

Zoning Appeal Case # 1255
Approved/Denied Date

Hearing Date 11/19/15

ZONING BOARD OF APPEALS
TOWN OF AURORA, ERIE COUNTY, NY
SPECIAL USE PERMIT APPLICATION

TO THE ZONING BOARD OF APPEALS:

The undersigned hereby applies to the Zoning Board of Appeals for a special use permit pursuant to Article VI, Section 116-61C, of the Zoning Ordinance of the Town of Aurora affecting the following described premises in manner and on grounds here-in-after set forth:

Owner: Don + Eileen Kay
Address: 1800 Reading Road, West Falls, NY 14170
Agent: _____
Address: _____
Contractor: _____

GENERAL INFORMATION

1. Location of property: 1800 Reading Road SBL# 199-00-3-30.122 Zone A
2. State present use: Penalty Hook
3. State the nature of the permission requested: have 4 dogs on property
4. ATTACH recent copy of SURVEY of property. We are not Building anything
5. ATTACH DETAILED PLANS showing site, elevations and plans of structures and accessory use areas and landscaped development of the entire parcel devoted to the Special Permit use.

APPLICANT'S ALLEGATIONS

The applicant alleges that the proposed Special Permit use:

1. would be in harmony with the orderly development of the district in which it is located because: Have 3 dogs, hoping to adopt one more
2. and that it would not be detrimental to the property or persons in the neighborhood because: our dogs are never left to roam. Thanks to neighbors they are ok with it
3. and that it would not increase the traffic flow in the area to the extent that traffic safety would be endangered because;
4. and furthermore that it would conform to the standards as prescribed by the Town Board so as to promote the general health and welfare of the community and preserve the property values thereof.

OTHER INFORMATION REQUIRED

1. The undersigned further states that no rezoning or other matter relating to said property or the proposed use has been recently or is now the subject of proceedings before the Zoning Board of Appeals, Town Board or Planning Board of the Town of Aurora, except as follows:
2. If application signed by agent a statement by the owner of the site stating that he approves of and is a party to the proposed special use application must be provided.

The undersigned solemnly swears that all statements made herein are true and that all drawings submitted correctly show the situation involved in this appeal. Herewith, the sum of \$75.00, which incorporates the cost of Zoning Board Fee. Further, it is understood that additional information may be required by the Zoning Board of Appeals of the Town of Aurora, NY.

Signature: [Signature] Address: 1800 Reading Road
West Falls NY
State of New York SS.:
County of Erie
Town of Aurora

Subscribed and sworn to before me this 15 day of October, 2015.
[Signature]
Notary Public

PAID
10/15/15 sum #386
Receipt # 936331

MARTHA L. LIBROCK
Notary Public, State of New York
No. 0115028312
Qualified in Erie County
My Commission Expires May 31, 2018



Petitioner: Eileen & Donald Kay
1800 Reading Rd
West Falls, NY 14170

SBL#: 199.00-3-30.122

=====

Abutting Properties:

Mailing Address (if different)

SBL: 199.00-3-34.1
Elissa Kammer
1781 Reading Rd
West Falls, NY 14170

SBL: 199.00-3-30.112
James & Sharon Lizak
1792 Reading Rd
West Falls, NY 14170

SBL: 199.00-3-35.11
Rosalie Weinheier^m
1811 Reading Rd
West Falls, NY 14170

SBL: 199.00-3-30.2
Riverside Federal Credit Union
1814 Reading Rd

245 Vulcan St
Buffalo, NY 14207

SBL: 199.00-3-30.121
James & Sharon Lizak
VL Reading Rd

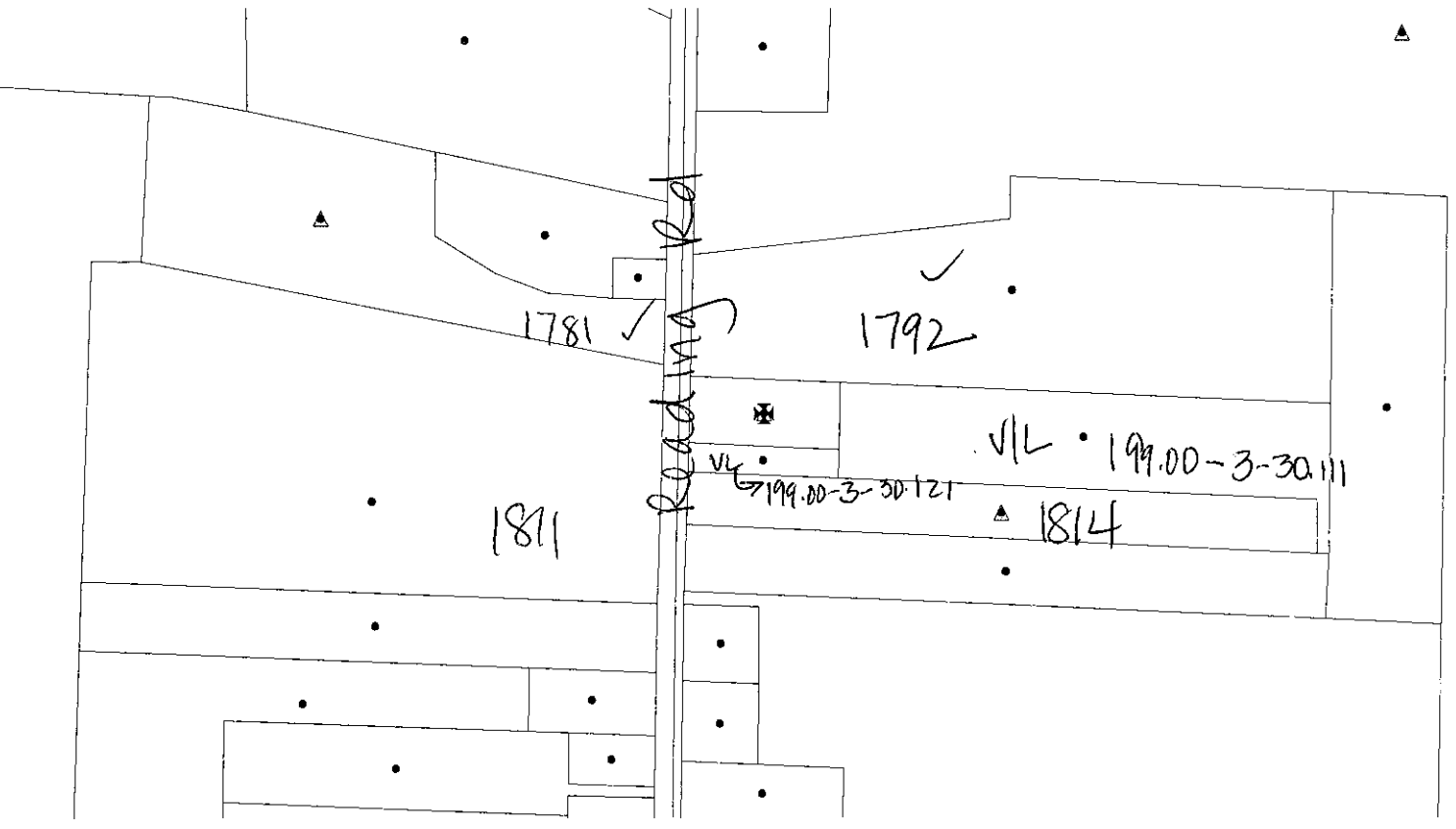
1792 Reading Rd
West Falls, NY 14170

SBL : 199.00-3-30.111
James & Sharon Lizak
VL Reading Rd

1792 Reading Rd
West Falls, NY 14170

Donald & Eileen Kay
1800 Reading Rd
WF 14170

SBL: 199.00 - 3 - 30.122



PAID
87500

OK as to form only

TOWN OF AURORA
Zoning Board of Appeals Request

Building Application # _____
Building Permit # _____

Zoning Appeal Case No. 1256
Date 11-19-15

TO THE ZONING BOARD OF APPEALS, TOWN OF AURORA, NEW YORK

I, (we) Jon Adams of 1289 Olean Rd.
HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FROM THE DECISION OF THE BUILDING INSPECTOR on APPLICATION NO. _____ WHEREBY THE BUILDING INSPECTOR DID DENY

TO Jon Q. Adams
Name of Applicant

OF 1289 Olean Rd. Town of Aurora, NY
(Street & Number) (Municipality) (State)

- A PERMIT FOR USE
- A VARIANCE FROM ZONING ORDINANCE
- A TEMPORARY PERMIT OR EXTENSION THEREOF
- A CERTIFICATE OF EXISTING USE
- A PERMIT FOR OCCUPANCY

1. LOCATION OF THE PROPERTY 1289 Olean Rd.
SBL # 188.00-3-21-111 ZONING DISTRICT A

2. PROVISION(S) OF THE ZONING ORDINANCE APPEALED. (Indicate the Article, section, sub-section, and paragraph of the Zoning Ordinance being appealed, by number. Do not quote the Ordinance)

Table of District Maps - Mean Height Academy

3. TYPE OF APPEAL. Appeal is made herewith for:
 An interpretation A variance - to the Zoning Ordinance
 An exception A temporary permit

4. A PREVIOUS APPEAL has has not been made with respect to this decision of the Building Inspector or with respect to this property

NAMES AND ADDRESSES OF OWNERS OF ABUTTING PROPERTIES ARE:
See attached list marked as an exhibit.

STATE OF NEW YORK
COUNTY OF ERIE
Town of Aurora

[Signature]
Signature(s)
1289 Olean Rd, South Wales, NY 14139
Mailing Address

Jon Q Adams, being duly sworn, deposed and says that he is the petitioner in this action; that he has read the foregoing Request and knows the contents thereof; that the same is true to the knowledge of deponent.

Sworn to before me this 7th
day of OCTOBER, 2015
[Signature]

NOTARY PUBLIC

MARTHA L. LIBROCK
Notary Public, State of New York
No. 01LI5028312
Qualified in Erie County
My Commission Expires May 31, 2018

Rept # 936320
[Signature] 10/7/15



Town of Aurora
300 Glead Avenue
East Aurora NY 14052



Zoning Board of Appeals Petitioner's Letter of Intent

Applicants Name Jon P. Adams
Address 1289 Olean Rd.
Telephone 714-5382

Address of appeal 1289 Olean Rd.
Zoning District A
Zoning Code Section Table of District Regs - ACC Building Mean Height

Type of Appeal:

- A PERMIT FOR USE
- A VARIANCE FROM ZONING ORDINANCE
- A TEMPORARY PERMIT OR EXTENSION THEREOF
- A CERTIFICATE OF EXISTING USE
- A PERMIT FOR OCCUPANCY

GROUNDS FOR VARIANCE: (may continue on separate sheet)

Requesting a height variance.
We plan to build a garage/shop where we
can work on & service farm equipment and
vehicles. This garage/shop will have a
ceiling height of 14' with a peak height of
23' and a mean height of 19'.
12' Door Height

ACKNOWLEDGMENT:

Pursuant to Section 809 of the New York State General Municipal Law, the appellant shall state in his written appeal that to the best of his knowledge, no state officer or officer or employee of the Town of Aurora, has any interest in the appellant as defined in Section 809 of the General Municipal Law. If this statement cannot be made, the nature of any such interest must be disclosed as required by said State Law

Petitioners Signature Jon P. Adams Date 10/7/15
Owners Signature Jon P. Adams Date 10/7/15

SUPERVISOR
James J. Bach
(716) 652-7590
jbach@townofaurora.com



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

TOWN OF AURORA
Southside Municipal Center
300 Glead Avenue, East Aurora, NY 14052
www.townofaurora.com

TOWN COUNCIL MEMBERS

Susan A. Friess
sfriess@townofaurora.com

Jeffrey T. Harris
jharris@townofaurora.com

Jolene M. Jeffe
jjeffe@townofaurora.com

Charles D. Snyder
csnyder@townofaurora.com

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

SUPT. OF BUILDING
Patrick J. Blizniak
(716) 652-7591
building@townofaurora.com

ASSESSOR
Richard L. Dean
assessor@townofaurora.com
(716) 652-0011

DIR. OF RECREATION
Peggy M. Cooke
(716) 652-8866
peggy@townofaurora.com

TOWN ATTORNEY
Ronald P. Bennett

TOWN JUSTICE
Douglas W. Marky
Jeffrey P. Markello

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

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

John Adams
1289 Olean Rd.
East Aurora, NY 14052

10/20/2015

Re: Mean Height

John,

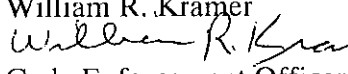
The Building Dept. has reviewed your application for an accessory structure at 1289 Olean Rd. We have denied your application because the proposed building does not meet the required building height as specified in the Town of Aurora Table of District Regulations. We therefore request that you apply to the Town Zoning Board of Appeals for an area variance if you wish to continue with this project.

Required Mean Height: 15'

Requested: 18'

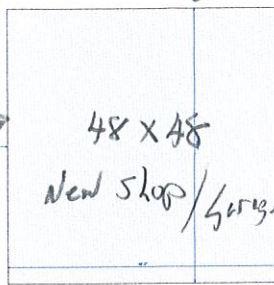
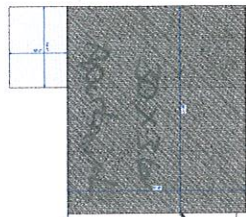
Variance required: 3'

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, application fee, and any information you need to support your need for a variance from the Town Code. If you have any questions contact us at 652-7591.

William R. Kramer

Code Enforcement Officer

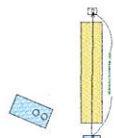
Existing Building

New Shop/Garage



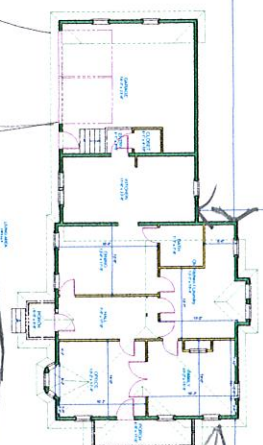
48 x 48
New Shop/Garage

11'



ST

96'



95'

EXISTING SHED



main Road
(2 story)

146'

To Lehigh Road

1289
Oleon Rd.

182' to center of Road

1279
Oleon Rd.



Erie County "On-Map"

Putting Erie County, New York "On The Map!"

Features: 5 features visible on Parcels. 1 features visible on Municipal Boundaries.

Search...

Sign in

I want to...

Neighboring Property
(1279 Orleans)

Property line

Ⓜ Proposal Garage/shop

Existing Apartment
(2 story)

Existing Barns &
out Buildings

1279

45x45

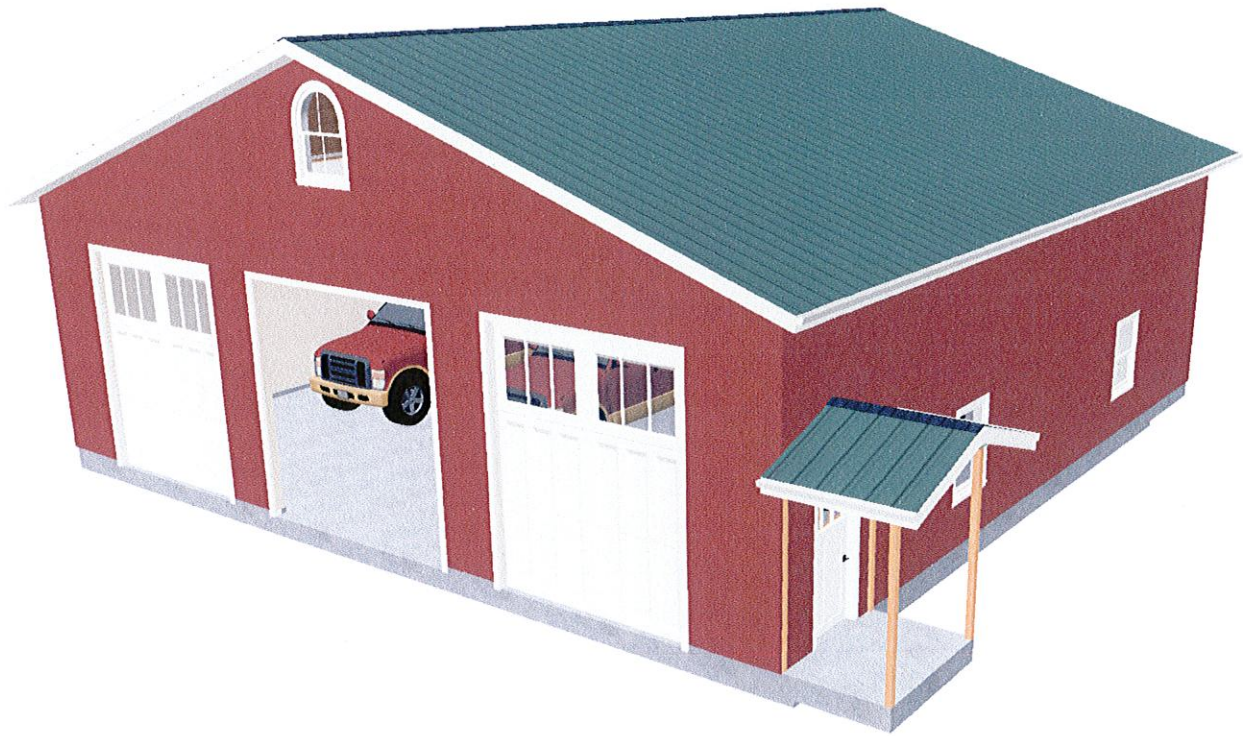
1289

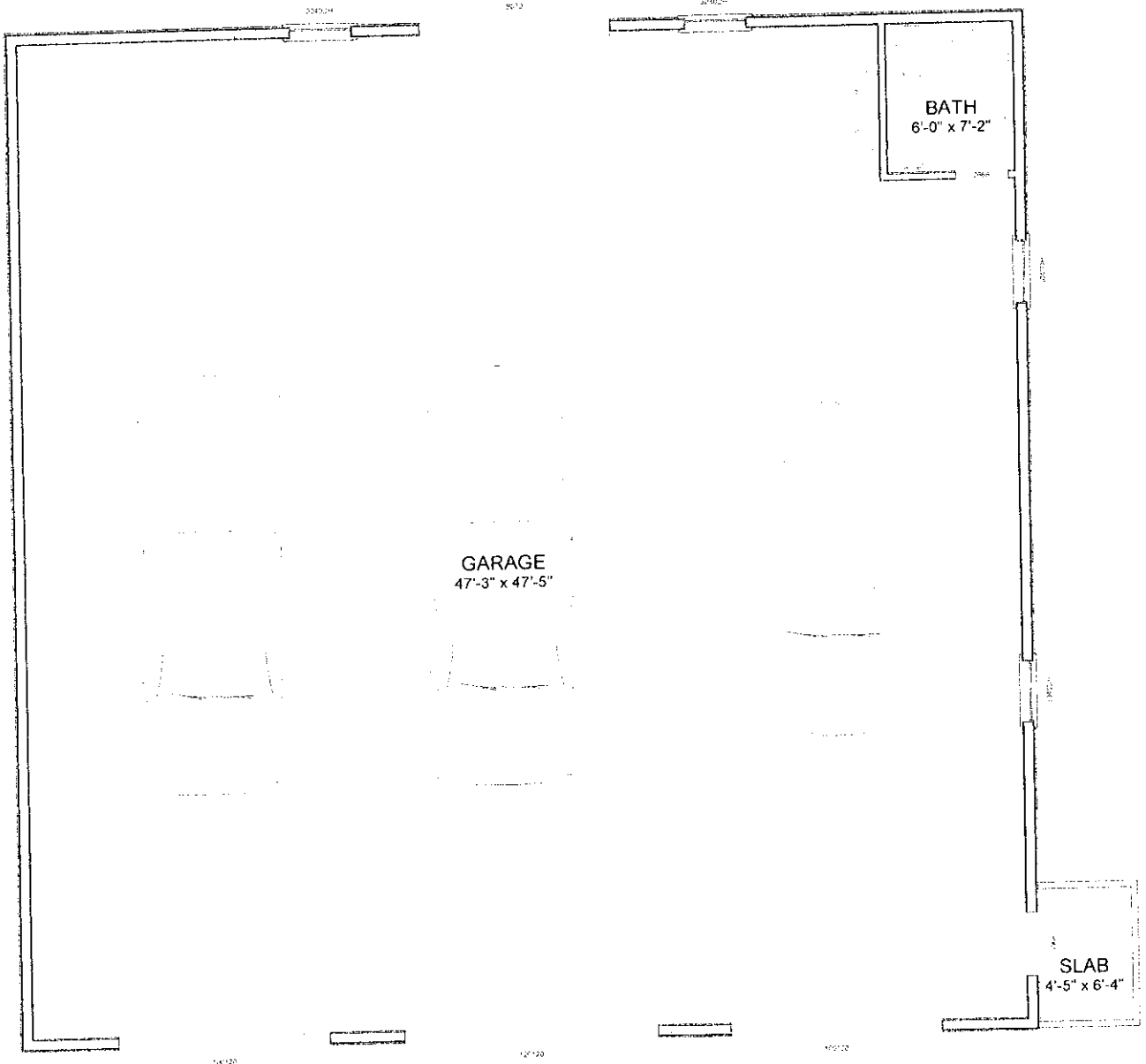
20x10
Existing Wood
Main House
(2 story)

1281

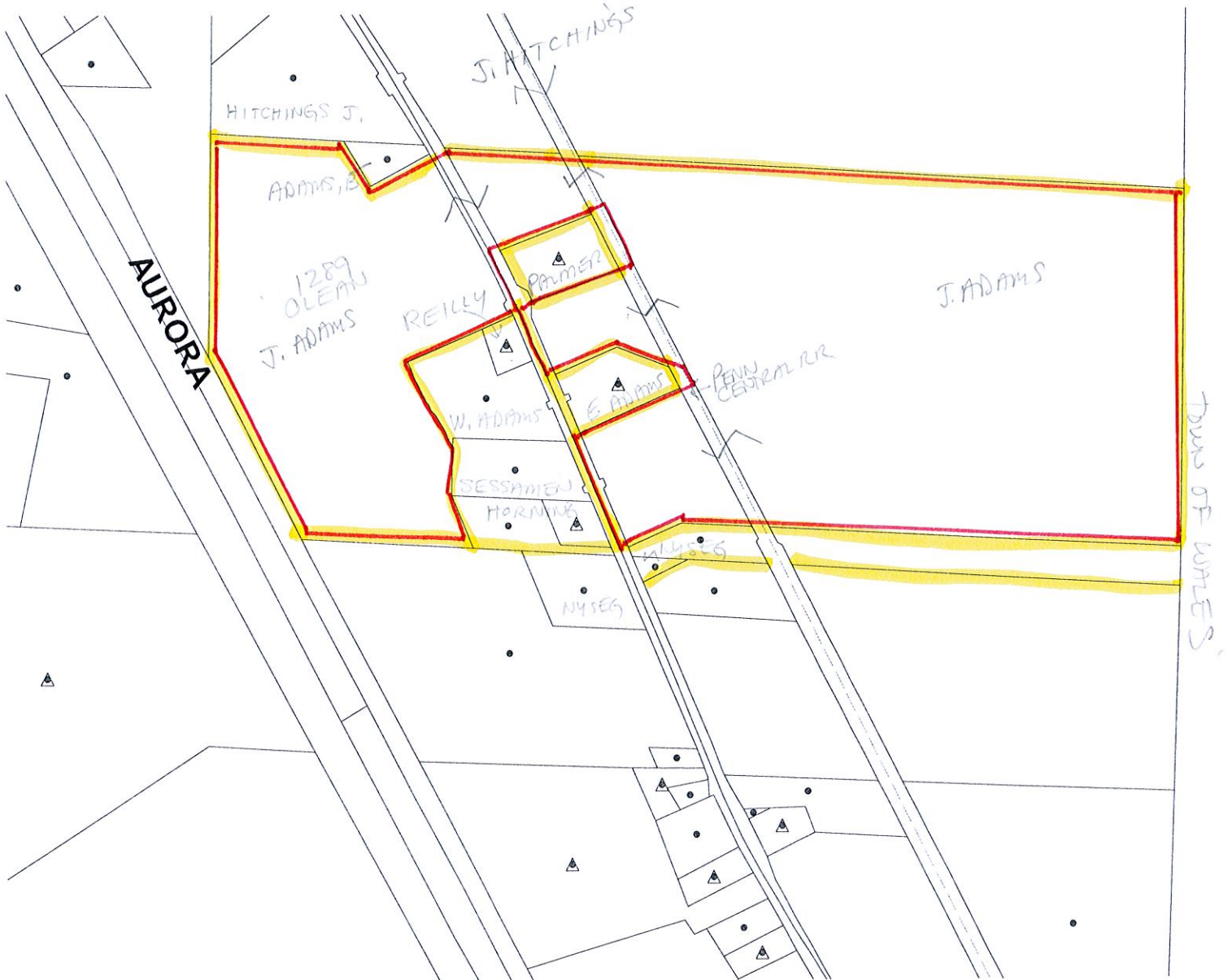
Base Maps

0 10 20m





LIVING AREA
2335 sq ft



Petitioner: Jon Q. & Kathleen Adams
1289 Olean Rd
South Wales, NY 14139

SBL#: 188.00-3-21.111

=====

Abutting Properties:

Mailing Address (if different)

SBL: 188.00-3-22
Ilona Palmer
1320 Olean Rd
South Wales, NY 14139

SBL: 188.00-3-21.12
Edward & Arlene Adams
1366 Olean Rd
South Wales, NY 14139

SBL: 188.00-3-16
Patrick & Shannon Reilly
1345 Olean Rd
South Wales, NY 14139

SBL: 188.00-3-21.112
William S. Adams
1375 Olean Rd

SBL: 188.00-3-17
Robert & Alda Sessamen
1385 Olean Rd
South Wales, NY 14139

SBL: 188.00-3-18
Daniel & Becky Horning
1409 Olean Rd

SBL: 188.00-3-19
Daniel & Becky Horning
1415 Olean Rd
South Wales, NY 14139

SBL: 188.00-4-6 & 188.00-3-20.1
E-NY State Elec & Gas
V/L Olean Rd

~~Need addresses for:~~

- JOHN HITCHINGS
PO BOX 183, So. Wales NY 14139
- BRUCE ADAMS
1279 OLEAN RD, So. Wales
- TOWN OF WALES
PO BOX 264, Wales CT NY
14169
- NYS DOT
100 Seneca St.
Buffalo, NY 14203

PO Box 158
South Wales, NY 14139

1415 Olean Rd
South Wales, NY 14139

70 Farm View Dr
New Gloucester, ME 04260

OK as to form only

TOWN OF AURORA
Zoning Board of Appeals Request

Prepared By: Peter Sorgi, Esq.
Hopkins Sorgi & Romanowski PLLC

Building Application # _____
Building Permit # _____

Zoning Appeal Case No. 1257
Date October 30, 2015 11/19/15

TO THE ZONING BOARD OF APPEALS, TOWN OF AURORA, NEW YORK

I, (we) Jode Edmunds of _____
HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FROM THE DECISION OF THE BUILDING INSPECTOR on APPLICATION NO. _____ WHEREBY THE BUILDING INSPECTOR DID DENY

TO Jode Edmunds
Name of Applicant

OF PO Box 101, Winnetka, Illinois
(Street & Number) (Municipality) (State)

- A PERMIT FOR USE
- A VARIANCE FROM ZONING ORDINANCE
- A TEMPORARY PERMIT OR EXTENSION THEREOF
- A CERTIFICATE OF EXISTING USE
- A PERMIT FOR OCCUPANCY

1. LOCATION OF THE PROPERTY Vacant Land on Knox Road [Approximately 41.10 Acres]
SBL # 164.00-2-6.2 ZONING DISTRICT A

2. PROVISION(S) OF THE ZONING ORDINANCE APPEALED. (Indicate the Article, section, sub-section, and paragraph of the Zoning Ordinance being appealed, by number. Do not quote the Ordinance)
Chapter 79, Section 6(B)(2) - [50 ft. width frontage required vs. 33 ft. frontage on Knox Road] & Chapter 44, Section 1(A)

3. TYPE OF APPEAL. Appeal is made herewith for: [50 ft. permanent easement width for ingress and egress required
 An interpretation A variance - to the Zoning Ordinance vs. 33 ft. proposed]
 An exception A temporary permit

4. A PREVIOUS APPEAL has has not been made with respect to this decision of the Building Inspector or with respect to this property

NAMES AND ADDRESSES OF OWNERS OF ABUTTING PROPERTIES ARE:
See attached list marked as an exhibit.

Peter J. Sorgi
Peter Sorgi, Esq., Attorney for Applicant

STATE OF NEW YORK
COUNTY OF ERIE
30th of October, 2015

Signature(s) _____
Hopkins, Sorgi & Romanowski PLLC, 26 Mississippi Street, Suite 400
Mailing Address Buffalo, New York 14203

Peter J. Sorgi

_____, being duly sworn, deposed and says that he is the petitioner in this action; that he has read the foregoing Request and knows the contents thereof; that the same is true to the knowledge of deponent.

[Note: Authorization Form signed by Jodi Edmunds dated October 26, 2015 is attached to this Application.]

Sworn to before me this 30th
day of October, 2015

[Signature]
NOTARY PUBLIC

A copy of the letter issued by William Kramer dated October 30, 2015 is attached as Exhibit "B." A project description and justification for area variance is provided at Exhibit "A". Open Development Plan attached as Exhibit "C" and copy of the survey of the Project Site is attached as Exhibit "D".

RYAN P. MCCARTHY
No. 02MC6277628
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 03/11/2017

VILLAGE OF EAST AURORA

571 Main St
East Aurora, NY 14052

Phone (716) 652-6000
Fax (716) 652-1290

APPLICATION TO
ZONING BOARD OF APPEALS

APPLICANT NAME Jode Edmunds, c/o Peter Sorgi, Esq.
ADDRESS 26 Mississippi Street, Suite 400, Buffalo, New York 14203
TELEPHONE 716.427-7012 FAX 716.424-2171
E-mail: porgi@hsr-legal.com
ADDRESS OF APPEAL Vacant Land on Knox Road [SBL No. 164.00-2-6.2]
ZONING DISTRICT A
ZONING CODE SECTION Chapter 44, Section 1A and Chapter 79, Section 6(B)(2)

TYPE OF APPEAL (check one)

AREA VARIANCE
 USE VARIANCE

PARKING SPACE DESIGNATION
 INTERPRETATION

GROUND(S) FOR VARIANCE (may continue on separate sheet)

See Project Description and Justification for Requested Area provided at attached Exhibit "A".

REQUIRED ATTACHMENTS:

- 1. Property survey indicating existing and proposed structures, lot lines, neighboring building within 10' of applicant's lot lines (7 copies). See attached Exhibit "D"
- 2. Drawings, photos or other pertinent documents (7 copies). See attached Exhibit "C"
- 3. Environmental Assessment Form (attached) (7 copies). See attached Part 1 of Full EAF
- 4. Public Hearing Fee \$125.00 Check for filing fee provided

ACKNOWLEDGEMENT:

Pursuant to Section 809 of the New York State General Municipal Law, the appellant shall state in his written appeal that to the best of his knowledge, no state officer or officer or employee of the Village of East Aurora, has any interest in the appellant as defined in Section 809 of the General Municipal Law. If this statement cannot be made, the nature of any such interest must be disclosed as required by said State Law.

APPELLANT SIGNATURE Peter J. Sorgi Peter Sorgi, Esq. DATE 10/30/15
OWNER SIGNATURE See attached signed Authorization of Property Owner DATE _____

SUPERVISOR
James J. Bach
(716) 652-7590
jbach@townofaurora.com



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

TOWN OF AURORA
Southside Municipal Center
300 Glead Avenue, East Aurora, NY 14052
www.townofaurora.com

TOWN COUNCIL MEMBERS

Susan A. Friess
sfriess@townofaurora.com

Jeffrey T. Harris
jharris@townofaurora.com

Jolene M. Jeffe
jjeffe@townofaurora.com

Charles D. Snyder
csnyder@townofaurora.com

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

SUPT. OF BUILDING
Patrick J. Blizniak
(716) 652-7591
building@townofaurora.com

ASSESSOR
Richard L. Dean
assessor@townofaurora.com
(716) 652-0011

DIR. OF RECREATION
Peggy M. Cooke
(716) 652-8866
peggy@townofaurora.com

TOWN ATTORNEY
Ronald P. Bennett

TOWN JUSTICE
Douglas W. Marky
Jeffrey P. Markello

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

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

Jode Edmunds
PO Box 101
Winnecka, Ill. 60093

10/30/2015

Re: Egress Width for proposed Open Development Area at
SBL# 164.00-2-6.2

Jode,

After reviewing your ODA application it was determined that you lack the required road frontage at the street right of way. To develop your property as proposed we are requesting that you first go to the Zoning Board of Appeals to request a variance for the required width of ingress and egress to your property as stated in Chapter 44 Section 1A & Chapter 79-6B(2)

Required: ingress and egress; 50 feet
Requested: 33 feet
Variance required: 17 feet

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, application fee, and any information you need to support your need for a variance from the Town Code. If you have any questions contact us at 652-7591.

William R. Kramer

Code Enforcement Officer

EXHIBIT A

PROJECT DESCRIPTION & JUSTIFICATION FOR REQUESTED AREA VARIANCE PER THE BALANCING TEST AND FIVE CRITERIA IN NYS TOWN LAW SECTION 267-b(3)(b)

I. PROJECT DESCRIPTION:

The Applicant is seeking to utilize the approximately 41.10 acre parcel of vacant land with thirty-three feet of frontage on Knox Road ("Project Site") as a three lot open development area subdivision. The layout of the proposed low density residential subdivision is depicted on the Open Development Plan attached as Exhibit "C". The Survey of the Project Site attached as Exhibit "D".

The Project Site is properly zoned for the proposed use and Open Development Area Approval is required from the Town Board pursuant to Chapter 79 of the Town Code since two of the large proposed lots will not have frontage on a public roadway. Each of the three lots will be utilized as single-family homes will be large with sizes of 10 acres, 13.4 acres and 17.7 acres as depicted on the Open Development Plan attached as Exhibit "C". The project represents a low density use of the Project Site since the average lot size will be 13.7 acres.

The project requires an area variance from the Zoning Board of Appeals since the frontage of the Project Site on Knox Road is less than fifty feet.¹ The Project Site has thirty-three feet of frontage on Knox Road.

¹ A copy of the written determination issued by William R. Kramer, Code Enforcement Officer, dated October 30, 2015, confirming the need for the requested area variance is attached as Exhibit "B". Copies of Sections 79-B(2) and 44(1)(A) of the Town of Aurora Town Code are attached as Exhibit "E".

It is important to mention that the private access road connecting to Knox Road that will provide access to the single-family homes on Lots #1 and #2 will comply with the requirements of Appendix D of the 2010 Fire Code of New York State as required by Section 79-6(B)(1) of the Town Code. A copy of Appendix D of 2010 Fire Code of New York State is attached as Exhibit "F". The private access road will terminate in a cul-de-sac complying with the required specifications. Compliance with the stringent standards contained in Appendix D of the 2010 Fire Code of New York State ensures the private access road will not result in any emergency access concerns.

II. JUSTIFICATION FOR REQUESTED AREA VARIANCE PURSUANT TO THE STATUTORY MANDATED BALANCING TEST AND FIVE CRITERIA CONTAINED IN NYS TOWN LAW §267-b(3)(b):

NYS Town Law §267-b(3)(b) sets forth a statutorily mandated balancing test to be considered by zoning board of appeals in connection with its review of a request for area variances. The statutorily mandated balancing test requires a zoning board of appeals to balance the benefits that will be realized if the requested area variance is granted against the resulting detriments to the health, safety and welfare of the community.

The granting of the requested area variance will result in substantial benefits to Applicant without any resulting detriments to the health, safety and welfare of the community. The substantial benefits that would be received by Applicant if the ZBA grants the requested area variance include the following:

- 1.) The Applicant will be able to utilize the Project Site as a very low density subdivision consisting of three large lots to be serviced by a private access roadway per the layout depicted on the Open Development Plan attached as Exhibit "C".
- 2.) The Applicant will be able to develop the Project Site in a manner that is economically feasible. In the absence of the requested area variance, the use of the approximately 41.1 acre Project Site would be limited to a single-family home

despite the fact the Project Site is easily large enough to accommodate three single-family homes on large lots.

In applying the statutorily mandated balancing test set forth above, NYS Town Law §267-b(3)(b) requires a zoning board of appeals to consider the following five criteria:

1. **Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the requested area variance?**

The granting of the requested area variances by the ZBA will not create an undesirable change in the character of the neighborhood or a detriment to nearby properties. Three single-family homes on large lots with an average size of 13.7 acres will not have any undesirable changes in the character of the neighborhood nor will it result in any detriments to nearby properties. The low density three lot subdivision requires Town Board approval as part of the review of the pending request for Open Development Area Approval and this process will ensure that other open development area standards are satisfied. It is also important to mention that single-family homes will each be subject to the Town's building permit review process, which will ensure compliance with applicable stringent standards.

2. **Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance?**

The Project Site has thirty-three feet of frontage on Knox Road and it does not have frontage on any other public roadway that would allow consideration of an alternative layout. Given the configuration of the Project Site as it currently exists, there are not any feasible alternatives that would allow the Applicant to receive the benefits it will receive from the Project Site being developed as three large lots for single-family homes without the receipt of the requested area variance from the ZBA.

3. Whether the requested area variance is substantial?

The requested area variance is not substantial. The requested area variance will result in the Project Site having seventeen feet less of frontage on Knox Road than required per strict application of Sections 79-B(2) and 44(1)(A) of the Town Code and this does not represent a substantial variance.

The reason the magnitude of the variance is relevant is that, generally, the larger the difference the more likely it is that a negative effect would be generated. See Matter of Human Development Services of Port Chester v. Zoning Board of Appeals of the Village of Port Chester, 110 A.D.2d 135, aff'd, 67 N.Y.2d 702. However, in any particular case, the facts may demonstrate that while a variance may seem noteworthy on paper, no negative effect would be produced and, accordingly, the sought-after variance should be granted. For example, in Matter of Frank v. Scheyer, 227 A.D.2d 558, 642 N.Y.S.2d 956 (2d Dept. 1996), the parcel was 19,983 square feet. However, the zoning code required a minimum lot size of one acre or 43,560 square feet. The variance at issue was more than 54%. Nevertheless, based the facts presented, no harm would befall the community and the Court directed the zoning board of appeals to grant the application. The Court took similar action in Matter of Shaughessy v. Roth, 204 A.D.2d 333, 611 N.Y.S.2d 281 (2d Dept. 1994), in which the premises contained 50 feet of frontage and 5,000 square feet of area. The zoning code required 80 feet of frontage and a minimum lot size of 10,000 square feet. Accordingly, the application concerned a 50% reduction in lot area coupled with a second area variance seeking a 62.5% reduction from the required frontage. Nevertheless, based on the facts in the record, the Court directed the respondents to issue the variances. Additionally, in Matter of Sasso v. Osgood, 86 N.Y.2d 374 (1995), the applicant sought area variances for a 60% reduction in lot area and a 50% reduction in lot width. Based on

all of the facts presented, the Court of Appeals, our State's highest court, overturned the holding of the appellate court and directed that the requested area variances be granted. Merely because a variance may seem noteworthy on paper (which the requested area variance does not) does not mean that any "harm" would be generated on the surrounding community, and it is "harm" that is balanced against the interest of the applicant according to the Town Law §267-b(3) test.

The granting of the requested area variance to allow the Project Site to be developed as three single-family homes on large lots with an average size of 13.7 acres will not result in any "harm" on the surrounding community. Instead, the granting of the requested area variance will allow the Project Site to be developed in a manner that is harmonious with the character of area. It is the position of the Applicant that if the requested area variance is properly viewed as required by the cases discussed above, it is clear that the requested area variance is not substantial since it will not result in harm to the community.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood.

The granting of the requested area variance will not have any adverse effects or impacts on physical or environmental conditions in the neighborhood. Part 1 of the Full Environmental Assessment Form has been submitted with this Variance Application and the low density subdivision consisting of three large lots will not result in any impacts to environmentally sensitive areas such as wetlands or the 100 yr. floodplain of Cazenovia Creek. The project layout represents a suitable use of the Project Site that properly balances the Applicant's goal of utilizing the Project Site as a low density subdivision and the Town's goal of preserving the rural nature of the portion of the Town in which the Project Site is located.

5. Whether the alleged difficulty was self-created?

Town Law §267-b(3)(b) expressly states that the issue of whether an alleged difficulty is self-created cannot be utilized as the sole criteria in determining whether to grant a requested area variance.

It is the position of the Applicant that the alleged difficulty that has resulted in the need for the requested area variance is not self-created since the Project Site as it is currently configured has thirty three feet of frontage on Knox Road. The Applicant did not create the parcel and as such the difficulty resulting in the need for the requested area variance is not “self-created”. Nonetheless, even if the ZBA determines that the alleged difficulty is self-created, the granting of the requested area variance is justified based on a proper application of the balancing test and the evidence demonstrating the other four criteria as cited above weigh in favor of the requested area variance being granted to allow the Project Site to be developed a very low density three lot subdivision.

III. CONCLUSION:

The Applicant requests that the ZBA grant the requested area variance to allow the Project Site to be developed as a low density three lot subdivision as depicted on the Open Development Plan attached as Exhibit “C”. The benefits that will be received by Applicant if the requested area variance is granted clearly outweigh any resulting detriments per the statutorily mandated balancing test and the Applicant is not aware of any detriments that will arise as a result of the granting of the requested area variance.

SUPERVISOR
James J. Bach
(716) 652-7590
jbach@townofaurora.com



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

TOWN OF AURORA
Southside Municipal Center
300 Gleed Avenue, East Aurora, NY 14052
www.townofaurora.com

TOWN COUNCIL MEMBERS

Susan A. Friess
sfriess@townofaurora.com

Jeffrey T. Harris
jharris@townofaurora.com

Jolene M. Jelle
jjelle@townofaurora.com

Charles D. Snyder
csnyder@townofaurora.com

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

SUPT. OF BUILDING
Patrick J. Blizniak
(716) 652-7591
building@townofaurora.com

ASSESSOR
Richard L. Dean
assessor@townofaurora.com
(716) 652-0011

DIR. OF RECREATION
Peggy M. Cooke
(716) 652-8866
peggy@townofaurora.com

TOWN ATTORNEY
Ronald P. Bennett

TOWN JUSTICE
Douglas W. Marky
Jeffrey P. Markello

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

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

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

Jode Edmunds
PO Box 101
Winnecka, Ill. 60093

10/30/2015


Re: Egress Width for proposed Open Development Area at
SBL# 164.00-2-6.2

Jode,

After reviewing your ODA application it was determined that you lack the required road frontage at the street right of way. To develop your property as proposed we are requesting that you first go to the Zoning Board of Appeals to request a variance for the required width of ingress and egress to your property as stated in Chapter 44 Section 1A & Chapter 79-6B(2)

Required: ingress and egress; 50 feet
Requested: 33 feet
Variance required: 17 feet

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, application fee, and any information you need to support your need for a variance from the Town Code. If you have any questions contact us at 652-7591.

William R. Kramer

Code Enforcement Officer

Petitioner: Peter Sorgi, Esq
Hopkins, Sorgi & Romanowski
26 Mississippi St, Ste 400
Buffalo, NY 14203
AAF:
Jode Edmunds
VL Knox

JODE EDMUNDS
PO BOX 101
Winnetaka, Illinois

PETER LINDER
661 KNOX RD
EAST AURORA, NY 14052

SBL#: 164.00-2-6.2

=====
Abutting Properties: Mailing Address (if different)

SBL: 164.00-2-1
People of NYS Ofc Parks
Knox Farm State Park

PO Box 1132
Niagara Falls, NY 14303

SBL: 164.00-2-6.3
Martin & Anne Biron
V/L Knox Rd

488 Willardshire Rd
East Aurora, NY 14052

SBL: 163.00-3-25.2
Perry O'Connell
653 Knox Rd
East Aurora, NY 14052

SBL: 163.00-3-25.11
George & Patricia Captain
657 Knox Rd
East Aurora, NY 14052

SBL: 163.00-3-25.12
John & Mary Glenn
663 Knox Rd
East Aurora, NY 14052

SBL: 163.00-3-26.1
Hamilton Twombly Burden Trust
Frederick C. Childs Trustee
Edward PH Burden Trustee
659 Knox Rd

805 Third Ave, Fl 12
New York, NY 10022

SBL: 174.08-1-3
Elmbrook Development Inc
840 Quaker Rd

242 Highland Dr
Williamsville, NY 14221

SBL: 174.08-1-1.1
Richard Saglimbeni
868 Quaker Rd
East Aurora, NY 14052

SBL: 174.00-2-13.242
Mark Nosal
884 Quaker Rd
East Aurora, NY 14052

SBL: 174.00-2-13.241
Richard & Margaret Sheehan
890 Quaker Rd
East Aurora, NY 14052

SBL: 174.00-2-13.221
Thomas & Susan Zolnowski
912 Quaker Rd
East Aurora, NY 14052

SBL: 174.00-2-13.212
Larry Casanza
940 Quaker Rd
East Aurora, NY 14052

SBL: 163.00-2-34
Stanley & Margaret Rachwal
958 Quaker Rd
East Aurora, NY 14052

SBL: 174.00-2-13.211
Richard Wieczorek
V/L Quaker Rd

795 Choctaw Ln
Shalimar, FL 32579

SBL: 174.08-1-4
ANGELA MONDT
836 QUAKER
E. AURORA NY 14052

9132 NORTH ST.
SPRINGVILLE, NY 14141

Hopkins, Sergei & Romanowski LLP
Peter Sergei Esq.
26 Mississippi St Ste 400
Buffalo NY 14203

AAF:

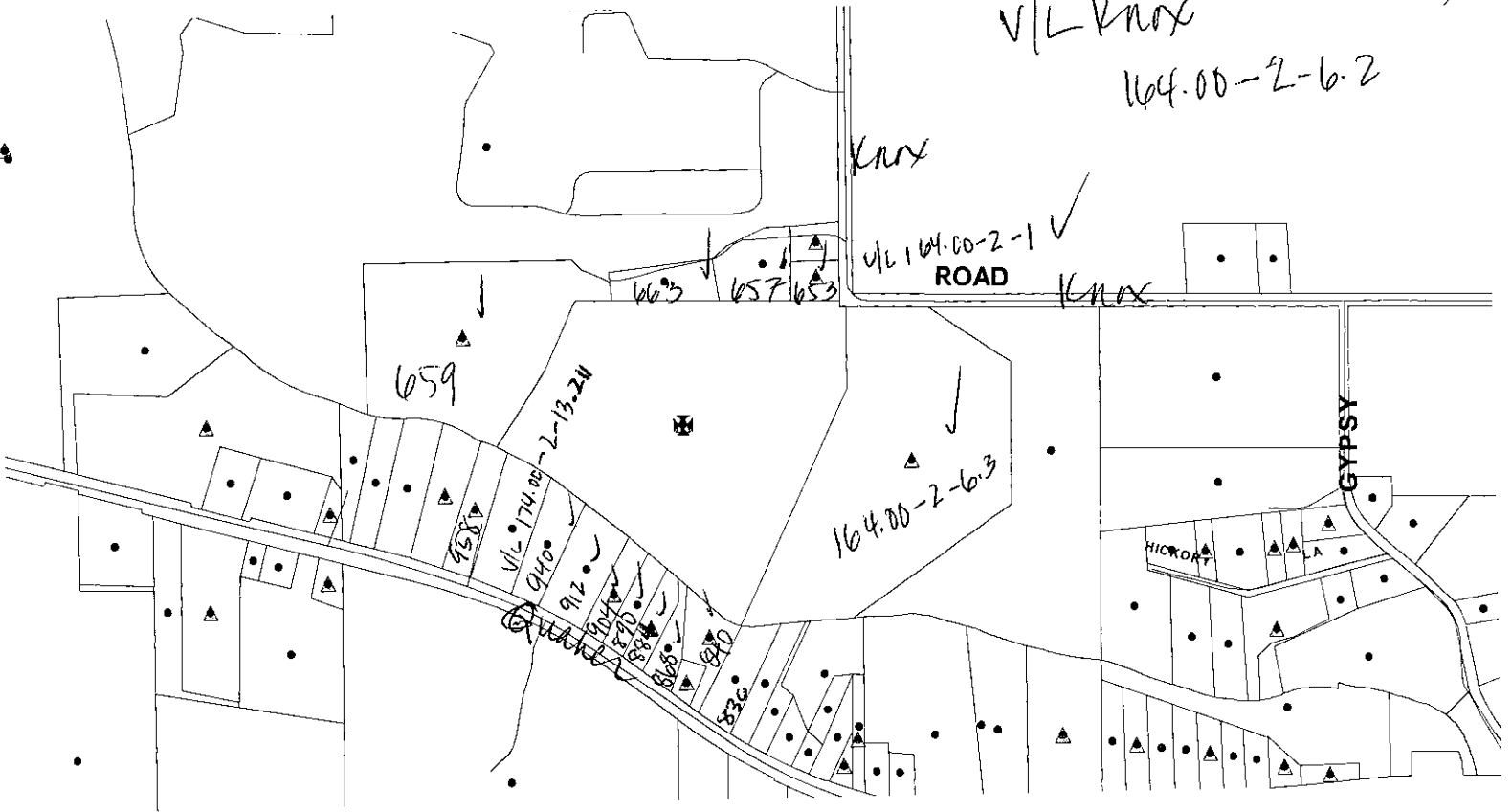
Jode Edmunds

PO Bx 101

Winnetka Illinois 60093

V/L Knox

164.00-2-6.2



Zoning Appeal Case # 1258
Approved/Denied Date

Hearing Date 11/19/15

ZONING BOARD OF APPEALS
TOWN OF AURORA, ERIE COUNTY, NY
SPECIAL USE PERMIT APPLICATION



TO THE ZONING BOARD OF APPEALS:

The undersigned hereby applies to the Zoning Board of Appeals for a special use permit pursuant to Article VI, Section 116-61C, of the Zoning Ordinance of the Town of Aurora affecting the following described premises in manner and on grounds here-in-after set forth:

(REBECCA BELLINGER PAF)

Owner: Jennifer MacNichols 462-2016
Address: 2252 Lewis Rd South Wales NY 14139
Agent: _____
Address: _____
Contractor: _____

GENERAL INFORMATION

201.00-3-17

1. Location of property: 2252 Lewis Rd SBL# 2013-17 Zone A
2. State present use: Single family residence
3. State the nature of the permission requested: kennel
4. ATTACH recent copy of SURVEY of property.
5. ATTACH DETAILED PLANS showing site, elevations and plans of structures and accessory use areas and landscaped development of the entire parcel devoted to the Special Permit use.

APPLICANT'S ALLEGATIONS

The applicant alleges that the proposed Special Permit use:

1. would be in harmony with the orderly development of the district in which it is located because: no major changes will occur
2. and that it would not be detrimental to the property or persons in the neighborhood because: it will be build safely, maintained and noise ordinances followed.
3. and that it would not increase the traffic flow in the area to the extent that traffic safety would be endangered because: Small scale private kennel not to exceed 20 dogs.
4. and furthermore that it would conform to the standards as prescribed by the Town Board so as to promote the general health and welfare of the community and preserve the property values thereof.

OTHER INFORMATION REQUIRED

1. The undersigned further states that no rezoning or other matter relating to said property or the proposed use has been recently or is now the subject of proceedings before the Zoning Board of Appeals, Town Board or Planning Board of the Town of Aurora, except as follows: a pole barn structure for horses.
2. If application signed by agent a statement by the owner of the site stating that he approves of and is a party to the proposed special use application must be provided.

The undersigned solemnly swears that all statements made herein are true and that all drawings submitted correctly show the situation involved in this appeal. Herewith, the sum of **\$75.00**, which incorporates the cost of Zoning Board Fee. Further, it is understood that additional information may be required by the Zoning Board of Appeals of the Town of Aurora, NY.

Signature Rebecca Bellinger Address: _____

State of New York SS.:
County of Erie
Town of Aurora

Subscribed and sworn to before me this 30 day of DECEMBER, 2015.
Martina Librock
Notary Public

RD 10/30/15
CK #256
Rept #936350

MARTHA L. LIBROCK
Notary Public, State of New York
No. 0115028312
Qualified in Erie County
My Commission Expires May 31, 2018

TOWN OF AURORA

300 GLEED AVENUE, EAST AURORA, NY 14052

BUILDING DEPARTMENT
(716) 652-7591

TO: Jennifer MacNichols
2252 Lewis Rd
South Wales, NY 14139

VIOLATION NOTICE

DATE: October 27, 2015
LOCATION: 2252 Lewis Rd
REFERENCE: Table of District Regulations - Permitted Uses of the Town of Aurora
SUBJECT: Illegal business in A District

As a result of complaints, an inspection revealed that Peaceful Acres Pet Services (pet boarding, grooming, daycare, horse/livestock care, sale of dog food and pet supplies, pet photography) is being run at the above property, as evidenced by the website of the same name. The property is located in a(n) A district. A commercial business is not a permitted use in this district. You are hereby directed to contact the Building Department regarding this matter.

If we do not hear from within seven days, further action will be pursued.

TERMINATION OF THIS VIOLATION IS REQUESTED.

IN THE EVENT THIS VIOLATION IS NOT RESOLVED IMMEDIATELY
JUSTICE COURT ACTION WILL BE PURSUED.



Town of Aurora
300 Glead Avenue
East Aurora NY 14052



Zoning Board of Appeals Petitioner's Letter of Intent

Applicants Name Jennifer Mac Nichols
Address 2252 Lewis Rd, So Wales
Telephone §

Address of appeal 2252 Lewis Rd So. Wales
Zoning District A
Zoning Code Section _____

Type of Appeal:

- A PERMIT FOR USE
- A VARIANCE FROM ZONING ORDINANCE
- A TEMPORARY PERMIT OR EXTENSION THEREOF
- A CERTIFICATE OF EXISTING USE
- A PERMIT FOR OCCUPANCY

GROUNDS FOR VARIANCE: (may continue on separate sheet)

* See Seperate piece of paper

ACKNOWLEDGMENT:

Pursuant to Section 809 of the New York State General Municipal Law, the appellant shall state in his written appeal that to the best of his knowledge, no state officer or officer or employee of the Town of Aurora, has any interest in the appellant as defined in Section 809 of the General Municipal Law. If this statement cannot be made, the nature of any such interest must be disclosed as required by said State Law

Rebecca Bellinger AAF
Petitioners Signature Jennifer Mac Nichols Date 10-30-2015
Owners Signature Jennifer Mac Nichols Date 10-30-2015

Kennel

~~4 of 4~~

Converting existing 2 car detached garage ^(see survey)
Remove Existing Overhead Doors
2x4 stud wall for Existing Overhead Doors

8' High Ceiling

1/2" Drywall Walls & Ceilings
Fiberglass insulation

Kennel material - Chain Link - Pre Fabricated

re-side with vinyl dbl 1/2" - spring 2016

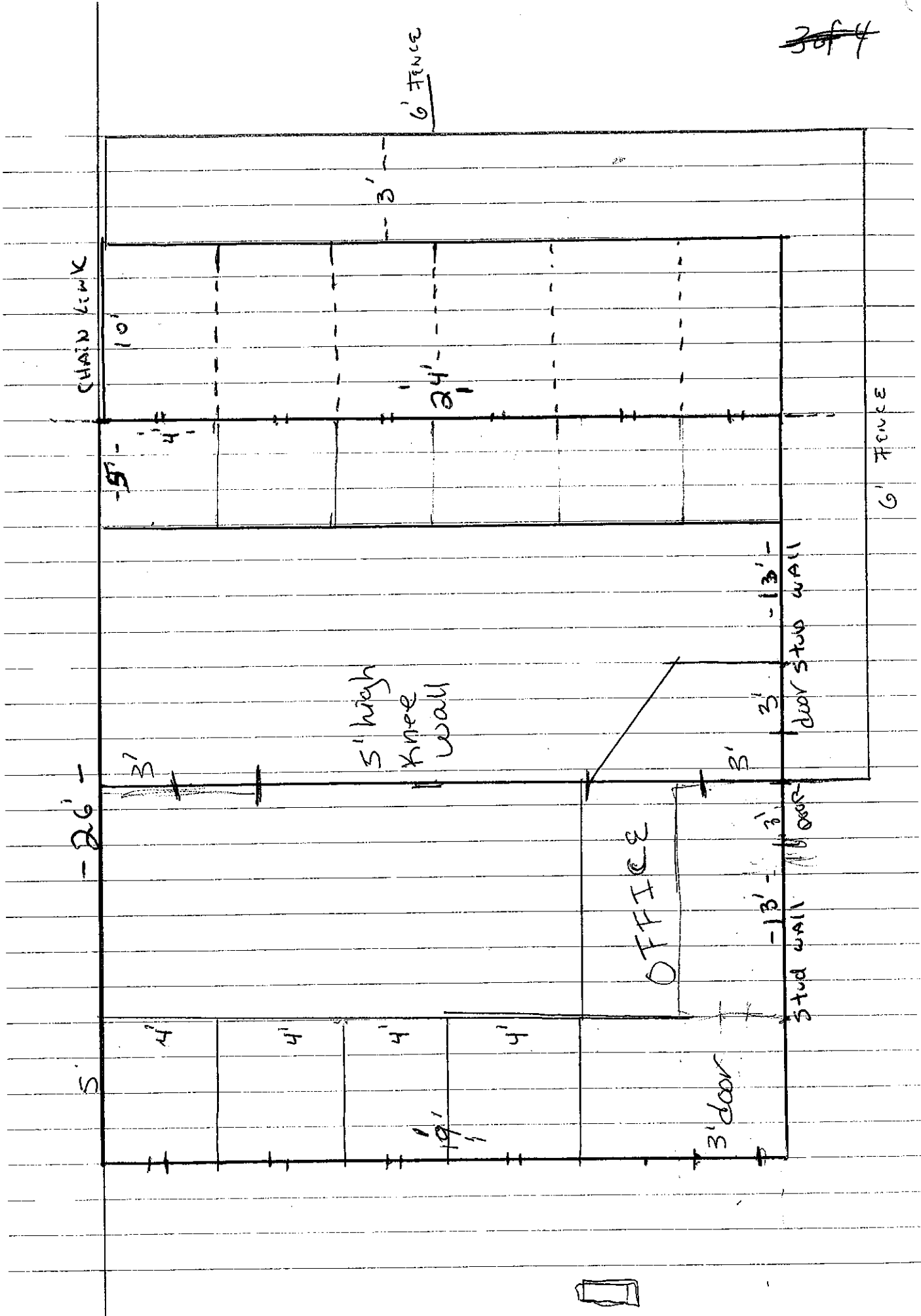
10 - 5'x4' indoor Kennels

10 - 4'x10' outdoor Kennel Runs

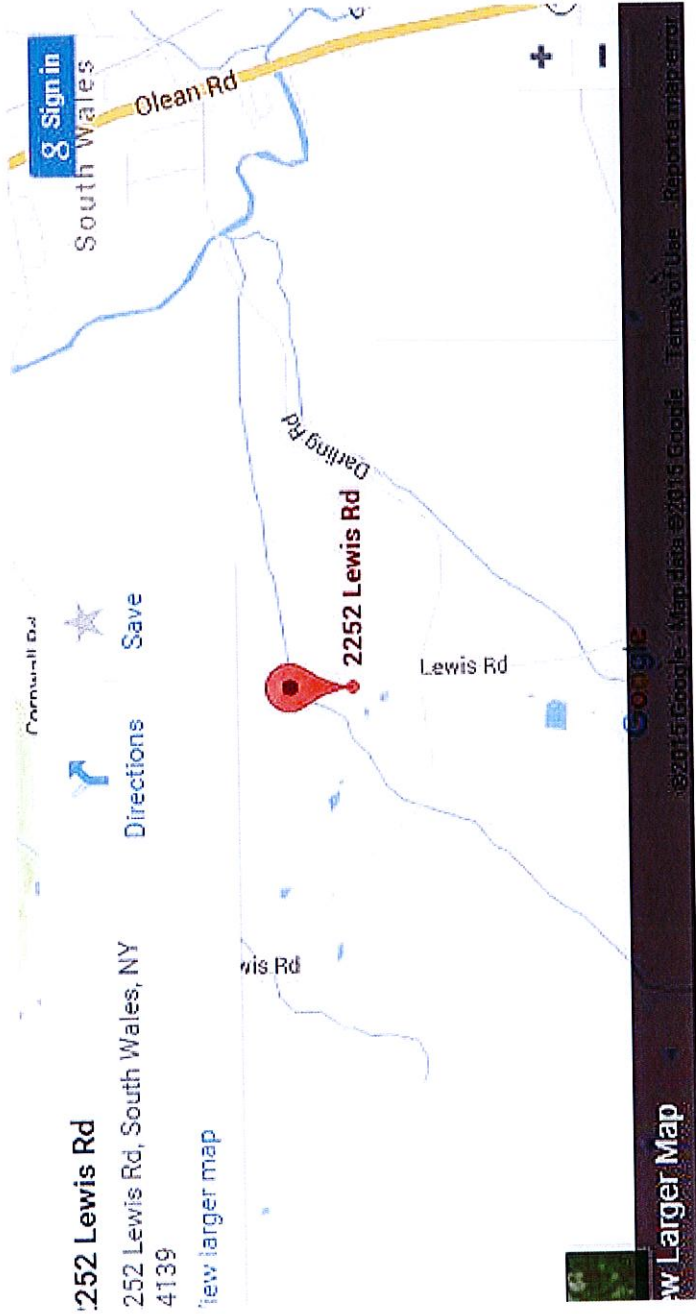
Why we want a Kennel permit:

Presently we offer pet grooming to our customers and our goal would be to offer boarding services as well. The goal is to start with 10 dogs and be able to increase to 20 dogs in the future, possibly adding an additional 24x26 building to reach the stated goal.

Thank You
Jerry MacNichols



Convenient Downtown Location



Our office is just five minutes from the Expressway so chances are good we're on your way. We are open 7 days a week by appointment only from 6 am - 8 pm daily.

Be sure to take advantage of our pick up and drop off service.

2252 Lewis Rd South Wales NY 14139

1-608-561-8738

peacefulacrespetservices@gmail.com

How can we help you?

Name:

Phone:

Check here to receive email updates

Printed from website 10/30/15

Martha Librock

From: Martha Librock
Sent: Friday, October 30, 2015 11:58 AM
To: Martha Librock
Subject: Sent from Snipping Tool

Peaceful Acres Pet 
Services the best care for your pets

[HOME](#) [ABOUT](#)
[REQUEST A QUOTE](#) [SPECIALS](#)

A Word About Peaceful Acres



Peaceful Acres is a FULL SERVICE 1 stop pet shop.

Come check out our 9 acre park like setting for the best in pet care and supplies.

With over 25 years experience in caring for cats and dogs as well as Showing, Training and Riding horses your pets are safe and secure with us.

We provide grooming, daycare, sitting, walking, pet pick up and drop off services and so much MORE !

Peaceful Acres provides its own Dogs with all natural home made dog food which you can purchase to ensure your furry friends last longer and live healthier.

Meet Our Team

[Read More](#)

<http://www.peacefulacrespetservices.com/about-us.html>

Printed from website 10/30/15

Petitioner: (Rebecca Bellinger)
AAF
Jennifer MacNichols
2252 Lewis Rd
South Wales, NY 14139

SBL#: 201.00-3-17

=====

Abutting Properties: Mailing Address (if different)

SBL: 201.00-3-8.3

Larry Leipler
V/L Cornwall Rd

1311 Underhill Rd
East Aurora, NY 14052

SBL: 201.00-3-15

Aaron & Mary Grace Piskorowski
2194 Lewis Rd
South Wales, NY 14139

SBL: 201.00-3-16

Pryshlak Family Trust
Maria Kallas Trustee
2240 Lewis Rd

4101 Thornwood Ln
Williamsville, NY 14221

SBL: 201.00-3-23.1

Peter & Bonnie Mistretta
2239 Lewis Rd
South Wales, NY 14139

SBL: 201.00-3-18

Daniel & Katherine Pendleton
2270 Lewis Rd
South Wales, NY 14139

SBL: 201.00-3-19.2

Michael & Roxana Rowan
2299 Lewis Rd
South Wales, NY 14139

SBL: 201.00-2-16.1

Pamela Pfeiffer
2296 Lewis Rd
South Wales, NY 14139

SBL: 201.00-2-32

Howard T Hoag II
2018 Darling Rd
South Wales, NY 14139

*John & Patricia
Rich
2118 Lewis
South Wales NY
14139*

*William & Marsha
Lewis
2162 Lewis R
South Wales NY
14139*

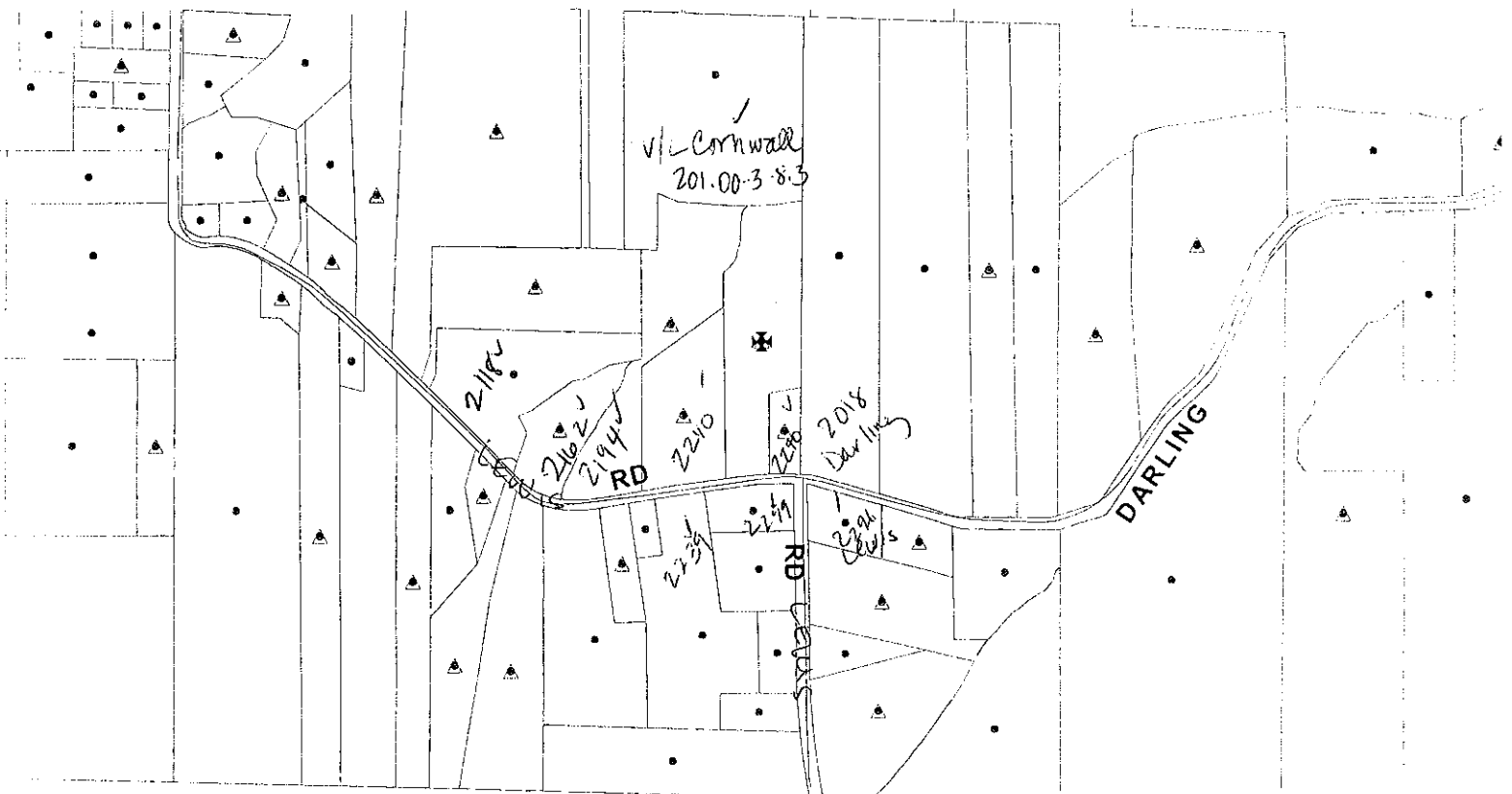
Rebecca Bellinger AAF

Jennifer MacNichols

2252 Lewis Rd

Swales 14139

201.00-3-17



Rebecca Bellinger ATF

Jennifer MacNichols

2252 Lewis Rd

SWales 14139

201.00-3-17

