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Christian R. Miller, Direct E-mail:  
[cmiller@mpl-law.com](mailto:cmiller@mpl-law.com)

February 21, 2024

2400 Lewisberry Road, LLC  
1281 Old Quaker Road  
Etters, PA 17319

**VIA REGULAR MAIL**

**RE: Fairview Twp. Zoning Hearing Board – No. 2024-01**

To Whom It May Concern:

Enclosed please find the fully executed decision of the Fairview Twp. Zoning Hearing Board for Docket No. 2024-01 related to 2400 Lewisberry Road, LLC's zoning hearing board application, heard and decided by the Zoning Hearing Board on February 15, 2024.

Thank you.

Very truly yours,

MPL LAW FIRM

A handwritten signature in blue ink that reads 'Christian R. Miller'.

Christian R. Miller, Esquire

Enclosure

Cc: P. Daniel Altland, Esq. (via email only)  
Fairview Township Zoning Hearing Board (c/o Stephen Waller, Zoning Officer)

**BEFORE THE FAIRVIEW TOWNSHIP  
ZONING HEARING BOARD**

**DECISION**

**IN RE:           APPLICATION OF 2400 LEWISBERRY ROAD, LLC  
APPLICATION NO. 2024-01**

APPLICANT(S):           2400 Lewisberry Road, LLC  
HEARING DATE:           February 15, 2024  
DECISION DATE:         February 15, 2024  
APPEARANCES:           P. Daniel Altland, (Attorney for Applicant)  
                                  James Klinedinst (Principal of Applicant)  
                                  Steven Krall (Property Owner)  
                                  Stephen Waller, Township Zoning Officer  
EXHIBITS:                 Exhibit 1 – Application (including all submittals)  
SUBJECT PROPERTY:      700 and 710 Lewisberry Road, Lewisberry, PA 17339

**BACKGROUND**

This decision of the Fairview Township Zoning Hearing Board (the “*Board*”) is from an application filed with Fairview Township (the “*Township*”) on or about January 17, 2024 (the “*Application*”), seeking zoning relief under the Township’s Zoning Ordinance (the “*Ordinance*”) in the form of a special exception under § 300-4(B) of the Ordinance, related to uses not provided for in the Ordinance, to use the properties as a staging area for its tree service business. The subject property is located at 700 and 710 Lewisberry Road, Lewisberry, Pennsylvania, 17339, located in the Township’s Residential Mixed Use (RMU) Zoning District.

A hearing was held on the Application on Thursday, February 15, 2024, with the meeting starting at 6:00 p.m. The Zoning Hearing Board was represented by Timothy Mader (Chairman), Mark Perry (Vice Chairman) and Daniel Alderman (as the acting alternate member). All published and posted notices were duly given, with no objection thereto being made in writing or orally at the time of the hearing. No testimony in opposition to the Application was offered or taken, and no parties attended the hearing in opposition. After hearing the testimony and viewing the evidence in this matter, the Board makes the following determinations:

**FINDINGS OF FACT**

1.       BNS, LLC, by and through its principal Steven Krall, is the current owner of property located at 700 and 710 Lewisberry Road, Lewisberry, Pennsylvania, 17339 (the “*Property*”), which is used as a residential dwelling, with an employee of his leasing and residing at the Property and using the barn located thereon for storage.
  
2.       The Property is subject to an agreement of sale between BNS, LLC and 2400 Lewisberry Road, LLC (the “*Applicant*”) which is subject to the Applicant obtaining zoning approval for the Proposed Use (as defined herein).

3. Applicant is represented by its member, James Klinedinst, who is also the owner of Alpine Tree Experts (“*Alpine*”), a tree service business specializing in tree removal, tree trimming, and stump removal, with said services primarily provided to residential customers or small businesses.

4. Alpine currently operates out of Mr. Klinedinst’s principal residence at 1281 Old Quaker Road, Etters, PA 17319, at which location he keeps his equipment, maintains an office, and has a garage to conduct maintenance, upkeep, and repairs on Alpine’s equipment.

5. Alpine employs nine (9) full time employees, and it operates from 7:00 am to 4:00 pm using three (3) crews consisting of three (3) individuals on each crew.

6. Alpine does not solicit or respond to emergency calls in its ordinary course of business, and all of its work is conducted in the field and on-site, including all customer meetings, inspections, quotes, and actual services.

7. Alpine’s equipment generally consists of 11 trucks, 4 pull behind chippers, 2 stump grinders, 4 small tractors/loaders, 4 aerial lifts, and 1 bucket truck.

8. In addition to providing the tree services referenced above, Alpine also sells by-products of its services (limbs, tree trunks, and general wood) to different purchasers for subsequent commercial use, which is primarily done because of the difficulty with disposing of such materials.

9. Mr. Klinedinst desires to acquire the Property for the principal use of a staging area for the Alpine business, where Alpine would park and store some of its equipment, and employees would arrive in the morning to pick up the needed equipment for the day, leave for the job site(s), and then return at the end of the day (the “*Proposed Use*”).

10. Mr. Klinedinst would also continue to rent out the residential house located on the Property, as well as fix up the barn and residential house, and construct a pole building (in the future at an undetermined time).

11. The Property consists of two separate parcels: (i) 700 Lewisberry Road, Lewisberry, PA 17339, having Tax ID No. 27-000-RF-0180.A0-00000 (being 1.36 acres) and (ii) 710 Lewisberry Road, Lewisberry, PA 17339, having Tax ID No. 27-000-RF-0180.00-00000 (being 3.65 acres).

12. The Property is located at the northern corner of a four-way intersection formed by Lewisberry Road (western leg), Lewisberry Road (northern leg), Fishing Creek Road, and Ironstone Road.

13. The Proposed Use would not include the storage of any materials.

14. The construction of the pole building in the future, as well as the use of the Property as the Proposed Use and to rent out the residential dwelling, would all be pursuant to Township

rules and regulations, including without limitation all other Ordinance requirements (since no further relief was requested) and all SALDO requirements.

15. Mr. Klinedinst testified the Proposed use would not have any adverse impact on surrounding property owners, or adversely impact any surrounding use, which is primarily residential with one (1) other commercial use (being a landscaping office).

16. Mr. Klinedinst testified that he walked the surrounding neighborhood/neighbors to introduce himself and the Alpine business, as well as the Proposed Use of the Property, to which no neighbor Mr. Klinedinst met with had any objection (and with no individuals attending the hearing in opposition).

17. Applicant seeks a special exception under §300.4.B (related to use not otherwise provided for in the Ordinance) to operate the Proposed Use (being a staging and equipment storage area for Alpine's equipment) at the Property.

18. Stephen Waller, as the Township Zoning Officer, testified that all public notice of the application and hearing were legally conducted and performed, with the hearing being advertised in the newspaper on February 1<sup>st</sup> and 8<sup>th</sup>, the Property being posted at multiple locations on February 7<sup>th</sup>, and the adjoining property owners having letters mailed to them on February 1<sup>st</sup>.

#### **CONCLUSIONS OF LAW**

1. The Applicant has established that the Proposed Use is a use that is not otherwise provided for in the Ordinance in any other zoning district.

2. The Applicant has established the elements required by Section 300-4.B of the Ordinance in order to permit the operation of a use not otherwise provided for in the Ordinance.

3. The Applicant has established the elements required by Section 300-99(E)(3)(b) of the Ordinance regarding the general criteria for a special exception.

4. The Applicant is reminded that all other requirements, sections, and regulations of the Zoning Ordinance and SALDO, other than the within specific zoning relief, must be complied with in Applicant's use of the Property pursuant to the zoning relief granted herein.

#### **DECISION**

Mr. Alderman moved to grant the zoning relief requested by the Applicants in the Application, being a special exception under § 300-4.B of the Ordinance to permit the Proposed Use on the Property as a use not otherwise provided for in the Ordinance, without any further conditions.

Mr. Mader seconded the motion. Upon a vote, the Fairview Township Zoning Hearing Board approved the motion by a 2-1 vote, with Mr. Perry voting to deny said motion and requested zoning relief.

APPLICANT SHALL ABIDE BY ALL FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES PERTAINING TO PERMISSIONS GRANTED BY THIS DECISION.

APPLICANT SHALL PROCEED PURSUANT TO THIS DECISION IN ACCORDANCE WITH THE TESTIMONY AND EXHIBITS PRESENTED AT THE HEARING.

Date: 2/21/24

  
Timothy Mader, Chairman

ANY PERSON AGGRIEVED BY THIS DECISION OF THE FAIRVIEW TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA. THE APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS FROM THE MAILING OF THESE FINDINGS OF FACT, CONCLUSIONS OF LAW AND THE ABOVE DECISION.

MAIL DATE: 2-21-24



**ZONING HEARING BOARD APPLICATION**  
**YORK COUNTY, PENNSYLVANIA**

❖ **Part 1:**

**APPLICANT(S)/EQUITABLE OWNER**

Name: 2400 Lewisberry Road, LLC  
Address: 1281 Old Quaker Road  
Etters, PA 17319  
Phone: 717-645-1674

**EXISTING OWNER OF PROPERTY:**

Name: BNS LLC  
Address: 60 Yeager Road  
Rossville, PA 17358

**PROPERTY LOCATION:**

Address: 700 & 710 Lewisberry Road  
New Cumberland, Fairview Township  
Lot Size: \_\_\_\_\_  
Date Purchased: Agreement of Sale 12/20/23  
Location: intersection of Lewisberry Road, Ironstone  
Road, and Fishing Creek Road

**PRESENT USE OF PROPERTY:**

Residential with early stages of commercial  
\_\_\_\_\_  
\_\_\_\_\_

**EXISTING ZONE:** RMU

❖ **Part 2:**

**ZONING REQUEST (Identification of the applicable request(s)):**

- ( ) SUBSTANTIVE CHALLENGE
- ( x ) SPECIAL EXCEPTION
- ( ) VARIANCE
- ( ) APPEAL OF THE ZONING OFFICERS DECISION

SECTION(S) OF ZONING ORDINANCE WHICH APPLY TO THIS REQUEST - Please identify the specific section(s) of the Zoning Ordinance involved in the request):

Section 300-4.B. Interpretation and uses otherwise not provided; Section 300-99.E. Zoning Hearing Board Special Exceptions

❖ **Part 3:**

**DESCRIPTION OF REQUEST:**

See attached Narrative.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

❖ *Part 4*

LIST ALL INDIVIDUAL PROPERTY OWNERS WITHIN 200 FEET OF THE PERIMETER OF THE ENTIRE PROPERTY.

<b>NAME</b>	<b>ADDRESS</b>	<b>USE TYPE</b>
Brown, Perice D Jr.	757 Ironstone Road, New Cumberland, PA 17070	Residential
Carr Emily A & Casey S	755 Ironstone Road, New Cumberland, PA 17070	Residential
Faught, Scott A	753 Ironstone Road, New Cumberland, PA 17070	Residential
Hagen, Robert G	845 Fishing Creek Road, New Cumberland, PA 17070	Residential
Jones, Jesse L	Ironstone Road, New Cumberland, PA 17070	vacant
Karl, James E & Mary E	843 Fishing Creek Road, New Cumberland, PA 17070	Residential
Louis Landscape LLC	844 Fishing Creek Road, New Cumberland, PA 17070	General Storage
Luckenbaugh, Gail L. & Ronald W	725 Lewisberry Road, Lewisberry, PA 17339	Residential
Palese, Stephen J.	730 Lewisberry Road, Lewisberry, PA 17339	Residential
Rehm, Timothy S. & Teresa J.	689 Lewisberry Road, New Cumberland, PA 17070	Residential
Sheesley, Luke A & Brittany Desiree (Adams/Sheesley)	717 Lewisberry Road, New Cumberland, PA 17070	Residential
Villone, Christopher J & Terri L.	698 Lewisberry Road, New Cumberland, PA 17070	Residential
Freet, Chelsea J.	756 Ironstone Road, New Cumberland, PA 17070	Residential
Simpson, Joshua M. & Niblett, Jessica Linda	711 Lewisberry Road, New Cumberland, PA 17070	Residential

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❖ *Part 5 For office use only:*

## ZONING HEARING BOARD CHECKLIST

Application Received: \_\_\_\_\_

Property Zoned: \_\_\_\_\_

Asking for Special Exception, Variance or Appeal: \_\_\_\_\_

Case No.: \_\_\_\_\_

Fees Paid: \_\_\_\_\_

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

Draft Public Notice sent to Attorney for review: \_\_\_\_\_

Notice sent to Newspaper: \_\_\_\_\_

Notice Published in Newspaper: \_\_\_\_\_

Notice Mailed to Property Owners in 225ft. Buffer: \_\_\_\_\_

Public Notice Posted on Property: \_\_\_\_\_

ZHB Packets Mailed and Emailed: \_\_\_\_\_

## **NARRATIVE ATTACHMENT**

### **2400 LEWISBERRY ROAD, LLC**

The Applicant, 2400 Lewisberry Road, LLC, is a Pennsylvania limited liability company with an address of 1281 Old Quaker Road, Etters, PA 17319. James Klinedinst, Jr. is the member of Applicant and owns and operates Alpine Tree Experts business. A copy of a biographical sketch of Alpine Tree Experts and James Klinedinst, Jr. is attached as Exhibit 1.

Applicant is the equitable owner, under and Agreement of Sale, for 700 Lewisberry Road and 710 Lewisberry Road.

700 Lewisberry Road is an approximate 1.36 acre parcel of land (TPI No. 27000RF0180.A0) which is improved with a 1,400 square foot four side metal pole building.

710 Lewisberry Road is an approximate 3.65 acre parcel of land (TPI No. 27000RF0180) on which is located a single family residence with an attached garage.

The property is located at the northern corner of a four-way intersection formed by Lewisberry Road (western leg), Lewisberry Road (northern leg), Fishing Creek Road, and Ironstone Road. The intersection forms a sideways (K) shape. The western leg of Lewisberry Road makes a 90 degree turn to the north; Ironstone Road intersects with its 90 degree curve at an acute angle; and Fishing Creek Road curves in from the East and intersects at the same point. The intersection is controlled with stop signs at Fishing Creek Road and Ironstone Road. However, there is no stop sign for northbound traffic on Lewisberry Road and southbound traffic on Lewisberry Road is subject to a left turn stop only.

An aerial photograph showing the property and adjacent road network is included with this Application and marked as Exhibit 2.

A copy of a tax parcel map is attached as Exhibit 3.

The property is currently zoned as part of the Fairview Township Residential Mixed Use (RMU) District pursuant to the Fairview Township Zoning Ordinance.

A sketch site plan showing the existing improvements and proposed improvements on the property is attached as Exhibit 4.

Applicant proposes to utilize the property for the tree service business of Alpine Tree Experts. The nature of the proposed use will be for storage of equipment utilized by Alpine Tree Experts, including trucks, several pull behind chippers, several stump grinders, and four small tractors/loaders, aerial lifts and a bucket truck. As depicted on the sketch site plan the only new structure proposed for the property is a 60 feet by 80 feet building. However, that structure will not be built in the near future, rather, the existing 1,400 square feet metal pole building will be renovated to be used for indoor storage of the more valuable equipment and for indoor repairs of equipment. There will be no retail sales of any products at the property and the business office for Alpine Tree Experts will remain at the home of Mr. Klinedinst at 1281 Old Quaker Road, Eppers, PA. The trucks and other equipment utilized by Alpine Tree Experts will be located at both 1281 Old Quaker Road and at the Lewisberry Road property. Employees will arrive at the property, park their vehicles and leave for the off-site jobs in the vehicles of Alpine Tree Experts.

Storage of equipment for use by a tree service business located at another property is not identified as a permitted, non-permitted nor special exception use under Section 300-20 (Table 5-2) of the Zoning Ordinance. The stated purpose of the RMU Zoning District is for use as “moderate density residential with a compatible mixture of smaller, less intense commercial businesses and related uses.”

In that Applicant's proposed use is clearly not permitted by right, by special exception use, nor by conditional use within any zoning district, Applicant is applying for a special exception to permit such use under Section 300-4.B. of the Zoning Ordinance.

Tree pruning and removal services are not provided for in any zoning district within the Township. The proposed use will be limited to the accessory functions of storage and staging of equipment and materials related to the tree pruning and tree removal business which is operated from the property at 1281 Old Quaker Road, Etters. No new buildings are proposed to house offices in which to conduct the business and the existing residential dwelling will continue to be utilized for residential purposes with minor reconfiguration to provide a restroom and lounge area for employees.

In that the proposed use is not clearly permitted by right, by special exception use, nor by conditional use within any zoning district, the use is prohibited except that the Zoning Hearing Board may permit such use by special exception under Section 300-4.B., subject to the following criteria:

1. *The proposed use is similar to and compatible with the permitted uses in the District, not permitted in any other zoning district, and does not conflict with the general purposes of this Chapter or the zoning district. The proposed use is a low-intensity tree pruning and removal service.*

The property will principally be used as a staging area and storage area for the materials and equipment associated with Applicant's Alpine Tree Experts business. There will be no retail sales of materials or goods from the site and the only new proposed structure will be a storage building to be constructed at some time in the future as needed. The proposed use is less intensive than uses permitted in the RMU such as banks, commercial recreation facilities, convenience stores, coffee shop, craftsman/artisan studio, food service, golf course, laundering and dry cleaning, office, business and professional and medical, personal service, restaurant, retail, school, massage business, veterinary offices as all of these uses involve regular customer visits to the business property.

The smaller, less intense commercial business proposed by Applicant is consistent with the purposes of the RMU District.

2. *The external impact associated with the proposed use would be equal to or less intensive than the external impacts associated with other uses that are permitted in the zoning district.*

As described above, the proposed use will be less intensive than many of the uses permitted in the RMU District.

3. *The location of the proposed use would not endanger the public health and safety, or deteriorate the environment or general nuisance conditions such as traffic congestion, noise, dust, smoke, glare or vibration.*

The use will not create any adverse impacts nor endanger the public health and safety, or cause deterioration of the environment nor create a general nuisance.

4. *The proposed use shall comply with the Township and other applicable local, state and federal laws and requirements.*

The proposed use will comply with all such codes and regulations.

5. *The proposed use will meet the special exception standards of Article XII.*

The proposed use meets the requirements of Section 300-99.E.(3) related to special exceptions. The Applicant will provide details relating to hours of operation and management and use of the property at the time of the hearing.





ALPTREE.COM

717-938-6701

## **Alpine Tree Experts**

### **Company & Klinedinst Bio**

Alpine Tree Experts was founded in 1978 by George Smith and purchased by William Conroy in 1985 of Fishing Creek Road New Cumberland. Bill operated the business until 2006 when the company was purchased by James Klinedinst Jr & his father James Klinedinst Sr. The Klinedinst Family are lifelong residents of York County. Jim Jr grew up the son of a diesel mechanic who taught him the value of maintaining vehicles, equipment, and engines. Jim Jr. is a graduate of Red Land High School and has degrees from both Pennsylvania College of Technology & Harrisburg Area Community College with degrees in Landscape Technology & Business Studies. He operated a landscape company, Arborscape from 1997 until 2015 when he chose to focus solely on tree care. The company remains a locally owned and family operated business with Jim Sr retired and Jim Jr's wife Charissa Klinedinst managing the administrative and office end of the business.

As professional arborists, we specialize in the proper pruning and manual removal of trees, shrubs, and stumps. Providing tree care services to residential, commercial, and municipal clients, we are a service-oriented business that prides itself on customer service, professionalism, and safety. Operating 3 field crews daily, we aim for our professional relationships to be mutually beneficial and strive to create an environment that is conducive to safety and expertise, clear communication, tree care education, and professionalism. Our field staff consists of qualified & certified arborists including professional climbers, grounds people, land and aerial equipment operators. They are supported by our administrative, shop, mechanical, and sales staff. The purpose of Jim Klinedinst Jr/Alpine Tree Experts purchasing this property is to operate more of the business out of the Lewisberry Road location and away from our personal home.

### **Alpine Tree Experts-Klinedinst's Personal & Professional Values**

- Integrity - honesty, responsibility, accountability, respect
- Industriousness - diligence, hardworking, initiative
- Courage - bravery with discernment: awareness, knowledge, execution
- Stewardship - "the job of taking care of something": crew and public safety, customer service, expertise, equipment, vehicles and gear, communication.

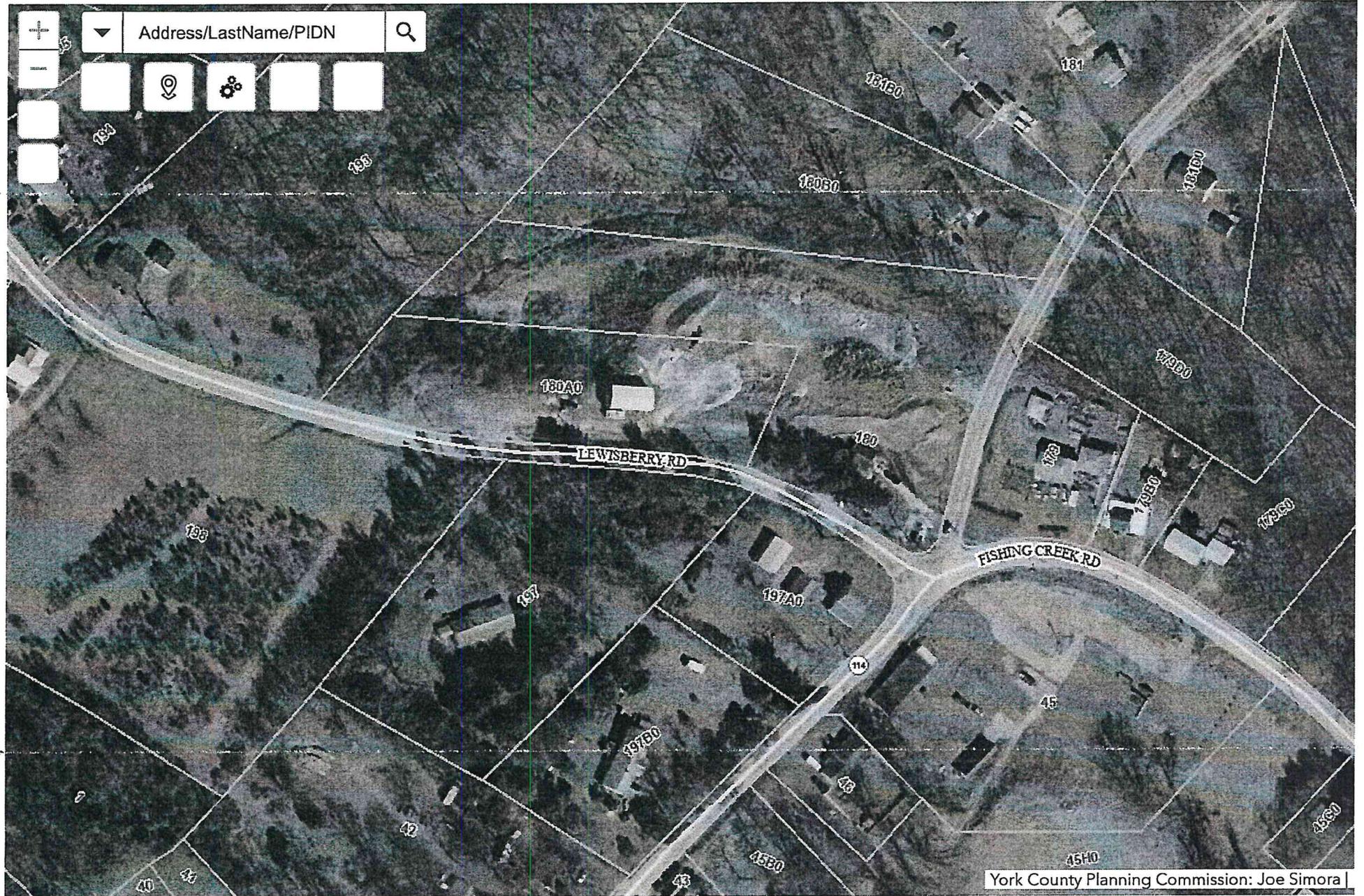
### **Alpine Tree Experts - Vehicles & Equipment**

- We operate 11 Trucks Daily
- 4 Pull Behind Chippers
- 2 Stump Grinders
- 4 Small Tractors/Loaders
- 4 Aerial Lifts
- 1 Bucket Truck

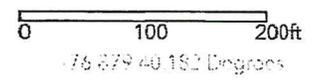








York County Planning Commission: Joe Simora



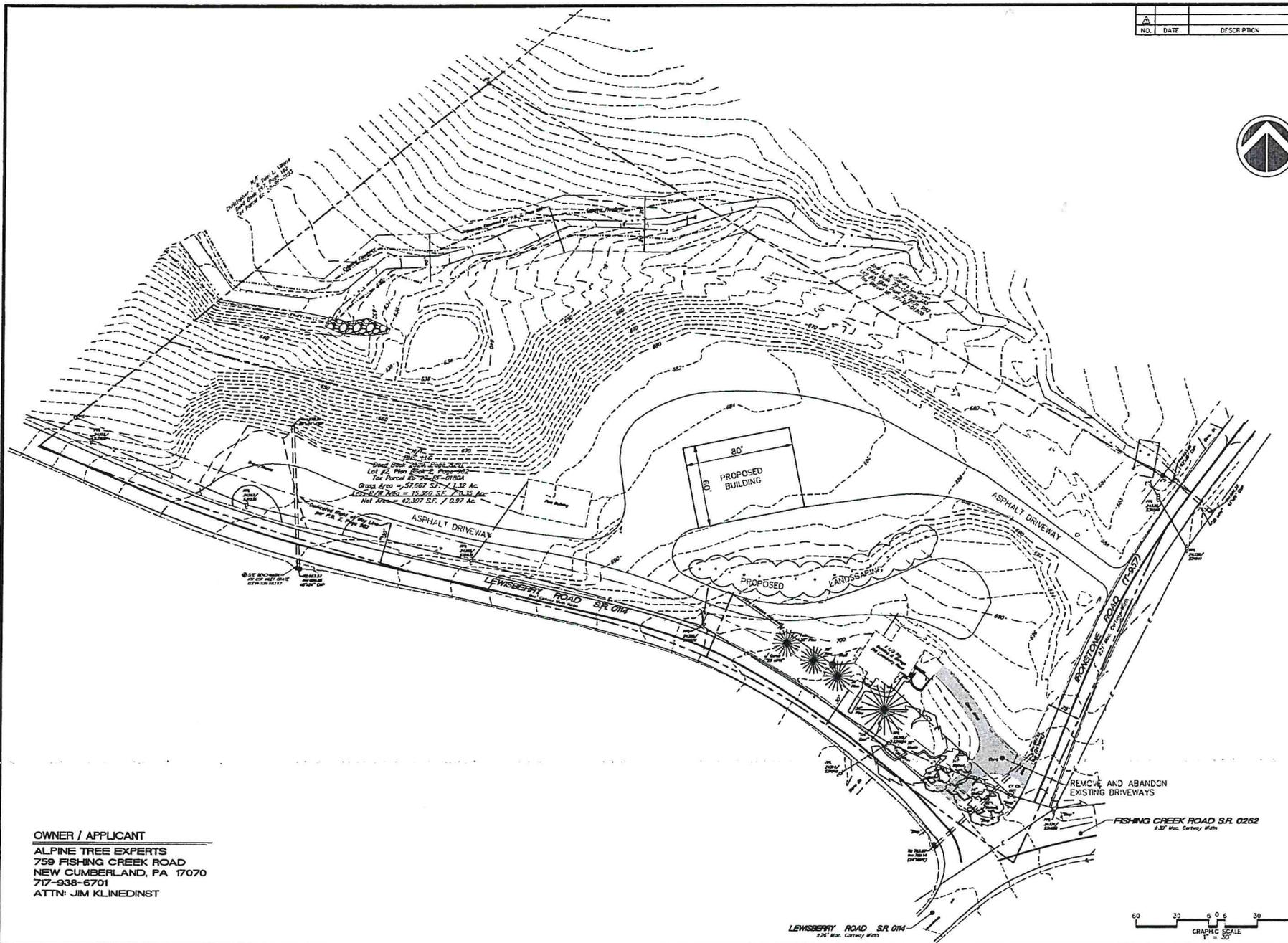


DESIGN :	GTA
DRAWN :	GTA
CHECKED :	JK
DATE :	01-15-2024



PLANNING/ENGINEERING/SURVEYING  
 10 LAMARCA RD., P.O. BOX 1070  
 ALPHARETTA, GA 30201  
 PHONE: (770) 770-3000  
 WWW.ALPHACON.COM

**ALPHA**  
 CONSULTING ENGINEERS, INC.



**OWNER / APPLICANT**  
 ALPINE TREE EXPERTS  
 759 FISHING CREEK ROAD  
 NEW CUMBERLAND, PA 17070  
 717-938-5701  
 ATTN: JIM KLINEDINST

SCALE

SCALE

SCALED EXHIBIT  
 SPECIAL EXCEPTION APPLICATION  
**710 LEWISBERRY ROAD**  
 FAIRVIEW TOWNSHIP, YORK COUNTY, PENNSYLVANIA

PROJECT NO.  
315559  
 SURVEY BOOK :  
14 (see previous drawing)  
 SCALE : 1" = 30'  
 DATE : 01/15/2024  
 SHEET 1 of 1

LEWISBERRY ROAD S.R. 014  
 20' Mac. Curvey #101



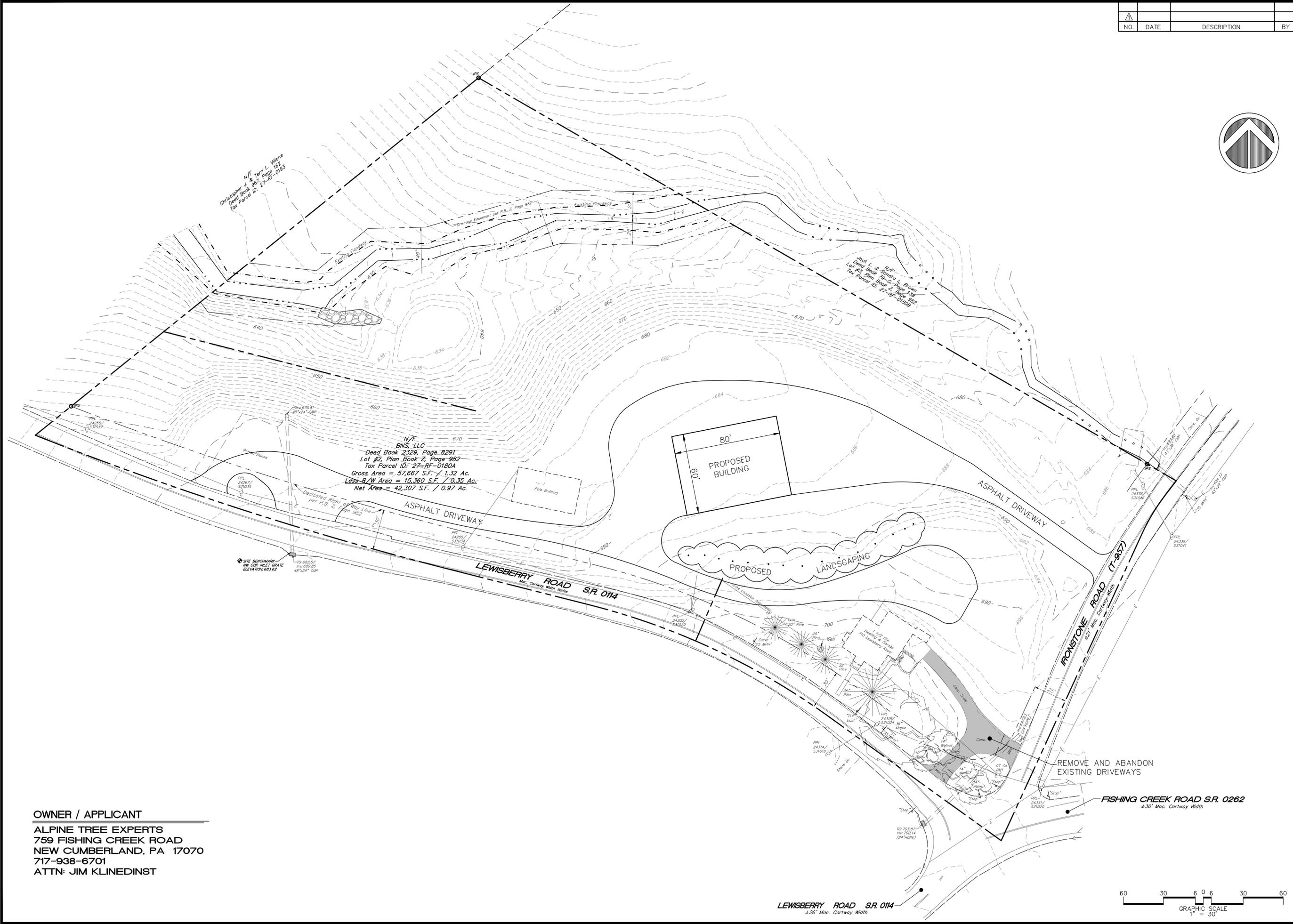
NO.	DATE	DESCRIPTION	BY

DESIGN : GTA  
 DRAWN : GTA  
 CHECKED : JK  
 DATE : 01-15-2024



PLANNING ENGINEERING & SURVEYING  
 115 LIMEKILN RD., P.O. BOX 'G'  
 NEW CUMBERLAND, PA 17070  
 PHONE: 717-770-2600  
 FAX: 717-770-2400  
 WWW.ALPHAENGINE.COM

**ALPHA**  
 ALPHA CONSULTING ENGINEERS, INC.



N/E  
 BNS, LLC  
 Deed Book 2329, Page 8291  
 Lot #2, Plan Book Z, Page 982  
 Tax Parcel ID: 27-RF-0180A  
 Gross Area = 57,667 S.F. / 1.32 Ac.  
 Less R/W Area = 15,360 S.F. / 0.35 Ac.  
 Net Area = 42,307 S.F. / 0.97 Ac.

N/E  
 Terri L. Wilson  
 Deed Book 967, Page 162  
 Tax Parcel ID: 27-RF-0153

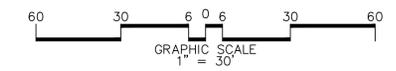
N/E  
 Sandra L. Brown  
 Deed Book 790, Page 116  
 Lot #3, Plan Book Z, Page 982  
 Tax Parcel ID: 27-RF-0180B

• SITE BENCHMARK  
 NW COR INLET GRATE  
 ELEVATION: 683.62

OWNER / APPLICANT  
 ALPINE TREE EXPERTS  
 759 FISHING CREEK ROAD  
 NEW CUMBERLAND, PA 17070  
 717-938-6701  
 ATTN: JIM KLINEDINST

LEWISBERRY ROAD S.R. 0114  
 ±26' Mac. Cartway Width

FISHING CREEK ROAD S.R. 0262  
 ±30' Mac. Cartway Width



SEAL

SEAL

SCALED EXHIBIT  
 SPECIAL EXCEPTION APPLICATION  
**710 LEWISBERRY ROAD**  
 FAIRVIEW TOWNSHIP, YORK COUNTY, PENNSYLVANIA

PROJECT NO.  
 315559  
 SURVEY BOOK :  
 Z:\2015\315559\315559.dwg  
 SCALE : 1" = 30'  
 DWS : 315559.dws  
 FILE : SPECIAL EXCEPTION.dwg  
 SHEET 1 of 1