 'Dwelling groups consisting of two or more dwelling on the same lot'. See attached filed amendment. This allowance is predicated on each dwelling be situated on the lot in such a manner that in the event the property is split, each dwelling will meet the zoning requirements regarding lot size and property line setbacks. In this application the property would not be able to be split even if the variance is granted due to the lot dimensions.

This is a Type 2 action for purposes of SEQRA.

If you have any questions, please contact me at 652-7591.
Richard Miga

1 4A

TOWN OF AURORA

LOCAL LAW INTRO - _____

LOCAL LAW NO. _____

A LOCAL LAW, TO AMEND LOCAL LAW 1-1990 KNOWN AS THE CODES OF THE TOWN OF AURORA, ADOPTED BY THE TOWN BOARD OF THE TOWN OF AURORA ON JANUARY 22, 1990, BY AMENDING CHAPTER 116 ARTICLE 1 SECTION 116-8.4 TO ADD DWELLING GROUP AS A PERMITTED USE IN THE RR (RURAL RESIDENTIAL) DISTRICT WITH A SPECIAL USE PERMIT BY THE TOWN BOARD.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF AURORA AS FOLLOWS:

SECTION 1. LEGISLATIVE INTENT

This Local Law amends a prior Local Law known as The Codes of the Town of Aurora, adopted by the Town of Aurora on January 22, 1990, as amended, relating to the administrative, legislative and general legislation of the Codes within the Town of Aurora as herein set forth. This legislation adds Dwelling Group as a use permitted the RR District when granted a special use permit by the Town Board.

SECTION 2. CHAPTER 116, ARTICLE I, SECTION 116-8.4 RR RURAL RESIDENTIAL DISTRICT

Chapter 116-8.4 is amended by adding and adopting as follows:

116-8.4 B. Permitted uses when approved by the Town Board through special use permit:

(1) Dwelling group consisting of two or more dwelling units on the same lot.

(a) Each dwelling shall be situated on the lot in such a manner that in the event the property is split, each dwelling will meet the zoning requirements with regard to lot size and property line setbacks of the district in which the dwelling is located.

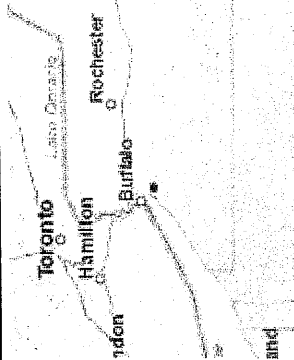
(b) Any inconsistencies with any zoning regulations will require Zoning Board of Appeals approval prior to any Town Board action.

SECTION 3. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.

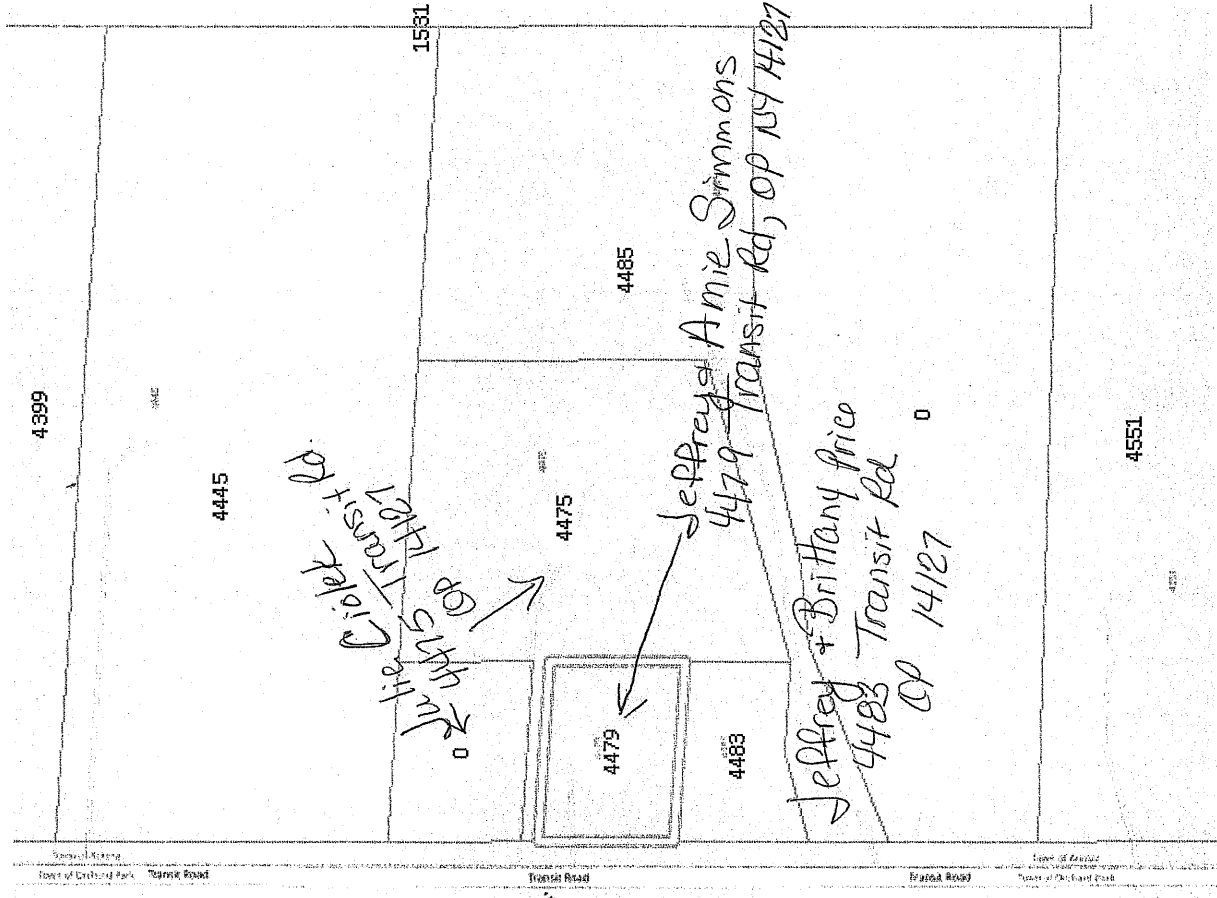


Erie County On-Line Mapping Application



Legend

Parcels



0 0.07 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: 4,514

