



original

CASE NO. 1329-Review
DATE OF HEARING 3/19/2020

Town of Aurora Zoning Board of Appeals
300 Gleed 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 Lindsay Miner
Address 753 Mill Rd
City East Aurora State NY ZIP 14052
Phone 5 Fax _____ Email ll.com
Interest in owner/purchaser/developer

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

Property Owner(s) Name(s) _____
Address _____
City _____ State _____ ZIP _____
Phone _____ Fax _____ Email _____

III. PROPERTY INFORMATION

Property Address 753 Mill
SBL# _____
Property size in acres 1.1 Property Frontage in feet _____
Zoning District R Surrounding Zoning _____
Current Use of Property residential

IV. REQUEST DETAIL

(check all that apply)
 Variance from Ordinance Section(s) # _____
 Special Use Permit for: chickens
 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)

L. Miner
Signature of Applicant/Petitioner

Lindsay Miner
Print name of Applicant/Petitioner

State of New York; County of Erie

On the 14 day of FEB in the year 2020 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.

Martha Librock
Notary Public

(Notary stamp)

MARTHA L. LIBROCK
Notary Public, State of New York
No. 01LI5028312
Qualified in Erie County
My Commission Expires May 31, 2022

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)

TO keep chickens on our property as pets & for eggs.
They live in a room in the garage w/ access to fenced yard,
& ventilation fan.

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)

SUPERVISOR
James J. Bach
(716) 652-7590
jbach@townofaurora.com



TOWN CLERK
Martha L. Librock
(716) 652-3280
townclerk@townofaurora.com

TOWN OF AURORA
Southside Municipal Center
300 Glead Avenue, East Aurora, NY 14052
www.townofaurora.com

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historian@townofaurora.com

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NYS Relay Number:
1(800) 662-1220

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

January 27, 2020

Lindsay Miner
753 Mill Rd
East Aurora, NY 14052

Dear Ms. Miner,

Your special permit for chickens as granted by the Zoning Board of Appeals is over-due for a review, as required by the ZBA on 11/15/2018. Please complete the enclosed application and indicate in the appeal letter if there are any changes and return to our office no later than February 10, 2020. The signature must be notarized, and a Notary Public is available at Town Hall. Also note that since this is a review of an earlier case, you do not have to pay any additional fees.

If you have any questions regarding this letter, please call the office at 652-7591 or you can reach me directly on my cell phone 695-5194.

Sincerely,

Elizabeth Cassidy
Asst. Code Enforcement Officer

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

October 18, 2018

CASE #1329-Lindsay Miner
753 Mill Road, East Aurora, NY

The hearing was called to order by Chairman James Whitcomb with the following Board members present:

Albert Salter
Rod Simeone
Tony Rosati
Wayne Nowocin

Absent: Davis Heussler

Others Present: William Kramer, Code Enforcement Officer
Martha Librock, Town Clerk
Jolene Jeffe, Councilwoman
Elizabeth Cassidy, 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 SEQR Form was marked as exhibit 5. The Copy of the Survey was marked as exhibit 6. The Coop Specifications was marked as exhibit 7. The Short Environmental Assessment Form was marked as exhibit 8. The Copy of the Deed was marked as exhibit 9. The List of Abutting Property Owners was marked as exhibit 13.

The 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 to have chickens in a residential zone at 753 Mill Road, East Aurora, NY.

Miner Lindsay Miner 753 Mill Road.

Whitcomb Looking at exhibit 6 this is your property and you show where the coop will go will there be an area where the chickens will be penned up or is the entire yard fenced up?

ZBA #1329
10/18/18

- Miner The entire yard is fenced but the coop itself has a run.
- Whitcomb So there will be a run besides the entire yard in the back where the coop is to be?
How many chickens do you intend to have?
- Miner Yes and no more than six.
- Whitcomb Any roosters involved?
- Miner No, no thank you.
- Whitcomb You plan to have six chickens and plan to keep them in the coop on the backyard.
What do you intend to do with the waste?
- Miner Composting just to grow some vegetables.
- Whitcomb So it would be disposed of on site will the chickens be in at night?
- Miner Inside their coop.
- Whitcomb Do you have adjacent neighbors here?
- Miner There is a barn but he is a woodworker so that is his shop back there. If it helps
decibels of chickens is about 48 at one yard and a barking dog or lawn mower is
like 75 to 100 so they are pretty quiet.
- Whitcomb You did file a Short Form Environmental Assessment Form. What will the eggs
be used for?
- Miner Eating and giving to friends.
- Whitcomb You are not planning on selling any eggs or chickens?
- Miner No
- Whitcomb This is a Type II for purposes of SEQR. There are no national register of historic
places?
- Miner Not that I am aware of.
- Whitcomb You don't intent to move any soil? Disturb any ground other than to put up the
coop? No significant excavations?
- Miner No

ZBA #1329
10/18/18

Simeone I saw as I drove by there is metal fence behind your house like a rod iron, is that correct?

Miner Yes the side yard is fenced in separately and then the backyard is fenced in separately.

Simeone Is this going to be inside the fenced in area?

Miner Yes the coop will be in the side yard fenced in area on the far side of the garage so the farther from the house.

Simeone To the north of your house is a ravine is there a creek of anything there?

Miner I don't know if you would call it a creek I have only seen water after a significant amount of rain.

Simeone It's not a flowing creek?

Miner No water is there but it is probably about 5' deep and maybe 12' wide and it seems to fizzle out when the rain stops.

Rosati One other observation when we talked one on one because there is so much undeveloped land in the area I expect that there is going to be a lot of wildlife around to that extent I believe you mentioned that you were going to leave the chickens in the coop at night?

Miner Yes and I will have a special feeder so that the food is not exposed all the time. The weight of the chickens will trigger it so they will have to step on a panel and it will open a door for them to eat so rats and mice can't get at it.

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

October 18, 2018

CASE #1329-Lindsay Miner
753 Mill Road, East Aurora, NY

Whitcomb Is there any other comments from the Board? (No response). Is there anyone that would like to be heard on case #1329? (No response). Given this is a special use permit and an unlisted action for purposes of SEQR we will need to make a negative declaration and I move based upon the testimony and the review that we did of the short form assessment under SEQR and that we issue a negative declaration with respect to this application for a special use permit for the keeping of six chickens.

Salter Second

Whitcomb Is there any further discussion? (No response). I would note for purposes of this action that the petitioner testified that there will be droppings resulting from the chickens and that she plans to compost those and use them on her premises.

Upon a vote being taken:

Whitcomb Aye

Salter Aye

Simeone Aye

Rosati Aye

Nowocin Aye

Ayes-Five Noes-None Motion carried.

EXHIBITS

CASE #1329-Lindsay Miner
753 Mill Road, East Aurora, NY

- | | |
|------------|-------------------------------------|
| Exhibit 1 | Affidavit of Publication |
| Exhibit 2 | Affidavit of Posting |
| Exhibit 3 | ZBA Application |
| Exhibit 4 | Petitioner's Letter of Intent |
| Exhibit 5 | SEQR Form |
| Exhibit 6 | Copy of the Survey |
| Exhibit 7 | Coop Specifications |
| Exhibit 8 | Short Environmental Assessment Form |
| Exhibit 9 | Copy of the Deed |
| Exhibit 10 | List of Abutting Property Owners |

Town of Aurora Building Department
300 Glead Ave.
East Aurora, NY 14502
(716)652-7591

Building Permit Expiration 2nd Notice

Application/Permit#: 2019-0001

Issue Date: 01/02/19

Expiration Date: 01/02/20

Applicant: Miner Joshua
753 Mill Rd
East Aurora, NY 14052

Contractor: SELF
Material:
Estimated Project Cost: \$0.00
Square Feet: 0.00

Property:

Location: 753 Mill Rd
Tax Map#: 175.00-4-11
Class: 210
Front: 273.00
Depth: 175.00
Acres: 1.10
Lot:
Subdivision:
Zone:

Owner:

Miner Joshua M
753 Mill Rd
East Aurora, NY

Project Description : Special Permit - Chickens - ZBA #1329 (approval 11/15/18)
6 chickens (hens), No roosters
Reviewed in 1 year


This is to notify you that your building permit has expired on 01/02/20.

The permit is now VOID. If construction is complete, please call our office to schedule a final Building Department Inspection.

If construction is incomplete, the permit MUST be renewed. (application enclosed)

01/27/20

Date

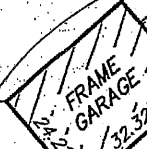
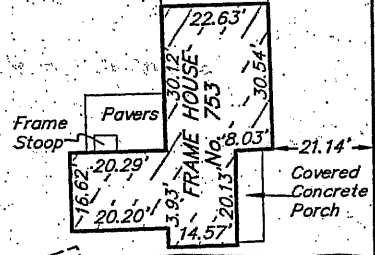

Code Enforcement Officer/Assistant Code

19847

PARALLEL WITH MILL ROAD

273.00'

PARALLEL



22020 PER PETITIONER - CHICKENS NOW IN GARAGE ROOM + FENCED AREA

FORMER CHICKEN COOP

Well

AREA = 1.1± ACRES

Drive 3.3' N.

Drive 3.4' E.

Crushed Stone Driveway

175.00'

Utility Pole 3.7' S. & 2.3' W.

Found Pipe 0.95' S.

Drive 10.0' S.

273.00'

(66' WIDE)

MILL

ROAD

(FORMERLY EAST AURORA - JEWETTVILLE ROAD) (A.K.A. MILL STREET)

INSTRUMENT(S) UTILIZED IN DETERMINING LOCATION OF BOUNDARY LINES: Liber 10910 Deeds P.3449

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED IN SAID ABSTRACT.

NOTE: PROPERTY CORNER MONUMENTS WERE NOT PLACED AS PART OF THIS SURVEY.

Case # 1329

Exhibit # 6

Date 10/18/18

Law

ZONING BOARD OF APPEALS
TOWN OF AURORA
DECISION

RE: APPEAL NO. 1329

A public hearing on the Application of Lindsay Miner, Petitioner, having been called before the Zoning Board of Appeals in the Southside Municipal Building, 300 Gleed Street, on the 18th day of October, 2018 after due notice published in the East Aurora Advertiser as prescribed in Section 267-a, Subdivision 7 of the Town Law and Section 116-61 F of the Code of the Town of Aurora, and November 15, 2018.

There were present:

James Whitcomb
Anthony Rosati
Albert Salter
Rodney Simeone
Davis Heussler
Wayne Nowocin (November 15, 2018)

The Secretary read the Notice of Public Hearing and the Affidavit of Publication which were duly marked as exhibits. Exhibits 1 and 2.

Petitioner seeks special use permit to keep up to six chickens at 753 Mill Road, SBL# 175.00-4-11 in an R-1 zone (the "Premises").

Petitioner appeared.

No one else appeared.

At a duly convened public meetings held on the 18th day of October, 2018 and the 15th day of November, 2018 and after said public meeting, the Zoning Board of Appeals finds as follows:

Findings

1. This is a Unlisted Action pursuant to Article 8 of New York State Environmental Conservation Law and the regulations promulgated thereunder, Part 617 of Title 6 of the New York Code of Rules and Regulations (SEQR).
2. Petitioner filed with her application a Short Environmental Assessment Form. Exhibit 8. The Board undertook review of this action pursuant to SEQR. As a result of that review, the Board has determined that granting Petitioner a Special Use Permit to raise up to 6 adult chickens in an R-1 zone (the "Project") will not have a significant adverse impact upon the

environment and that a negative declaration pursuant to SEQR may be issued and has been filed with this opinion.

3. This Petition was referred to the Erie County Division of Planning and it advised on October 19, 2018 that it had no recommendation on the proposed action and that it was a matter of local concern. Exhibit 5.
4. Petitioner proposes to raise up to six chickens at the Premises. Exhibit 3. The Town Code § 116-19(A) allows the Zoning Board of Appeals to grant permission to keep chickens in an R-1 zone on such conditions as it may require.
5. The Board will grant such applications upon finding as is the case here that the chickens are being kept for production of eggs for personal consumption, that the chickens will be kept in an enclosed coop and pen, that the chickens kept shall be limited in number, that the keeping of a rooster will not be allowed and that the Special Use Permit shall expire when the Petitioner no longer owns the Premises.
6. The Petitioner has stated that the eggs will be used for personal consumption, that the chickens will be enclosed in a coop, the number of chickens will not exceed six and that Petitioner will not keep a rooster. Exhibit 6. The Special Use Permit will expire when Petitioner no longer owns the Premises.
7. A Special Use Permit allows land uses on such requirements as to assure that the proposed use is in harmony with our zoning ordinances and will not adversely affect the neighborhood if such requirements are met. Applying the foregoing, the Board finds that the Special Use Permit subject to the conditions set forth herein are in harmony the Town Zoning Ordinances and will not adversely affect the neighborhood.

Albert Salter made a motion to grant Petitioner a Special Use Permit to keep up to six chickens at the Premises subject to the conditions set forth in this opinion.

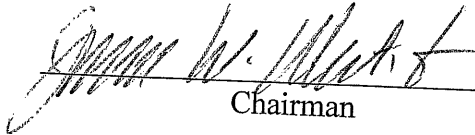
Davis Heussler seconded the motion.

On a roll call, the vote was

James Whitcomb	Aye
Anthony Rosati	Aye
Albert Salter	Aye
Rodney Simeone	Aye
Davis Heussler	Aye

RESOLVED, that the Special Use Permit applied for by Petitioner in her Application No. 1329 be and hereby is granted on the conditions set forth herein.

Dated: East Aurora, New York
November 15, 2018


Chairman

1329Miner

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)

I would like to keep 6-8 chickens in our backyard. I think it would be a great learning experience, responsibility for my two young girls. We intend to have them not only for the fresh eggs and compost material, but also as loved members of our family. They will be far from the road and only have access to their coop and our fenced (fully) yard on supervised occasions. We will have sexed females and have no plans to keep a rooster, therefore noise shouldn't be a concern.

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: N/A

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: I believe it will enhance the character. Neighbors will be able to visit, get eggs if they want, and it will teach our children the value of responsibility of caring for animals and their environment.

4) Is your need for a use variance a result of you own actions (is your difficulty self-created)? Please explain: NO

(Attach additional pages if needed)

Case # 1329
Exhibit # (4)
Date 10/18/18
scm

STATE ENVIRONMENTAL QUALITY REVIEW ACT
DETERMINATION OF SIGNIFICANCE

This notice is issued by the Zoning Board of Appeals of the Town of Aurora (“Board”), acting as lead agency, in an environmental impact review, pursuant to and in accordance with Article 8 of the New York State Environmental Conservation Law and the regulations promulgated under Article 8 and set forth at Part 617 of Title 6 of the New York Code of Rules and Regulations (collectively referred to as “SEQR”).

The Board has determined that granting Petitioners Lindsey Miner a Special Use Permit to keep up to six chickens at SBL # 175.00-4-11 in an R-1 zone (the “Project”) will not have a significant adverse impact upon the environment and that a negative declaration pursuant to SEQRA may be issued. Reasons supporting this determination are fully explained below.

Project Name: Special Use Permit to keep up to six chickens

SEQR Status: Unlisted

Project Description: Petitioners intend to keep up to six chickens at the Premises.

Location: Town of Aurora, County of Erie, State of New York SBL # 175.00-4-11 (“the Premises”).

Reasons Supporting This Determination:

1. The Board as Lead Agency conducting a review has considered the full scope of the Project.
2. The Board finds that keeping up to six chickens at the Premises will not have a significant impact upon the surrounding neighborhood or alter the essential character of the existing neighborhood. The Project is not in conflict with the Town’s current plans or goals.
3. The Premises is not used by the community as open space or recreation areas.
4. There will be no air emissions from the Project.
5. The Project will not substantially affect water discharges from the Proposed Site.
6. The Project will generate solid from the chickens which Petitioner will compost. No other solid waste will be generated from the Project.
7. The Project will not significantly alter the visual and/or aesthetic resources in the area of the Proposed Site and will not have a significant adverse visual impact upon the scenic quality of the landscape.

8. The Project will not result in the removal of any vegetation at the Proposed Site and will not affect plants and animals in and around the Proposed Site.
9. The Project is not substantially contiguous to, nor does it contain, a building, site or district listed on the State or National Registers of Historic Places, and thus will not have an adverse impact upon historic or archeological resources.
10. There are no anticipated changes in traffic flow from the Project.
11. The Project will not generate any unpleasant noise or odors.
12. There will be no adverse environmental impacts as a result of the Project.

For Further Information Contact: Zoning Board of Appeals
Town of Aurora
Southside Municipal Center
East Aurora, New York 14052
Attn: William Kramer,
Chief Building Inspector

MinerNegDec