

**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 7/25/2011.

Zoning Board of Appeals Members

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

Town Staff Members

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

Also Present

Ron & Trish Mason --3 Forshire Lane, Rochester, NY 14623
Aleta Everhart --883 Crowley Road, Farmington, NY 14425
Mason Everhart --883 Crowley Road, Farmington, NY 14425
Eric Everhart --883 Crowley Road, Farmington, NY 14425
Rhonda Everhart --883 Crowley Road, Farmington, NY 14425
James MacDonald --1191 Mertensia Road, Farmington, NY 14425
Greg Atwood --5041 Shortsville Road, Shortsville, NY 14548

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

A motion to accept the July 11, 2011 meeting minutes will be held over to the August 22, 2011 meeting.

BOARD BUSINESS:

**STEVEN SNELL
58 Lored Road
Farmington, NY 14425**

#ZB 0702-11

Area Variance

The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 58. C. of the Farmington Town Code. The applicant wishes to erect a 120 square foot accessory structure on a site located within the Farmington Mobile Home Park. The Town Code requires a maximum of 100 square feet for an accessory structure that is located in a manufactured home park. The property is located at 58 Lored Road and is zoned RMF Residential Multiple-Family District.

Edward Hemminger read the legal notice for #ZB 0702-11 that was published in the Daily Messenger on July 18, 2011 requesting an area variance.

Floyd Kofahl explained to the Board that Mr. Snell has medical issues and cannot be present. Floyd told the Board that Mr. Snell had a shed donated to him and moved onto his site. Unfortunately he was not aware of any permit needed for the 120 square foot shed. He is on a limited income and finds himself in an awkward situation because to pay to move the shed is beyond his means. It is a 120 square foot shed and the Code allows for 100 square foot shed so it is a 20 percent increase.

Ron Brand stated that the fact that Mr. Snell was not aware of the situation does not make it grounds for not being self-imposed hardship. It is a Type II action under SEQR. Ron told the Board that the applicant has made significant improvements to the property as a result of the storage shed being available so he could store materials that would otherwise be outside and that helps to improve the character of the community at the Mobil Home Park.

James MacDonald, site manager for the Mobil Home Community, stated that he had no issues with the shed.

Gary Scribner asked the site manager if Mr. Snell should vacate that site what would be required of Mr. Snell to do with the structure and Mr. MacDonald stated that if it was in good standing we would ask him to leave it on the site. We would take possession of the shed and either take it down or leave it there for the next person to use it.

Leslie O'Malley asked if there was something on file stating that the park had no objection to the shed being on the site and Floyd stated that it was on file.

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 Gary Scribner to close the Public Hearing at the July 25, 2011 meeting. There were four (4) Ayes. The Public Hearing was closed at 7:10 pm.

AREA VARIANCE FINDINGS & DECISION

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

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

Public Comments:

There were no Public Comments.

BOARD BUSINESS:

**ERIC EVERHART
883 Crowley Road
Farmington, NY 14425**

#ZB 0703-11

USE VARIANCE

The applicant is requesting a use area variance to the provisions of Chapter 165, Article V, Section 54 of the Farmington Town Code. The applicant wishes to construct an additional principal structure (a second residence) on a parcel of land. The Town Code allows one principal structure on a parcel of land. The property is located at 883 Crowley Road and is zoned RR-80 Rural Residential District.

Edward Hemminger read the legal notice for #ZB 0703-11 that was published in the Daily Messenger on July 18, 2011 requesting the area variances.

Eric Everhart explained that they have twelve and a half acres of land and would like to provide an opportunity for his in-laws to have a small dwelling near them. That was the purpose of pursuing the Use Variance. The house would be near the road and have the appearance of being the next house on the road.

Ron Brand stated that this is a matter that has to be referred to the County because of its proximity to the Thruway. Until the County Planning Board meets we cannot take action. We can table the discussion and continue the Public Hearing until the August meeting. Ron explained what a Use Variance is and the difficulty in proving the five criteria.

Floyd Kofahl said he met with the applicant and went over the rules and regulations and I tried to discourage him. The applicant felt, given his situation, that it would be worth the effort to come in and try to get the Use Variance. So we did review all the issues and potential options for this.

Greg Atwood asked what the required proximity from the Thruway is and was told that it is a State law that requires five hundred feet from any property line.

Edward Hemminger explained how difficult it would be to get a Use Variance approved and suggested other options such as selling a parcel of the land.

Chris Dunfey stated that proving the four conditions for a Use Variance is very difficult when you are just trying to build an in-law place. Chris also recommended selling a parcel of the land.

Edward Hemminger explained to the applicant that the way the Code was developed in the Town of Farmington it does not allow two primary residences on one parcel of land. A Use Variance is a State requirement that the four proofs must be met.

Floyd Kofahl told the applicant that the process to sell a parcel of land starts with a Planning Board Application for a lot subdivision. You have a survey done which has to meet the criteria and receive final approval from the Planning Board and then you would have to submit it to the County.

Ron Brand strongly urged the applicant to check with the Town Assessor to see how his decision affects his assessed value. There are advantages to having a second parcel where seniors are given a tax break. The applicant really needs to consider all consequences for which way he decides to go.

Chairman Hemminger announced that the Board will table their decision upon this application and continue the Public Hearing until the August 22, 2011 meeting.

RESOLUTION TO CONTINUE

The Zoning Board does hereby agree to table their decision upon this application until their meeting on Monday, August 22, 2011 commencing at 7:00 p.m. at the Farmington Town Hall.

The above resolution was offered by Edward Hemminger and seconded by Gary Scribner. Following discussion thereon, a roll call vote was taken. There were four (4) Ayes.

Public Comments:

There were no Public Comments.

GREG ATWOOD
5041 Shortsville Road
Shortsville, NY 14441

#ZB 0704-11

Area Variance

The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 58. A. of the Farmington Town Code. The applicant wishes to erect four grain storage bins (accessory structures) that are to be located within the front yard portion of his land. The Town Code requires accessory structures to be located in the rear yard portion of the land. The property is located at 5041 Shortsville Road and is zoned A-80 Agricultural District.

Edward Hemminger read the legal notice for #ZB 0704-11 that was published in the Daily Messenger on July 18, 2011 requesting the area variances.

Greg Atwood explained to the Board that he wishes to put four storage bins alongside the existing driveway. The reason for the location is simply because the existing driveway and the utilities are already there.

Ron Brand asked Greg Atwood if the Area Variance was not granted and he was forced to put the storage bins behind the house, would the culvert that is there be able to sustain the weight of the grain trucks. Greg replied that because the culvert would not be able to sustain the weight is why he is requesting the Area Variance to put the storage bins in the front yard portion of his land. Greg stated the other reason is because the tractor trailers have a difficult time backing up the long driveway. Ron Brand told the Board that Greg Atwood is asking for a variance to allow four storage bins with each bin being twenty feet in diameter and at most thirty feet in height. Ron asked Greg if there would be any noise generated as a result of any drying operation.

Greg Atwood replied that there could be noise and dust as a result of the drying process.

Ron also asked how close would the nearest dwelling be to the storage bins and Greg replied about one hundred and eighty feet and that he had already talked to that neighbor and have agreed to move the bins closer to the south as much as possible.

Ron Brand advised the Board to find out what the locations are of the storage bins, how far from the highway line and how far from each property line. We need something in the record to show where the dimensions are that the Board agreed to.

Edward Hemminger stated that the Board by law is required to grant the minimum variance required to accomplish the goal.

Floyd Kofahl stated that one of the things the Board should be aware of is there was a variance granted when the house was built for a building structure in front of the house. Grain bins are U Occupancies and have to meet fire codes and zoning codes.

Edward Hemminger asked Greg Atwood if he wanted the variance for the grain bins to go sixty feet to the road, one hundred feet to the eastern side property line, and fifty feet to the western side property line. Greg Atwood replied yes.

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 July 25, 2011 meeting. There were four (4) Ayes. The Public Hearing was closed at 8:00 pm.

AREA VARIANCE FINDINGS & DECISION

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

Edward Hemminger made a motion to accept the SEQR Resolution and Leslie O'Malley 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 took formal action to approve the Area Variance Findings and Decision . Edward Hemminger then 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.

Other Board Matters:

None

Director of Development Update:

a. None

Code Enforcement Officer Update:

a. CVS will be requesting a variance in the near future.

Next Meeting:

The next Zoning Board of Appeals meeting will be held on August 22, 2011. Leslie O'Malley made a motion to adjourn the meeting at 8:40 pm. Chris Dunfey 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.