

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS MEETING MINUTES**

APPROVED MINUTES

The following minutes are a written summary of the main points that were made and the actions taken at the Town of Farmington Zoning Board of Appeals meeting held on October 11, 2010.

Zoning Board of Appeals Members

Edward Hemminger --Chairman
Leslie O'Malley
Raymond Ward
Chris Dunfey
Gary Scribner

Board Officers

Floyd Kofahl --Code Enforcement Officer
Ron Brand --Director of Development

Also Present

Tomas Covert --6158 Doe Haven, Farmington, N.Y. 14425
Jon Stone --Ryan Homes
Kathryn Stein --1004 Hunts Park Road, Apt. 30C, Farmington, N.Y. 14425

Open Meeting

Edward Hemminger called the meeting to order at 7:00 pm. He explained the emergency evacuation procedures and rules of procedures of the meeting and stated that copies of the evening's agenda and legal notices were available on the table by the door. He then asked those present to sign in if they had not already done so.

Approval of Minutes

Gary Scribner made a motion to accept the August 23, 2010 meeting minutes and the motion was seconded by Leslie O'Malley. A voice vote was taken and the motion was passed with five (5) Ayes.

BOARD BUSINESS:

#ZB 1001-10 RYAN HOMES of NEW YORK AREA VARIANCE

The applicant is requesting an area variance to the provisions of Chapter 165, Article IV, Section 34.1., of the Farmington Town Code. The applicant wishes a side yard setback of 7.83 feet from the side property line to construct a single family dwelling on Lot #341, Section 3 South, of the Auburn Meadow Subdivision. The Town Code requires a minimum side yard setback of eight (8) feet. The property is located at 1681 Lillybrook Court and is zoned IZ Incentive Zoning District.

Edward Hemminger read the legal notice for #ZB 1001-10 that was published in the Daily Messenger on October 4, 2010 requesting the area variance.

John Stone of Ryan Homes of New York explained to the Board that the final instrument survey matches exactly the working survey. Somebody did make a mistake. Our Plot Plan shows that we adequately planned to have more space there. We weren't trying to put a home that was too large for the property on the property. Ultimately the mason missed by a foot and a half based on where the Plot Plan put the home and where it is and I would say in general, we tend to be accurate within a few inches and this is pretty unusual. I have reviewed the process with the principal, the owner of this company as well as the two crew foremen in the field to discuss specifically what happened and how to prevent it in the future. Basically they are to contact the crew foreman or myself if they have any concerns with the stakes that are out there. There are specific front lines and rear lines they are to go off when setting a home. That is all that I have unless you have questions for me.

Ron Brand explained that Ryan Homes notified us that they had done a survey and realized they had poured the foundation a few inches closer to the side yard setback than what was required. They asked what they should do and I advised them at the time that they should seek a variance, a setback variance because it would be part of the ongoing record. So they applied for the variance. In the meantime we have another application pending two doors down for relief of the Incentive Zoning requirements which the Town Board is deciding tomorrow night whether they retain the power to grant that relief or pass it on to the Zoning Board of Appeals. The question is a Use Variance because they have proposed something that is explicitly prohibited in this Incentive Zoning District. The question then is if the Town Board is going to retain the right to grant relief then that transfers to this Board not being able to grant this Area Variance tonight until it has been resolved.

Floyd Kofahl stated that it is directly related to Incentive Zoning and the Town Board granting Incentive Zoning specific to the incentives that we get for specific projects for specific density, etc. So they establish the rules and regulations under Incentive Zoning. My understanding is that under Incentive Zoning only the Town Board can grant relief. This falls under Incentive Zoning because those setbacks are part of the relief that they wanted for certain things for density, etc.

Edward Hemminger said I don't have a problem if the Town Board retains the relief authority and grant relief. We will process it the same as we would anything else but if they decide to keep it that is fine with us.

Chairman Hemminger announced that the Board will table this application pending the Town Board's decision to address this or pass it to the Zoning Board. Chairman Hemminger announced that this is a Public Hearing and asked if there is anyone present who wishes to speak for or against this application. No one responded. A motion was made by Leslie O'Malley and seconded by Raymond Ward to table the application until the October 25, 2010 meeting. There were five (5) Ayes.

Public Comments:

There were no Public Comments.

**Mr. & Mrs. Thomas Covert
6158 Doe Haven Drive
Farmington, N.Y. 14425**

#ZB 0701-10

AREA VARIANCE

The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 58 of the Farmington Town Code. The applicant wishes to locate an accessory structure, a 10 ft. by 20 ft. storage shed, two feet from the rear property line. The Town Code requires accessory structures to be located a setback of five feet from all property lines. The property is located at 6158 Doe Haven Drive and is zoned R-1-15 District.

Edward Hemminger read the legal notice for #ZB 0701-10 that was published in the Daily Messenger on July 19, 2010 requesting the area variance.

Chairman Hemminger announced that the Public Hearing was closed at the August 23, 2010 meeting.

Chairman Hemminger announced that this is a Continued Deliberation upon this application and asked if there were any Board comments. There were no Board comments.

AREA VARIANCE FINDINGS & DECISION

Leslie O'Malley made a motion to waive the reading of the SEQR Type II Resolution and Edward Hemminger seconded the motion. All present voted Aye.

Gary Scribner made a motion to accept the SEQR Type II Resolution and Edward Hemminger seconded the motion. All present voted Aye.

After discussion of the factors to be considered the Board found the the benefit to the applicant does not outweigh the detriment to the neighborhood or community, that the relief sought could be achieved by a feasible alternative, that the requested variance is substantial, that the requested variance would not have an adverse impact upon the physical or environmental conditions in the neighborhood, that the alleged difficulty was self-created.

After discussing the criteria for acting upon an Area Variance, Gary Scribner made a motion to accept the Area Variance Findings and Determination and Raymond Ward seconded the motion. The motion to deny was four (4) to one (1).

Public Comments:

There were no Public Comments.

Mr. & Mrs. Thomas Covert

#ZB 0703-10

AREA VARIANCE

The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 58 of the Farmington Town Code. The applicant wishes to locate an accessory structure, a 10 ft. by 20 ft. storage shed, three feet from the north side property line. The Town Code requires accessory structures to be located a setback of five feet from all property lines. The property is located at 6158 Doe Haven Drive and is zoned R-1-15 District.

Edward Hemminger read the legal notice for #ZB 0703-10 that was published in the Daily Messenger on July 19, 2010 requesting the area variance.

Chairman Hemminger announced that the Public Hearing was closed at the August 23, 2010 meeting.

Chairman Hemminger announced that this is a Continued Deliberation upon this application and asked if there were any Board comments. There were no Board comments.

AREA VARIANCE FINDINGS & DECISION

Gary Scribner made a motion to waive the reading of the SEQR Type II Resolution and Edward Hemminger seconded the motion. All present voted Aye.

Gary Scribner made a motion to accept the SEQR Type II Resolution and Leslie O'Malley seconded the motion. All present voted Aye.

After discussion of the factors to be considered the Board found that the benefit to the applicant does not outweigh the detriment to the neighborhood or community, that the relief sought could be achieved by a feasible alternative, that the requested variance is not substantial, that the requested variance would not have an adverse impact upon the physical or environmental conditions in the neighborhood, and that the alleged difficulty was self-created.

After discussing the criteria for acting upon an Area Variance, Gary Scribner made a motion to accept the Area Variance Findings and Determination and Raymond Ward seconded the motion. The motion to deny was four (4) to one (1).

Public Comments:

There were no Public Comments

Other Board Matters:

None

Director of Development Update:

Ron Brand told the Board that the Town of Canandaigua has reaffirmed its commitment to the Trails Project as did the City of Canandaigua. When we receive those commitments we will pass a resolution to go to the next step and start to prepare an RFP for proposals to do a feasibility study. Ron also told the Board that the Case Law updates are in their packets.

Code Enforcement Officer Update:

None

Next Meeting:

The next Zoning Board of Appeals meeting will be held on October 25, 2010. Gary Scribner made a motion to adjourn the meeting at 8:00 pm. Chris Dunfey seconded the motion. The motion was passed with a voice vote of five (5) ayes.

Minutes were respectfully submitted by Patricia Eddy, Clerk of the Board.