



CASE NO. 1466

DATE OF HEARING 4/18/24

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 BERNARD W. LEWIS  
Address 1449 BOIES ROAD  
City EAST AURORA State N.Y. ZIP 14052  
Phone 716 652 8893 Fax \_\_\_\_\_ Email \_\_\_\_\_  
Interest in the property (ex: owner/purchaser/developer) \_\_\_\_\_

#### 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 PART OF 1449 BOIES RD  
Vacant Land on Boies Rd  
SBL# part of 187.00-4-42.11  
Property size in acres T B 0.7 AC Property Frontage in feet 52  
Zoning District RR/A Surrounding Zoning RR/A  
Current Use of Property Vacant Land

#### IV. REQUEST DETAIL

(check all that apply)  
 Variance from Ordinance Section(s) # 99-31 A(2), 99-31 A(3)  
 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 )

Bernard W. Lewis

Signature of Applicant/Petitioner

Bernard W. Lewis

Print name of Applicant/Petitioner

State of New York; County of Erie

On the 19<sup>th</sup> day of March in the year 2024 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

KARIN L. DOJNIK  
Notary Public, State of New York  
Reg. # 01DO6445148  
Qualified in Erie County  
Commission Expires December 12, 2024

(Notary stamp)

Office Use Only: Date received: 3/21/24 \$100 ck 191 Receipt #: 891160 (initials)

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)

When we sell the land, the contract will state that the buyer has to build at least 880 feet west of Boies Road.

see attached

Mr. Lewis stated that when he split his parcel to create 1465 Boies Rd with the intent to have a future ODA lot the Building Inspector and Town Supervisor indicated 60' was all that would be needed for access. 1465 Boies Lot was created in 1997. Mr Lewis now wants to sell off the ODA lot.

**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  
Charles D. Snyder  
(716) 652-7590  
[csnyder@townofaurora.com](mailto:csnyder@townofaurora.com)



TOWN CLERK  
Martha L. Librocks  
(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

Luke Wochensky  
[lwochensky@townofaurora.com](mailto:lwochensky@townofaurora.com)

James F. Granville  
[jgranville@townofaurora.com](mailto:jgranville@townofaurora.com)

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Christopher Musshafen  
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[chris@townofaurora.com](mailto: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](mailto:historian@townofaurora.com)

FAX: (716) 652-3507

Bernard Lewis  
1449 Boies Rd  
East Aurora, NY 14052

March 20, 2024

Mr. Lewis:

The Building Department has reviewed your request to split a portion of your property at 1449 Boies Rd into an Open Development Area (ODA) lot. The request has been denied because it fails to meet the code requirements for ODA lots in the Town.

#### Section 99-31A(2)

Required: The flagpole portion of the lot must have a minimum of 75' of frontage on an existing state, county, or Town road and maintain a minimum 75' wide right-of-way retained by the property owner.

Requested: Existing flagpole of 52'

Variance: 23'

#### Section 99-31A(3)

Required: All access roadways will be located on a private right-of-way at least 75' wide.

Requested: Existing right-of-way 52' wide

Variance: 23'

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,

  
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.: \_\_\_\_\_

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** 04/18/2024      **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: 1449 Boies Road

**5a. S.B.L. of Property:** 187.00-4-42.11

**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:**      Proposed property split results in an Open Development Area (flag lot) needing frontage and access width variances. Width less than allowed by Town Code.  
(specify the action, such as the scope of variances or site plans)

**8. Other remarks:** 75' REQUIRED ; 52' REQUESTED

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

**10. Return Address:** 575 Oakwood Ave., E. 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.

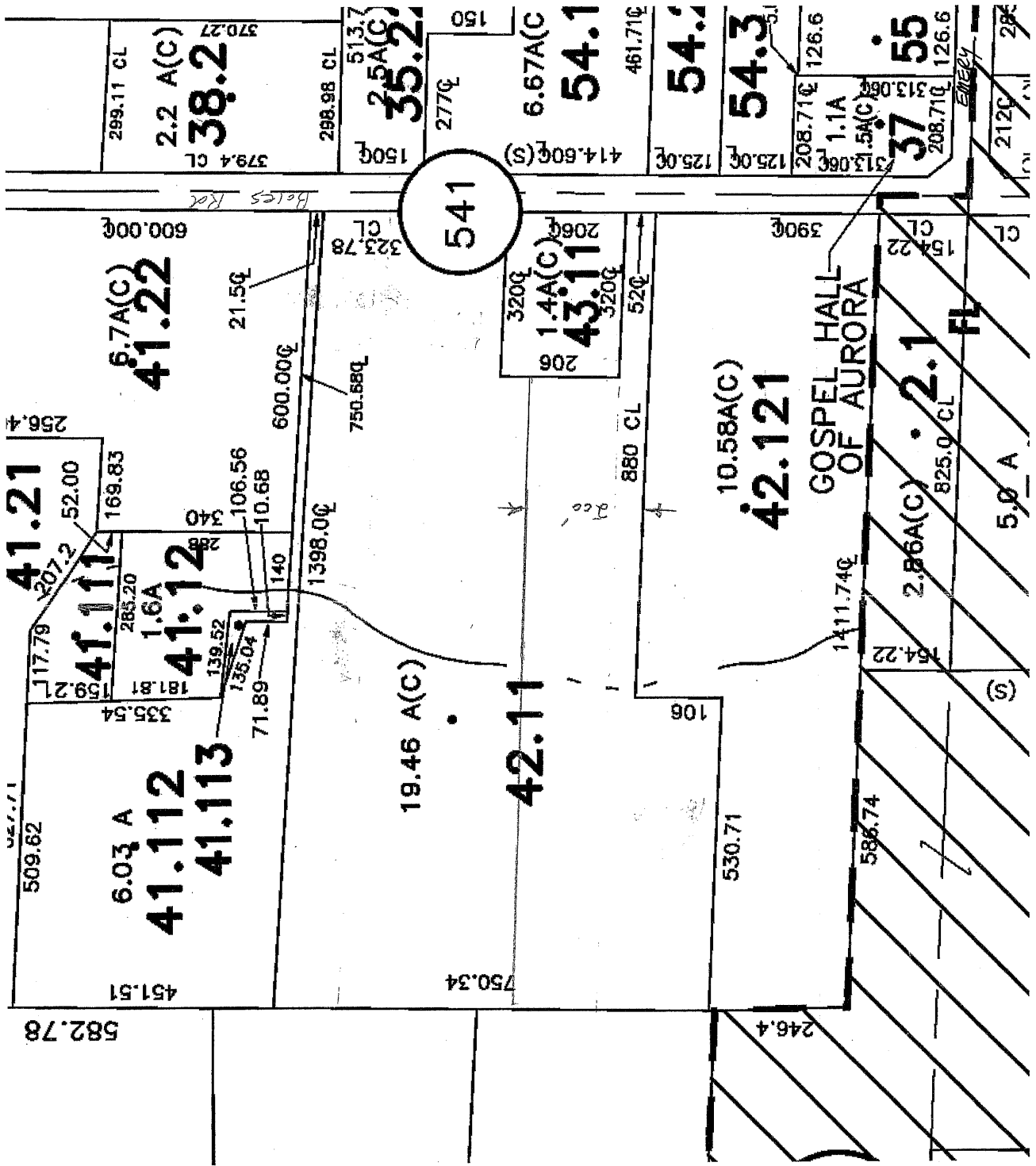
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

| <b>Part 1 – Project and Sponsor Information</b>  |  |   |   |
|--|--|---|---|
| Name of Action or Project:<br><p style="text-align: center; font-size: 1.2em;">O D A</p>   |  |   |   |
| Project Location (describe, and attach a location map):  |  |   |   |
| Brief Description of Proposed Action:<br><p style="text-align: center; font-size: 1.2em;">Flag Lot.</p>  |  |   |   |
| Name of Applicant or Sponsor:<br><p style="text-align: center; font-size: 1.2em;">BERNARD W. LEWIS</p>   |  | Telephone: <u>716-652-8893</u>                                    |   |
| Address:<br><p style="text-align: center; font-size: 1.2em;">1449 BOIES ROAD</p>   |  | E-Mail:   |   |
| City/PO:<br><p style="text-align: center; font-size: 1.2em;">EAST AURORA</p>   |  | State:<br><p style="text-align: center; font-size: 1.2em;">NY</p> | Zip Code:<br><p style="text-align: center; font-size: 1.2em;">14052</p> |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?<br>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   |
| 2. Does the proposed action require a permit, approval or funding from any other government Agency?<br>If Yes, list agency(s) name and permit or approval:   |  | <input checked="" type="checkbox"/>                               | <input type="checkbox"/>  |
| 3. a. Total acreage of the site of the proposed action?<br>b. Total acreage to be physically disturbed?<br>c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?  |  | <u>approx 7</u> acres<br><u>0</u> acres<br><u>19.46</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,<br>a. A permitted use under the zoning regulations?<br>b. Consistent with the adopted comprehensive plan?  | NO                                  | YES                                 | N/A                                 |
|   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
|   | <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                                  | YES                                 |                                     |
|   | <input 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?<br>If Yes, identify: _____   | NO                                  | YES                                 |                                     |
|   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |                                     |
| 8. a. Will the proposed action result in a substantial increase in traffic above present levels?<br>b. Are public transportation services available at or near the site of the proposed action?<br>c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?   | NO                                  | YES                                 |                                     |
|   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |                                     |
|   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |                                     |
|   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |                                     |
| 9. Does the proposed action meet or exceed the state energy code requirements?<br>If the proposed action will exceed requirements, describe design features and technologies:<br>_____  | NO                                  | YES                                 |                                     |
|   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |                                     |
| 10. Will the proposed action connect to an existing public/private water supply?<br>If No, describe method for providing potable water: _____   | NO                                  | YES                                 |                                     |
|   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |                                     |
| 11. Will the proposed action connect to existing wastewater utilities?<br>If No, describe method for providing wastewater treatment: _____  | NO                                  | YES                                 |                                     |
|   | <input checked="" type="checkbox"/> | <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?<br><br>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                                  | YES                                 |                                     |
|   | <input checked="" 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?<br>b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?<br>If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____   | NO                                  | YES                                 |                                     |
|   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |                                     |
|   | <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:<br><input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional<br><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?<br>If Yes,   | NO                                  | YES                      |
| 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)?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If Yes, briefly describe:<br><hr/> <hr/>  |                                     |                          |
| 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)?<br>If Yes, explain the purpose and size of the impoundment:   | NO                                  | YES                      |
| <hr/> <hr/>   | <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?<br>If Yes, describe:   | NO                                  | YES                      |
| <hr/> <hr/>   | <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?<br>If Yes, describe:   | NO                                  | YES                      |
| <hr/> <hr/>   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <p><b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b></p> <p>Applicant/sponsor/name: <u>BERNARD W. LEWIS</u>      Date: <u>3-19-2024</u></p> <p>Signature: <u>Bernard W. Lewis</u>      Title: _____</p>   |                                     |                          |



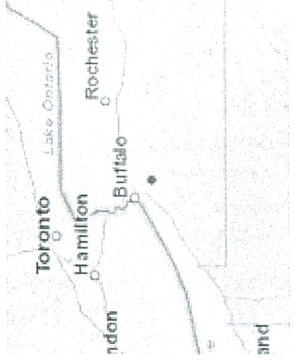




# Erie County On-Line Mapping Application



**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