

**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 July 26, 2010.

Zoning Board of Appeals Members

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

Board Officers

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

Also Present

Pamela Covert --6158 Doe Haven Drive, Farmington, NY 14425
Martin & Jennifer Glieco --6160 Doe Haven Drive, Farmington, NY 14425
Steve & Janice Cascini --1449 Windsor Circle, Farmington, NY 14425
Mary Neale --6032 County Road 41, 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

Leslie O'Malley made a motion to accept the June 28, 2010 meeting minutes and the motion was seconded by Edward Hemminger. A voice vote was taken and the motion was passed with three (3) Ayes. Gary Scribner and Raymond Ward abstained since they were not in attendance at the meeting.

BOARD BUSINESS:

**Mr. & Mrs. Thomas Covert #ZB 0701-10 AREA VARIANCE
6158 Doe Haven Drive
Farmington, N.Y. 14425**

The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 58 of the Farmington Town Code. The applicant wishes to locate an accessory structure, a 10 ft. by 20 ft. storage shed, two feet from the rear property line. The Town Code requires accessory structures to be located a setback of five feet from all property lines. The property is located at 6158 Doe Haven Drive and is zoned R-1-15 District.

Mr. & Mrs. Thomas Covert

#ZB 0703-10

AREA VARIANCE

The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 58 of the Farmington Town Code. The applicant wishes to locate an accessory structure, a 10 ft. by 20 ft. storage shed, three feet from the north side property line. The Town Code requires accessory structures to be located a setback of five feet from all property lines. The property is located at 6158 Doe Haven Drive and is zoned R-1-15 District.

Edward Hemminger read the legal notice for #ZB 0701-10 and #ZB 0703-10 that was published in the Daily Messenger on July 19, 2010 requesting the area variances.

Pamela Covert told the Board that her husband wanted a bigger shed so he replaced the smaller one that was there. She also stated that her husband was in the hospital and was not able to be present.

Martin Glieco said they had recently purchased property adjacent to the Coverts and wanted to voice his support for their request.

Floyd Kofahl stated that this came to us on a complaint call about the shed and when we went out and looked we found there had been a 10x20 foot shed placed on the property. In reviewing the file and looking for the shed permit we found there was never a shed permit issued for this property. So we contacted the applicant and explained that the shed would have to be moved and a permit applied for the shed. Then we reviewed the situation with the applicant and the applicant stated that he wanted to come in for a variance instead of moving it into compliance with the Town Code's 5 (five) foot setback. What you have is two applications because it is in the corner of the property and will need a rear setback variance and a side setback variance. The site plan shows there are two easements. One was a sewer easement on the side property line and was abandoned two years ago. So this easement is not an issue. The rear easement is the storm sewer drainage easement and that one is still in existence and runs five feet onto each property line. However the Highway Superintendent did not have an issue with the location of the shed because of the type of drainage easement that it is. The Building Department's position is to support the code for obvious reasons, permission for a shed was never granted and there is reasonable validity to put it in compliance with the Code. With these situations we support the existing code and ask the Board to support the findings.

Ron Brand stated that when the drainage easement was created it prohibited the placement of any structures that would impede any surface water drainage flows through the area. While there may not be a drainage problem today there may be one in the future and the Town would then have to go in there and move that structure to do the necessary work and it would be an unnecessary burden on the Town if this Board were to grant the variance. The Planning Board made this easement a condition of their Final Subdivision Plat approval at the recommendation of the Town Engineer. If this easement is going to be ignored then the Planning Board should amend the Final Plat map by removing the drainage easement.

Steve Cascini told the Board that he has lived there for 25 years and has never seen anyone from the Town back there looking at those easements and has never had a problem. He does not have a problem with the shed.

Edward Hemminger stated that the charge of the Zoning Board is to grant the minimum variance required to meet the needs of the situation. What is the minimum variance needed to meet the situation.

Ron Brand stated that he thinks the fact that there has not been any Town Officials out there looking at the easements and checking for drainage problems is evidence of the fact that keeping of those areas open has worked and therefore something this Board has to keep in mind.

Pamela Covert said there are many property owners in the area that obviously are not to Code either.

Edward Hemminger said we do not have the ability to take that into consideration other than that is the nature of the neighborhood. We have to look at the minimum variance for this situation as it fits. This is what we are charged to do.

Ron Brand said the other issue that you have to look at is the practical difficulty of complying with the Code. Is there something on the property that would preclude the applicant from placing the structure on the property in a manner that would comply with the setbacks from the property lines?

Edward Hemminger asked if there is anything that would preclude moving the shed to the authorized requirements of moving the shed two feet one way and three feet the other way.

Pamela Covert said there is a tree next to the shed on the side.

Edward Hemminger said you could move it three feet forward.

Floyd Kofahl stated that based on the code there are places on the property where it could be in compliance.

Steve Cascini asked if the cost to get the structure into compliance be taken into consideration.

Edward Hemminger said the cost would be zero until the application was filed properly and the proper building request was done. We do take it into consideration.

Ron Brand asked if there was a building permit for this structure.

Edward Hemminger stated that as far as we know there was no building permit requested so the answer is no.

Ron Brand asked if we assume the structure is 10x20 feet.

Pamela Covert said her husband is a contractor and this is what he does for a living and he says it is a 10x20 foot shed.

Floyd Kofahl said we can't issue a building permit until a variance is approved because it is already built.

Ron Brand told the Board that you wouldn't want to approve a variance for a 10x20 foot structure then find out it was not a 10x20 foot structure.

Edward Hemminger stated that there are a couple of issues that bother him about this at this point. We don't have any input on what it would take to move this shed into compliance and why this shed could not go someplace else on the lot where it would be in compliance then you could withdraw your variance request and get a building permit. At this point I would request that the applicant and the Code Enforcement Officer review and come up with alternatives and costs. Next month we could make a better decision based on more facts. We would need the information to staff by August 17 or 18 in order to include it in our packets for 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 these applications. No one responded. A motion was made by Gary Scribner and seconded by Leslie O'Malley to keep the Public Hearing open and to continue it at the August 23, 2010 meeting. There were five (5) Ayes.

Public Comments:

There were no Public Comments.

Erik Carvotta
765 Weigert Road
Farmington, N.Y. 14425

#ZB 0702-10

AREA VARIANCE

The applicant is requesting an area variance to the provisions of Chapter 165, Article IV, Section 55 of the Farmington Town Code. The applicant wishes to keep four dogs on his 2.9 acre property. The Town Code requires a minimum of five (5) acres of land for the keeping of animals on any nonfarm residential premises. The property is located at 765 Weigert Road and is zoned A-80 Agricultural District.

Edward Hemminger read the legal notice for #ZB 0702-10 that was published in the Daily Messenger on July 19, 2010 requesting the area variance.

Edward Hemminger stated that the applicant is not present.

Floyd Kofahl stated that with the dog census this applicant came in to license all four dogs. Whenever it is four or more we follow up with a letter and conversation with the owners of the property to resolve. This person is living there but his parents own the property. His parents sent a letter saying they wouldn't have a problem with him having a Kennel on the property for the four dogs. The issue for this Board is that the Planning Board is looking at the site plan for a special use for a kennel. This Board is looking at it because it is only 2.9 acres where a kennel is required to have five acres.

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 Raymond Ward to keep the Public Hearing open and to continue it at the August 23, 2010 meeting. There were five (5) Ayes.

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 August 23, 2010. Edward Hemminger made a motion to adjourn the meeting at 8:00 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.