REQUEST FOR ACTION BY:
TOWN OF CLARENCE, N.Y.

- ☑ Appeal Board
- ☐ Planning Board
- ☐ Town Board

- ☑ Appeal
- ☐ Rezone
- ☐ Revise Ordinance
- ☐ Subdivision
- ☐ Limited Use Permit
- ☐ Other

Rec'd. by: Planning and Zoning

Date June 8, 2014

Action Desired Applicant requests a variance of 3' to allow for a 7' side yard setback for an existing accessory structure (generator).
Principle Structure is located within the Residential Single Family Zone.

Reason Town Code Reference:
§229-55(E)(1)

PLEASE PRINT

Name Gerald Thomas

Address 8451 Lakemont Drive

East Amherst NY 14081

Town/City **State** **Zip**

Phone

Signed SIGNATURE ON FILE

Requests for action on zoning should be filled out completely in above spaces if practicable, otherwise give brief description and refer to attached papers. The complete request with all necessary plans, maps, signatures, should be filed with the Secretary of the Planning Board. Requests (except appeals) may be filed with the Town Clerk or Town Board, but will generally be referred to Planning Board with subsequent loss of time.

Initial Action

Approved ☐
Rejected ☐ by ..... on ..... 19 .....
Approved ☐
Rejected ☐ by ..... on ..... 19 .....

Published (Attach Clipping) on ..... 19 .....

Hearing Held by ..... on ..... 19 .....

Final Action Taken

Approved ☐
Rejected ☐ by ..... on ..... 19 .....

Published (Attach Clipping) on ..... 19 .....

Filed with Town Clerk on ..... 19 .....

Filed with County Clerk on ..... 19 .....

N

Existing generator 7' from property line.

Proposed 3' variance.

* note the parcel lines displayed are approximate

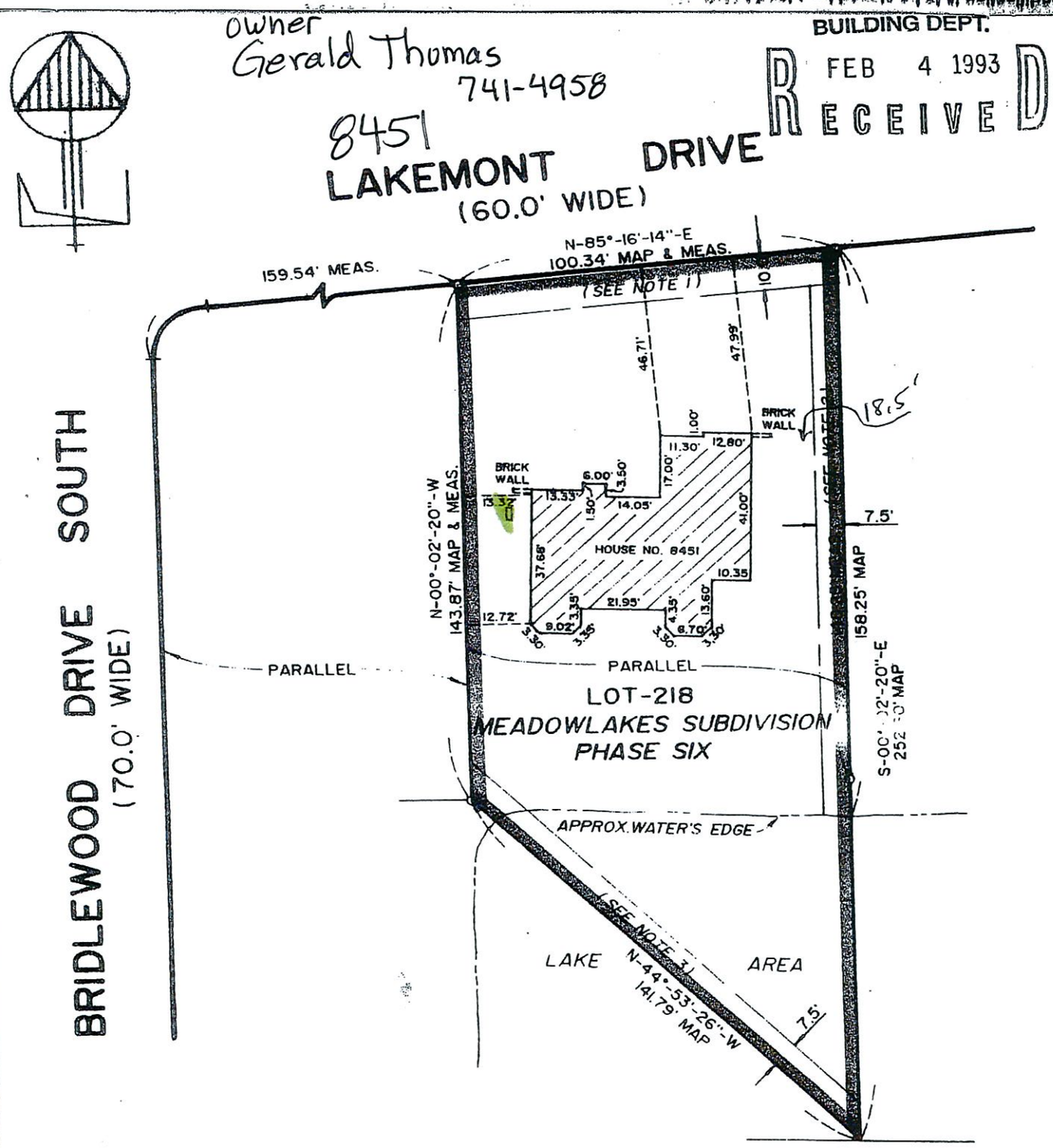
8451 Lakemont Drive

This certification is to be signed by a land surveyor, engineer, or architect who is authorized by state or local law to certify elevation

Owner
Gerald Thomas
741-4958

8451

BUILDING DEPT.
RECEIVED
FEB 4 1993



13

8'8" - 13'4" - 4'8" ACTUAL SETBACK

1. UNAUTHORIZED ALTERATIONS TO THIS MAP ARE IN VIOLATION OF SEC-7209 STATE EDUCATION LAW
2. THIS SURVEY IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD
3. THIS SURVEY IS VOID UNLESS SEALED BY SURVEYOR OF RECORD
4. o = SET IRON PIPE OR REBAR UNLESS OTHERWISE NOTED
5. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY INFORMATION DERIVED FROM AN EXAMINATION OF SAME.

NOTES:
1 10.0' WIDE S
2 15.0' WIDE ... DRAINAGE EASEMENT.
3 15.0' WIDE EASEMENT FOR INGRESS & EGRESS TO LAKE AT WATER'S EDGE.

SURVEY OF SUBLOT 218, MAP COVER 2598
BEING PART OF LOT-1 SEC. 16 TWP. 12 R. 6
TOWN CLARENCE VILL. CITY
COUNTY OF ERIE STATE OF NEW YORK

REVISIONS
HOUSE LOCATION 1/27/93
REDATE
CERTIFICATION
OTHER LOT STK 1/4/93

CTM
CONSTRUCTION TEAM MANAGEMENT, SURVEYING AND ENGINEERING, P.C.
8800 MAIN STREET, WILLIAMSVILLE, NEW YORK 14221 (716) 632-1013

SCALE: 1"=40' DATE: 1/6/93 FILE:
JOB No. 86-100/218 APPROVED: RCR

REQUEST FOR ACTION BY:
TOWN OF CLARENCE, N.Y.

- ☑ Appeal Board
- ☐ Planning Board
- ☐ Town Board

- ☑ Appeal
- ☐ Rezone
- ☐ Revise Ordinance
- ☐ Subdivision
- ☐ Limited Use Permit
- ☐ Other

Rec'd. by: Jonathan Bleuer

Date May 29, 2014

Action Desired Applicant requests a variance of 16' to allow for a 9' rear yard setback for the construction of a wood framed patio enclosure at 4070 Thornwood Lane.

Principle Structure is located within the Residential Single Family Zone.

Reason Town Code Reference:

§229-52(C)

Map Cover defined rear yard setback of 25'

PLEASE PRINT

Name Richard Santucci

Address 4070 Thornwood Lane

Williamsville NY 14221

Town/City **State** **Zip**

Phone

Signed SIGNATURE ON FILE

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Filed with County Clerk on ..... 19 .....

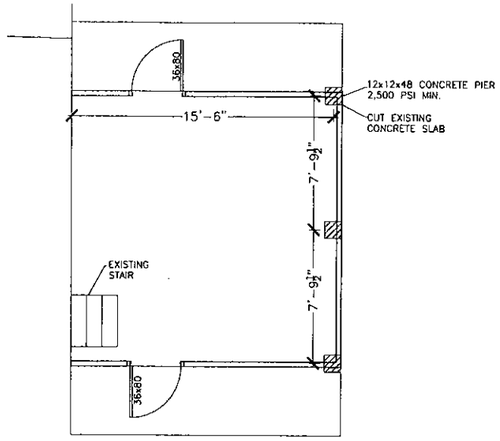
N

Proposed new wood frame roof, and wood framed and screened walls.

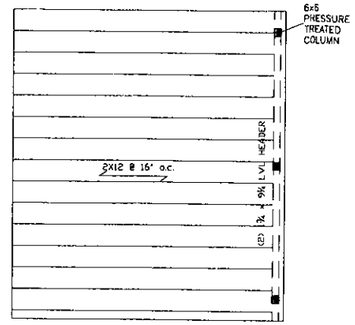
Existing metal frame and canvas enclosure.

* note the parcel lines displayed are approximate

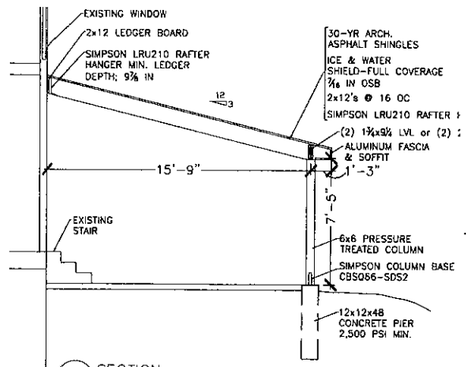
4070 Thornwood Lane



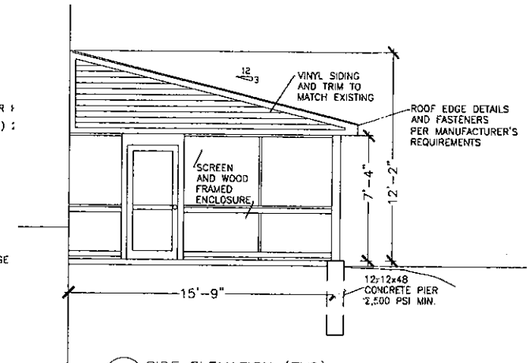
1 PIER PLAN
SCALE: 1/4" = 1'-0"



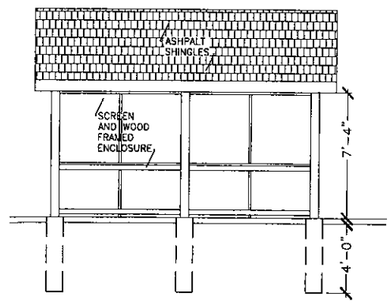
2 FRAMING PLAN
SCALE: 1/4" = 1'-0"



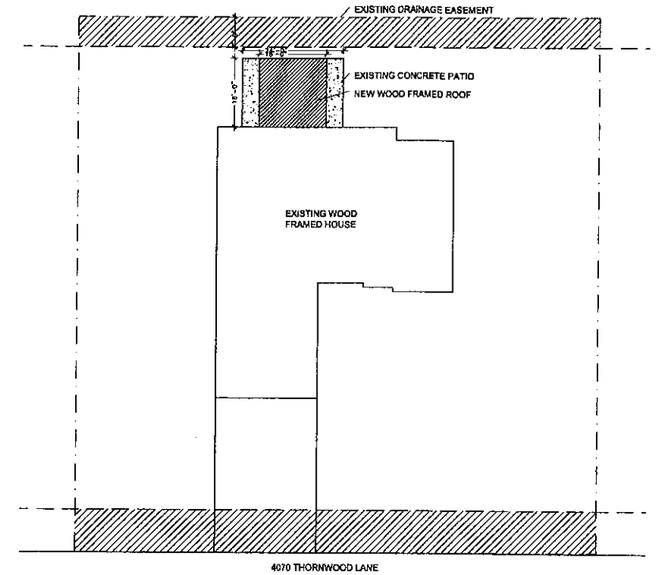
3 SECTION
SCALE: 1/4" = 1'-0"



4 SIDE ELEVATION (TYP)
SCALE: 1/4" = 1'-0"



5 FRONT ELEVATION
SCALE: 1/4" = 1'-0"



6 SITE PLAN
SCALE: 1/16" = 1'-0"

GENERAL:

THIS WORK WAS DESIGNED IN COMPLIANCE WITH THE RESIDENTIAL CODE OF NY STATE-2010.

THE DRAWINGS ARE NOT TO BE SCALED.

THE WORK SHALL BE EXECUTED IN A MANOR TO MEET THE REQUIREMENTS IDENTIFIED IN THE CONSTRUCTION DOCUMENTS.

THE CONTRACTOR IS RESPONSIBLE TO VERIFY ALL DIMENSIONS AND ELEVATIONS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. ANY DISCREPANCIES ARE TO BE REPORTED IMMEDIATELY TO THE OWNER AND THE ARCHITECT.

THE CONTRACTOR IS RESPONSIBLE TO COMPLY WITH LIMITATIONS ON THE USE OF PUBLIC STREETS AND WITH OTHER REQUIREMENTS OF AUTHORITIES HAVING JURISDICTION.

THE CONTRACTOR IS RESPONSIBLE TO PROVIDE AND COORDINATE DUMPSTERS, THE REMOVAL AND PROPER DISPOSAL OF CONSTRUCTION DEBRIS AND MAINTAIN A NEAT AND ORDERLY WORK SITE.

FOUNDATION DESIGN AND DETAILS COMPLY WITH THE RESIDENTIAL BUILDING CODE OF NYS-2010, AND ARE CONSISTENT WITH AN ASSUMED SOIL BEARING CAPACITY OF 1,500 POUNDS PER SQUARE FOOT.

WOOD AND PLASTICS:

TREATED WOOD IS TO BE USED FOR WOOD CANTS, NAILERS, BLOCKING AND SIMILAR MEMBERS IN CONNECTION WITH ROOFING, FLASHING, VAPOR BARRIERS, WEATHERPROOFING AND ANY CONCEALED MEMBERS IN CONTACT WITH MASONRY AND CONCRETE.

ROOF FRAMING AND STRUCTURAL BEAMS/HEADERS; DOUGLAS FIR-LARCH, NO.2, 16"O.C OR AS INDICATED ON THE DRAWINGS

INTERIOR FRAMING;HEM-FIR, NO.1, 16"O.C OR AS INDICATED ON THE DRAWINGS. 2X4 FRAMING FOR LENGTHS OF 10 FEET AND LESS; 2X6 FOR 18 FEET AND LESS. 2X6 CONSTRUCTION IS TO BE USED IN ALL INSTANCES WHERE TWO FLOORS AND A ROOF ARE SUPPORTED.

LOAD-BEARING DIMENSION LUMBER FOR JOISTS, BEAMS, AND GIRDERS SHALL BE IDENTIFIED BY A GRADE MARK OR A CERTIFICATE OF INSPECTION CERTIFYING THAT THE QUALITY AND SAFE WORKING STRESSES ARE EQUAL TO OR EXCEED NO.2 GRADE OF THE SPECIES.

FASTENERS-PROVIDE HANGERS AND FASTENERS AS REQUIRED BY THE MANUFACTURER.

THESE DOCUMENTS, SUBMITTED FOR THE SPECIFIC PROJECT, SANTUCCI RESIDENCE, CLARENCE NY, ARE AN INSTRUMENT OF SERVICE AND ARE NOT TO BE ALTERED, COPIED, OR USED FOR ANY OTHER PROJECT WITHOUT THE EXPRESSED WRITTEN PERMISSION OF KCB ARCHITECTURE,PC. IT IS A VIOLATION OF THE LAW FOR ANY PERSON, UNLESS UNDER THE DIRECTION OF A LICENSED ARCHITECT OR ENGINEER, TO ALTER ANY ITEMS IN THESE DOCUMENTS IN ANY WAY. IF ANY ITEM IS ALTERED, THE ALTERING ARCHITECT/ENGINEER SHALL AFFIX HIS/HER SEAL ALONG WITH THE NOTATION "ALTERED BY" FOLLOWED BY HIS/HER SIGNATURE AND THE DATE OF SUCH ALTERATION, AND A SPECIFIC DESCRIPTION OF THE ALTERATION.
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DATE _____

THE REGISTERED ARCHITECT CERTIFIES THAT THIS PROJECT HAS BEEN DESIGNED BY ME, OR UNDER MY SUPERVISION, IN ACCORDANCE WITH THE BUILDING CODE OF NEW YORK STATE-2010, ENERGY CONSERVATION CONSTRUCTION CODE OF NYS-2010 AND APPLICABLE LOCAL CODES AND ORDINANCES, REGULATIONS AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, THESE CONSTRUCTION DOCUMENTS ARE IN CONFORMANCE THEREWITH.

kcb Architecture
2528 Nicole Drive
Wheatfield, New York 14304
Telephone 716.216.4155

SANTUCCI RESIDENCE
PATIO ADDITION
4070 THORNWOOD LANE
CLARENCE, NEW YORK

NOTES & REVISIONS:

June 16, 2014-Permit Drawings

Project No.:	*Scale:*
14-012	AS NOTED
Drawn by: KCB	*Checked by:* KCB

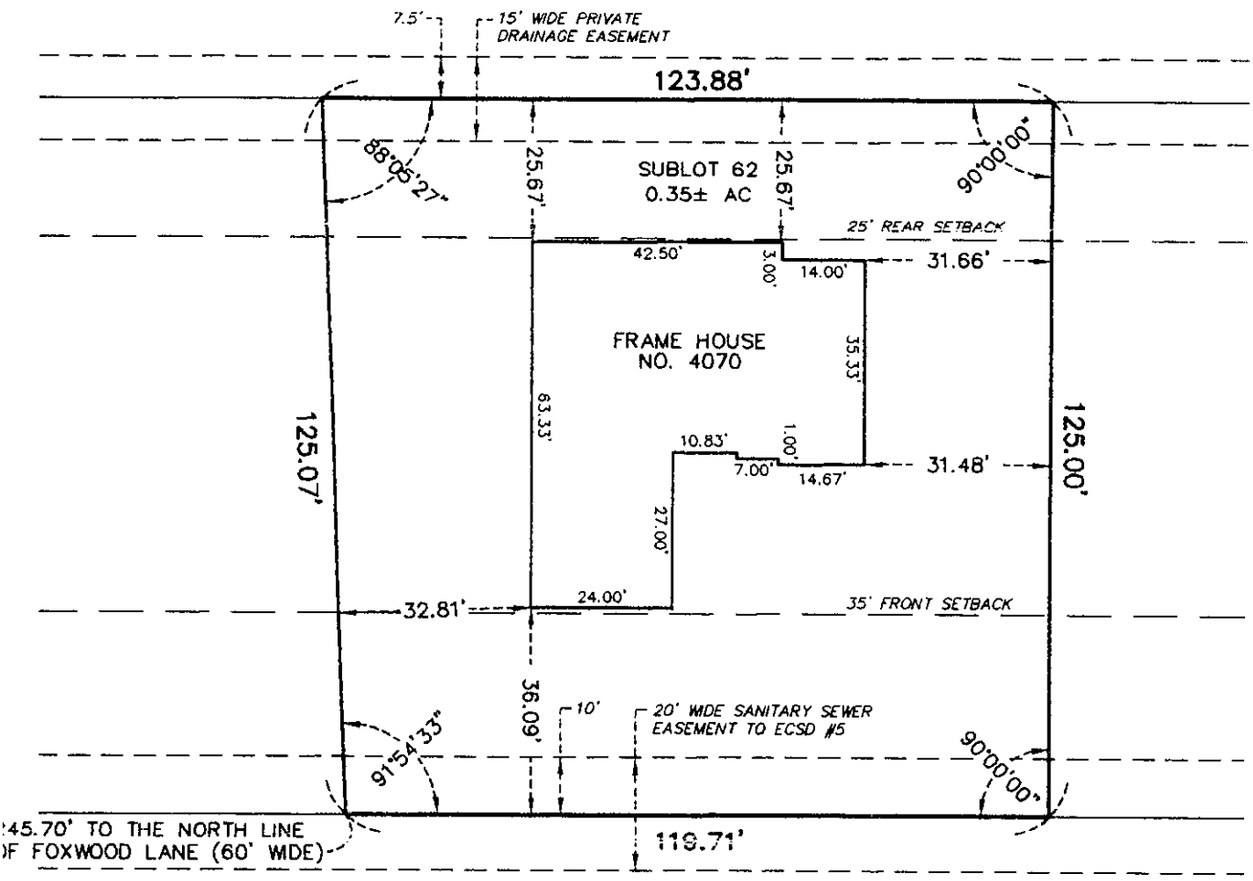
Drawing Title

PATIO ADDITION

Drawing No.

A-1

ORTH



THORNWOOD (60' WIDE) LANE

NOTE:
SETBACK AND OFFSET MEASUREMENTS TO THE HOUSE ARE TAKEN FROM THE CONCRETE FOUNDATION.

NIAGARA FRONTIER LAND SURVEYORS 1960 Association Inc.
MEMBER

PIES FROM THE ORIGINAL OF THIS SURVEY MAP MARKED ORIGINAL OF THE LAND SURVEYOR'S EMBOSSED SEAL AND E SHALL BE CONSIDERED TO BE VALID TRUE COPIES

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

STATE OF NEW YORK
GREGG C. WITTUFF
No. 050193
LICENSED LAND SURVEYOR

PART OF LOT: 7	SECT: 13	TWP: 12	RGE: 6
MAP COVER: 2967	SUB LOT: 62		BLK:
LOCATED IN: TOWN OF CLARENCE, COUNTY OF ERIE, STATE OF NEW YORK			

WM. SCHUTT & ASSOCIATES, P.C.
SUCCESSORS TO THE SURVEY RECORDS OF KREHBIEL ASSOCIATES

WSA

ENGINEERING
LAND SURVEYING
PLANNING
CONSTRUCTION ADMINISTRATION

5360 GENESEE STREET P.O. BOX 46
BOWMANSVILLE, NEW YORK 14026-0046
TELE:(716)683-5961 FAX:(716)683-0169

DRAWING REVISIONS	
DATE	DESCRIPTION
08/17/01	REVISED

WARNING:
ALTERING THIS DOCUMENT IS IN VIOLATION OF THE LAW EXCEPTING AS PROVIDED IN SECTION 7209, PART 2 OF OF THE NEW YORK STATE EDUCATION LAW.

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SCALE: 1"=50'	JOB NUMBER: 01248
DATE: 8/06/01	DWG: A/01248/01

REQUEST FOR ACTION BY:
TOWN OF CLARENCE, N.Y.

- ☑ Appeal Board
- ☐ Planning Board
- ☐ Town Board

- ☑ Appeal
- ☐ Rezone
- ☐ Revise Ordinance
- ☐ Subdivision
- ☐ Limited Use Permit
- ☐ Other

Rec'd. by: Jonathan Bleuer

Date June 25, 2014

Action Desired Applicant requests a variance of 184 sq. ft. to allow for a 384 sq. ft. secondary detached garage at 5241 Shimerville Road. Principle Structure is located within the Residential Single Family Zone.

Reason Town Code Reference:
§229-55(H)

PLEASE PRINT

Name Richard D Freeman

Address 5241 Shimerville Rd

Clarence NY 14031

Town/City **State** **Zip**

Phone 716-474-6630

Signed SIGNATURE ON FILE

Requests for action on zoning should be filled out completely in above spaces if practicable, otherwise give brief description and refer to attached papers. The complete request with all necessary plans, maps, signatures, should be filed with the Secretary of the Planning Board. Requests (except appeals) may be filed with the Town Clerk or Town Board, but will generally be referred to Planning Board with subsequent loss of time.

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Final Action Taken

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Rejected ☐ by ..... on ..... 19 .....

Published (Attach Clipping) on ..... 19 .....

Filed with Town Clerk on ..... 19 .....

Filed with County Clerk on ..... 19 .....

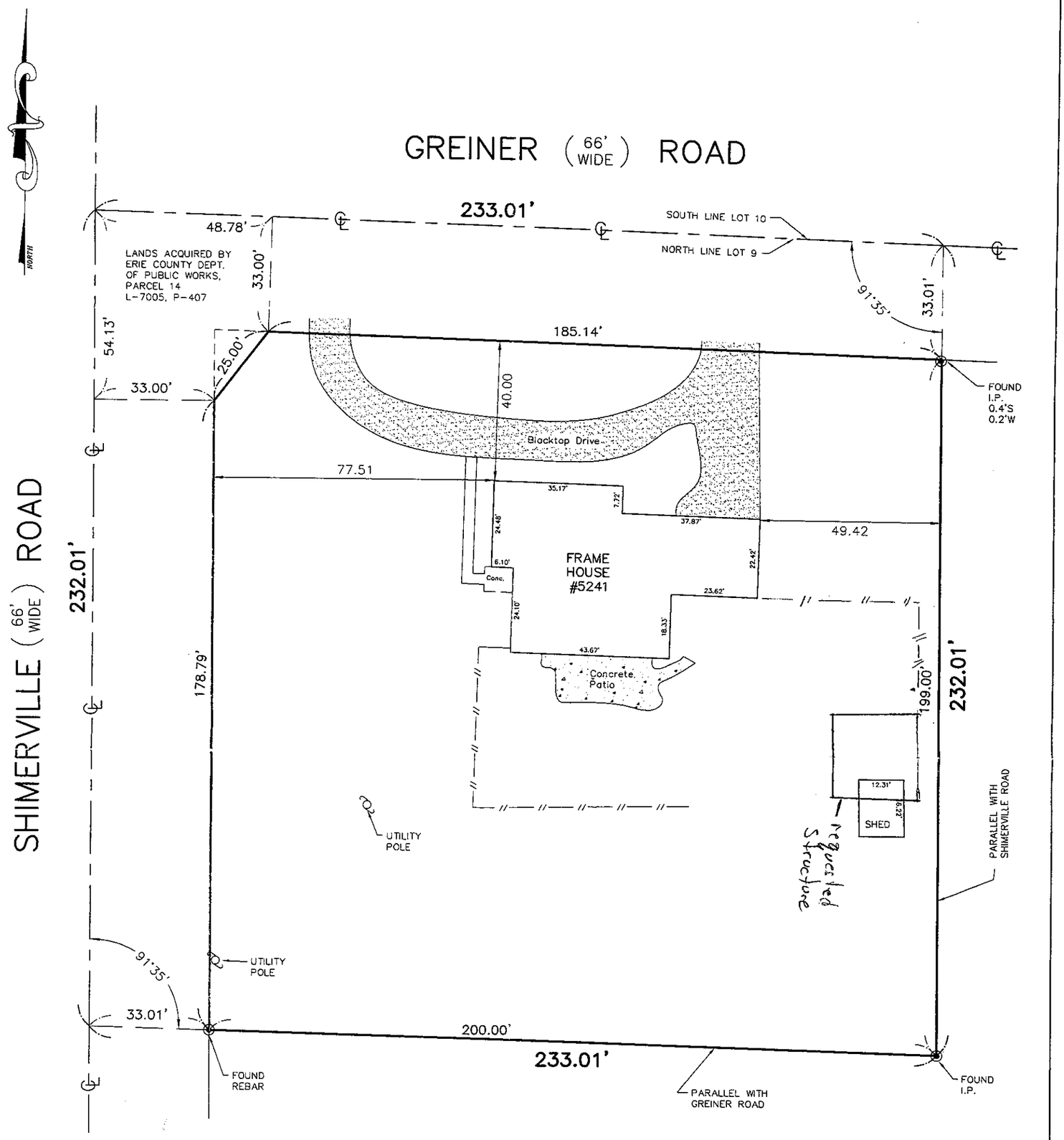
N

*note the parcel lines displayed are approximate

5241 Shimerville Road

184 sq. ft. variance to allow for a 384 sq. ft. secondary detached garage

NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.



PART OF L 9 S 10 T 12 R 6 OF THE HOLLAND LAND COMPANY'S SURVEY

VILLAGE OF _____ ; ~~CITY~~/TOWN OF CLARENCE ; COUNTY OF ERIE ; STATE OF NEW YORK

NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO ANY SURVEY, DRAWING, DESIGN SPECIFICATION PLAN OR REPORT IS A VIOLATION OF SECTION 7209 PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

REVISION		
DATE	JOB	DESCRIPTION

SBL No. 57.20-3-1

TVGA CONSULTANTS
One Thousand Maple Road,
Elma, NY 14059-9530
www.tvga.com
P.716.655.8842 F.716.655.0937

DRAWN BY BEW SCALE 1"=30'

CHECKED BY _____ JOB NO. 2010..0353.00

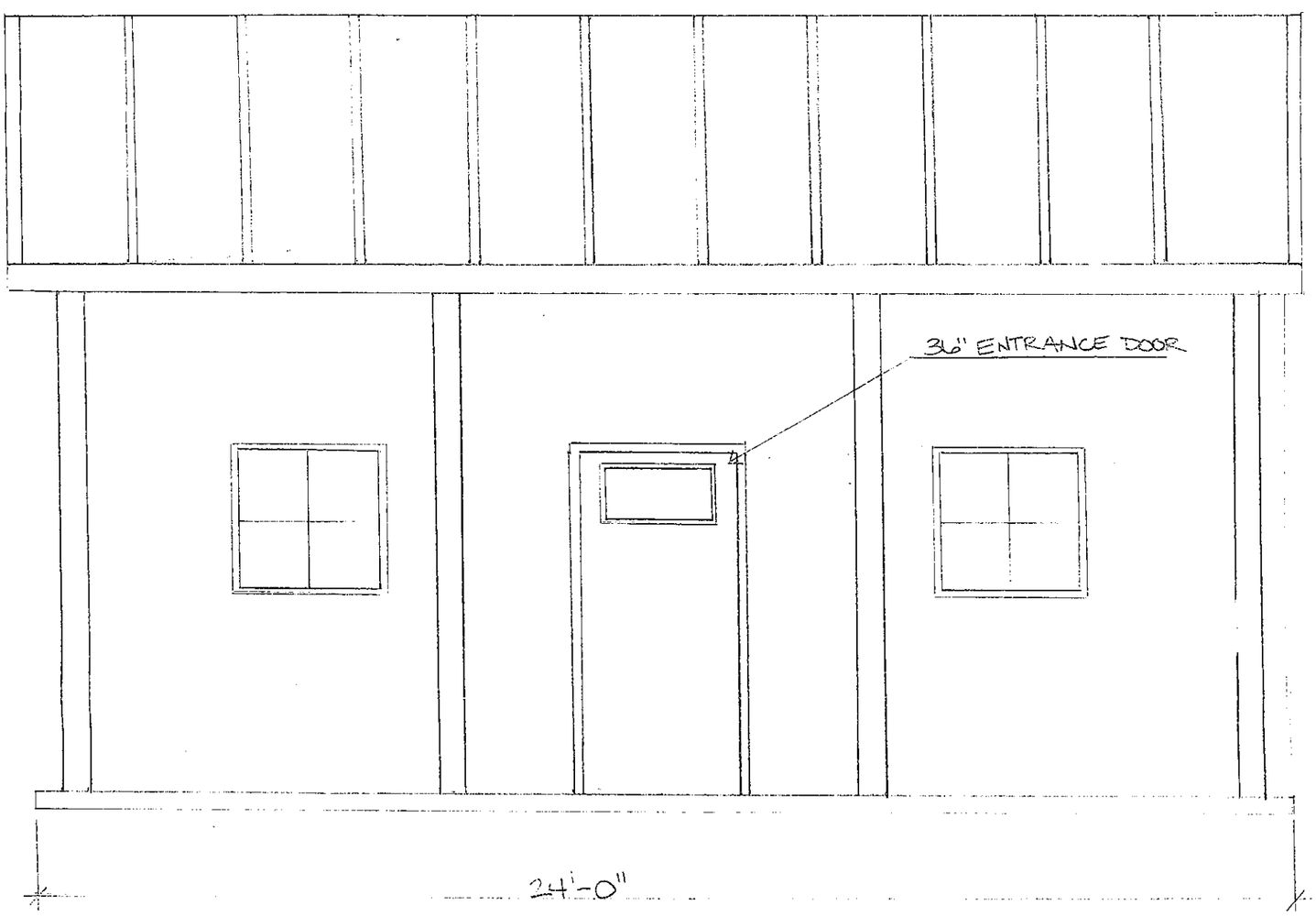
CAD FILE 60195 FIELD/OFFICE DATE 9/14/10

BOOK 394 PAGE 95 MAP 60195

Bernard & Wilk

NOTES

- ALL DIMENSIONS TO BE VERIFIED IN THE FIELD.
- WOOD FRAME STUDS 16" O.C.
- CONCRETE SLAB WILL MEET OR EXCEED ALL TOWN REQUIREMENTS



WEST ELEVATION
SCALE: 3/8" = 1'-0"

REQUEST FOR ACTION BY:
TOWN OF CLARENCE, N.Y.

- ☑ Appeal Board
- ☐ Planning Board
- ☐ Town Board

- ☑ Appeal
- ☐ Rezone
- ☐ Revise Ordinance
- ☐ Subdivision
- ☐ Limited Use Permit
- ☐ Other

Rec'd. by: Jonathan Bleuer

Date June 25, 2014

Action Desired Applicant requests a variance of 20' to allow for the creation of a parcel with 130' frontage. Applicant requests a variance to allow for the construction of two single family homes within the Industrial Business Park zoning classification. Applicant requests a variance to allow for up to a 400' front yard setback for two proposed single family homes. Existing lot located at 9520 Wehrle Drive within the Agricultural Rural Residential and Industrial Business Park Zones.

Reason Town Code Reference:

§229-40(A)

§229-100(A)

§229-41(A)

PLEASE PRINT

Name Robert Hoffman

Address 4501 Shisler Road

Clarence NY 14031

Town/City **State** **Zip**

Phone home:407-3029 cell:316-7794

Signed SIGNATURE ON FILE

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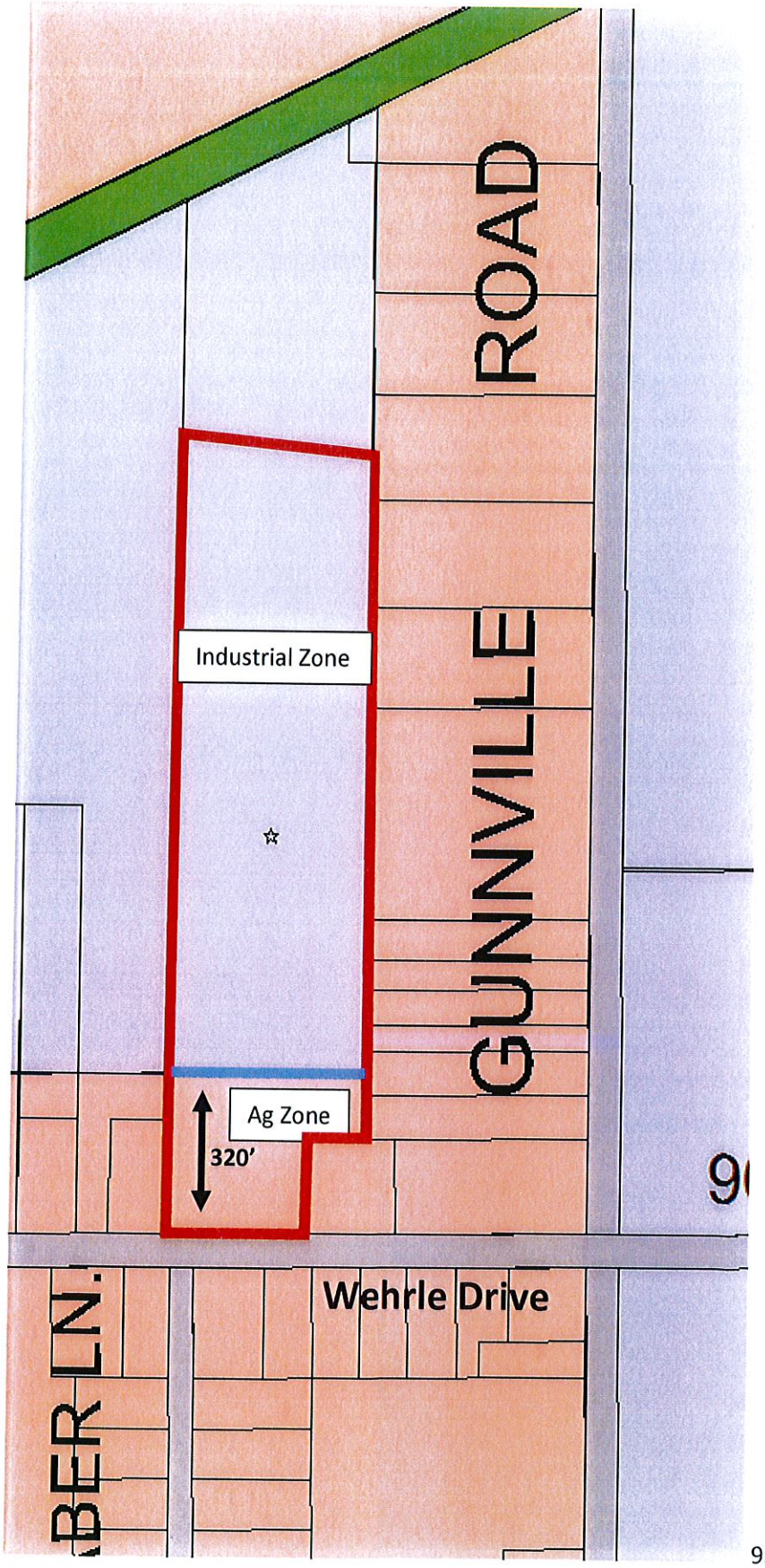
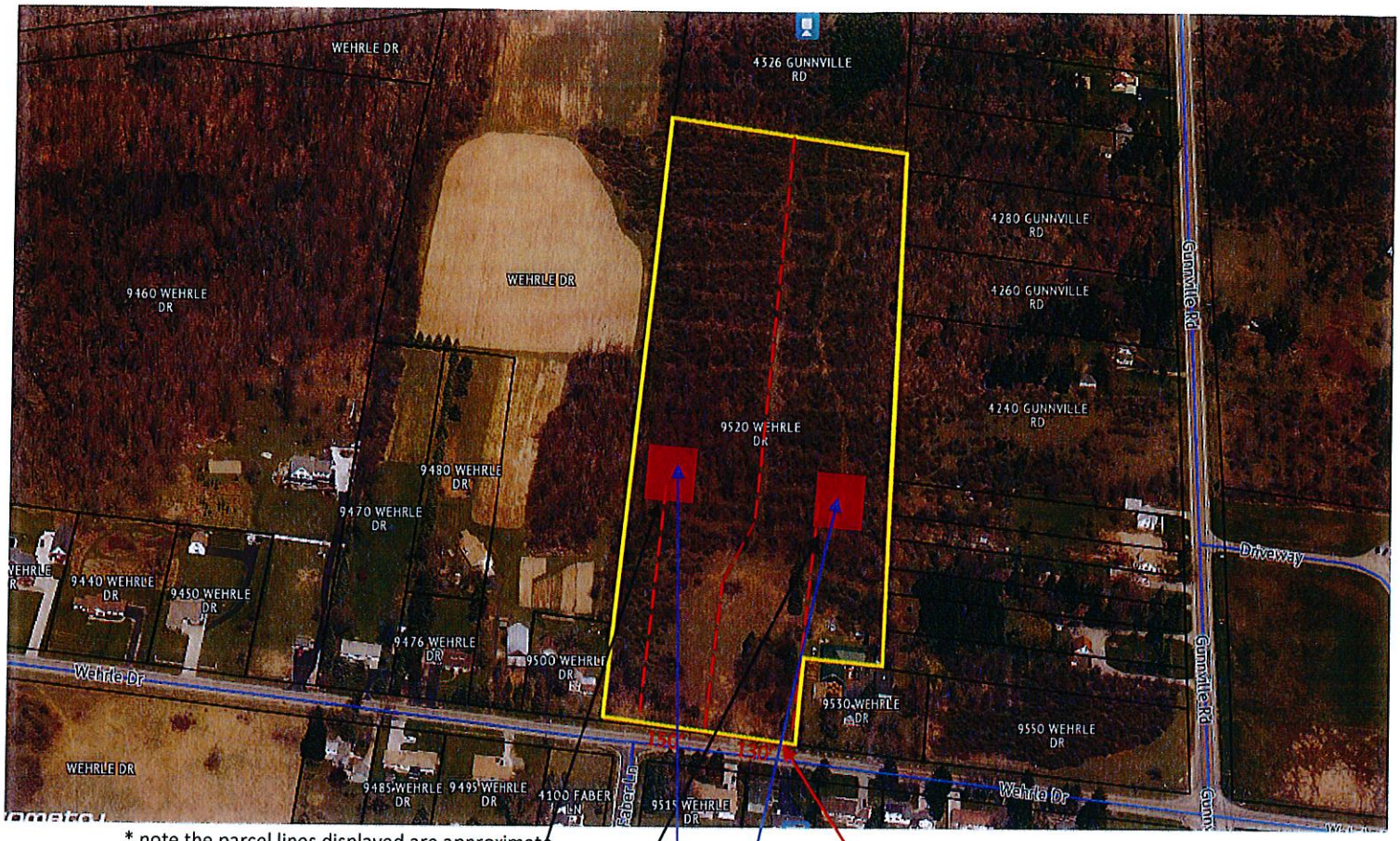


9520 Wehrle Drive



* note the parcel lines displayed are approximate

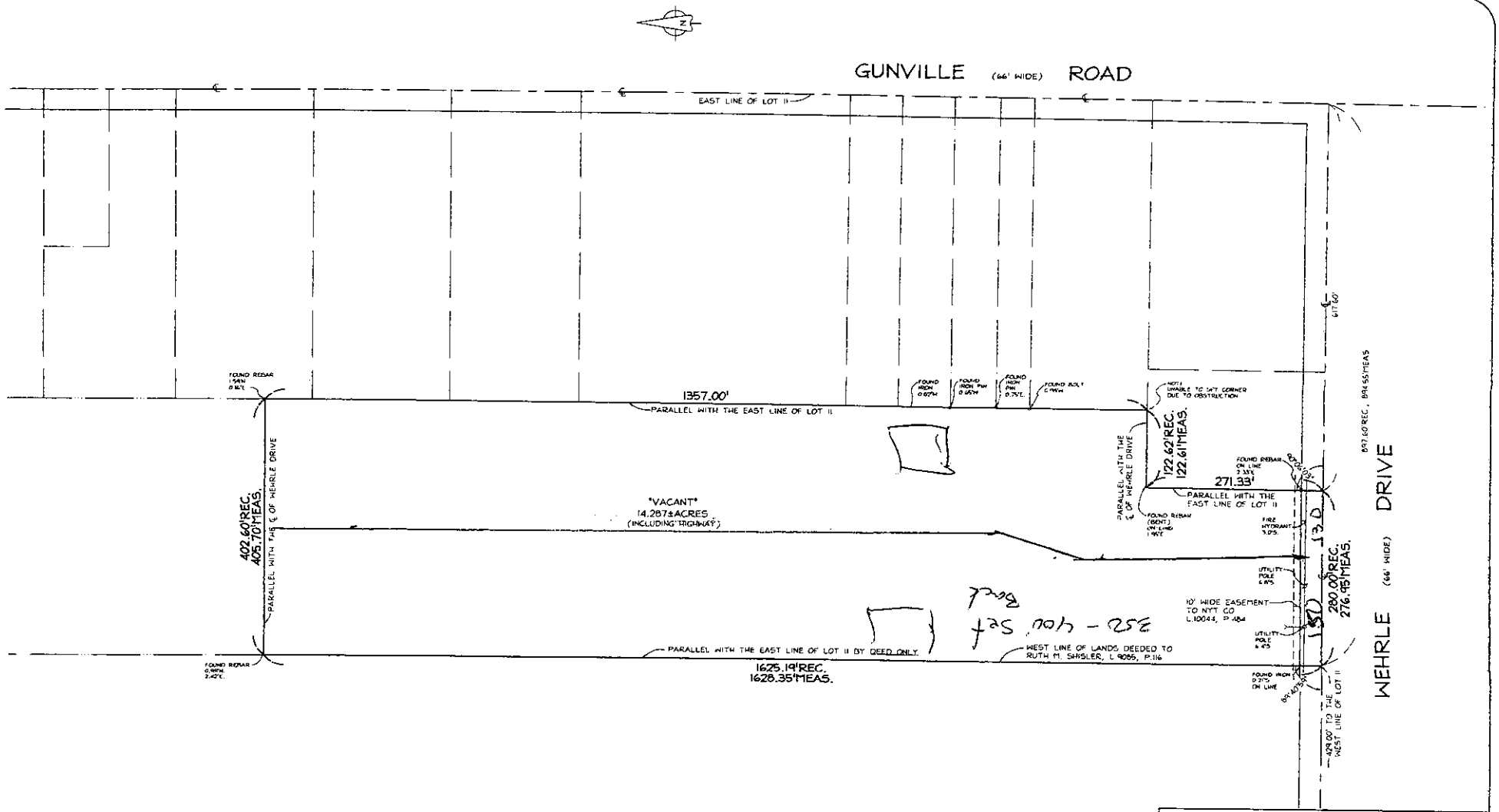
9520 Wehrle Drive

N

400' setbacks requested.

130' frontage. 20' variance requested.

Variance requested for allowed use of residential homes in industrial zone.



SURVEY OF 9520 WEHRLE DRIVE

PART OF LOT(S) 11
SECTION 5 TOWNSHIP 12 RANGE 6

TOWN OF CLARENCE
COUNTY OF ERIE STATE OF NEW YORK

Nussbaumer & Clarke, Inc.
Engineers and Surveyors
100 Hamburg Street-P.O. Box 516
East Aurora, New York 14052-0516
(716) 655-1058
www.nussclarke.com

DRAWN BY: DMS	SCALE: 1"=100'	SHEET NO. 1 OF 1
CHECKED BY: TAK	JOB NO. 12J3-0412	
DATE: 12/20/12	REV.	

NO IRONS SET OR FOUND AT PROPERTY CORNERS UNLESS NOTED HEREON.

NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

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Thornton A. Kenyon

Successors to the records of Graf Land Surveyors
Successors to the records of James L. Shisler, Land Surveyor

Association Inc. 1960 MEMBER

REQUEST FOR ACTION BY:
TOWN OF CLARENCE, N.Y.

- ☑ Appeal Board
- ☐ Planning Board
- ☐ Town Board

- ☑ Appeal
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- ☐ Subdivision
- ☐ Limited Use Permit
- ☐ Other

Rec'd. by: Jonathan Bleuer

Date June 25, 2014

Action Desired Applicant requests a variance to allow for an LED changeable copy panel within existing freestanding sign.
Principle Structure is located within the Traditional Neighborhood Zoning District.

Reason Town Code Reference:
§181-3(D)(5)

PLEASE PRINT

Name Clarence Center VFC

Address 9415 Clarence Center Rd

Clarence Center NY 14032
Town/City **State** **Zip**

Phone 716-741-2062

Signed SIGNATURE ON FILE

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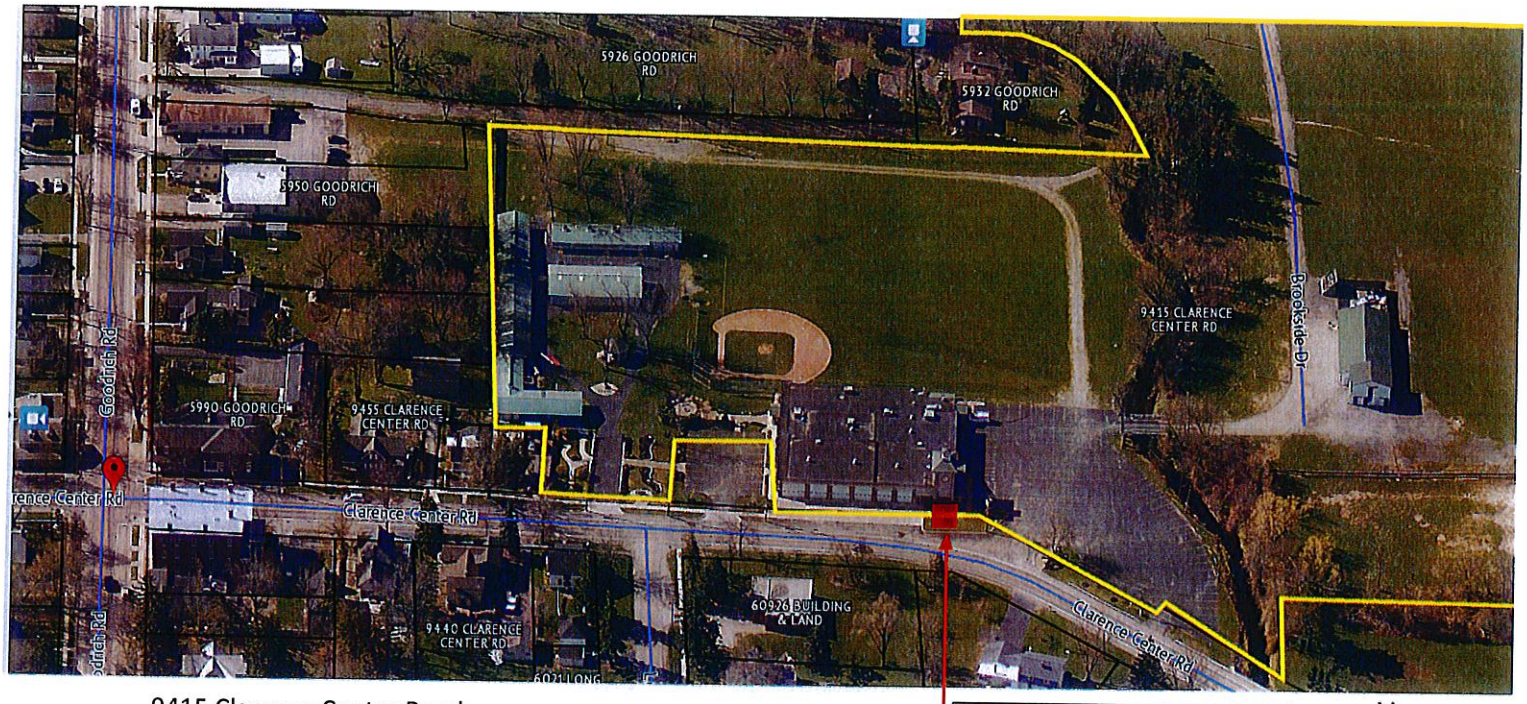
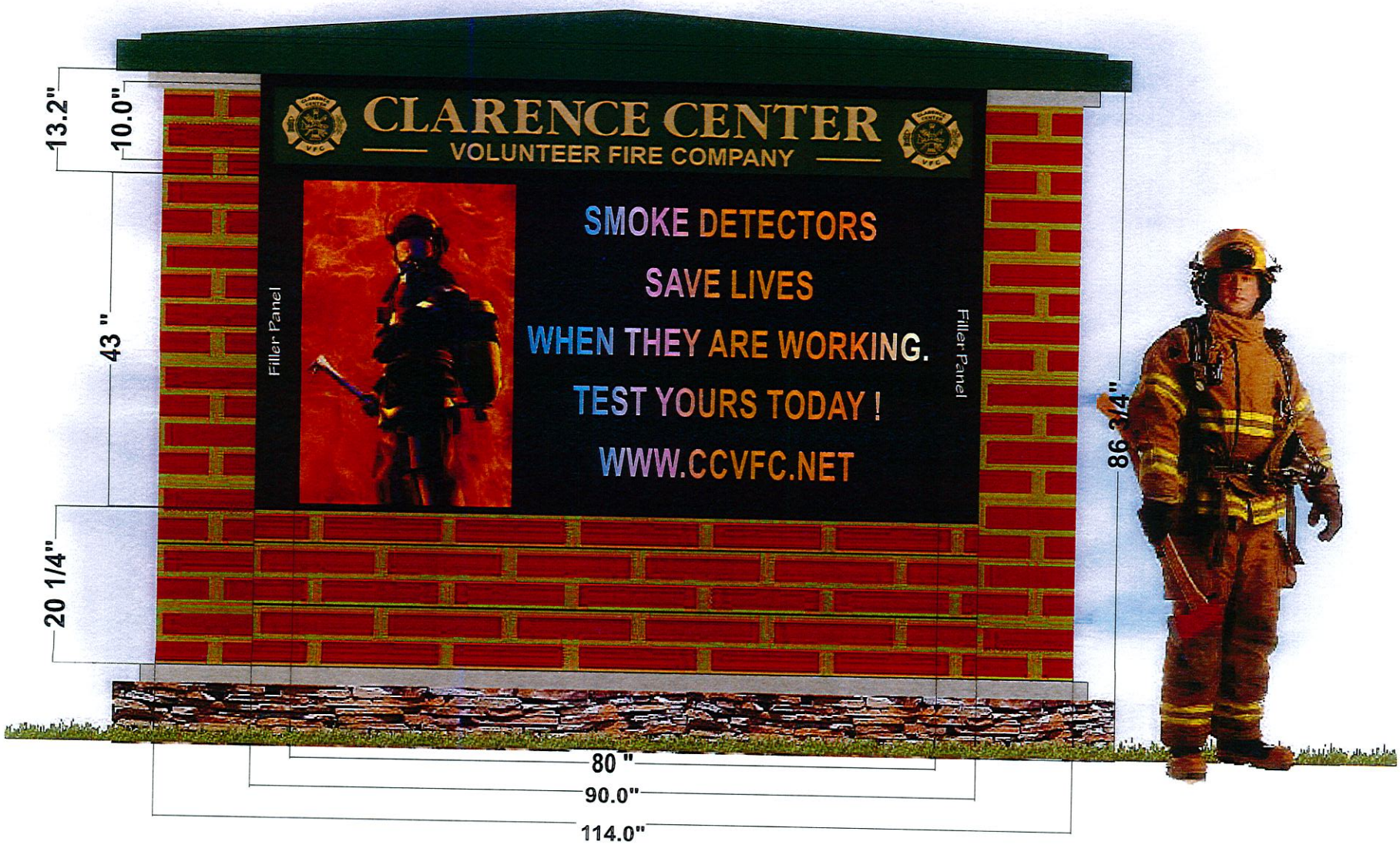


9415 Clarence Center Road

*note all parcels lines are not approximate.

N

Request LED changeable copy panel within existing sign



Client Approval: _____ Date: _____

☐ Approved, we agree that the layout and spelling is correct.

☐ Not Approved, make noted changes

DESIGNER:	CLIENT NAME:	FILE NAME:
Michael Sprada mike@santorosigns.net	Clarence Center VFC	2013Drawings\ClarenceFireCO\GroundSign.cdr] DATE: 5-9-14

This drawing remains the property of Santoro Signs. 3180 Genesee St, Cheektowaga, N.Y. 14227 The User of this drawing agrees not to allow any other company and/or person use its contents or any of its ideas for any purpose. If so there will be an art fee added.

Note: This sketch and/or photo is just a representation of your sign and how it may appear finished. The colors and/or sizes printed on screen may not match exactly as they may be on the finished product.

Any changes in artwork or order may delay production. Your set up fee covers the cost of one proof and one revision; any additional proofs will add an additional fee.

SANTORO SIGNS INC.

3180 Genesee St. | Cheektowaga, NY 14225 | Tel. (716) 895.8875 | Fax (716) 895.9931 | www.santorosigns.net

REQUEST FOR ACTION BY:
TOWN OF CLARENCE, N.Y.

- ☑ Appeal Board
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- ☐ Subdivision
- ☐ Limited Use Permit
- ☐ Other

Rec'd. by: Jonathan Bleuer

Date June 25, 2014

Action Desired Applicant requests a variance to allow for an existing fence greater than 6' in height located at 5102 Donnington Road. Principle Structure is located within the Residential Single Family Zone.

Reason Town Code Reference:
§101-3(B)

PLEASE PRINT

Name Charles and Jane Vallone

Address 5102 Donnington Rd

Clarence NY 14031
Town/City **State** **Zip**

Phone 432-1234

Signed SIGNATURE ON FILE

Requests for action on zoning should be filled out completely in above spaces if practicable, otherwise give brief description and refer to attached papers. The complete request with all necessary plans, maps, signatures, should be filed with the Secretary of the Planning Board. Requests (except appeals) may be filed with the Town Clerk or Town Board, but will generally be referred to Planning Board with subsequent loss of time.

Initial Action

Approved ☐
Rejected ☐ by ..... on ..... 19 .....
Approved ☐
Rejected ☐ by ..... on ..... 19 .....

Published (Attach Clipping) on ..... 19 .....

Hearing Held by ..... on ..... 19 .....

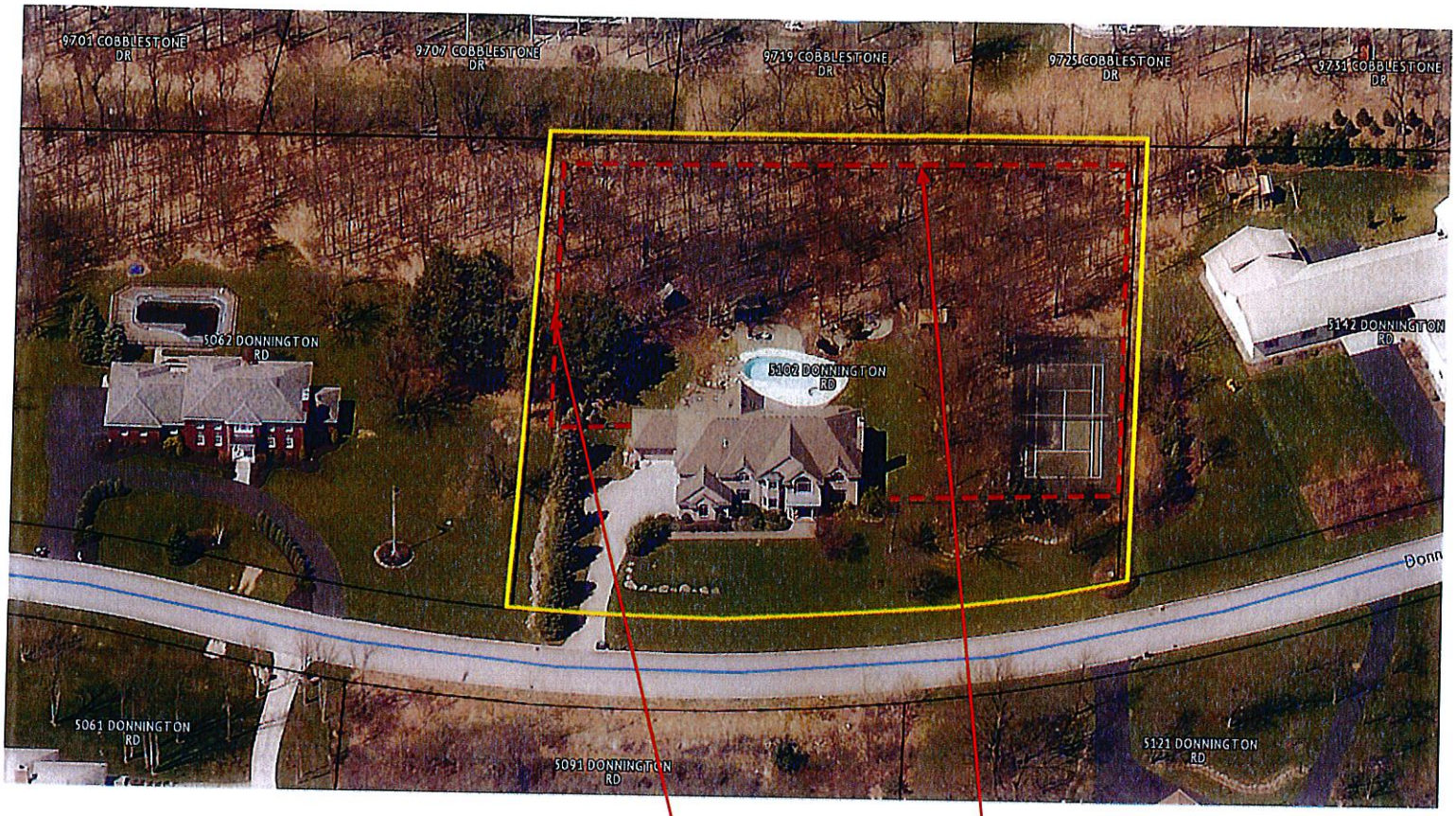
Final Action Taken

Approved ☐
Rejected ☐ by ..... on ..... 19 .....

Published (Attach Clipping) on ..... 19 .....

Filed with Town Clerk on ..... 19 .....

Filed with County Clerk on ..... 19 .....



Variance requested for existing perimeter fence greater than 6' in height.

N

* note the parcel lines displayed are approximate

5102 Donnington Road

REQUEST FOR ACTION BY: TOWN OF CLARENCE, N.Y.		
☐ Appeal Board ☐ Planning Board ☐ Town Board	☐ Appeal ☐ Rezone ☐ Revise Ordinance ☐ Subdivision ☐ Limited Use Permit ☐ Other	Rec'd. by: Date:

RECEIVED
JUN 25 2014
ZONING OFFICE

Action Desired: Area variance to authorize a fence surrounding the rear yard of the property that exceeds the six foot maximum height prescribed by §101-3 of the Zoning Law of the Town of Clarence, New York .

Reason: See attached Exhibit "A."

PLEASE PRINT

Name: Charles and Jane Vallone

Address: 5102 Donnington Rd

Town/City: Clarence
Phone: 432-1234

State NY
Zip 14031

Signed Signature on File

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Initial Action

Approved ☐			
Rejected ☐	by	on	20
Approved ☐			
Rejected ☐	by	on	20
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Hearing Held by		on	20

Final Action Taken

Approved ☐			
Rejected ☐	by	on	20
Published (Attach Clipping)		on	20
Filed with Town Clerk		on	20
Filed with County Clerk		on	20

Exhibit "A"

The applicant, Charles and Jane Vallone, are the record owners of real property located at 5102 Donnington in the Town of Clarence (the "Property"). They are seeking a variance to authorize a fence in the rear yard of the Property that exceeds the six foot maximum height prescribed by §101-3 of the Zoning Law of the Town of Clarence, New York (the Code).

As the ZBA is well aware, the standard for reviewing variance requests is set forth in New York State Town Law §267-b(3)(b). In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

As we will demonstrate, the benefit to the applicant if the variance is granted is monumental. The Applicant has invested hundreds of thousands of dollars to create a park-like setting in the rear yard of their 2 acre lot, including pergolas, walking paths, a coy pond, pool, spa, extensive landscaping, including over 100 new trees and a French intensive raised bed vegetable garden. The yard is also the playground for their two beloved Havanese, Yogi and Boo Boo. Demonstrative photos of the referenced improvements have been included herewith.

Despite enclosing the rear yard with a four foot fence, destruction of plants and vegetables was occurring on a near daily basis as a result of deer leaping the existing four-foot barrier. Various forms of sight, sound, taste, and touch repellents were either ineffective or dangerous to the Applicant's dogs. Accordingly, with all other alternatives exhausted or unfeasible, the applicant installed a fence extension to protect against further destruction of the amenities that were installed at great physical and financial expense. Granting the requested variance will authorize the only permanent solution available to ensure the continued protection of the Applicant's investment. In making such determination the board shall consider:

(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 area variance.

Permitting a fence in excess of the maximum height prescribed by the Code will not produce an undesirable change in the character of the neighborhood nor a detriment to nearby properties. The four adjoining property owners directly to the north and west have provided written documentation indicating that they have no objections to the requested variance. The fence is located entirely in the rear yard of the Property and is setback from the property line, facilitating any maintenance or repairs that may become necessary. The house directly to the south is over 80 feet from the property line. The fence is aesthetically pleasing and matches the style of existing fencing on neighboring properties. It is important to note that a fence is expressly permitted up to a height of six (6) feet. It is only the portion of the fence that is in excess of the six (6) foot maximum that is the subject of the variance and no absolutely no detriment will be produced thereby.

(2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

There is no other method, feasible for the applicant to pursue, other than the requested variance. Various forms of sight, sound, taste, and touch repellents were either ineffective or dangerous to the Applicant's dogs. A conforming fence is simply not high enough to keep the deer at bay. The proposed fence is the only method feasible to keep the nuisance deer at bay.

(3) whether the requested area variance is substantial.

In making its determination, the zoning board of appeals must consider the magnitude of the requested variance in light of its impact. Merely because a variance may seem noteworthy on paper 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) analysis. Here, the additional fence he is *de minmis* in light of the impact in protecting the applicant's investment. It is unlikely that the additional fence height will even be appreciable to the naked eye. Under the circumstances, granting a variance to authorize the proposed fence in excess of the 6 foot maximum is not substantial.

(4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The proposed variance will not adversely affect or impact the environment. Authorizing a fence in excess of the maximum height prescribed by the Code will not impact drainage, flooding, and runoff or any other topographical changes such as grading, trees, and vegetation.

(5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

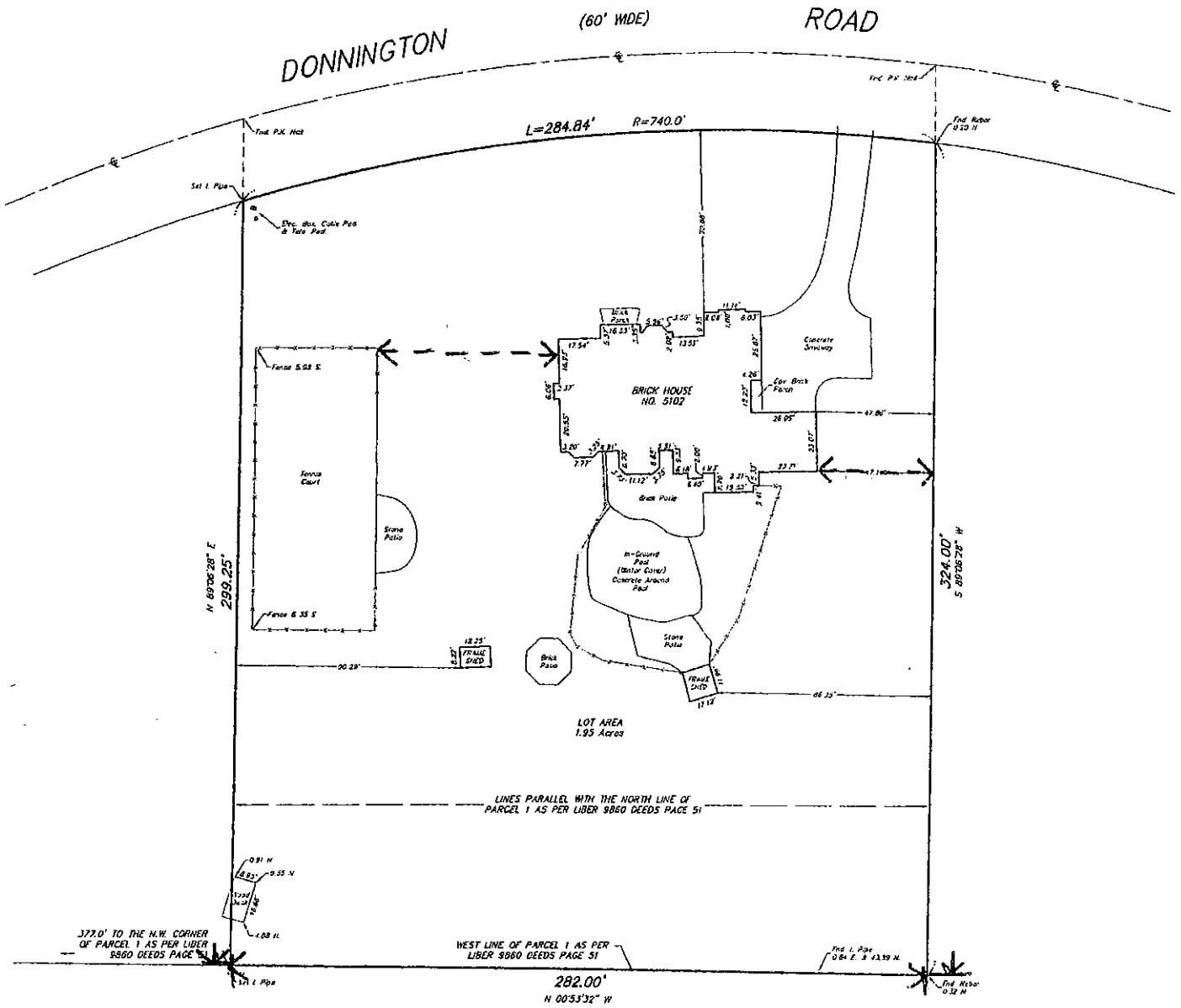
The alleged difficulty has not been created by the applicant. Large estate lots in this part of the Town have created a welcoming environment for the local deer population. It should be noted, that even if the board determines that the difficulty is self-created, such a determination does not preclude the granting of an area variance.

Balancing.

As stated above, the requirements of Town Law §267-b require the ZBA to balance the benefit to the applicant if the variance is granted against the detriment to the health, safety and general welfare of the community. Here, substantial benefit runs to the applicant if the variance is granted. Hundreds of thousands of dollars have been invested to create a park-like setting in the rear yard of the 2 acre lot, including pergolas, walking paths, a coy pond, pool, spa, extensive landscaping, including over 100 new trees and a French intensive raised bed vegetable garden. The proposed fence is the only way to protect these amenities from damage by nuisance deer and allow the applicant the full use and enjoy their property.

Conversely, there is no detriment to the health, safety and general welfare of the community. The four adjoining property owners directly to the north and west have provided

written documentation that they have no objections to the requested variance. The fence is located entirely in the rear yard of the Property and is setback from the property line, facilitating any maintenance or repairs that may become necessary. The house directly to the south is over 80 feet from the property line. The fence is aesthetically pleasing and matches the style of existing fencing on neighboring properties. It is unlikely that the additional fence height will even be appreciable to the naked eye. With great benefit to the applicant if the variance is granted and no detriment to the health, safety and general welfare of the community, it is respectfully requested that the proposed variance be approved.



10/23/12: UPDATED TO STAKE CORNER
LOCATE WOOD DECK @ REAR OF PROP

INSTRUMENT(S) UTILIZED IN DETERMINING LOCATION OF BOUNDARY LINES. LIBER 10550 PAGE 8183
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED IN SAID A
NOTE: PROPERTY CORNER MONUMENTS WERE NOT PLACED AS PART OF THIS SURVEY

THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE CURRENT STANDARDS FOR LAND SURVEYS ADOPTED BY THE BAR ASSOCIATION OF THE COUNTY AT THE TIME OF THE SURVEY

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Millard MacKay & Dallas

AMEND:
SURVEY DATE: 10-5-1

"Vallone Property"