

# TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

## ZONING BOARD OF APPEALS AGENDA

Thursday, June 17, 2021 6:30 PM

Daniel DeLaus, Chairman presiding

Tony LaFountain, Town Board Liaison

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- I. Call to Order
- II. Approval of Minutes – April 15, 2021 and May 20, 2021
- III. Work Session
- IV. Tabled Applications
- V. Public Hearing Applications. Opportunities for Public Participation and Board Deliberations Following Each Applicant Presentation.
  1. Application 21Z-0031  
25 Green Pine Lane  
Darin Price
  2. Application 21Z-0033  
135 Tuscany Lane  
Jon and Beth Russell
  3. Application 21Z-0034  
29 Hilltop Drive  
Brian Nizinsky
  4. Application 21Z-0035  
1601 Penfield Road  
Jeffrey Lancy c/o American Promotional Events
- VI. Executive Session
- VII. Next Meeting: Thursday, July 15, 2021
- VIII. Adjournment

*This meeting will be video recorded and broadcast LIVE via the town's website [www.penfield.org](http://www.penfield.org) and the Town's Government Access Cable Channel 1303  
Questions regarding video coverage contact Penfield TV at (585) 340-8661.*

**A NOTICE OF PUBLIC HEARING, PENFIELD ZONING BOARD OF APPEALS  
LEGAL NOTICE**

PLEASE TAKE NOTICE that a Public Hearing will be held on Thursday, June 17, 2021, immediately following a work session meeting commencing at 6:30 PM local time. The board will discuss tabled matters and other business that may come before it during the work session, followed by a Public Hearing to consider each of the following applications.

Unless permitted to take place remotely, the hearing will be held at the Town Hall, 3100 Atlantic Avenue, Penfield, New York 14526.

However, if permitted to do so in accordance with the Governor's Executive Orders, including Executive Order 202.1, which suspended certain provisions of the Open Meetings Law to address the state of emergency related to COVID-19, the June 17, 2021 Zoning Board of Appeals meeting will be held remotely, and in-person public access to the Town Hall facility will not be permitted. As of the date of this public notice, remote meetings are permitted only through June 16, 2021, however, it is anticipated that this date will be extended by further Executive Order. A determination whether the public hearing will take place with in-person participation or only remotely will be posted on the town's website [www.penfield.org](http://www.penfield.org), and will be available by contacting the Building & Zoning Department at (585) 340-8636.

Regardless of whether the public hearing takes place with in-person participation or remotely, this meeting will be video recorded and broadcast LIVE via the town's website [www.penfield.org](http://www.penfield.org), on the Town's Government Access Cable Channel 1303, and on streaming media device: ROKU, Apple TV, and Amazon Fire. Search "Penfield TV" in your device's app store, it is free. If required, the meeting will be later transcribed. For questions regarding video coverage please contact Penfield TV at (585) 340-8661.

For a remote meeting, there will be "public participation" opportunities for each public hearing application listed below. The chairman of the board will announce the appropriate time for public participation for each application. To address the board during the public participation portion of the meeting please call (585) 340-8771 to be connected with Penfield TV, or complete an electronic submission form that will be available on the town's website [www.penfield.org](http://www.penfield.org) the day of the meeting.

Prior to the meeting, the Building & Zoning Department will also accept public comments via email at [building@penfield.org](mailto:building@penfield.org). All public comments sent via email must include name and address for the record, and reference the application number.

Public Hearing Applications:

1. Darin Price, 25 Green Pine Lane, Webster, NY, 14580 requests an Area Variance under Section 250-14.3 of the Code to allow a taller fence than permitted under Section 250-7.1-D of the Code at 25 Green Pine Lane. The property is currently or formerly owned by Pauline Marsh & Darin Price and is zoned RR-1. SBL #094.01-1-38.23. Application #21Z-0031.

2. Jon & Beth Russell, 135 Tuscany Lane, Webster, NY, 14580 request an Area Variance under Section 14.3 of the Code to allow a swimming pool with less setback than required under Section 250-5.1-F (13) of the Code at 135 Tuscany Lane. The property is currently or formerly owned by Jon & Elizabeth Russell and is zoned RR-1. SBL #094.02-2-28. Application #21Z-0033.
3. Brian Nizinsky, 29 Hilltop Drive, Penfield, NY, 14526 requests an Area Variance under Section 14.3 of the Code to allow an enclosed porch with less setback than required under Section 250-5.1-F (1) of the Code at 29 Hilltop Drive. The property is currently or formerly owned by Brian Nizinsky & Melissa Pletscher-Nizinsky and is zoned R-1-15. SBL #139.11-3-3. Application #21Z-0034.
4. Jeffrey Lancy c/o American Promotional Events, 4003 Helton Drive, Florence, AL, 35630 requests a recommendation of approval for the issuance of an Itinerant Vendor License under Section 162-6-E (1) (b) and Section 162-E (2) of the Code to allow the sales of sparkling devices at 1601 Penfield Road. The property is owned by Penfield TK Owner, LLC and is zoned GB. SBL #138.08-1-2./PLZA. Application #21Z-0035.

Please contact the Building and Zoning Department with any questions or concerns.

Amy Steklof  
Town Clerk, RMC/CMC

**ZONING BOARD OF APPEALS AGENDA**

Public Hearing Application # 1

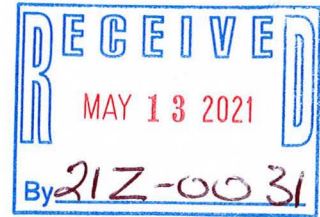
Application # 21Z-0031  
Darin Price  
25 Green Pine Lane

*See Pages to Follow*

05/12/2021

To: Penfield Zoning Board of Appeals

RE: 25 Green Pine Lane Fence variance



This is a request to extend the existing 4ft black aluminum fence to the SW corner of the property. The fence line would be roughly 13ft from the curb line, avoiding the 10ft easement. The desire is for the 4ft fence to accommodate the future inground pool installation (scheduled for 2022). The pool would be within the setback (35ft from curb). The interior side of the fence will feature grass, small shrubs, flowering bushes and dwarf trees. The space previous consisted of a fishpond, ground ivy, misc. hardwoods, pine trees and several dying ash trees.

Regards,

Darin Price

25 Green Pine Lane

A handwritten signature in blue ink, appearing to be "Darin Price", followed by the date "5/12/21" written in blue ink.



RECEIVED  
MAY 13 2021  
217-0031

RECEIVED  
MAY 13 2021  
212-0031  
By \_\_\_\_\_



RECEIVED  
MAY 13 2021  
212-0031  
By \_\_\_\_\_





21Z-0031

SCANNED



212-0031

← SUBMITTED

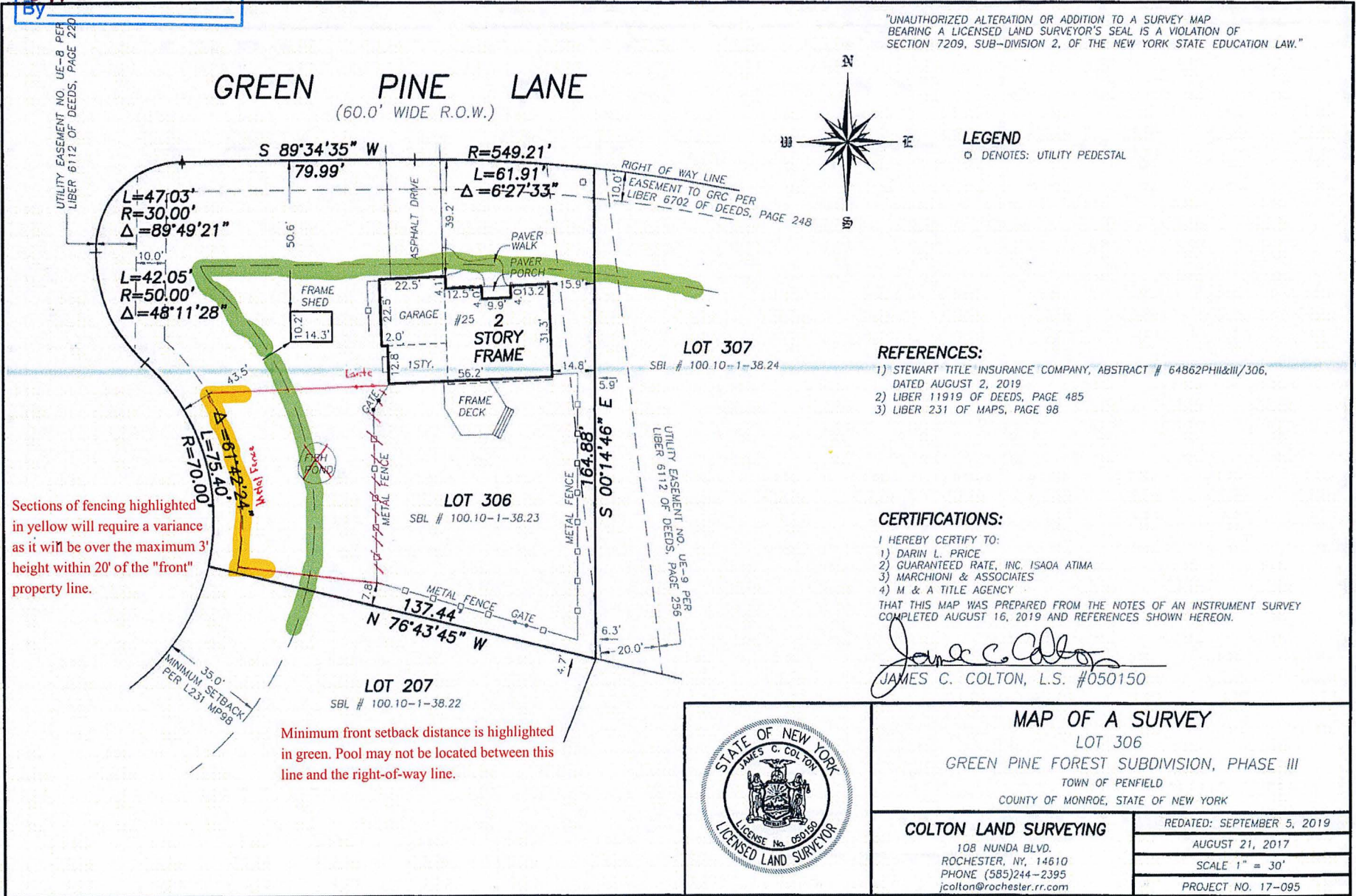


212-0031



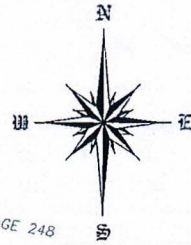
**RECEIVED**  
 MAY 13 2021  
 212-0031

"UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUB-DIVISION 2, OF THE NEW YORK STATE EDUCATION LAW."



Sections of fencing highlighted in yellow will require a variance as it will be over the maximum 3' height within 20' of the "front" property line.

Minimum front setback distance is highlighted in green. Pool may not be located between this line and the right-of-way line.



**LEGEND**  
 □ DENOTES: UTILITY PEDESTAL

- REFERENCES:**
- 1) STEWART TITLE INSURANCE COMPANY, ABSTRACT # 64862PHII&III/306, DATED AUGUST 2, 2019
  - 2) LIBER 11919 OF DEEDS, PAGE 485
  - 3) LIBER 231 OF MAPS, PAGE 98

**CERTIFICATIONS:**

I HEREBY CERTIFY TO:

- 1) DARIN L. PRICE
- 2) GUARANTEED RATE, INC. ISAOA ATIMA
- 3) MARCHIONI & ASSOCIATES
- 4) M & A TITLE AGENCY

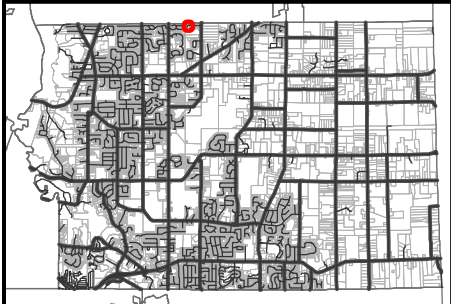
THAT THIS MAP WAS PREPARED FROM THE NOTES OF AN INSTRUMENT SURVEY COMPLETED AUGUST 16, 2019 AND REFERENCES SHOWN HEREON.

*James C. Colton*  
 JAMES C. COLTON, L.S. #050150



<b>MAP OF A SURVEY</b> LOT 306 GREEN PINE FOREST SUBDIVISION, PHASE III TOWN OF PENFIELD COUNTY OF MONROE, STATE OF NEW YORK	
<b>COLTON LAND SURVEYING</b> 108 NUNDA BLVD. ROCHESTER, NY, 14610 PHONE (585)244-2395 jcolton@rochester.rr.com	REDATED: SEPTEMBER 5, 2019
	AUGUST 21, 2017
	SCALE 1" = 30'
PROJECT NO. 17-095	

*GREEN PINE LANE*



**25 Green Pine Lane  
Aerial Map**



This is a high-resolution aerial photograph of a residential property located at 25 Green Pine Lane, City of Dallas, Texas. The photograph was captured on 10/25/2023. The image is provided as a reference tool only and does not constitute a survey or any other professional service. The City of Dallas is not responsible for any errors or omissions in the information presented in this image. All rights reserved. © 2023 City of Dallas.

**ZONING BOARD OF APPEALS AGENDA**

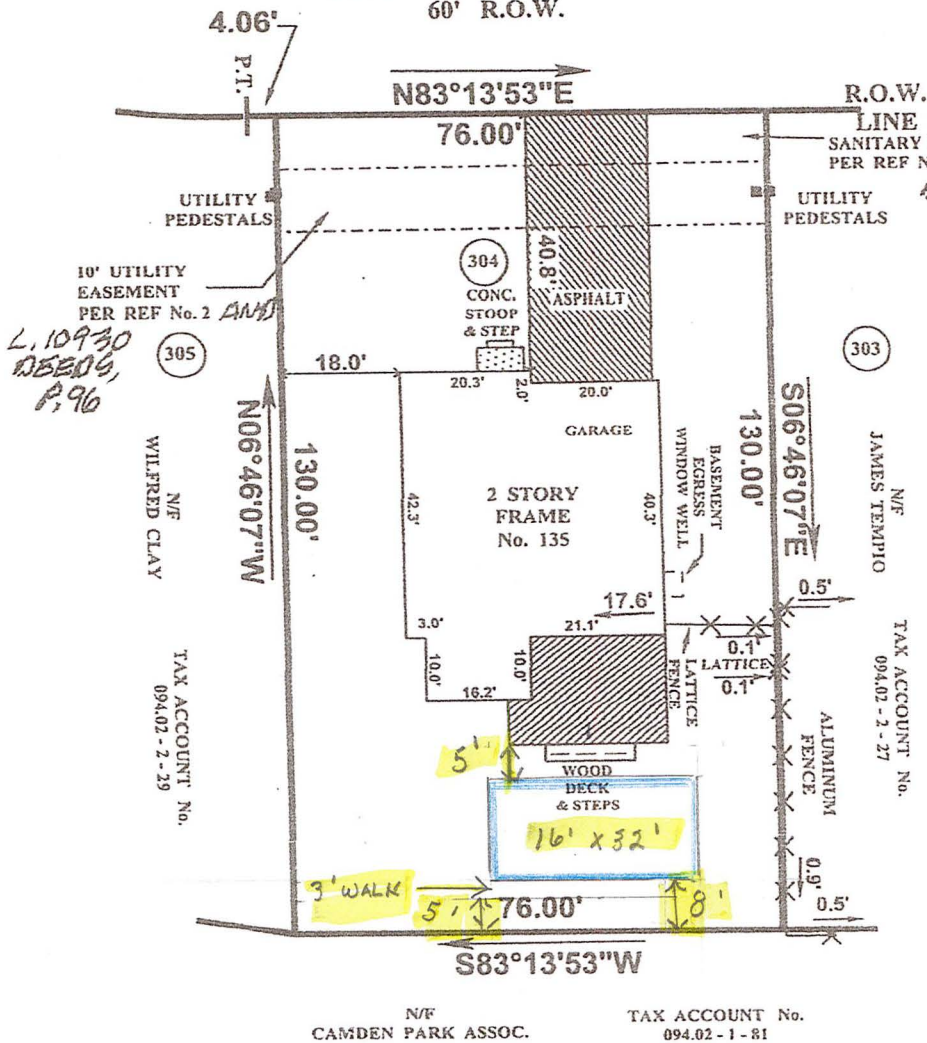
Public Hearing Application # 2

Application # 21Z-0033  
Jon and Beth Russell  
135 Tuscany Lane

*See Pages to Follow*



TUSCANY LANE  
60' R.O.W.



REFERENCES

- 1. L. 11019 OF DEEDS, P. 48
- 2. L. 339 OF MAPS, P. 20
- 3. TAX ACCOUNT No. 094.02 - 2 - 28
- 4. FIRST AMERICAN TITLE INSURANCE COMPANY No. 419147, DATED JULY 12, 2018

\*GUARANTEES OR CERTIFICATIONS INDICATED HEREON SHALL RUN ONLY TO THE PERSON FOR WHOM THE SURVEY IS PREPARED, AND ON HIS BEHALF TO THE TITLE, COMPANY, GOVERNMENTAL AGENCY AND LENDING INSTITUTION LISTED HEREON, AND TO THE ASSIGNEES OF THE LENDING INSTITUTION. GUARANTEES OR CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.\*

COPIES OF THIS SURVEY MAP NOT BEARING THE LAND SURVEYOR'S INKED SEAL OR EMBOSSED SEAL SHALL NOT BE CONSIDERED TO BE A VALID TRUE COPY.

\*UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 7209 OF THE NEW YORK STATE EDUCATION LAW.\*

I HEREBY CERTIFY TO THE PARTIES LISTED HEREON THAT THIS MAP WAS COMPLETED ON JULY 25, 2018 FROM NOTES OF AN INSTRUMENT SURVEY COMPLETED ON JULY 24, 2018 USING THE REFERENCE MATERIALS LISTED.

*Bruce E. Fries*



BRUCE E. FRIES N.Y.S.P.L.S. NO. 050263  
4150 RIDGE CHAPEL ROAD, MARION, NEW YORK 14505

INSTRUMENT SURVEY MAP

135 TUSCANY LANE  
BEING LOT 304 OF THE CAMDEN PARK SUBDIVISION, SECT. 3  
TOWN OF PENFIELD

MONROE COUNTY

NEW YORK

SCALE 1" = 30'

BRUCE E. FRIES  
PROFESSIONAL LAND SURVEYOR

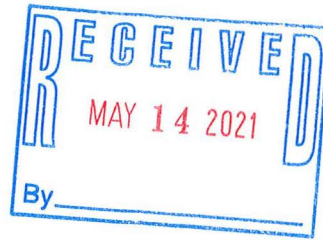
JULY 25, 2018

PHONE: 800-772-3734

4150 RIDGE CHAPEL ROAD ■ MARION, NEW YORK 14505

REVISED NOVEMBER 7, 2018  
FAX: 800-772-7419





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Jon and Elizabeth Russell  
135 Tuscany Lane  
Webster, NY 14580

585.455.9619  
jb.russell@yahoo.com

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5/13/2021  
Town of Penfield  
Zoning Board of Appeals

Dear Zoning Board,

We are requesting a variance on the rear setback on our property at 135 Tuscany Lane, in Camden Park to have an inground pool installed. We believe this pool will not create any undesirable change in the neighborhood, nor be a detriment to our neighbors<sup>1</sup>.

The variance will allow us to build average sized pool for our family of five that will create many great memories for our children and will not cause any adverse physical or environmental conditions<sup>4</sup>. The size of the property and existing permanent structures that were built by the original owners<sup>5</sup> create a small footprint for any pool to be constructed. Any reasonable change to size or shape will not relieve the need for a variance<sup>2</sup>.

In conclusion, we believe that reducing the rear backyard variance is not a substantial request<sup>3</sup>. The property behind ours is vacant and seems to be unable to be developed. Please consider our request. Thank you.

Sincerely,

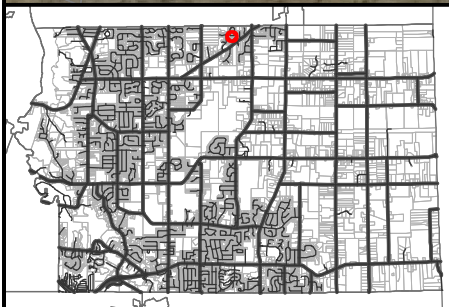
Jon and Elizabeth Russell

*Homeowners*  
135 Tuscany Lane

A red stamp that says "SCANNED" in a bold, sans-serif font. To the right of "SCANNED" is the word "FILE" in a larger, outlined, sans-serif font. A magnifying glass icon is positioned to the left of the word "SCANNED".



TUSCANY LANE



135 Tuscany Lane  
Aerial Map



This image is provided for informational purposes only. It is not intended to be used as a substitute for a professional survey or other legal document. The information is provided as is and is not guaranteed. The user of this information is responsible for its accuracy and reliability. The user of this information is responsible for its accuracy and reliability. The user of this information is responsible for its accuracy and reliability.

**ZONING BOARD OF APPEALS AGENDA**

Public Hearing Application # 3

Application # 21Z-0034  
Brian Nizinsky  
29 Hilltop Drive

*See Pages to Follow*

# Letter of Intent



Penfield Town Board  
3100 Atlantic Ave, Penfield, NY 14526

5/13/2021

RE: 29 Hilltop Drive - Penfield Zoning Board Application - Front Porch Setback Variance

This letter of intent is addressing the request for a variance to the Penfield Zoning Board to construct a covered front porch in the front of our house. Please find our responses to the five (5) factors below:

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;
  - a. This will not be the case with our front porch. We are choosing design elements that match our existing home and are similar to surrounding homes. This will also line up with other homes on our street who have structures/additions that are closer to the road already.
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;
  - a. This is not possible because our house is already at the 50' mark from the road so any addition to the front of our house will violate that rule without the variance.
3. Whether the requested area variance is substantial;
  - a. This addition is not sized bigger than it needs to be and will fit into the aesthetic of both our home and the neighboring homes.
4. Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district
  - a. This porch will not have any adverse affect on our property or our neighbors. It is being built with high quality materials, insulation, and modern windows.
5. Whether the alleged difficulty was self-created
  - a. No this difficulty is a result of town zoning laws.

Thank you for your time and consideration.

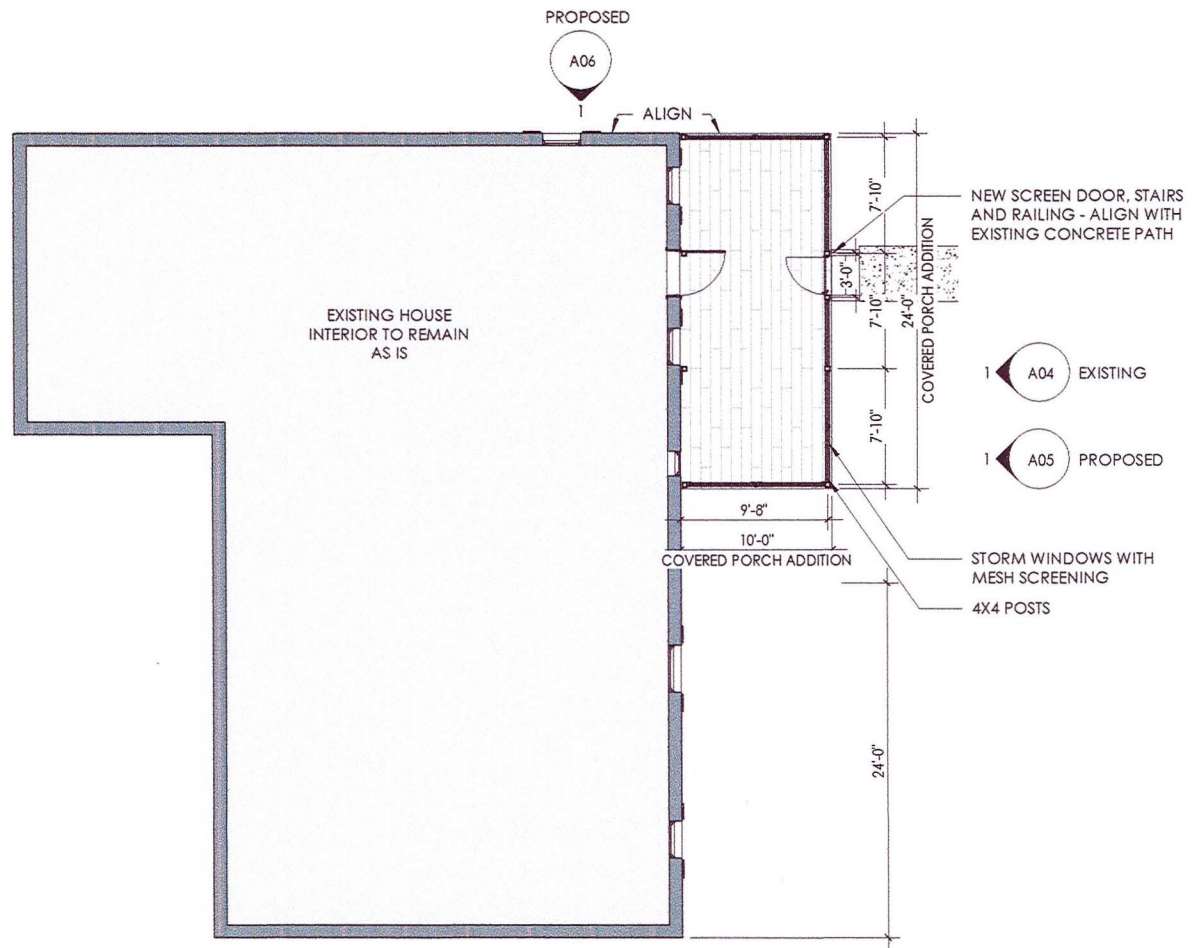
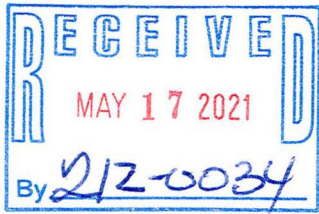
Sincerely,

A handwritten signature in blue ink, appearing to read "Brian Nizinsky".

Brian Nizinsky

29 Hilltop Drive, Penfield NY, 14526

SCANNED



**COVERED PORCH ADDITION**

29 HILLTOP DRIVE  
PENFIELD, NY

**PROPOSED FLOOR PLAN**

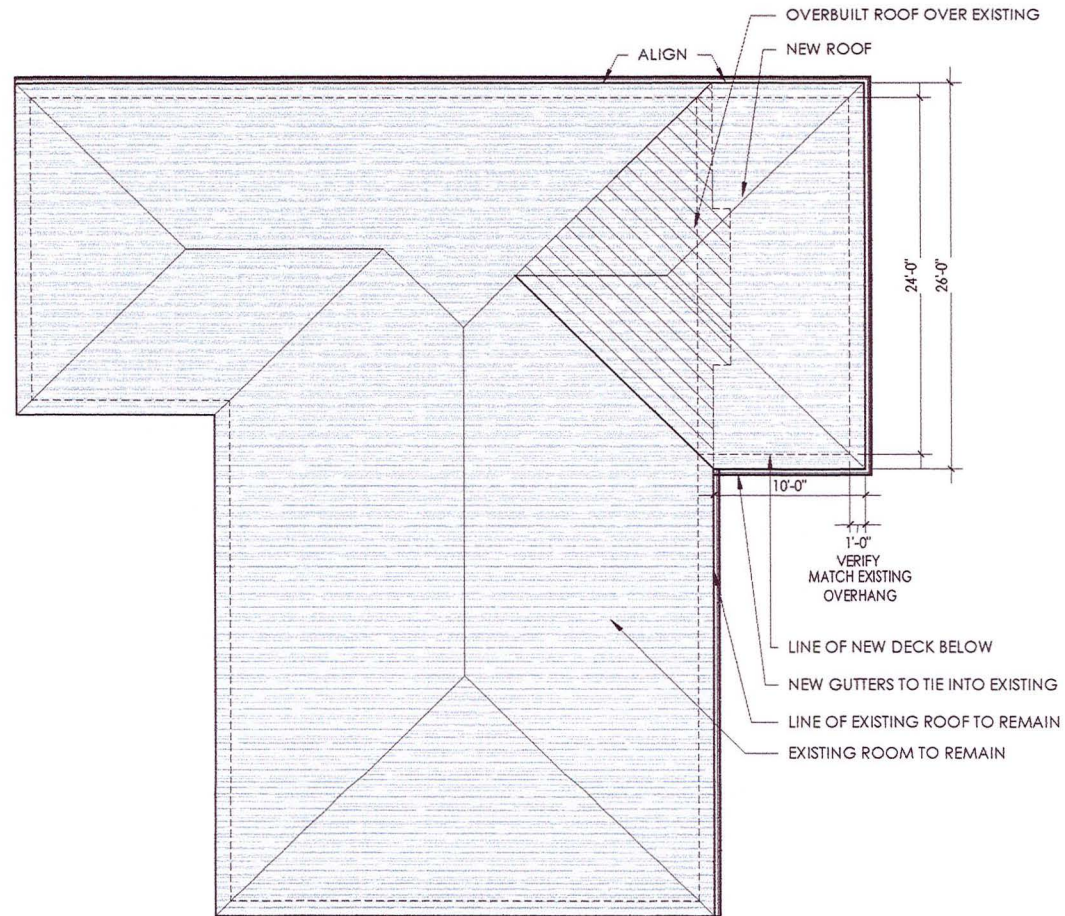
MARCH 8, 2021  
1/8" = 1'-0"



**A01**

SCANNED

212-0034



**COVERED PORCH ADDITION**

29 HILLTOP DRIVE  
PENFIELD, NY

**ROOF PLAN**

MARCH 8, 2021  
1/8" = 1'-0"

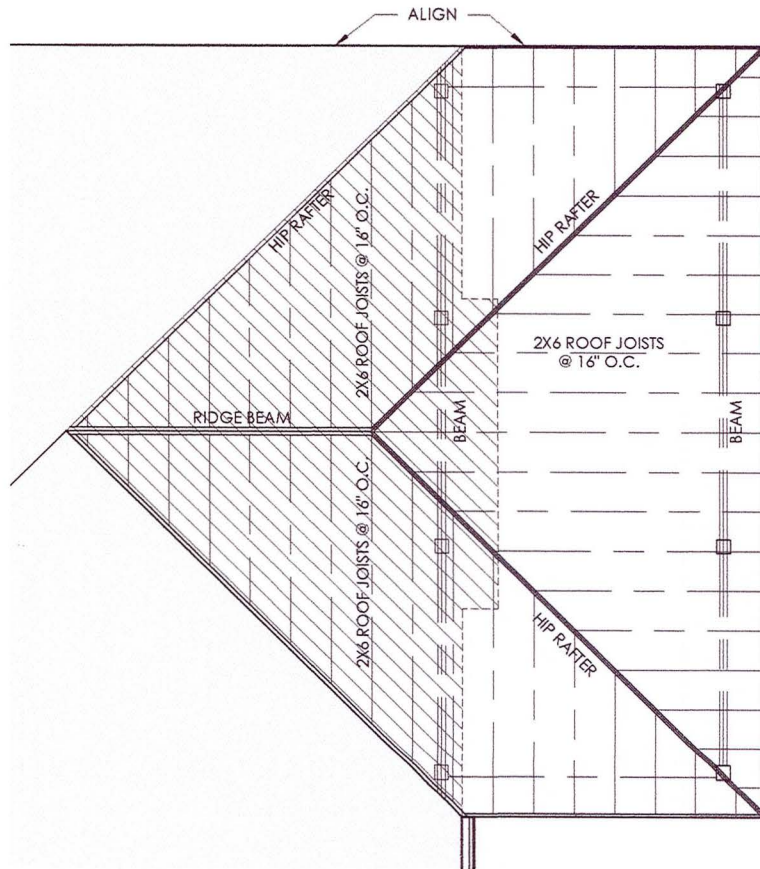


NORTH

**A02**

SCANNED

212-0034

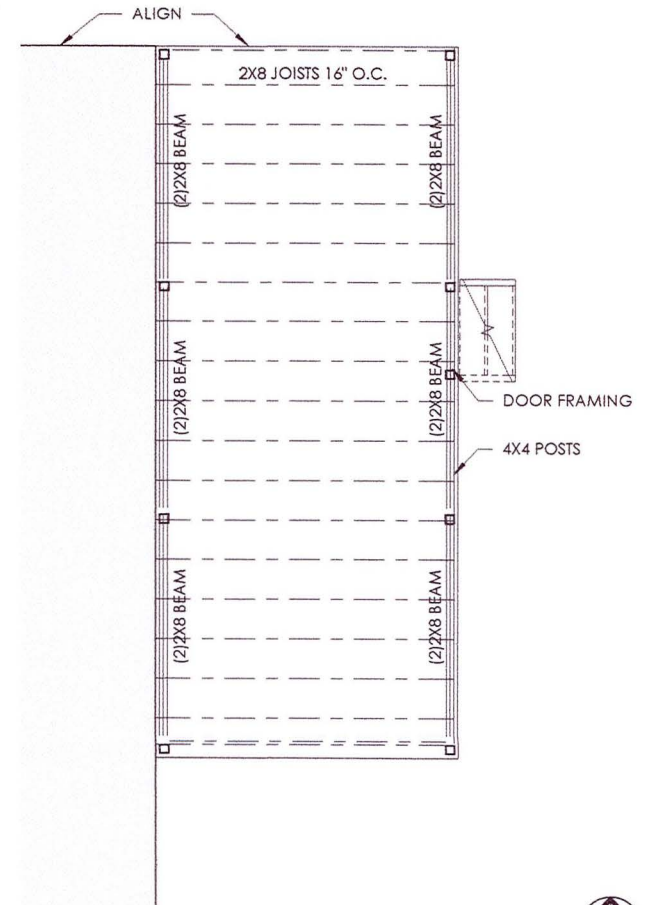


REFER TO A07 FOR  
HEADER SCHEDULE AND  
FRAMING NOTES

② ROOF FRAMING PLAN  
1/4" = 1'-0"

### COVERED PORCH ADDITION

29 HILLTOP DRIVE  
PENFIELD, NY



① DECK FRAMING PLAN  
1/4" = 1'-0"

### FRAMING PLANS

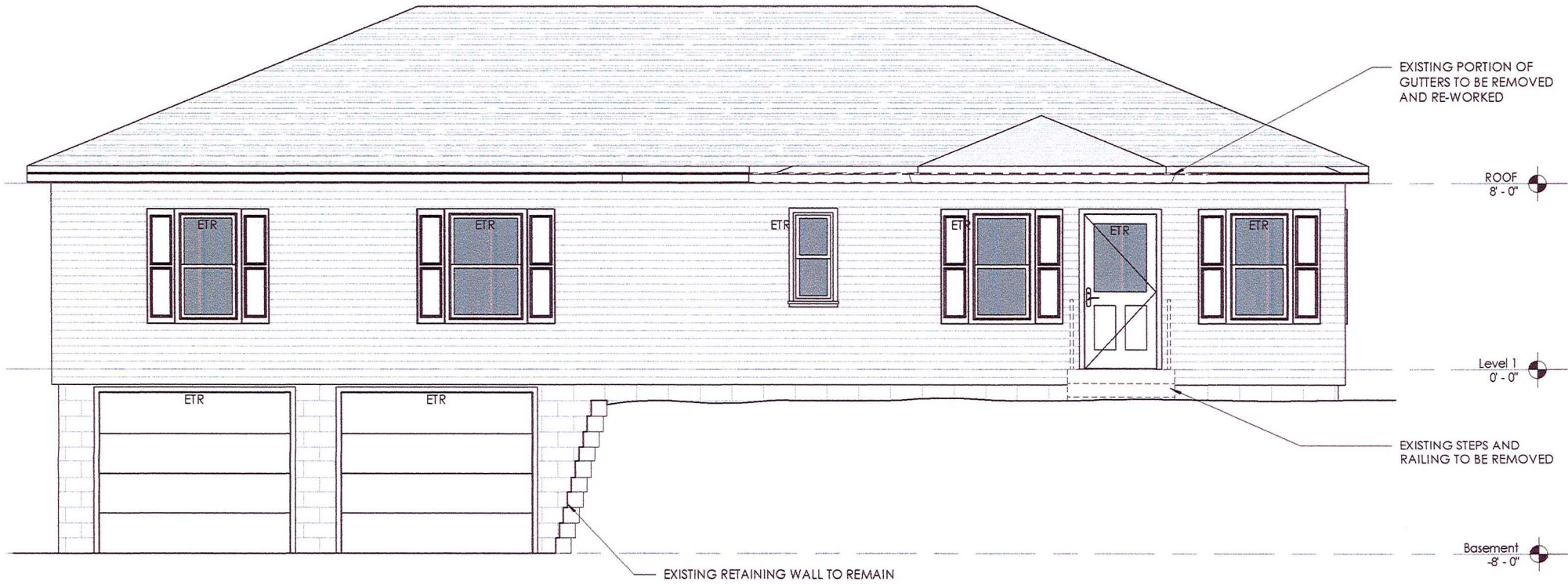
MARCH 8, 2021  
1/4" = 1'-0"



# A03

SCANNED

212-0034



**COVERED PORCH ADDITION**

29 HILLTOP DRIVE  
PENFIELD, NY

**EXISTING EAST ELEVATION**

MARCH 8, 2021  
1/4" = 1'-0"

A04

SCANNED

21Z-0034



**COVERED PORCH ADDITION**

29 HILLTOP DRIVE  
PENFIELD, NY

**PROPOSED EAST ELEVATION**

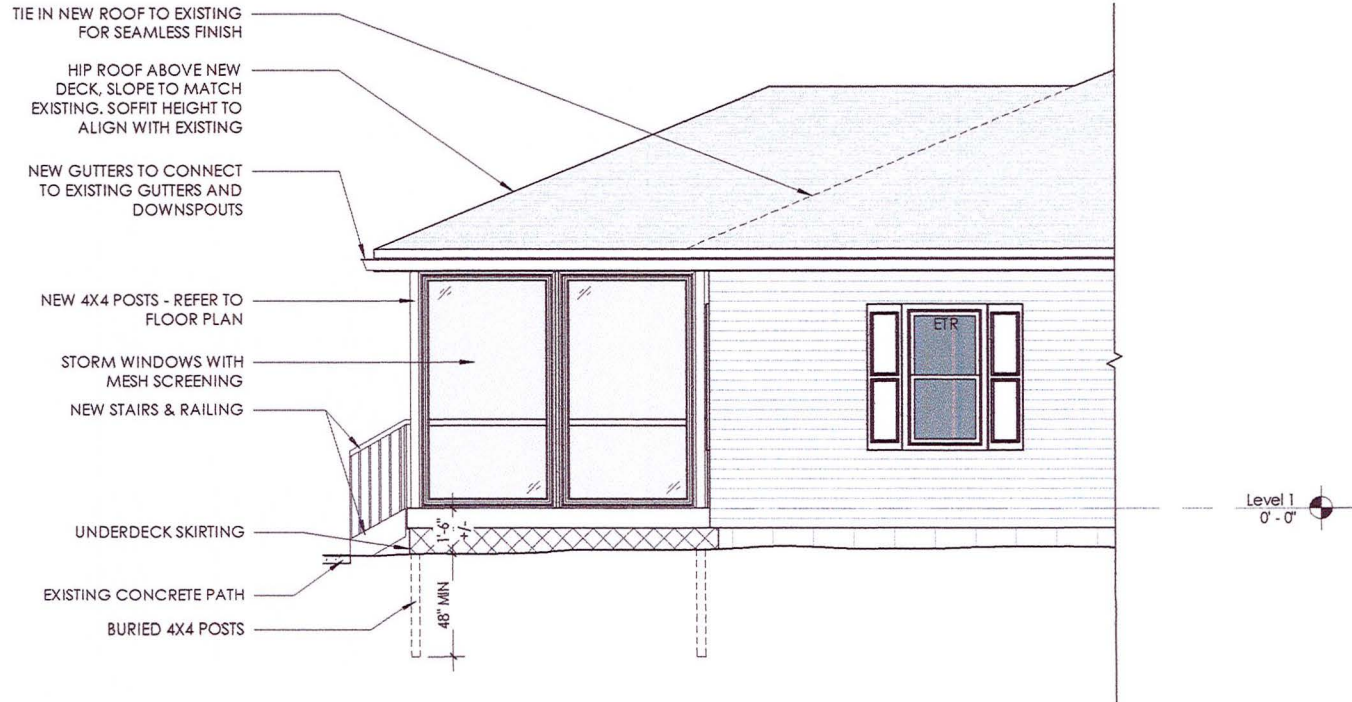
MARCH 8, 2021  
1/4" = 1'-0"

**A05**

SCANNED



212-0034



① NORTH ELEVATION  
1/4" = 1'-0"

**COVERED PORCH ADDITION**

29 HILLTOP DRIVE  
PENFIELD, NY

**NORTH ELEVATION**

MARCH 8, 2021  
1/4" = 1'-0"

**A06**

SCANNED



## HEADER SCHEDULE

### SUPPORTING ONE FLOOR, CEILING, AND ROOF

OPENING	UP TO 5'-0"	UP TO 7'-0"	UP TO 8'-0"	UP TO 9'-0"	UP TO 12'-0"	REMARKS
2X6 WALL	-	(3) 2X6	(3) 2X8	(3) 2X10	(3) 2X12	W/ (2) 1/2" PLYWOOD GUSSETS
2X4 WALL	(2) 2X6	(2) 2X8	(2) 2X10	(2) 2X12	-	W/ (2) 1/2" PLYWOOD GUSSETS

### SUPPORTING ONLY CEILING AND ROOF

OPENING	UP TO 6'-0"	UP TO 8'-0"	UP TO 10'-0"	UP TO 12'-0"	UP TO 16'-0"	REMARKS
2X6 WALL	-	(3) 2X6	(3) 2X8	(3) 2X10	(3) 2X12	W/ (2) 1/2" PLYWOOD GUSSETS
2X4 WALL	(2) 2X6	(2) 2X8	(2) 2X10	(2) 2X12	-	W/ (2) 1/2" PLYWOOD GUSSETS

NOTE: ALL HEADERS SHALL BE GLUED AND NAILED.

## FRAMING NOTES

- FRAMING LUMBER SHALL BE HEM-FIR SELECT STRUCTURAL NO. 2 OR BETTER, KILN-FRIED WITH A MAXIMUM 19% MOISTURE CONTENT, UNLESS OTHERWISE NOTED. OTHER SPECIES OF LUMBER WITH THE EQUAL OR GREATER STRESS VALUES AS RECOMMENDED BY THE NATIONAL FOREST PRODUCTS ASSOCIATION, MAY BE SUBSTITUTED FOR THAT SHOWN.
- ALL FRAMING SHALL BE ERECTED AND BRACED IN ACCORDANCE WITH THE NATIONAL FOREST PRODUCTS ASSOCIATIONS SPECIFICATIONS LATEST REVISION.
- ALL WOOD IN CONTACT WITH EARTH, CONCRETE, MASONRY, OR WITHIN 12" OF GRADE SHALL BE PRESSURE PRESERVATIVE TREATED.
- MICRO-LAM BEAMS SHALL BE LP SOLIDSTART, 2400FB, 1.7E LVL OR GREATER. ALL MULTIPLE HEADERS MUST BE GLUES AND NAILED PER MANUFACTURES REQUIREMENTS.

## COVERED PORCH ADDITION

29 HILLTOP DRIVE  
PENFIELD, NY

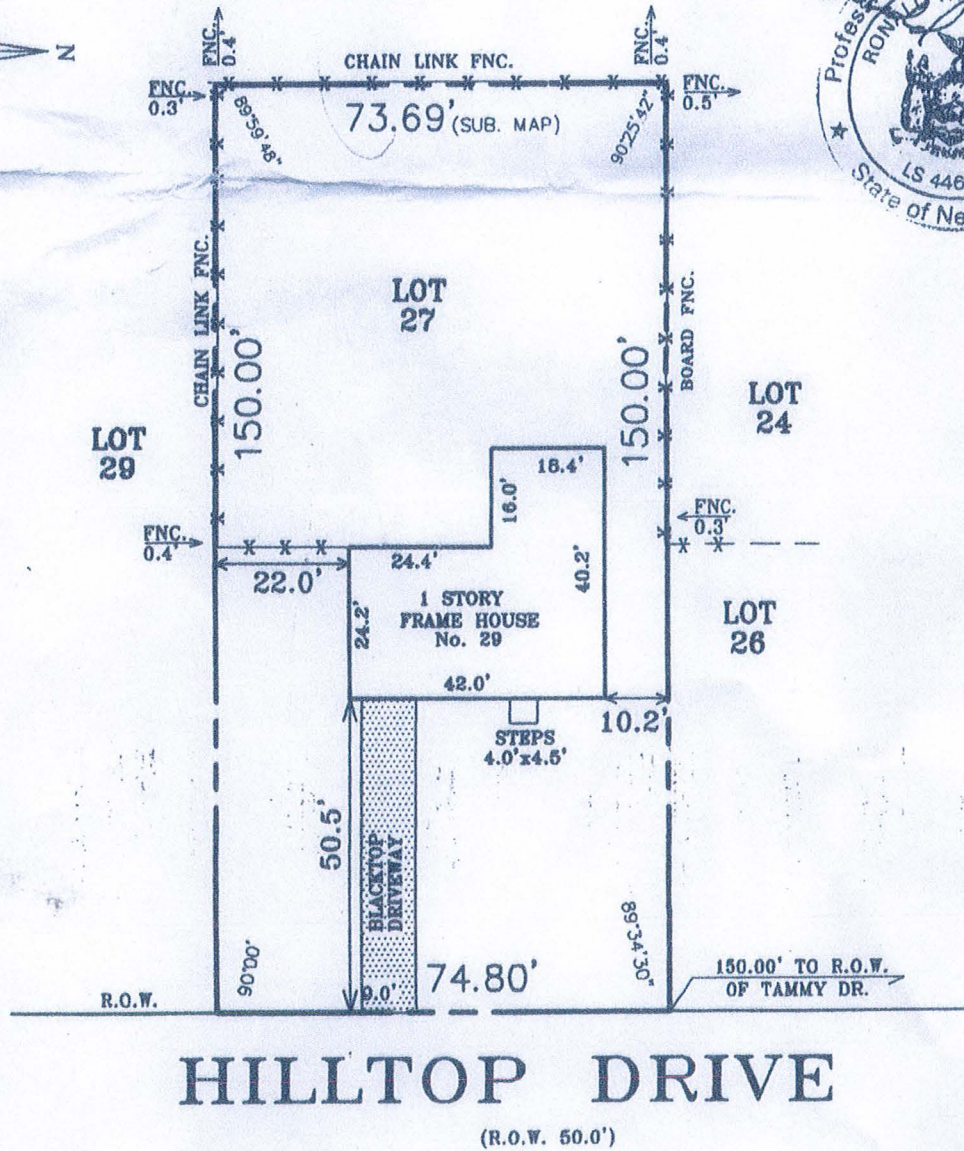
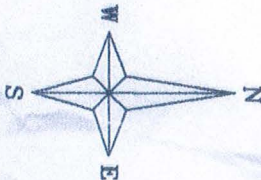
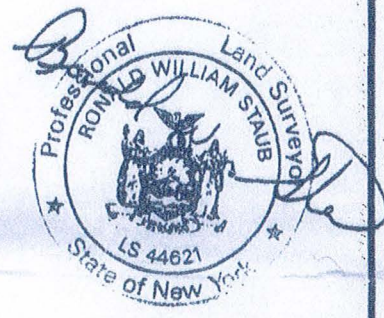
## FRAMING NOTES

MARCH 8, 2021

A07

SCANNED

**RECEIVED**  
 MAY 17 2021  
 By 217-0034



- REFERENCES:**
- 1.) ABSTRACT OF TITLE No.
  - 2.) LIBER 102 OF MAPS, PAGE 34
  - 3.) LIBER 9660 OF DEEDS, PAGE 68
  - 4.) TAX ACCOUNT No. 139.110-0003-003

**HILLTOP DRIVE**  
 (R.O.W. 50.0')

**CERTIFICATION:** I hereby certify to:

- 1.) STEVE BUTCHER, SR., ESQ.
- 2.) DOLLINGER ASSOCIATES, P.C.
- 3.) FIRST AMERICAN TITLE INSURANCE COMPANY OF NEW YORK
- 4.) HSBC MORTGAGE CORPORATION (USA), ITS SUCCESSORS AND/OR ASSIGNS
- 5.) THE SECRETARY OF HOUSING & URBAN DEVELOPMENT, ITS SUCCESSORS AND/OR ASSIGNS, AS THEIR INTEREST MAY APPEAR
- 6.) BRIAN NIZINSKY & MELISSA PLETSCHER-NIZINSKY

that this map was made MAR. 13, 2003  
 from notes of an Instrument Survey  
 completed MAR. 12, 2003 and references  
 listed above:

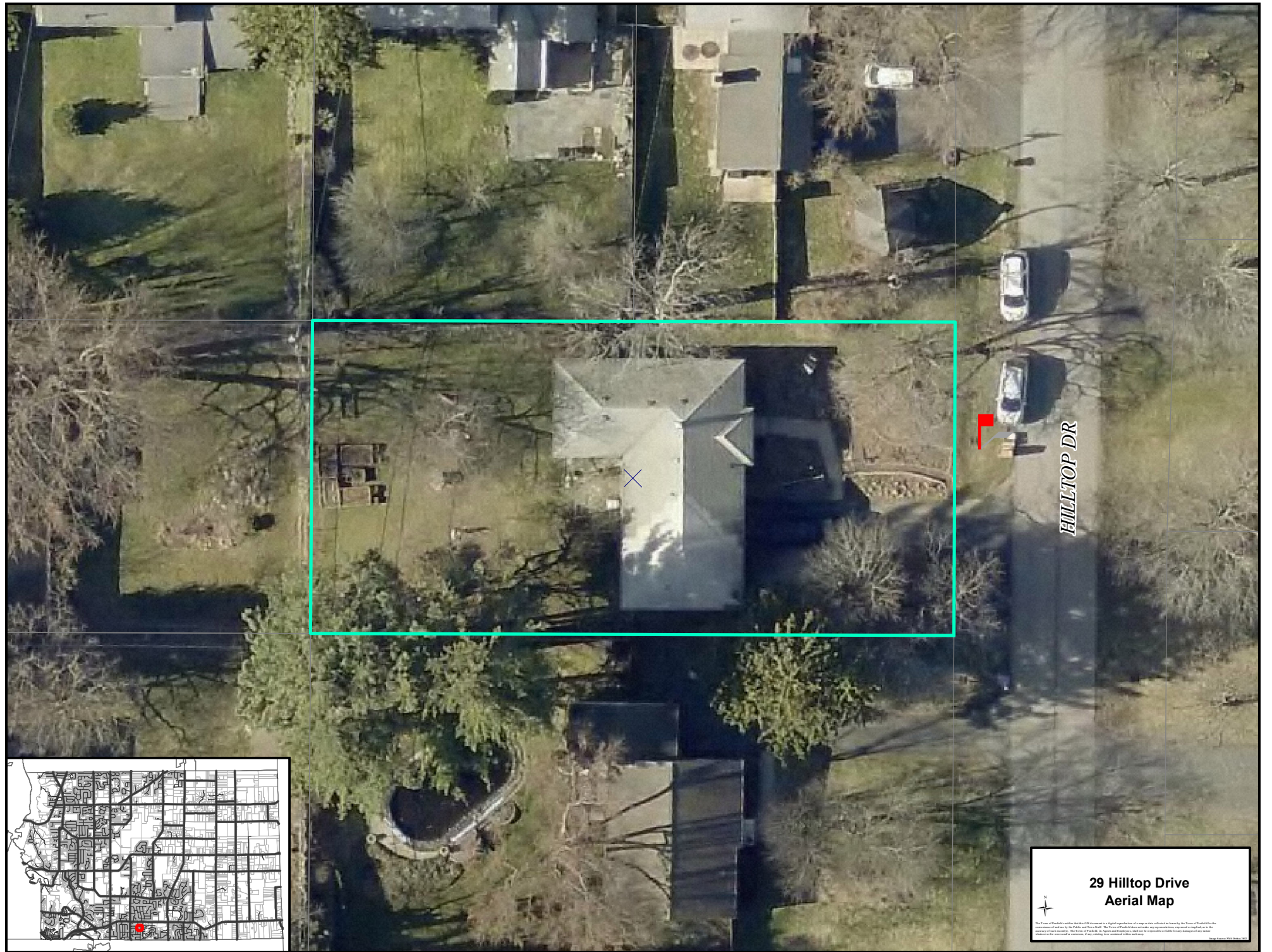
*Ronald W. Staub*

RONALD W. STAUB, N.Y.S.L.S. # 44621

"Unauthorized alteration or addition to a survey map bearing a licensed land surveyors seal is a violation of section 7209 Subdivision 2, of the New York State Education Law."  
 "Only copies from the original of this survey marked with an original land surveyors seal shall be considered to be valid true copies."  
 "Certifications indicated hereon signify that this survey was prepared in accordance with the existing Code of Practice for Land Surveys adopted by the New York State Association of Land Surveyors. Said certifications shall run only for the person for whom the survey is prepared, and on his behalf to the title company, governmental agency and lending institution listed hereon, and to the assignees of the lending institution. Certifications are not transferable to additional institutions or subsequent owners."

**INSTRUMENT SURVEY MAP**  
**29 HILLTOP DRIVE**  
**LOT 27 OF THE PENFIELD MEADOWS SUBDIVISION**

**SCANNED**



HILLTOP DR

29 Hilltop Drive  
Aerial Map



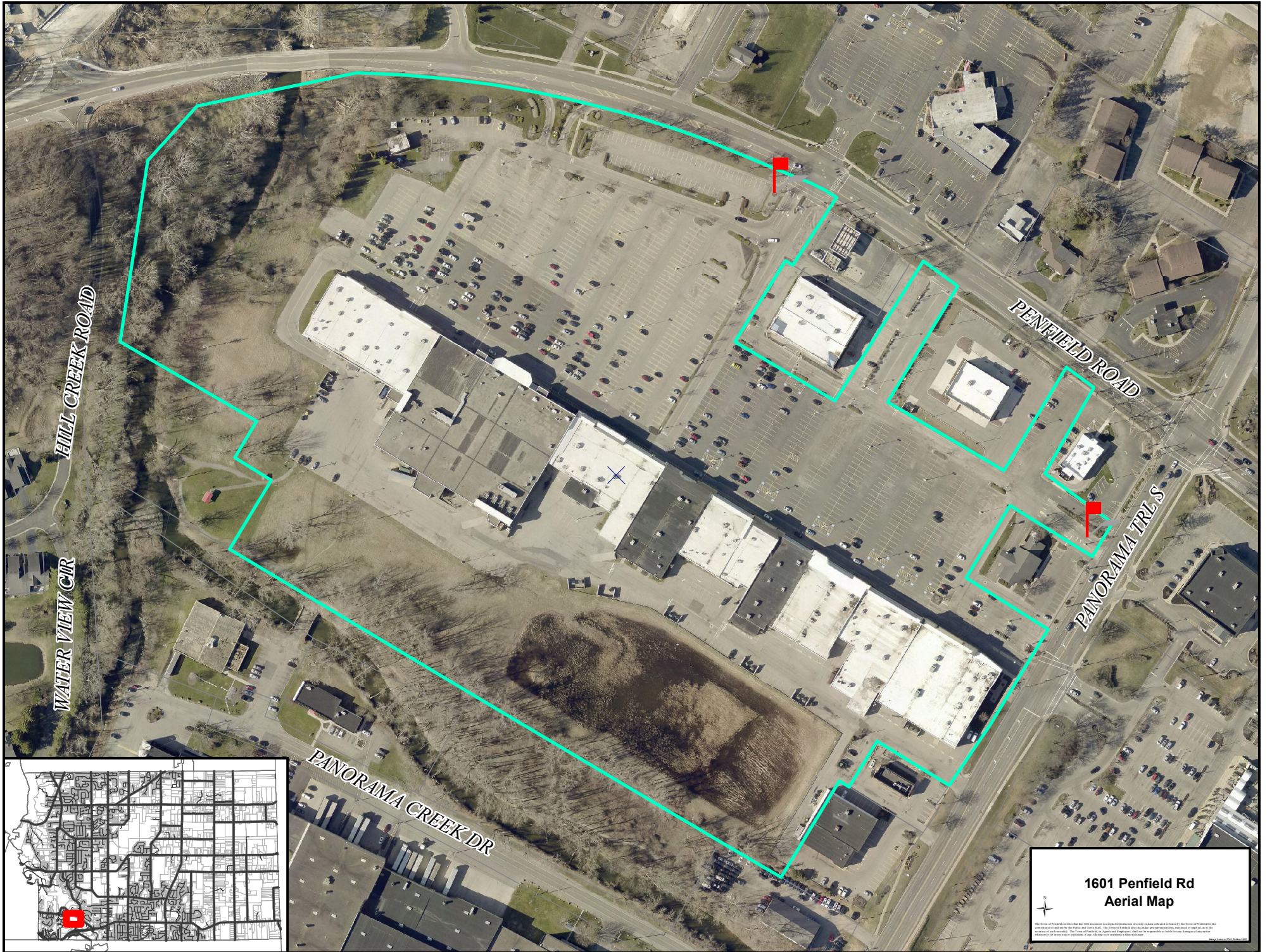
This is an aerial photograph of the property. It is not intended to be used as a substitute for a professional survey. The information contained herein is for informational purposes only and is not intended to be used for any other purpose. The information is provided as is and is not intended to be used for any other purpose. The information is provided as is and is not intended to be used for any other purpose. The information is provided as is and is not intended to be used for any other purpose.

**ZONING BOARD OF APPEALS AGENDA**

Public Hearing Application # 4

Application # 21Z-0035  
Jeffrey Lancy c/o American Promotional Events  
1601 Penfield Road

*See Pages to Follow*



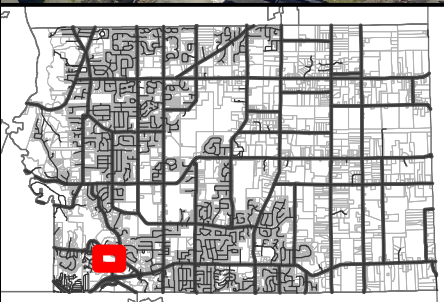
HILL CREEK ROAD

WATER VIEW CIR

PENFIELD ROAD

PANORAMA TRLS

PANORAMA CREEK DR



1601 Penfield Rd  
Aerial Map



This map is for informational purposes only. It is not intended to be used as a legal document. The information on this map is derived from public records and is not guaranteed to be accurate. The user of this map assumes all responsibility for any errors or omissions. The user of this map also assumes all responsibility for any damages or losses resulting from the use of this map.



21Z-0035



STATEMENT OF PURPOSE

Jeffrey Lancy c/o American Promotional Events dba TNT Fireworks is submitting for approval for the attached application.

Location address: 1601 Penfield Road, Penfield, NY 14625

The purpose is to sell New York approved Sparkling Devices in a temporary tent from June 20<sup>th</sup> 2021 - July 5<sup>th</sup> 2021. The tent will be erected three days prior to the sale and removed within two days of completion of the sale. The hours of operation will be from 9am-10pm, as permitted by local location ordinances.

There will be two fire extinguishers readily accessible. "No Smoking" and age limit signs will be posted and enforced. New York State Sparkler Sales Permits will be obtained prior to the sale date and will be posted on-site along with our insurance and Certificate of Authority. There will be a minimum of two people onsite at all times and the product will be secured 24/7 to ensure safety.

If you have any questions, please do not hesitate to call me at 256-740-6158.

Sincerely,

*Virginia Hightower*

Virginia Hightower  
Permitting Coordinator  
hightowerv@tntfireworks.com



Virginia Daniel Hightower  
Permitting Coordinator

American Promotional Events, Inc.  
4003 Helton Drive  
Florence, AL 35630  
www.tntfireworks.com

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