



## Memorandum

**To:** Janis Graham, ZBA Chair  
**Cc:** ZBA members, Town Clerk  
**From:** Planning Department  
**Subject:** Area Variance request: 181 Lake Road  
**Date:** June 21, 2023

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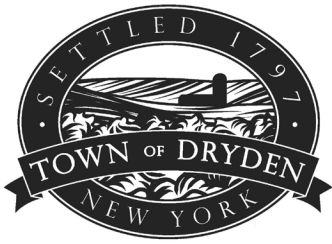
### **181 Lake Road, Tax Parcel ID# 48.-1-88, Neighborhood Residential Zoning District**

Nicholas Brenner, owner of the above referenced parcel, request relief from the Town of Dryden Code Section 270-6.1, in order to construct an attached deck within the required 50 ft front yard setback. He requests 16 feet of relief from the 50 foot required front yard setback. The original dwelling was granted an area variance in 2016 to construct the house within 40 ft of the road.

A public hearing is scheduled for July 12, 2023 at 6:15 pm.

### **SEQR, County Review, Ag & Markets:**

- Granting of individual setback and lot line variances and adjustments are SEQR Type II exempt actions ( 6 CRR-NY 617.5(c)(16).
- This action is not subject to Regional GML-239 review pursuant to Inter-governmental Agreement Section II. E.
- Consideration of Ag & Markets requirements is not required for area variance requests (Ag & Markets 25-AA, Town Law 283-A).



Planning Department

93 East Main Street  
Dryden, NY 13053

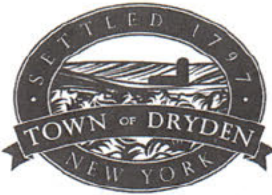
T 607 844-8888 ext. 216  
F 607 844-8008  
joy@dryden.ny.us

<http://dryden.ny.us/planning-department>

**NOTICE** that the Zoning Board of Appeals of the Town of Dryden will conduct a Public Hearing to consider the application of **Nicholas Brenner** for an area **variance** at **181 Lake Road**, Tax Parcel ID 48.-1-88. This parcel is in the Neighborhood Residential zoning district and the Code of the Town of Dryden requires a 50 foot front yard setback for structures. Applicant requests 16 feet of relief to allow an attached deck to be constructed within 34 feet of the road.

SAID HEARING will be held on **Wednesday July 12, 2023 at 6:15 pm** at Dryden Town Hall, 93 East Main Street, Dryden, NY 13053 at which time all interested persons will be given an opportunity to be heard. You can either attend the hearing in person or remotely. To attend remotely you connect to the hearing via internet or telephone. Details on how to connect will be posted July 11 to the Town website at: [dryden.ny.us](http://dryden.ny.us) You can also submit comments prior to the meeting or request meeting details by email to: [planning@dryden.ny.us](mailto:planning@dryden.ny.us)

Individuals requiring assistance should contact the Town of Dryden at 607-844-8888 x 216 at least 48 hours prior to the time of the public hearing.



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## Area Variance ZONING PERMIT APPLICATION

Date of Application: 6/13/23 Tax Parcel # 502401-48.-1-88

Name: Nicholas Brenner

Address: 181 Lake Road, Dryden NY

Phone #: [REDACTED]

Application for a Zoning Permit is HEREBY made to:

( ) Build  Extend ( ) Convert ( ) Place a Manufactured Home ( ) Other

Project Description: 6' wide front porch extending the length of the house.

Project Site: 181 Lake Rd.

Project Owner: Nicholas Brenner Estimated Project Cost: \$: 4,000

Project Owner Signature: Nicholas Brenner

Land Owner: Nicholas Brenner Is this a Land Contract Sale? No

Land Owner Signature: Nicholas Brenner

Please note this is NOT A CONSTRUCTION PERMIT. After a Zoning Permit has been issued you will then be required to submit all necessary applications for construction and copies of other required agency permits before a Construction Permit will be issued.

Attached is a copy of the ZONING PERMIT REGULATIONS, a sample site plan, a space for you to provide your necessary site plan. More complex projects may require a more detailed site plan. It must contain the requested site plan details as described within this application.

### Zoning Permit Fees

New construction on improved lands – no fee

New construction on unimproved (vacant) lands - \$25.00

Projects requiring an area/setback variance - \$25.00 + \$165 variance application fee

#### FOR Town Use ONLY:

Zoning Permit Approved: \_\_\_\_\_

Zoning Permit Denied \_\_\_\_\_

Under Section(s): \_\_\_\_\_ Town of Dryden Zoning Law

Signature of Code Enforcement Official: \_\_\_\_\_ Date: \_\_\_\_\_

Variance Date: \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Approved or Denied: \_\_\_\_\_

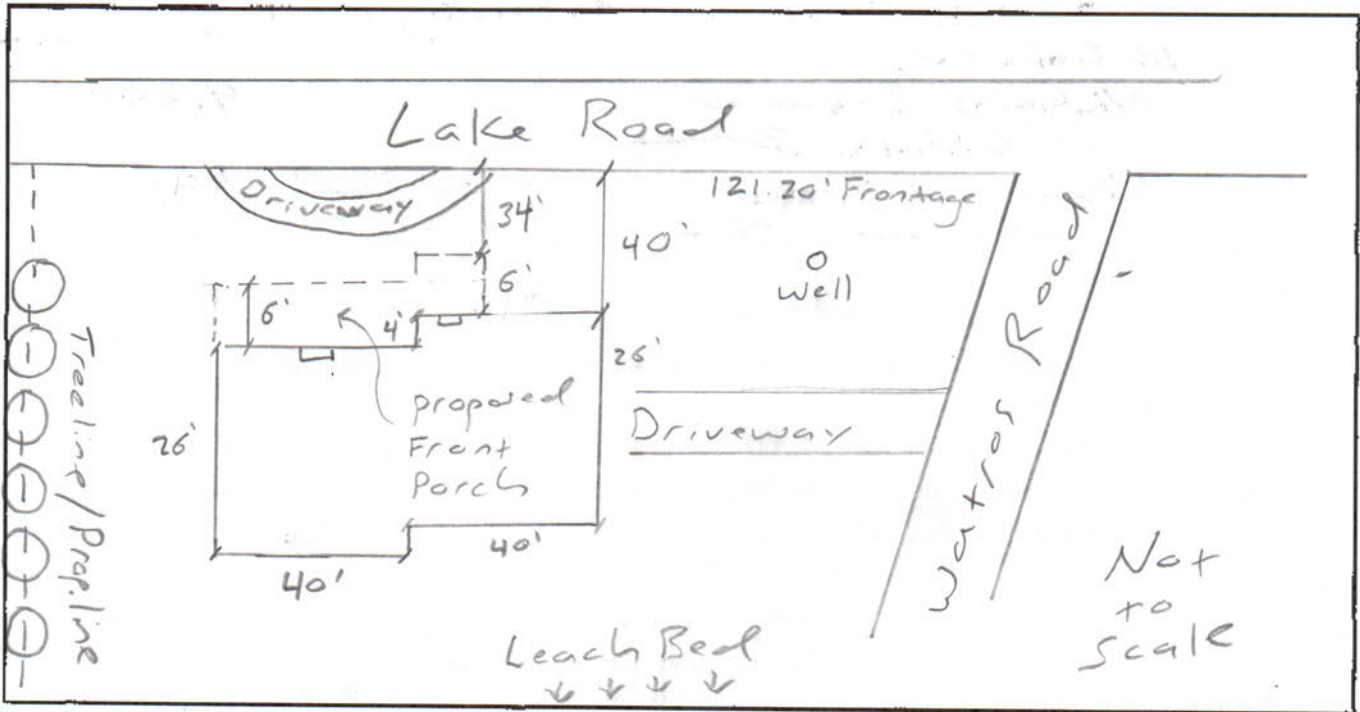
SITE PLAN which CLEARLY ILLUSTRATES Zoning Compliance

The Space below is provided for the applicant to draw a site plan which will show placement of and type of structure or structures FOR WHICH THIS ZONING PERMIT is being applied for.

The following information SHALL be sufficiently detailed on this SITE PLAN so that the reviewer can verify Zoning Compliance.

- 1) Dimensions of the lot in feet.
- 2) Names of adjoining property owners
- 3) Location of proposed structures.
- 4) Place all driveway & road cuts.
- 5) Structure dimensions & separation
- 6) Location of all existing structures
- 7) Significant topographical features
- 8) Yard dimensions; setbacks
- 9) Road frontage in feet only
- 10) Water courses, contours
- 11) Sewer facilities and wells
- 12) Utilities and utility easements
- 13) North arrow

All lots within the Town of Dryden created after September 1969 SHALL be at least 30,000 Square feet in area and have no less than 125 contiguous feet of Public Road Frontage. Where private septic systems and wells are necessary, Lot Sizes are determined by TOMPKINS COUNTY DEPT, of ENVIRONMENTAL HEALTH.



Attached is a sample site plan which would be acceptable if submitted. If there are questions, or compliance is not possible, please call 607-844-8888 X 216 as necessary 8:00 AM till 4:30 PM Monday through Friday.

Applicants Signature: \_\_\_\_\_

\_\_\_\_\_



## Zoning Variance

When applying for a Zoning Variance, it is important to clearly establish the grounds for relief from the requirements of the zoning ordinance.

You should keep in mind that there are (2) types of variance requests.

- 1). Allowed land use in a Zoning District. See requirements attached.
- 2). Area requirements such as setbacks or other such location problems. See requirements attached.

The Zoning Board of Appeals meets on the FIRST Tuesday of each month at 6:00 PM. ALL supporting documents shall be filed with the **Town Zoning Officer, Ray Burger**. All applications **MUST be filed not less than 30 Days prior to the desired hearing date.** Once a hearing date and time have been established, you'll be notified by mail when to appear. Applicants or Agent must appear at the public hearing. Non-appearance will result in an automatic denial of the appeal.

All property owners within 500' and all others as prescribed by NYS law of the affected property must be notified by mail of the public hearing date and time, who is applying and the basic nature of the request. The Town completes this notification.

A Notice of Hearing must be posted in the Town of Dryden Official Newspaper, which is The Ithaca Journal. Said posting must be posted no later than five (5) days prior to the hearing date. Done by the Town.

### **General procedure for filing an application for a variance request:**

- 1.) **Complete Zoning Variance application**
- 2.) **Use or Area Variance form**
- 3.) **Zoning Permit application**
- 4.) **Agricultural Data Statement**
- 5.) **Short Environmental Assessment form**
- 6.) **Fee, residential area variance appeal, use variance appeal, interpretation request, and all other ZBA reviews required in the Zoning Ordinance \$165.**

If you have any questions or concerns, please feel free to call this office at 844-8888 ext. 216 between 8:00 AM and 4:30 PM Monday-Friday.

# New York Consolidated Laws

## Chapter 62 of the Consolidated Laws - Town Law

### Article 16 Zoning and Planning

#### 267-a Town. Board of appeals procedure.

1. Meetings, minutes, records. Meetings of such board of appeals shall be open to the public to the extent provided in article seven of the public officers law. Such board of appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

2. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the board of appeals shall be filed in the office of the town clerk within five business days and shall be public record.

3. Assistance to board of appeals. Such board shall have the authority to call upon any department, agency or employee of the town for such assistance as shall be deemed necessary and as shall be authorized by the town board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.

4. Hearing appeals. Unless otherwise provided by local law or ordinance, the jurisdiction of the board of appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of any ordinance or local law adopted pursuant to this article. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the town. 5. Filing of administrative decision and time of appeal.

(a) Each order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of the zoning local law or ordinance shall be filed in the office of such administrative official, within five business days from the day it is rendered, and shall be a public record. Alternately, the town board may, by resolution, require that such filings instead be made in the town clerk's office.

(b) An appeal shall be taken within sixty days after the filing of any order, requirement, decision, interpretation or determination of the administrative official, by filing with such administrative official and with the board of appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken.

6. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal is taken, certifies to the board of appeals, after the notice of appeal shall have been



filed with the administrative official, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

7. Hearing on appeal. The board of appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the town at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.

8. Time of decision. The board of appeals shall decide upon the appeal within sixty-two days after the conduct of said hearing. The time within which the board of appeals must render its decision may be extended by mutual consent of the applicant and the board.

9. Filing of decision and notice. The decision of the board of appeals on the appeal shall be filed in the office of the town clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

10. Notice to park commission and county planning board or agency or regional planning council. At least five days before such hearing, the board of appeals shall mail notices thereof to the parties; to the regional state park commission having jurisdiction over any state park or parkway within five hundred feet of the property affected by such appeal; and to the county planning board or agency or regional planning council, as required by section two hundred thirty-nine-m of the general municipal law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law.

11. Compliance with state environmental quality review act. The board of appeals shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations as codified in title six, part six hundred seventeen of the New York codes, rules and regulations.

12. Rehearing. A motion for the zoning board of appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

13. Voting requirements. (a) Decision of the board. Except as otherwise provided in subdivision twelve of this section, every motion or resolution of a board of appeals shall require for its adoption the affirmative vote of a majority of all the members of the board of appeals as fully constituted regardless of vacancies or absences.

Where an action is the subject of a referral to the county planning agency or regional planning council the voting provisions of section two hundred thirty-nine-m of the general municipal law shall apply.

(b) Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by subdivision eight of this section, the appeal is denied. The board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in subdivision twelve of this section.

(As amended by Laws 1999, ch 476, Sec. 2, eff. Jan. 1, 2000; Laws 2002, ch. 662, Sec. 7, eff. July 1, 2003.)



# New York Consolidated Laws

## Chapter 62 of the Consolidated Laws - Town Law Article 16 Zoning and Planning

### 267-b Town. Permitted action by board of appeals.

1. Orders, requirements, decisions, interpretations, determinations. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement or such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

2. Use variances. (a) The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.

(b) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.

(c) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

3. Area variances. (a) The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

(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. In making such determination the board shall also 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; (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;

(3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (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.

(c) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

4. Imposition of conditions. The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.



APPEAL TO

**ZONING BOARD OF APPEALS  
TOWN OF DRYDEN  
(Area Variance)**

Having been denied permission to \_\_\_\_\_

Acquire permit to construct front porch within  
34' of front yard setback,

At 181 Lake Rd. Dryden, N.Y. as shown on the accompanying Application and/or plans or other supporting documents, for the stated reason that the issuance of such permit would be in violation of

Section or Section (s) 270-6.1

of the Town of Dryden Zoning Ordinance

the UNDERSIGNED affirms that the benefit to the undersigned if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant in that:

Construction of the front porch within 34' of the  
front yard setback will allow for the  
front porch to be built and enjoyed and  
for the original vision/design of the home to  
be realized.

If you have additional supporting details of information, please attach such details to this application and make reference to such attachment.

Applicant Signature: \_\_\_\_\_

Nicolas - 1-5 TR

Applicant address: \_\_\_\_\_

181 Lake Road. Dryden NY  
13-53

Phone Number \_\_\_\_\_

Date: \_\_\_\_\_

5/14/23



Applicant: Nicholas Brauner

Date: 6/14/23

- A. IN CONSIDERING WHETHER AN UNDESIRABLE CHANGE WOULD BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR DETRIMENT TO NEARBY PROPERTIES WILL BE CREATED BY GRANTING OF THE AREA VARIANCE THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

Lake Road has various front yard setbacks,  
the use would not be out of character of the area.  
Only the Lake Road setback would need a variance.

- B. IN CONSIDERING WHETHER THE BENEFITS SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY SOME OTHER METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

Many homes on Lake Road have front porches.  
The 34' setback is a preference at 181 Lake  
Road in order to provide the space necessary  
to build a front porch.

- C. IN CONSIDERING WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL. THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

The minimum recommended front porch width  
is 6'. A depth of 8' is ideal, but in order  
to limit the variance request, the homeowner  
is requesting 6'.

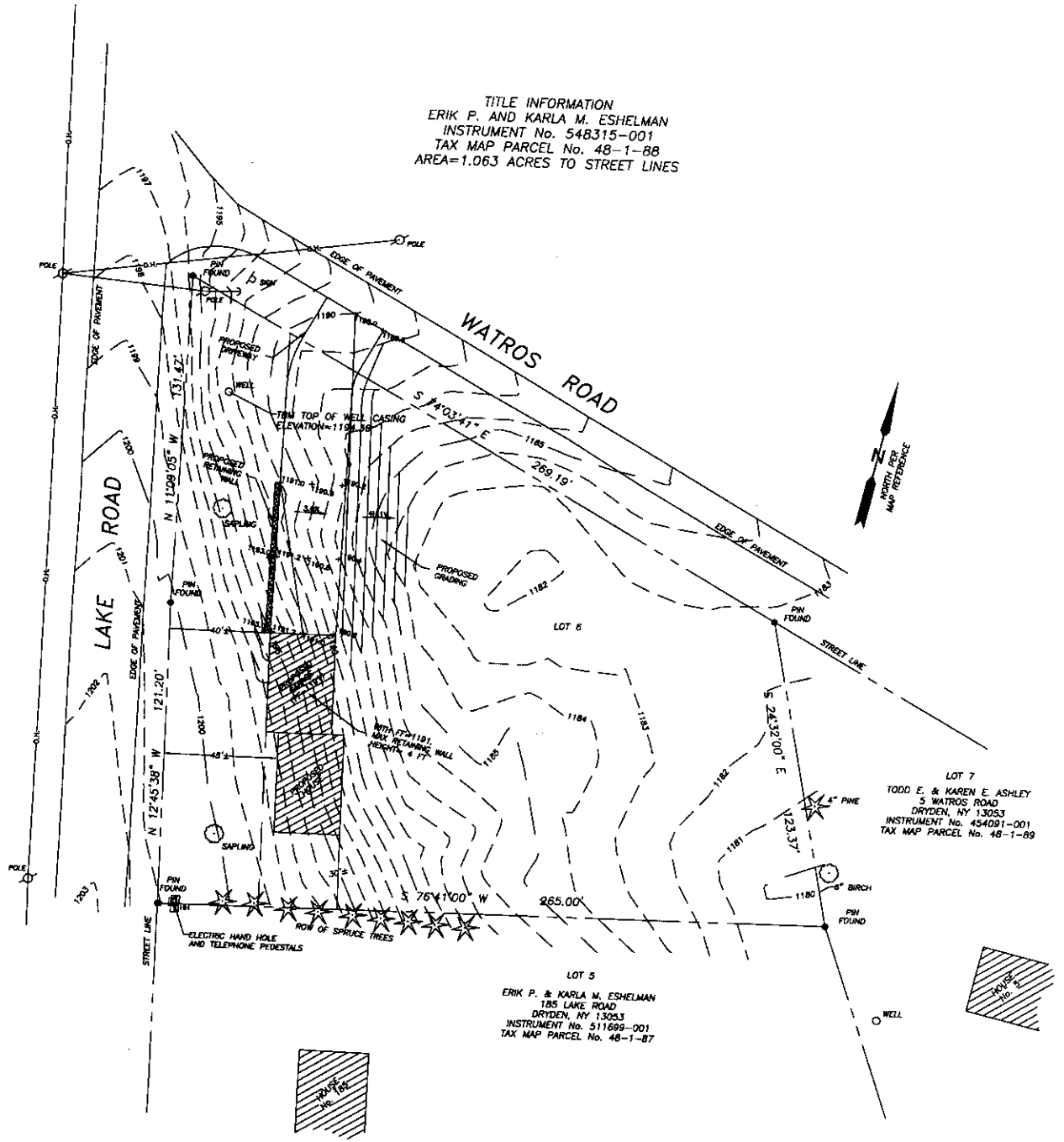
- D. IN CONSIDERING WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT. THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

Erik and Karla Eshelman who live to  
the south on Lake road would support  
this action.

- E. IN CONSIDERING WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED. THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

The location of the home on the property  
given the topography was best suited at  
40 feet from Lake Road. This was agreed  
upon by the town in the granting of the  
initial variance. The homeowner didn't have the  
funds to build the front porch during initial  
construction and is requesting to do so now.

TITLE INFORMATION  
 ERIK P. AND KARLA M. ESHELMAN  
 INSTRUMENT No. 548315-001  
 TAX MAP PARCEL No. 48-1-88  
 AREA=1.063 ACRES TO STREET LINES

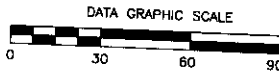


GENERAL NOTES

1. THIS PLAN PROVIDES A CONCEPTUAL GRADING PLAN FOR A PROPOSED HOUSE AT THE PARCEL IDENTIFIED ON THIS PLAN.
2. THIS PLAN IS FOR CONCEPTUAL PURPOSES ONLY, NOT FOR PERMITTING OR CONSTRUCTION.
3. THE DESIGN IS BASED ON GENERAL ENGINEERING PRACTICES. NO RESEARCH OF THE STATE OF NEW YORK OR TOWN OF DRYDEN CODE OR ENGINEERING REQUIREMENTS WAS PERFORMED.

REFERENCES

1. "BOUNDARY & TOPOGRAPHIC MAP, LAKE ROAD & WATROS ROAD, TOWN OF DRYDEN, TOMPKIN COUNTY, NEW YORK," PREPARED BY T.G. MILLER P.C. ENGINEERS AND SURVEYORS, ITHACA, NEW YORK, DATED 3/23/2016.



SKETCH PLAN  
 LAKE ROAD & WATROS ROAD  
 DRYDEN, NEW YORK

SCALE: 1" = 30'  
 DATE: 4/27/2016  
 (NOT FOR CONSTRUCTION)