

**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 November 22, 2010.

Zoning Board of Appeals Members

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

Board Officers

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

Also Present

Anthony Valenti ---Anthony's Apex Auto, Inc.
Virginia Beal ---Beal's Auto, Inc.
Hunter Dausinspeck ---5959 Barberry Lane, Farmington, N.Y. 14425
Richard Maruke ---1708 New Michigan Road, Farmington, N.Y. 14425
Mary Benson-Hartman ---82 Hook Road, Farmington, N.Y. 14425
Resident ---82 Hook Road, Farmington, N.Y. 14425
John Graziouse ---Gerber Homes

Open Meeting

Edward Hemminger called the meeting to order at 7:00 pm.

Approval of Minutes

Gary Scribner made a motion to accept the October 27, 2010 meeting minutes and the motion was seconded by Leslie O' Malley. A voice vote was taken and the motion was passed with four (4) Ayes.

BOARD BUSINESS:

**MARY BENSON-HARTMAN #ZB 1101-10 USE VARIANCE
82 Hook Road
Farmington, N.Y. 14425**

The applicant is requesting an use variance to the provisions of Chapter 165, Article VI, Section 20, of the Farmington Town Code. The applicant wishes to construct a 600 square foot addition to an existing dwelling that is to be used for an in-law apartment. The application is for a independent (or second) dwelling unit on a parcel of land. The Town Code allows for one principal dwelling per parcel of land. The property is located at 82 Hook Road and is zoned RS-25 Residential/Suburban District.

Edward Hemminger read the legal notice for #ZB 1101-10 that was published in the Daily Messenger on November 15, 2010 requesting the use variance.

John Graziose stated that it was their understanding that this addition meets all of the Town's current code requirements except for the fact that it has a small kitchenette and that is the determining factor between it being an addition to the home or an in-law addition. We are asking for a Use Variance to allow a small kitchenette in this addition. The addition is for Mary's parents who need some assistance. The addition is designed specifically for the family's use and is not intended for a rental unit. There is a shared laundry and common access so it is a complete separate design and future use would be for their own use. It is designed to be handicapped accessible. The kitchenette is critical to the family so they can have independence. This type of addition is becoming quite popular and there is a need in our society and towns to allow this type of zoning. There is plenty of room on the property for this addition. John proceeded to read a letter from Judy Maxim, a neighbor, approving the addition. John read and responded to the four proofs for a Use Variance.

Edward Hemminger asked John to submit the four proofs to the Board in writing.

Ron Brand stated that the requirements for a Use Variance are by state law and as such the Board must make its finding as to whether or not the action of the addition to the building will have an adverse effect on the environment. I have prepared an Environmental Assessment form for you to sign if the Board approves the Use Variance. I am uneasy for you to move forward since you have received information tonight that was not in your packet for your review and was not made available to the public. There are four very important tests that have to be met for a Use Variance. The Board has had other similar requests in other areas of the town and those have been withdrawn because of the difficulty proving the four criteria. If there is some way to reapply this so it is not an independent separate living unit that may be something to consider.

Floyd Kofahl informed the Board that this is a full working kitchen and as proposed this is two independent separate units meeting the definition of a duplex. This Board in its process has the ability to restrict and make it an in-law apartment and restrict it to specific uses as part of your approval process but understand that it is two self supporting units. They are in an RS 25 district and the principal uses are single family dwellings and do not allow duplexes.

Edward Hemminger asked Floyd what it was specifically that defines a kitchen and Floyd explained that it is a combination of things that make it self supporting. If the unit did not have a stove where they would be able to cook independently it would not be a self supporting unit. If they did not have the ability to cook it would be considered just an addition to the house. The Town Board would have to change the code to allow in-law apartments in your zoned area and right now the Code does not allow it.

John Graziose asked if they could build the in-law apartment with the ability to allow a stove in the future if the Comprehensive Plan allows it and Edward Hemminger replied yes as long as there is only an area left for it and no plumbing for it was put in.

John Graziose stated that they would be willing to withdraw their application and build the unit with the ability to put a stove in if the Comprehensive Plan allows it in the future.

Edward Hemminger stated that the Board will accept the withdrawal of the application and will look for a letter of withdrawal.

ANTHONY VALENTI
6146 NYS Route 96
Farmington, N.Y. 14425

#ZB 1102-10

AREA VARIANCE

The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 43. B. (2) c. of the Farmington Town Code. The applicant wishes to erect an additional commercial

speech ground sign identifying an individual business. The property is located at 6146 New York State Route 96 and is zoned GB General Business.

Edward Hemminger read the legal notice for #ZB 1102-10 that was published in the Daily Messenger on November 15, 2010 requesting the area variance.

Anthony Valenti explained that they are trying to create an identity for their business by erecting an additional commercial sign. Beal's business has been there for over fifty years and we need to have our own identity for our business. We can't put the sign on the building because it would interfere with Beal's sign. With the two external signs it does not go over the sixty four square feet limit. We basically are looking for a variance to create an identity of our own to differentiate our business from Beals.

Ron Brand stated that he did not prepare a resolution for this variance because Ontario County through their referral process has sent back a referral recommending denial. In order for this Board to override the County's recommendation of denial you would have to do it by a majority plus one vote. That means that all four of the members would have to be unanimous in your vote decision to override the County's recommendation. However, you have to have an overriding resolution first and then a resolution to approve the sign.

Floyd Kofahl told the Board that the combination of the two businesses is less than what the Code allows for the overall signage. The Code states that if you have two businesses in the building you can have your two signs on the building but a business cannot have both a sign on the building and an external sign. The Code does not require illumination of a sign but it is allowed. The location is also Code compliant so the only Code issue is that there are two business names on the same sign.

Ron Brand stated that Mr. Valenti's business is located in the rear portion of the building and can only access it from the west. The sign would have to be placed on the building where his business is. Therefore, the free standing sign provides the applicant a better opportunity to identify his service to the passing motorists in both directions as opposed to just one direction.

Leslie O'Malley stated that she feels it is very important that a business be identified and feels that in this particular case if the Board does have precedence she sees no problem in approving this variance.

Edward Hemminger stated that he did not have a problem with this application and the Planning Board did not have a problem with the sign. Gary Scribner also stated that he did not have a problem with the sign and neither did Chris Dunfey.

Chairman Hemminger stated that the Board will ask Staff to prepare a resolution overriding the County and with resolutions for both SEQR and for approval of the sign for the next meeting. We will continue the Public Hearing until the next meeting.

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 Edward Hemminger and seconded by Gary Scribner to keep the Public Hearing open until the December 20, 2010 meeting for Staff to produce the resolutions overriding the County, SEQR, and resolution of approval of the application. There were four (4) Ayes.

Public Comments:

There were no Public Comments.

Other Board Matters:

None

Director of Development Update:

1. We will need to look at what districts you would allow in-law apartments. We would not want to discourage the building of senior apartments.
2. We need to consider the in-law apartments in relation to taxing the septic system to the point where it might cost more to replace the septic system than is justified.

Code Enforcement Officer Update:

1. We would have to restrict the in-law apartments to that family use so they do not become rental duplexes.
2. We have to address the agenda for 2011 at the next meeting.

Next Meeting:

The next Zoning Board of Appeals meeting will be held on December 20, 2010. Leslie O'Malley made a motion to adjourn the meeting at 8:10 pm. Gary Scribner seconded the motion. The motion was passed with a voice vote of four (4) ayes.

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