

Original



CASE NO. 1458

DATE OF HEARING 12.21.23

Town of Aurora Zoning Board of Appeals
575 Oakwood Avenue, East Aurora, New York 14052

Zoning Board of Appeals Application Form

I. TYPE OF REQUEST

AREA VARIANCE SPECIAL USE PERMIT USE VARIANCE INTERPRETATION

II. APPLICANT/PETITIONER

Applicant's Name JIM BANNEL
Address 6264 W. QUAKER ST
City ORCHARD PARK State NY ZIP 14127
Phone 716-662-2482 Fax _____ Email JBANNEL@BANNELARCHITECTS.COM
Interest in the property (ex: owner/purchaser/developer) ARCHITECT

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

Property Owner(s) Name(s) DAN MURRAY
Address 4399 TRANSIT RD
City ORCHARD PARK State NY ZIP 14127
Phone _____ Fax _____ Email _____@GMAIL.COM

III. PROPERTY INFORMATION

Property Address 4399 TRANSIT RD, ORCHARD PARK, NY 14127
SBL# 174.00-1-1.1
Property size in acres 31.77 Property Frontage in feet 2498
Zoning District RR+A Surrounding Zoning RR+A
Current Use of Property BUSINESS - NURSERY + GARDEN CENTER

IV. REQUEST DETAIL

(check all that apply)
 Variance from Ordinance Section(s) # 116-34A(4)
 Special Use Permit for: _____
 Use Variance for: _____
 Interpretation of _____

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)

REPLACE EXISTING FRONT CORNER IDENTITY SIGN WITH NEW 6'W x 11'H PEDIMENT SIGN. THE PROPERTY IS A LARGE LANDSCAPE COMPANY AT A BUSY INTERSECTION OF TRANSIT ROAD + 20A.

MID PORTION OF SIGN IS INTERNALLY LIT WITH FIXED LETTERING TRACKS.

BASE WILL BE LANDSCAPED TO MATCH THE SEASONS.

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)

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)

Aurora

Signature of Applicant/Petitioner

AVBREY GALA

Print name of Applicant/Petitioner

State of New York; County of Erie

On the 31 day of October 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.

Jennifer L. Brady

Notary Public

JENNIFER L. BRADY
Notary Public, State of New York
NO. 01BR6373222
Qualified in Erie County
My Commission Expires 4-2-20 26

(Notary stamp)

Office Use Only:

Date received: 11/14/23 ck# 3714 \$100 Receipt #: 891016 (KA)

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 _____

Town of Aurora
575 Oakwood Avenue
East Aurora, NY 14052
www.townofaurora.com

**Zoning Board of Appeals
Application
Owner Authorization**

The undersigned, who is the owner of the premises know as: MURRAY Bros. NURSERIES, INC.
4359 Transit Rd. Orchard Park NY 14127, identified as Tax Map (SBL)#.....
(address)

hereby authorizes to bring an application for area variance
() special use permit () use variance () interpretation before the Town of Aurora Zoning Board of
Appeals for review and potential approval. The undersigned further permits the Town or its authorized
representative(s) access to the property to review existing site conditions during the review process.

Daniel Murray
Owner (print)

11/1/23
Date

[Signature]
Owner (signature)

STATE OF NEW YORK)
 Cattaraugus) SS
COUNTY OF ~~ERIE~~)

On this 1st day of November, 2023, before me, the undersigned, a notary public in and for said state,
personally appeared Daniel J. Murray, personally known to me on the basis of
satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their
signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted,
executed the instrument.

[Signature]
Notary Public

THERESE C STOCK
Notary Public, State of New York
Reg. No. 01ST6013618
Qualified in Cattaraugus County
My Commission Expires September 21, 2024

**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 - m
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** 12/21/2023 **Time** 7:00pm **Location** 575 Oakwood Ave., E. Aurora, NY

3. Action is before: Legislative Body Board of Appeals Planning Board

4. Action consists of: New Ordinance Rezone/Map Change Ordinance Amendment
 Site Plan Variance Special Use Permit Other: _____

5. Location of Property: Entire Municipality Address: 4399 Transit Rd, PO Orchard Park

5a. S.B.L. of Property: 174.00-1-1.1

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: Size of proposed sign is larger than allowed by Town Code
(specify the action, such as the scope of variances or site plans)

8. Other remarks: _____

9. Submitted by: Martha Libroek, 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: _____

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



TOWN CLERK
Martha L. Libroek
(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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csnyder@townofaurora.com

Luke Wochensky
lwochensky@townofaurora.com

James F. Granville
jgranville@townofaurora.com

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Christopher Musshafen
(716) 652-8866
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TOWN ATTORNEY
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TOWN JUSTICE
Jeffrey P. Markello
Anthony DiFilippo IV

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

FAX: (716) 652-3507

Bammel Architects
Attn: James Bammel RA
6264 W. Quaker St
Orchard Park, NY 14127

November 13, 2023

Jim:

The Building Department has reviewed your request to replace a sign at your client's property at 4399 Transit Rd. The request has been denied because it fails to meet the code requirements for signs in the Rural Residential district in which it is located.

Section 116-34A(4)

Required: A sign of not more than 4 sq ft in area displaying a street number, name of occupant(s), and/or name by which the property is known

Requested: 66 sq ft

Variance: 62 sq ft

Section 116-34D3

Required: May not be illuminated from within

Requested: Interior illumination for changeable letter sign

Variance: Interior illumination for changeable letter sign

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

Short Environmental Assessment Form

Part 1 - Project Information

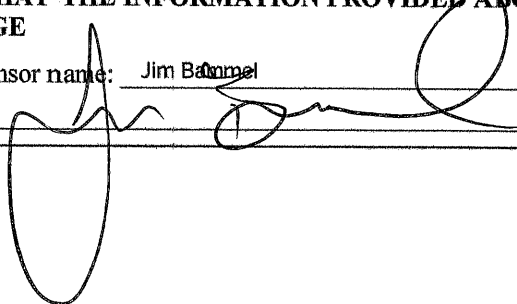
Instructions for Completing

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: Murray Bros Nurseries and Garden Center			
Project Location (describe, and attach a location map): 4399 Transit Rd, Orchard Park, NY 14127			
Brief Description of Proposed Action: Replace Existing Monument Sign with a new monument sign in the same location.			
Name of Applicant or Sponsor: Dan Murray		Telephone: 716-432-8882 E-Mail: murray2mbn@gmail.com	
Address: 4399 Transit Rd			
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 <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ NA acres			
b. Total acreage to be physically disturbed? _____ NA acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ NA acres			
4. Check all land uses that occur on, adjoining and 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 checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	TOO LARGE	NO	YES	N/A
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?		<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? 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?		NO	YES	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?		<input checked="" 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: _____ NA		NO	YES	
		<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____		NO	YES	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____		NO	YES	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?		NO	YES	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
		<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? 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	YES	
		<input checked="" type="checkbox"/>	<input 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: <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 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 plain?		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? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES		NO	YES	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	

<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>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: _____ _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>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: _____ _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p>		
<p>Applicant/sponsor name: <u>Jim Baunzel</u></p>	<p>Date: <u>10-31-23</u></p>	
<p>Signature: </p>		





BAMMEL ARCHITECTS
 A PROFESSIONAL CORPORATION
 6264 WEST QUAKER STREET
 ORCHARD PARK, NY 14127
 phone (716) 662-4482
 fax (716) 662-2487

REGISTERED ARCHITECT, STATE OF NEW YORK, No. 10082
 REGISTERED ARCHITECT, STATE OF NEW YORK, No. 10082
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NO.	REVISIONS

PROJECT IDENTIFICATION:

MURRAY BROTHERS
 4399 TRANSIT RD
 ORCHARD PARK, NY 14127

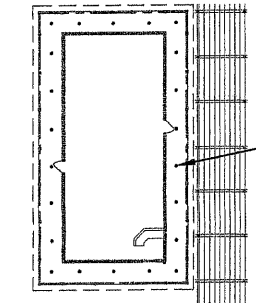
BLUE DATE:	11/03/2023
PROJECT NUMBER:	22002
SCALE:	AS NOTED
DRAWN BY:	ALC
CHECKED BY:	ALC
SHEET TITLE:	ALL

SITE PLAN

DRAWING NO:

S-1

SCOPE OF WORK FOR ERIE COUNTY
 STOREFRONT GRANT:
 - EXTERIOR SOFFIT LIGHTING
 - NEW STREET SIGN
 - PATCH AND REPAIR ASPHALT FOR
 ADA COMPLIANCE



NEW 6" LED SOFFIT LIGHTING

PARKING LOT

REPAIR AND PAVE
 ASPHALT PER
 CONTRACT

REPLACE EXIST. MONUMENT SIGN
 WITH NEW MONUMENT SIGN IN
 THE SAME LOCATION
 (VERIFY LOCATION IN FIELD)

TRANSIT ROAD

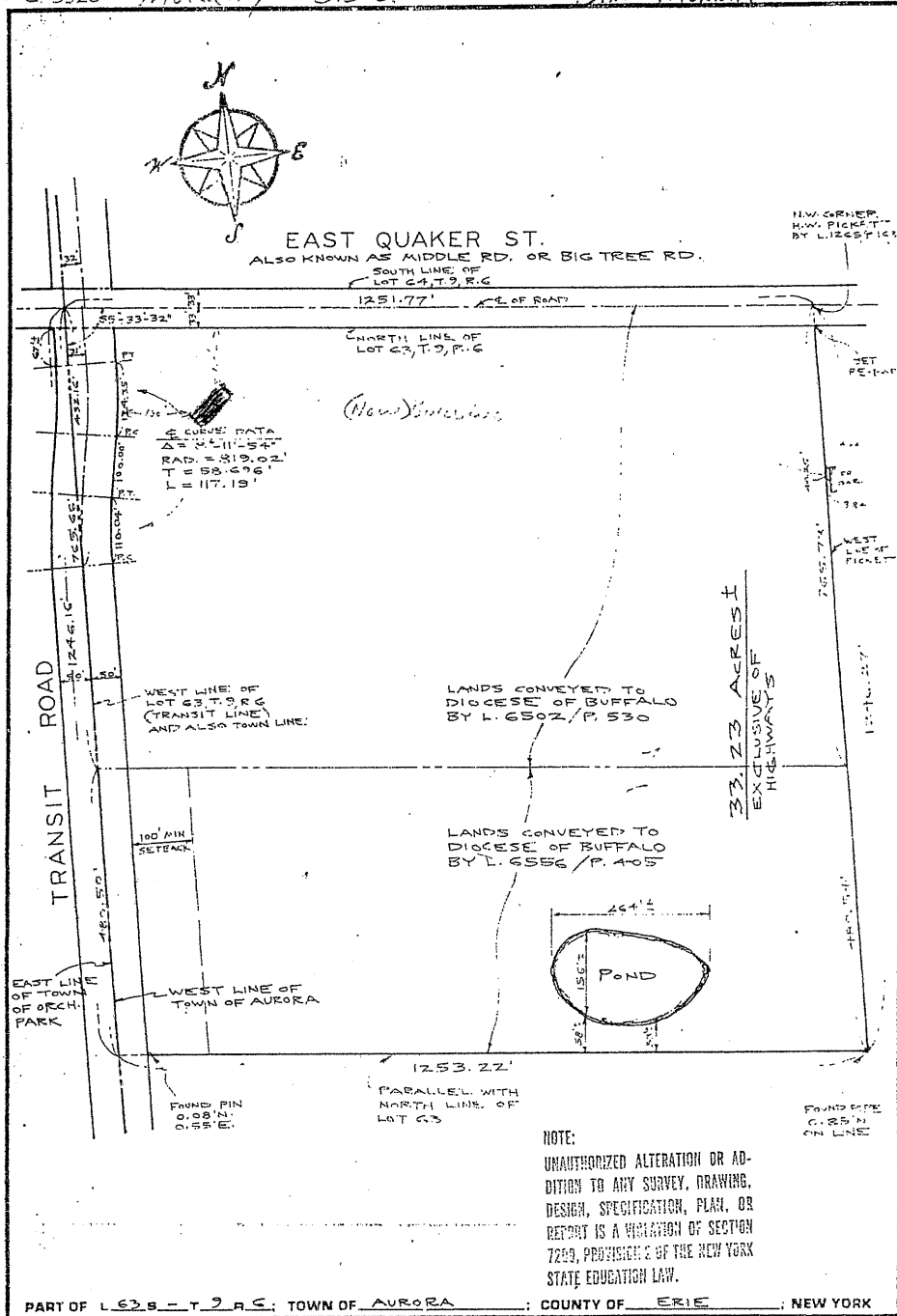
QUAKER ROAD

1 SITE PLAN
 1/32" = 1'-0"

C-3520

Murray Bros.

DAN MURRAY



RESURVEY		
DATE	JOB	DESCRIPTION

Engineers, Surveyors, Planners

TALLAMY, VAN KUREN, GERTIS & ASSOCIATES
70 BRONX AVENUE, 12TH FLOOR, BRONX, N.Y. 10451
446-0111 / 446-2300

DRAWN BY N.L. SCALE 1" = 200'
 CHECKED BY _____ DATE FEB 26 1987
 JOB 870117 SHEET 2E-12977

Application NO. Q-90

Permit No. Q-90

BUILDING PERMIT

TOWN OF AURORA, ERIE COUNTY, NEW YORK

This Permit must be kept on the Premises with one set of approved plans and specifications until FULL completion of work authorized.

Date AUGUST 6, 19 87

PERMISSION IS HEREBY GRANTED TO: D. MURRAY

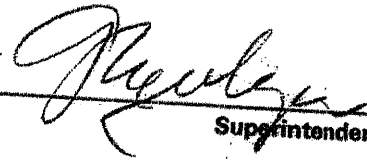
To ERECT SIGN PER ZONING BOARD OF APPEALS APPROVAL GRANTED 7/22/87 WITH
CONDITIONS.

At premises located at QUAKER ROAD

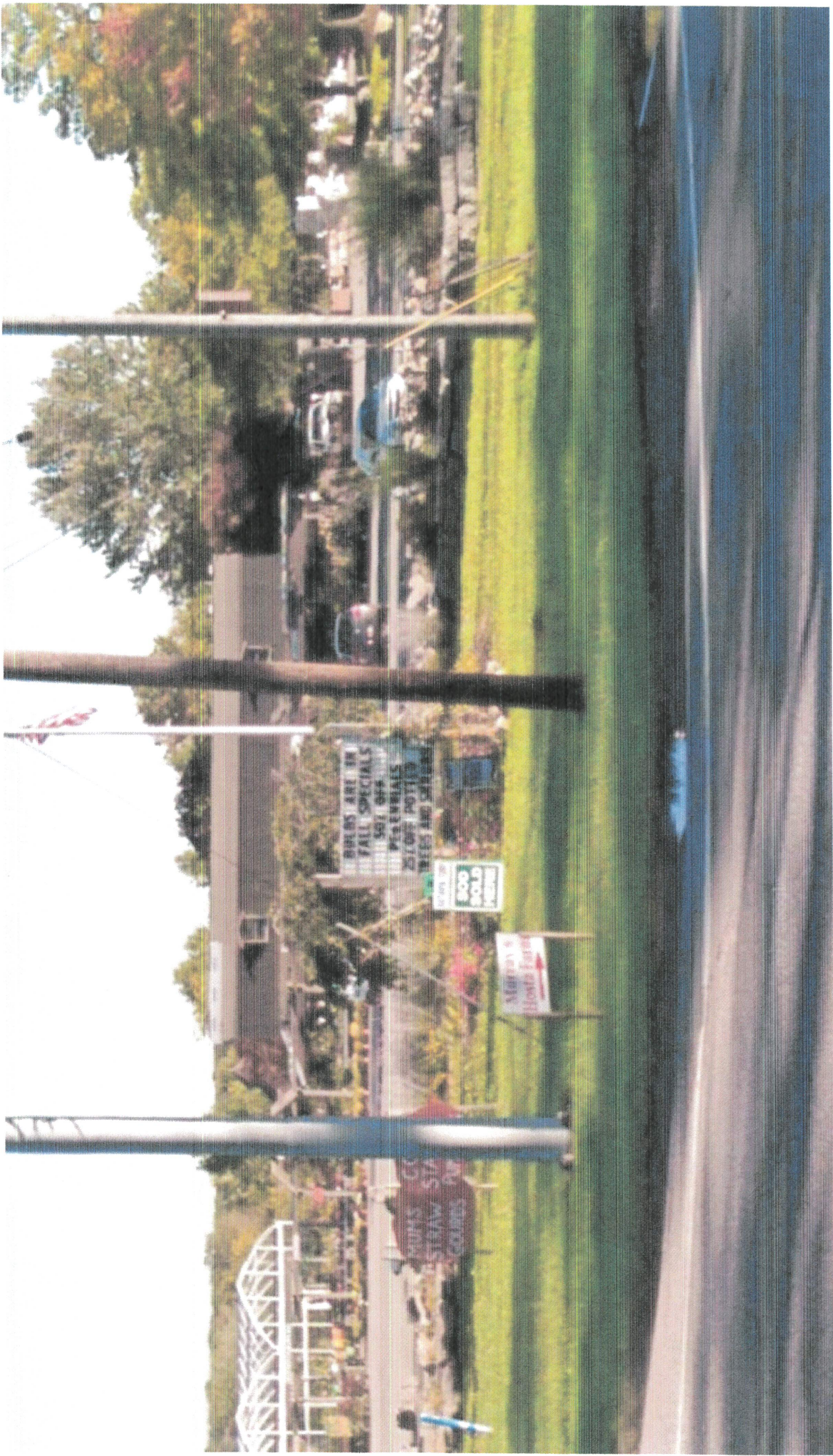
Pursuant to above numbered application, and plans and specifications approved by the Superintendent of Building.

Cost of construction \$

Fee \$ 3.00


Superintendent of Building

All new construction must be inspected and Certificate of Occupancy issued by Town Building Inspector before premises can be lawfully occupied. Call Inspector's Office in Town Hall for inspection when rough plumbing and wiring has been installed, and again when building is ready for occupancy. Telephone 652-7591.



MINUTES OF A PUBLIC HEARING AS HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

JULY 22, 1987

The meeting was called to order by the Chairman, Robert Leshner, with the following board members present:

R. Leshner
P. Keenan
E. Marquart
S. McCormick
R. Harris

APPEAL #428 - MURRAY, DANIEL J. SBL #174.00-1-1 (Quaker Rd.) Town of Aurora

The Notice of Public Hearing was read by the Town Clerk. The Notice was duly published in the East Aurora Advertiser as evidenced by the Affidavit of Publication, marked as Exhibit #1, and The Affidavit of Posting by the Town Clerk was marked as Exhibit #2. A report from the Erie County Department of Planning of No Recommendation was marked as Exhibit #3.

The Chairman opened the hearing by stating the purpose and procedure of the hearing, and said a meeting of the Board would be held to render a decision with respect to a request to obtain a variance to erect a free standing sign on premises identified as SBL#174.00-1-1 on the south side of Quaker Road east of Transit Road in the Town of Aurora.

MURRAY - My name is Dan Murray. The land belongs to Murray Nurseries. It is on the southeast corner of route 20A and Transit Roads, where the gas "well" is. I wish to put a sign up on the corner directing people to our nursery. We need the sign because the construction on Jewett Holmwood Rd. is causing us to lose business. We felt the sign would dress up the area. It will be about 1 foot off the ground and have plants and shrubs around it. We've brought the actual sign to show you.

LESHNER - Please show us the sign. Also, are you an A (agricultural) district?

MURRAY - Yes. The sign you see here is actually the original real-estate (for sale) sign that was on the corner for about five years. We had a sign painter paint over it.

LESHNER - Is this corner property contiguous to the nursery property?

MURRAY - No.

MCCORMICK - Where is the gas "well" thing? And will the sign hide it?

MURRAY - It won't hide it but the sign will draw your attention away from it.

APPEAL # 428 - MURRAY
page 2

KEENAN - Is the sign lighted?

MURRAY - No.

LESHER - Can the sign be seen from only one way?

MURRAY - No. It will be two sided and able to be seen from both directions on 20A.

KEENAN - Will it be perpendicular to 20A?

MURRAY - Yes.

MCCORMICK - How far from 20A will it be placed?

MURRAY - About 60' in from 20A and 40' in from Transit Road.

LESHER - How many acres are there?

MURRAY - 36 acres. The distance between the corner property and the nursery is one half mile.

KEENAN - Is the corner property going to be part of your nursery?

MURRAY - Yes. We have some plantings there now.

LESHER - How will the sign be held up?

MURRAY - With two sturdy posts.

LESHER - Do you want a permanent installation?

MURRAY - Yes.

LESHER - Does anyone else wish to be heard on this matter?
The Hearing is now closed.

LIST OF EXHIBITS

APPEAL #428 - MURRAY, DANIEL J. SBL#174.00-1-1 (Quaker Rd.) Town of Aurora, NY

Exhibit 1 - Affidavit of Publication

Exhibit 2 - Affidavit of Posting

Exhibit 3 - Report from the Erie County Department of
Planning of No Recommendation

Exhibit 4 - Plot Plan

Exhibit 5 - Drawing of Proposed Sign and Landscaping

The petitioner also presented to the board the actual sign.
It was not marked as an exhibit.

MINUTES OF A MEETING AS HELD BY THE
ZONING BOARD OF APPEALS
OF THE TOWN OF AURORA

JULY 22, 1987

The meeting was called to order by the Chairman, Robert Leshner, With the following board members present:

R. Leshner
P. Keenan
E. Marquart
S. McCormick
R. Harris

APPEAL #428 - MURRAY, DANIEL J. SBL# 174.00-1-1 (Quaker Rd.) Town of Aurora

After due deliberation by the members of the Zoning Board of Appeals of the Town of Aurora, the following move was made by R. Harris and seconded by P. Keenan:

- 1) The Zoning Board of Appeals grant the variance to erect a free standing sign on the premises identified as SBL#174.00-1-1 on the grounds that it be landscaped and maintained and that the petition be granted for three (3) years after which it will be subject to review as so long as the property is owned by the petitioner (the nursery).

A discussion followed as to whether or not the board had ever given a "timed" sign permit before. Normally permits for directional signs are not given but it was felt that the sign was needed due to the construction on Jewett Holmwood Road.

The variance was granted for the free standing sign.

Leshner - aye
Marquart - aye
Keenan - aye
McCormick - aye
Harris - aye

MINUTES OF A PUBLIC HEARING AS HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

May 16, 1991.

The hearing was called to order by the Acting Chairman, Peter Keenan, with the following board members present:

P. Keenan
M. Marky
R. Harris

J. Barrow excused himself from the hearing and meeting because of his professional relationship with the petitioner.

Members not present: S. McCormick

APPEAL # 549 - MURRAY BROTHERS (NURSERY) 4399 Transit Rd. at Quaker Rd.,
Orchard Park, Town of Aurora, NY

The Notice of Public Hearing was read by the Deputy Town Clerk. The Notice was duly published in the East Aurora Advertiser as evidenced by the Affidavit of Publication, marked as Exhibit 1. The Affidavit of Posting by the town Clerk was marked as exhibit 2. The reply from the Erie County Department of Planning of No Recommendation was marked Exhibit 3. Exhibit 4 is a list of the abutting property owners. Exhibit 5 is the application for a variance. Exhibit 6 is the building permit application. Exhibit 7 is a plot plan. Exhibit 8 is building construction details for a shade house. Exhibit 9 is the building construction details for the greenhouse. A sketch of the proposed signs for the building is Exhibit 10. Exhibit 11 is the decision made by the Zoning Board of Appeals on Case #453.

The Acting Chairman opened the hearing by stating the purpose and procedure of the hearing and said a meeting of the Board would be held to render a decision with respect to a request to obtain a variance to permit construction/erection of accessory building and signs at 4399 Transit Road at Quaker Rd., Orchard Park, Town of Aurora, NY.

MURRAY - I'm Dan Murray of 4735 Transit Road. I own the nursery at 4399 Transit Road. I am asking for a variance on agricultural property for a shade house and a greenhouse which are permitted on agricultural property, but through the building inspector he feels that because of a sentence in the previous decision made by this board any thing I do has to be brought before the board. This is from case #453.

KEENAN - Is Exhibit 7 a plot plan of your nursery?

MURRAY - Yes.

- KEENAN - You are requesting a greenhouse. Describe it please.
- MURRAY - It is 80 feet long by 28½ feet wide and about 12 feet high. It is a year round greenhouse that is covered with polyethylene (plastic). It is needed for growing flowers that will be sold on the premises. I don't need a building permit for this, just Zoning Board approval. We don't wholesale these flowers.
- KEENAN - Because of the Building Inspectors interpretation of the permit that was granted to you, any increase of buildings on the property needs approval of the board.
- MURRAY - Exactly.
- KEENAN - What is the shade house?
- MURRAY - It is simply a structure of posts with lath over the top. It is for plants that require shade. It is 10 ' high and 60' long by 30' wide. It is for plants that we grow.
- KEENAN - The permit says one other thing - sign.
- MURRAY - This is another thing that we are not sure if we have to go to the board for or not. The original sign is a directional sign that you approved several years ago. It will be removed. The new sign is for on the building. It will be nailed right to the roof. There is a drawing of the proposed signs. (Exhibit 10).
- HARRIS - If this property were not under a variance, he would not need a permit for a sign on a building. Anything he does to the property has to be reviewed by us.
- KEENAN - Are the greenhouse and shadehouse in existence now?
- MURRAY - Yes.
- BOVE - (Michael Bove, assistant building inspector) Because he is under zoning board restrictions he has to come before this board with anything he builds or erects. There is nothing wrong with the size of the sign he is putting up.
- KEENAN - Then there is no need for a variance for the sign, just approval of this board.
- MURRAY - Yes. Because of the nature of the original variance. In the future if I want to do something behind this building, I want to avoid having to come before this board. If this could be reworded so you have control of the building in the front, but not the land in the back, then I wouldn't have to come before this board say if I wanted to build an outhouse by my pond.

APPEAL #549 - MURRAY BROTHERS (NURSERY)

5/16/91

page 3

MURRAY - It seems ridiculous to have to come here everytime I want to put up another shade house or greenhouse. Do you think you can reword it so I don't have to come in everytime?

KEENAN - We will discuss it at our meeting.

HARRIS - We might want to monitor this parcel because it is in such an obvious location.

MURRAY - Well, I have 35 acres here and for me to do anything on these 35 acres I have to come before this board. About 6 acres are being used for commercial sales.

KEENAN - Are there any further questions or comments? The hearing is closed.

LIST OF EXHIBITS

APPEAL # 549 - MURRAY BROTHERS (NURSERY) 4399 Transit Road at Quaker Road,
Orchard Park, Town of AURORA, NY

- Exhibit 1 - Affidavit of Publication
- Exhibit 2 - Affidavit of Posting
- Exhibit 3 - Reply of No Recommendation from the
Erie county Department of Planning
- Exhibit 4 - Abutting property owners
- Exhibit 5 - Application for a variace
- Exhibit 6 - Building permit application
- Exhibit 7 - Plot plan
- Exhibit 8 - Shade house construction details
- Exhibit 9 - Greenhouse construction details
- Exhibit 10 - Sketch of proposed signs
- Exhibit 11 - Zoning Board of Appeals decision on
Case #453.

MINUTES OF A MEETING AS HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

May 16, 1991

The meeting was called to order by the Acting Chairman, Peter Keenan, with the following board members present:

P. Keenan
M. Marky
R. Harris

J. Barrow excused himself from the hearing and meeting because of his professional relationship with the petitioner.

Members not present: S. McCormick

APPEAL #549 - MURRAY BROTHERS (NURSERY) 4399 Transit Road at Quaker Road,
Orchard Park, Town of Aurora, NY

After due deliberation by the members of the Zoning Board of Appeals of the Town of Aurora, NY, the following motion was made by P. Keenan and seconded by M. Marky:

The Zoning Board of Appeals will allow the two (2) structures presented on Exhibit 7 of case #549 to be part of amended Exhibit 10 of case #453. In other words Exhibit 10 of case #453 will be amended to show a greenhouse and a shade house on premises at 4399 Transit Road, Orchard Park, Town of Aurora, NY.

Keenan - aye
Marky - aye
Harris - aye

Discussion which preceded the motion is as follows:

- KEENAN - It would appear that the only reason Mr. Murray is here is because of the way his original case was worded. (Original case #453.) He doesn't need a building permit for either of the two structures that he has presented to us today. The sign request is in accordance with the code.
- HARRIS - The code says that agricultural buildings are exempt from the building code, but isn't this getting into retail?
- KEENAN - He is selling the products which he grows on this property.
- HARRIS - These are buildings that the public will be coming to.
- KEENAN - Because he put up these two extra buildings he is not

- KEENAN - in accordance with Exhibit 10 of case #453 and that is why he before us tonight. He doesn't need a variance he needs permission from the board to add these two buildings to Exhibit 10. We have to amend Exhibit 10 to show these two buildings. The sign is within the code because it is showing products which are raised or grown on this agricultural property. Signs are allowed on buildings. The petitioner is also requesting that we change this last sentence from case #453, in some way or other, so that he does not have to come before the board for any future additions to the property.
- HARRIS - When anyone is granted a variance such as the one we granted Mr. Murray in case #453, they should have to come before us when they want to make any additional changes or additions. Everything he does to that property, including the sign, impacts on the original decision to give him the variance. We should be looking at everything he does to that property because these are not true agricultural buildings. The public will be entering them and retail sales are being conducted here.
- BARROW - I don't think he has a variance.
- HARRIS - He has a use permit, I believe.
- KEENAN - I believe that we just said that what he planned to do was permissible under the A districts.
- HARRIS - This is a borderline case and I think we should be able to "control" what is built here. This isn't just agricultural or a nursery, it is retail sales.
- KEENAN - Consideration should be made about amending the last sentence in the original decision by the Board in case #453. I would like to review the minutes of previous hearings and meetings and possibly discuss it at our next meeting. Doing so would not deter the petitioner from conducting his business.
- HARRIS - I would like to keep control rather than have this turn into a commercial venture like "Perry's" (nursery).

Deed
Warranty with Lien Covenant
(When an Individual)

State of New York, Erie County Clerk's Office
Recorded in Liber 9918 Page 88 of Deeds
on 16 day of Sept at 11:29 o'clock A M.

From: DANIEL J. MURRAY
54735 Transit Road
Orchard Park, New York 14127

FILED
1988 SEP 16 AM 11:29
ERIE COUNTY
CLERK'S OFFICE
Clerk's Time Stamp

RECEIVED
\$..... EXEMPT
REAL ESTATE
SEP 16 1988
TRANSFER TAX
Transfer Tax Stamp

To: MURRAY BROS. NURSERIES, INC.
54735 Transit Road
Orchard Park, New York 14127

102

This Indenture made the 15 day of September, 1988
Witnesseth, that DANIEL J. MURRAY GRANTOR(S)
residing at 54735 Transit Road, Orchard Park, New York 14127
in consideration of \$1.00 and more received by GRANTOR(S) subject to the trust fund provisions of section thirteen
of the lien law hereby grant(s) and release(s) unto MURRAY BROS. NURSERIES, INC.
GRANTEE(S), residing at
54735 Transit Road, Orchard Park, New York 14127

All that Tract or Parcel of Land situate in the Town of Aurora, County of Erie and State of New York
being part of Lot No. 63, Township 9, Range 7 of the Holland Land Company's Survey, bounded and described as
follows:

BEGINNING at a point in the center line of Transit Road, which center line is the west line of Lot No. 63
765.66 feet southerly from the northwest corner of said Lot No. 63, which point of beginning is the southwest
corner of lands conveyed to The Diocese of Buffalo, N.Y. 1252.66 feet; thence southerly at an interior angle
of 94° 29' a distance of 480.54 feet; thence westerly parallel with the north line of Lot No. 63 a distance
of 1253.22 feet to the center line of Transit Road; thence northerly along the center line of Transit Road
480.50 feet to the point or place of beginning.

EXCEPTING AND RESERVING that portion of the above described premises lying within the bounds of Transit
Road.

- This conveyance is made subject to the following restrictions:
1. No buildings constructed on the above described premises shall be located nearer than 100 feet to the east line of Transit Road.
 2. The area lying between the east line of Transit Road and the buildings shall not be used as a parking or playground area and shall be seeded.

Being the same premises conveyed to the first part by deed recorded in Erie County Clerk's Office in
Liber 9708 of Deeds at Page 112.
AND ALSO

All that Tract or Parcel of Land situate in the Town of Aurora, County of Erie and State of New York,
being part of Lot No. 63, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as
follows:

(Legal Description Continued On Reverse)

Together with the appurtenances to and all the estate and rights of GRANTOR(S) in said premises, to have
and to hold unto the GRANTEE(S), its heirs and assigns forever.
And GRANTOR(S) covenant(s) as follows: First, that GRANTEE(S) shall quietly enjoy the said premises,
and Second, that GRANTOR(S) will forever warrant the title to the said premises.

In Witness Whereof, GRANTOR(S) has hereunto set his hand(s) and seals the 15
day of September, 1988

DANIEL J. MURRAY

In Presence of
State of New York }
County of Erie } ss.: On the 15 day of September, 1988, before me,
the subscriber, personally appeared
DANIEL J. MURRAY

known to me and known to me to be the same person(s) described in the foregoing Instrument and he
acknowledged to me that he had executed the same.
Dated: _____ September 1988

LIBER 9918 PAGE 88
Liber and Page

CONSTANCE M. BECKER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires May 31, 1990
Notary Stamp

Auro
63 9/7

RETURN TO:
JAMES BARROW, ESQ.
P.O. BOX 94
ORCHARD PARK, NY 14127

(Legal Description Continued)

BEGINNING at the point of intersection of the center line of East Quaker Street with the so-called Transit Line; running thence easterly along the center line of East Quaker Street 1251.77 feet to the northwest corner of lands of Harry W. Pickett by Deed recorded in Erie County Clerk's Office in Liber 1265 of Deeds at page 163; thence southerly along Pickett's west line 765.73 feet; thence westerly parallel with the north line of Lot No. 63 a distance of 1252.66 feet to the west line of Lot No. 63; and thence northerly along the west line of Lot No. 63 a distance of 765.66 feet to the point of beginning.

Being the same premises conveyed to the party of the first party by Warranty Deed dated April 3, 1987 and recorded in the Erie County Clerk's Office in Liber 9708 of Deeds at Page 112 on May 5, 1987.

EXCEPTING therefrom premises conveyed to David J. Cavanagh by Warranty Deed dated July 9, 1987 and recorded in the Erie County Clerk's Office in Liber 9743 of Deeds at Page 627 on July 29, 1987.

THIS DEED IS INTENDED TO CLARIFY THE PROPERTY DESCRIPTION SET-OUT IN A DEED BETWEEN THE SAME PARTIES DATED JUNE 29, 1988 AND RECORDED ON JULY 12, 1988 IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 9887 AT PAGE 342.

1821
1352
32.13

LIBER 9918 PAGE 89

A FOR COUNTY USE ONLY

1. Swis Code 142427

2. Date Deed Recorded 9/16/88

3. Book 12112 4. Page 88



STATE OF NEW YORK
STATE BOARD OF EQUALIZATION AND ASSESSMENT
REAL PROPERTY TRANSFER REPORT

EA-5217
Rev. 2/87

CONTROL NUMBER **6991705**

B IDENTIFICATION INFORMATION

1. Property Location: City or Town EAST AURORA Village _____

Street Number QUARTER TRACT ROAD Street Name _____ Zip Code 14052

2. Buyer Name: Last Name MURRAY First Name MRS. MURRAY

3. Buyer Address: 24735 TRAVEL ROAD, ONWARD PARK NEW YORK 14127 Buyer Address _____

4. Buyer's Attorney: Name (NONE) Telephone Number _____

5. Seller Name: Last Name MURRAY First Name DANIEL J.

6. Tax Billing Address: Same as Buyer Address Same as Property Location Other (Specify Below) _____

7. Deed Property Size: Dimensions 130.93 or _____ Acres _____

8. School District Name: EAST AURORA Zip Code _____

C ASSESSMENT INFORMATION

(Data should be taken from the latest final assessment roll)

1. Enter the year of the assessment roll from which the information was taken. 88

2. Check the box indicating the number of parcels which sold. One Parcel More Than One Parcel (Specify) _____ Only Part of a Parcel

3. Enter the total assessed value (of all parcels in the sale). 22,700

4. Enter the tax map identifier of the parcel. (If more than one, list on a separate sheet) 174.00 Section 1 Block _____ Lot 11

5. Enter the roll identifier if different from tax map identifier. _____

D PROPERTY USE INFORMATION

1. Check the box in the Property Use Table which most accurately describes the use of the property at the time of sale.

2. Is the sale of a condominium or a cooperative? Yes No

PROPERTY USE TABLE		
1 <input checked="" type="checkbox"/>	Agricultural	6 <input type="checkbox"/> Community Service
2 <input type="checkbox"/>	1, 2, 3 Family Residential	7 <input type="checkbox"/> Industrial
3A <input type="checkbox"/>	Residential Vacant Land	8 <input type="checkbox"/> Public Service
3B <input type="checkbox"/>	Non-Residential Vacant Land	9 <input type="checkbox"/> Forest
4A <input type="checkbox"/>	Commercial	
4B <input type="checkbox"/>	Apartment	
5 <input type="checkbox"/>	Entertainment/Amusement	

E SALE INFORMATION

1. Date of Sale 9/15/88

2. State the Full Sales Price. \$ 1.00 + NUMBER

(Full Sales Price is the total amount paid for the property, including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.)

3. Was there personal property in excess of \$500 included in this sale? Yes No

4. If yes, indicate the value of the personal property included in the sale. \$ 11-17-88

5. Is this an arm's length sale? Yes No

6. Check all of the conditions below that apply to this sale.

A Sale Between Relatives

B Sale Between Related Companies or Partners in Business

C Land Contract Sale (Specify Contract Date) _____

U Sale Contract executed more than one year prior to the Date of Sale

F Buyer or Seller is a Government Agency or a Lending Institution

R Deed Type is not Warranty or Bargain and Sale (Specify Deed Type) _____

T Interest conveyed is not a fee (Specify Interest) _____

G Other unusual factors affecting sale price (Specify) _____

RECEIVED

NOV 14 1988

TOWN OF AURORA
ASSESSOR'S OFFICE

F CERTIFICATION

I certify that all the items of information entered on this transfer form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

Signature: James R. ... Street Name & Number: 4322 So. BUFFALO ST.

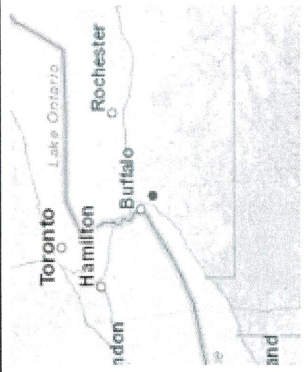
Name (Print or Type): JAMES RASPOLI, ESQ. City / Town: ONWARD PARK

Telephone: (716) 662-2502 Date: 09/15/88 State: N.Y. Zip Code: 14127

CITY/TOWN ASSESSOR
COPY



Erie County On-Line Mapping Application



Legend

Parcels



0 0.14 0.3 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: 9,028

