

**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 28, 2011.

**Zoning Board of Appeals Members**

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

**Town Staff Members**

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

**Also Present**

William & Fay Marie Gardner   --7196 Gillis Rd., Victor, NY 14564  
Jerry Watkins                     --@Home Builders 45 East Ave., Rochester, NY 14604  
Adrian Bellis                     --104 Gannett Rd., Farmington, NY 14425  
Jay DeeWhiting                  --760 County Rd. # 8, Farmington, NY 14425  
Paul Gillette                     --2400 County Rd. # 28, Canandaigua, NY 14424  
John Shields                     --783 County Rd. #42, Fishers, NY 14450

**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 October 24, 2011 meeting minutes and the motion was seconded by Ann Vu. A voice vote was taken and the motion was passed with four (4) Ayes. Chris Dunfee was not present.

**BOARD BUSINESS:**

**MR. & MRS. HAROLD HERENDEEN           ZB 1101-11                           AREA VARIANCE**  
**880 COUNTY RD 8**  
**FARMINGTON, NY 14425**

**The applicants are requesting an area variance to the provisions of Chapter 165, Article IV, Section 25 of the Farmington Town Code. The applicants wish to subdivide a parcel of land that would have 122.56 feet of lot frontage. The Town Code requires a minimum of 150 feet of lot frontage. The property is located at 880 County Road 8 and is zoned A-80 Agricultural District.**

Edward Hemminger read the legal notice for #ZB1101-11 that was published in the Daily Messenger on November 21, 2011 requesting an area variance.

William Gardner told the Board that he feels the Herendeens have maintained a high standard in the community and believes that they would maintain the high standard. The land will be for farming with the possibility of putting a house on the land later.

Floyd Kofahl stated that the application is requesting a variance from a one hundred and fifty foot (150) down to a hundred and twenty two (122) feet. The reason it is 150 foot instead of the 300 foot is because we had a perk test done on the property to insure that they can have a standard 75 septic system. That is why we are after a reduction of the 150 feet. It is before the Planning Board for a one lot subdivision and there are a couple of changes they will be making. The Planning Board needs the variance approved for

or the frontage before they can proceed. If they decide later to build a house on the property they will at that time have to come before the Planning Board to get approval for a buildable lot. Right now they are looking to be approved as is for farming land and its use to be continued.

Ron Brand explained to the Board that when the survey land map and county records were examined we found that the access to this parcel is actually 115 feet wide and not 122.56 feet wide. In as much as that is the case, I would ask the Board to consider granting a variance based on the 115 feet frontage. The action is a Type II action under SEQR. I have drafted a resolution for your approval for the 115 foot variance and that would be a 23.4 % variance which makes it a minor variance. I have included two conditions in the drafted resolution for approval. One is for the surveyor to go back and show the frontage to be 115 or tell us why the subdivision map is wrong. Second we need to put a note on the drawing that no building permits to be issued for any structure until the DEC wetland boundaries are flagged. The state is in the process of coming out with new wetland maps.

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 Ann Vu to close the Public Hearing at the November 28, 2011 meeting. There were four (4) Ayes. The Public Hearing was closed at 7:13 pm.

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

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

Gary Scribner made a motion to accept the SEQR Resolution and Ann Vu 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 not substantial, 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 variance, the Board took formal action to approve the Area Variance Findings and Decision with the following conditions:

1. The Preliminary Plat Map is to be revised to show the 115 feet of frontage for proposed Lot #1 located along the west side of County Road 8.
2. There be a note added to the Preliminary and Final Plat Maps that reads "No Building Permit shall be issued for any structure on Lot #1 until the New York State Freshwater Wetland Boundary has been delineated, flagged and certified by a representative of the NYSDEC, or a biologist accepted by the NYSDEC. Then a Building Permit may be issued provided that the area of the lot involved is not first regulated by the NYSDEC."

Leslie O'Malley then made a motion to approve the application with the conditions and Ann Vu seconded the motion. There were four (4) Ayes.

Public Comments:

There were no Public Comments.

**FARMINGTON STORAGE  
DAVID RIEDMAN  
45 EAST AVENUE  
ROCHESTER, N.Y. 14604**

**ZB 0801-11**

**AREA VARIANCE**

**The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 43. B. (2) of the Farmington Town Code. The applicant wishes to have a second two-sided ground business-identification sign to advertise the Home Builders Design Center that is located on the Farmington Storage site. 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 stated that this is a continued Public Hearing from the October 24, 2011 meeting.

Jerry Watkins addressed the Board and stated that Farmington Storage has been in place for several years. Last year we opened up a design center on the property with displays for customers from our five subdivisions to be able to make all their choices in one place. When the building went up last year the sign also went up and we lost track of coming before you for the variance for the sign. We are asking to have two signs on the property, one for the storage units and one for the design center.



Chairman Hemminger announced that this is a Public Hearing and asked if there is anyone present who wishes to speak for or against these applications. No one responded. A motion was made by Gary Scribner and seconded by Leslie O'Malley to close the Public Hearing at the November 28, 2011 meeting. There were four (4) Ayes. The Public Hearing was closed at 7:33 p.m.

### AREA VARIANCE FINDINGS & DECISION

Edward Hemminger read the SEQR Resolution for ZB #1002-11, 1003-11, 1004-11, and 1006-11.

Edward Hemminger made a motion to accept the SEQR Resolutions and Ann Vu seconded the motion. All present voted Aye.

#### 332 INDUSTRIAL PARK, LLC

#### #ZB 1002-11

#### AREA VARIANCE

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 not substantial, the requested variance would not have an adverse impact upon the physical or environmental conditions in the neighborhood, and that the alleged difficulty was not self-created.

After discussing the variance, the Board took formal action to approve the Area Variance Findings and Decision with the following conditions:

1. There are to be only two (2) climate controlled mini-warehouse structures constructed as part of the mini-warehouse project to be located on Lot #2 of the 332 Industrial Park, LLC Site.
2. Each mini-warehouse structure shall not exceed sixty (60) feet in width.
3. No Building Permit shall be issued for these two (2) climate controlled mini-warehouse structures until Final Site Plan Approval and a Special Use Permit has been issued by the Planning Board.

Gary Scribner then made a motion to approve the application with the conditions and Leslie O'Malley seconded the motion. There were four (4) Ayes.

#### Public Comments:

There were no Public Comments.

#### 332 INDUSTRIAL PARK, LLC

#### # ZB 1003-11

#### AREA VARIANCE

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 not substantial, the requested variance would not have an adverse impact upon the physical or environmental conditions in the neighborhood, and that the alleged difficulty was not self-created.

After discussing the variance, the Board took formal action to approve the Area Variance Findings and Decision with the following conditions:

1. There is to be a total of 109 of the smaller sized mini-warehouse storage units (units having less than 100 square feet in area). Of this total, 108 mini-warehouse storage units shall have a minimum total area of fifty (50) square feet and one (1) mini-warehouse storage unit shall have a minimum total area of seventy-five (75) square feet as part of the mini-warehouse project to be located on Lot #2 of the 332 Industrial Park, LLC Site.
2. Each of the smaller sized mini-warehouse structures shall be located in the mini-warehouse structures and in the areas shown on the Preliminary Site Plan prepared by Pooler Development and identified as "Preliminary Site Plan Lot 2 – Collett Road Industrial Park."
3. No Building Permit shall be issued for these small sized mini-warehouse storage units until Final Site Plan Approval and a Special Use Permit has been issued by the Planning Board.

Edward Hemminger then made a motion to approve the application with the conditions and Gary Scribner seconded the motion. There were four (4) Ayes.

Public Comments:

There were no Public Comments.

**332 INDUSTRIAL PARK, LLC**

**# ZB 1004-11**

**AREA VARIANCE**

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 not substantial, the requested variance would not have an adverse impact upon the physical or environmental conditions in the neighborhood, and that the alleged difficulty was not self-created.

After discussing the variance, the Board took formal action to approve the Area Variance Findings and Decision with the following conditions:

1. The minimum front setback for each of the two proposed mini-warehouse storage buildings fronting along the east side of Commercial Drive shall be 80 feet.
2. To mitigate the visual appearance of the reduced front setback, the property owner shall maintain the entire frontage of the parcel as part of a lawn area.
3. No Building Permit shall be issued for the mini-warehouse structures until Final Site Plan Approval and a Special Use Permit has been issued by the Planning Board.

Leslie O'Malley then made a motion to approve the application with the conditions and Ann Vu seconded the motion. There were four (4) Ayes.

Public Comments:

There were no Public Comments.

**332 INDUSTRIAL PARK, LLC**

**# ZB 1006-11**

**AREA VARIANCE**

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, and that the alleged difficulty was self-created.

After discussing the variance, the Board took formal action to approve the Area Variance Findings and Decision with the following conditions:

1. The off-site commercial speech sign shall be placed on Lot #1, of the 332 Industrial Park, LLC, Site, in the manner shown on the Final Site Plan Approved by the Planning Board in December of 2011.
2. Said off-site commercial speech sign shall contain the names and street addresses only of existing uses of Lots #2 and #3 of the 332 Industrial Park, LLC, site. There shall be no advertising for Lot #1 being for sale on the subject off-site commercial speech sign. When Lot #1 is developed, then the off-site commercial speech sign shall be changed to identify the name of the use and street address only.
3. To mitigate the visual appearance of the off-site commercial speech sign, the property owner of Lot #1 shall maintain the entire frontage of the Lot #1 along Commercial Drive as part of a lawn area in the same manner as the owner of Lot #2, the mini-warehouse project, has committed to do.
4. Any illumination of the off-site advertising sign shall be internally lit. There shall be no flashing of any message on the sign face.
5. The off-site commercial speech sign shall be maintained at all times in accordance with the MTOD Landscaping Standards contained in the Town Code.
6. No Building Permit shall be issued for the off-site commercial speech sign until Final Site Plan Approval and a Special Use Permit has been issued by the Planning Board and a Certificate of Compliance/Occupancy has been issued by the Code Enforcement Officer for Lot #2, the mini-warehouse site.

Ann Vu then made a motion to approve the application with the conditions and Edward Hemminger seconded the motion. There were four (4) Ayes.

**Public Comments:**

There were no Public Comments.

**Other Board Matters:**

- a. The May and December meetings for 2012 fall on holidays and will need to be moved a week forward.

**Director of Development Update:**

- a. CVS may have variances for the December meeting.

**Code Enforcement Officer Update:**

- a. It appears that the Legislature will adopt that the facilities that have race tracks will be able to have tables in the gaming facility. They expect this something after February. The Farmington gaming and race track would then plan a five story hotel and front expansion.

**Next Meeting:**

The next Zoning Board of Appeals meeting will be held on December 19, 2011. Edward Hemminger made a motion to adjourn the meeting at 8:15 pm. Leslie O'Malley 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.