

TOWN OF CORTLANDVILLE  
3577 TERRACE ROAD  
CORTLAND, NY 13045

USE VARIANCE FINDINGS & DECISION

Applicant: Kolby w Avery Phone #: 607-345-1991

Address: 234 McLean Road Fee: 15

Property Owner: Kolby Avery

Appeals Concerns Property at the following address: 3618 Munson Ave Cortland NY

Tax Map Number: 96.09-02-34

Zoning District Classification: R2

Use for which Variance is requested: Place Manufactured home in R2 district

Applicable Section of Zoning Code: 178-21

Signature: [Signature] Date: 8/23/18

TEST: No Use Variance will be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. The following test must be met for each and every use allowed by zoning on the property, including uses allowed by special use permit.

1. Has the Applicant demonstrated that the Applicant cannot realize a reasonable return, and that the lack of return is substantial and has been demonstrated by competent financial evidence?  
Yes \_\_\_\_\_ No \_\_\_\_\_

Proof: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Has the Applicant demonstrated that the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood?  
Yes \_\_\_\_\_ No \_\_\_\_\_

Proof: \_\_\_\_\_  
\_\_\_\_\_

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Use Variance Findings & Decision

3. Has the Applicant demonstrated that the requested use variance, if granted, will not alter the essential character of the neighborhood? Yes \_\_\_\_\_ No \_\_\_\_\_

Proof: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Has the Applicant demonstrated that the alleged hardship has not been self-created? Yes \_\_\_\_\_ No \_\_\_\_\_

Proof: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:**

The ZBA, after reviewing the above four proofs, finds:

That the applicant has failed to prove unnecessary hardship through the application of the four tests required by the state statues.

That the applicant has proven unnecessary hardship through the application of the four tests required by the state statues. In finding such hardship, the ZBA shall grant a variance to allow use of the property in the manner detailed below, which is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community:

(USE) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## USE VARIANCE FINDINGS & DECISION

### Question #1

#### ILLUSTRATIONS OF FINANCIAL EVIDENCE

Bill of sale for the property, present value of property, expenses for maintenance.

Leases, rental agreements.

Tax bills.

Conversion costs (for a permitted use).

Realtor's statement of inability to rent/sell.

### Question #2

#### ILLUSTRATIONS OF UNIQUENESS

Topographic or physical features preventing development for a permitted use.

Why would it be possible to construct the applicant's proposal and not any of the permitted uses?

Board member observations of the property and surrounding area.

### Question #3

#### ILLUSTRATIVE NEIGHBORHOOD CHARACTER FACTORS

Board members' observations of neighborhood.

Expected effect of proposal on neighborhood, for example, change in parking patterns, noise levels, lighting, traffic.

### Question #4

#### SELF-CREATED

What were the permitted uses at the time the property was purchased by the applicant?

Were substantial sums spent on remodeling for a use not permitted by zoning?

Was the property received through inheritance, court order, divorce?

GENERAL MUNICIPAL LAW

Zoning Referral Form

Conditional Permits, Special Permits, Site Plan Reviews & Variances

Director  
CORTLAND COUNTY PLANNING DEPARTMENT  
37 Church St.  
Cortland, NY 13045-2838  
Telephone: (607) 753-5043  
Fax: (607) 753-5150

GML No. \_\_\_\_\_  
(Tax Map Number)

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

Submitting Officer: Bruce Weber, Planning & Zoning Officer

Municipality: Town of Cortlandville

Mailing Address: 3577 Terrace Road, Cortland, NY 13045

Phone Number: (607) 756-7052

Fax Number: (607) 758-7922

Type of Referral

The applicant request the following:

Variance:  Bulk – Article   
 Use – Article

Section 178-21  
Section 178-21

Special Permit: Article \_\_\_\_\_

Section \_\_\_\_\_

Conditional Permit: Article \_\_\_\_\_

Section \_\_\_\_\_

Site Plan Review: Article \_\_\_\_\_

Section \_\_\_\_\_

Reason(s) for request: \_\_\_\_\_

Is the above action a **Type 1** \_\_\_\_\_, **Type 2** \_\_\_\_\_, or unlisted action under the State Environmental Quality Review Act? Attach required environmental assessment forms for Type I and unlisted actions.

The following information is required for your application to be complete:

1. Name of petitioner: Kolby w Avery

Owners name (if different): Kolby w Avery

Date of acquisition: \_\_\_\_\_

Address: 234 McLean Road Cortland, NY  
State: New York Zip: 13045  
Phone Number: 607-345-1991 Fax Number: \_\_\_\_\_

2. A Site Plan Map showing:

- a. Scale (1 inch equals 20 feet if site is less than 1 acre or an agreed upon scale for a site larger than 1 acre)
- b. North Arrow
- c. Physical Characteristics of Site, existing and proposed (Topography, Water and Vegetation)
- d. Layout Plan Showing buildings, parking and available utilities
- e. Surface and Subsurface Drainage Plan, incorporated with Layout Plan
- f. Location of County or State facility pursuant to Section 239 l, m and n of the General Municipal Law
- g. Location Map at 1"=1000' scale
- h. Area Map at 1"=200' or an agreed upon scale
  - (1) zoning classification of subject and adjoining properties
  - (2) surrounding land use within 500 feet of subject property
  - (3) surrounding zoning classifications

3. A certified Tax Map from the Cortland County Office of Real Property and Assessment showing the property lines of the applicant's property.

4. Availability of public utilities and services:

Water  District \_\_\_\_\_; Sewer  District Cortlandville;  
Fire Protection Cortlandville District \_\_\_\_\_; Refuse Collection Private  
Special services required: None

5. Does Site Plan conform to municipal master plan? \_\_\_\_\_ If not why? \_\_\_\_\_

6. Does Site Plan conform to county land use plan? \_\_\_\_\_ If not why? \_\_\_\_\_

7. School District: City of Cortland Schools

8. Projected energy consumption: \_\_\_\_\_ Type: \_\_\_\_\_

9. Traffic generation (expected vehicle departures and arrivals per 24 hour period): None

NOTE: All maps require the name and address of the N.Y.S. licensed engineer or land surveyor responsible for preparing the seal and map.

\_\_\_\_\_  
Signature and Title of Submitting Official

(REVISED: 8/01)

August 21, 2018

To the zoning board of appeals;

My name is Kolby Avery and I am writing in regards to the property at 3618 Munson Ave in Cortland. I am the property owner of 3618 Munson Ave and the neighboring property at 234 McLean Road. I brought the property at the 2018 Cortland County tax auction for \$6,500 plus buyers premium and fees, with the intent of rehabilitating the structure for rental. The property was listed as occupied at the tax auction so I was prohibited from inspecting the property before purchasing. When I was able to inspect it, I discovered that one whole wall of the foundation was caved in. The inside was covered in cat feces and there was no running water or electricity. The house is not structurally sound.

The reason that I wanted to buy the property and set it up as a rental was so I could control what happens to the property. Ever since my family moved into the property at 234 McLean Road, we have had to deal with many issues from the occupants of the property at 3618 Munson Ave. We have dealt with a taxi cab company being run out of there and broken down taxi cabs being fixed in the run down garage. Also we dealt with cars being serviced alongside of the road next to our property and the loud taxi radio going off at all times of the night. We have had to deal with other occupants who have not kept up on the property. Stacks of garbage left for months next to the fence line, people urinating on the fence. There are overgrown trees, broken fences, and rodent infestations. I have also had people trespassing in to the garage and the house without my permission and stealing items from both buildings.

Now that I understand that it is not financially feasible to rehab the house, I am proposing that I remove all the structures and most if the trees on the property. I am proposing that I place a single wide or double wide house with a pad underneath on the property instead. If I were to place a single wide or double wide on the property it would conform more to the existing zoning laws that are in place. The manufactured home would not change the character of the neighborhood considering there are already several manufactured homes on the same block. There is also the penguin trailer park just down the

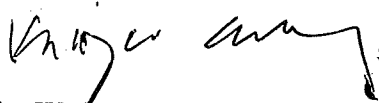
street from the property.

I am looking for a use variance for either a double wide or single wide manufactured home on this property. I have included with this letter a drawing of what a potential double wide would look like on this property. It is based on a fairly new but used double wide home that I was able to price out for installation with a poured concrete pad. I am willing to adjust the size and set backs of the double wide based on your recommendations. If a double wide does not meet approval, I am willing to put in a single wide home instead of a double wide but it will also have a poured concrete pad.

Right now I have already invested over \$8,000, and I am responsible for the insurance and land taxes on a property that is currently worthless. The rental income is how I will be able to afford the improvements and maintenance for this property. This property has been a blight for years, and the rehabilitation would positively impact the rest of the neighborhood. As it stands I cannot afford to maintain the property as is, nor can I afford to rehabilitate the structures that are there. If the variance is approved, I would be able to have a home up and rented within the next six months to a year.

Thank you for taking the time to consider my application for a variance. I hope to have this issue resolved as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kolby W. Avery', with a stylized flourish at the end.

Kolby W, Avery

Google Maps 3614 Munson Ave

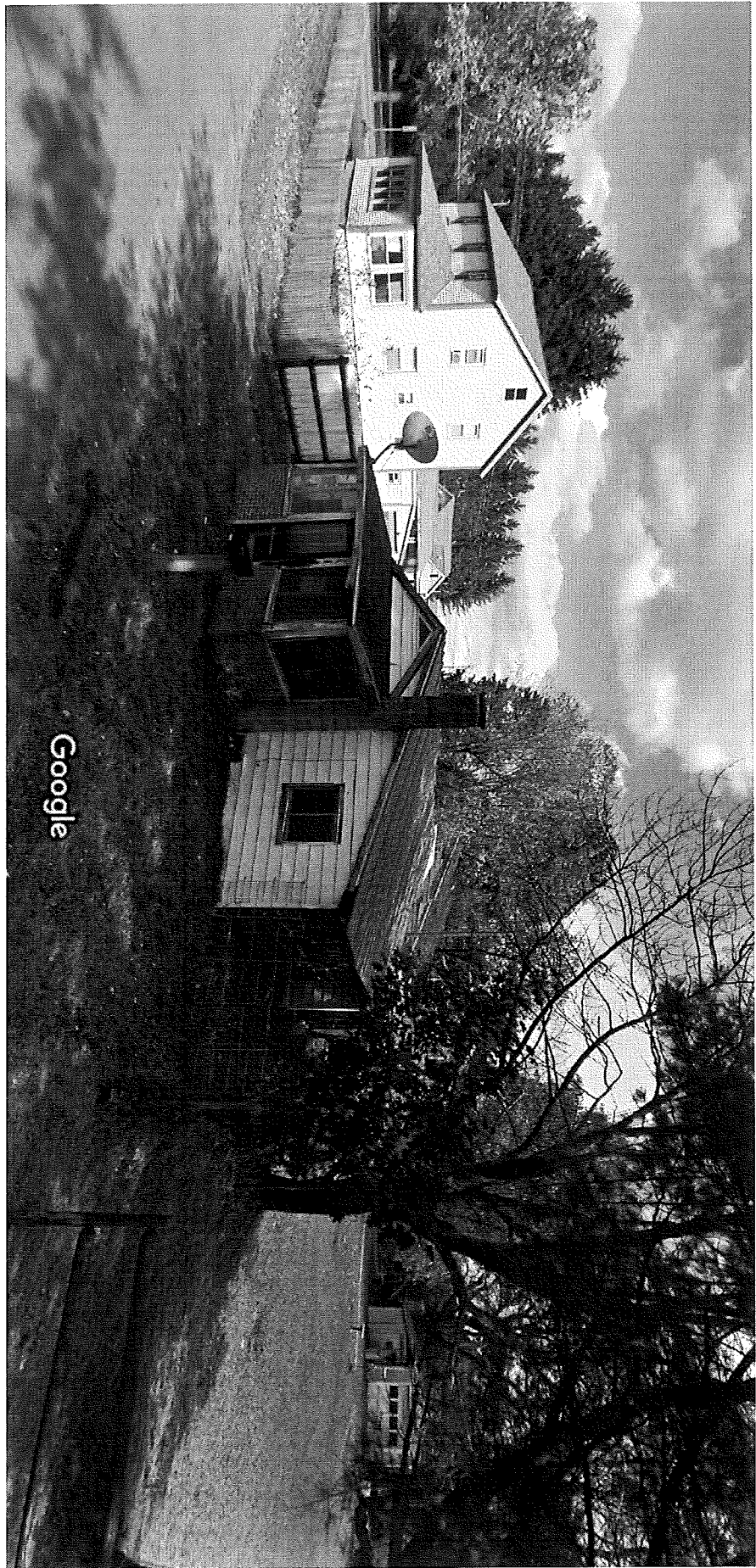


Image capture: Oct 2013 © 2018 Google

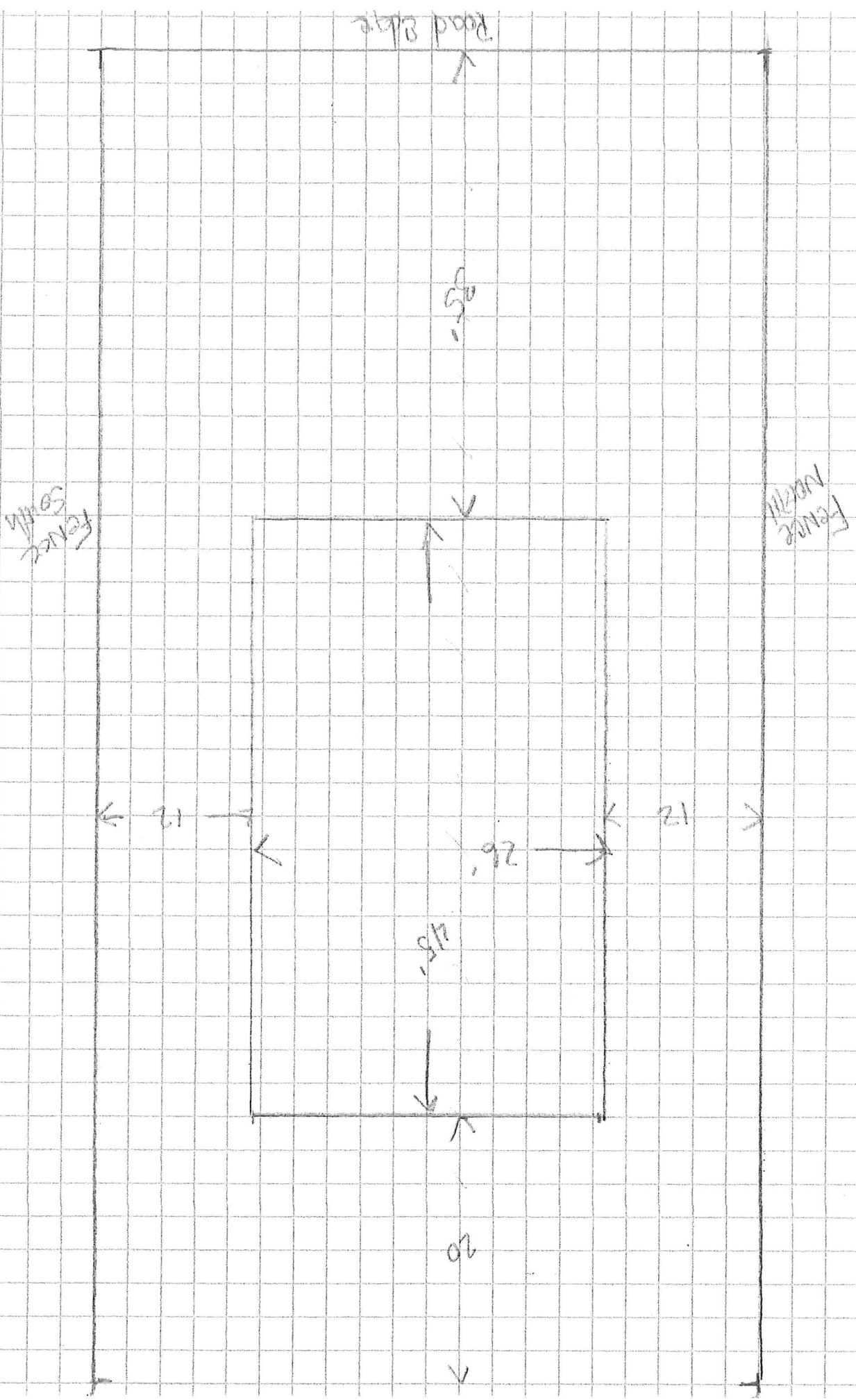
Cortland, New York

Google, Inc.

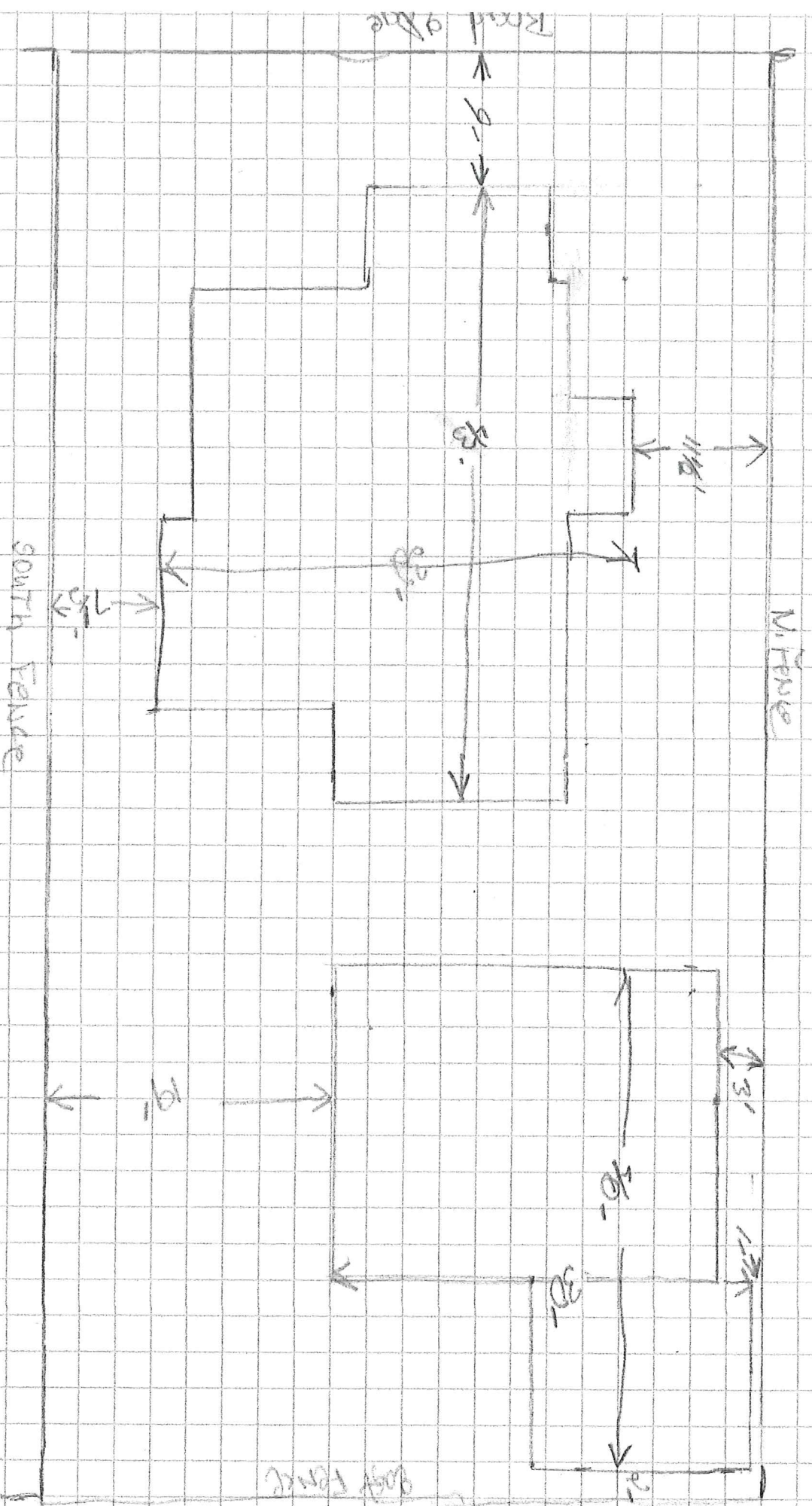
Street View - Oct 2013



Proposed property



Existing Property



617.20  
Appendix B  
Short Environmental Assessment Form

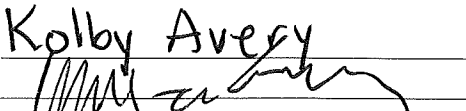
**Instructions for Completing**

**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.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project:			
Project Location (describe, and attach a location map): <b>3618 Munson Ave Cortland, NY</b>			
Brief Description of Proposed Action: <b>remove existing structures and place a manufactured home on property</b>			
Name of Applicant or Sponsor: <b>Kolby Avery</b>		Telephone: <b>607-299-4849</b>	
		E-Mail: <b>elkolbster@yahoo.com</b>	
Address: <b>234 McLean Road</b>			
City/PO: <b>Cortland</b>		State: <b>New York</b>	Zip Code: <b>13045</b>
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 type="checkbox"/>
			YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ acres			
b. Total acreage to be physically disturbed? _____ 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.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			



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: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input 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>Kolby Avery</u>	Date: <u>August 22, 2018</u>	
Signature: 		

**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?"

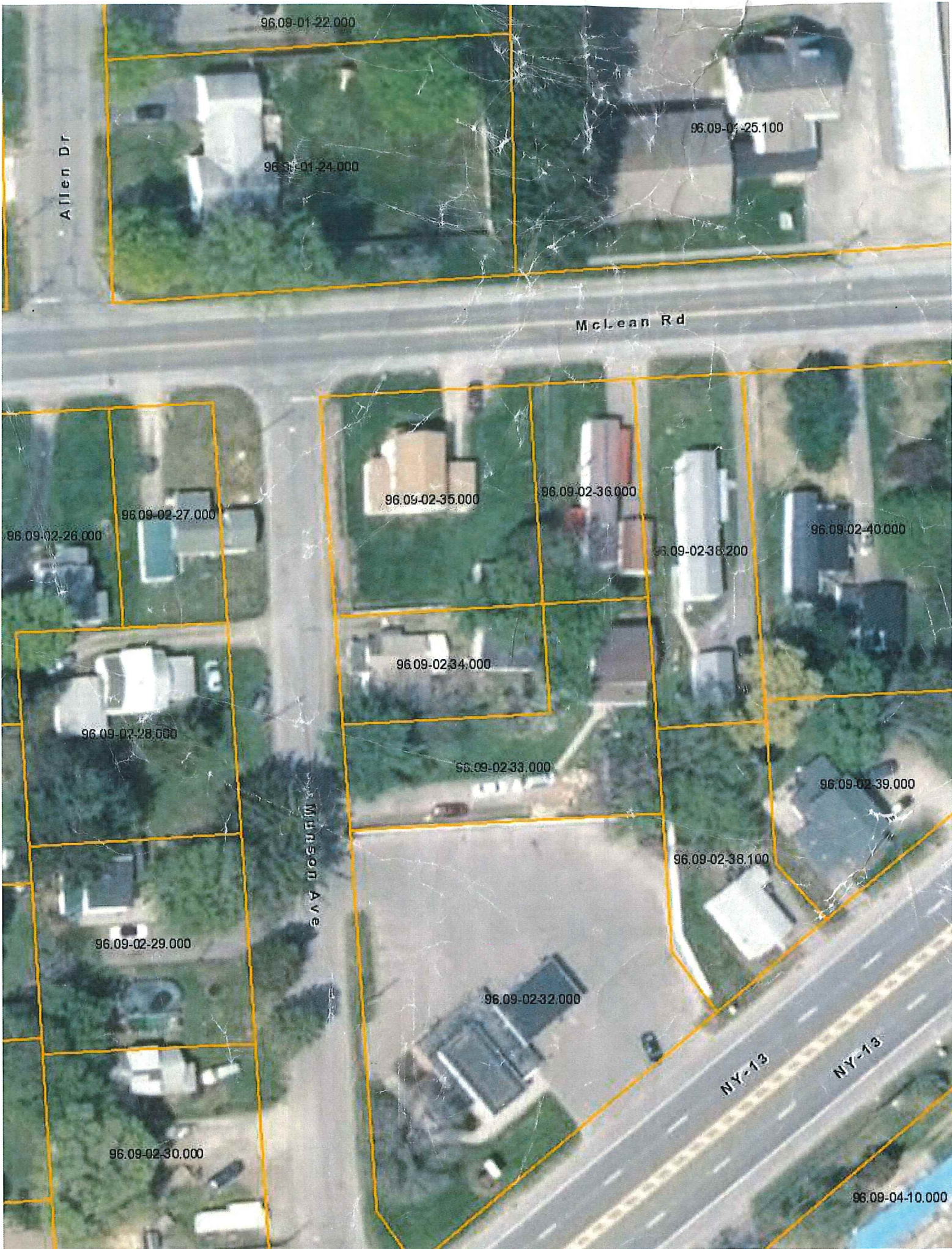
	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input 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 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 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 type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input 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 type="checkbox"/>	<input type="checkbox"/>

	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 type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input 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.

<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 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
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

**PRINT**



Allen Dr

96.09-01-22.000

96.09-01-24.000

96.09-01-25.100

McLean Rd

96.09-02-27.000

96.09-02-26.000

96.09-02-35.000

96.09-02-36.000

96.09-02-40.000

96.09-02-38.200

96.09-02-34.000

96.09-02-28.000

96.09-02-33.000

96.09-02-39.000

Munson Ave

96.09-02-29.000

96.09-02-38.100

96.09-02-32.000

96.09-02-30.000

NY-13

NY-13

96.09-04-10.000