



CASE NO. 1424

DATE OF HEARING 11/17/2022

Town of Aurora Zoning Board of Appeals  
575 Oakwood Avenue, East Aurora, New York 14052

### Zoning Board of Appeals Application Form

#### I. TYPE OF REQUEST

AREA VARIANCE     SPECIAL USE PERMIT     USE VARIANCE     INTERPRETATION

#### II. APPLICANT/PETITIONER

Applicant's Name Edward Fitzpatrick  
Address 1311 Mill Road  
City East Aurora State New York ZIP 14052  
Phone 711 Email efi@sil.com  
Interest in the property as (purchaser/developer) \_\_\_\_\_

#### III. PROPERTY OWNER INFORMATION (If different from applicant information.)

Property Owner(s) Name(s) Barbara A. Closs  
Address 1301 Mill Road  
City East Aurora State New York ZIP 14052  
Phone 711 Email \_\_\_\_\_

#### III. PROPE...

Property Address 1301 and 1311 Mill Road  
SBL# 187.00-1-13.11  
Property size in acres 41.5 Property Frontage in feet 929  
Zoning District R1/A Surrounding Zoning R1/A  
Current Use of Property Residential

#### IV. REQUEST DETAIL

(check all that apply)

Variance from Ordinance Section(s) # 116-19A; 116-8.1E(1); 116-8.1E(4); 116-18A(1)  
 Special Use Permit for: \_\_\_\_\_  
 Use Variance for: \_\_\_\_\_  
 Interpretation of \_\_\_\_\_

**V. SIGNATURES** (This application must be signed by the applicant/petitioner. If the applicant is not the owner of the property, a separate owner authorization form must be submitted – see pg. 5)

Edward Fitzpatrick  
Signature of Applicant/Petitioner

Edward Fitzpatrick  
Print name of Applicant/Petitioner

State of New York; County of Erie

On the <sup>7<sup>th</sup></sup> day of ~~October~~ in the year 2022 before me, the above individual appeared, personally known to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same for the purposes therein stated.

Sheryla A. Miller  
Notary Public

SHERYLA A. MILLER  
Reg. #01M16128663  
Notary Public, State of New York  
Qualified In Erie County  
Commission Expires June 13, 2025

(Notary stamp)

Office Use Only: Date received: 10/17/22 \$100 CASH Receipt #: 568033

Application reviewed by: \_\_\_\_\_

ECDP ZR-1 form sent to EC: \_\_\_\_\_ Hearing publication date: \_\_\_\_\_

**PREVIOUS APPEAL(S):**

A previous appeal to the Zoning Board of Appeals ( ) has ( ) has not been made with respect to this property.

**Previous appeals:**

Date: \_\_\_\_\_ Type of Appeal: \_\_\_\_\_ Granted \_\_\_\_\_ Denied \_\_\_\_\_

Date: \_\_\_\_\_ Type of Appeal: \_\_\_\_\_ Granted \_\_\_\_\_ Denied \_\_\_\_\_

The property of 1301 and 1311 Mill Road has been used as an agriculture farm growing crops, hay, and pasture land for dairy cows from the 1830's until 1985. The farm owned by Clint and Barb Closs continued farm practices with hay production through the 1990's and since then, we have various hay producers to harvest on a yearly basis. My wife Rochelle and I have lived at the residence of 1311 Mill Road since 1991. It is a blessing to be able to share our farm endeavors with our grown children and now three grand-children.

In 2018, we set out to be more intentional with growing our own food including vegetables, pasture raised american guinea hogs, meat chickens, egg laying chickens, and seasonal turkeys. Much of what we have grown and raised has been for our family, extended family, friends, and customers.

Our interest is to have our zoning changed to agriculture so that we can legally use our existing barn to house our livestock especially in the winter months into spring until the pastures are dry enough to use. When conditions are good we rotate our pigs through fenced area paddocks for optimum use of the grass available and condition the ground for new seed growth. We also use chicken tractors for our meat chickens to rotate through other areas to both use the grass for feed and to fertilize and condition the earth. On occasion we will fence in an area of a future garden and allow the pigs to root up the ground to help prepare a new garden space. We are an organic farm utilizing regenerative farming practices. Once the garden beds are established we use a no-till method of growing vegetables with adding compost to amend the beds for our growing season.

In addition to the zoning, we would like to receive a variance to remove an existing non-compliant building off of the county line and build a new structure of 24 x 36 parallel with Mill Road beginning at 40' off the center of Mill road. This building will be used for storage, and provide a place where customers can pick up their vegetable, eggs, chicken, and pork orders.



Town of Aurora  
575 Oakwood Avenue  
East Aurora, NY 14052  
www.townofaurora.com

**Zoning Board of Appeals  
Application  
Owner Authorization**

The undersigned, who is the owner of the premises know as: Barbara A. Closs  
1301 & 1311 Mill Road (address), identified as Tax Map (SBL)# 187.00-1-13.11  
hereby authorizes Edward Fitzpatrick to bring an application for ( ) area variance  
( ) special use permit ( ) use variance ( ) interpretation before the Town of Aurora Zoning Board of  
Appeals for review and potential approval. The undersigned further permits the Town or its authorized  
representative(s) access to the property to review existing site conditions during the review process.

Barbara A. Closs  
Owner (print)

Oct 7, 2022  
Date

Barbara A. Closs  
Owner (signature)

STATE OF NEW YORK )  
  ) SS  
COUNTY OF ERIE        )

On this 7<sup>th</sup> day of October, 2022 before me, the undersigned, a notary public in and for said state,  
personally appeared Barbara A. Closs, personally known 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.

Sheryla A. Miller  
Notary Public  
SHERYLA A. MILLER  
Reg. #01MI6128663  
Notary Public, State of New York  
Qualified In Erie County  
Commission Expires June 13, 2025

SUPERVISOR  
James J. Bach  
(716) 652-7590  
[jbach@townofaurora.com](mailto:jbach@townofaurora.com)



TOWN CLERK  
Martha L. Libroek  
(716) 652-3280  
[townclerk@townofaurora.com](mailto:townclerk@townofaurora.com)

## TOWN OF AURORA

**Aurora Municipal Center**

575 Oakwood Avenue, East Aurora, NY 14052

[www.townofaurora.com](http://www.townofaurora.com)

### TOWN COUNCIL MEMBERS

October 13, 2022

Charles D. Snyder  
[csnyder@townofaurora.com](mailto:csnyder@townofaurora.com)

Edward Fitzpatrick  
1311 Mill Rd  
East Aurora, NY 14052

Luke Wochensky  
[lwochensky@townofaurora.com](mailto:lwochensky@townofaurora.com)

Edward:

James F. Granville  
[jgranville@townofaurora.com](mailto:jgranville@townofaurora.com)

The Building Department has reviewed your request to keep chickens, turkeys, and pigs and to reconstruct a detached garage at your residence at 1301 Mill Rd (legal property address). The requests have been denied because they fail to meet the code requirements for the R-1 Zoning District in which it your property is located.

Joseph M. McCann  
[jmccann@townofaurora.com](mailto:jmccann@townofaurora.com)

### SUPT. OF HIGHWAYS

David M. Gunnér  
(716) 652-4050  
[highway@townofaurora.com](mailto:highway@townofaurora.com)

### Section 116-19A

Required: No bees, cattle, horses, goats, sheep, swine, mink, fox or other commercial fur-bearing animals, chickens, ducks, geese, pigeons, or other fowl shall be kept, harbored, or maintained in any R-1, R-2, or R-3 District. The Zoning Board of Appeals may grant temporary or permanent permission to keep chickens on such conditions as it may require.

### CODE ENFORCEMENT OFFICER

Elizabeth Cassidy  
(716) 652-7591  
[building@townofaurora.com](mailto:building@townofaurora.com)

Requested: 300 meat chickens, 20 egg laying hens, and 25 turkeys  
Variance: 300 meat chickens, 20 egg laying hens, and 25 turkeys

### ASSESSOR

Roger P. Pigeon  
[assessor@townofaurora.com](mailto:assessor@townofaurora.com)  
(716) 652-0011

Required: No bees, cattle, horses, goats, sheep, swine, mink, fox or other commercial fur-bearing animals, chickens, ducks, geese, pigeons, or other fowl shall be kept, harbored, or maintained in any R-1, R-2, or R-3 District. The Zoning Board of Appeals may grant temporary or permanent permission to keep chickens on such conditions as it may require.

Requested: 15 pigs  
Variance: 15 pigs

### DIR. OF RECREATION

Christopher Musshafen  
(716) 652-8866  
[chris@townofaurora.com](mailto:chris@townofaurora.com)

### Section 116-8.1E(1)

Required: Front yard setback minimum of 75' from the street right-of-way  
Requested: 7' front yard setback  
Variance: 68'

### TOWN ATTORNEY

Brigid M. Maloney

### Section 116-8.1E(4) & 116-18A(1)

Required: No accessory building/structure shall be erected in the front yard  
Requested: Accessory building in the front yard  
Variance: Accessory building in the front yard

### TOWN JUSTICE

Jeffrey P. Markello  
Anthony DiFilippo IV

This letter serves as notice that we have received the application and fee for the Zoning Board of Appeals. You will receive notification from the Town Clerk with the date and time of the next available hearing. If you have any questions, please contact our office at 652-7591.

### HISTORIAN

Robert L. Goller  
(716) 652-7944  
[historian@townofaurora.com](mailto:historian@townofaurora.com)

FAX: (716) 652-3507

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Cassidy".

Elizabeth Cassidy  
Code Enforcement Officer

*This institution is an equal  
opportunity provider and employer.*

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

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

DO NOT WRITE IN THIS SPACE

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

Postmark/Delivery Date: \_\_\_\_\_

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

**Description of Proposed Action**

**1. Name of Municipality:** Town of Aurora

§239-m(4)(b) provides that the county shall have 30 days after receipt of a full statement of the proposed action to reply.

If the county fails to reply within such period, the referring body may take final action.

However, any county reply received after 30 days but 2 or more days prior to final action by the referring body shall be subject to §239-m(5)

The referring body shall file a report of its final action with the county within 30 days per §239-m(6).

**2. Hearing Schedule:**                      **Date** 11/17/2022                      **Time** 7:00pm                      **Location** 575 Oakwood Ave., E. Aurora, NY

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

**4. Action consists of:**                       New Ordinance                       Rezone/Map Change                       Ordinance Amendment

Site Plan                       Variance                       Special Use Permit                       Other: \_\_\_\_\_

**5. Location of Property:**                       Entire Municipality                       Address: 1301 Mill Rd

**5a. S.B.L. of Property:** 187.00-1-13.11

**6. Referral required as site is within 500' of:**                       State or County Property/Institution                       Municipal Boundary                       Farm Operation located in an Agricultural District

Expressway                       County Road                       State Highway                       Proposed State or County Road, Property, Building/Institution, Drainageway

**7. Proposed change or use:**                      Chickens, turkeys & pigs in residential district require special use permit; accessory structure in front yard not allowed by Town Code; front yard setback of accessory building less than allowed by Town Code

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

**9. Submitted by:** Martha Libroek, Town Clerk                      Email: townclerk@townofaurora.com

**10. Return Address:** 575 Oakwood Ave., East Aurora, NY 14052

Reply to Municipality by Erie County Division of Planning

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

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

By the Division of Planning: \_\_\_\_\_ Date: \_\_\_\_\_

# Short Environmental Assessment Form

## Part 1 - Project Information

### 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.

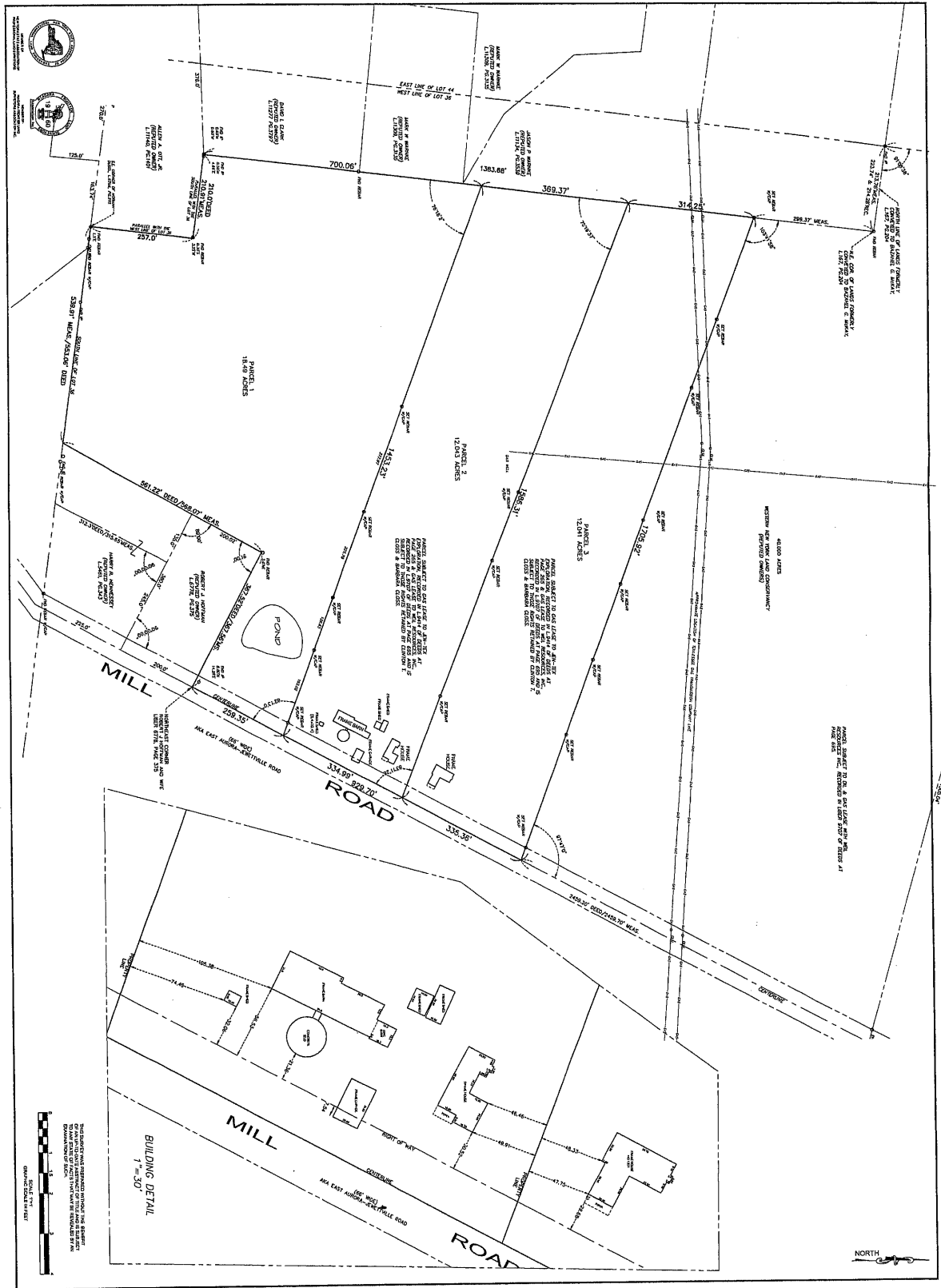
<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project:			
Project Location (describe, and attach a location map):			
Brief Description of Proposed Action:			
Name of Applicant or Sponsor:		Telephone:	
Edward Fitzpatrick			
		E-Mail: e .l. com	
Address:			
1311 Mill Road			
City/PO:		State:	Zip Code:
East Aurora		New York	14052
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 government 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? _____ 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, are adjoining or near the proposed action:			
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input checked="" type="checkbox"/> Parkland			



5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" 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?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

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 type="checkbox"/> Forest <input checked="" type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" 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?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>
_____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	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 CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor/name: <u>Edward Fitzpatrick</u> Date: <u>10/7/2022</u>		
Signature: <u>Edward Fitzpatrick</u> Title: _____		

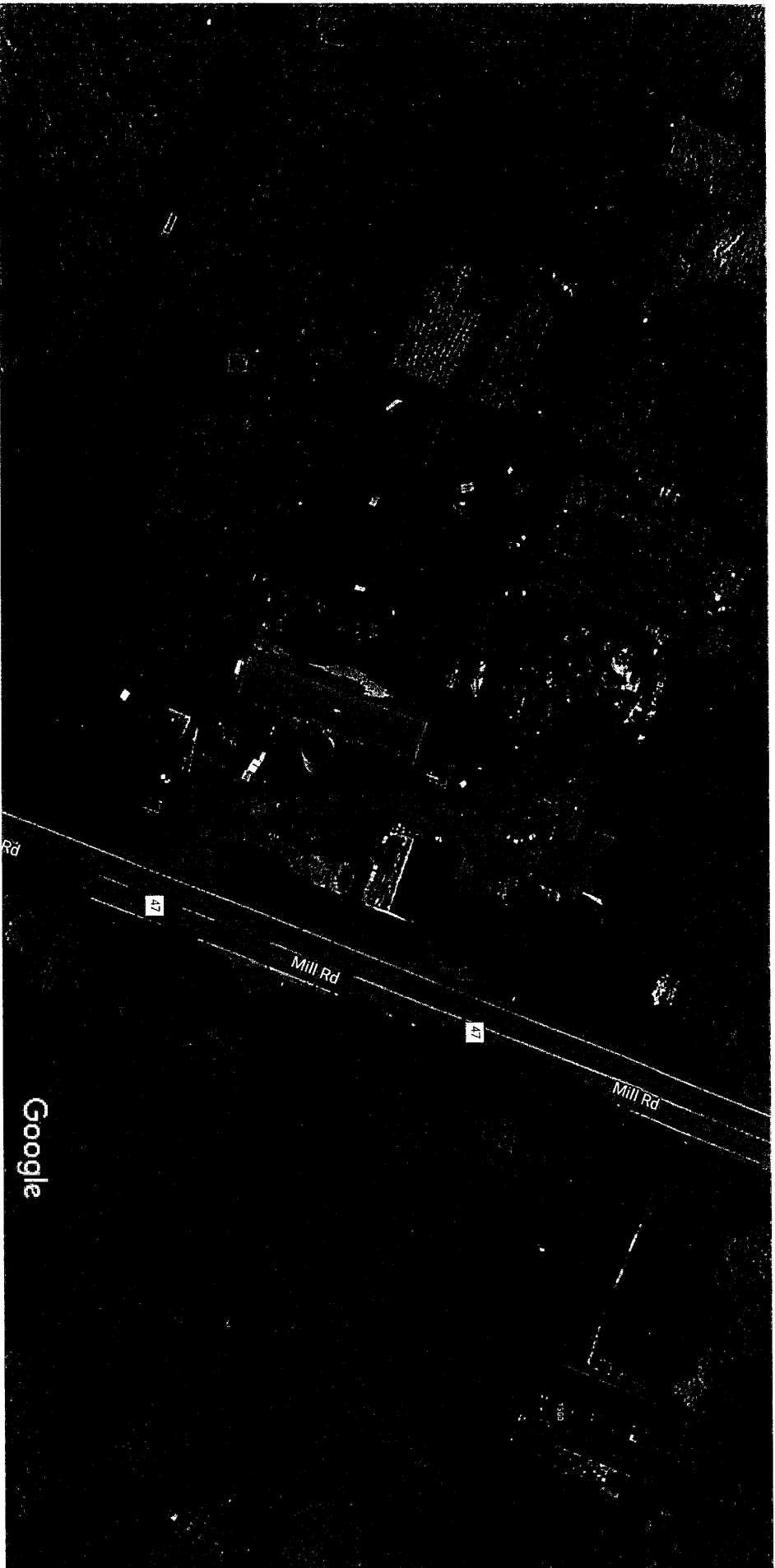




<p style="text-align: center;"><b>TOWN OF AURORA</b>  <b>COUNTY OF ERIE, STATE OF NEW YORK</b>          PART OF LOT 36, TOWNSHIP 9, RANGE 6          HOLLAND LAND COMPANY'S SURVEY</p> <p style="text-align: center;"><b>MILL ROAD - 3 LOTS</b>  <b>BOUNDARY SURVEY</b></p>	<p style="text-align: center;"><b>WM SCHUTT</b>          ASSOCIATES</p> <p style="text-align: center;">37 CENTRAL AVE.          LANCASTER, NY 14086-2143          PH. 716-685-5961          FAX 716-685-0168          WWW.WMSCHUTT.COM</p>	<p>DESIGNED BY: DJR          DRAWN BY: DJR          CHECKED BY: DJR          DATE: 06/18/2016</p> <p><small>WARNING:          ALTERING THIS DOCUMENT IS IN VIOLATION OF          THE LAW ENACTED AS PROVIDED IN SECTION          1707, PART 1701 OF THE ERIE COUNTY          LOCAL LAW ENACTED IN 2007 BY          SENATOR LAWRENCE G. GREGG          AND SENATOR JAMES M. COVINO          AND AMENDED BY SENATOR          LAWRENCE G. GREGG AND SENATOR          JAMES M. COVINO IN 2012          WM SCHUTT &amp; ASSOCIATES P.C.</small></p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3">DRAWING REVISIONS</th> </tr> <tr> <th>ITEM</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	DRAWING REVISIONS			ITEM	DATE	DESCRIPTION												
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BS-1  
 DRAWING SCALE: 1"=30'  
 SURVEYOR'S TESTIMONY  
 PROFESSIONAL SEAL

Google Maps 1311 Mill Rd



Imagery ©2022 Maxar Technologies, Map data ©2022 20 ft

