

# STAFF REPORT

Ellicottville Planning Department

**Permit No:** ZP24-89  
**Request:** Area Variance  
**Applicant:** Jacob Flitton  
**Location:** 17 Van Buren Place, Ellicottville, N.Y. 14731  
**Tax Map No:** 55.027-2-1.4  
**Zoning Districts:** Residential District – Medium Density (MD)  
**Report Date:** 2/26/25  
**Prepared By:** Gregory Keyser

## DESCRIPTION

This is a zoning permit denial requesting an area variance from the rear yard setback requirement to allow the construction of a new larger deck to replace an existing deck.

## ZONING REVIEW

Land Use – The current use of the property involving a single-family residential building is permitted in the MD District and will not change.

### Dimensional Requirements

Requirement	MD Standard	Current	Proposed	Compliant
Min. Lot Size	12,500 sf	~ 13,500 sf	No Change	Yes
Min. Lot Width	80'	~ 112'	No Change	Yes
Min. Building Size	1,000 sf	~ 1,800 sf	~ 2,300 sf	Yes
Min. Side Yard Setback (near)	15'	18'-6"	No Change	Yes
Min. Side Yard Setback (far)	15'	48'	No Change	Yes
Total Side Yard Setback	30'	66'-6"	No Change	Yes
Min. Front Yard Setback	35'	38'-7"	No Change	Yes
<b>Min. Rear Yard Setback</b>	<b>25'</b>	<b>25'</b>	<b>9'-4"</b>	<b>No</b>
Max. Building Height	2.5 stories	2 stories	No Change	Yes
Min. Open Space	20%	~ 80%	No Change	Yes

## ZONING APPROVALS

Variances – Required.

### 1. Section 3A 4 (C) (5) – Rear Yard

Required: The minimum rear yard setback for all buildings in the MD is 25 feet.

Proposed: The proposed deck is 9'-4" from the rear property line.

Variance: 15'-8"

Subdivision – Not required. No subdivision is proposed.

Special Use Permit – Not required. The current use is permitted, and no change of use is proposed.

Site Plan Review – Not required. Exterior alterations to existing structures that would not increase the square footage of the existing structure by more than 25% are exempt from site plan review. The new deck will expand the footprint of the existing building by approximately 200 sf or 10%.

Architectural and Landscape Design Review – Required. Exterior modifications are subject to Architectural Design review in accordance with Section 10 of the Village Zoning Code. Planning Board approval is required because the proposed deck exceeds 300 sf and does not meet setback requirements.

Historic District Review – Not Required. The site is not located in the Historic District.

### **SEQR**

The proposed project does not exceed any Type 1 thresholds and meets the definition of a Type 2 Action under 617.5(c)(11) and 617.5(c)(17) involving the expansion of a single-family residence requiring an area variance. As a Type 2 Action, the project is not anticipated to have any significant adverse impacts and no further review under SEQR is required.

### **COUNTY ZONING REFERRAL**

County Zoning Referral is not required because the project site (parcel) is not within 500-feet of any features noted under GML 239-m.

### **REVIEW PROCESS**

1. Application Review – Determine whether the application is complete for public review purposes.
2. SEQR – Classify the project as a Type 2 Action.
3. Public Hearing – Hold a public hearing within 62 days of the date that the application is deemed to be complete and a SEQR determination has been made.
4. Planning Board Referral – Refer the application to the Planning Board for review.
5. Decision – Make a final decision within 62 days after the close of the public hearing. The ZBA Board may approve, approve with conditions or deny the area variance based on the Board's findings and the five balancing test criteria for area variances.

**APPLICATION FOR ZONING PERMIT  
ELLCOTTVILLE, NEW YORK**

**Applicant Information**

Applicant Name: Jacob Flitton  
Mailing Address: PO Box 80, East Aurora NY 14052  
Phone Number: 716-646-8251 Email: jake@havenarchitecture.com  
Property Owner: Kimberly Reading  
Mailing Address: 17 Van Buren, Ellicottville NY 14731  
Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Site Information**

Project Address (or location): 17 Van Buren, Ellicottville NY 14731  
Tax Parcel Number: 55.027-2-1.4  Town of Ellicottville  Village of Ellicottville  
Purpose of Application:  New Construction or Alteration  Demolition  Change of Use of Premises  
Estimated Cost of Proposed Construction: \$200,000

Proposed Work and/or Intended Use (attach additional information if necessary):


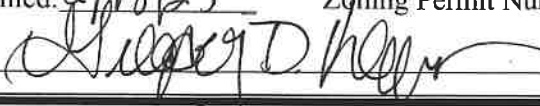
The proposed use of the property will not change. The existing deck is not structurally sound as in need of removal. We are proposing a new larger deck to be re-built in the current deck location on the rear of the existing house.

Building Width (ft): 48'-0" Depth (ft): 42'-0" Height (ft): 26'-0" Stories: Two  
Dimensions Building Footprint (sf): 1,600 Sq. Ft. Gross Floor Area (sf): 2,400 Sq. Ft.  
Area to be Developed (sf or acres): 545 Sq. Ft. Current Open Space (sf or acres) 12,190 Sq. Ft.  
Method of Water Supply: NA  
Method of Sanitary Sewerage Disposal: NA  
Building Setbacks: Front (ft): Exist. Rear (ft): 25'-0" Side (ft): 20'-0" Side (ft): 48'-0"  
Zoning District(s): Single Family Residential  
Lot Size: Area (sf/acres): 0.031 Acres Frontage (ft): \_\_\_\_\_ Width (ft): 48'-0" Depth (ft): \_\_\_\_\_  
Flood Hazard Area?  No  Yes Firm Zone: \_\_\_\_\_ Base Flood Elevation: \_\_\_\_\_

**The applicant agrees to comply with all applicable laws, ordinances, and regulations.**

Signature of Applicant  Date 2025.02.11

Signature of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

<b>For Official Use Only:</b>			
Date Rec'd:	<u>2/11/25</u>	Application Fee:	<u>\$40</u>
Approved:	_____	Rec'd By:	<u></u>
Denied:	<u>2/18/25</u>	Zoning Permit Number:	<u>ZP25-005</u>
Signature of Zoning Official:	<u></u>		Date: <u>2/18/25</u>

**ZONING BOARD OF APPEALS APPLICATION  
ELLCOTTVILLE, NEW YORK**

**Applicant Information**

Applicant Name: Jacob Flitton Property Owner:  Yes  No

Company or Trade Name (if any): Haven Architecture

Mailing Address: PO Box 80, East Aurora NY 14052

Phone Number: 716-646-8251 Email: jake@havenarchitecture.com

Applicant's Engineer or Representative Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Site Information (Property for which variance is requested)**

Address (or location): 17 Van Buren

Tax Parcel Number: 55.027-2-1.4  Town of Ellicottville  Village of Ellicottville

Owner(s) of record of the site: Kimberly Reading

Current Use of Property: Residential

**Description of Appeal**

Project Name (if any): \_\_\_\_\_

Briefly describe the proposed use of the property here or attach additional pages if necessary:

The proposed use of the property will not change. The existing deck is not structurally sound as in need of removal. We are proposing a new larger deck to be re-built in the current deck location on the rear of the existing house.

Type of Appeal (check all that apply):

Area Variance  Use Variance  Interpretation of Zoning Law Text or Map

Section of Zoning Law from which variance is requested: \_\_\_\_\_

Briefly Describe the requested variance:

Is this an appeal from a decision by the Building or Zoning Official?  Yes  No

If yes, what was the type of decision or permit? \_\_\_\_\_ Date of Decision: \_\_\_\_\_

**Previous Appeal(s)**

Has a previous appeal(s) been made with respect to this decision or with respect to the property?  Yes  No

If yes, provide appeal number(s), date(s) of appeal and ZBA decision(s):

**Reasons Supporting Your Appeal**

Please provide a **WRITTEN RESPONSE** to the questions for the type of appeal that you are making. These are the criteria that the Zoning Board of Appeals will use to evaluate your appeal.

**Area Variance**

An area variance is the authorization by the ZBA for the use of land in a manner which is not allowed by the dimensional or physical requirements of the zoning regulations. The ZBA will take into consideration the benefit to the applicant if the variance were granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community. If a variance is to be granted, the ZBA must also grant the minimum variance necessary. In making its determination, the ZBA will consider these five questions for each area variance requested.

1. Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the variance?
2. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?
3. Is the requested area variance substantial?
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
5. Is the alleged difficulty self-created, which consideration shall be relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

**Use Variance**

A Use Variance is the authorization by the ZBA that permits a use of land which is prohibited by the zoning regulations. In order for the ZBA to grant a use variance, the applicant shall show that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove unnecessary hardship, the applicant must demonstrate to the Zoning Board of Appeals that the following tests are met for each, and every use allowed by the zoning on the property, including uses allowed by special use permit.

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence; and
2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; and
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.

**Interpretation of Zoning Law Text or Map**

Provide a statement that describes what the Building or Zoning Official determined, what you believe should be the interpretation and why.

**I have read and am familiar with the applicable zoning regulations for the above noted variances under the Village of Ellicottville Zoning Law or the Town of Ellicottville Zoning Law.**

Signature of Applicant \_\_\_\_\_

\_\_\_\_\_ Date

<b>For Official Use Only:</b>			
Date Received:	<u>2/11/25</u>	File Number:	<u>2025-005</u> (from zoning permit application)
Application Fee:	<u>\$275</u>	Rec'd By:	<u>[Signature]</u> on <u>2/11/25</u> (Date)

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project: Residential Deck Re-build & expansion			
Project Location (describe, and attach a location map): 17 Van Buren, Ellicottville NY 14731			
Brief Description of Proposed Action: Remove the existing deteriorating deck and rebuild new structurally sound larger deck on rear of existing home. The new deck will be in the same location as the existing deck to be removed.			
Name of Applicant or Sponsor: Jacob Flitton		Telephone: 716-646-8251	
		E-Mail: jake@havenarchitecture.com	
Address: PO Box 80			
City/PO: East Aurora		State: NY	Zip Code: 14052
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		0.31 acres	
b. Total acreage to be physically disturbed?		0.012 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0.31 acres	
4. Check all land uses that occur on, are adjoining or 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 type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" 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?	NO <input type="checkbox"/>	YES <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 <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input 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: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO <input checked="" type="checkbox"/> <input type="checkbox"/>	YES <input 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 <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	



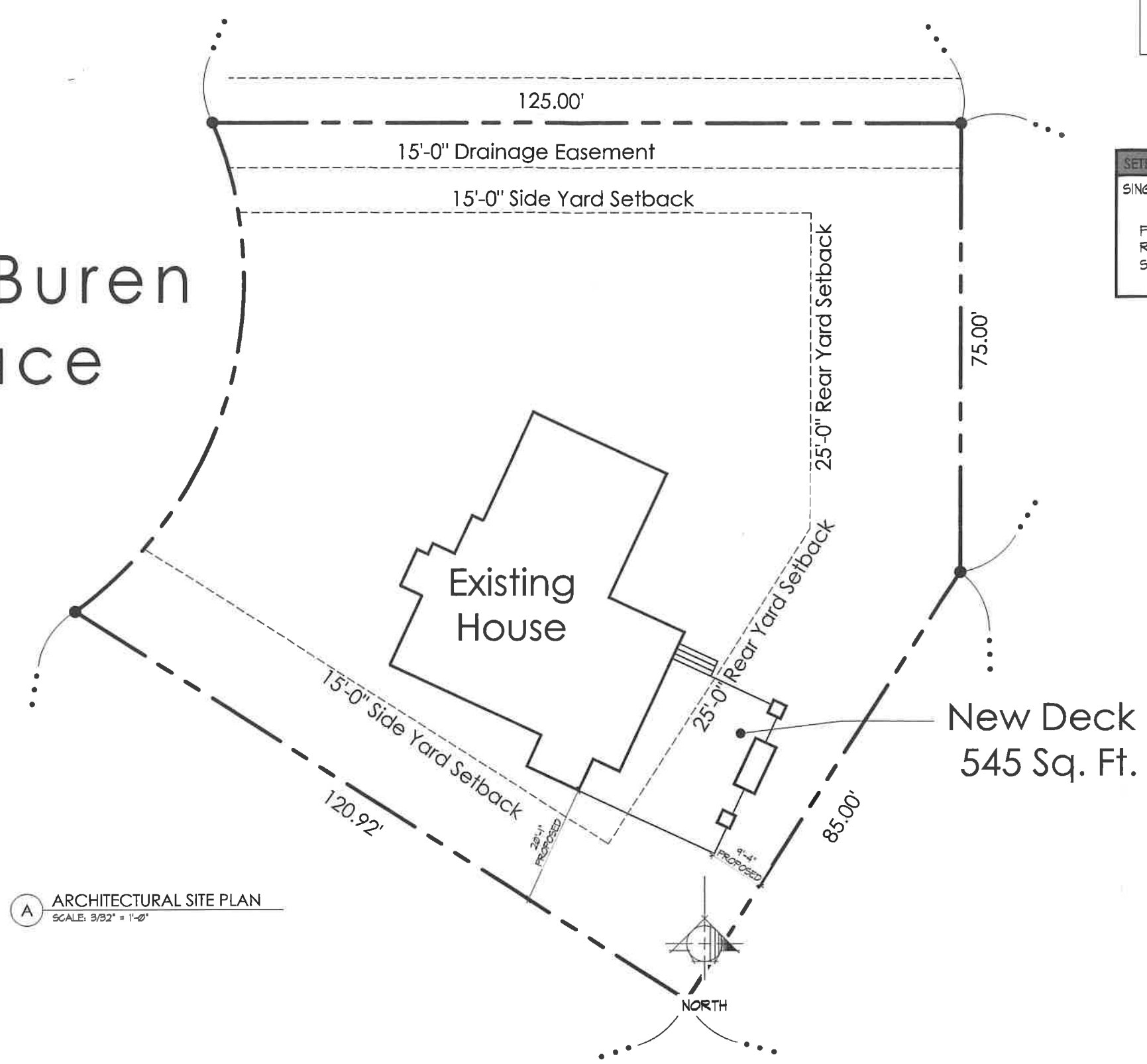






2/7/2025 9:43 AM E:\NY DRIVE\F\_ARCHITECT\PROJECTS\_2025\23-120\_READING\_RESIDENCE\_DECK\_ELLICOTTVILLE\_NY\_2301- SCHEMATIC DESIGN\_READING\_RESIDENCE- ANI- ARCH SITE PLAN\DWG PROJ\27/2025 9:43 AM

# Van Buren Place



**A** ARCHITECTURAL SITE PLAN  
SCALE: 3/32" = 1'-0"

ORIGINAL SURVEY COMPLETED OCTOBER 12, 1989 BY FREEMAN & FREEMAN LAND SURVEYING. THIS DRAWING REFLECTS THE INFORMATION SHOWN THEREIN. PLEASE REFER TO ORIGINAL SURVEY FOR EXACT PROPERTY LINES, EASEMENTS, ETC.

SETBACKS- Village of Ellicottville		
SINGLE FAMILY RESIDENTIAL (SFR):		
RESIDENTIAL USE:	REQUIRED:	PROPOSED
FRONT YARD:	--	NA
REAR YARD:	25'-0"	9'-4"
SIDE YARD(S):	15'-0"	20'-1"

PRELIMINARY



716.646.8251  
www.havenarchitecture.com

**DOCUMENT STATUS**  
 PRELIMINARY     PROGRESS  
 BID SET             PERMIT SET  
 FINAL FOR CONSTRUCTION  
ISSUED BY JACOB FLITTON ARCHITECT PLLC

**READING RESIDENCE**  
 17 Van Buren  
 Ellicottville NY 14731

Job #	23-120
Revisions	
Date:	2025.02.07
Title:	Architectural Site Plan

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TO THE BEST OF MY KNOWLEDGE BELIEVE I AM A PROFESSIONAL ARCHITECT. ALL PLANS DRAWINGS SPECIFICATIONS ETC. INCLUDED IN THIS DRAWING & PRINTING PACKAGE ARE IN COMPLIANCE WITH THE MOST CURRENT BUILDING CODES AND ALL APPLICABLE REGULATIONS.

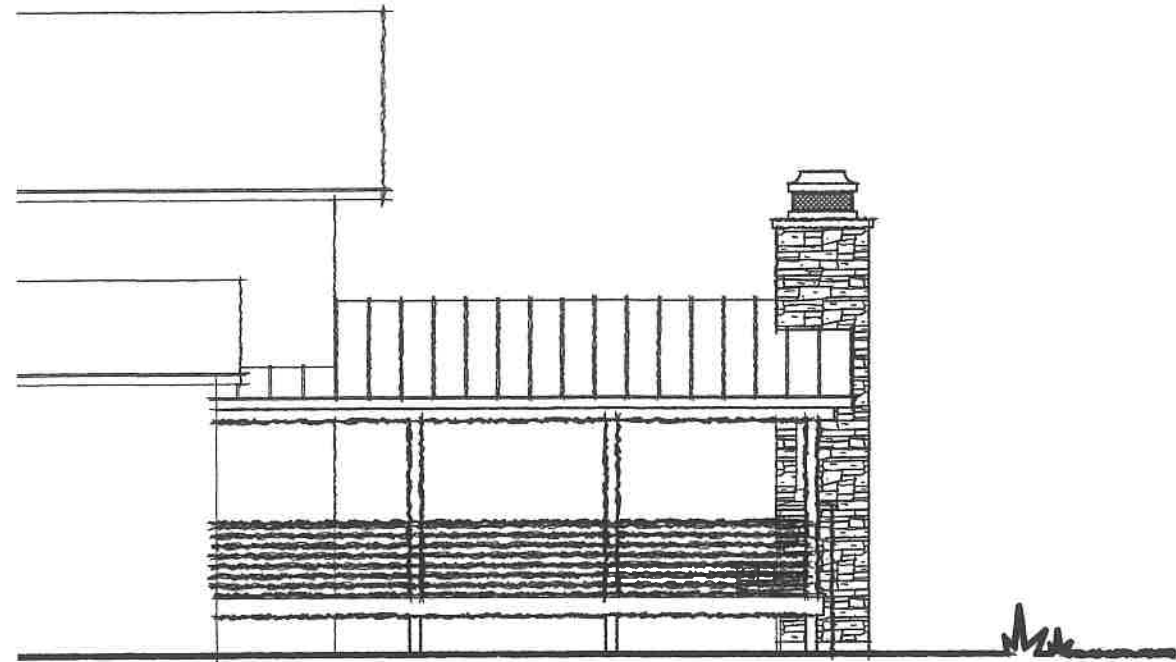
Sheet:  
**A0.1**

NOT FOR CONSTRUCTION

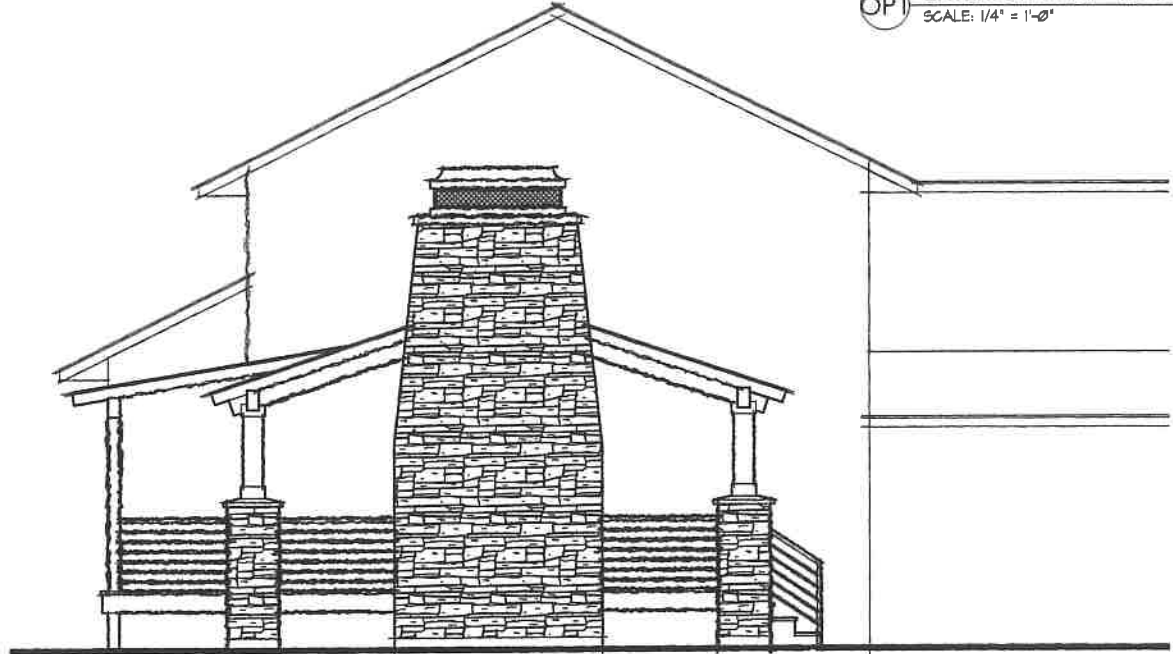
NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION

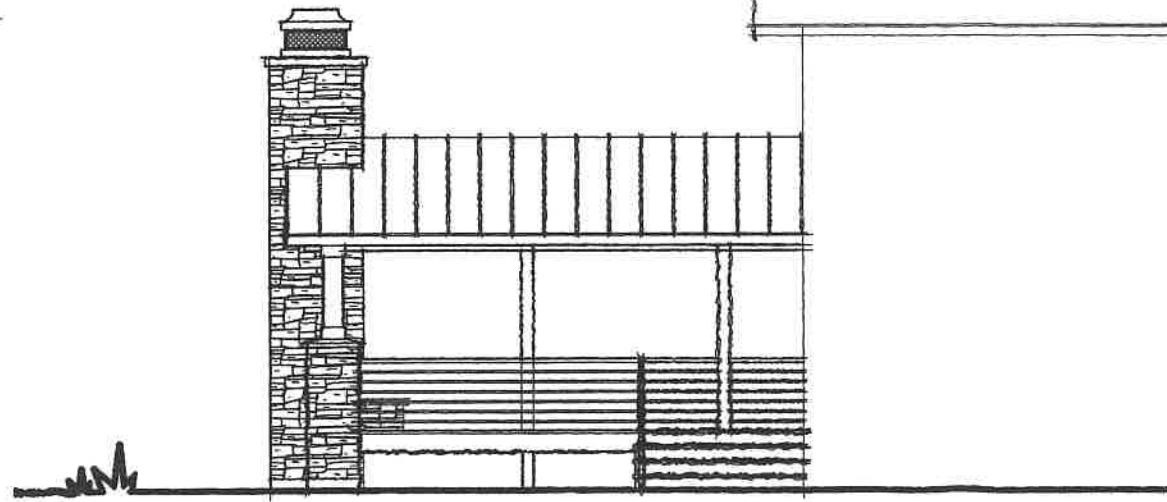
1/20/2025 5:02 PM C:\MY DRIVE\F ARCHITECT\PROJECTS\_2025\_23-120\_READING RESIDENCE\_DECK\_ELLICOTTVILLE\_NY\_SUP - SCHEMATIC DESIGN\_READING RESIDENCE - A30 - ELEVATIONS\DWG Plot1677/2025 941.dwg



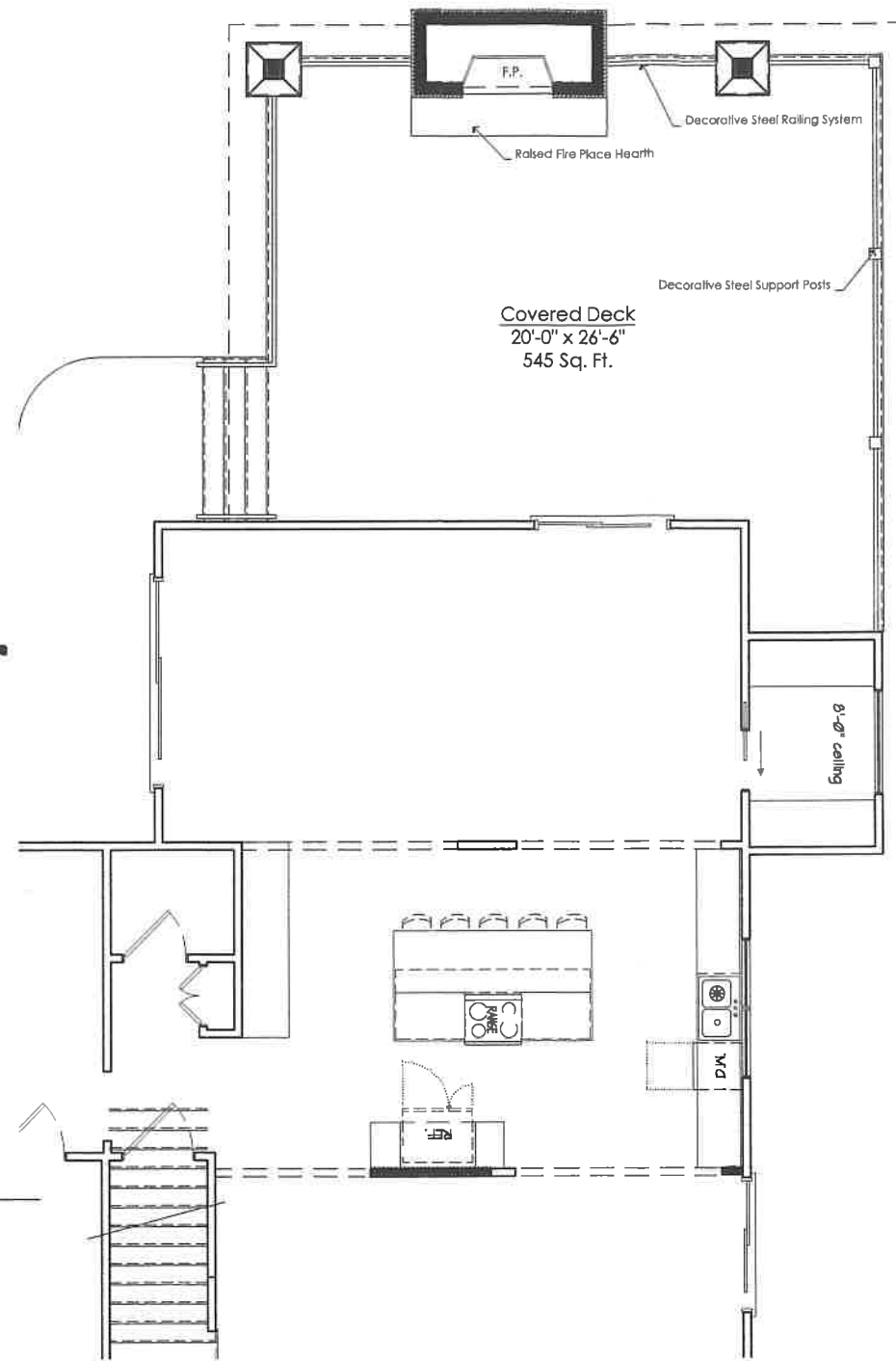
OP1 EXTERIOR ELEVATION  
SCALE: 1/4" = 1'-0"



OP1 EXTERIOR ELEVATION  
SCALE: 1/4" = 1'-0"



OP1 EXTERIOR ELEVATION  
SCALE: 1/4" = 1'-0"



OP1 MAIN FLOOR PLAN- Option 1  
SCALE: 1/4" = 1'-0"

PRELIMINARY

**HAVEN**  
architecture

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www.havenarchitecture.com

WARNING: IT IS A VIOLATION OF SECTION 206 OF THE NEW YORK STATE EDUCATION LAW FOR ANY PERSON UNLESS ACTING UNDER THE SUPERVISION OF A LICENSED ARCHITECT OR PROFESSIONAL ENGINEER TO PREPARE OR SEAL ANY ARCHITECTURAL OR ENGINEERING DRAWINGS OR SPECIFICATIONS OR REPORTS TO WHICH THE SEAL OF A LICENSED ARCHITECT OR PROFESSIONAL ENGINEER HAS NOT BEEN APPLIED.

DOCUMENT STATUS

- PRELIMINARY  PROGRESS
  - BID SET  PERMIT SET
  - FINAL FOR CONSTRUCTION
- ISSUED BY JACOB FLITTON ARCHITECT PLLC

**READING RESIDENCE**  
17 Van Buren  
Ellicottville NY 14731

Job # 23-120

Revisions

Date: 2025.02.01

Title:

**New Deck Plan & Exterior Elevations**

TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL PLANS, DRAWINGS, SPECIFICATIONS, ETC. INCLUDED IN THIS DRAWING & PRINT PACKAGE ARE IN COMPLIANCE WITH THE MOST CURRENT CODES AND ALL APPLICABLE REGULATORY AGENCIES.

Sheet:

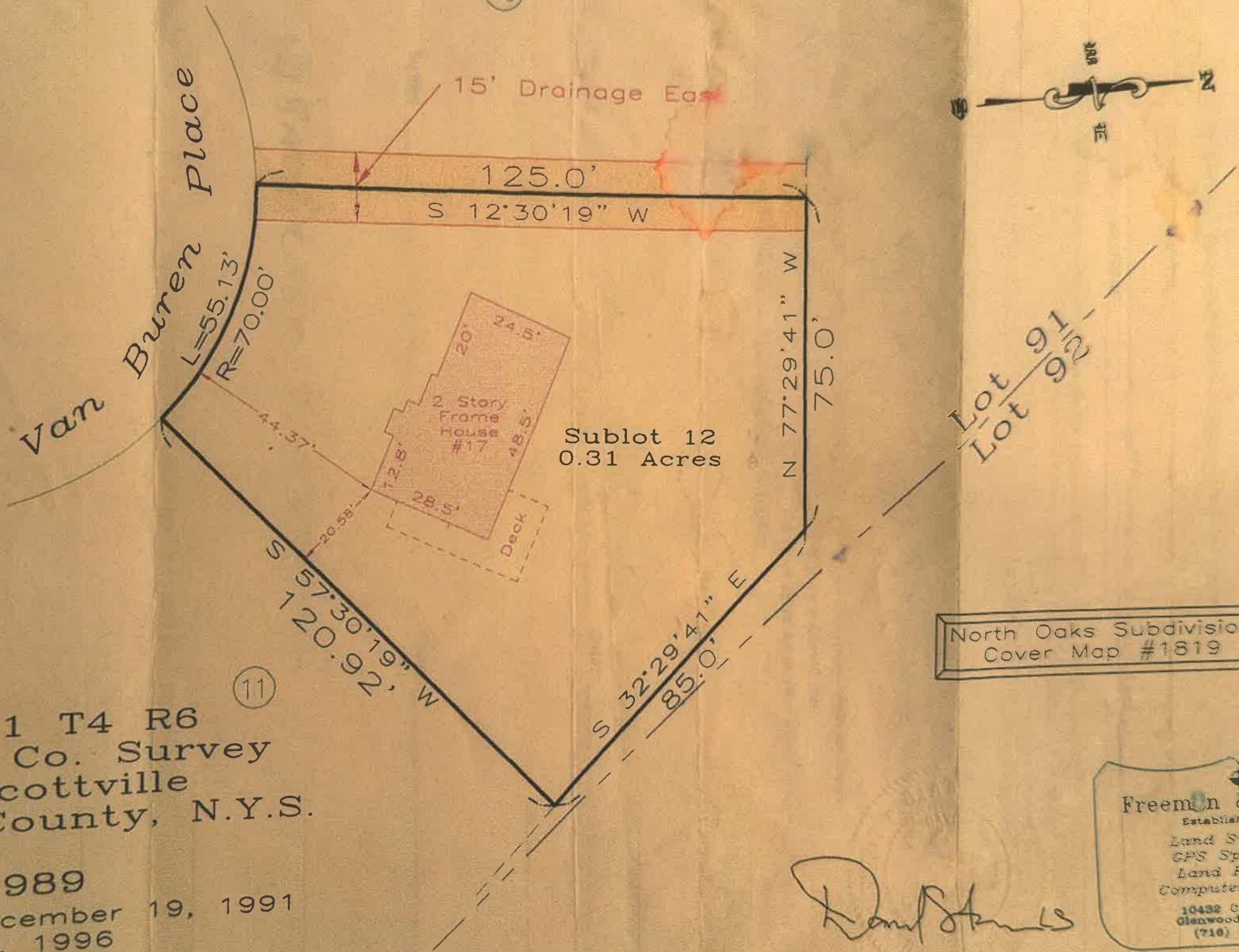
**A1**

NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION

13



Survey of  
 Part of Lot 91 T4 R6  
 Holland Land Co. Survey  
 Village of Ellicottville  
 Cattaraugus County, N.Y.S.  
 Scale: 1"=30'  
 October 12, 1989  
 Building Located December 19, 1991  
 Redated: August 14, 1996

11

*David Stewart*

**Freeman & Freeman**  
 Established 1928  
 Land Surveying  
 GPS Specialists  
 Land Planning  
 Computer Mapping  
 10432 Crump Road  
 Glenwood N.Y. 14089  
 (716) 592-7740

Job no. 4482-12



1 West Washington Street  
Ellicottville, NY 14731

Receipt Number: PE25-00010

**Payer/Payee:** FLITTON, JACOB  
PO BOX 80  
EAST AURORA NY 14052

**Cashier:** Greg Keyser

**Date:** 02/18/2025

ZP25-0005	ZONING	17 Van Buren			
<u>Fee Description</u>			<u>Fee Amount</u>	<u>Amount Paid</u>	<u>Fee Balance</u>
Zoning Ordinance Amendment/Variance			\$275.00	\$275.00	\$0.00
Site Plan Review			\$250.00	\$250.00	\$0.00
Zoning permit application			\$46.00	\$46.00	\$0.00
			<b>\$571.00</b>	<b>\$571.00</b>	<b>\$0.00</b>

Payment Method	Reference Number	Payment Amount
CHECK	1591	\$571.00
<b>Total Paid:</b>		<b>\$571.00</b>

# *Village of Ellicottville*

PO Box 475  
Ellicottville, New York 14731  
Phone (716) 699-4636  
Fax (716) 699-4316

*John A. Burrell*  
Mayor

*Amy Heyward*  
Village Clerk

February 18, 2025

Jacob Flitton  
PO Box 80  
East Aurora, N.Y. 14052

Re: Zoning Permit ZP25-005  
17 Van Buren, Ellicottville, NY 14731; Tax Map Number 55.027-2-1.4

Dear Mr. Flitton,

The Planning Department has reviewed your application to construct a new rear deck. The property encompasses approximately 0.31 acres and is zoned Medium Density Residential (MD). The Zoning Permit has been DENIED because the proposed deck fails to meet the following zoning requirements.

**1. Section 3A 4 (C) (5) – Rear Yard**

Required: The minimum rear yard setback for all buildings in the MD is 25 feet.

Proposed: The proposed deck is 9'-4" from the rear property line.

This letter serves as confirmation that we have received an appeal to the Village of Ellicottville Zoning Board of Appeals for an area variance. Your application has been placed on agenda for the March 4, 2025 ZBA meeting. If you have any questions, please contact me at 716-699-9005, Extension 3 or by email at [greg.keyser@evlengineering.com](mailto:greg.keyser@evlengineering.com).

Sincerely,



Gregory D. Keyser  
Zoning Official