

CASE NO. 1457

DATE OF HEARING 12/21/23

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 Point do Kress Address 3037 pauls Rd
City West Palls State NH ZIP 14/70
Phone Fax Email
Interest i
III. PROPERTY OWNER INFORMATION (If different from applicant information.)
Property Owner(s) Name(s) Donald KNSS Address 2037 DAVIS R
City West Pauls State Uy ZIP 14170
Phone Email nall. Com
III. PROP N
Property Address 2037 DAVIS Rd West Falls 44170 SBL#
Property size in acres 13.25 Property Frontage in feet 39.86 fut
Zoning District Surrounding Zoning
Current Use of Property Vesidental
IV. REQUEST DETAIL (check all that apply) Variance from Ordinance Section(s) # Special Use Permit for: Use Variance for: 7 ferce IN from To f House
Use Variance for: 7 fere introduce of House

PETITIONER'S LETTER OF INTENT

	7 Fast fence in Front of house on East & Durt
	- For privacy
	- For SARety (Children's Animals) - Keep area free from trash goverbage building maleri
	branches, put there by
	Mughsming residences.
то в	E COMPLETED ONLY WHEN A USE VARIANCE IS BEING REQUESTED:
A Use	e 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: <u>NOShbor Properties</u> Not up To foliage AND WOODS: Their LAWAS WHO USSASE WILL NOT CHANSE
_B,	ACT UP TO FOLINGE AND WOODS. Their LAWAS MAID USSASE WILL NOT CHANSE

the owner of the property, a separate owner author	rization form must be submitted – see pg. 5)
a plan	
Signature of Applicant/Petitioner	
DOMALD T Kress	
Print name of Applicant/Petitioner	
State of New York; County of Erie	
On the 30 Hay of Odobor in the year 2003 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.	
Notary Bublic SHERYLA MILLER	
Notary Public Reg. #01Mi6128663 Notary Public, State of New York	
Qualified In Erie County (Notary stamp) Commission Expires June 13, 20	
Office Use Only: Date received: 11 14 23 0	527 \$ 100 Receipt #: 891017 (APN)
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

V. SIGNATURES (This application must be signed by the applicant/petitioner. If the applicant is not

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:			
2037 OAUS PA West Falls My 1417 II, identified as Tax Map (SBL)#			
nereby authorizes Don hed Kness 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.			
Owner (print) Date 11/13/2023			
Owner (signature)			
STATE OF NEW YORK) SS			
COUNTY OF ERIE (HA)			
On this total day of total day, 2003, before me, the undersigned, a notary public in and for said state,			
personally appeared Nonald Kress , 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,			

KARIN L. DOJNIK
Notary Public, State of New York
Reg. # 01D06445148
Qualified in Erie County
Commission Expires December 12, 20

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

Submit this form with <u>full statement of proposed action</u> (as described in GML 239-m(c)) at <u>www.Erie.gov/IRonline</u>, 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:	

1 1			YS General Municipal Law §2391 - nn	
A Municipal Referral Map is available to help determine whether an applicable action is subject to referral.				
1. Name of Municipality:	Description of Proposed Action 1. Name of Municipality: Town of Aurora			
• •	provides that the county shall have 30 c	days often receipt of a full statement of	F the proposed action to raply	
However any county r	If the county fails to reply within suc	ch period, the referring body may take e days prior to final action by the refer	final action. rring body shall be subject to §239-m(5)	
2. Hearing Schedule:	Date 12/21/2023	Time <u>7:00pm</u> Loca	ation 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	e Ordinance Amendment	
☐ Site Plan	✓ Variance	☐ Special Use Permit	☐ Other:	
5. Location of Property:	☐ Entire Municipality	Address: 2037 Day	vis Rd, PO West Falls	
5a. S.B.L. of Property:	199.04-3-1			
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: (specify the action, such as the scope of variances or site plans) A fence in the front yard on this ODA lot requires the following variances: fence height, lot frontage and front yard setback.				
8. Other remarks:				
9. Submitted by: Martha	a Librock, Town Clerk	kemail:townclerk(@townofaurora.com	
10. Return Address: 575	Oakwood Ave., Eas	st Aurora, NY 14052		
	Reply to Municipality by	y Erie County Division of	f Planning	
Receipt of the above-desc submits its review and re submitted with this referr	ply under the provisions of	acknowledged on f applicable state and loca	The Division herewith Il law, based on the information	
1. The proposed a	ction is not subject to revie	ew under the law.		
2. Comment on pr	oposed action is attached h	hereto.		
3. The proposed a	ction is subject to review; F	Recommendation on Prop	oosed Action is attached hereto.	
4. No Recommend	4. No Recommendation; proposed action has been reviewed and determined to be of local concern.			
By the Division of Planni	ng:		Date:	

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



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

TOWN OF AURORA

Aurora Municipal Center

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

TOWN COUNCIL MEMBERS

Charles D. Snyder csnyder@townofaurora.com November 13, 2023

Luke Wochensky

Donald Kress 2037 Davis Road

James F. Granville jgranville@townofaurora.com

lwochensky@townofaurora.com

West Falls, NY 14170

Joseph M. McCann

Donald:

jmccann@townofaurora.com

SUPT. OF HIGHWAYS David M. Gunner (716) 652-4050

highway@townofaurora.com

The Building Department has reviewed your request to have a 7' height privacy fence in the front yard of property line at 2037 Davis Road (SBL 199.04-3-1). The request has been denied because it fails to meet the minimum height requirement for your R-2 zoning district.

CODE ENFORCEMENT

OFFICER Elizabeth Cassidy

Sections: 116-28

(716) 652-7591

Required: A fence shall not be over 3.5' high in the front yard

building@townofaurora.com

Requested: 7' high fence in the front yard along the northeast side of the property.

ASSESSOR

Roger P. Pigeon

Section 99-31A(2)

Variance: 3.5'

assessor@townofaurora.com (716) 652-0011

Required: Minimum of 75' frontage on an existing state, county, or Town road

DIR. OF RECREATION

Requested: 39.86' frontage

Christopher Musshafen (716) 652-8866 Variance: 35.14'

chris@townofaurora.com

Section 99-31A(5)

TOWN ATTORNEY Brigid M. Maloney Required: Minimum of 200' front yard setback for the dwelling

Requested: 59.25' front yard set back

Variance: 140.75'

TOWN JUSTICE

Jeffrey P. Markello Anthony DiFilippo IV

HISTORIAN Robert L. Goller (716) 652-7944 historian@townofaurora.com

FAX: (716) 652-3507

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.

This institution is an equal

opportunity provider and employer.

Sincerely

Asst. Code Enforcement Officer

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.

D (4 D) () O Y O Y		
Part 1 - Project and Sponsor Information		
Name of Action or Project:		
Project Location (describe, and attach a location map):		
Project Location (describe, and attach a location map):		
2037 DAVIS RU Brief Description of Proposed Action:		
Brief Description of Proposed Action:	***************************************	To Physics
Build 7' foot feace our property Deen	markers Sant	te Enst
of AND HOTTL OF HOUSE.		
1 1100-3		
Name of Applicant or Sponsor:	Telephone:	
Donaed Kress	E-Mail:	·l
. 11	/ /	`
Address: 2027 DAVIS Rd		
City/PO: West Falls	State:	Zip Code:
West Faces	Ny	14170
1. Does the proposed action only involve the legislative adoption of a plan, le	ocal law, ordinance,	NO YES
administrative rule, or regulation?	.1	
If Yes, attach a narrative description of the intent of the proposed action and may be affected in the municipality and proceed to Part 2. If no, continue to	the environmental resources	that
2. Does the proposed action require a permit, approval or funding from any		NO YES
If Yes, list agency(s) name and permit or approval:	other governmental rigency:	TO TES
3.a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed?	3,25 acres acres	
c. Total acreage (project site and any contiguous properties) owned	acres	
or controlled by the applicant or project sponsor?	acres	

4. Check all land uses that occur on, adjoining and near the proposed action ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Comm		uh)
	,	(Uail)
☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	(specify):	

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?			
b. Consistent with the adopted comprehensive plan?			
6. Is the proposed action consistent with the predominant character of the existing built or natural		NO	YES
landscape?			
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental At	rea?	NO	YES
If Yes, identify:		区	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?		NO	YES
r		区	
b. Are public transportation service(s) available at or near the site of the proposed action?		內	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed ac	tion?	X	
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:			
10. Will the proposed action connect to an existing public/private water supply?		NO	YES
If No, describe method for providing potable water:		12	
11. Will the proposed action connect to existing wastewater utilities?		NO	YES
If No, describe method for providing wastewater treatment:		ΓŹΙ	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic		NO	YES
Places? b. Is the proposed action located in an archeological sensitive area?		X	
5. Is the proposed action rotated in an archeological sensitive area.			
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contains an other waterholdies resulted by a federal state or level against 1	in	NO	YES
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:	1		
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check Shoreline Forest Agricultural/grasslands Early mid-success		apply:	
☐ Wetland ☐ Suburban ☐ Suburban	ionai		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed		NO	YES
by the State or Federal government as threatened or endangered?		Ø	П
16. Is the project site located in the 100 year flood plain?		NO	YES
17. Will the proposed action create storm water discharge, either from point or non-point sources?		NO	YES
If Yes, a. Will storm water discharges flow to adjacent properties? NO YES		Ø	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drain	ns)?		
If Yes, briefly describe:	,		
			

18. Does the proposed action include construction or other activities that result in the impoundment of	NO	YES
water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size:		
19. Has the site of the proposed action or an adjoining property been the location of an active or closed	NO	YES
solid waste management facility? If Yes, describe:	Ø	
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or	NO	YES
completed) for hazardous waste? If Yes, describe:		
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE I KNOWLEDGE Applicant/sponsor name: Down Ald Thress Signature: Down Ald Thress	BEST O	F MY

Zoning Board of Appeals
585 Oakwood Avenue
East Aurora. New York 14052

Dear members of Zoning Board of Appeals;

I am writing to seek a fence variant for my single family home at 2037 Davis Rd in West Falls, New York. Current Zoning rules say the fence in front of house should be 4 feet tall. I respectfully request to install a fence that is back yard height 6 feet in the front.

As you look at my zoning map you can see that the fence is approximately 50 feet left of the front of the house, I will not be moving into that area. I would like the fence to go from the point at Wanglers. To the end of property. Is quite grown in and wooded.

I would also extend the fence from the corner to the line north, west on my map. I colored it in red. I have discussed a fence to the neighbor on the North side of the property, mostly for privacy and to allow my dog to run out that way and not go into neighbor's yards.

My fence is far away from their houses. The appeals to extend the height in front of my house and the side. The fence going back to property line will be in zone.

Over the years I have come across debris and trash from people living in the area, I would like to limit that.

Respectfully Yours,

Daldi Zu Elyslet Trun

Donald J Kress

Elizabeth Kress



This Indenture,

Made the 27th

, Nineteen Hundred and Ninety-four

Between

ROBERT G. WETHERELL and SHARON P. WETHERELL, his wife 2037 Davis Road, West Falls, New York 14170

Grantor(s), and

DONALD J. KRESS and ELIZABETH F. KRESS, his wife 4293 Fairview, Blasdell, New York 14219

Grantee(s).

Witnesseth, that the said Grantor(s), in consideration of ----one and more------- Dollars (\$1.00 & more lawful money of the United States, paid by the Grantee(s), do hereby grant and release unto the Grantee(s), their heirs and assigns forever.

All that Tract or Jarcel of Tund, situate in the Town of Aurora, county of Erie and State of New York, being part of Lot No. 57, Township 9, Range 6 of the Holland Land Company's Survey, per attached Schedule "A".

655-5933

Same and the second state of the second state of the second secon



LN130 018-3-0

100211111 was the apparental	ces and an the estate and rights of the Orantorly in and to the said premises.
TO HAVE AND TO HOLD, the	above granted premises unto the said Grantee(s).
AND the said Grantor(s) do	covenant with said Grantee(s) as follows:
FIRST.—That the Grantee(s) shall	l quietly enjoy the said premises.
SECOND.—That the Grantor(s) u	will forever WARRANT the title to said premises.
THIRD.—Subject to the trust j	fund provisions of section thirteen of the lien law.
IN WITNESS WHEREOF, The year first above written.	said Grantor(s) ha we hereunto set their hands and seals the day and
IN PRESENCE OF	•
Robert S. Weltwell	
ROBERT G. WETHERELL	
SHARON P. WETHERELL	[LS.] [LS.]
,	Order Office desired Tester
STATE OF NEW YORK COUNTY OF ERIE) On this 27th day of July) ss. Nineteen Hundred and Ninety-four
	nd SHARON P. WETHERELL, his wife one to be the same person described in and who executed the within instrument,
STATE OF NEW YORK COUNTY OF) On this day of ss. Nineteen Hundred and
before me, the subscriber(s), personally	,
to me personally known and known to and he acknowledged to me the	me to be the same person described in and who executed the within instrument, at he executed the same.
	•
A	
Z	

田证证通

ROBERT G. WETHERELL and SHARON WETHERELL, his wife

g,

DONALD J. KRESS and ELIZABETH KRESS, his wife

DATED July 27

SCHEDULE "A"

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Aurora, County of Erie and State of New York, being part of Lot No. 57, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of Davis Road, also known as Aurora-Glenwood Road,

distant 244.20 feet northerly from the southeast corner of lands conveyed to Robert G. Wetherell and

Sharon P. Wetherell by deed recorded in Eric County Clerk's Office on June 22 1990 in Liber 10186 of Deeds at page 485, said point also being the northeast corner of lands conveyed to Robert E. Petrie by deed recorded in Erie County Clerk's Office on December 6 1990 in Liber 10242 of Deeds at page 429; running thence westerly along the north line of last aforementioned deed a distance of 301.28 feet to the northwest corner of said deed; thence southerly along the west line of said deed 120.00 feet to the southwest corner of said deed; thence southerly along a continuation of the west line of lands conveyed to Petrie by last aforementioned deed a distance of 99.38 feet to a point in the north line of lands conveyed to George Rengert and Irma his wife by deed recorded in Erie County Clerk's Office In Liber 1561 of Deeds at page 234; thence westerly along the north line of last aforementioned deed a distance of 822.92 feet to the easterly line of lands of the Baltimore and Ohio Railroad (formerly Buffalo Rochester & Pittsburgh Railway) by deeds recorded in Erie County Clerk's Office in Liber 464 of Deeds at page 261 and Liber 631 of Deeds at page 412; thence northerly along a curve to the right having a radius of 1913.19 feet and along the east line of last aforementioned deeds a distance of 539.44 feet to a point; thence continuing northerly along said deeds a distance of 306.43 feet to the northerly line of lands conveyed to David Wetherell and Mary R. his wife by deed recorded in Erie County Clerk's Office in Liber 3231 of Deeds at page 518; thence easterly along last mentioned deed a record distance of 735.06 feet and a measured distance of 735.17 feet to the southeast corner of lands conveyed to Waldemar L. Johnson by deed recorded in Liber 8145 of Deeds at page 449; thence southerly at a record interior angle of 90° 45' 17" and a measured interior angle of 90° 43' 45" a distance of 156.58 feet to the northwest corner of lands conveyed to Justin Francis by deed recorded. in Erie County Clerk's Office in Liber 9614 of Deeds at page 160; thence southeasterly along the westerly line of last aforementioned deed a distance of 100.90 feet to the southwest corner of said last aforementioned deed; thence easterly along the south line of last mentioned deed a record distance of 303.60 feet and a measured distance of 311.04 feet to the center line of Davis Road; thence southerly

along the center line of Davis Road a distance of 37,34 feet to the place of beginning.

33914 3 306.43

