

# APPLICATION TO BOARD OF APPEALS

Prepared By: Sean W. Hopkins, Esq.,  
Hopkins Sorgi & McCarthy PLLC  
Tel: 510-4338  
E-mail: shopkins@hsmlegal.com

Tel. No. \_\_\_\_\_

Appeal No. 2023-034

Date July 14, 2023

TO THE ZONING BOARD OF APPEALS, WEST SENECA, NEW YORK:

I (we) Young Development Inc. c/o Sean Hopkins, Esq. of Hopkins Sorgi & McCarthy PLLC  
5500 Main Street, Suite 343  
Williamsville, New York 14221

HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FROM THE  
DECISION OF THE BUILDING INSPECTOR ON AN APPLICATION FOR A BUILDING PERMIT NO. \_\_\_\_\_,

DATED July, 20    , WHEREBY THE BUILDING INSPECTOR DID DENY TO

a request for a building permit for a proposed multiple dwelling project as depicted on the Site Plan [Drawing C-100]

- |   |   |
|---|---|
| <input type="checkbox"/> A PERMIT FOR USE for a proposed commercial project | <input type="checkbox"/> A CERTIFICATE OF EXISTING USE      |
| <input type="checkbox"/> A PERMIT FOR OCCUPANCY                             | <input type="checkbox"/> A CERTIFICATE OF ZONING COMPLIANCE |
| <input type="checkbox"/> A TEMPORARY PERMIT OR EXTENSION THEREOF            | <input type="checkbox"/> AREA PERMIT                        |

1. Applicant is the  PROPERTY OWNER  
 CONTRACTOR FOR THE WORK CONCERNED HEREIN  
 PROSPECTIVE TENANT  
 OTHER (Describe) Contract Vendee [Authorization Letter dated January 30, 2023 attached as Exhibit "1"]

2. LOCATION OF THE PROPERTY 391 Schultz Road and 2852 Transit Road

3. State in general the exact nature of the permission required. A description of the proposed multiple dwelling project and the requested area variance is provided at Exhibit "2". A reduced size Site Plan is provided at Exhibit "4" and a full-size copy is also attached. A reduced size-size copy of the survey of the Project Site is attached as Exhibit "5" and a full-size copy is also attached.

N/A 4. PREVIOUS APPEAL. No previous appeal has been made with respect to this decision of the Building Inspector or with respect to this property, except the appeal made in Appeal No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_\_.

### 5. REASON FOR APPEAL.

A. A Variance to the Zoning Ordinance is requested because strict application of the ordinance would produce undue hardship, or the hardship created is unique and is not shared by all properties alike in the immediate vicinity of this property and in this use district, or the variance would observe the spirit of the ordinance and would not change the character of the district because: \_\_\_\_\_

A description of the requested area variance for the proposed multiple dwelling project is provided at Exhibit "2" and justification for the requested area variance pursuant to the balancing test and five criteria set set forth in NYS Town Law Section 267-b(3)(b) is provided at Exhibit "3" of this Variance Application.

B. Interpretation of the Zoning Ordinance is requested because: \_\_\_\_\_

C. A Special or Temporary Permit or an Extension thereof Under the Zoning Ordinance is requested pursuant to Article \_\_\_\_\_, Section \_\_\_\_\_, Subsection \_\_\_\_\_, Paragraph \_\_\_\_\_ of the Zoning Ordinance, because: \_\_\_\_\_

Bryan Young

  
Signature

### TO BE COMPLETED BY THE BUILDING INSPECTOR

1. Provision(s) of the Zoning Ordinance Appealed, including article, section, subsection or paragraph of the Zoning Ordinance \_\_\_\_\_

2. Zoning Classification of the property concerned in this appeal \_\_\_\_\_

3. Type of Appeal:

- Variance to the Zoning Ordinance.
- Interpretation of the Zoning Ordinance or Zoning Map
- Special or Temporary Permit or an extension thereof under the Zoning Ordinance.

4. A statement of any other facts or data which should be considered in this appeal. \_\_\_\_\_

**SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, N.Y.  
AND REPLY TO MUNICIPALITY**

Submit this form with full statement of proposed action (as described in GML 239-m(c)) at www.Erie.gov/IRonline, OR mail a hard copy (retain a copy for your files) to: Erie County Division of Planning, 95 Franklin Street, Room 1053, Buffalo, N.Y., 14202

DO NOT WRITE IN THIS SPACE

Case No.: 409-ZR-23

Postmark/Delivery Date: 7/20/23

The proposed action described herein is referred in accordance with the provisions of NYS General Municipal Law §239 1 - nn  
A Municipal Referral Map is available to help determine whether an applicable action is subject to referral.

**Description of Proposed Action**

1. Name of Municipality: Town of West Seneca

§239-m(4)(b) provides that the county shall have 30 days after receipt of a full statement of the proposed action to reply.  
If the county fails to reply within such period, the referring body may take final action.  
However, any county reply received after 30 days but 2 or more days prior to final action by the referring body shall be subject to §239-m(5)  
The referring body shall file a report of its final action with the county within 30 days per §239-m(6).

2. Hearing Schedule: Date 08/23/23 Time 6pm Location 1300 Union Rd, West Seneca

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

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

5. Location of Property:  Entire Municipality  Address: 391 Schultz Rd & 2852 Transit Rd  
West Seneca, NY 14224

5a. S.B.L. of Property: 136.19-1-36 and 136.09-1-33

6. Referral required as site is within 500' of:  State or County Property/Institution  Municipal Boundary  Farm Operation located in an Agricultural District  
 Expressway  County Road  State Highway  Proposed State or County Road, Property, Building/Institution, Drainageway

7. Proposed change or use: see attached  
(specify the action, such as the scope of variances or site plans)

8. Other remarks: \_\_\_\_\_

9. Submitted by: Amy Kobler, Town Clerk Email: akobler@twsny.org

10. Return Address: 1250 Union Rd, West Seneca, NY 14224

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 7/20/23. The Division herewith submits its review and reply under the provisions of applicable state and local law, based on the information submitted with this referral.

1.  The proposed action is not subject to review under the law.
2.  Comment on proposed action is attached hereto.
3.  The proposed action is subject to review; Recommendation on Proposed Action is attached hereto.
4.  No Recommendation; proposed action has been reviewed and determined to be of local concern.

By the Division of Planning:  Date: 8/14/23





## COUNTY OF ERIE

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING  
DIVISION OF PLANNING AND COMMUNITY DEVELOPMENT

DANIEL R. CASTLE, AICP  
COMMISSIONER

THOMAS E. BAINES, ESQ  
DEPUTY COMMISSIONER

August 14, 2023

Town of West Seneca  
1250 Union Road  
West Seneca, NY 14224

**Re: Area Variance for 50-unit residential development**

Address: **391 Schultz Rd & 2852 Transit Road**

SBL: **136.19-1-36 & 136.09-1-33**

Review No.: **409-ZR-23**

Dear Zoning Board of Appeals:

Pursuant to New York Consolidated Laws, General Municipal Law - GMU § 239-1, the County of Erie (the "County") has reviewed the above-referenced project (the "Project") referred to us by the Town of West Seneca on July 20, 2023.

The County offers the following comments based upon its review of the Project:

- The Town and developer should ensure pedestrian connections within the development, as well as to Schultz Road and Transit Road.
- The Town and developer should ensure they "improve overall walkability and aesthetics not only for the benefit of immediate residents, but also to enhance the overall character of the Town" in this Neighborhood Commercial Corridor per the Town of West Seneca Comprehensive Plan Strategic Update (2016).
- The Town and developer should ensure the boundaries of the site abutting residential uses include abundant year-round vegetative screening, including mature trees.

This review pertains to the above-referenced action submitted to the Erie County Department of Environment and Planning. This letter should not be considered sufficient for any county approvals. The Town must still obtain any other permits and regulatory approvals applicable to this Project.

In the event that the Town has questions concerning this review please contact me at 716-858-1916 or [mariely.ortiz@erie.gov](mailto:mariely.ortiz@erie.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Ortiz', with a stylized flourish at the end.

Mariely Ortiz  
Senior Planner



## **Amy Kobler**

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**From:** Amy Kobler  
**Sent:** Thursday, July 20, 2023 11:51 AM  
**To:** dot.sm.r05.SEQR  
**Subject:** Variance requests  
**Attachments:** survey young development.pdf; concept plan young dev.pdf; schultz transit20230720112727.pdf; 940 op survey20230720112056.pdf; 940 orchard park rd ws.pdf; 1900 center rd20230720112234.pdf

Please see the attached 3 variances:

- 1) 391 Schultz Rd and 2852 Transit Rd (application packet, survey and concept plan)
- 2) 940 Orchard Park Rd (application packet and survey)
- 3) 1900 Center Rd (application packet)

Please advise if you have any comments to provide.

**Amy Kobler**  
**West Seneca Town Clerk**  
**1250 Union Road, Room 212**  
**West Seneca, NY 14224**  
**716-558-3215**



July 17, 2023

Mr. Doug Busse  
Town of West Seneca Building Department  
Town of West Seneca Town Hall  
1250 Union Road  
West Seneca, New York 14224

Re: Variance Application & Supporting Documentation  
Multifamily Project - 391 Schultz and 2852 Transit Road  
Applicant: Young Development Inc.  
Town of West Seneca Zoning Board of Appeals  
File No. 10023.17

Dear Mr. Busse:

Enclosed is a check payable to the Town of West Seneca in the amount of \$160.00 and ten (10) copies of the Variance Application and supporting documentation being submitted on behalf of Young Development Inc. in connection with its request for an area variance for the number of attached dwelling units for the proposed upscale multifamily project to be located at 391 Schultz and 2852 Transit Road ("Project Site"). The Exhibits attached to the Variance Application consist of the following:

- **Exhibit 1:** Authorization Letter of Property Owner dated January 30, 2023;
- **Exhibit 2:** Project Description and Description of the Requested Area Variance;
- **Exhibit 3:** Justification for Requested Area Variance Pursuant to the Statutory Mandated Balancing Test and Five Criteria Contained In NYS Town Law Section 267-b(3)(b);
- **Exhibit 4:** Reduced Size Copy of the Site Plan [Drawing C-100] as Prepared by Carmina Wood Morris DPC;
- **Exhibit 5:** Reduced Size Copy of Boundary and Topographic Survey of the Project Site as Prepared by True North Land Surveying, PLLC; and
- **Exhibit 6:** Concept Site Plan [Drawing C-100] Depicting Previous Project Layout as Presented to the Town Board on July 6, 2023

Full-size copies of the Site Plan and Survey of the Project Site are also attached to the Variance Application. The Applicant is requesting that the Zoning Board of Appeals hold a public hearing on the requested area variance during its meeting to be held on **Wednesday, August 23<sup>rd</sup> at 6:00 p.m.**

**Correspondence to Doug Busse**

**July 17, 2023**

**Page 2 of 2**

Please feel free to contact me at 716.510-4338 or via e-mail at shopkins@hsmlegal.com if you have any questions regarding the enclosed Variance Application and supporting documentation.

Thank you for your anticipated cooperation.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC



Sean W. Hopkins, Esq.

Enc.

cc: Bryan Young, Young Development Inc. [Via e-mail and mail]  
Christopher Wood, P.E., Carmina Wood Design [Via e-mail]  
Jon Barniak, Carmina Wood Design [Via e-mail]



# APPLICATION TO BOARD OF APPEALS

Prepared By: Sean W. Hopkins, Esq.,  
Hopkins Sorgi & McCarthy PLLC  
Tel: 510-4338  
E-mail: shopkins@hsmlegal.com

Tel. No. 510-4338 - Sean Hopkins, Esq.

Appeal No. \_\_\_\_\_

Date July 14, 2023

TO THE ZONING BOARD OF APPEALS, WEST SENECA, NEW YORK:

I, (we) Young Development Inc. c/o Sean Hopkins, Esq. of Hopkins Sorgi & McCarthy PLLC  
5500 Main Street, Suite 343  
Williamsville, New York 14221

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1. Applicant is the  PROPERTY OWNER  
 CONTRACTOR FOR THE WORK CONCERNED HEREIN  
 PROSPECTIVE TENANT  
 OTHER (Describe) Contract Vendee [Authorization Letter dated January 30, 2023 attached as Exhibit "1"]

2. LOCATION OF THE PROPERTY 391 Schultz Road and 2852 Transit Road

3. State in general the exact nature of the permission required. A description of the proposed multiple dwelling project and the requested area variance is provided at Exhibit "2". A reduced size Site Plan is provided at Exhibit "4" and a full-size copy is also attached. A reduced size-size copy of the survey of the Project Site is attached as Exhibit "5" and a full-size copy is also attached.

N/A 4. PREVIOUS APPEAL. No previous appeal has been made with respect to this decision of the Building Inspector or with respect to this property, except the appeal made in Appeal No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_\_.

### 5. REASON FOR APPEAL.

A. A Variance to the Zoning Ordinance is requested because strict application of the ordinance would produce undue hardship, or the hardship created is unique and is not shared by all properties alike in the immediate vicinity of this property and in this use district, or the variance would observe the spirit of the ordinance and would not change the character of the district because: \_\_\_\_\_

A description of the requested area variance for the proposed multiple dwelling project is provided at Exhibit "2" and justification for for the requested area variance pursuant to the balancing test and five criteria set set forth in NYS Town Law Section 267-b(3)(b) is provided at Exhibit "3" of this Variance Application.

B. Interpretation of the Zoning Ordinance is requested because: \_\_\_\_\_

C. A Special or Temporary Permit or an Extension thereof Under the Zoning Ordinance is requested pursuant to Article \_\_\_\_\_, Section \_\_\_\_\_, Subsection \_\_\_\_\_, Paragraph \_\_\_\_\_ of the Zoning Ordinance, because: \_\_\_\_\_

Bryan Young

*Signature*

### TO BE COMPLETED BY THE BUILDING INSPECTOR

1. Provision(s) of the Zoning Ordinance Appealed, including article, section, subsection or paragraph of the Zoning Ordinance

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- Variance to the Zoning Ordinance.
- Interpretation of the Zoning Ordinance or Zoning Map
- Special or Temporary Permit or an extension thereof under the Zoning Ordinance.

4. A statement of any other facts or data which should be considered in this appeal. \_\_\_\_\_



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**Exhibit 1 - Authorization Letter of  
Property Owner dated January 30, 2023**

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Harvey Strassburg and Estate of Beverly Strassburg  
391 Schultz and 2852 Transit Road  
West Seneca, New York, 14224

Town Of West Seneca  
West Seneca, New York 14224

RE: 391 Schultz and 2852 Transit Road, West Seneca, New York, 14224

Ladies and Gentlemen:

Please be advised that we authorize Young Development Inc. to appear before the Town Board in connection with the rezoning and/or approvals of the above property. The rezoning and/or approvals is a condition for Young Development Inc. to purchase the property.

Very truly yours,  
Harvey Strassburg and Estate of Beverly Strassburg

By:



Date: 1/30/23



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**Exhibit 2 - Project Description  
Description of the Requested Area  
Variance**

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**EXHIBIT 2 OF VARIANCE APPLICATION**

**PROJECT DESCRIPTION AND DESCRIPTION OF THE REQUESTED AREA  
VARIANCE - PROPOSED MULTIFAMILY PROJECT  
AT 391 SCHULTZ AND 2852 TRANSIT ROAD**

**I. Description of Proposed Project:**

The proposed multifamily project at 391 Schultz Road and 2852 Transit Road (“Project Site”) consists of five two-story buildings comprised of ten units per building (50 units) and related site improvements including 130 parking spaces. The Project Site consists of approximately 4.08 acres and is zoned C-1(S) pursuant to a decision issued by the Town Board by a unanimous vote during its meeting on July 6, 2023. A full-size copy of the Site Plan [Drawing C-100] prepared by Carmina Wood Design is attached and a reduced-size copy of the Site Plan is also attached as **Exhibit “4”**. A reduced-size copy of the survey of the Project Site is attached as **Exhibit “5”**.

It is important to mention that the layout of the proposed multifamily project was modified subsequent to the Town Board public hearing held on July 6, 2023 by eliminating a previously proposed two-story building consisting of five units in order to substantially increase the distance from the closest building and pavement to the parcel to the east of the Project Site located at 345 Schultz Road. The modifications to the previously proposed project layout replaced impervious surfaces on the southwestern portion of the Project Site with greenspace and landscaping to be planted and also reduced the project density from 55 units to 50 units. A copy of the Concept Site Plan depicting the previously proposed project layout as presented to the Town Board during the public hearing held on July 6, 2023 is provided at **Exhibit “6”**. A Parcel Detail Report for the property at 345 Schultz Road obtained from the Erie County GIS is attached as **Exhibit “7”**.

**II. Description of Requested Area Variance:**

The Applicant is seeking two area variances from the Zoning Board of Appeals in connection with the proposed multiple-family dwelling project are as follows:

- 1. The number of multiple-dwelling units is greater than permitted pursuant to Section 129-29A of the Zoning Code [34 units permitted vs. 50 units proposed]**

[**Note:** Section 129-29A of the Zoning Code states that the allowable density for a multifamily project on property zoned either R-50 or C is 50 is 8,000 sq. for the first dwelling unit, plus 5,000 sq. ft. for each additional dwelling unit.]



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**Exhibit 3 - Justification for Requested  
Area Variance Pursuant to the Statutory  
Mandated Balancing Test and Five  
Criteria Contained In NYS Town Law  
Section 267-b(3)(b)**

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## EXHIBIT 3 OF VARIANCE APPLICATION

### **JUSTIFICATION FOR REQUESTED AREA VARIANCES PURSUANT TO THE STATUTORY MANDATED BALANCING TEST AND FIVE CRITERIA CONTAINED IN NYS TOWN LAW § 267-b(3)(b) - PROPOSED MULTIFAMILY PROJECT AT 391 SCHULTZ AND 2852 TRANSIT ROAD**

NYS Town Law §267-b(3)(b) sets forth a statutorily mandated balancing test to be considered by a zoning board of appeals in connection with its review of a request for an area variance. The statutorily mandated balancing test requires a zoning board of appeals to balance the benefits that will be realized against the resulting detriments to the health, safety and welfare of the community.

The granting of the requested area variance to allow the proposed multifamily project to be located at 391 Schultz Road and 2852 Transit Road (“Project Site”) to consist of five two-story buildings comprised of ten units per building (50 units) and related site improvements including 130 parking spaces as depicted on the full-size copy of the Site Plan [Drawing C-100] prepared by Carmina Wood Design attached to this Variance Application will result in substantial benefits to the Applicant without any resulting detriments to the health, safety and welfare of the community.<sup>1</sup>

The benefits that will be received by Applicant if the Zoning Board of Appeals (“ZBA”) grants the requested area variance to allow the Project Site to be developed as five two-story buildings consisting of ten units per building [50 proposed upscale apartments for lease] includes the following:

1. The Applicant will be able to develop the Project Site as a 50-unit multifamily project consisting of five 10-unit buildings and related improvements as depicted on the Site

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<sup>1</sup> A reduced-size copy of the Site Plan [Drawing C-100] prepared by Carmina Wood Design is also attached as **Exhibit “4”**. A reduced-size copy of the survey of the Project Site is attached as **Exhibit “5”**.

Plan [Drawing C-100] prepared by Carmina Wood Design at a location that is appropriate for the project layout and the proposed density of 50 upscale units given the existing land uses in the vicinity of the Project Site including nearby commercial and residential uses.

2. The Applicant will be able to provide a suitable number of units to justify the substantial investment required in connection with the proposed upscale multifamily project including the construction of the proposed five proposed two-story multifamily buildings and all necessary infrastructure improvements. It would be far less expensive to develop the Project Site as a single large multifamily building consisting of 34 apartments with a large parking lot but such a layout would be far less compatible with character of the area than the proposed project.
3. The Applicant will be able to develop the Project Site in a manner consistent with the project layout presented to the Town Board in connection with its decision issued on July 6, 2023 approving the rezoning of the Project Site to C-1(S).

In applying the statutorily mandated balancing test set forth above, NYS Town Law §267-b(3)(b) requires a zoning board of appeals to consider the following five criteria:

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 requested area variance.**

The granting of the requested area variance by the Zoning Board of Appeals will not create an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Project Site is properly zoned for the proposed use. The granting of the requested area variance will not result in an undesirable change in the character of the neighborhood.

It is important to mention that the layout of the proposed multifamily project was modified subsequent to the Town Board public hearing held on July 6, 2023 by eliminating a previously proposed two-story building consisting of five units in order to substantially increase the distance from the closest building and pavement to the parcel to the east of the Project Site located at 345 Schultz Road. The modifications to the previously proposed project layout replaced impervious surfaces on the southwestern portion of the Project Site with greenspace and landscaping to be



planted and also reduced the project density from 55 units to 50 units. A copy of the Concept Site Plan depicting the previously proposed project layout as presented to the Town Board during the public hearing held on July 6, 2023 is provided at **Exhibit “6”**. A Parcel Detail Report for the property at 345 Schultz Road obtained from the Erie County GIS is attached as **Exhibit “7”**.

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

It would not be possible for the Applicant to develop the Project Site in manner that would result in the Applicant receiving the benefits described above without the granting of the requested area variance to allow 50 upscale residential units for lease.

**3. Whether the requested area variance is substantial.**

The requested area variance is not substantial given the fact that the granting of the requested area variances will not result in any significant adverse impacts. The granting of the requested area variance will not result in a project that is inappropriate for the Project Site.

The reason the magnitude of the variance is relevant is that, generally, the larger the difference the more likely it is that a negative effect would be generated. See Matter of Human Development Services of Port Chester v. Zoning Board of Appeals of the Village of Port Chester, 110 A.D.2d 135, aff’d, 67 N.Y.2d 702. However, in any particular case, the facts may demonstrate that while a variance may seem noteworthy on paper, no negative effect would be produced and, accordingly, the sought-after variance should be granted.

For example, in Matter of Frank v. Scheyer, 227 A.D.2d 558, 642 N.Y.S.2d 956 (2d Dept. 1996), the parcel was 19,983 square feet. However, the zoning code required a minimum lot size of one acre or 43,560 square feet. The variance at issue was more than 54%. Nevertheless, based on the facts presented, no harm would befall the community and the Court directed the zoning

board of appeals to grant the application. The Court took similar action in Matter of Shaughessy v. Roth, 204 A.D.2d 333, 611 N.Y.S.2d 281 (2d Dept. 1994), in which the premises contained 50 feet of frontage and 5,000 square feet of area. The zoning code required 80 feet of frontage and a minimum lot size of 10,000 square feet. Accordingly, the application concerned a 50% reduction in lot area coupled with a second area variance seeking a 62.5% reduction from the required frontage. Nevertheless, based on the facts in the record, the Court directed the respondents to issue the variances. Additionally, in Matter of Sasso v. Osgood, 86 N.Y.2d 374 (1995), the applicant sought area variances for a 60% reduction in lot area and a 50% reduction in lot width. Based on all of the facts presented, the Court of Appeals, our State's highest court, overturned the holding of the appellate court and directed that the requested area variances be granted.

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) test. As mentioned previously, the two requested area variances will not result in any "harm" on the surrounding community. It is the position of the Applicant that if the requested area variances are properly viewed as required by the cases discussed above, it is clear that the requested area variance is not substantial since the granting of the requested area variance in furtherance of the proposed upscale multifamily project will not result in harm to the community.

**4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood.**

The granting of the requested area variance will not have any adverse effects or impacts on physical or environmental conditions in the neighborhood. The Planning Board will be required

to review the future request for Site Plan Approval, which will ensure compliance with applicable technical standards including stormwater management, landscaping and screening, lighting, etc.

**5. Whether the alleged difficulty was self-created.**

Town Law §267-b(3)(b) expressly states that the issue of whether an alleged difficulty is self-created cannot be utilized as the sole criteria in determining whether to grant a requested area variance. The Applicant has knowledge the Zoning Code and as such the requested area variance can be viewed as being self-created. Nonetheless, if the ZBA determines that the alleged difficulty resulting in the need for the requested area variance is due to a self-created difficulty, such a finding would not lessen the strong justification for the requested area variances per the balancing test and the other four criteria as discussed above.

**CONCLUSION:**

The benefits that will be received by Applicant if the requested area variance is granted by the ZBA to allow the Project Site to be developed as 50 upscale multifamily units for lease outweighs any resulting detriments per the statutorily mandated balancing test. The Applicant requests that the ZBA grant the requested area variance to allow it to move forward with the proposed multifamily project as depicted on the Site Plan [Drawing C-100] attached to this Variance Application.



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**Exhibit 4 - Reduced Size Copy of the Site  
Plan [Drawing C-100] as Prepared by  
Carmina Wood Morris DPC**

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**Exhibit 5 - Reduced Size Copy of  
Boundary and Topographic Survey of the  
Project Site as Prepared by True North  
Land Surveying, PLLC**

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**Exhibit 6 - Concept Site Plan  
[Drawing C-100] Depicting Previous  
Project Layout as Presented to the  
Town Board on July 6, 2023**

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**Exhibit 7 - Parcel Detail Report for  
Property at 345 Schultz Road from the  
Erie County GIS**

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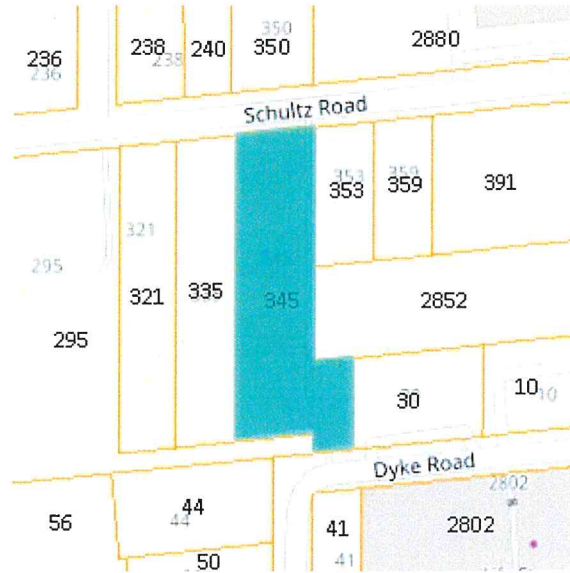
# Erie County On-Line Mapping System

## Parcel Detail Report

Report generated:  
7/6/2023 11:21:43 PM



Parcel Overview Map



Parcel Detail Map

**PIN:** 1468001360900001027000  
**SBL:** 136.09-1-27  
**Address:** 345 SCHULTZ RD  
**Owner 1:** POWERS II DONALD R  
**Owner 2:** POWERS DEBRA A  
**Mailing Address:** 345 SCHULTZ RD  
**City/Zip:** WEST SENECA NY 14224  
**Municipality:** West Seneca  
**Property Class:** 210  
**Class Description:** R - 1 Family Res  
**Front:** 125.33  
**Depth:** 466.84  
**Deed Roll:** 1  
**Deed Book:** 11283  
**Deed Page:** 6221  
**Deed Date:**

**Acreage:** 1.4918469  
**Total Assessment:** \$120,000  
**Land Assessment:** \$20,600  
**County Taxes:** \$120,000  
**Town Taxes:** \$0  
**School Taxes:** \$0  
**Village Taxes:** \$0  
**School District:** WEST SENECA CENTRAL SCHOOL DISTRICT  
**Year Built:** 1974  
**Sqft Living Area:** 3738  
**Condition:** 0  
**Heating:** 0  
**Basement:** 0  
**Fireplace:** 1  
**Beds:** 4  
**Baths:** 4