



CASE NO. 1352

DATE OF HEARING ~~3/19/2020~~  
6/24/2020

Town of Aurora Zoning Board of Appeals  
300 Glead 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 DAVID A. SZUBA  
Address 251 BEHM ROAD  
City WEST FALLS State NY ZIP 14170  
Phone (716) \_\_\_\_\_ Email d:ner.com  
Interest in t purchaser/developer) 0

#### 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

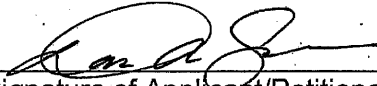
Property Address 251 BEHM ROAD  
SBL# 199.00 - 4 - 1.1  
Property size in acres 19.9 Property Frontage in feet 357.98'  
Zoning District RR / A Surrounding Zoning R2 / A  
Current Use of Property RESIDENCE / HORSE FARM

#### IV. REQUEST DETAIL

(check all that apply)

Variance from Ordinance Section(s) # 116 - 8.4 : B(2) HEIGHT & E(1) R.O.W. SETBACK  
 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)



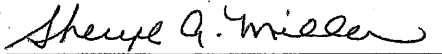
Signature of Applicant/Petitioner

DAVID A. SZUBA

Print name of Applicant/Petitioner

State of New York; County of Erie

On the 10<sup>th</sup> day of February in the year 2020 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.



Notary Public

(Notary stamp) **SHERYL A. MILLER**  
Reg. #01M16128663  
Notary Public, State of New York  
Qualified in Erie County  
Commission Expires June 13, 2021

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

## 251 Behm Road Proposed Barn & Garage

The property located at 251 Behm Road contains two dysfunctional and deteriorated barn/garage structures. One (18'x22') structure dates back to the original farm with doorway opening to the north. At some point before our acquisition, a second (24'x24') garage was constructed immediately adjacent to the first structure, but restricts access to the original barn. The second building is of pole barn construction with low slope roof and door opening to west, perpendicular to the approach driveway.

The property is located within Rural Residential Zoning with Agricultural Zoning at the rear. The property was historically an operating farm and we continue to operate it as such, though on a smaller scale. Specifically, we have tractors and implements requiring storage, and also store hay for keeping animals. The current buildings are not adequate to provide for that storage.

It is our intent to replace these two structures with a single, more functional and aesthetically appropriate structure. The proposed structure is comprised of a (22'x39') storage barn at the south and a three-car garage at the north. The garage is situated at an angle to allow improved and direct access from the driveway, while remaining close in alignment with the existing residence.

An area variance is requested based upon the barn structure's mean height of approximately 20' and the location of the northmost corner of the garage structure which extends approximately 5' within the 75' minimum required offset from the road right of way. Each variance item is discussed in detail below.

**20' Mean Height/Hay Loft:** The barn portion roof is higher for two reasons. First, the first-floor ceiling is taller than the garage to accommodate a 9' garage door and necessary clearances. The taller door and ceiling allow tractor and implement storage. Second, a hay loft is proposed in this barn area above the first-floor storage. The added height will allow the ability to stand upright in the hay loft and enable stacking and moving of hay safely. (Only the barn portion exceeds 15' mean height requirement. The *garage* portion does not.)

The barn peak is situated at approximately 25.5'. The eave is situated at approximately 14.5. The garage peak is lower than the barn and does not require a variance for mean height. The gradual stepping of peak elevations from garage to barn is intended to reduce the perceived height of the barn structure. We encouraged our architect to develop a building that was large enough to meet our storage needs, but consistent with the scale of the surrounding buildings. It is our intent to build a new structure that is "quaint" and in keeping with the farm heritage of the surrounding buildings.

## PETITIONER'S LETTER OF INTENT

251 Behm Road  
Proposed Barn & Garage  
Page 2 of 2

**Road ROW Setback:** The corner of the proposed garage extends to approximately 70' from the road right of way. Our intent is to situate the garage reasonably close to the residence. The existing house dates back to 1914 and is located very close to the road (approximately 25'), but separated by trees and large ditch, masking it from passersby.

Several residences along the south side of Behm Road are also very close to the right of way. The proposed garage is shown at 70' from the right of way. While slightly inside the minimum zoning setback requirement, the variance is minimal, and the location is not likely to cause objection or stand out adversely impacting the existing character of the neighborhood. Our property is also well treed, so the structure is expected to blend well into the landscape.

In conclusion, we request relief from the zoning regulations based upon the information provided above and the supporting information attached. The existing structures are unsightly, they were poorly conceived and badly oriented with the driveway and one another. The proposed structure will improve functionality of the property and provide for a cohesive collection of buildings. It will enable inside storage of vehicles, machinery and implements, resulting in a neater, cleaner overall appearance. Proposed roof slopes and overall scale are similar to the surrounding buildings and cladding will be carefully selected to blend well and tie the entire property together aesthetically.

### Summary of Attachments:

- Zoning Board of Appeals Application Form
- Drawing S-100 – Foundation Plan, illustrating floor dimensions and orientation
- Drawing A-200 – Exterior Elevations, illustrating heights of structure
- Property Survey with sketched building location and setbacks
- Site Plan with proposed building location, setbacks, and relevant features
- Copy of Property Deed Description
- Completed Short Form-Environmental Assessment Form (SEQRA) – Part 1

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



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

**TOWN OF AURORA**  
**Southside Municipal Center**  
300 Glead Avenue, East Aurora, NY 14052  
[www.townofaurora.com](http://www.townofaurora.com)

TOWN COUNCIL MEMBERS

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

David A. Szuba  
251 Behm Rd.  
West Falls NY, 14170

2/10/2020

Re: Accessory building at 251 Behm Rd. second story and mean height variance

David,

The Building Dept. has reviewed your plans for an accessory building at 251 Behm Rd. Your proposed building does not meet the zoning regulations for accessory buildings as specified in the Rural Residential Zoning District. 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.

116-18 B

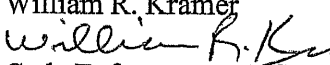
Required: One Story, not to exceed 15' mean height

Requested: Two Story, with 20'3" mean height

Variance required: Two Story Accessory Building & 5'3" height variance.

Because the proposed new barn will be behind the legal non-conforming front yard set-back established by the existing residence I would not consider a front yard set-back variance necessary.

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

**SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, NY  
AND REPLY TO MUNICIPALITY**

Note: Please complete in triplicate. Send original and one copy (with attachments) to Erie County Division of Planning, Room 1053, 95 Franklin Street, Buffalo, N.Y. 14202. Retain last copy for your files.

DO NOT WRITE IN THIS SPACE

Case No.: ZR-20-1A9  
Received: 2/19/2020

The proposed action described herein is referred in accordance with the provisions of the General Municipal Law, which provides that if no reply is received in 30 days after receipt of full information including a SEQR EAF if applicable, the municipal agency may take final action without considering such reply. If, however, reply is received at any time prior to municipal Action, such reply must be considered.

**Description of Proposed Action**

**1. Name of Municipality:** Town of Aurora

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**2. Hearing Schedule:** **Date** 3/19/2020 **Time** 7:00pm **Location** 300 Glead 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  Specific as follows 251 Behm Road, PO W. Falls

**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: (be specific)** Two story barn exceeding height allowed by Town Code

**8. Other remarks: (ID#, SBL#, etc.)** SBL#199.00-4-1.1

**9. Submitted by:** Martha Librock, Town Clerk 2/14/2020

300 Glead Ave., E. Aurora, NY 14052

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 2/25/20. 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.  Form ZR-3, Comment on Proposed Action is attached hereto.
3.  The proposed action is subject to review; the Division makes the recommendation shown on Form ZR-4, Recommendation on Proposed Action, which is attached hereto.
4.  No recommendation; proposed action has been reviewed and determined to be of local concern

By the Division of Planning: Susan Gatti Date: 2/27/20

# 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: 251 Behm Road - Garage/Barn Construction			
Project Location (describe, and attach a location map): 251 Behm Road, West Falls, NY 14170 - Site plan included			
Brief Description of Proposed Action: The project proposes to replace two existing dysfunctional structures with a single, functional barn and garage structure. The structure slightly exceeds zoning requirements in the Rural Residential Zone in which it is located. An area variance is anticipated in order to proceed. The design elements requiring variance are mean roof height, one story limit, and set back from road right of way. Specifically, the mean height of a portion of the structure is approximately 20' above grade (6' above maximum mean roof height). Second, the barn portion of the structure contains a second floor for storage. The additional height is needed to provide headroom in the loft area (to stand up). Finally, the approximate setback from the road right of way is 70'. This is 5' closer than minimum requirements, but is in an area of Behm Road where many of the older houses are very close to the right of way. The intent is to keep the garage relatively close in alignment with the residence.			
Name of Applicant or Sponsor: David A. Szuba		Teleph: _____ E-Mail _____	
Address: 251 Behm Road			
City/PO: West Falls		State: New York	Zip Code: 14170
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <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: Town of Aurora, Building Department			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		19.9 acres	
b. Total acreage to be physically disturbed?		<0.05 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		19.9 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input checked="" type="checkbox"/> Forest <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

<p>5. Is the proposed action,</p> <p>a. A permitted use under the zoning regulations?</p> <p>b. Consistent with the adopted comprehensive plan?</p>	<p>NO</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input checked="" type="checkbox"/></p> <p><input type="checkbox"/></p>	<p>N/A</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input checked="" type="checkbox"/></p>	
<p>7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?</p> <p>If Yes, identify: _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>	
<p>8. a. Will the proposed action result in a substantial increase in traffic above present levels?</p> <p>b. Are public transportation services available at or near the site of the proposed action?</p> <p>c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	
<p>9. Does the proposed action meet or exceed the state energy code requirements?</p> <p>If the proposed action will exceed requirements, describe design features and technologies:</p> <p>Non-heated structure, Energy Code Not Applicable</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>	
<p>10. Will the proposed action connect to an existing public/private water supply?</p> <p>If No, describe method for providing potable water: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>	
<p>11. Will the proposed action connect to existing wastewater utilities?</p> <p>If No, describe method for providing wastewater treatment: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>	
<p>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?</p> <p>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?</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	
<p>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?</p> <p>b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?</p> <p>If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	



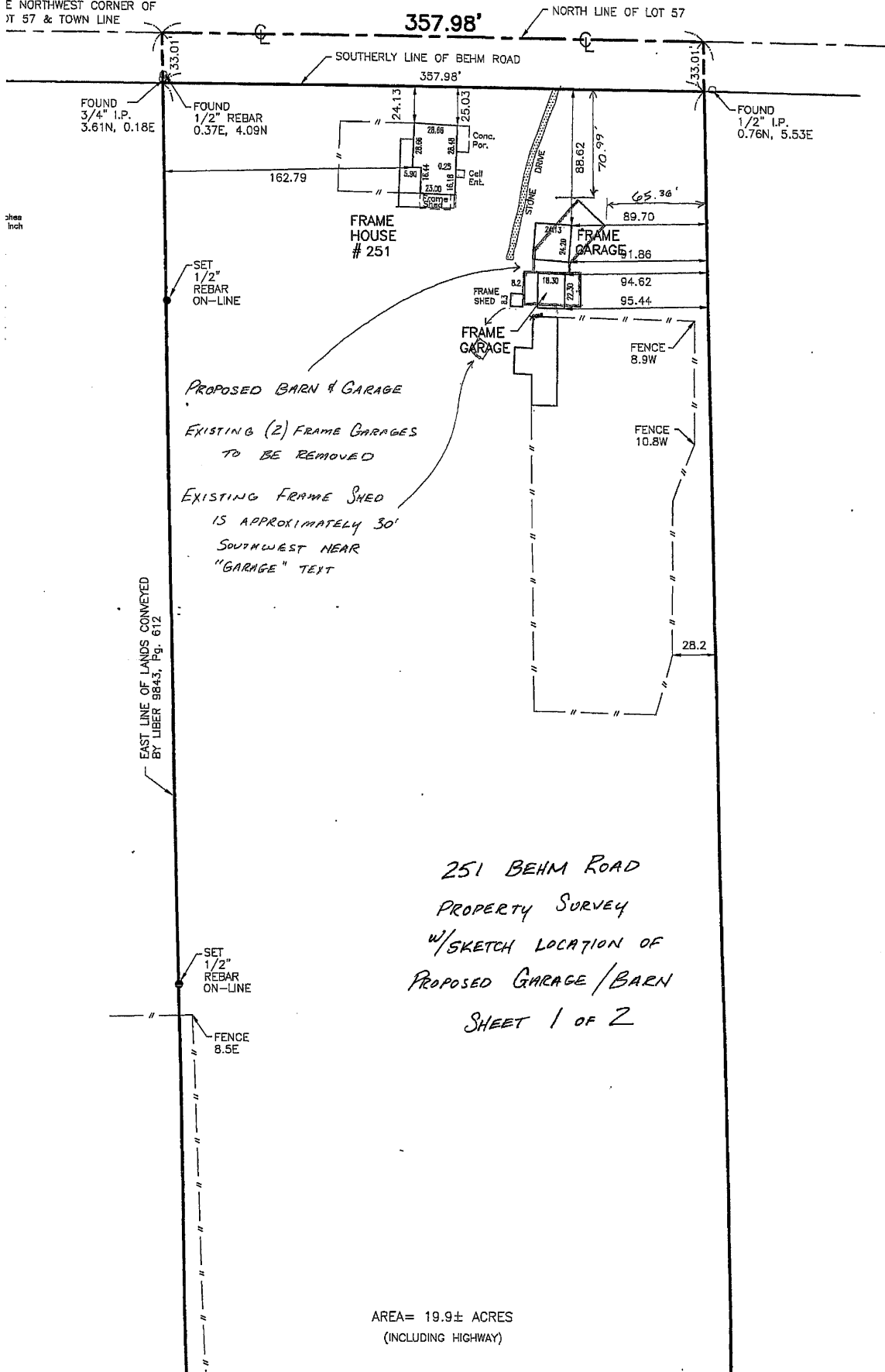


THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF  
 A TITLE CURTAIN AND IS SUBJECT TO ANY STATE  
 STATUTE THAT MAY BE REVEALED BY AN EXAMINATION

# BEHM (66' WIDE) ROAD



700.00' TO  
 E NORTHWEST CORNER OF  
 JT 57 & TOWN LINE



PROPOSED BARN & GARAGE  
 EXISTING (2) FRAME GARAGES  
 TO BE REMOVED  
 EXISTING FRAME SHED  
 IS APPROXIMATELY 30'  
 SOUTHWEST NEAR  
 "GARAGE" TEXT

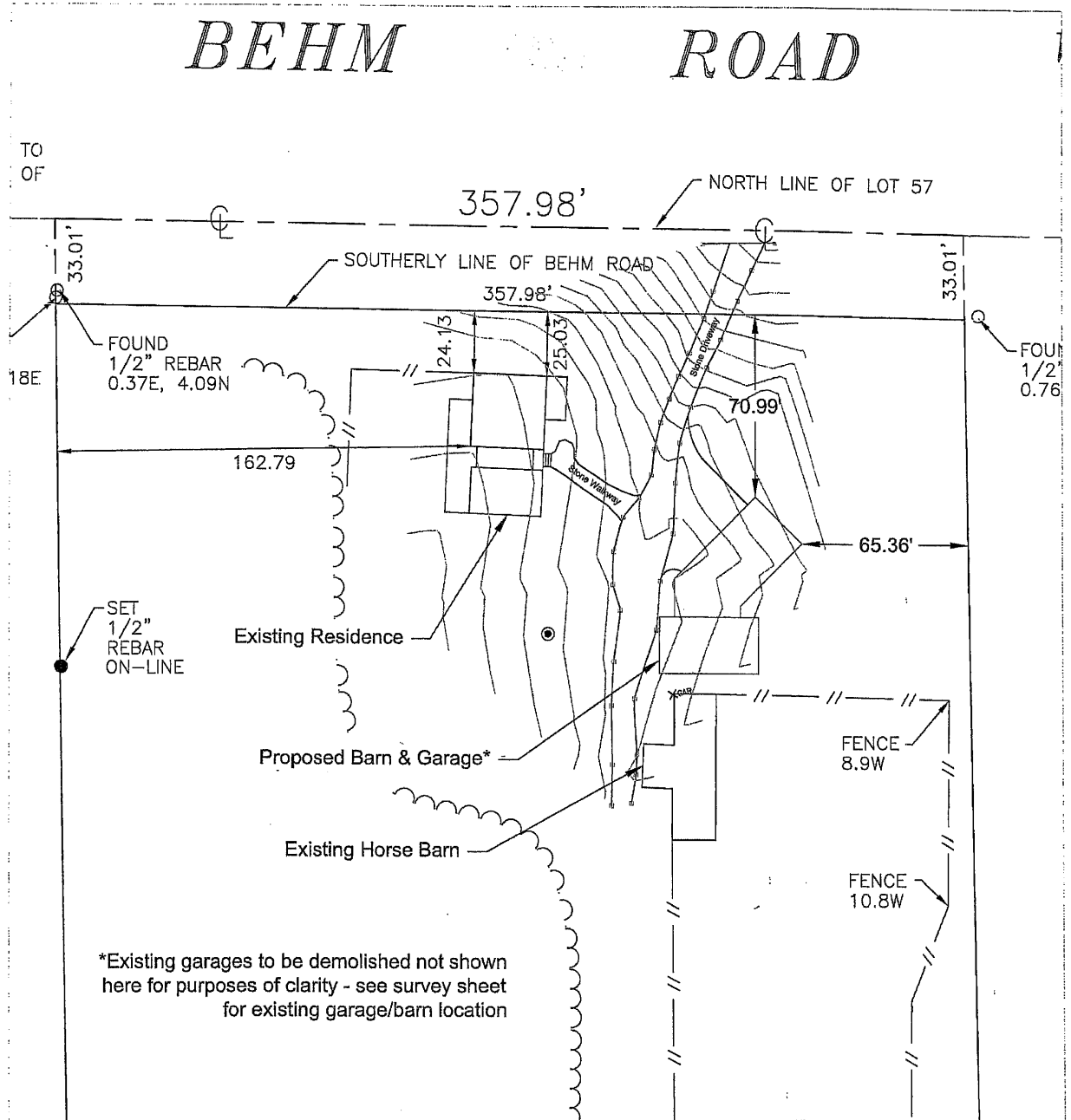
251 BEHM ROAD  
 PROPERTY SURVEY  
 W/SKETCH LOCATION OF  
 PROPOSED GARAGE/BARN  
 SHEET 1 OF 2

AREA= 19.9± ACRES  
 (INCLUDING HIGHWAY)





251 Behm Road  
 Proposed Barn & Garage  
 Site Plan with setback information  
 February 2020



Drawing Scale: 1" = 40'

Property line location based upon survey by Foit Albert Associates - 4/20/2005  
 Topography overlay - D.Szuba - Sept. 2015  
 Proposed Garage Location - D.Szuba - February 2020