



CASE NO. 1424 REVIEW
DATE OF HEARING 12/19/2024

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, NY State NY ZIP 14052
Phone x Email ef.com
Interest in /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 NY ZIP 14052
Phone x Email

III. PROPERTY INFORMATION

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) #
 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 P Fitzpatrick

Signature of Applicant/Petitioner

Edward P Fitzpatrick

Print name of Applicant/Petitioner

State of New York; County of Erie

On the ^{15th} day of ~~November~~ in the year 2024 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.

Sheryl A. Miller

Notary Public

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

(Notary stamp)

Office Use Only: Date received: _____ Receipt #: _____

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 _____

PETITIONER'S LETTER OF INTENT

Please describe in detail the proposed project, reason the variance and/or special use permit is being requested and any additional information that may be helpful to the Zoning Board of Appeals in deciding this appeal: (attach additional pages if needed)

See attached letter

TO BE COMPLETED ONLY WHEN A USE VARIANCE IS BEING REQUESTED:

A Use Variance is requested because the applicable regulations and restrictions in the Zoning Code of the Town of Aurora have caused unnecessary hardship as demonstrated by the following:

1) I cannot realize a reasonable return on my property for each and every permitted use allowed in the current zoning classification as demonstrated by the accompanying financial evidence (provide financial evidence to support your argument).
Financial Evidence Provided Yes No (financial evidence is required per NYS Town Law)

2) Describe why your alleged hardship relating to the subject property is unique and does not apply to other properties in the zoning district or neighborhood: _____

3) Describe why you believe that the essential character of the neighborhood/community will not change if the Zoning Board of Appeals grants you a use variance: _____

4) Is your need for a use variance a result of you own actions (is your difficulty self-created)? Please explain: _____

(Attach additional pages if needed)

To the zoning board of East Aurora, NY,

Since our filing for a variance to keep animals on our farm we have changed some aspects of what we are doing and the goals we want to achieve.

Our original projection was to become a market garden business and produce vegetables to be sold on our property along with raising egg laying and meat chickens, pigs, and seasonal turkeys.

Being self-employed and my wife working full time as an accountant we have realized that production farming will have to wait until our retirement years. With this in mind and the opportunities and influences with some of my Amish friends we have transitioned our farm as more of a homestead. 2024 - 2025 marks the first time that we will have raised all of our own meat, along with 65 -75% of our yearly vegetable needs. This change in what we do has developed through relationships with the Amish community and learning ways of processing and preserving for our use. These relationships have also provided opportunities to add different livestock to our farm. These shifts have been a result of trial and error and our increased desire to raise our own food for our family and extended family.

At the present we are reducing down our pigs to two - four feeder pigs per year.

We added two steers, keeping two pastured raised steers per year, adding new calf every fall.

We added a trotting horse, for wagon and sleigh rides as well as working up the gardens as we add the tools to accomplish those activities.

We reduced the number of meat and egg laying chickens to supply our own needs.

Raise turkeys seasonally 15 -25 from august through november.

Planning to add a riding horse for my grandchildren when the right situation arises.

We are open to the possibility of adding a dairy cow to our homestead when we have the opportunity.

We would like to continue the opportunity to sell our vegetables and flowers as our surplus will allow.

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..... identified as Tax Map (SBL)#...187.00-1-13.11
(address)
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 Ann Closs
Owner (print)

11/15/24
Date

[Signature]
Owner (signature)

STATE OF NEW YORK)
 SS
COUNTY OF ERIE)

On this 15th day of November, 2024, before me, the undersigned, a notary public in and for said state,
personally appeared Barbara Ann 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.

[Signature]
Notary Public **SHERYL A. MILLER**
Reg. #01MI6128663
Notary Public, State of New York
Qualified In Erie County
Commission Expires June 13, 2025

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.

Part 1 – Project and Sponsor Information			
Name of Action or Project:			
Project Location (describe, and attach a location map):			
Brief Description of Proposed Action:			
Name of Applicant or Sponsor: <i>Edward Fitzpatrick</i>		Telephone: _____	
		E-Mail: _____ <i>@.com</i>	
Address: <i>1311 Mill Road</i>			
City/PO: <i>East Aurora</i>		State: <i>NY</i>	Zip Code: <i>14052</i>
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			

	NO	YES*	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input 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?	NO <input type="checkbox"/>	YES <input checked="" 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: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input 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: _____ _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO <input type="checkbox"/>	YES <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? 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?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <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? 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: _____ _____ _____	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	YES <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 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?	NO	YES
If 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)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe:		

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)?	NO	YES
If Yes, explain the purpose and size of the impoundment:	<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?	NO	YES
If Yes, describe:	<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?	NO	YES
If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: <u>Edward Fitzpatrick</u>	Date: <u>11/13/2024</u>	
Signature: <u>Edward Fitzpatrick</u>	Title: _____	

MINUTES OF A HEARING AS HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

November 17, 2022

CASE #1424-Edward Fitzpatrick a/a/f Barbara Closs
1301 Mill Road (aka 1311 Mill Road), East Aurora, NY

The hearing was called to order by the Acting Chairman Davis Heussler with the following Board members present:

Nancy Burkhardt
Mandy Carl
Rod Simeone
Ray Wrazen, Alternate

Excused: Paul Ernst

Others Present: Paul Kielich, Assistant Code Enforcement Officer

The notice of public hearing was read by the Deputy Town Clerk. The notice was duly published in the East Aurora Advertiser as evidenced by the Affidavit of Publication, marked as exhibit 1. The Affidavit of Posting was marked as exhibit 2. The ZBA Application was marked as exhibit 3. The Petitioner's Letter of Intent was marked as exhibit 4. The Letter of Authorization was marked as exhibit 5. The Building Department Letter of Determination was marked as exhibit 6. The ECDP form with response was marked as exhibit 7. The Short Environmental Assessment Form was marked as exhibit 8. The Copy of the Survey was marked as exhibit 9. The Aerial View of Property was marked as exhibit 10. The Plotted Survey was marked as exhibit 11. The Copy of the Deed was marked as exhibit 12. The List of Abutting Property Owners was marked as exhibit 13. An Anonymous Letter of Objection was marked as exhibit 14. The Elevation Sketch with Construction Detail was marked as exhibit 15.

The Acting Chairman opened the hearing with the Pledge of Allegiance to the Flag and stated the purpose and procedure of the hearing. Following the hearing a meeting would be held to render decision for a special use permit for chickens, turkeys, and pigs in a residential district; and front yard and front yard setback variances for an accessory building at 1301 Mill Road (aka 1311 Mill Road), East Aurora, NY.

Fitzpatrick Edward Fitzpatrick 1311 Mill Road.

Heussler It is my understand that you are operating farm now. The new structure would be in the same footprint as the one currently there?

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Fitzpatrick I would be orientated parallel to the road. We are trying to bring it into compliance to have something more useful for our sake also.

Heussler Will it be built similar to what you have now?

Fitzpatrick It will be board and baton and structurally it will be the same. It will be 24' by 30'. Refrigerated to sell vegetables and eggs.

Carl Will you have electric running to this? Any other utilities?

Fitzpatrick Yes electric.

Heussler What animals do you have now?

Fitzpatrick Tiny pigs, 19 egg laying chickens.

Heussler Do you intend to raise the animal population?

Fitzpatrick We do raise pigs so we can be up to 15.

Heussler The rest of the property is an agricultural zone, and the front is R1?

Cassidy So if everything was 301' behind they could do everything they are doing today.

Heussler No issue of selling the eggs?

Cassidy No as long as it is a product of the farm.

Simeone Your petition response from the health department said that you are requesting 300 meat chickens is that correct?

Fitzpatrick I do 300 meat chickens in a year.

Simeone How long have you had the hens?

Fitzpatrick On and off since 1991.

Simeone So you have been non-compliant since 1991?

Cassidy Yes, the turkeys called him out.

Fitzpatrick We had no idea.

Carl You will have no more than 100 meat chickens at any given time?

Fitzpatrick Correct.

Carl So not 300, that would be annually?

Fitzpatrick Correct.

Carl What about laying hens, what is the maximum?

Fitzpatrick We had 58 at one point but we are down to 19. We would like 20.

Carl What is the maximum of turkeys you would have at any given time?

Fitzpatrick 25.

Carl So you will not have 300 meat chickens at any given time?

Fitzpatrick No.

Carl What is the most number of pigs you would have at any given time?

Fitzpatrick 15.

Simeone So the proposed building is going to replace the existing structure, but you are going to move it farther back from the road is that correct? So, the current variance request is 68' for that structure. Will that change depending on where they locate it?

Cassidy His documentation indicated that the building would be 40' from the center of the road. The right of way is 33' wide so it is going to be 7' from that right of way so 68' is the difference. If he pushed it back it would be less of a requirement so the 68' variance is the maximum that he is looking for. The current barn is 7' in the right of way.

Simeone As discussed the reason we are here because some of your animals got out close to road. If we were to grant it what can you do to prevent that from happening again?

Fitzpatrick That wasn't a fencing issue. I had free range turkeys, and I didn't realize it and it was my fault because I would close them in at night. It was brought to my attention I would enclose them in a temporary enclosure, and it won't happen again.

Heussler Is there anyone else that would like to be heard on this case?

Hurlburt JT Hurlburt 1330 Mill Road. I am directly across the silo. We built the house in 1989 and Clint Closs retired about the same time. I have known these people as long as they have been there. We are neighbors as neighbors in the country are

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when you need them and not when you don't. We have never had any kind of an issue with any of the animals. It wasn't until he took me on a tour that I realized that we had enterprise going on here. We have no problem with what is being given to them to allow them to operate the farm which should have been all along. We are looking forward to seeing them. There is an awful lot of work these two people put into this place and I would like to see it pay off. Thank you.

Aronica Robert Aronica 1848 Mill Road. This is a right to farm community and I support it.

Heussler Is there anyone else that would like to speak on this matter? (No response). The hearing is closed.

MINUTES OF A MEETING AS HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

November 17, 2022

CASE #1424-Edward Fitzpatrick a/a/f Barbara Closs
1301 Mill Road (aka 1311 Mill Road), East Aurora, NY

Decision:

After due deliberation by the members of the Zoning Board of Appeals of the Town of Aurora, County of Erie and State of New York, the following motion was made by Davis Heussler and seconded by Mandy Carl to approve a special use permit with a one-year review for one hundred (100) meat chickens; twenty (20) hens; and a maximum of fifteen (15) pigs in a residential district; and to grant a front yard variance and a front yard setback variance of 68 feet for an accessory building in the front yard of the residence at 1301 Mill Road (aka 1311 Mill Road), East Aurora, NY.

The variance is granted in accordance with the testimony and exhibits presented.

Upon a vote being taken:

Heussler	Aye
Simeone	Aye
Carl	Aye
Morgan	Aye
Wrazen	Aye

Upon a vote being taken Ayes-Five Noes-No Motion carried.

EXHIBITS

November 17, 2022

**CASE #1424-Edward Fitzpatrick a/a/f Barbara Closs
1301 Mill Road (aka 1311 Mill Road), East Aurora, NY**

- Exhibit 1 Affidavit of Publication
- Exhibit 2 Affidavit of Posting
- Exhibit 3 ZBA Application
- Exhibit 4 Petitioners Letter of Intent
- Exhibit 5 Letter of Authorization
- Exhibit 6 Building Department Letter of Determination
- Exhibit 7 ECDP Response
- Exhibit 8 Short Environmental Assessment Form
- Exhibit 9 Copy of the Survey
- Exhibit 10 Aerial View of Property
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