

**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 August 23, 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

Ralf & Vicki Sosnowski --1130 Jensen Court, Farmington, N.Y. 14425
Nancy Kingsley --5904 King Hill Drive, Farmington, N.Y. 14425
Tom & Pam Covert --6158 Doe Haven, Farmington, N.Y. 14425
Erik Carvotta --765 Weigert Road, Farmington, N.Y. 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 July 26, 2010 meeting minutes and the motion was seconded by Raymond Ward. A voice vote was taken and the motion was passed with five (5) Ayes.

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 notices for #ZB 0701-10 and #ZB 0703-10 that were published in the Daily Messenger on July 19, 2010 requesting the area variances.

Edward Hemminger stated that this is a continued Public Hearing from the July 26, 2010 meeting.

Tom Covert stated when they moved in to their home there was an existing metal shed at that location built on a platform. The shed was old and rotten and it was an eye sore to the neighbors. So I tore it down and built off from the existing platform that was underneath it. I was stopped by the building inspector and told I needed a permit so I came over that afternoon and got the paperwork going and found out it was too close to the fence line. It is already built, is too heavy to move, it has posts in the ground and it would take heavy equipment to move it. I am as close to the trees as I could get. I didn't realize I was wrong about the boundary line because there was an existing shed there.

Pam Covert said Floyd Kofahl verified the measurements of the shed, as you asked us to do, and verified it as 10 feet by 20 feet. You asked at the last meeting why we couldn't locate it at any other point in the yard and I made some points to that at the previous meeting. We did have someone give us an estimate to move the shed but he failed to provide us with any documentation. We called him twice and he said he would send us an email but he never did.

Edward Hemminger stated that the Board did receive photos from the applicant and have the points made by Pam Covert at the previous meeting on record. Ed recapped all those points.

Floyd Kofahl addressing the other neighbors with sheds stated that one neighbor did receive a variance for the shed but that was the only variance granted. With that being said, the way the Code states, if this had gone through the proper procedures there would have been places where you could have put the shed before it was put where the structure is today. Before the shed was built there were areas where the shed would have been in compliance at the time.

Leslie O'Malley asked if the Board had received any complaints about the shed and Floyd Kofahl replied that the Board had received one complaint and that is how its location was disclosed.

Floyd Kofahl stated that his position is to support the Code.

Tom Covert told the Board that if he had known he was not in compliance with the Code he would not have gone through with building the shed. Now the shed is built and I don't have \$3000 to move the shed. The neighbors approve of the shed.

Edward Hemminger told Tom that the Board has to take into consideration all possible future neighbors as well as the current neighbors.

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 Chris Dunfey and seconded by Gary Scribner to close the Public Hearing at the August 23, 2010 meeting. The Public Hearing was closed at 7:25 pm. There were five (5) Ayes.

RESOLUTION TO CONTINUE

After discussion of the factors to be considered the Board of Appeals has requested Staff to provide additional information on the area variance granted for an accessory structure on a lot nearby this one to be provided to the Board prior to its' next scheduled meeting on September 27, 2010 to permit the Board members the opportunity to review the public hearing record. The Board also asked Staff to draft a resolution, coordinate with the Town Attorney and send it to the Board prior to the next meeting to permit the Board to come to the meeting prepared to address the resolution. The Board of Appeals does hereby move to table the application and to continue deliberations upon the application at its' next meeting scheduled for Monday, September 27, 2010.

The above Resolution was offered by Leslie O'Malley and seconded by Chris Dunfey, at a regular scheduled Zoning Board of Appeals Meeting held on Monday, August 23, 2010. All present voted Aye.

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 this is a continued Public Hearing from the July 26, 2010 meeting.

Erik Carvotta stated that we previously had three dogs and adopted another one. When we went to the Town Clerk's Office to get the dog licenses we found out we were suppose to have only three dogs so now we are going through this process so we don't have to get rid of one of the dogs.

Floyd Kofahl said the Town Code's definition of a kennel is any premises from which four or more dogs, four months old or older, are kept, where the dogs are bred and/or boarded. Part of this is where the dogs are kept. These are owned dogs not your agricultural definition of kennel. They are not boarding or breeding dogs for show or profit. The part of the Code stating, "where they are kept", is key to it being called a kennel. The reason that this application is before this Board is because of the co-definition, "where they are kept," requires you to have five acres.

Edward Hemminger asked Ron Brand what it would require of this Board to convert this zoning application into a temporary use permit.

Ron Brand replied that it would take a new application by the applicant with a recommendation to waive what he has already paid for the area variance to be applied toward the Temporary Use Permit. The Town Board would have to officially waive that but I am sure they would.

Gary Scribner stated that the Temporary Use Permit is a two year permit with an opportunity to renew once for up to five additional years.

Ron Brand told the Board the Temporary Use Permit process would allow the Board to accumulate other similar applications and gather information where the Board might be able to come up with some commonality as to minimum acreages for criteria to allow dogs that are not being kept for show or breeding purposes. Specify it as an accessory use allowed in RR80 district. The interpretation of a kennel that

caused it to come here for an area variance was for the size requirement of five acres and that could no longer be necessary, if amended by the Town Board.

Leslie O'Malley noted that the current Town Code exempts customary household pets from the four or more rule for requiring a variance. Dogs are customary household pets. The Code Enforcement Officer read the Code carefully and agreed to change his interpretation. However, he pointed out, there is still an issue about having four or more dogs. A Special Use Permit is required but the Planning Board has a concern because this would allow future owners of the land to keep four dogs. A Temporary Use Permit would allow the applicant to keep the present four dogs for seven years.

Edward Hemminger explained to the applicant that the Code Enforcement Officer withdrew your application because there is no zoning issue as it relates to the acreage. The next step is that you go to the Planning Board to withdraw your applicatin for a Special Use Permit and return to the ZBA for a Temporary Use Permit instead. The Board will ask the Town Board to waive the additional fee since you already paid the fee for a variance.

Ron Brand said we feel this is a better solution to address this issue.

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 Leslie O'Malley to close the Public Hearing based upon the finding that the application was withdrawn by the Code Enforcement Officer and the applicant would be making application for a Temporary Use Permit. The Public Hearing was closed at 7:45 pm. There were five (5) Ayes.

Ralf Sosnowski
1130 Jensen Court
Farmington, N.Y. 14425

#ZB 0801-10

AREA VARIANCE

The applicant is requesting an area variance to the provisions of Chapter 165, Article IV, Section 35. A. of the Farmington Town Code. The applicant wishes to construct an open porch roof over an existing patio area with a fifteen foot, four inch (15', 4") rear yard setback. The Town Code requires a minimum rear yard setback of thirty (30) feet. The property is located at 1130 Jensen Court and is zoned R 7.2 Planned Subdivision District.

Edward Hemminger read the legal notice for #ZB 0801-10 that was published in the Daily Messenger on August 16, 2010 requesting the area variance.

Edward Hemminger announced that Ralf Sosnowski is his neighbor and that he has no financial involvement in this project.

Ron Brand asked Edward Hemminger if there is anything involved that would preclude you from making an unbiased decision on this application and Edward replied that there is none.

Ralf Sosnowski said currently we have a 20 (twenty) foot by 20 (twenty) foot patio out back and we want to put a porch roof over it to provide some shade. We don't have any natural shade in that part of our neighborhood. With the sun it is very warm and we want to provide some shade.

Floyd Kofahl said I did go out and measure to verify the measurement of the property line and we are looking at less than a 50 % request. There is a fence out there and it is a single story house and there is quite a bit of separation in the back and a surface patio in the back. The Code requires 30 (thirty) foot rear setback and this is attached to the house. If it wasn't attached to the house it would be considered an accessory structure and would still be an issue because of the size.

Ron Brand stated the patio is in an area of the site that is well screened by adjacent structures from public ways. This is something for the Board to keep in mind.

Leslie O'Malley asked the applicant why they don't consider an awning.

Ralf Sosnowski told the Board we did consider that but there isn't one that would cover the entire patio and also there is a concern over wind. We looked at a metal awning but there is still the issue of the wind.

Floyd Kofahl said a permanent awning would be the same as a roof but a retractable awning would not.

Gary Scribner asked what a structure like this going to cost and Ralf responded around \$7000 and it will blend with the house.

Ron Brand addressed the applicant noting that he has indicated in his letter that he was going to have some ceiling fans in the structure and that they would be electric fans. Ron asked if there will be lighting inside the structure and Ralf replied that there will be lights with the fans. They are a combination fan and lights.

Edward Hemminger told the applicant to work with staff on this to comply with the town's dark sky lighting requirements.

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 August 23, 2010 meeting. The Public Hearing was closed at 7:55 pm. There were five (5) Ayes.

AREA VARIANCE FINDINGS & DECISION

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

Chris Dunfey made a motion to accept the SEQR Type II 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 not substantial, that 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 with the following conditions:

1. All site lighting shall be compliant with town standards in Chapter 165 of the Town Code.
2. The structure's siding shall complement the existing home siding.
3. If the structure is ever to be enclosed, a new building permit will be required.

Leslie O'Malley made a motion to approve the application and Raymond Ward seconded the motion. All present voted Aye.

Public Comments:

There were no Public Comments.

Other Board Matters:

None

Director of Development Update:

Ron Brand told the Board that the town has been awarded the grant for the Trails Project. That will be an \$80,000 grant to study the alignment of the trail from CR 41 into the city of Canandaigua which would then hook up with the Ontario Pathways and the Finger Lakes Trail.

Ron also noted that there will be a meeting on Wednesday for the Site Plan for the new Highway Campus site (highway garage storage barn) and that will lead to a site plan application.

Code Enforcement Officer Update:

Floyd Kofahl told the Board that the presentation by the Farmington Business Council showed they were looking at having four different themes, one on each corner of Route 332 and Route 96 and the initial theme for the CVS plaza corner is an architectural clock with a seating area. They have to submit a site plan and part of that site plan involves traffic control and they are aware of that requirement.

Next Meeting:

The next Zoning Board of Appeals meeting will be held on September 27, 2010. Raymond Ward made a motion to adjourn the meeting at 8:45 pm. Leslie O'Malley 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.