



# TOWN OF CORTLANDT

## ZONING BOARD OF APPEALS

Town Hall, 1 Heady Street  
Cortlandt Manor, NY 10567  
914-734-1080

Michael Fleming  
Chairman

Wai Man Chin  
Vice-Chairman

Chris Beloff  
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Michelle Piccolo Hill  
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**Town Supervisor**  
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**Town Board**  
James F. Creighton  
Cristin Jacoby  
Robert Mayes  
Joyce C. White

**TO JOIN THE MEETING REMOTELY USE THE ZOOM LINK BELOW:**

<https://us02web.zoom.us/j/87502548613?pwd=x6MD6Nhunj6y8hlrmBO8oRTHzlHxU5.1>

AGENDA.....ZONING BOARD OF APPEALS  
Town Hall – 1 Heady Street  
Cortlandt Manor, NY 10567

**Work Session – Thursday, January 15, 2026 at 6:30 PM**

1. Discuss Agenda for the Regular Meeting

**Regular Meeting – Thursday, January 15, 2026 at 7:00 PM \***

1. Pledge to the Flag and Roll Call
2. Adoption of the Meeting Minutes for December 18, 2025
3. **NEW PUBLIC HEARINGS**
  - A. **Case No. 2025-15 – Application of Stuart Markowitz, AIA, AICP, LEED AP for the property of Buena Vista Builders, LLC** for an area variance, side yard setback, for an existing chimney for property located at 65 Dutch Street.
  - B. **Case No. 2025-16 – Application of Robert Keeler, RA for the property of Percy & Barbara Montes** for an area variance for accessory building coverage exceeding 50% of the floor area of the principal dwelling for property located at 18 Radio Terrace.
4. **OLD BUSINESS**
  - A. **Case No. 2025-6 Application of Paola Patino and Miguel Rodas** for an area variance for an additional curb cut (driveway) for property located at 60 Carolyn Drive.

**NEXT REGULAR MEETING THURSDAY, FEBRUARY 19, 2026**

*\*Regular meeting to begin at conclusion of the work session*

## **ZONING BOARD OF APPEALS FACT SHEET**

**ZBA Member Assigned:** Piccolo-Hill

**CASE NO.:** 2025-15

**Name of Applicant:** Stuart Markowitz, RA  
**Owner:** Buena Vista Builders, LLC  
**Address of property:** 65 Dutch St.  
**Section, Block, Lot:** 54.12-4-26.2  
**Prior ZBA Case No.:**  
**Zone:** R-15  
**Lot Size:** 17,273 sq. ft.

**Request:** Area variance under Section 307-18 Supplemental Dimensional Regulations Subsection B. (4), for an existing chimney extending into the side yard.

**Drawings:** *Drawing entitled "Site Plan prepared for Buena Vista Builders, LLC" prepared by Ralph Mastromonaco, P.E. latest revision dated December 20, 2024.*

*20-page set of drawings entitled "New Residence, 65 Dutch St." prepared by SMA Architecture latest revision dated December 30, 2024.*

*Property Survey prepared by Ramzan Ali, LS dated November 14, 2025*

**Staff Comments:** During a site inspection it was determined that the current single-family residence under construction at 65 Dutch St. is not in conformance with the Town Zoning code. The existing chimney is 7' 6" from the side yard. The code requires the chimney to 8' 6" The minimum side yard setback is 10' but the code allows chimneys to extend into any yard for a distance not to exceed 18 inches. A denial letter was issued on December 15, 2025.

**Variance(s) Requested:** An area variance for an existing chimney in the side yard.

<b>REQUIRED</b>	<b>PROPOSED</b>	<b>REQUEST</b>	<b>PERCENT</b>
10' (chimney can encroach 1'6') 8' 6"	7', 6"	1'	12%

**SEQR: TYPE II – No further compliance required**





ARCHITECTURE PLANNING INTERIORS PC

STUART MARKOWITZ AIA AICP LEED AP, PRINCIPAL  
KENNETH W. BINGHAM AIA LEED AP, ASSOCIATE

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18 December 2025

Hon. Michael Fleming  
Chair, Zoning Board of Appeals  
Town of Cortlandt  
1 Heady Street  
Cortlandt manor, New York 10567

**Re: 65 Dutch Street  
Block/Lot 54.12-4-26.2  
Buena Vista Builders  
Permit No. A-24-107**

Dear Mr. Fleming:

This letter is written in support of the application for a zoning variance made on behalf of, Buena Vista Builders, LLC, the Owner of 65 Dutch Street, in Montrose. The subject property is a single-family residence lot, located in the R-15 zoning district. The building permit for the house construction was issued on 24 April 2025, and the house is partially constructed.

**Nature of the Non-Compliant Condition and Current Status**

The construction is currently suspended, under a Stop Work Order, issued by the Department of Technical Services on 7 November. The Stop Work Order was issued when the foundation survey submitted by the Contractor showed that the chimney of the house extended further into the required side yard than indicated in the approved drawings and permitted by Section 307-18 of the Zoning Ordinance. The minimum side yard dimension required in the R-15 district is 10'-0". Section 307-18 B(4) permits an encroachment of 1'-6" into the side yard for Chimneys, with a resultant minimum side yard setback for chimneys of 8'-6".



We have attached copies of the following:

The foundation survey (dated 14 November 2025)  
The originally approved engineering site plan (included in the approved drawing set)  
The originally approved construction drawings  
The Denial Letter (issued on 15 December 2025)  
The Recorded Property Deed  
A Short Form EAF  
A Proxy Statement from the Owner  
A letter of support from the neighbor nearest the chimney

As can be seen in the Architectural Site Plan, the originally approved design called for the house to be located between 10'-6" and 10'-10" from the property line (the house does not exactly align with the side property line), with the chimney extending 2'-1" from the building, resulting in a clear side yard dimension (from the chimney) of 8'-8 1/2", as permitted by Section 307-18 B(4). (Note the Engineering Site Plan indicated a 10-foot minimum side yard, but the chimney depth is not specifically delineated).

The foundation survey of constructed conditions shows that the building's foundation walls were set between 10.1' and 10.3', a few inches closer than the plan indicated, but still compliant. However, the chimney was inadvertently constructed deeper than shown in the drawings, resulting in a clear side yard at the chimney of 7.5' (7'-6") extending into the side yard, 1'-0" more than permitted.

### **Causative Factors**

The non-compliant condition was apparently the product of two issues. The first related to the preparation of the original construction stake out and the second related to the chimney layout and construction.

The Owner has informed us that the Surveyor reported some minor confusion over some control data, both horizontal and vertical. This has resulted in the delay experienced in the preparation of the foundation survey and caused two amendments of the survey.

The second issue is one of a simple, minor, construction layout error.

While both issues resulted in errors of only a few inches, the cumulative error resulted in a side yard extension, 1'-0" greater than permitted.

### **Mitigating Factors**

While it is agreed that this non-compliance should not have occurred, there are a few points to be made regarding mitigating context.

- That the noncompliance is only 1'-0" for the width of the chimney only.

- That, based on available survey data, the nearest corner of the nearest house, located at 77 Dutch Street, is approximately 34 feet distant from the chimney as constructed.
- That sidewall of the house at 77 Dutch is not directly aligned with the house at 65 Dutch Street and is offset approximately 6 feet from the rear of 77 Dutch to the front of 65 Dutch.
- That this noncompliance was clearly the result of error. There is no material benefit to the property owner of 65 resulting from the non-compliance. Aside from the approximately 5 square feet (1'-0" x the width of the chimney), no footprint floor area is gained and no interior floor area or other benefit is obtained.
- The Owner of 77 Dutch Street has provided a letter in support of this variance request.

### **Requested Variance**

While, as discussed above, the recorded non-compliance is 1'-0", we request a variance for the constructed condition. The reason for this request is solely to provide a margin of error for the chimney as constructed, if, and only if, any further amendments to the survey are forthcoming.

### **'Five Factor' Review**

#### **1 Whether an undesirable change will be produced in the character of the neighborhood, or if a detriment to nearby properties will occur**

No undesirable change will be produced. The 12-inch extension will be all but impossible to perceive from the street or from neighboring properties.

#### **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**

There does not appear to be any readily achievable alternative solution, short of demolition and reconstruction of the chimney.

#### **3 Whether the requested variance is substantial**

We believe that the requested variance is minimal. As discussed above, the Owner has obtained no material benefit from the error that caused the extension requiring the proposed variance.

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

The proposed variance will have no adverse impact on the neighborhood or district. As noted in the more detailed discussion above, we believe that the additional extension of the now constructed chimney into the side yard will be almost impossible to perceive from the street or from the neighboring properties. The neighbor closest to the chimney has provided a letter of support for the proposed variance.

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

Also as discussed above, the difficulty was caused by some reported confusion on the part of the surveyor and an error by the Contractor, and so was self-created.

We have appended to these notes a few photos of the constructed conditions.

Please let this office know if you or the Board have any questions that we may respond to prior to the Board meeting. We thank the Board in advance for its consideration of this matter.

Very truly yours,

A handwritten signature in blue ink, consisting of a stylized 'S' followed by a horizontal line and a small loop.

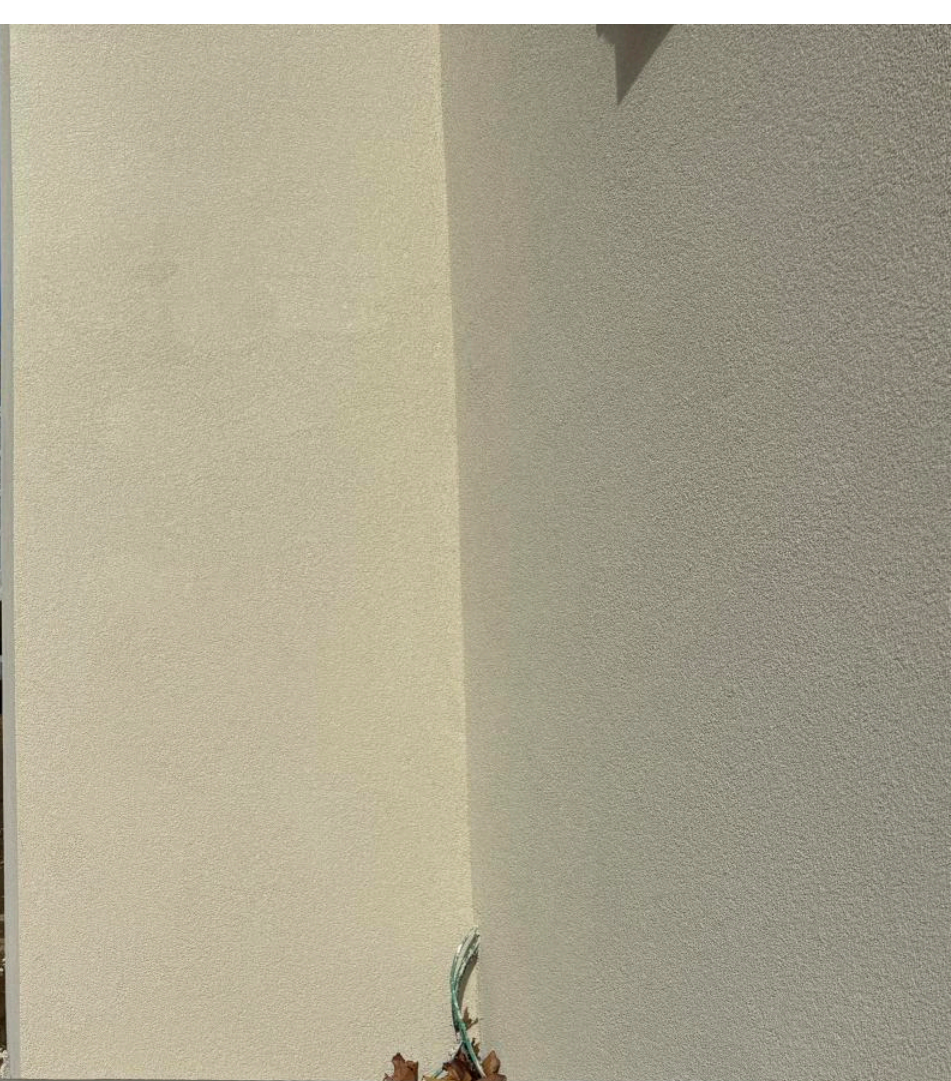
Stuart Markowitz AIA AICP LEED AP

65 DUTCH ZBA LETTER 12-18-25









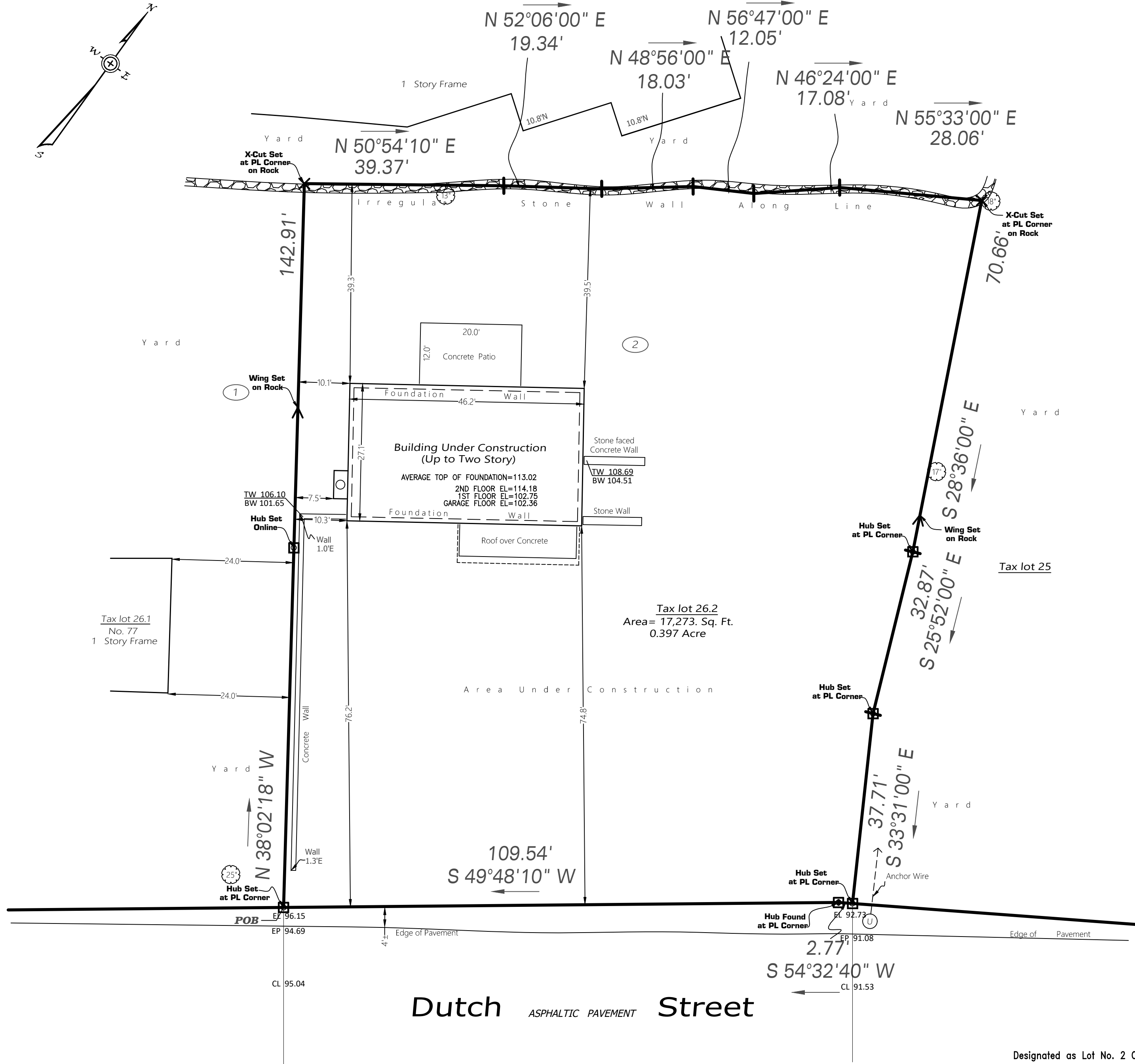
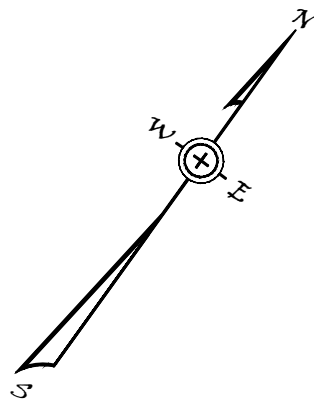












1. This is to certify that there are no visible streams or natural water courses in this property unless shown on this survey.
2. Encroachments, vaults, and easements, if any below surface are not shown hereon.
3. This survey is NOT a title survey and is not to be used for title purposes. This surveyor will not be responsible for its use as a title survey.
4. Elevations refer to Engineer Design Plan



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**ALLI SURVEYING P.C.**  
77-16 164 Street, Suite 202  
Fresh Meadows, NY 11366  
Tel: 212-732-1393 ~ www.allisurveying.com  
E-mail: info@allisurveying.com

RECORDS OF FRANK E. TOWLE & SON, INC. TO HARWOOD SURVEYING  
ARISTOTLE BOURNAZOS PC

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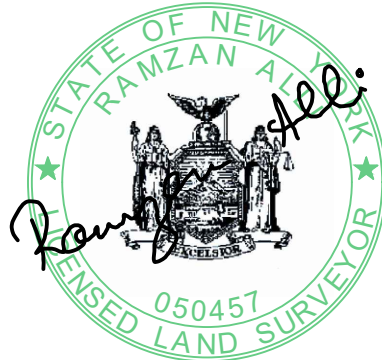
Reproduction or copying of this document may be a violation of copyright law unless permission of the author and / or copyright holder is obtained.

Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7209, sub-division 2, of the New York State Education Law.

It is a violation of the State Education Law for any person, unless acting under the direction of a licensed land surveyor, to alter an item in any way." The altering of a boundary or title survey should only be prepared for a specific purpose named in the alteration. Any re-survey map bearing a new date should conform to the requirements of a new survey.

PROJECT No.:	AS-001720W
DRAWN BY:	HM
CHECKED BY:	AA

PROFESSIONAL SEAL:



RAMZAN ALLI, LS No. 050457  
STATE OF NEW YORK

A copy of this document without a proper application of the surveyor's inked or embossed seal should be assumed to be an unauthorized copy.

Property Address:	Tax Designation:
65 Dutch Street	District: -
Montrose	Section: 54.12
Town of Cortlandt	Block: 4
County of Westchester	Lot: 26.2
State of New York	

SCALE:




Original Scale: 1"=15'


	November 14, 2025	Property Line Marked & Map Amended
	October 30, 2025	Elevation Added
	October 24, 2025	Survey Amended
	October 21, 2025	DATE OF SURVEY
MARK	DATE	DESCRIPTION


SHEET TITLE:

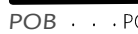
FOUNDATION SURVEY


LEGEND


 . . . . . Utility Pole


 . . . . . TREE & SIZE


 . . . . . PROPERTY LINE


 . . . . . POINT OF BEGINNING


 . . . . . File Map Lot Number


 . . . . . Edge of Pavement Elevation


 . . . . . Centerline


 . . . . . Spot Elevation

 . . . . . Wing Set

 . . . . . X-Cut Set

 . . . . . Top of Wall Elevation

 . . . . . Bottom of Wall Elevation

 . . . . . Hub Set



## **ZONING BOARD OF APPEALS FACT SHEET**

**ZBA Member Assigned:** Beloff

**CASE NO.:** 2025-16

**Name of Applicant:** Robert Keeler, R.A.  
**Owner:** Percy & Barbara Montes  
**Address of property:** 18 Radio Terrace  
**Section, Block, Lot:** 23.5-4-1  
**Prior ZBA Case No.:**  
**Zone:** R-40  
**Lot Size:** 8.4 acres

**Request:** Area variance under Town Code Chapter 307-Zoning, Attachment 3, Table of Dimensional Regulations, Residential Districts and Attachment 4, Table of Dimensional Regulations, Maximum Floor Area in Residential Districts. The current development of the property has led to the total footprint of all accessory buildings exceeding the maximum permitted amount of 50% of the floor area of the principal dwelling. 1,752 sq. ft. permitted, 5,589 sq. ft. proposed.

**Drawings:** *6-page set of drawings entitled "Barn Reconstruction, Montes Residence" prepared by Robert Keeler, R.A. latest revision dated November 21, 2025.*

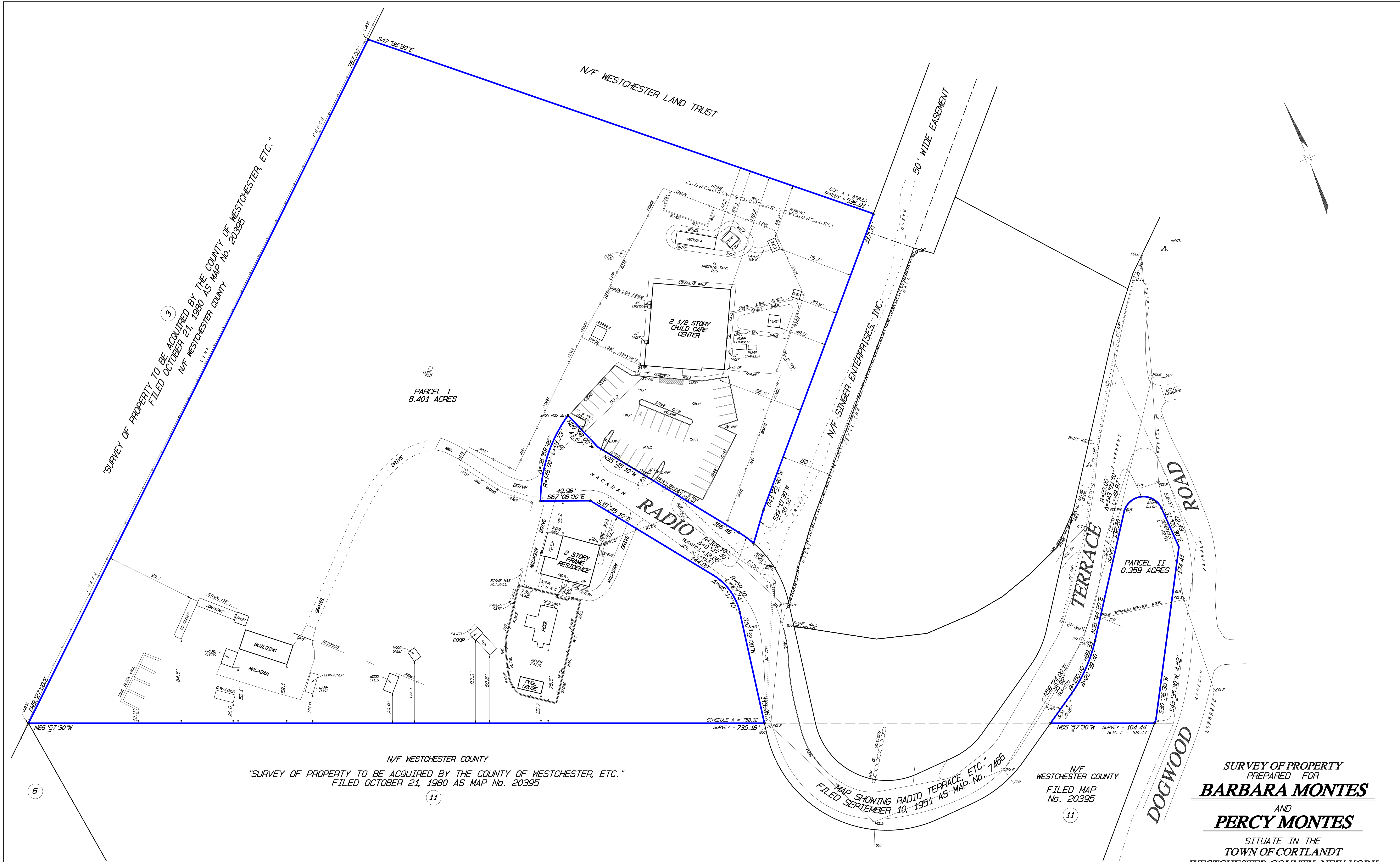
*Property Survey prepared by Robert S. Johnson, PLS dated November 7, 2025*

**Staff Comments:** An application was made to the Department of Technical Services (DOTS) for a new detached garage and to retroactively legalize a pool reconstruction, pool house and miscellaneous sheds. A denial letter was issued on December 12, 2025. DOTS is only evaluating the residential portion of the subject property. The 8.4-acre property also contains a daycare facility in an existing building, approved by Special Permit by the Planning Board. Currently there is 3,769 sq. ft. of accessory buildings on site. A building permit application, A-23-529 was submitted to reconstruct a fire damaged barn. That application has been amended to not only reconstruct but to enlarge the structure by 1,250 sq. ft. Other accessory structures include various sheds, structures, a pool house and a proposed pool pavilion.

**Variance(s) Requested:** Increase the maximum square footage of accessory buildings (existing and proposed) from 1,752 sq. ft. to 5,589 sq. ft.

<b>REQUIRED</b>	<b>PROPOSED</b>	<b>REQUEST</b>	<b>PERCENT</b>
1,752 sq. ft.	5,589 sq. ft.	3,837 sq. ft.	219%

**SEQR: TYPE II – No further compliance required**



TC MERRITTS LAND SURVEYORS  
SUCCESSOR TO  
H. STANLEY JOHNSON & CO.  
LAND SURVEYORS PC  
42 SMITH AVENUE  
MT. KISCO, N.Y. 10549  
TEL. 914-241-3872

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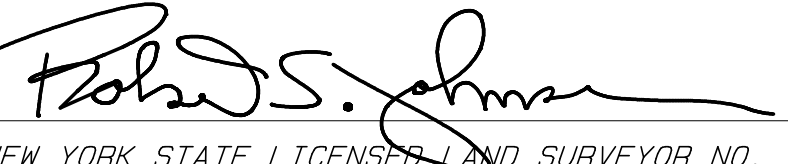
THOMAS C. MERRITTS LAND SURVEYOR PC



**TC MERRITTS LAND SURVEYORS**  
394 BEDFORD ROAD • PLEASANTVILLE • NY 10570  
914) 769-8003 • survey@tcmeritts.com



SURVEYED: OCTOBER 31, 2025  
MAP PREPARED: NOVEMBER 7, 2025

BY:   
NEW YORK STATE LICENSED LAND SURVEYOR NO. 50037  
ROBERT S. JOHNSON, P.L.S.

Total Area = 8.760 Acres.  
Tax Identification Section 23.05 Block 4 Lot 1 and Section 23.10 Block 1 Lot 1.  
In accordance with the existing Code of Practice for Land Surveys as adopted by The New York State Association of Professional Land Surveyors, Inc.  
Unauthorized alteration or addition to a survey map bearing a Licensed Land Surveyor's seal is a violation of Section 7209, Subdivision 2 of the New York State Education Law.  
All certifications are valid for this map and copies thereof only if said map or copies bear the impressed seal of the surveyor whose signature appears hereon.  
The location of underground improvements or encroachments hereon, if any exist, are not certified.

SCALE: 1" = 40'

GRAPHIC SCALE 1" = 40'  
0 40 80 120

Project: # F01-022.09	Reference:
Field Survey By: J.G.	Drawn By: S.M.S.
Project Manager: R.S.J.	Checked By: R.S.J.



SITE PLAN NOTES:

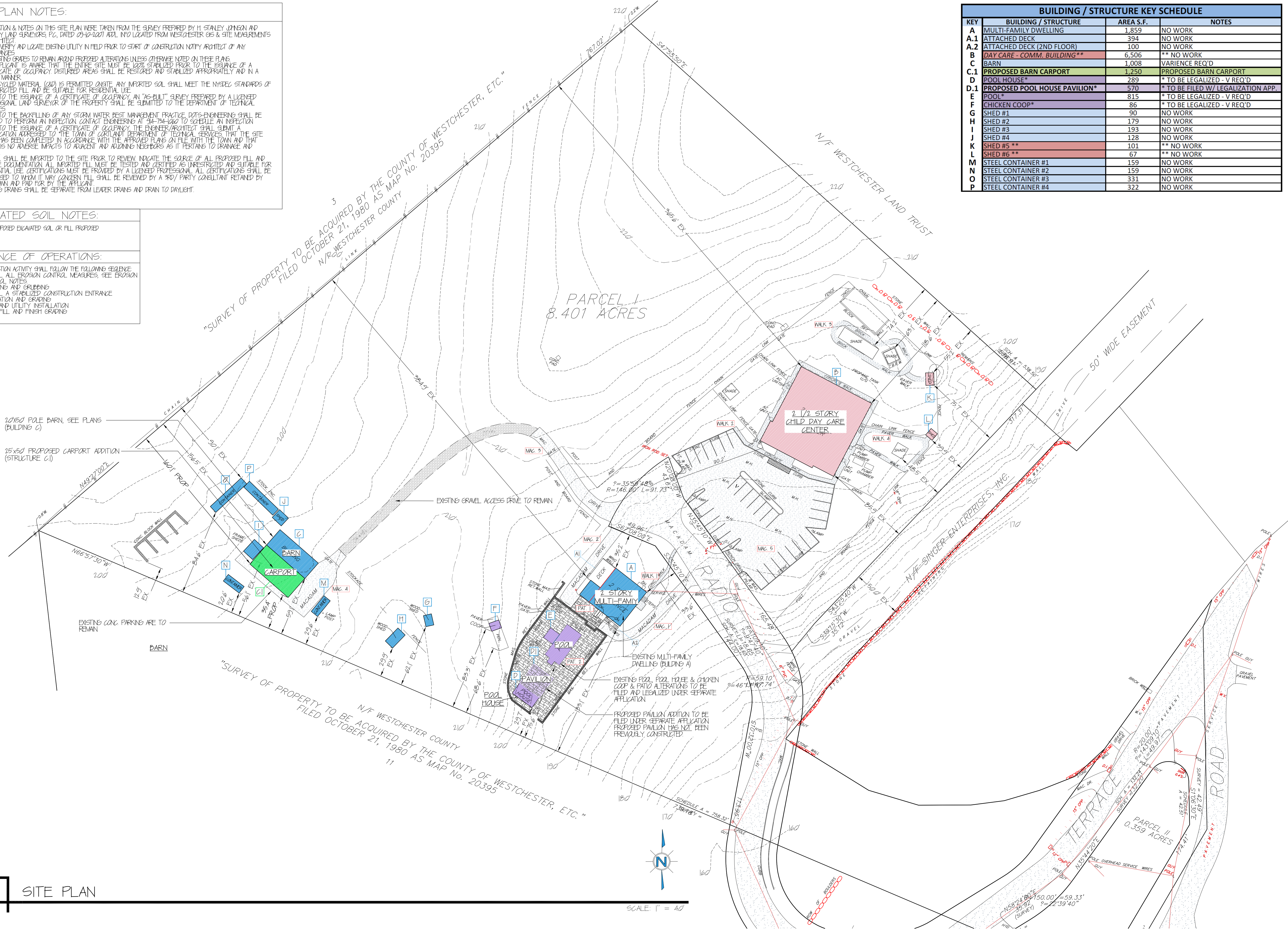
1. INFORMATION & NOTES ON THIS SITE PLAN WERE TAKEN FROM THE SURVEY PREPARED BY H. STANLEY JOHNSON AND COMPANY LAND SURVEYORS, P.C., DATED 03-12-2001 ADD. INFO LOCATED FROM WESTCHESTER GIS & SITE MEASUREMENTS BY ARCHITECT.
2. GO TO VERIFY AND LOCATE EXISTING UTILITY IN FIELD PRIOR TO START OF CONSTRUCTION NOTIFY ARCHITECT OF ANY DISCREPANCIES.
3. ALL EXISTING GRADES TO REMAIN AROUND PROPOSED ALTERATIONS UNLESS OTHERWISE NOTED ON THESE PLANS.
4. THE APPLICANT IS AWARE THAT THE ENTIRE SITE MUST BE LOOSE STABILIZED PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY. DISTURBED AREAS SHALL BE RESTORED AND STABILIZED APPROPRIATELY AND IN A TIMELY MANNER.
5. NO RECYCLED MATERIAL (C&D) IS PERMITTED ON-SITE. ANY IMPORTED SOIL SHALL MEET THE NYSDOT STANDARDS OF UNRESTRICTED FILL AND BE SUITABLE FOR RESIDENTIAL USE.
6. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, AN "AS-BUILT" SURVEY PREPARED BY A LICENSED PROFESSIONAL LAND SURVEYOR OF THE PROPERTY SHALL BE SUBMITTED TO THE DEPARTMENT OF TECHNICAL SERVICES.
7. PRIOR TO THE BACKFILLING OF ANY STORM WATER BEST MANAGEMENT PRACTICE, DOTS-ENGINEERING SHALL BE NOTIFIED TO PERFORM AN INSPECTION. CONTACT ENGINEERING AT 914-794-0200 TO SCHEDULE AN INSPECTION.
8. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, THE ENGINEER/ARCHITECT SHALL SUBMIT A CERTIFICATION ADDRESSED TO THE TOWN OF CORTLANDT DEPARTMENT OF TECHNICAL SERVICES THAT THE SITE WORK HAS BEEN COMPLETED IN ACCORDANCE WITH THE APPROVED PLANS ON FILE WITH THE TOWN AND THAT THERE IS NO ADVERSE IMPACTS TO ADJACENT AND ADJOINING NEIGHBORS AS IT PERTAINS TO DRAINAGE AND RUNOFF.
9. NO FILL SHALL BE IMPORTED TO THE SITE PRIOR TO REVIEW. INDICATE THE SOURCE OF ALL PROPOSED FILL AND PROVIDE DOCUMENTATION. ALL IMPORTED FILL MUST BE TESTED AND CERTIFIED AS UNRESTRICTED AND SUITABLE FOR RESIDENTIAL USE. CERTIFICATIONS MUST BE PROVIDED BY A LICENSED PROFESSIONAL. ALL CERTIFICATIONS SHALL BE ADDRESSED TO WHOM IT MAY CONCERN. FILL SHALL BE REVIEWED BY A 3RD PARTY CONSULTANT RETAINED BY THE TOWN AND PAID FOR BY THE APPLICANT.
10. FOOTING DRAINS SHALL BE SEPARATE FROM LEADER DRAINS AND DRAIN TO DAYLIGHT.

EXCAVATED SOIL NOTES:

1. NO PROPOSED EXCAVATED SOIL OR FILL PROPOSED

SEQUENCE OF OPERATIONS:

1. ALL CONSTRUCTION ACTIVITY SHALL FOLLOW THE FOLLOWING SEQUENCE.
2. INSTALL ALL EROSION CONTROL MEASURES, SEE EROSION CONTROL NOTES.
3. CLEARING AND GRUBBING.
4. INSTALL A STABILIZED CONSTRUCTION ENTRANCE.
5. EXCAVATION AND GRADING.
6. POOL AND UTILITY INSTALLATION.
7. BACK FILL AND FINISH GRADING.



BUILDING / STRUCTURE KEY SCHEDULE			
KEY	BUILDING / STRUCTURE	AREA S.F.	NOTES
A	MULTI-FAMILY DWELLING	1,859	NO WORK
A.1	ATTACHED DECK	394	NO WORK
A.2	ATTACHED DECK (2ND FLOOR)	100	NO WORK
B	DAY CARE - COMM. BUILDING**	6,506	** NO WORK
C	BARN	1,008	VARIANCE REQ'D
C.1	PROPOSED BARN CARPORT	1,250	PROPOSED BARN CARPORT
D	POOL HOUSE*	289	* TO BE LEGALIZED - V REQ'D
D.1	PROPOSED POOL HOUSE PAVILION*	570	* TO BE FILED W/ LEGALIZATION APP.
E	POOL*	815	* TO BE LEGALIZED - V REQ'D
F	CHICKEN COOP*	86	* TO BE LEGALIZED - V REQ'D
G	SHED #1	90	NO WORK
H	SHED #2	179	NO WORK
I	SHED #3	193	NO WORK
J	SHED #4	128	NO WORK
K	SHED #5 **	101	** NO WORK
L	SHED #6 **	67	** NO WORK
M	STEEL CONTAINER #1	159	NO WORK
N	STEEL CONTAINER #2	159	NO WORK
O	STEEL CONTAINER #3	331	NO WORK
P	STEEL CONTAINER #4	322	NO WORK

SITE PLAN



Robert J. Keeler, R.A.  
37 Luigi Road  
Putnam Valley, NY 10579  
Tel: (845) 494-7555  
Email: robert@keelerarchitecture.com

BARN CARPORT & REAR YARD  
ADDITIONS & ALTERATIONS FOR  
MONTES PROPERTY  
18 RADIO TERRACE  
CORTLANDT MANOR, NY 10567

SITE PLAN & NOTES



12-22-25	ZPA FILING SET
11-21-25	DOB REV SET - SITE PLAN
09-24-25	REVIEW SET - CARPORT AD
08-22-25	DOB REVIEW REVISIONS
07-07-25	BARN CONSTRUCTION PLANS
06-01-25	SITE PLAN - RI
04-07-25	SITE PLAN - INITIAL FILING
Date	Description
Scale:	AS NOTED
Drawn By:	R.K.
Job No.:	23614

A-11