

**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 26, 2009.

**Zoning Board of Appeals Members**

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

**Also Present**

|                           |         |  |
|---------------------------|---------|--|
| Floyd Kofahl              |         | -Code Enforcement Officer                      |
| Ron Brand                 | Excused | -Director of Development                       |
| Scott Maclean             |         | -6218 Buckskin Dr., Farmington, NY 14425       |
| Albert Crofton            |         | -111 Marsh Road, Pittsford, NY 14534           |
| Mae Robinson              |         | -Farmbrook Office Park, Farmington, NY 14425   |
| Eron Lyons                |         | -103 County Road 8, Farmington, NY 14425       |
| Frank & Samantha Vitalone |         | -5782 Allen Padgham Road, Farmington, NY 14425 |
| Ted Bauer                 |         | -5794 Allen Padgham Road, Farmington, NY 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 September 28, 2009 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:**

|                                  |                    |                      |
|----------------------------------|--------------------|----------------------|
| <b>Mr. &amp; Mrs. Eron Lyons</b> | <b>#ZB 1001-09</b> | <b>Area Variance</b> |
| <b>109 County Road 8</b>         |                    |                      |
| <b>Farmington, NY 14425</b>      |                    |                      |

**The applicant is requesting an area variance to Chapter 165, Article V, Section 58. A. of the Farmington Town Code. The applicants wish to construct an accessory structure located in the side yard portion of the lot. The Town Code requires all accessory structures to be located in the rear yard portion of a lot. The property is located at 103 County Road 8 and is zoned A-80 Agricultural District.**

Edward Hemminger read the legal notice for #ZB 1001-09 that was published in the Daily Messenger on October 19, 2009 requesting an area variance.

Eron Lyons stated that he is building a two car garage with a carport attached to it and if the garage was put in the rear portion of the lot it would need more extensive excavation and would be much more costly and in addition the driveway turnaround would have to be extended.

Ed Hemminger asked if Eron was attaching the garage to the house and Eron replied that he was not.

Floyd Kofahl told the Board that the application was in front of them solely because of a side yard vs rear yard and all other requirements have been met.

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 Leslie O'Malley to close the Public Hearing at the October 26, 2009 meeting. There were five (5) Ayes. The Public Hearing was closed at 7:06 pm.

### **AREA VARIANCE FINDINGS & DECISION**

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

Chris Dunfey made a motion to accept the SEQR Resolution and Raymond Ward seconded the motion. All present voted Aye.

After discussion of the factors to be considered the Board felt there would not be an undesirable change of the neighborhood or detriment to nearby properties, that the relief sought could not be achieved by a feasible alternative, that the requested variance is substantial, 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 variance, the Board approved the Area Variance Findings and Decision. Raymond Ward made a motion to approve the application and Leslie O'Malley seconded the motion. All present voted Aye.

### **Public Comments:**

There were no Public Comments.

### **BOARD BUSINESS:**

**Scott Maclean  
6218 Buckskin Drive  
Farmington, NY 14425**

**#ZB 1002-09**

**Area Variance**

**The applicant is requesting an area variance to Chapter 165, Article V, Section 62 of the Farmington Town Code. The applicant wishes to construct an above ground swimming pool sixteen (16) feet from the rear property line on a site that is defined as a Through Lot. The Town Code requires a fifty (50) foot minimum rear setback for a Through Lot. The property is located at 6218 Buckskin Drive and is zoned R-1-15 Residential District.**

Edward Hemminger read the legal notice for #ZB 1002-09 that was published in the Daily Messenger on October 19, 2009 requesting an area variance.

Scott Maclean told the Board that he wanted to put a pool in his back yard but with the deck he built he has run out of room in order to comply with the setback requirement. With the trees, it is hard to see into his back yard and there is no better place to put the pool, but because of the 50' setback rule he needs a variance.

Floyd Kofahl stated that the Town of Farmington Town Board approved a change to the Town Code for these "Through Lots". You can build in the back yard of a "Through Lot" but you have to meet the front yard setback for that zoning. The front yard is the driveway access point on the lot. The rear yard is the opposite side of the driveway entrance. The rear yard has to meet the front setback so as to blend in with that street's properties. This application's accessory structure does not meet that rear yard setback requirement and that is why it is in front of you tonight.

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 Raymond Ward and seconded by Leslie O'Malley to close the Public Hearing at the October 26, 2009 meeting. There were five (5) Ayes. The Public Hearing was closed at 7:10 pm.

#### **AREA VARIANCE FINDINGS & DECISION**

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

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

After discussion of the factors to be considered the Board felt there would not be an undesirable change of the neighborhood or detriment to nearby properties, that the relief sought could not be achieved by a feasible alternative, that the requested variance is substantial, the requested variance would not have an adverse impact in the neighborhood, that the alleged difficulty was not self-created.

After discussing the variance, the Board approved the Area Variance Findings and Decision. Leslie O'Malley made a motion to approve the application and Gary Scribner seconded the motion. All present voted Aye.

#### **Public Comments:**

There were no Public Comments.

#### **BOARD BUSINESS:**

**Albert Crofton  
111 Marsh Road  
Pittsford, NY 14534**

**#ZB 0901-09**

**Area Variance**

**The applicant is requesting an area variance to Chapter 165, Article V, Section 43. B. (1) of the Farmington Town Code. The applicant wishes to erect a second wall mounted sign on the exterior wall of an existing office building. The sign requested is 34-inches by 85-inches in size. The Town Code allows one identification sign on a parcel of land. The property is the Farmbrook Office Park, located at 1625 State Route 332 and is zoned GB General Business District.**

Edward Hemminger read the legal notice for #ZB 0901-09 that was published in the Daily Messenger on September 21, 2009 requesting an area variance.

A motion was made by Chris Dunfey and seconded by Gary Scribner to close the Public Hearing at the September 21, 2009 meeting. There were five (5) Ayes.

Floyd Kofahl told the Board that the most often granted sign variance is for an attached and free standing sign. Over the last three years one of those have never been turned down. What we are proposing to change is under Section 43 of the signs is to actually allow for a building mounted and a free standing pylon mounted sign. And that actually falls in line with the adjacent municipalities in this county as well as others.

Edward Hemminger asked if that would be the same for a multi use building where they could have signs above each business and one pylon sign, that is what the new code will say? Floyd replied yes.

### **AREA VARIANCE FINDINGS & DECISION**

Chris Dunfey made a motion to waive the reading of the SEQR Resolution and Raymond Ward seconded the motion. All present voted Aye.

Chris Dunfey made a motion to accept the SEQR Resolution and Edward Hemminger seconded the motion. All present voted Aye.

After discussion of the factors to be considered the Board felt there would not be an undesirable change of the neighborhood or detriment to nearby properties, that the relief sought could not be achieved by a feasible alternative, that the requested variance is substantial, the requested variance would not have an adverse impact in the neighborhood, that the alleged difficulty was self-created.

After discussing the variance, the Board approved the Area Variance Findings and Decision. Chris Dunfey made a motion to approve the application and Gary Scribner seconded the motion. All present voted Aye.

### **Public Comments:**

There were no Public Comments.

### **BOARD BUSINESS:**

**Vance Kannapel  
159 Honeysuckle Lane  
Farmington, NY 14425**

**#ZB 0505-09**

**Area Variance**

**The applicant is requesting an area variance to Chapter 165, Article V, Section 58. A. of the Farmington Town Code. The applicant wishes to construct an Accessory Structure (an 8 foot by 12 foot wooden storage shed) in the front yard portion of the Lot. The Town Code allows an Accessory Structure to be placed only in the rear yard portion of a Lot. The property is located at 159 Honeysuckle Lane and is zoned RS-25, Residential Suburban District.**

Edward Hemminger read the legal notice for #ZB 0505-09 that was published in the Daily Messenger on May 11, 2009 requesting an area variance.

Floyd Kofahl stated at the September 28, 2009 meeting that Vance Kannapel asked at the June 22, 2009 Town Meeting for us to postpone his request for an area variance and to put it on the agenda for the August

24, 2009 Town Meeting but we have not received a letter of withdrawal or any phone call from him asking to postpone it.

A motion was made by Leslie O'Malley and seconded by Raymond Ward to close the Public Hearing at the September 28, 2009 meeting.

The Board agreed to request that staff create a resolution to deny without prejudice.

#### **AREA VARIANCE FINDINGS & DECISION**

Chris Dunfey made a motion to waive the reading of the SEQR Resolution and Raymond Ward seconded the motion. All present voted Aye.

Gary Scribner made a motion to accept the SEQR Resolution and Chris Dunfey seconded the motion. All present voted Aye.

After discussion of the factors to be considered the Board does hereby deny the application on the grounds that the applicant, after having been provided several opportunities to appear before this Board to present his proof of practical difficulty as required under New York State Town Law, has failed to present any information upon which the Board could take no other action than denial without prejudice.

After discussing the variance, the Board approved the Area Variance Findings and Decision. Chris Dunfey made a motion to approve the application and Raymond Ward seconded the motion. All present voted Aye.

#### **Public Comments:**

There were no Public Comments.

#### **Public Comments: An informational informal open forum exploratory discussion:**

Frank Vitalone addressed the Board stating that they currently own 1.5 acres on Allen Padgham Road and would like a variance to have horses on their property. Ted Bauer would sell them whatever acreage they would need of his zoned RS 25 land. Frank stated that they would like to know ahead of time if they can get the variance before they buy the additional property from Ted Bauer and also pay for surveying costs.

Floyd Kofahl stated that their existing house and property is in the Neighborhood Business District. The property they are looking to purchase is in back of their existing property and is zoned RS25. They are interested in purchasing land in the RS25 and combining it with their existing land. They would then have a parcel that is in two zoning districts. They are proposing the horses and the barn in the RS25 and keeping the primary use, residence in the Neighborhood Business District.

Edward Hemminger asked how many horses they were looking to keep on the property and Samantha Vitalone replied they only have one now but may have at most four in the future.

Leslie O'Malley asked Floyd what happens when you add property from one zoning district to another?

Floyd Kofahl stated that it still stays in two different districts. The district lines do not go with the property lines. The Board will need to look at where the use is going to be and how it relates to the other use as far as which is stricter and which one you are looking at for an area variance.

Frank Vitalone said that many of the neighbors had signed agreeing to what they want to do.

Floyd Kofahl stated approval would be based on the area shown being equal to the acreage needed and that would be the map that would have to be filed to get the permit.

Leslie O'Malley asked if the five acres limit the number of horses they can have and Floyd answered no.

Edward Hemminger told Frank to apply for an application and the Board will consider the application.

**Other Board Matters:**

- a. The December meeting will be moved to the 21<sup>st</sup>.
- b. Information on the Local Government Workshop was distributed.

**Director of Development Update:**

None.

**Code Enforcement Officer Update:**

None.

**Next Meeting:**

The next Zoning Board of Appeals meeting will be held on November 23, 2009.

Edward Hemminger made a motion to adjourn the meeting at 7:55 pm. Raymond Ward 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.