

**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 24, 2011.

**Zoning Board of Appeals Members**

Edward Hemminger                   --Chairman  
Leslie O'Malley  
Chris Dunfey  
Gary Scribner  
Ann Vu

**Town Staff Members**

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

**Also Present**

Dexter & Jennifer Howland   -1740 Maplewood Drive, Farmington, N.Y. 14425  
Jerry & Chris Bliss           -1740 Maplewood Drive, Farmington, N.Y. 14425  
John Shields                   -783 Wangum Road, Fishers, N.Y. 14453 (Pooler Development)  
Paul Gillette                   -2400 CR #28, Canandaigua, N.Y. 14424 (A Safe Place)  
John Keiffer                   -1390 Beaver Creek Rd., Farmington, N.Y. 14425 (Beaver Creek Storage)  
Gary Pooler                    -3510 Sandy Beach, Canandaigua, N.Y. 14424

**Open Meeting**

Edward Hemminger called the meeting to order at 7:00 pm. He explained the emergency evacuation procedures and rules of procedure 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 22, 2011 meeting minutes and the motion was seconded by Ann Vu. A voice vote was taken and the motion was passed with five (5) Ayes.

**BOARD BUSINESS:**

**DAVID RIEDMAN  
Farmington Storage, LLC  
45 East Avenue  
Rochester, NY 14604**

**#ZB 0801-11**

**AREA VARIANCE**

**The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 43. B. (1) ( c ) of the Farmington Town Code. The applicant wishes to continue to have a second ground sign to advertise the @home Builders Design Center. The Town Code allows for one two-sided ground business-identification sign per lot. The property is located at 6299 State Route 96 and is zoned GB General Business District.**

Edward Hemminger read the legal notice for #ZB 0801-11 that was published in the Daily Messenger on September 19, 2011 requesting an area variance.

Ron Brand stated that the County Planning Board has referral #165 of 2011 recommending denial pertaining to this application.

Chairman Hemminger announced that this is a Public Hearing and asked if there is anyone present who wishes to speak

for or against the application. No one responded. A motion was made by Edward Hemminger and seconded by Leslie O'Malley to keep the Public Hearing open until the November 28, 2011 meeting. There were five (5) Ayes.

## **RESOLUTION TO CONTINUE**

The Zoning Board does hereby agree to table their decision upon this application until their meeting on Monday, November 28, 2011 commencing at 7:00 p.m. at the Farmington Town Hall.

The above resolution was offered by Leslie O'Malley and seconded by Ann Vu. Following discussion thereon, a roll call vote was taken. There were five (5) Ayes.

Public Comments:

There were no Public Comments.

**JERRY BLISS**  
**1740 Maplewood Drive**  
**Farmington, NY 14425**

**#ZB 1001-11**

**AREA VARIANCE**

**The applicant is requesting an area variance to Article 5, Chapter 165-61 to the Town of Farmington Codes. The applicant wishes to erect an 8 foot high fence along south side property line, (a maximum of 6 feet is allowed). The property is located at 1740 Maplewood Dr. and zoned R-1-10 District.**

Edward Hemminger read the legal notice for #ZB 1001-11 that was published in the Daily Messenger on October 17, 2011 requesting an area variance.

Jerry Bliss stated that they are requesting an eight (8) foot high fence along a portion of the south side of the property which borders on a town park entrance road to Farmington Grove Park. That road was originally level with my property until the town raised the road which is now about three (3) to four (4) feet higher than my property. This causes my back yard to be in view of people going to the park and provides no privacy for us. An additional two (2) feet in height to the allowed six (6) feet to a fence would provide us with the desired privacy. The rest of the rear portion of the property will have a six (6) foot high fence. All the fencing will be a solid privacy fence.

Ron Brand confirmed with the applicant that the fence will be only eight (8) foot tall by the entrance to the park and the rest of the fence will be six (6) foot tall, the fence will be solid to provide privacy and will not be a chain link design, will be installed on existing grade, and applicant will obtain a building permit for the fence which will be installed entirely on the applicant's property and will be maintained by the applicant or subsequent owner.

Edward Hemminger read a letter addressed to the Zoning Board of Appeals in support of Jerry Bliss's application and signed by Rebecca Wrenn Jones.

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 Gary Scribner and seconded by Ann Vu to close the Public Hearing at the October 24, 2011 meeting. There were five (5) Ayes. The Public Hearing was closed at 7:15 pm.

## **AREA VARIANCE FINDINGS & DECISION**

Leslie O'Malley made a motion to waive the reading of the SEQR Resolution and Ann Vu seconded the motion. All present voted Aye.

Chris Dunfey made a motion to accept the SEQR Resolution and Leslie O'Malley seconded the motion. All present voted Aye.



Edward Hemminger read the legal notice for #ZB 1002-11 through #ZB 1006-11 that was published in the Daily Messenger on October 17, 2011 requesting the area variances.

John Shields stated that Mr. Gillette is looking to build a storage facility on Lot 2 of the Industrial Park. We met with the Planning Board but they are not able to act until we met with the Zoning Board for the variances. What is unique is that the two larger buildings are environment controlled buildings. These two buildings have interior doorways which fall outside the code as well as the size which also falls outside the code. The larger size is because of the interior corridor needed for the interior doorways. We are asking for relief from the forty (40) foot wide maximum to a sixty (60) foot wide for the two structures.

John Shields also stated that they are asking for relief to build fifty (50) square foot storage units within the two larger environment controlled structures and within the six cold storage structures. We are proposing ten (10) x five (5) square foot units on the edges of these buildings and within the environment controlled structures. The market research that Mr. Gillette has done shows a real need for the fifty (50) square foot units.

John Shields stated that they are also asking for relief from the front set-back. The Town Code requires a one hundred (100) foot set-back for a mini-storage unit facility in a LI District and we are asking for a eighty (80) foot set-back from Commercial Drive (the west side). If this was not a special permit situation then the front set-back requirement would be eighty (80) feet.

John Shields stated that they are also asking for relief from the definition of a mini-storage unit. The Town Code mentions the need for each storage unit to have its own separate outdoor access. This would not apply to the units that are along the inside of the interior of the climate controlled buildings. We are asking for a variance to allow those units to have individual access from the interior hallway.

John Shields stated that they are also asking relief for an offsite sign. The sign would be located at the corner of Commercial Drive and Collett Road. The size of the sign is within Code and we are just asking for relief from the location of the sign.

Floyd Kofahl read to the Board the Town's definition of a mini-storage unit related to each having its own outside access. Floyd stated his interpretation of the definition is that outside access means access outside any other mini storage unit and not accessed by way of any other mini-storage unit. Therefore, there is no need for an area variance as it is implied for ZB#1005-11.

Ron Brand told the Board that the two buildings that the variances are most needed for exceed the threshold for a Type I action and therefore are an 'unlisted' action. Because you have the Planning Board that needs to take action upon this application, there needs to be a coordinated review. Ron suggested that the Zoning Board let the Planning Board work with the applicant on mitigating the impacts of the site's development and discuss the intentions of the Board exactly where the Board is going to go with these variances that are being requested. This means that the Zoning Board cannot act tonight on these variances and that notice needs to be given to the Planning Board that they be designated as the lead agency. Once the Planning Board makes the determination of significance then the Zoning Board can take action on the requested variances.

John Keiffer told the Board that climate controlled buildings need to be the requested size but that the 50 foot size units are usually the ones that are vacant. The location is a secondary location. It is not on a thoroughfare which is critical.

Chairman Hemminger announced that this is a Public Hearing and asked if there is anyone else present who wishes to speak for or against these applications. No one responded. A motion was made by Edward Hemminger and seconded by Leslie O'Malley to keep the Public Hearing open until the November 28, 2011 meeting for #ZB 1002-11 through #ZB 1004-11 and #ZB 1006-11. There were five (5) Ayes.

The Zoning Board, at this time and without any additional information that most likely will be provided at the continued Public Hearing, has no objection to approving the variances. However, the Board pointed out that decision will be made once the Public Hearing is closed and when all the information is presented.

**RESOLUTION TO CONTINUE**

The Zoning Board does hereby agree to table their decision upon applications ZB 1002-11 through ZB 1004-11, and on ZB 1006-11 until their meeting on Monday, November 28, 2011 commencing at 7:00 p.m. at the Farmington Town Hall.

The above resolution was offered by Leslie O'Malley and seconded by Ann Vu. Following discussion thereon, a roll call vote was taken. There were five (5) Ayes.

#### **AREA VARIANCE FINDINGS & DECISION FOR #ZB 1005-11**

Mr. Hemminger stated that based upon the testimony presented by the Town Code Enforcement Officer at tonight's public hearing on the above referenced area variances that the Zoning Board of Appeals should not be considering this application for an area variance and, instead, be either affirming or disagreeing with the Code Enforcement Officer's interpretation made.

Ron Brand, agreed with the above statement and noted that interpreting an existing code, rule or regulation is defined as a Type II Action under the provisions of the State Environmental Quality Review (SEQR) Regulations. Therefore, the Zoning Board of Appeals could take action upon the interpretation question either affirming or disagreeing with the Code Enforcement Officer's interpretation made here tonight.

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

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

The Zoning Board of Appeals (ZBA), using the standard Area Variance Findings & Decision Form, made the following findings of the Factors Considered. The ZBA finds that the interpretation provided by the Code Enforcement Officer (CEO), at tonight's public hearing, that there is no area variance that is required for the two proposed climate controlled mini-storage warehouse structures is valid. The ZBA finds that each mini-storage warehouse unit will be independent of any other mini-storage warehouse unit and that all units will have either a common hallway access or individual access from the outside.

The ZBA also finds that the CEO has appropriately interpreted the intent of the mini-warehouse regulations and the definition of the term "Ministorage" as contained in the Town Code. Therefore, the ZBA finds that there is no need for the requested area variance. The ZBA also found that since there is no area variance being required, there is no requested variance that is substantial.

The ZBA finds that the proposed action is a Type II Action under the provisions of the SEQR Regulations and, thus, is precluded from environmental review.

The ZBA also finds that the alleged difficulty was not self-created. The ZBA noted that the Town regulations did not consider climate controlled mini-warehouse units having a common hallway serving independent units located within a mini-warehouse structure. The ZBA also found that industry standards for climate controlled units provide for a common hallway design and that each unit is restricted access by a double controlled point of access from the outdoors to the common hallway to the individual ministorage units.

Based upon the above factors the ZBA then found that the CEO's interpretation of the definition of the term "Ministorage" is acceptable to the Board and that no area variance is required for this element of the project. Edward Hemminger then made a motion to approve the ZBA's Findings and Determination upon this application and Gary Scribner seconded the motion. All present voted Aye.

Public Comments:

There were no Public Comments.

**Other Board Matters:**

None

**Director of Development Update:**

None

**Code Enforcement Officer Update:**

None

**Next Meeting:**

The next Zoning Board of Appeals meeting will be held on November 28, 2011. Gary Scribner made a motion to adjourn the meeting at 9:00 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.