



# Yates County Planning Board Referral Form

Referral # 2016-50  
County Use Only

Date Received 10/06/2016

Revised 9/2016

Municipality and Referring Agency Town of Milo

Project Address 2618 Route 14A Project Tax Map # 62.03-1-13

Zoning District Light Industrial

Applicant (Name & MAILING) Donald Schneider, Esq. (Authorized Representative); 307 Liberty Street  
Penn Yan, NY 14527  
Email

Property Owner (Name & MAILING) Keuka Lake Mennonite Church; 1924 Porters Corners Road  
Dundee, NY 14837  
Email

Reason for Referral (Prox. to Cty Rd., State Rd., Muni Boundary, etc.) Lot of Record located within 500 feet  
of Route 14A, which is a state primary highway

### Application Type

### Project Description

- Area Variance
- Use Variance
- Special Use Permit
- Site Plan
- Subdivision
- Text Amendment
- Map Amendment
- Other

Proposed private cemetery for use of members of the Keuka Lake  
Mennonite Church. Such use is a special use in the Light Industrial zoning  
District per the Zoning Law of the Town of Milo. In addition, two area variances  
are needed for side (southern) and rear (western) yards as prescribed  
by the Zoning Law of the Town of Milo. Unlisted action pursuant to SEQRA.

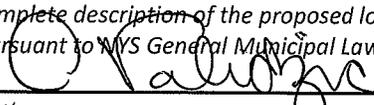
### Supporting Documents Required (IF N/A, include explanation)

- Municipal Application
- Tax Map or Plat
- SEQR
- Site Plan \*
- Variance Criteria \*\*
- Subdivision Plat  For Subdivision Referrals Only
- Other  See attachments

Please review the submittal letter from the Code Enforcement Officer, dated  
October 6, 2016, and the attached documents that will explain this project.

\*If Site Plan Review, Site Plan **MUST** be detailed and meet the municipal requirements.

\*\*All Variance referrals (Area/Use) **MUST** include detailed justifications associated with reason/s for appeal.

Certification: *With the following signature I certify that this application provides a complete description of the proposed local action and is a complete application pursuant to NYS General Municipal Law Article 12b, Section 239-m, part c.*  
  
\_\_\_\_\_, Referring Official



Provision of required information is the responsibility of the referring agency. Failure to provide such information may result in a significant delay in processing.

**Submit To:** Yates County Planning Department, [tcutler@yatescounty.org](mailto:tcutler@yatescounty.org) or 417 Liberty St. Suite 1093, Penn Yan, NY 14527

MUSY

# TOWN OF MILO, NEW YORK

Department of Code Enforcement and Administration  
137 Main Street – Town Hall  
Penn Yan, New York 14527  
Telephone No.: (315) 531-8042  
Fax No.: (315) 536-9760  
TDD No.: (202) 720-6382  
Email: [codeofficer@townofmilo.com](mailto:codeofficer@townofmilo.com)  
Website: [www.townofmilo.com](http://www.townofmilo.com)



Thursday, October 06, 2016

To:  Planning Board     Town Board     Zoning Board of Appeals

Application No.:        PB-11-08-2016A and ZBA-11-22-2016A

Approvals Required:    Special Use Permit for Private Cemetery (2) and Two Area Variances

Lot of Record:         2618 Route 14A, Penn Yan

Tax Map ID No.:        62.03-1-13

Dear Board Members:

Thank you for taking the time to read this letter. Our department has received an application for a Special Use Permit to permit a private cemetery as well as an Application for Area Variances, specifically an area variance for side yard and rear yard, for such private cemetery that is proposed to be located at 2618 Route 14A, which is more specifically known as tax map identification numbers 62.03-1-13. Both applications were submitted on October 5, 2016, application fees were paid and the owner submitted all required documentation in order for the application to be considered "complete." Therefore, the Code Enforcement Officer has reviewed the application and wishes to convey the following information:

1. The private cemetery is for members of Keuka Lake Mennonite Church. It is not a public cemetery.
2. No new access to Route 14A is proposed. The owner understands that any new access points to Route 14A shall be approved by NYSDOT.
3. The Code Enforcement Officer reviewed the applicable regulations prescribed within the Zoning Law of the Town of Milo and has attached his notes to this application. Such review determined that two (2) area variances are required to be approved by the Zoning Board of Appeals (side yard and rear yard), which the owner understood and wished to apply for such variances in lieu of changing the proposed design of the private cemetery.
  - a. The owner wishes to apply for area variances to permit the private cemetery to be located at the southwest section of this lot of record. Any other location will cause a negative impact to the owner's future desire to expand the place of worship as well as school. In addition, the other portions of this lot of record are used as outdoor recreation areas for such place of worship and school. Lastly, the gully located on the western edge of this lot of record acts as a natural buffer and is not a buildable.

4. The Code Enforcement Officer reviewed the application and Short Environmental Assessment Form (Short EAF). Minor corrections were made to avoid any confusion but also to correct mistakes when such officer utilized the NYSDEC EAF Mapper.
  - a. The Code Enforcement Officer reviewed 6 NYCRR Part 617 and determined that this action is an Unlisted Action and the Planning Board should act as "Lead Agency."
  - b. The Code Enforcement Officer has attached emails to/from the NYSDEC dated April 16, 2016 as it pertains to the remediation of this site. Such officer has also attached a letter from Stantec dated January 4, 2008. Such emails and letter documents that the remediation has been completed and the NYSDEC has no concerns. Lastly, the owner is aware that this site had remediation work performed in the past.
5. The Code Enforcement Officer conducted a floodplain damage protection review and this lot of record is located in a Flood Zone C, which are areas outside the 500 year flood.
6. The Code Enforcement Officer utilized NYSDEC Environmental Resource Mapper. No concerns were raised when the results were obtained from such state program.

Therefore, it is the opinion of the Code Enforcement Officer that this application be "Approved with Conditions" since this application appears to conform to Chapter 140, Zoning, of the Code of the Town of Milo, which was adopted on 1/23/2016. Therefore, the Code Enforcement Officer suggests that the conditions of approval are as follows:

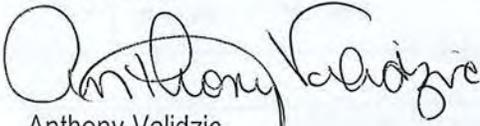
- All parties involved in this application fully understand and agree to obtain all necessary local, state and federal approvals prior to the start of any future development; and
- All parties involved in this application fully understand and agree to obtain approval from the NYSDOT for any new access unto Route 14A, which is a state owned primary highway system; and
- All parties involved in this application fully understand and agree to abide by any easements and/or right-of-way agreements and that no obstruction is permitted within said easements and/or right-of-way; and
- All parties involved in this application fully understand and agree to secure a Building Permit from the Code Enforcement Officer of the Town of Milo prior to constructing any new buildings and/or structures on any parcels. (Clarification. Burial plots are not buildings and/or structures. However, cemetery related structures such as but not limited to a mausoleum and columbarium do require a Building Permit to be issued by the Code Enforcement Officer.); and
- All parties involved in this application fully understand and agree that any signage installed at this lot of record shall comply with the applicable provisions of the Zoning Law of the Town of Milo, adopted 1/23/2016.



Figure 1 – Example of an Acceptable Type of Cemetery Sign

- All parties involved in this application fully understand and agree to comply with the applicable provisions of the Zoning Law of the Town of Milo, adopted 1/23/2016, and the NYS Uniform Fire Prevention and Building Code.
- All parties involved in this application fully understand and agree to comply with state laws governing cemeteries such as but not limited to Article 15 of the Not for Profit Corporations Law of NYS, §§450-451 of the Real Property Law of NYS and §§4216-4221 of the Public Health Law of NYS.
- In the event that it is necessary for the Town of Milo to take legal action to enforce the conditions stated hereinabove, the Applicant shall be responsible for all legal expenses and other costs incurred by the Town of Milo in such proceedings to enforce the conditions stated hereinabove.

Respectfully,

A handwritten signature in black ink, appearing to read "Anthony Validzic". The signature is fluid and cursive, with the first name being more prominent.

Anthony Validzic  
Code Enforcement Officer

Reset Form

# TOWN OF MILO, NEW YORK

# PAID

Print Form

Department of Code Enforcement and Administration  
 137 Main Street  
 Penn Yan, New York 14527  
 Telephone No.: (315) 531-8042  
 Facsimile No.: (315) 536-9760  
 TDD No.: (202) 720-6382  
 Email: codeofficer@townofmilo.com  
 Website: www.townofmilo.com

RECEIVED  
 OCT - 5 2016

TOWN OF MILO

PAID  
 Check # 26317  
 DONALD SCHNEIDER  
 \$250.00  
 10/5/2016

## APPLICATION FOR A SPECIAL USE PERMIT

### Part 1. Contact Information.

Owner:

Authorized Representative:

Name: Keuka Lake Mennonite Church  
 Address: 1924 Porters Corners Road  
 City: Dundee State NY Zip Code 14837  
 Telephone: 315-314-0897  
 Email:

Name: Donald A. Schneider  
 Address: 307 Liberty Street  
 City: Penn Yan State NY Zip Code 14527  
 Telephone: 315-536-2100  
 Email: LaurenLafemina@outlook.com

### Part 2. Property Information.

Address: 2618 State Route 14A, Penn Yan NY 14527

Zoning District: Light Industrial ✓

### Part 3. Occupancy/Use Information.

Existing Occupancy/Use: Vacant Land ✓

Proposed Occupancy/Use: 100 Plot Cemetary

### Part 4. Explanation of Special Use.

Please explain your proposed special use and how it satisfies the standards for a Special Use Permit as mandated by the Zoning Law of the Town of Milo. Please understand that the Planning Board is required to make findings of fact as part of its decision-making process. This fact-finding step functions as a safeguard for both the Town of Milo and the applicant in that it imposes discipline on the exercise of discretion and helps to guard against ad hoc decisions. Simply stated, so long as a Court can find credible reasons for the approval, or evidence from record, the approval is likely to be upheld.

To create a 100 plot Cemetary located on 2.626 acres of vacant land for deceased members of the Keuka Lake Mennonite Church.

Cemetary for church members only.  
 Not Public Cemetary

AW

### Part 5. Infrastructure Information.

Type of road access:  Private  
 (Please check all that apply.)  Town  
 County  
 State

Type of water system:  Private  
 (Please check all that apply.)  Public  
 None

Type of sanitary system:  Private  
 (Please check all that apply.)  Public  
 None

**Part 6. Development Information.**

a. How many patrons, clients, pupils and other such users do you anticipated and during what time periods?

(Example: 20 patrons each business day during business hours.)

N/A

b. How many employees, staff and other personnel do you anticipate and during what time periods?

(Example: 2 employees each business day during business hours.)

N/A

c. What are the proposed work hours and days of operation of the special use?

Monday	<input type="text" value="N/A"/>	Tuesday	<input type="text" value="N/A"/>	Wednesday	<input type="text" value="N/A"/>	Thursday	<input type="text" value="N/A"/>
Friday	<input type="text" value="N/A"/>	Saturday	<input type="text" value="N/A"/>	Sunday	<input type="text" value="N/A"/>		

d. How many parking spaces of each type are provided for the special use?

Standard	<input type="text" value="N/A"/>	Handicap	<input type="text" value="N/A"/>	Other	<input type="text" value="N/A"/>
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e. How many loading docks/spaces are provided for the special use?

Amount	<input type="text" value="N/A"/>	Location	<input type="text" value="N/A"/>
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f. How many signs are proposed to be provided for the special use?

Amount	<input type="text" value="N/A"/>	Total sign area	<input type="text" value="N/A"/>	Location	<input type="text" value="N/A"/>
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g. Is a fire detection (a.k.a. fire alarm) system proposed to be installed for the special use?

Yes  
 No

h. Is a fire protection (a.k.a. sprinkler) system proposed to be installed for the special use?

Yes  
 No

i. Will the proposed use include the sale of beer, wine or mixed drinks?

Yes  
 No

If "yes," describe the alcohol sales on a separate document, including if the ABC license will include on-premise and/or off-premise sales. Existing uses shall describe their existing alcohol sales and/or services and identify any proposed changes in that aspect of the business operation.

**Part 7. Performance Standards.**

a. Will the proposed special use involve the storage or use of explosive materials?

Yes  No

b. Will the proposed special use emit dangerous radioactivity or electrical disturbance that will jeopardize the health of any employee or adjacent resident or property or otherwise adversely affect the operation of any equipment other than that on the premises?

Yes  No

c. Will the proposed use create vibrations which is detectable, other than by instrument, at the property line?

Yes  No

d. Will the proposed special use create direct or reflective glare from any lighting or process that will interfere with traffic safety or a significant adverse effect at adjoining properties?

Yes  No

e. Will the proposed use create emissions of odorous gases or other matter in a quantity or a type that permits it to be detectable, other than by instrument, at the property line?

Yes  No

f. Will the proposed use emit any form of pollution, whether a gas, liquid or vapor, which can jeopardize human health or animal or vegetable life or which otherwise will create a significant adverse effect upon the community?

Yes  No

g. Are all proposed traffic accessways adequate but not excessive in number; adequate in width, grade, alignment and visibility; sufficiently separated from street intersections; and satisfy other similar safety considerations?

Yes  No

**Part 8. Miscellaneous Information.**

Do any of the lots involved in this application directly abut Keuka or Seneca Lakes?

*If "yes," these lands are designated as areas of special flood hazard by FEMA, which requires the owner to comply with the Flood Damage Prevention Law of the Town of Milo prior to the start of any construction activity.*

Yes  
 No

Do any of the lots involved in this application directly abut Keuka Lake Outlet or Plum Point Creek?

*If "yes," these lands are designated as areas of special flood hazard by FEMA, which requires the owner to comply with the Flood Damage Prevention Law of the Town of Milo prior to the start of any construction activity.*

Yes  
 No

Are any of the lots involved in this application located within a NYS certified agricultural district?

*If "yes," please complete an Agricultural Data Statement if any lot involved in this action is located within 500 feet of a farm operation. In addition, the Code Enforcement Officer can help you create a list of owners within 500 feet of any property in our Town, which is required as part of this data statement.*

Yes  
 No

Are any of the lots involved in this application located in a protected natural resource or environment feature?

*If "yes," please inform us in the attached environmental assessment form if permit approval or funding from other governmental agencies (federal, state or local) is involved in this action. To assist you, the NYSDEC's environmental resource mapper (<http://www.dec.ny.gov/insmaps/ERM/viewer.htm>) can help you identify such resources and features in your area. Please understand that any development located in a protected natural resource or environmental feature might require the review of the Town Engineer and/or professional consultants to evaluate if any significant affects are being created.*

Yes  
 No

Are any of the lots involved in this application located in, whether wholly or partially, in a designated steep slope area?

*If "yes," the owner will need to comply with the Steep Slopes Law of the Town of Milo prior to the start of any construction activity. (Note: A map showing the designated steep slope areas in the Town of Milo is located on our website under the subsection of "Forms and Applications by Department.")*

Yes  
 No

Does the proposed action create a new sewer and/or water district or an extension thereof?

*If "yes," any new sewer and/or water district or an extension thereof shall be approved by the Town Board pursuant to law. The owner shall submit a request to the Town Clerk and attach all necessary documents needed for the approval of a sewer and/or water district or extension thereof. For this reason, the determination of a Special Use Permit will be delayed until the Town Board grants their approval.*

Yes  
 No

Does the proposed action require coverage under the NYSDEC's SPDES General Permit for Stormwater Discharges?

*If "yes," please attach a SWPPP that is prepared in conformance with NYSDEC's Phase II Stormwater Permit Program. Note: With some exceptions, operators of construction activities that will result in the disturbance of one (1) or more acres of land must obtain coverage under Permit No. GP-0-10-001 prior to the commencement of soil disturbance. Also requiring a permit are construction activities disturbing less than 1 acre if they are part of a larger common plan of development or sale with a planned disturbance of equal to or greater than 1 acre, or activities that are designated by the NYSDEC. The NYSDEC can require a permit for construction activities disturbing less than 1 acre based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.*

Yes  
 No

Does this action create a new roadway, whether private or public, or extension thereof in the Town?

*If "yes," please attach roadway design and specifications that are prepared and certified by a professional engineer licensed in the State of New York, which comply with the Town standards for construction of new roadways.*

Yes  
 No

If a new roadway is being proposed, does the owner intend for it to be dedicated to the Town?

*If "yes," any roadway proposed to be dedicated to the Town shall be approved by the Town Board pursuant to law. The owner shall submit a request to the Town Clerk and attach all necessary documents needed for the approval of a Town highway or extension thereof. For this reason, the determination of a Special Use Permit will be delayed until the Town Board grants their approval.*

Yes  
 No

Does this action conform to the applicable regulations of the Code of the Town of Milo (e.g., zoning)?

*If "no," please submit a completed application for an area variance as part of this application. The Zoning Board of Appeals is required to make a final determination pertaining to any needed variances prior to the Planning Board making its final determination on this application for a subdivision of land.*

Yes  
 No

Does this action violate a deed restriction, covenant, etc. filed against the deed of any lot involved in this action?

*If "yes," please submit a copy of the deed restriction, covenant, etc. and an explanation of any alleged violation(s) for review by the Town Attorney.*

Yes  
 No

Are any easements or any other type of deed restriction being created due to this action?

*If "yes," please submit a copy of such easements for review by the Town Attorney.*

Yes  
 No

## Part 9. Stipulations of application.

*Stipulation #1. Building Permits and/or Certificates of Zoning Compliance required prior to the start of construction.* The owner hereby understands and agrees that a Building Permit and/or Certificate of Zoning Compliance is required prior to the start of any construction activity. Please realize that an approval of this application does not grant an owner the right to construct a building and/or structure.

*Stipulation #2. Disclosure Affidavit.* The owner hereby understands and agrees that he/she/they have read and is familiar with the provisions of Section 809 of the General Municipal Law of the State of New York, which states:

- a. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of plat, exemption of plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature of extent of the interest of any state officer or any officer or employee of such municipality or of a municipality of which such municipality or a part, in the person, partnership or association making the application, petition, or request (hereinafter called the applicant) to the extent to such applicant.
- b. For the purpose of this section of law, an officer or employee shall be deemed to have an interest in the applicant when he/she, his/her spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:
  - i. Is the applicant;
  - ii. Is an officer, director, partner or employee of the applicant;
  - iii. Legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant; or
  - iv. Is a party to an agreement with such applicant, express or implied, whereby he/she may receive any payment or other benefit, whether or not services are rendered, dependent or contingent upon the favorable approval of such application, petition or request.
- c. Ownership of less than five percent (5%) of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purpose of this section.
- d. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

The applicant shall disclose the full particulars on an attached sheet of paper if a state officer or any officer or employee of a municipality or relative of either as defined by Section 809 of the General Municipal Law of the State of New York has interest in this application.

*Stipulation #3. Disclaimer of liability.* The applicant hereby understands and agrees that the Town of Milo is not responsible for the accuracy of an application and its associated documents that are submitted for a determination and does not guarantee that its review will detect all hazards, design defects and/or violations of law.

*Stipulation #4. Indemnity and hold harmless.* The applicant hereby understands and agrees to release and forever discharge the Town of Milo, and its officers, boards and employees, jointly and severally from any and all:

- a. Claims and liability that may be made against the Town of Milo pertaining to its review and determination of this application; and
- b. Actions, claims and demands for, upon or by reason of damage, loss, liability or injury, which hereafter may be sustained by the review and determination of this application. This release extends and applies to, and also covers and includes, all unknown, unforeseen, unanticipated and unsuspected injuries, damages, loss or liability and the consequences thereof, as well as those that shall be disclosed and known to exist.

Furthermore, the applicant hereby understands and agrees to defend, at his/her/their expense, any claims brought or actions filed against the Town of Milo with respect to the subject of the indemnity contained herein, whether such claims or actions are rightfully or wrongfully brought or filed. Lastly, the applicant hereby understands and agrees to reimburse the Town of Milo for any unnecessary expenses, attorney fees or other expenses incurred in the enforcement of this indemnity and hold harmless agreement.

*Stipulation #5. Inspection of property.* The applicant hereby understands and agrees to inspection by the Town of Milo's officers, employees, boards or duly authorized representatives at the real property for which an application for review and determination has been submitted to the Town of Milo as well as, to the extent necessary, buildings, and/or structures within such real property that is under the ownership of the applicant. The applicant also understands and agrees that during such inspection, the Town of Milo's officers, employees, boards or duly authorized representatives may, among other things, take measurements, may analyze physical characteristics of the real property including but not limited to, soils and vegetation, and may make drawings or take photographs.

*Stipulation #6. Refund of fees.* The applicant hereby understands and agrees that any fee paid to the Town of Milo is nonrefundable regardless if whether or not a review and/or determination has been made or if the application has been suspended or abandoned.

*Stipulation #7. Reimbursement of incurred expenses.* The applicant hereby understands and agrees that:

- a. The Town of Milo has the authority to engage registered design professionals, financial analysts, planners, lawyers or other appropriate professionals who can assist the Town of Milo's officers, employees, and boards in analyzing this application to ensure compliance with the law. Such assistance may include, but is not limited to, analyzing an application, monitoring or inspecting the proposed action that is the subject of this application, as well as conducting various reviews to ascertain compliance with the law.
- b. The Town of Milo may require funds to retain such professionals prior to its review of this application. In the event that such funds are insufficient, the Town of Milo may require additional funds to pay for all incurred expenses.
- c. Any funds received by the Town of Milo shall be deposited in a line item by the Town Clerk. Expenditures from this line item may be made at the direction of the Town Clerk without further appropriation. Expenditures from this line item shall be made only for services rendered in connection with a specific land use action for which funds have been collected from the applicant. Additionally, the failure of any applicant to pay any incurred expense shall be grounds for the denial of an application. Lastly, any outstanding incurred expenses shall be charged against the real property that is the subject to this application and shall constitute a lien thereon in favor of the Town of Milo, and the amount of such expenses shall be entered on the tax rolls as being due and payable. Such expenses may also be recovered in any other lawful manner.
- d. At the completion of a land use action, any excess funds in the line item attributed to such action that is the subject of this application shall be paid to the applicant. A final report of the line item shall be available to the applicant upon request within a reasonable amount of time.
- e. Any applicant may take an administrative appeal from the selection of a third party agency to the Town Board. Such appeal shall be in writing and may be taken only within twenty (20) days after the Town of Milo has mailed or hand-delivered notice to the application of the selection. The grounds for such appeal shall be limited to claims that the third party agency selected has a conflict of interest or does not possess the minimum required qualifications. The required time limit of action upon an application by the Town of Milo shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Town Board within one month following the submission date of the appeal, the selection of the third party agency made by the Town of Milo shall stand.

*Stipulation #8. Authorized Representative.* The owner hereby permits the authorized representative described within this application to act on his/her/their behalf regarding this application. Such owner also grants authority to the authorized representative to do all of the following actions:

- a. Receive, inspect and provide confidential information.
- b. Represent him/her/them and make oral and/or written presentations of fact and/or argument.
- c. Sign documents.
- d. Enter into agreements.

For clarification purposes, an authorized representative is an individual, age 18 or older, who stands in place of the owner during the application review and determination process. Furthermore, such representative has been granted all powers and duties typically reserved to an owner during the application review and determination process. Lastly, the owner has the right to revoke the authorized representative at anytime but such revocation shall be done in writing to the Town of Milo. It is highly recommended that you consult with your lawyer prior to signing this document. The New York State Bar Association has a lawyer referral and informational service, which can be contacted at 1-800-342-3661 or (518) 463-3200 ext. 255. Please understand that the Town of Milo is not permitted by law to give legal advice.

## Part 9. Signature.

THE UNDERSIGNED HEREBY ATTESTS that he/she/they is the owner of the real property that is the subject of this application that has been submitted to the Town of Milo for review and a determination. Additionally, such owner certifies that the information contained in this application and its associated documents is accurate, true and complete to the best of his/her/their knowledge, and understands that any false statements made in this application are subject to the applicable provisions of the Penal Law of the State of New York. Furthermore, such owner comprehends that he/she/they are ultimately responsible for compliance with the law regardless of any contractual agreements. Lastly, such owner has read this entire application and agrees to comply with its stipulations as contained herein.

Owner's Signature:

*David B. Zimmerman*

Date:

9/21/16

## Guide for Applicants Applying for a Special Use Permit

*This publication has been written to aid potential applicants in understanding and appreciating the Special Use Permit process, and to provide an explanation of the rules and standards under which Special Use Permit decisions of this Town's Planning Board (PB) must be made.*

### What is a Special Use Permit?

A variety of terms are used to describe Special Use Permits. They can be called "conditional use permits," "special exemption permits," or "special permits." All such terms refer to what State law terms Special Use Permits. State statute defines Special Use Permits as "authorization of a particular land use that is permitted in a local zoning law, subject to requirements imposed by such law to assure that the proposed use is in harmony with such law and will not adversely affect the neighborhood if such requirements are met." In simpler terms, the Code of the Town of Milo list certain uses that are allowed but only after review and approval by the Planning Board. This extra level of review is based upon a determination that some uses require additional restrictions or conditions placed upon them to prevent unreasonable interferences with other properties. This permitting scheme recognizes that some uses are acceptable near others, but only if properly regulated.

### Who approves Special Use Permits?

The Planning Board makes the decision and can approve, conditionally approve, or deny a Special Use Permit. The Planning Board is scheduled to meet once a month, usually on the second Tuesday of each month. Applications are heard during these regular event meetings. The Board listens to the concerns of the applicant and neighboring citizens, discusses the issues, and votes on the proposal.

### What does the Planning Board consider in their review?

The proposed special use must meet the specific standards and performance standards indicated for each of the listed Special Permit uses in the Zoning law. These standards regulate such concerns as hours of operation, availability of water and waste treatment systems, setback distances and traffic.

### Is a public hearing required?

Yes. State law requires the Planning Board to hold a public hearing on all applications for a Special Use Permit. The public hearing must be advertised in the official newspaper at least five (5) days prior to the hearing. It is highly recommended that the applicant speak to abutting owners pertaining to anticipated application since the Secretary of the Planning Board will mail a Notice of Public Hearing to all owners located within a five hundred (500) feet radius of the proposed development site. It has been our experience that neighbors generally appreciate such advanced notice and any concerns could be resolved before a formal application is submitted to the Planning Board.

### How long does the process take?

The process typically takes from one to six months starting when an application is deemed "complete," which is dependent on the type of use, its intensity and location. You can help expedite the review process by making sure your application is correctly filled out, all necessary information is attached and your proposal is clearly stated. The Secretary of the Planning Board will be happy to answer your questions regarding any application requirement.

### Are Special Use Permits subject to an environmental review?

Yes. Review of Special Use Permits is an "action" as defined by the State Environmental Quality Review Act (SEQRA) regulations, and a completed Environmental Assessment Form (EAF) needs to be submitted with the application. For clarification purposes, SEQRA is an environmental review process that requires governmental agencies to examine the impacts of discretionary actions on the environment. If the Planning Board has primary responsibility for review, it will be the lead agency in the SEQRA process and therefore responsible for SEQRA review. As the lead agency, the Planning Board must require the applicant to complete either a Short or Full Environmental Assessment Form (EAF) to provide basic information about a proposed project and to assist the Planning Board in making its determination of significance. Lastly, the Code Enforcement Officer can discuss the environmental review process in more detail with you, which is highly recommended to avoid any misunderstandings.

### How can I get more information?

The applicant is encouraged to meet with the Code Enforcement Officer to informally discuss the proposed Special Use prior to filling out a formal application. At such meeting, the applicant should provide general information that describes or outlines the existing conditions of the site and the proposed Special Use. A request for a pre-application conference to informally discuss the proposed Special Use with the Planning Board may be made at this time. The Code Enforcement Officer will also review the types of required submittals, the number of copies required and the approximate length of review time required by the Town. Lastly, the applicant is encouraged to become familiar with the appropriate provisions of the Code of the Town of Milo and any other applicable law.

**Application Checklist:** Please submit original documents and eleven (11) copies, which shall be collated and stapled, and submit the application package to the Code Enforcement Officer.

- a. Completed application that is signed by the owner of the property subject to such application.
- b. Application fee made payable to the "Town of Milo, New York."
- c. Site plans that conform to the requirements of the Zoning law. Please understand you're your failure to provide clear and accurate information might cause delays or even a denial of your application. For this reason, a site plan example has been attached to help you comprehend the minimum standard acceptable to the Planning Board.
- d. Agricultural Data Statement if the property that is the subject of this application is located in a New York State certified agricultural district. Such data statement is available online for your use at [www.townofmilo.com](http://www.townofmilo.com) under the "Forms and Apps" section.
- e. Environmental Assessment Form. A Short EAF and Full EAF is available online for your use at [www.townofmilo.com](http://www.townofmilo.com) under the "Forms and Apps" section.

Reset Form

# TOWN OF MILO, NEW YORK

# PAID

Print Form

Department of Code Enforcement and Administration  
 137 Main Street  
 Penn Yan, New York 14527  
 Telephone No.: (315) 531-8042  
 Facsimile No.: (315) 536-9760  
 TDD No.: (202) 720-6382  
 Email: codeofficer@townofmilo.com  
 Website: www.townofmilo.com

RECEIVED  
 OCT - 5 2016  
 TOWN OF MILO

PAID  
 Check # 26317  
 DONALD SCHNEIDER  
 \$500 10/5/2016  
 (AMU)

## APPLICATION FOR AN AREA VARIANCE

### Part 1. General Information.

<b>Owner of Record:</b>		<b>Property Information, which is the subject of the Area Variance:</b>			
Name	Keuka Lake Mennonite Church	Address	2618 State Route 14A		
Address	1924 Porters Corners Road	City	Penn Yan	State	NY Zip Code 14527
City	Dundee State NY Zip Code 14837	Tax Map Identification Number	62.03-1-13		
Telephone	315-314-0897	Zoning District	Light Industrial		
Email		Occupancy Classification	Vacant Lot (AMU)		

### Part 2. Description of Area Variance(s).

Please describe each area variance requested in a concise manner and its applicable chapter and section from the Code of the Town of Milo.

Variance #1	Rear yard for burial plots				
	Chapter 140	Section 19e(2)(b)	Proposed (feet, %, etc.) 20'	Required (feet, %, etc.) 50'	
Variance #2	Side yard for burial plots				
	Chapter 140	Section 19e(2)(c)	Proposed (feet, %, etc.) 20'	Required (feet, %, etc.) 25'	
Variance #3					
	Chapter	Section	Proposed (feet, %, etc.)	Required (feet, %, etc.)	
Variance #4					
	Chapter	Section	Proposed (feet, %, etc.)	Required (feet, %, etc.)	
Variance #5					
	Chapter	Section	Proposed (feet, %, etc.)	Required (feet, %, etc.)	

### Part 3. Statement of Need.

Please state your justifications for the above-mentioned area variance(s). Please understand that this information will help the members of the Zoning Board of Appeals in making its determination and is your opportunity to explain why you need the above-mentioned area variance(s). For example, my lot is a nonconforming lot and I need this addition to create another bedroom, which will allow us to comply with the legal occupancy requirements for my family at this property. (Note: A nonconforming lot does not satisfy the minimum lot requirements mandated by the Zoning Law of the Town of Milo.) Lastly, your explanation(s) should be brief, concise, and avoid remarks that are discriminatory in nature.

To create a 100 plot Church cemetery with a 20 foot setback line on the South and West line of 2.626 acres shown as Lot M2 on the attached Survey Map. Placement of the cemetery in the proposed location is necessitated by the 2.626 acre parcel on which it is located also being used as a Ball Field for Church Youth recreation. These variances will not create a detrimental effect.

Cemetery for church members only.  
 Not Public cemetery (AMU)

**Part 4. New York State Review Criteria for an Area Variance.**

*If requesting an area variance, that is, permission to build in an otherwise restricted portion of the property (such as in the required front, side or rear yards, or above the required building height, or in excess of the lot coverage regulations), then State law requires the applicant to show that the benefit the applicant stands to receive from the variance will outweigh any burden to health, safety and welfare that may be suffered by the community. State law requires the Zoning Board of Appeals to take the following factors into consideration in making its determination:*

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(s).

The property to the West is a steep and wide gully and no buildings can be built on that property except at a substantial distance from the applicant's property. The side yard set back is 20 feet only a variance of 5 feet and this is at the rear of the property. The South bounding property will probably be sold as commercial property.

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(s).

The benefits sought cannot be achieved by any other means other than the variances requested.

3. Whether the requested area variance(s) is substantial.

Given the circumstances, the area variances requested are not substantial.

4. Whether the proposed area variance(s) will have an adverse effect on the physical or environmental condition in the neighborhood or zoning district.

The area for which the variances are requested is a Church cemetery. There will be no adverse physical or environmental conditions created in the neighborhood or the Zoning district.

5. Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of an area variance(s).

The variances requested are self created but done in the interest of reserving the recreational area for Church Youth and using the area most beneficial for Church purposes.

*Unlike the use variance test, the Zoning Board of Appeals need not find in favor of the applicant on every one of the above questions. Rather, the Zoning Board of Appeals must merely take each one of the factors into account.*

**Part 5. Stipulations of the Application.**

*Stipulation #1 - Certificate of Zoning Compliance or Building Permit prior to the start of construction.* The owner hereby understands and agrees not to start construction of a building and/or structure unless a Certificate of Zoning Compliance or a Building Permit is issued pursuant to law.

*Stipulation #2 - Disclosure Affidavit.* The owner hereby understands and agrees that he/she/they have read and is familiar with the provisions of Section 809 of the General Municipal Law of the State of New York, which states:

- a. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of plat, exemption of plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state officer or any officer or employee of such municipality or of a municipality of which such municipality or a part, in the person, partnership or association making such application, petition, or request (hereinafter called the applicant) to the extent known to such applicant.
- b. For the purpose of this section of law, an officer or employee shall be deemed to have an interest in the applicant when he/she, his/her spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:
  - i. Is the applicant;
  - ii. Is an officer, director, partner or employee of the applicant;
  - iii. Legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association application; or
  - iv. Is a party to an agreement with such an applicant, express or implied, whereby he/she may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition or request.
- c. Ownership of less than five percent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.
- d. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

The applicant shall disclose the full particulars on an attached sheet of paper if a state office or any officer or employee of a municipality or relative of either as defined in Section 809 of the General Municipal Law of the State of New York has any interest in this application.

*Stipulation #3 - Disclaimer of liability.* The owner hereby understands and agrees that the Town is not responsible for the accuracy of applications and associated documents submitted for acceptance to the Town and does not guarantee that reviews and/or inspections will detect all hazards, design defects, and/or violations.

*Stipulation #4 - Indemnity and hold harmless.* The owner hereby understands and agrees to indemnify and hold harmless this Town, its agents, servants and employees from:

- a. Any claims and liability which may be made against this Town pertaining to the review of this application; and
- b. Any and all liability, loss or damage this Town may suffer as a result of the claims, demands, costs or judgment against and arising from the review of this application. Furthermore, the owner hereby understands and agrees to defend, at his/her/their expense, any claims brought or actions filed against this Town with respect to the subject of the indemnity contained herein, whether such claims or actions are rightfully or wrongfully brought or filed. Lastly, the owner hereby understands and agrees to reimburse this Town from any unnecessary expenses, attorney fees, or other expenses incurred in the enforcement of this indemnity and hold harmless agreement.

*Stipulation #5 - Inspection of property.* The owner hereby understands and agrees to inspection by this Town's officers, employees or duly authorized representatives of the property for which an area variance(s) is sought. The owner also understands and agrees that during an inspection, this Town's officers, employees or duly authorized representatives may, among other things, take measurements, may analyze physical characteristics of the site including, but not limited to, soils and vegetation (taking samples for analysis), and may make drawings or take photographs.

*Stipulation #6 - Refund of fee(s).* The owner hereby understands and agrees that any fee paid to this Town is not refundable regardless if whether or not area variance(s) has been granted or the application has been revoked.

*Stipulation #7 - Reimbursement of incurred expenses.* The owner hereby understands and agrees that:

- a. This Town has the authority to engage registered design professionals, financial analysts, planners, lawyers or other appropriate professionals who can assist this Town in analyzing a project to ensure compliance with all laws, bylaws and regulations. Such assistance may include, but is not limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Town's determinations, laws or regulations, or inspecting the project during construction or implementation.
- b. This Town may require funds to retain such professionals prior to initiating the review process for this application. In the event that such funds are insufficient, this Town may require additional funds to pay for all incurred expenses.
- c. Any funds received by this Town shall be deposited into a line item by the Town Clerk. Expenditures from this line item may be made at the direction of the Town Clerk without further appropriation. Expenditures from this line item shall be made only for services rendered in connection with a specific project or projects for which funds have been collected from the owner. Additionally, the failure of the owner to pay any incurred expenses shall be grounds for the denial of an application. Lastly, any outstanding incurred expenses shall be charged against the property and shall constitute a lien thereon in favor of this Town, and the amount of such expenses shall be entered on the tax rolls as being due and payable. Such expenses may also be recovered in any other lawful manner.
- d. At the completion of the project, any excess funds in the line item attributable to such project shall be repaid to the owner. A final report of the line item shall be made available to the owner upon request within a reasonable amount of time.
- e. Any owner may take an administrative appeal from the selection of third party agency to the Town Board. Such appeal shall be in writing and may be taken only within twenty (20) days after the Town has mailed or hand-delivered notice to the owner of the selection. The grounds of such appeal shall be limited to claims that the third party agency selected has a conflict of interest or does not possess the minimum required qualifications. The required time limit of action upon an application by this Town shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Town Board within one month following the following of the appeal, the selection of a third party agency made by this Town shall stand.

**Part 6. Signature.**

THE UNDERSIGNED HEREBY ATTESTS that he or she is the owner of the property subject of this application that has been submitted to this Town. Additionally, the owner hereby certifies that the information contained in this application is accurate, true and complete to the best of his or her knowledge, and understands that false statements made in this application are subject to the applicable provisions of the Penal Law of the State of New York. Furthermore, the owner comprehends that he or she is ultimately responsible for the compliance with all local, state and federal laws regardless of any contractual agreements. Lastly, the owner has read this entire application and agrees to comply with its stipulations as contained herein.

Owner's Signature: David B. Zimmerman

Date: 9-23-16

## GUIDE FOR APPLICANTS APPLYING FOR AN AREA VARIANCE

This publication has been written to aid potential applicants in understanding and appreciating the area variance process and to provide an explanation of the rules and standards of the Zoning Board of Appeals (ZBA) of the Town of Milo.

### What is an area variance?

An area variance allows for a "use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulation." An area variance is needed when one proposes to construct a structure that does not comply with the setback, height or area requirements of the Zoning Law of the Town of Milo. For example, if an owner wants to build a deck on his or her house that encroaches slightly into a side yard setback area, he or she could apply to the ZBA for an area variance.

### Who is entitled to apply for an area variance?

The owner of the property that is the subject of the area variance can only apply since such person has the legally enforceable right to use the land.

### Why are area variances allowed?

Area variances provide flexibility in the application of the Zoning law and afford a landowner an opportunity to apply for administrative relief from certain provisions of such law. A property owner may seek an area variance when an application for a Building Permit is denied on the grounds that the proposal violates the dimensional or physical requirements of the Zoning Law. Please understand that an area variance balances the Zoning law against the constitutional rights of the individual. Remember: "...nor shall the government take private property for public use without just compensation." The U.S. and New York State constitutions instruct our understanding of the purpose of variances: they are to protect the individual against the unreasonable exercise of power by the government.

### Who can help me understand the procedural steps and deadlines?

The Code Enforcement Officer can help an applicant to understand the procedural steps and deadlines as it pertains to an application for an area variance. Such officer can also help the applicant complete this application, if necessary, and review the necessary site plan/survey to ensure that all necessary information is provided. Lastly, the Code Enforcement Officer can explain typical conditions imposed upon the granting of an area variance to allow an applicant to comprehend their obligation(s) and ascertain any associated cost(s) prior to submitting an application.

### Does an area variance "run with the land?"

If an area variance is granted for a property because of peculiarities (e.g., topography, nonconforming lot, etc.) of that lot, then the area variance would apply to the land regardless of ownership. However, area variances remain subject to the continuing regulatory powers of the government and if the area variance is not acted upon, the original grant of the area variance confers no vested right on a subsequent purchaser.

### Must the area variance, if granted, be exactly what was applied for by the applicant?

Whether the ZBA decides to grant an area variance, State law requires the ZBA to grant the *minimum variance necessary* to provide relief, while at the same time taking care to protect the character of the neighborhood and the health, safety and welfare of the community. For these same reasons, the ZBA may also impose reasonable conditions on the grant of any variance.

### Are area variances subject to neighbor's consent?

It is certainly an abuse of discretion for the ZBA to require the applicant seeking an area variance to obtain the consent of neighboring landowners. Such a condition is an improper delegation of legislative authority. However, it is highly recommended that the applicant speak to his or her neighbors since a Notice of Public Hearing will be sent by the Town to all landowners within a 500 feet radius. The simple courtesy of meeting with these individuals may not only pay off by eliminating any opposition but also help the applicant prepare to answer any objections in advance.

### If there is no opposition to my area variance request, must the ZBA grant the request?

The rules and standards have been set forth in law and by the courts of the State, and cannot be modified by the Zoning Board of Appeals. If they are not followed, the municipality would be subject to costly lawsuits. The public is entitled to speak in favor of, or against, a proposed project, but opinions in and of themselves are not enough. Applicants and their representatives should be guided in advance by the appropriate legal standards in deciding whether an appeal would be appropriate. If an appeal is taken, the applicant should present clear, definite facts showing that the standards have been met. The ZBA cannot grant relief where proper legal proof is not adequately presented.

### Is there any time limits on area variances?

Courts have approved area variances that are conditioned upon the applicant initiating such variance within a specific period of time. If the applicant does not exercise the area variance within the set time period, then such variance expires and the applicant must reapply. If, however, a request to extend the time period for the exercise of the area variance is submitted and justifiable cause demonstrated to the Code Enforcement Officer, it is improper, absent a showing of changed circumstances, to deny the extension of the area variance. With this information understood, the ZBA will typically condition an area variance to be initiated within six (6) months from the date of approval.

### Should the applicant try to explain and discuss the area variance with Zoning Board of Appeals members prior to the meeting?

No. You should not have any communications with members of the Zoning Board of Appeals outside of the public hearing. Such ex parte communication is prohibited and may form the basis of an appeal by any party of record. Because the Zoning Board of Appeals hearings are quasi-judicial proceedings, Board members must disclose fully all communications regarding your variance request that may have taken place prior to the public hearing. If you have questions or need to explain your circumstances more completely, you should contact the Code Enforcement Officer and he/she will assist you. Such officer's contact information is located on the first page of this form.

### Do I need to employ an Attorney or any other type of professional to complete this application?

No but it is highly recommended that you consult with an attorney to provide you legal advice due to the complexity of laws and its associated procedures.

**What is the statutory standard for an area variance?**

For a Zoning Board of Appeals to grant a variance from the dimensional and area requirements of a Zoning Law, it must find that the benefits of the requested variance outweigh the detriment it will cause to the health, safety and welfare of the neighborhood. Such board must weigh the benefits of the requested variance to the applicant against the five factors set forth in the statute.

- a. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of an area variance?
- b. Can the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?
- c. Is the requested area variance substantial?
- d. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
- e. Is the alleged difficulty self-created? (Note: This consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.)

In *Sasso v. Osgood*, the Court of Appeals interpreted the statutory balancing test for area variances. The case involved an application for an area variance to allow the property owner to build a boat house on a lot that was smaller than the required minimum lot size. The Zoning Board of Appeals granted the area variance and several neighbors challenged that decision. In upholding the determination of the Zoning Board of Appeals, the Court found that the board had carefully considered the five statutory criteria and made a rational decision. The Zoning Board of Appeals had found that construction of the boat house would not cause a change in the character of the neighborhood as adjacent properties had similar structures; no alternatives other than an area variance existed because the subject parcel was smaller than required and there was no available adjacent land to be purchased so as to meet the minimum requirements. The fact that the hardship was determined to be self created was not fatal to the granting of the area variance. Even though the owner had knowledge that the lot was substandard when purchased, the statute specifically provides that this is just one factor to be considered and "shall not preclude the granting of an area variance." The Court found that the Zoning Board of Appeals properly weighed the benefit of the variance, which was full use of the property for a permitted use, against the detriment to the community and that the board's findings were amply supported by the record.

**Will the ZBA make a decision the night of the public hearing?**

Once the public hearing is closed, the ZBA may begin discussing the case and reach a decision, or may postpone discussion and/or its decision until a later meeting. If the ZBA deems it necessary, the public hearing may be reopened at any time upon consent of the applicant. Once the public hearing has been finally closed, the ZBA must make its decision within 62 days.

**What if an applicant fails to comply with the conditions of the ZBA?**

If an applicant who receives an area variance violates conditions imposed as part of the approval, the Town may immediately bring an action for injunctive relief. However, the Code Enforcement Officer will make a reasonable attempt to obtain voluntary compliance prior to pursuing such action.

**Is precedent created when approving or denying an area variance?**

The Courts have determined that the approval or denial of an area variance does not create a precedent for subsequent area variance requests. Because each variance is based upon special circumstances relating to the site for which it is proposed, the past grant or denial of variances for other properties in the area does not mandate similar action on the part of the Zoning Board of Appeals.

**When is an environmental assessment review required for an area variance?**

In accordance to the New York State Environmental Quality Review Act (SEQRA), the granting of individual setback and lot line variances and area variances for a single-family, two-family or three-family residence are a Type II action and, therefore, are exempt from an environmental assessment review. Any other type of action might require an environmental assessment review to ensure compliance with the New York State Environmental Quality Review Act. It is highly recommended that you discuss your request with the Code Enforcement Officer prior to submitting your application for review and approval. He/She can help you complete this application and inform you of any additional reviews that might be required pursuant to law.

**Application Checklist:**

Please make ten (10) copies of each document, except for the application fee, and submit the entire application package to the Code Enforcement Officer.

- Completed application form signed by the owner
- Application fee made payable to the Town of Milo
- Site Plan / Survey of property subject of the variance

*Note: An example of a site plan is illustrated on the last page of this form. However, it is highly preferred that a copy of your property's survey be attached to the proposed work and the setback dimensions to property lines. The Town reserves the right to request that the site plan be professionally drawn to ensure compliance with the law.*

MEGAN M. VERRA  
NOTARY PUBLIC  
1000 10th Street  
PO Box 1000  
Yates County, NY 13494  
My Commission Expires January 18, 2010

# TOWN OF MILO, NEW YORK

Department of Code Enforcement and Administration

137 Main Street

Penn Yan, New York 14527

Telephone No.: (315) 531-8042

Facsimile No.: (315) 536-9760

TDD No.: (202) 720-6382

Email: codeofficer@townofmilo.com

## AUTHORIZED REPRESENTATIVE FORM

### Owner's Information:

Name	Keuka Lake Mennonite Church		
Address	1924 Porters Corners Road		
City	Dundee	State	NY
		Zip Code	14837
Telephone	315-314-0897		

### Authorized Representative's Information:

Name	Donald A. Schneider		
Address	307 Liberty Street		
City	Penn Yan	State	NY
		Zip Code	14527
Telephone	315-536-2100		

THE UNDERSIGNED HEREBY ATTESTS that he/she/they is the owner of real property that is the subject of this application, which has been submitted to the Town of Milo for review and a determination. Such owner hereby permits the above-named authorized representative to act on his/her/their behalf regarding this application. Such owner also grants authority to the authorized representative to do all of the following actions:

- Receive, inspect and provide confidential information.
- Represent him/her/them and make oral and/or written presentations of fact and/or argument.
- Sign documents.
- Enter into agreements.

For clarification purposes, an authorized representative is an individual, age 18 or older, who stands in place of the owner during the application review and determination process. Furthermore, such representative has been granted all powers and duties typically reserved to an owner during the application review and determination process. Lastly, the owner has the right to revoke the authorized representative at any time but such revocation shall be done in writing to the Town of Milo.

It is highly recommended that you consult with your lawyer prior to signing this document. The New York State Bar Association has a lawyer referral and informational service, which can be contacted at 1-800-342-3661 or (518) 463-3200 ext. 255. Please understand that the Town of Milo is not permitted by law to give legal advice.

Owner's Signature: David B. Zimmerman

Date: 9-23-16

State of New York )  
County of Yates ) ss.:

On the 23<sup>rd</sup> day of September in the year 2016 before me, the undersigned, personally appeared

David B. Zimmerman, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Megan K. Cirencione  
Notary Public

Printed Name: Megan K. Cirencione

My Commission Expires: 1/19/20

MEGAN K. CIRENCIONE  
NOTARY PUBLIC - STATE OF NEW YORK  
No. 01C16335801  
Qualified in Yates County  
My Commission Expires January 19, 2020

617.20  
Appendix B  
Short Environmental Assessment Form

**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.

Part 1 - Project and Sponsor Information				
Name of Action or Project: Keuka Lake Mennonite Church Cemetary				
Project Location (describe, and attach a location map): 2618 State Route 14A, Penn Yan, NY 14527				
Brief Description of Proposed Action: To create a 100 plot Cemetary with a 20 foot setback line in the West and the South line of 2.626 acres shown as Lot M2 on the Attached Survey Map copy.  <div style="text-align: center; font-family: cursive; font-size: 1.2em;">Cemetary for church members only <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">AM</span></div>				
Name of Applicant or Sponsor: Keuka Lake Mennonite Church		Telephone: 315-314-0897		
Address: 1924 Porters Corners Road		E-Mail:		
City/PO: Dundee		State: NY	Zip Code: 14837	
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 checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		4000 sq. ft acres		
b. Total acreage to be physically disturbed?		4000 sq.ft. acres		
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ acres		
4. Check all land uses that occur on, adjoining and near the proposed action. <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">AM</span>				
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">AM</span> <input type="checkbox"/> Residential (suburban)				
<input type="checkbox"/> Forest <input checked="" type="checkbox"/> Agriculture <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">AM</span> <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____				
<input type="checkbox"/> Parkland				

5. Is the proposed action, a. A permitted use under the zoning regulations? <i>Special Use</i> <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">AMU</span>	NO	YES	N/A
b. Consistent with the adopted comprehensive plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input checked="" 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: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<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?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input checked="" type="checkbox"/> Forest <input checked="" type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100 year flood plain?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: <u>See attached emails dated 4/13/2016 to/from Code Enforcement Officer &amp; NYSDEC as well as State letter dated 1/4/2008</u>	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: <u>David B. Zimmerman</u>	Date: <u>9-23-16</u>	
Signature: _____		

(AM)

**Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2.** Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

RESET

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

See attached resolution

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	<i>Antonia Valozic</i>
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT

RESET

**Anthony Validzic**

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**From:** Anthony Validzic  
**Sent:** Wednesday, April 13, 2016 11:08 AM  
**To:** 'derweb@dec.ny.gov'; 'region8@dec.ny.gov'  
**Subject:** Town of Milo\_Yates County\_Spill Number 0706716\_Subdivision of Land\_2618 Route 14A  
**Attachments:** DOC041316-002.pdf  
**Importance:** High

To Whom It May Concern:

The Planning Board of the Town of Milo is in receipt of an application for a Minor Subdivision (i.e., one new lot being created) at 2168 Route 14A, Penn Yan. Our researched determined that spill number 0706716 is closed and that the necessary cleanup and removal actions have been completed. Is that correct? Lastly, do you have any concerns that the Planning Board needs to be aware of as it pertains to a Minor Subdivision (i.e., one new lot being created) at this lot of record?

I have attached the Notice of Public Hearing, NYSDEC spill incidents database search details, and the cover page from a report from Stantec for your review. The Town of Milo thanks you in advance for your anticipated cooperation as it pertains to this matter.

Respectfully,

Anthony Validzic  
*Code Enforcement Officer*  
**TOWN OF MILO, NEW YORK**  
Department of Code Enforcement and Administration  
137 Main Street - Town Hall  
Penn Yan, New York 14527  
Telephone No.: (315) 531-8042  
Fax No.: (315) 536-9760  
TDD No.: (202) 720-6382  
Email: [codeofficer@townofmilo.com](mailto:codeofficer@townofmilo.com)

**Statement of Confidentiality**

The contents of this e-mail message and any attachments are confidential and are intended solely for addressee. The information may also be legally privileged. This transmission is sent in trust, for the sole purpose of delivery to the intended recipient. If you have received this transmission in error, any use, reproduction or dissemination of this transmission is strictly prohibited. If you are not the intended recipient, please immediately notify the sender by reply e-mail or phone and delete this message and its attachments, if any.

# TOWN OF MILO, NEW YORK

## Planning Board

137 Main Street – Town Hall

Penn Yan, New York 14527

Telephone No.: (315) 531-8042

Facsimile No.: (315) 536-9760

TDD No.: (202) 720-6382

Email: [codeofficer@townofmilo.com](mailto:codeofficer@townofmilo.com)

## NOTICE OF PUBLIC HEARING

**PLEASE TAKE NOTICE** that pursuant to the Code of the Town of Milo, the Town's Planning Board will hold a Public Hearing at the Town Hall, 137 Main Street, Penn Yan, on the 10<sup>th</sup> day of May, 2016 at 6 o'clock P.M., to hear all interested parties and citizens regarding the determination of the following Application:

- Application No.: PB-05-10-2016A: An application for this board's determination pertaining to a Minor Subdivision of Land (i.e., one new lot of record being created) that is proposed by Arden and Barbara Sorensen, who are the owners of 3331 Himrod Road, which is more specifically known as Tax Map Identification Numbers 87.02-1-8.
- Application No.: PB-05-10-2016B: An application for this board's determination pertaining to a Minor Subdivision of Land (i.e., one new lot of record being created) that is proposed by Keuka Lake Mennonite Church, who is the owner of 2618 Route 14A, which is more specifically known as Tax Map Identification Numbers 62.03-1-13.

All parties in interest and citizens will be heard at the Public Hearing to be held as aforesaid and said hearing may be adjourned from time to time as deemed necessary by this Board. The Application is open to inspection during normal business hours at the Town's Department of Code Enforcement and Administration, 137 Main Street, Penn Yan, New York 14527. Persons with disabilities, who require assistance in attending said Public Hearing, or in furnishing comments and suggestions, should contact the above-mentioned department to request such assistance. Written comments pertaining to this Application will be accepted at the above-mentioned department prior to the Public Hearing and will be held from disclosure since they are deemed confidential pursuant to law.

BY ORDER OF THE TOWN'S PLANNING BOARD



## Spill Incidents Database Search Details

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### Spill Record

#### Administrative Information

DEC Region: 8

Spill Number: 0706716

#### Spill Date/Time

Spill Date: 09/17/2007 Spill Time: 06:50:00 PM

Call Received Date: 09/17/2007 Call Received Time: 06:50:00 PM

#### Location

Spill Name: AL BLADES & SONS

Address: 2618 ROUTE 14A

City: PENN YAN County: Yates

#### Spill Description

Material Spilled	Amount Spilled	Resource Affected
unknown petroleum	UNKNOWN	Soil

Cause: Unknown

Source: Commercial/Industrial

Waterbody:

#### Record Close

Date Spill Closed: 02/06/2008

"Date Spill Closed" means the date the spill case was closed by the case manager in the Department of Environmental Conservation (the Department). The spill case was closed because either; a) the records and data submitted indicate that the necessary cleanup and removal actions have been completed and no further remedial activities are necessary, or b) the case was closed for administrative reasons (e.g., multiple reports of a single spill consolidated into a single spill number). The Department however reserves the right to require additional remedial work in relation to the spill, if in the future it determines that further action is necessary.

If you have questions about this reported incident, please contact the Regional Office where the incident occurred.

[Return To Results](#)

[Refine This Search](#)

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Stantec Consulting Services Inc.  
2250 Brighton-Henrietta Town Line Road  
Rochester NY 14623-2706  
Tel: (585) 475-1440 Fax: (585) 424-5951  
stantec.com



**Stantec**

January 4, 2008

Mr. Chad Kehoe  
New York State Department of Environmental Conservation  
276 Sing Sing Rd Suite 1  
Horseheads, New York 14845

**RE: Corrective Action Plan Implementation and Spill Closure Report  
NYSDEC Spill File No. 07-06716  
2618 State Route 14A  
Town of Milo, Yates County, New York**

Dear Chad:

Stantec Consulting Services, Inc. (Stantec) has prepared this Corrective Action Plan (CAP) Implementation and Spill Closure Report to summarize the corrective action taken to address the petroleum impacts associated with the New York State Department of Environmental Conservation (NYSDEC) Spill File No. 07-06716 at 2618 State Route 14A, located in the Town of Milo, Yates County, New York (Site).

### **Introduction**

The site is a 5.90 acre± parcel of land located at 2618 State Route 14A in the Town of Milo, Yates County, New York (Figure 1). The tax map number for the subject property is 62.03-1-13. The subject property is zoned C-Commercial.

The site is improved with one unoccupied, one story, 1,356± sq. ft. steel building with a concrete slab. The building was most recently used as an equipment shop. The subject property is also improved with a crushed stone driveway leading off State Route 14A to the equipment shop and a crushed stone parking area.

The subject property was developed in circa 1963 by A.L. Blades and Sons, Inc. (A.L. Blades) as an asphalt facility. Prior to 1963, the subject property was used for farming.

Stantec conducted a Phase I Environmental Site Assessment (ESA) using the American Society for Testing and Materials (ASTM) Standard Practice E 1527-05 guidelines for Phase I ESAs, and the following recommendations were made:

- It was recommended that a test pit program be conducted in order to evaluate potential impacts to soil in the following areas of concern:
  - Former ASTs location where the two historic spills occurred;
  - Former spilled asphalt disposal location to the north of the ASTs;
  - Spill prevention pond to evaluate if any releases reached this area;

- Septic system location to evaluate potential discharges from the subject building;
  - Former truck cleaning areas;
  - Former diesel, kerosene and gasoline tank locations, as shown on the Spill Prevention Control and Countermeasure Plan; and
  - Outside adjacent to the northwest portion of the equipment shop where waste oil staining was observed.
- Although, it was expected to be located upgradient, it is recommended that water from the onsite water supply well be sampled.
  - It was recommended that the 55-gallon drum located immediately west of the equipment shop be properly removed and disposed in accordance with applicable regulations.
  - If they cannot be beneficially used, it was recommended that various containers within the equipment shop be properly removed and disposed in accordance with applicable regulations.

As a result of the Phase I ESA recommendations, a Phase II ESA was conducted in August 2007. The Phase II ESA activities included sampling the existing groundwater well and the excavation of twelve test pits in the seven potential areas of concern. Based on visual observations and the analytical results from the Phase II Environmental Investigation, environmental impacts were noted in the area of the former ASTs, in the spilled asphalt disposal area, and in the area of the former gasoline and kerosene tanks. These impacts included a product layer at TP-1 (area of the former ASTs), discolored soils and probable product in the spilled asphalt disposal area (TP-2A and TP-2B); probable product in TP-6B (former gasoline and kerosene tanks), elevated PID readings at TP-1, TP-2A, TP-2B, and TP-6B, and laboratory analytical soil results above regulatory guidance values at TP-1, TP-2A, TP-2B, and TP-6B.

Based on the findings of the Phase II ESA, it was recommended that the product and impacted soils be removed from the site and properly disposed. Given the above noted information, Stantec reported the findings to the NYSDEC. Spill file number 07-06716 was assigned and NYSDEC was provided with a copy of the Phase I and Phase II ESA reports on October 5, 2007. Stantec submitted a CAP to the NYSDEC on November 27, 2007. Following the exchange of e-mail correspondence, verbal approval of the CAP was received on November 30, 2007 with the condition that Spill Technology and Remediation Series (STARS) semivolatile base neutral compounds (SVBN) analysis of one confirmatory sample from each moderately impacted soil pile be conducted. The CAP excavation and soil stockpiling activities were implemented December 3-7, 2007. Transportation and disposal activities occurred December 19-21, 2007.

Environmental remediation of the Site to address the identified petroleum related impacts involved implementation of the following activities:

- Preparation of the CAP;
- Construction observation;
- Excavation of impacted soils;
- Confirmatory soil sampling;
- Characterization and off-Site disposal of impacted soils;
- Backfilling of excavations; and
- Reporting.

These activities are described on the following pages.

### **Task 1 – Corrective Action Plan**

Stantec prepared a CAP, which outlined the planned remediation activities. This CAP was approved by NYSDEC on November 30, 2007 with the addition of STARS SVBN analyses on one sample from each of the moderately impacted soil piles.

### **Task 2 – Construction Observation**

Stantec provided full-time observation and coordinated, monitored, and directed A.L. Blades personnel who self-performed the remedial excavation activities. Stantec also assisted in coordination and direction of A.L. Blades in the self-performance of off-site transportation of impacted soils to Steuben County Bath Landfill for disposal; however, this phase of the work was not observed.

During soil excavation, Stantec evaluated the excavated materials for the presence of petroleum contaminants. This included observations for visual staining and evidence of free product and odors, and screening of soils for the potential presence of volatile organic constituents using a photoionization detector (PID). These field screening tasks were used to direct A.L. Blades in segregating clean and moderately impacted soils from materials containing contaminants requiring off-site disposal at an approved landfill.

For apparently clean excavated materials, which had no strong odors, no free product, and PID headspace readings less than 50 ppm above background, Stantec had A.L. Blades stage this material on-site for re-use as backfill (see Figure 1). For moderately impacted excavated soils, which had no strong odors, no free product, and PID headspace readings between 50 ppm and 300 ppm above background, Stantec directed A.L. Blades to stage this material separately on, and cover it with, plastic sheeting for subsequent testing (see Task 4 below). For grossly impacted excavated materials, which had strong odors, evidence of free product or visual impacts, and/or PID headspace readings greater than 300 ppm above background, A.L. Blades was directed to segregate it from the backfill material and stage it on, and cover it with, plastic sheeting for off-site disposal (see Task 3 below).

### **Task 3 – Excavation of Impacted Soils**

Based on the information gathered during the Phase II ESA, Stantec oversaw excavation of moderately to grossly impacted soil from three areas. Soils were excavated from the area of the former ASTs (Phase II test pit TP-1 area), the spilled asphalt disposal area (Phase II test pits TP-2A and TP-2B area), and the area of the former gasoline and kerosene tanks (Phase II test pit TP-6B area). Figure 1 depicts the location of the excavations and the stockpiled excavated soil piles, with estimated volumes.

#### **Former AST (TP-1) Area**

In the former AST area, the area excavated was approximately 4,200 ft<sup>2</sup>. Impacts were generally noted to start at 1 to 2 ft bgs and extend to 4 to 8 ft bgs. Grossly impacted soils and materials included: black tar-like product; green silt and gravel with orange, black, and red staining; and black silt and gravel. Moderately impacted materials included soils with minor odors and PID readings between 50 and 300 ppm, including a gray clay layer with PID readings of 189 ppm.

Two concrete AST foundations were uncovered during the former AST (TP-1) area excavation as depicted on Figures 3 and 4. These foundations did not exhibit evidence of impacts. Some large pieces of the foundations broke off during the excavation and both the foundations and these pieces were left in the excavation at the locations shown on Figures 3 and 4.

#### **Former Asphalt Disposal (TP-2) Area**

In the former asphalt disposal area, the excavated area was approximately 4,900 ft<sup>2</sup> with impacted soils were generally found starting at 3 to 3.5 ft bgs and ranged from 4 to 10 ft bgs. The northern 15-20 feet of the excavation did not contain any impacted soils and all material from this area was placed in the backfill pile. To the south of this clean area, grossly impacted soils were encountered starting at approximately 3 to 3.5 ft bgs. These impacted soils consisted of gray silts and clays with inclusions of black product that ranged down to approximately 7 ft bgs. Moderately impacted soils consisted of brown silt and clay with very minor staining and odors that extended down to approximately 8.5 ft bgs. In the southern section of the excavation, moderately impacted soils were not found and the bottom of the grossly impacted soils gradually sloped up from 7 ft to 4 ft bgs.

#### **Former Gasoline and Kerosene Tanks (TP-6B) Area**

In the area of the former gasoline and kerosene tanks, the excavated area was approximately 820 ft<sup>2</sup> with impacted soils encountered starting at 2 ft bgs and ranging down to 4 to 7 ft bgs. Impacted soils included reddish brown silty clay and gray fine sand and silt with strong petroleum product odors and PID readings up to 525 ppm.

#### **Excavation Volume Summary**

Overall, materials placed in the grossly impacted soil piles were estimated at 1,000± yd<sup>3</sup>. Moderately impacted soils from the former AST area were estimated at about 100± yd<sup>3</sup>. Moderately impacted soils from the asphalt disposal area were estimated at about 16 yd<sup>3</sup>. Moderately impacted soils from the former gasoline and kerosene tanks area were estimated at about 8 yd<sup>3</sup>. Since this was such a small quantity of soil, it was ultimately considered part of the grossly impacted soils, as depicted on Figure 1.

#### **Task 4 – Confirmatory Soil Sampling**

Two types of confirmatory samples were collected including the soil piles generated from moderately impacted soils and the excavations' sidewalls and bottoms. All confirmatory samples were submitted to a laboratory certified by the New York State Department of Health (NYSDOH) for analysis of STARS VOCs using EPA Method 8260. In addition, the most impacted grab sample from each moderately impacted soil pile was also submitted for analysis of STARS SVOCs using EPA Method 8270. The analytical results from both types of confirmatory samples were compared to NYSDEC Division of Hazardous Waste Remediation, Determination of Soil Cleanup Objectives and Cleanup Levels, Technical and Administrative Guidance Memorandum HRW 94-4046 (TAGM 4046) (January 24, 1991, revised July 2001). Analytical results compared to TAGM 4046 Recommended Soil Cleanup Objectives (RSCOs), sample depths, and sample PID readings are summarized in Tables 1 - 5. Figures 2 - 6 display the locations of the confirmatory soil pile samples, the bottom areas represented by each bottom sample, and the sidewall segments represented by each sidewall sample. Laboratory analytical reports are included in Appendix A.

#### **Soil Pile Samples**

Representative confirmatory soil samples were collected by Stantec, with assistance from A.L. Blades, from the apparently moderately impacted stockpiled soils. The number of samples obtained were determined by the quantity of soil stockpiled, as defined by NYSDEC Division of Construction Management, Bureau of Spill Prevention and Response, STARS Memo #1 (August 1992). With an estimated 100 yd<sup>3</sup> in the moderately impacted soil from the TP-1 area, two grab samples and one composite sample were collected (see Figure 2). With an estimated 16 yd<sup>3</sup> in the moderately impacted soil from the TP-2 area, one grab sample and one composite sample were collected. No VOCs or SVOCs were detected above TAGM 4046 RSCOs in any of the moderately impacted soil pile samples (see Table 1 and Figure 2). Therefore, after receiving approval from the NYSDEC on December 18, 2007, the moderately impacted piles were placed in the bottoms of the excavations.

Mr. Chad Kehoe  
January 4, 2008  
Page 5

### ***Sidewall and Bottom Samples***

Representative confirmatory soil samples were collected by Stantec, with assistance from A.L. Blades, from the walls and floors of the excavations. The number of samples obtained was determined by the size of the excavation, as defined by NYSDEC Division of Environmental Remediation Draft DER-10 Technical Guidance for Site Investigation and Remediation (December 2002). For excavations with a 20 to 300 foot perimeter, one sidewall sample was collected for every 30± linear feet and one bottom sample for every 900± ft<sup>2</sup> of bottom area was collected. Therefore, the confirmatory samples included the following (see Tables 3 - 5 and Figures 3 - 6):

- Former AST area excavation: twelve samples from the sidewalls of the excavation and six samples from the floor of the excavation.
- Former asphalt disposal area: nine samples from the sidewalls of the excavation and five samples from the floor of the excavation.
- Area of the former gasoline and kerosene tanks: five samples from the sidewalls of the excavation and one sample from the floor of the excavation.

TAGM 4046 levels were not exceeded in any of the sidewall and bottom samples. Therefore, the excavations were considered complete. After receiving approval from the NYSDEC on December 18, 2007, the excavations were backfilled, as detailed below.

### ***Task 5- Characterization and Off-Site Disposal of Impacted Soils***

Stantec assisted with the evaluation of the staged materials in order to obtain approval for their disposal in the Steuben County Bath Landfill, which is a permitted solid waste landfill. Stantec collected samples for the necessary laboratory analysis as required by the Steuben County Bath Landfill for landfill disposal. The landfill required disposal soil samples at a frequency of one sample per 500 tons with the samples analyzed for TCLP VOCs, TCLP SVOCs, TCLP metals, PCBs, ignitability, and corrosivity. Given the estimated 1,000± yd<sup>3</sup>, and assuming a density of 1.7 tons/yd<sup>3</sup>, 1,700 tons were anticipated for landfill disposal. Therefore, four waste characterization samples were collected. All samples were non-hazardous (see Appendix A for analytical results). Disposal documentation (i.e. weigh tickets/waste disposal manifests) are provided in Appendix B.

### ***Task 6 – Backfilling of Excavations***

Following the collection and analysis of confirmatory soil samples and approval from the NYSDEC on December 18, 2007, A.L. Blades utilized the previously excavated and staged designated "clean" and moderately impacted fill and imported clean fill to properly backfill. Clean fill was imported from Steuben Crushed Stone Quarry in Bath, NY, which consisted of 1,315± tons of broken rock; from an A.L. Blades stockpile at their facility in Hornell, NY, which consisted of 270± tons of gravel and was primarily from Howard Sand and Gravel in Howard, NY; and from R.K. Howell Gravel Products in Dundee, NY, which consisted of four truck loads of gravel. Stantec was not present on-site to observe backfilling activities.

### ***Task 7 – Erosion Control Measures***

On December 20, 2007, A.L. Blades reported that the site was visited by Rick Ayers from the Yates County Soil and Water Conservation District. He indicated a complaint had been submitted that the CAP Implementation activities were being conducted without a State Pollutant Discharge Elimination System (SPDES) permit. Shortly thereafter a NYSDEC Conservation Officer visited the site. The officer was not concerned with activities once he learned that they were being conducted under NYSDEC Spill Program oversight. Stantec contacted Paula Smith, a Stormwater Specialist with NYSDEC Region 8. She indicated that the site owner should implement erosion control measures and that no further documentation was necessary.

Mr. Chad Kehoe  
January 4, 2008  
Page 6

A.L. Blades implemented the following erosion control measures:

- All disturbed areas were mulched on December 22, 2007 with hay mulch. In accordance with the NY Guidelines for Erosion and Sediment Control, the hay mulch was applied at a rate of 2/3 bales per 1000 sq. ft. or approximately 100 bales/acre. The disturbed areas will be seeded with a conservation cover mix in the spring;
- A silt fence was installed down gradient of disturbed areas and the base of the silt fence was buried six-inches into the ground surface;
- Sufficient gravel was installed at the site entrance to minimize the tracking of soil onto the public road; and
- Any mud tracked onto the road was removed at least twice a day and when the project was finished.

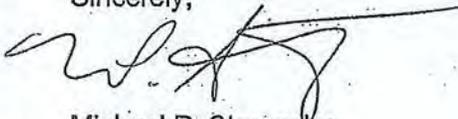
### Conclusions

Source removal, involving excavation and off-site disposal of 1,700± tons of petroleum impacted soils, was successfully performed at the A.L. Blades property at 2618 State Route 14A, Town of Mile, Yates County, New York in accordance with the NYSDEC approved CAP. All grossly impacted soils were transported to the Steuben County Bath Landfill and disposed of as non-hazardous waste.

Confirmatory soil sample results indicate that all "moderately impacted" soil piles and all sidewalls and excavation bottoms were below the TAGM 4046 RSCOs. Given these analytical results, it is respectfully requested that a closure letter be issued for Spill Number 07-06716.

Should you have any questions or require further information, please do not hesitate to call me at (585) 413-5620.

Sincerely,



Michael P. Storonsky  
Senior Associate

Enclosures

cc: Robert Blades, Jr.

### Figures

- |          |   |
|----------|---|
| Figure 1 | Site Map Including Excavation Limits and Soil Piles Generated |
| Figure 2 | Moderately Impacted Soil Pile Sampling Locations              |
| Figure 3 | Excavation Bottom Sample Areas for TP-1 and TP-6B Excavations |
| Figure 4 | Excavation Sidewall Samples for TP-1 and TP-6B Excavations    |
| Figure 5 | Excavation Bottom Sample Areas for TP2 Excavation             |
| Figure 6 | Excavation Sidewall Samples for TP2 Excavation                |

**Anthony Validzic**

---

**From:** Anthony Validzic  
**Sent:** Wednesday, April 13, 2016 11:33 AM  
**To:** 'Amber Degner'; 'Julie Engel'; 'Kay Williamson'; 'Kay Williamson'; 'Nate Riehl'; 'Russell Hunt'; 'Ryan Hallings'; 'Sallie Jensen'  
**Subject:** FW: Town of Milo\_Yates County\_Spill Number 0706716\_Subdivision of Land\_2618 Route 14A

Dear Everyone:

Good afternoon and I hope all is well. I spoke with Chad Kehoe of the NYSDEC and he informed me that he was the lead representative for this spill. He has no concerns at this time and the spill is considered closed.

Respectfully,

Anthony Validzic  
Code Enforcement Officer  
**TOWN OF MILO, NEW YORK**  
Department of Code Enforcement and Administration  
137 Main Street - Town Hall  
Penn Yan, New York 14527  
Telephone No.: (315) 531-8042  
Fax No.: (315) 536-9760  
TDD No.: (202) 720-6382  
Email: codeofficer@townofmilo.com

**Statement of Confidentiality**

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**From:** dec.sm.derweb [mailto:derweb@dec.ny.gov]  
**Sent:** Wednesday, April 13, 2016 11:18 AM  
**To:** Anthony Validzic <codeofficer@townofmilo.com>  
**Cc:** Kehoe, Chad M (DEC) <chad.kehoe@dec.ny.gov>  
**Subject:** RE: Town of Milo\_Yates County\_Spill Number 0706716\_Subdivision of Land\_2618 Route 14A

Mr. Validzic: I'm referring your inquiry about Spill #0706716 (Penn Yan, Yates County) to the DEC lead for the spill, Mr. Chad Kehoe (email: [chad.kehoe@dec.ny.gov](mailto:chad.kehoe@dec.ny.gov)) who is copied on this reply. Thanks,

Larry Ennist  
DER Webmail Coordinator  
Email: [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov)

**Anthony Validzic**

---

**From:** Anthony Validzic  
**Sent:** Wednesday, April 13, 2016 1:51 PM  
**To:** 'dec.sm.Region8'  
**Subject:** RE: Town of Milo\_Yates County\_Spill Number 0706716\_Subdivision of Land\_2618 Route 14A  
**Attachments:** DOC041316-003.pdf

Thank you. Again, this is only a minor subdivision of land that will create a new lot of record. No land disturbance proposed. I have attached the final plat for you.

**From:** dec.sm.Region8 [mailto:dec.sm.Region8@dec.ny.gov]  
**Sent:** Wednesday, April 13, 2016 1:04 PM  
**To:** Anthony Validzic <codeofficer@townofmilo.com>  
**Subject:** RE: Town of Milo\_Yates County\_Spill Number 0706716\_Subdivision of Land\_2618 Route 14A

Anthony,

According to our records, we have not received an information package from the Town on this for SEQR or a jurisdictional inquiry. There do not appear to be any state-regulated freshwater wetlands or state-listed species nearby. There is a class C, (unprotected) stream that flows SE to NW a few hundred feet west of Route 14 A. Without a site plan, it's hard to know what may be involved.

A review of spill records indicate that subsurface impacts from former storage tanks at AL Blades & Sons were discovered during a phase 2 investigation and that a cleanup was done by AL Blades to the DEC's satisfaction and no further action is required.

**Linda J. Vera**

Citizen Participation Specialist, Office of Communication Services

**New York State Department of Environmental Conservation**  
6274 East Avon-Lima Rd, Avon, NY 14414  
P: (585) 226-5324 | F: (585) 226-2013 | [linda.vera@dec.ny.gov](mailto:linda.vera@dec.ny.gov)

[www.dec.ny.gov](http://www.dec.ny.gov) |  | 

**From:** Anthony Validzic [mailto:codeofficer@townofmilo.com]  
**Sent:** Wednesday, April 13, 2016 11:08 AM  
**To:** dec.sm.derweb; dec.sm.Region8  
**Subject:** Town of Milo\_Yates County\_Spill Number 0706716\_Subdivision of Land\_2618 Route 14A  
**Importance:** High

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To Whom It May Concern:

The Planning Board of the Town of Milo is in receipt of an application for a Minor Subdivision (i.e., one new lot being created) at 2168 Route 14A, Penn Yan. Our researched determined that spill number 0706716 is closed and that the necessary cleanup and removal actions have been completed. Is that correct? Lastly, do you have any concerns that the

Planning Board needs to be aware of as it pertains to a Minor Subdivision (i.e., one new lot being created) at this lot of record?

I have attached the Notice of Public Hearing, NYSDEC spill incidents database search details, and the cover page from a report from Stantec for your review. The Town of Milo thanks you in advance for your anticipated cooperation as it pertains to this matter.

Respectfully,

Anthony Validzic  
*Code Enforcement Officer*  
**TOWN OF MILO, NEW YORK**  
Department of Code Enforcement and Administration  
137 Main Street - Town Hall  
Penn Yan, New York 14527  
Telephone No.: (315) 531-8042  
Fax No.: (315) 536-9760  
TDD No.: (202) 720-6382  
Email: [codeofficer@townofmilo.com](mailto:codeofficer@townofmilo.com)

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6 CRR-NY 617.4  
NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK  
TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
CHAPTER VI. GENERAL REGULATIONS  
PART 617. STATE ENVIRONMENTAL QUALITY REVIEW

6 CRR-NY 617.4  
6 CRR-NY 617.4

617.4 Type I actions.

(a) The purpose of the list of Type I actions in this section is to identify, for agencies, project sponsors and the public, those actions and projects that are more likely to require the preparation of an EIS than Unlisted actions. All agencies are subject to this Type I list.

(1) This Type I list is not exhaustive of those actions that an agency determines may have a significant adverse impact on the environment and require the preparation of an EIS. However, the fact that an action or project has been listed as a Type I action carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require an EIS. For all individual actions which are Type I or Unlisted, the determination of significance must be made by comparing the impacts which may be reasonably expected to result from the proposed action with the criteria listed in section 617.7(c) of this Part.

(2) Agencies may adopt their own lists of additional Type I actions, may adjust the thresholds to make them more inclusive, and may continue to use previously adopted lists of Type I actions to complement those contained in this section. Designation of a Type I action by one involved agency requires coordinated review by all involved agencies. An agency may not designate as Type I any action identified as Type II in section 617.5 of this Part.

(b) The following actions are Type I if they are to be directly undertaken, funded or approved by an agency:

(1) the adoption of a municipality's land use plan, the adoption by any agency of a comprehensive resource management plan or the initial adoption of a municipality's comprehensive zoning regulations; *No (RM)*

(2) the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district; *No (RM)*

(3) the granting of a zoning change, at the request of an applicant, for an action that meets or exceeds one or more of the thresholds given elsewhere in this list;

(4) the acquisition, sale, lease, annexation or other transfer of 100 or more contiguous acres of land by a state or local agency; *No (RM)*

(5) construction of new residential units that meet or exceed the following thresholds:

(i) 10 units in municipalities that have not adopted zoning or subdivision regulations;

(ii) 50 units not to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(iii) in a city, town or village having a population of less than 150,000, 250 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(iv) in a city, town or village having a population of greater than 150,000 but less than 1,000,000, 1,000 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works; or

(v) in a city or town having a population of greater than 1,000,000, 2,500 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(6) activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds:

(i) a project or action that involves the physical alteration of 10 acres; *No (RM)*

(ii) a project or action that would use ground or surface water in excess of 2,000,000 gallons per day; *No (RM)*

*No (RM)*

(iii) parking for 1,000 vehicles; No (AM)

(iv) in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 square feet of gross floor area; No (AM)

(v) in a city, town or village having a population of more than 150,000 persons, a facility with more than 240,000 square feet of gross floor area; No (AM)

(7) any structure exceeding 100 feet above original ground level in a locality without any zoning regulation pertaining to height; No (AM)

(8) any Unlisted action that includes a nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to Agriculture and Markets Law, article 25-AA, sections 303 and 304) and exceeds 25 percent of any threshold established in this section; No (AM)

(9) any Unlisted action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is listed on the State Register of Historic Places (The National Register of Historic Places is established by 36 *Code of Federal Regulations* [CFR] parts 60 and 63, 1994 [see section 617.17 of this Part]); No (AM)

(10) any Unlisted action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR part 62, 1994 (see section 617.17 of this Part); or No (AM)

(11) any Unlisted action that exceeds a Type I threshold established by an involved agency pursuant to section 617.14 of this Part. No (AM)

#### CROSS REFERENCES:

Preparation of environmental impact statement, Environmental Conservation Law § 8-0109.  
Coordination of reporting; limitations; lead agency, Environmental Conservation Law § 8-0111.  
Rules and regulations, Environmental Conservation Law § 8-0113.  
Phased implementation, Environmental Conservation Law § 8-0117.

#### RESEARCH REFERENCES AND PRACTICE AIDS:

National Environmental Policy Act of 1969, Generally. 42 U.S.C.A. § 4321.

12 NY Jur 2d, Buildings, Zoning, and Land Controls § 165.

55 NY Jur 2d, Environmental Rights and Remedies §§ 57--62, 64.

77 NY Jur 2d, Mines and Minerals § 65.

61A Am Jur 2d, Pollution Control §§ 46, 47.

6 CRR-NY 617.4

Current through August 15, 2016

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6 CRR-NY 617.5  
NY-CRROFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK  
TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
CHAPTER VI. GENERAL REGULATIONS  
PART 617. STATE ENVIRONMENTAL QUALITY REVIEW6 CRR-NY 617.5  
6 CRR-NY 617.5

## 617.5 Type II actions.

(a) Actions or classes of actions identified in subdivision (c) of this section are not subject to review under this Part. These actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under Environmental Conservation Law, article 8. The actions identified in subdivision (c) of this section apply to all agencies.

(b) Each agency may adopt its own list of Type II actions to supplement the actions in subdivision (c) of this section. No agency is bound by an action on another agency's Type II list. An agency that identifies an action as not requiring any determination or procedure under this Part is not an involved agency. Each of the actions on an agency Type II list must:

(1) in no case, have a significant adverse impact on the environment based on the criteria contained in section 617.7(c) of this Part; and

(2) not be a Type I action as defined in section 617.4 of this Part.

(c) The following actions are not subject to review under this Part:

- (1) maintenance or repair involving no substantial changes in an existing structure or facility; No (mw)
- (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4 of this Part; No (mw)
- (3) agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming; No (mw)
- (4) repaving of existing highways not involving the addition of new travel lanes; No (mw)
- (5) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities; No (mw)
- (6) maintenance of existing landscaping or natural growth; No (mw)
- (7) construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities; Facility = 4,000 sq ft No (mw)
- (8) routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area and school closings, but not changes in use related to such closings; No (mw)
- (9) construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (11) of this subdivision and the installation, maintenance and/or upgrade of a drinking water well and a septic system; No (mw)
- (10) construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density; No (mw)
- (11) extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list; No (mw)
- (12) granting of individual setback and lot line variances; No (mw) Special Use
- (13) granting of an area variance(s) for a single-family, two-family or three-family residence; No (mw)

- (14) public or private best forest management (silvicultural) practices on less than 10 acres of land, but not including waste disposal, land clearing not directly related to forest management, clear-cutting or the application of herbicides or pesticides; No (AM)
- (15) minor temporary uses of land having negligible or no permanent impact on the environment; No (AM)
- (16) installation of traffic control devices on existing streets, roads and highways; No (AM)
- (17) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns; No (AM)
- (18) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action; No (AM)
- (19) official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s); No (AM)
- (20) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment; No (AM)
- (21) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action; No (AM)
- (22) collective bargaining activities; No (AM)
- (23) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt; No (AM)
- (24) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession; No (AM)
- (25) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials; No (AM)
- (26) license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities; No (AM)
- (27) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list; No (AM)
- (28) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled; No (AM)
- (29) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion; No (AM)
- (30) adoption of a moratorium on land development or construction; No (AM)
- (31) interpreting an existing code, rule or regulation; No (AM)
- (32) designation of local landmarks or their inclusion within historic districts; No (AM)
- (33) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part; No (AM)
- (34) actions undertaken, funded or approved prior to the effective dates set forth in SEQR (see chapters 228 of the Laws of 1976, 253 of the Laws of 1977 and 460 of the Laws of 1978), except in the case of an action where it is still practicable either to modify the action in such a way as to mitigate potentially adverse environmental impacts, or to choose a feasible or less environmentally damaging alternative, the commissioner may, at the request of any person, or on his own motion, require the preparation of an environmental impact statement; or, in the case of an action where the responsible agency proposed a modification of the action and the modification may result in a significant adverse impact on the environment, an environmental impact statement must be prepared with respect to such modification; No (AM)
- (35) actions requiring a certificate of environmental compatibility and public need under article VII, VIII or X of the Public Service Law and the consideration of, granting or denial of any such certificate; No (AM)
- (36) actions subject to the class A or class B regional project jurisdiction of the Adirondack Park Agency or a local government pursuant to sections 807, 808 and 809 of the Executive Law, except class B regional projects subject to review by local government pursuant to section 807 of the Executive Law located within the Lake George Park as defined by subdivision one of section 43-0103 of the Environmental Conservation Law; and No (AM)

(37) actions of the Legislature and the Governor of the State of New York or of any court, but not actions of local legislative bodies except those local legislative decisions such as rezoning where the local legislative body determines the action will not be entertained.

No (b)(7)

**CROSS REFERENCES:**

Preparation of environmental impact statement, Environmental Conservation Law § 8-0109.  
Coordination of reporting; limitations; lead agency, Environmental Conservation Law § 8-0111.  
Rules and regulations, Environmental Conservation Law § 8-0113.  
Phased implementation, Environmental Conservation Law § 8-0117.

**RESEARCH REFERENCES AND PRACTICE AIDS:**

National Environmental Policy Act of 1969, Generally. 42 U.S.C.A. § 4321.  
12 NY Jur 2d, Buildings, Zoning, and Land Controls § 83.  
55 NY Jur 2d, Environmental Rights and Remedies §§ 57, 60, 61, 62, 64, 65.  
61A Am Jur 2d, Pollution Control §§ 46, 47.  
6 CRR-NY 617.5  
Current through August 15, 2016

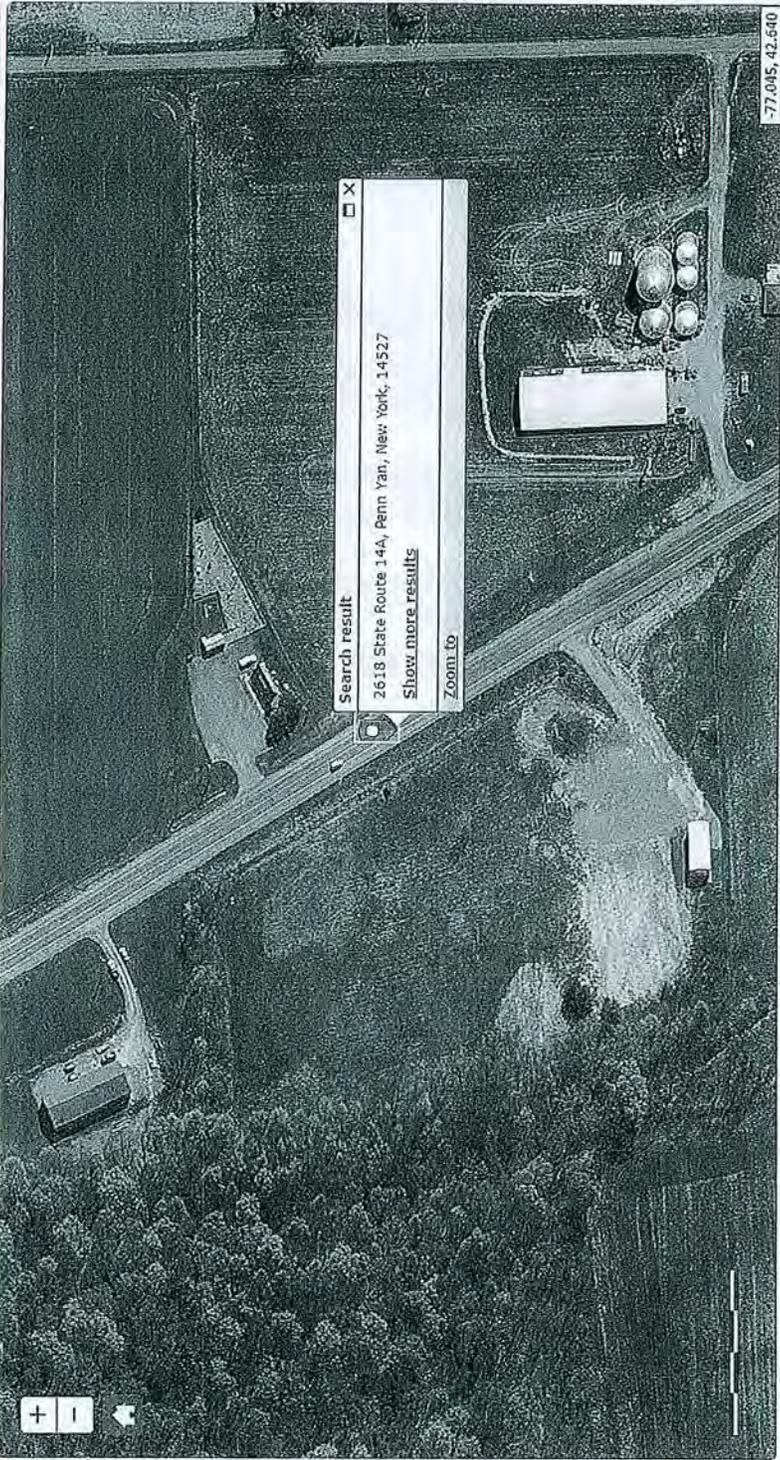
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# Environmental Resource Mapper

Base Map: Satellite with Labels



Search result

2618 State Route 14A, Penn Yan, New York, 14527

[Show more results](#)

[Zoom to](#)

Search

Tools

Layers and Legend

- All Layers
- Unique Geological Features
- Waterbody Classifications for Rivers/Streams
- Waterbody Classifications for Lakes
- State Regulated Freshwater Wetlands
- Regulated Wetland Checkzone
- Significant Natural Communities
- Natural Communities Vicinity
- Rare Plants or Animals

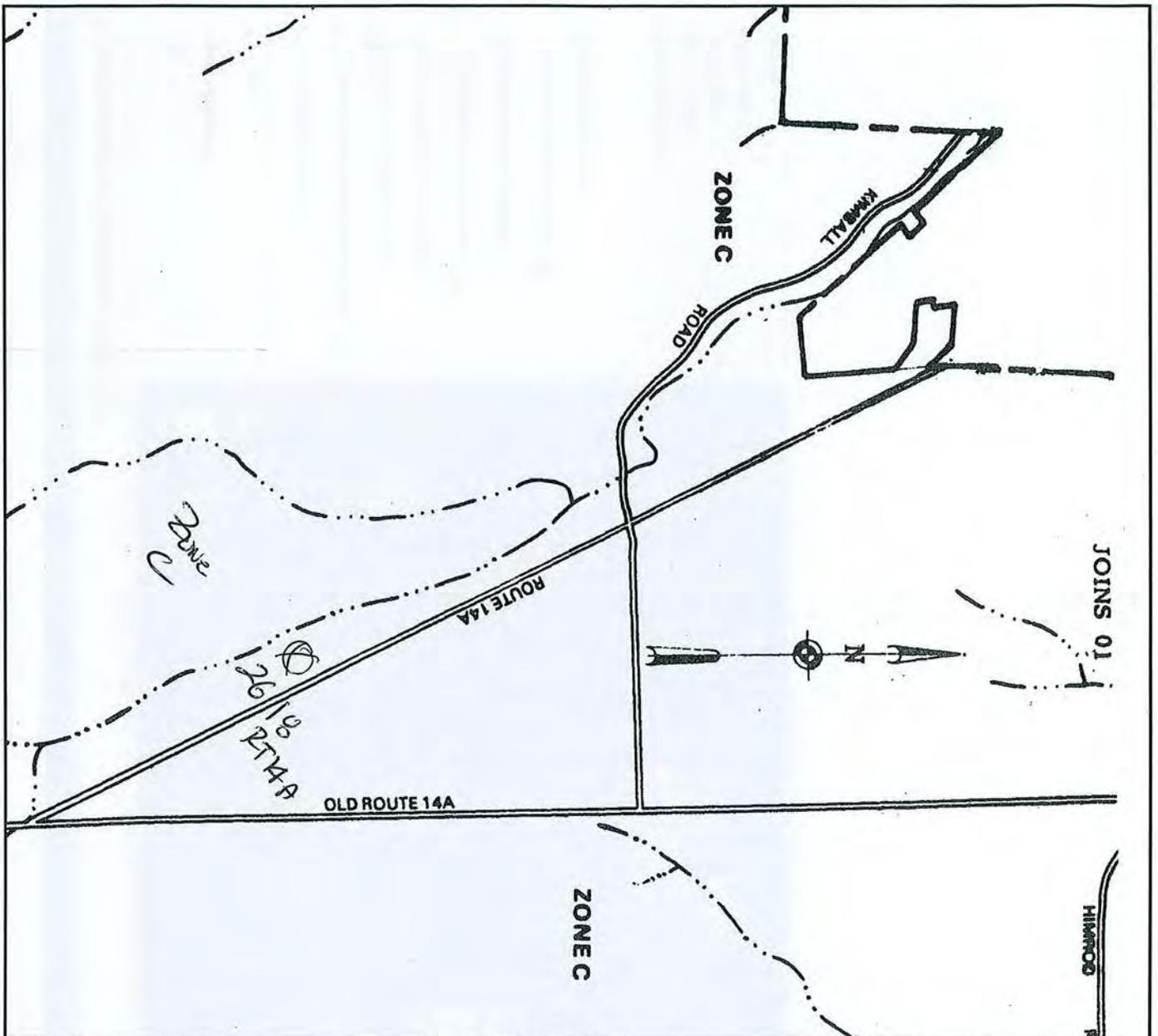
Other Wetland Layers

Reference Layers

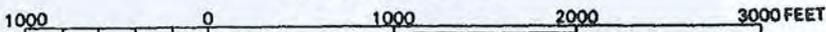
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APPROXIMATE SCALE

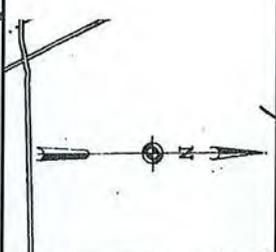


**federal emergency management agency**

**TOWN OF MILO, NY  
YATES COUNTY**

**EFFECTIVE DATE  
JULY 18, 1985**

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)





- C. Cemetery related structures. Cemetery related structures such as but not limited to mausoleums and columbariums are encouraged in order to maximize the use of interment acreage. Existing cemeteries shall not be required to obtain a Special Use Permit or a Use Variance for the construction of cemetery related structures. *N/A (AMM)*
- D. Compliance with the state law. A cemetery shall comply with state law such as but not limited to Article 15 of the Not for Profit Corporations Law of NYS, §§450-451 of the Real Property Law of NYS and §§4216-4221 of the Public Health Law of NYS. Where, in any specific case, conflicts occur between provisions of this section and such state law, the more restrictive requirement shall govern. *Owner understands (AMM)*
- E. Flood zone. Burial plots or cemetery related structures shall only be permitted in areas outside the five hundred (500) year flood zone as prescribed by the Flood Insurance Rate Map of the Town, which is created by FEMA. *ok (AMM)*
- F. Parking spaces. The minimum number of parking spaces as prescribed within this Chapter shall not apply to burial plots and cemetery related structures, such as but not limited to a mausoleum or a columbarium. *ok (AMM)*
- G. Setbacks. All burial plots as well as cemetery related structures shall be setback from any lot line in accordance to the minimum yard dimensions for a principal building at the applicable zoning district. *Needs area variances (2) (AMM)*

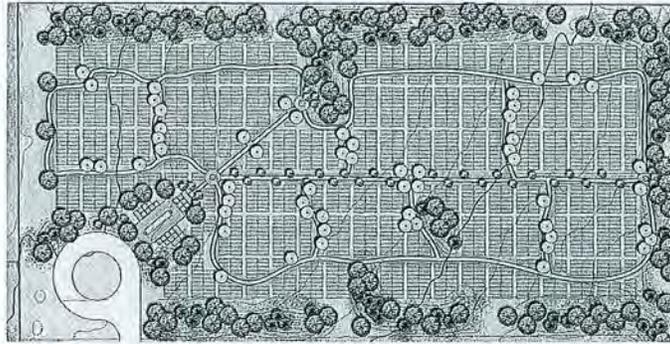


Figure 58 – Site Plan of a Cemetery

§140-63. Cottage housing development.

- A. Intent. The Town recognizes that one of the methods to address our environmental sustainability and housing affordability is to build smaller dwellings. A cottage housing development is generally defined as a grouping of small, detached, single unit dwelling units clustered around a common open space or courtyard and developed under a coherent plan. It is typically built on small infill sites in established residential zoning districts. It fills a niche between traditional choices of single unit and multi-unit dwellings. Although less spacious than conventional single unit dwelling, it offers the privacy and personal space of a detached single unit dwelling in a less costly package. Additionally, cottages may be located on separate lots of record, or on an undivided, commonly-owned lot of record. Residents may share use and maintenance expense of common facilities such as parking, storage areas, and amenities. Furthermore, thoughtful design and efficient use of space are hallmarks of these developments. Well-designed cottage housing developments can offer significant community benefits such as efficient use of land, and reduced demand for energy and building materials compared to conventional single unit dwellings. It allows moderate increases in density while minimizing development scale. The number of people and vehicles per unit as well as overall

**PBH - Public Health**

**Title 2 - AUTOPSY AND DISSECTION**

- 4209 - Autopsies; right to perform.
- 4209-A - Procedure for obtaining identification by persons opposed to the dissection or autopsy of their bodies upon their death.
- 4210 - Deceased persons; right to dissect.
- 4210-A - Unlawful dissection of the body of a human being.
- 4210-B - Certain unauthorized autopsies.
- 4210-C - Limitations to dissection or autopsy.
- 4211 - Cadavers; unclaimed; delivery to schools for study.
- 4212 - Cadavers; unclaimed; delivery to schools; procedure.
- 4213 - Cadavers; delivery to relatives or friends.
- 4214 - Cadavers; autopsy by order of hospital authorities.
- 4215 - Cadavers; burial after autopsy and dissection.
- 4216 - Body stealing.
- 4217 - Receiving stolen body of a human being.
- 4218 - Opening graves.
- 4219 - Arresting or attaching a dead body of a human being.
- 4220 - Disturbing funerals.
- 4221 - Removal of eyes and/or parts thereof after death.
- 4222 - Removal of corneal tissue for transplant and pituitary gland tissue for the extraction of growth hormone.

**RPP - Real Property**

**Article 13 - CEMETERY LANDS**

**450** - Lands used for cemetery purposes not to be sold or mortgaged.

**451** - Acquisition of lands for cemetery purposes in certain counties.

**NPC - Not-For-Profit Corporation**

**Article 15 - PUBLIC CEMETERY CORPORATIONS**

- 1501 - Declaration of policy.
- 1502 - Definitions.
- 1503 - Application.
- 1504 - Cemetery board and general administration.
- 1505 - Special requirements of incorporation.
- 1505-A - Additional requirements for incorporation of crematories.
- 1506 - Cemetery lands.
- 1506-A - Cemetery corporations; restrictions.
- 1506-B - Transfer of lands of Valley View Rural Cemetery.
- 1506-C - Abandoned cemetery maintenance by cemetery corporations.
- 1507 - Trust funds.
- 1507-A - State cemetery board citizens advisory council.
- 1508 - Reports by cemeteries.
- 1509 - Cemetery rules and regulations; charges and lot tax assessments.
- 1510 - Cemetery duties.
- 1510-A - Repair or removal of monuments.
- 1510-B - Availability for interment on six-day basis.
- 1511 - Cemetery indebtedness.
- 1512 - Rights of lot owners.
- 1513 - Sale of burial rights.
- 1513-A - Reacquisition of a lot, plot or part thereof by a cemetery corporation.
- 1514 - Misdemeanor; general penalty.
- 1515 - Actions affecting cemetery corporations.
- 1516 - Sale of monuments.
- 1517 - Crematory operations.





- i. An accessory structure located at a lot of record that is contiguous to a lake road shall be permitted to have a minimum front yard of five (5) feet.
- b. Minimum rear yard shall be five (5) feet.
- c. Minimum side yard shall be five (5) feet.
- d. Maximum building height shall be twenty (20) feet.
- e. Maximum story above grade plane shall be two (2).

§140-19. Light Industrial (LI) zoning district.

A. Purpose. The purpose of the Light Industrial (LI) zoning district is to support and stimulate local economic development by providing for light industrial, research and development enterprises in areas best suited for industrial development because of location, topography, existing facilities and relationship to other land uses. In addition, this district shall support the county airport and heliport to increase safety in the use and to protect persons and property located near such airport and heliport. Lastly, it provides standards for locating and developing such land uses in a manner that does not adversely affect adjacent residential areas and preserves the rural character of the Town.

B. Permitted principal uses.

1. Agricultural business.
2. Agricultural service use.
3. Agricultural tourism.
4. Airport, county.
5. Airport-related use.
6. Commercial, light.
7. Commercial, heavy.
8. Cultural center.
9. Farm operation.
10. Industrial, light.
11. Museum.
12. Nursery, retail.
13. Outdoor sportsperson club.

14. Park.
15. Place of worship.
16. Private club.
17. Storage facility, self service.
18. Timber and lumber production facility.
19. Vehicle orientated commercial use.
20. Veterinary facility.

C. Permitted accessory uses.

1. Customarily accessory uses incidental to a permitted use.
2. Amateur radio communications tower.
3. Private small animal operation.
4. Private stable.
5. Outdoor wood boiler.
6. Solar photovoltaic system.

D. Special uses.

1. Cemetery.
2. Dwelling, single unit.
3. Industrial, heavy.
4. Junkyard.
5. Outdoor retail sales.
6. Outdoor storage.
7. Wind energy conversion system, small.
8. Wind energy conversion system, large.
9. Wireless telecommunications facility.

E. Bulk regulations.

1. Dimensional requirements pertaining to a lot of record.
  - a. Minimum lot area shall be two (2) acres.
  - b. Minimum lot width shall be two hundred (200) feet.
  - c. Minimum lot depth shall be two hundred (200) feet.
  - d. Maximum building coverage shall be seventy (70) percent.
2. Dimensional requirements pertaining to a principal building.
  - a. Minimum front yard shall be fifty (50) feet.
  - b. Minimum rear yard shall be fifty (50) feet.
  - c. Minimum side yard shall be twenty five (25) feet.
  - d. Maximum building height shall be sixty (60) feet.
  - e. Maximum story above grade plane shall be four (4).
3. Dimensional requirements pertaining to an accessory structure.
  - a. Minimum front yard shall be fifty (50) feet.
  - b. Minimum rear yard shall be fifty (50) feet.
  - c. Minimum side yard shall be twenty five (25) feet.
  - d. Maximum building height shall be sixty (60) feet.
  - e. Maximum story above grade plane shall be four (4).





**Deed Reference**

Lot 1, Cook to Keuka Lake Mennonite Church by deed recorded March 22, 2016 at Liber 701 of Deeds, Page 11. Abstract of Title by Keuka Abstract Corporation No. 6-3451 related March 22, 2016.

**Map Reference**

1. Plan of Land to be conveyed to A.L. Blades & Sons, Inc., surveyed by John V. Stark, P.E. & L.S., filed No. 3028 - filed at Liber 7 of Maps, Page 74.
2. Map of Subdivision Prepared For Chad J. Allison, surveyed by Years boundary - filed at M09131 of Maps.
3. Plan of Land Owned By Margaret S. Henderson & James R. Henderson, surveyed by Willson & Associates - filed at M10-255 of Maps.

**Notes:**

1. Broken Highway Monument 1.5' below grade. (A)

**Proposed Land Owned By  
Keuka Lake Mennonite Church  
To Be Subdivided**

Located At 2618 Route 14A

Being Part of  
Lot 30  
Phelps & Gorham Purchase  
Township 7, Range 1  
County of Yates  
State of New York  
Scale 1" = 100 Feet

**Kaczynski Land Surveying**

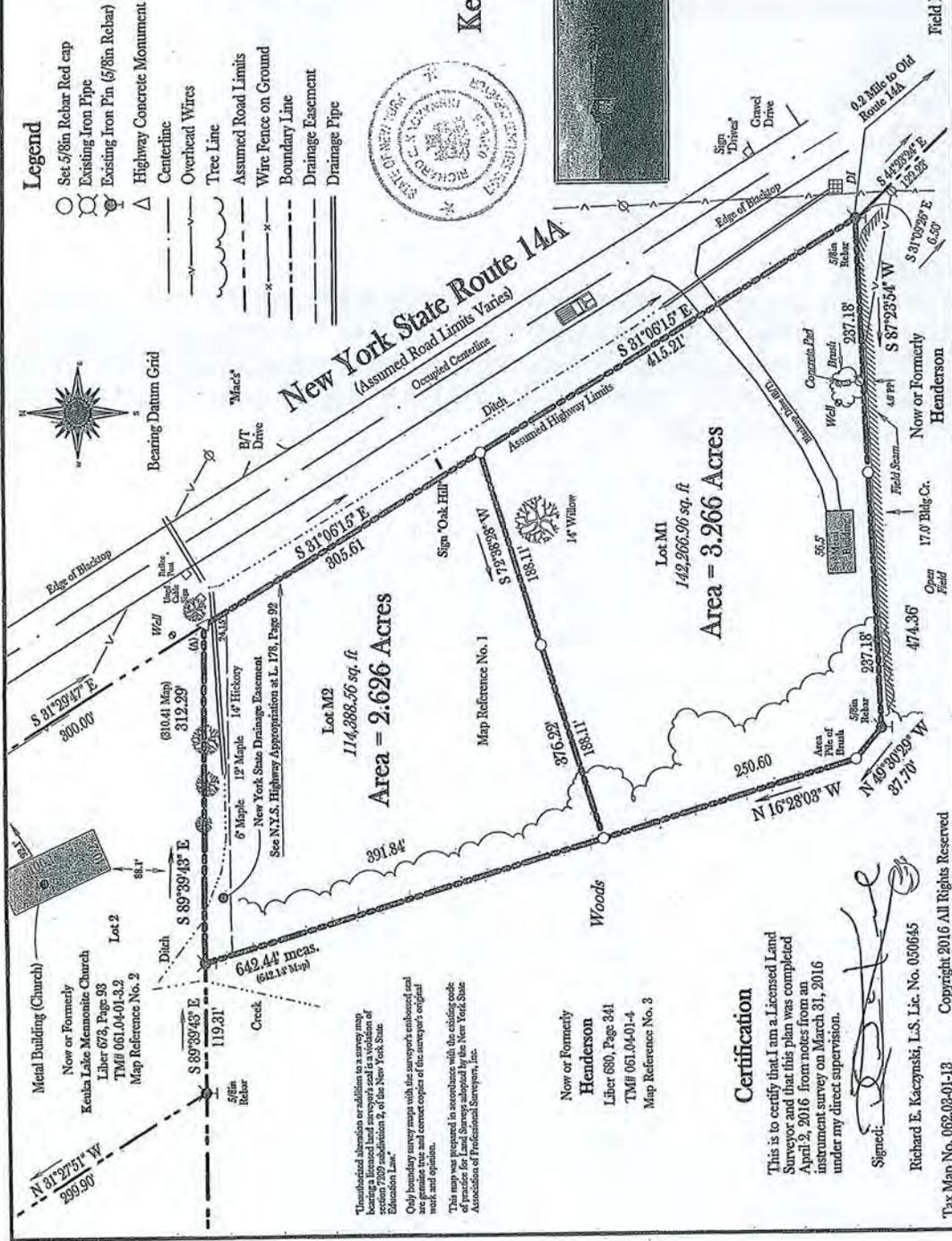
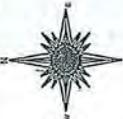
2522 State Route 364  
Penn Yan, New York 14657  
barleyrick11@yahoo.com  
Ph. 315-730-3959

Field Book 10, Pages 27-29

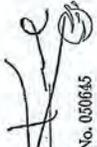
Job No. 00516

**Legend**

- Set 5/8in Rebar Red cap
- ⊗ Existing Iron Pipe
- ⊙ Existing Iron Pin (5/8in Rebar)
- △ Highway Concrete Monument
- Centerline
- Overhead Wires
- Tree Line
- Assumed Road Limits
- Wire Fence on Ground
- Boundary Line
- Drainage Easement
- Drainage Pipe

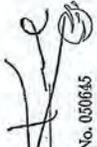


This is to certify that I am a Licensed Land Surveyor and that this plan was completed April 2, 2016 from notes from an instrument survey on March 31, 2016 under my direct supervision.

Signed:   
Richard E. Kaczynski, L.S. Lic. No. 050645

**Certification**

This is to certify that I am a Licensed Land Surveyor and that this plan was completed April 2, 2016 from notes from an instrument survey on March 31, 2016 under my direct supervision.

Signed:   
Richard E. Kaczynski, L.S. Lic. No. 050645