

*Town of Farmington*

1000 County Road 8  
Farmington, New York 14425

**ZONING BOARD OF APPEALS**

*Established July 15, 1957*

**Monday, April 18, 2024, 7:00 p.m.**

**MINUTES—Approved**

*The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Farmington Zoning Board of Appeals. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions. An audio recording of the meeting is made in accordance with the Zoning Board of Appeals adopted Rules of Procedure. The audio recording is retained for four months.*

**Board Members Present:** Thomas Yourch, *Chairperson*  
Kelly Cochran  
Tod Ruthven  
Jody Binnix  
Tom Lay

**Staff Present:**  
Ron Brand, Town of Farmington Director of Development  
Dan Delpriore, Code Enforcement Officer, Town of Farmington

**Applicants Present:**  
James Fowler, 6176 Hunters Drive, Farmington, NY 14425  
Jared Hirt, Esq., Evans Fox LLP, 100 Meridian Centre Blvd., Suite 300, Rochester, NY 14618 **R**  
Griffin Weigel, Conifer LLC, 1000 University Avenue, Suite 500, Rochester, N.Y, 14607

**Resident Present:**  
Greg Coon, 6250 Pheasants Crossing, Farmington NY 14425

**R** – participated remotely from Office via ZOOM

**1. MEETING OPENING:**

April 18, 2024, meeting of the Zoning Board of Appeals was called to order at 7:00 p.m. by Mr. Yourch.

The Pledge of Allegiance was recited.

Mr. Yourch said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on January 22, 2024.

This meeting was held both in person at the Farmington Town Hall and virtually on Zoom.

**2. APPROVAL OF MINUTES OF MARCH 25, 2024:**

■ A motion was made by MR. Lay seconded by MR. Ruthven, that the minutes of the MARCH 25, 2024, meeting be approved.

Motion carried.

**3. LEGAL NOTICES:**

There was no legal notice published for tonight's agenda ZB 0301-24, Fowler Family Trust, ZB 0302-24 Evan Van Epps, Brookwood management ZB03-24 through ZB 0307- 24 Pintail Crossing LLC. These public hearings were all continuations to tonight's meeting from the March 25th, 2024, meeting. There are also no new applications for tonight's meeting and that would have otherwise required publishing, posting and giving public notice thereof.

**4. CONTINUED PUBLIC HEARING:**

**ZB #0301-24, FOWLER FAMILY TRUST, 6176 HUNTERS DRIVE,  
FARMINGTON, NEW YORK 14425:**

The applicant is requesting an area variance to the provisions contained within Chapter 165, Schedule 1, Attachment 1, of the Farmington Town Code. The applicant wishes to create a third lot, to be known as Lot R5-C, that would have a minimum lot width of twenty-two (22) feet. The Town Code requires a minimum lot width of 125 feet. The proposed lot would be part of a proposed re-subdivision of Lot # R5-A with tax ID #29.13-1-5.100 and Lot #R5-B with tax ID #29.13-1-5.200 of the Pheasants Crossing Subdivision. These three (3) proposed lots would be located along the west side of Pheasants Crossing and within the Pheasants Crossing Subdivision Tract. All lots are zoned RS-25 Residential Suburban.

Mr. Yourch opened the meeting on the above application.

Jared Hirt, ESQ spoke on the above application. Mr. Hirt said this is currently before the Planning Board. They have adjourned this out for a continuation public hearing because there was a request from Mr. Brand for further soils testing analysis to be done. We have indicated that we are agreeable to providing what's been requested and are in the process. I have no objection to the proposed resolution being adjourned to the May meeting with the continuation of the public hearing occurring which will allow the Planning Board the opportunity to receive your requested information and to ultimately make the determination under SEQR.

Mr. Yourch then asked for staff comments, hearing none he asked for public comments either online or in the room.

Motion - Adopted and public hearing continued to Monday, May 20, 2024.

**ZB #0302-24, EVAN VAN EPPS c/o BRICKWOOD MANAGEMENT, 25 SILVER-LIGHT WAY, ROCHESTER, NEW YORK 14624:**

**The applicant is requesting an area variance to the provisions contained within Chapter 165, Article VI, Section 79-G-1, of the Farmington Town Code. The Town of Farmington has requested Pintail Crossing become a Town dedicated road creating the need for an area variance for a proposed front setback of twenty-two (22) feet for proposed Building E. The Town Code requires a minimum front setback of seventy (70) feet. The property is located on the north side of Pintail Crossing west of Red Fern Drive and is zoned RMF Residential Multiple Family.**

Matt Tomlinson presented on behalf of Marathon Engineering Evan Van Epps and Griffin from Conifer to represent further variances that are later in the agenda as well. Mr. Tomlinson offered to speak to both all at once since it is a single project so long as the board is okay with that. We are requesting variances for both A and lot 1B.

Mr. Brand suggested an overview of all the variances that are needed, don't forget that the Planning Board granted preliminarily on the conditions of those variances being granted by this board. Pintail crossing is an overall project that was originally designed and approved in two phases going back to 2018, and our office was the engineer for that project as well. Mr. Tomlinson provided a map and explained that the green was phase one of the project that Conifer developed

with eight-plexes, being a mix of one-, two- and three-bedroom buildings. Phase two was in the brown or the orange that was approved by the board but was never constructed because it did not receive financing through tax credit or HCR for approval. Evan and his group is looking to purchase the Western portion being phase two of Pintail and turning into Creekwood Phase two which is an extension of the Townhouses that they recently completed constructing on Redfern Drive, backing to this on the projects east side. As part of this discussion with the Town staff relative to change from eight-plexes, which are multi-story, flat apartment style Townhouses development for this portion. The town requested that the ownership and developer explore granting dedication of the road. In blue on the map is primarily private roadway and is designed as such with an emergency gate at the end of Running Brook Rd to allow for emergency vehicles. The request was for that to become a Town owned and maintained road. So, that changed some things and that is why we are here today. The front set back is only off of a dedicated or Town owned Road for the 70-foot front setback that is required we could have constructed these 40 Townhomes without any variances, just like the original plan was designed without any variances. Because we now will have a town dedicated road through the middle that creates a 70-foot wide, on each side of the right-of-way, we now have a front set back that needs to be complied with or obtain a variance from this board. That is why we are here tonight specific to the second phase or townhouse portion of this is what was advertised as the greatest relief required for building E, there is only 22 feet off of the right-of-way. One of the reasons that we have it that close is that we have attempted to match the front set back that is through the Running Brook neighborhood, a lot of those homes and garages are very similar setback from the right of way to those and they are in a different zoning district. We have a greater zoning requirement but from a neighborhood standpoint of what it looks like coming down the road is it's going to look extremely similar. One of the other reasons is we wanted to minimize the number of variances needed on that parcel. If we had pushed that building back or north further specific to Building E, that would have required a rear variance because there is a 40-foot set back. I don't know if you can see on the board but there is a very skinny rectangle if you will, for that leg north of the roadway as it goes over toward Running Brook Road. We are trying to strike a balance between the neighborhood character and minimizing the number of variances. The development for the Creekwood portion which is in the orange, Buildings A, B, D, and E all have less than 70 feet from the proposed right of way. The smallest set back is building E which is noticed at 22-feet. So, it varies from 22 feet to 40 feet depending on where the various buildings are sized. For the green, because we are dedicating that all of those buildings are built, we have no proposed improvements to any of what is built out there today on the section one of Pintail but because again we are

dedicating the roads and creating a right of way there are many buildings that don't comply with the landscape or for the parking setbacks both for side and front for the proposed parcel configuration. All of those are, I believe, outlined in what was advertised for that one. We have been working diligently to staff the work through. This was a little bit complicated just because it wasn't contemplated to dedicate this road when we first started looking at this sight seven or eight years ago with town staff, The town has a desire to provide secondary access into the neighborhood. I understand that there are some capital improvements to one of the bridges on one of the roads. So, this will help alleviate that in the future. We think that it is a win-win, assuming that we can get through the variance process to go to site plan approval. Not just from a long-term maintenance standpoint from the ownership, as well as the benefits of the town. With that I will open up to questions. I am sure there are some things that may not be clear to the board.

Mr. Yourch then asked for staff comments.

Mr. Brand said that the 70-foot setback is an old section of the code. If you think of a 70 foot, you think of a highway where the speed is 55 or 60 miles an hour. The setback on Route 332 is 100 feet. The setback on a Town road where you are not traveling 55 or 60 miles an hour is quite excessive. This section of the code needs updating, my take on it is that you are being asked to grant a variance , where the minimum relief being 22 feet, I think that you probably should modify that condition to specify the other setbacks that the applicant has identified here tonight for buildings A, B and D so that there is no confusion when it gets to the Planning Board for their review and approval which is next month.

Mr. Yourch asked for clarification on the requested modification.

Mr. Delpriore clarified that the modification would be for ZB0302-24, the greatest setback is being reduced to 22 feet. The resolution does not currently call out the other buildings that would be included in the shorter set back. Mr. Brand is suggesting that we change the verbiage in the resolution to clearly identify what the setbacks for each of the other additional buildings so there so there is no confusion.

Ms. Binnix: asked about building C.

Mr. Tomlinson clarified that building C is far enough back and that the building is on a private drive so there is no 70-foot setback required. The Front Setback

for proposed Building E, 22 feet is the shortest front setback being proposed. Building B, the proposal is 26 feet and that would keep any question about us being able to slide it up to 22 feet. Building A, which is on the south side, is 28 feet. Building D on the north side between C and E is 40 feet, so if we wanted to add specific numbers for each of those buildings in the resolution, we would not have an issue with that.

Mr. Brand: said the Planning Board is waiting to hear what conditions you put on it. One of the conditions is that we asked to be put on the site plan and final subdivision drawings is the fact that these variances were granted for each of these variances were granted, for each of these buildings to have this setback so that they know when it comes to them they can take a look at the map and see that building A has a set back of 20 feet and it was something that was agreed to.

Mr. Tomlinson said: I believe the planning board, even though we are not at site plan, just at subdivision did submit the site plan so they understood where we are headed to and what we are asking this board for. I believe they have written a letter of recommendation to you folks as well.

Mr. Delpriore: said that he wanted to bring up the letter. There is a letter that was forwarded to this board from the Planning Board in support of the design of this project.

Mr. Brand: said, keep in mind the Right of Way width is 70 feet. The setback from the right of way is 70 feet. If you take half of the Right of Way width, that is 35 feet and you add 22 feet from it, you are at 57 feet from the edge of the travel way.

Mr. Tomlinson: said, I think we are at a 60-foot right of way for this section.

Mr. Delpriore: said, I went out there today, I know that we are talking about the first part which is the Van Epps side of it, But, on the other side of the project which is the Pintail side of it, which is the current road that is owned by Conifer at the moment. From the edge of gutter to the building is 15 feet so there is still room. Remember the Right of Way is going to include the road, the gutter and the sidewalk.

Mr. Lay: said, can you clarify where the 22 feet measures from?

Mr. Delpriore: said, from the edge of the Right of Way

Mr. Brand: said, thirty-five feet from center line.

Mr. Brand said this project has been before the project review committee on several occasions. There have been negotiations back and forth on the design of this. If you recall when they first came before the Planning Board, they had more variances than they are requesting now. The redesign has cut down on the number of variances that they need. It is a difficult site to deal with only because of the difference in setback requirements that are in the Town code for new construction, not necessarily for existing structures that have already been approved and accepted by the state. The other part of it is there is really no space left on Lot 1A to add anything, so we are not creating a situation where somebody is going to come in here and throw another building on top of us. That is what was approved by the state and was funded by the state and those are the conditions of approval by the state so that doesn't change.

Mr. Tomlinson: said, other than the dedication of the road, which is not self-created by the applicant, other than trying to work with the Town. There is no other variance being requested, we're under the density of units per acre. We have no other setbacks or lot coverage variance. We could just build this if we were going to build it as a private road. This project can still move forward even if the board were to deny this. It just wouldn't have the kind of benefits that I think everybody at the table is looking at.

Mr. Lay: said, I think you said at the last meeting that the Highway Department sees no issues with snow removal.

Mr. Delpriore: said No, it is a little bit smaller than their normal road, but they don't have a problem. There is a strip of land between the sidewalk and the roads. No, they don't have an issue with this and for them the benefits outweigh the snow removal aspect. The bridge benefit addresses concerns from the density in the area of Farm brook and Running Brook and alleviates the issue of needing improved egress and moving traffic.

Mr. Lay: asked for clarity of the County Planning, which doesn't seem to be applicable here regarding the site not located within five hundred feet specified.

Mr. Brand: said If you have an application for planning or zoning that lies on property within 500 feet of certain facilities such as state roads, county roads, municipal boundary lines with villages or towns, specific distances from state park land and things of that nature are subject to referral to the county.

Mr. Yurch: said that he is asking for clarification that we are Amending the resolution to include the setback specifications for A 28feet B 26 feet D 40 feet.

Mr. Yurch: asked if there were any further questions from staff, being none, he asked if



there are any questions online, there being none he asked if there were any further questions from the public. Hearing no further comments Mr. Yourch closed the public hearing for ZB-0302-24.

**ZB #0303-24, PINTAIL CROSSING LLC, 1000 UNIVERSITY AVENUE SUITE 500, ROCHESTER, NEW YORK 14607:**

The applicant is requesting an area variance to the provisions contained within Chapter 165, Article VI, Section 79-G-1, of the Farmington Town Code. The Town of Farmington has requested Pintail Crossing become a Town dedicated road creating a proposed front setback of two (2) feet for the existing building #8. The Town Code requires a minimum front setback of seventy (70) feet. The property is located at 5792 Pintail Crossing and is zoned RMF Residential Multiple Family.

**ZB #0304-24, PINTAIL CROSSING LLC, 1000 UNIVERSITY AVENUE SUITE 500, ROCHESTER, NEW YORK 14607:**

The applicant is requesting an area variance to the provisions contained within Chapter 165, Article VI, Section 79-G-2, of the Farmington Town Code. The Town of Farmington has requested Pintail Crossing become a Town dedicated road creating a proposed rear setback of thirty-one (31) feet for the existing building #8. The Town Code requires a minimum rear setback of forty (40) feet. The property is located at 5792 Pintail Crossing and is zoned RMF Residential Multiple Family.

**ZB #0305-24, PINTAIL CROSSING LLC, 1000 UNIVERSITY AVENUE SUITE 500, ROCHESTER, NEW YORK 14607:**

The applicant is requesting an area variance to the provisions contained within Chapter 165, Article VI, Section 79-G-2, of the Farmington Town Code. The Town of Farmington has requested Pintail Crossing become a Town dedicated road creating a proposed side setback of thirty-one (31) feet for the existing building #8. The Town Code requires a minimum rear setback of forty (40) feet. The property is located at 5792 Pintail Crossing and is zoned RMF Residential Multiple Family.

**ZB #0306-24, PINTAIL CROSSING LLC, 1000 UNIVERSITY AVENUE SUITE 500, ROCHESTER, NEW YORK 14607:**

The applicant is requesting an area variance to the provisions contained within Chapter 165, Article VI, Section 79-K, of the Farmington Town Code. The Town of Farmington has requested Pintail Crossing become a Town dedicated road creating proposed front and side yard parking for all the existing buildings. The Town Code requires all open parking lots be located in the rear yard portion of the lot. The property is located at 5792 Pintail Crossing and is zoned RMF Residential Multiple Family.



**ZB #0307-24, PINTAIL CROSSING LLC, 1000 UNIVERSITY AVENUE SUITE 500, ROCHESTER, NEW YORK 14607:**

The applicant is requesting an area variance to the provisions contained within Chapter 165, Article V, Section 37-4-c, of the Farmington Town Code. The Town of Farmington has requested Pintail Crossing become a Town dedicated road creating proposed three (3) feet buffer for parking for the existing building #7. The Town Code requires all open parking areas for five or more vehicles that adjoins a residential area have a planted buffer strip at least ten (10) feet wide shall be provided between the parking area and the adjoining residential area. The property is located at 5792 Pintail Crossing and is zoned RMF Residential Multiple Family.

Mr. Brand: asked Mr. Tomlinson to give an overview of ZB#0303-24 through ZB#0307.

Mr. Tomlinson: said the overview of the project remains the same. I think there was a discrepancy back when we got our original approval. I think the chart said that the side and rear setbacks were 30 feet, but the body of the code said 40. We set them all at 31 to be in compliance, now it's 40, so we are cleaning those up. So, I think that says a rear or a side setback of 31 yet again, the building is built, we are not changing anything, that's just to make sure we have got everything cleaned up as we go through this. The remaining are all related to either parking in the front yard, which was not front yard before, because we didn't have a dedicated road there. Front setbacks and that is mostly specific to the community building, which is to the North and East of the new portion of the dedicated Road and the three buildings immediately south of the bottom of the curb there. There are three residential buildings there, all less than the required 70 feet. The closest is actually two feet from the building wall to the right of way. There again, no changes, it is an existing condition, the road is not changing, it is staying right where it is. As you drive the road today versus tomorrow, if they are granted, there will be no apparent change there. Then a landscaping strip typically within your code when you have a development immediately adjacent to a roadway, there is a requirement for a ten-foot-wide planted landscape strip or buffer between that parking and a roadway, again here not proposing any changes but we are not able to accomplish that due to the geometry and configuration once we dedicate the right of way. That captures all that we are requesting.

Mr. Yurch asked for staff comments.

Mr. Brand said, I believe that I have drafted the resolution for approval of all of these existing conditions. The applicant did not create these, they are the results of wanting a public versus a private road. The difference in setback dimensions and also as alluded to the changes in the code from 30 to 40 feet have come into play.

Mr. Delpriore: said also, you have the recommendation of the Planning Board that this

supports what the town is looking to do.

Mr. Yurch: asked if there are any public comments, hearing none, he asked if there were any comments from the board.

Ms. Binnix asked for clarification concerning the issue mentioned about the community building.

Mr. Tomlinson: said that it is less than 70 feet from the front set back, but it's not closer than two feet, which is the maximum. I don't think it is critical to clarify the differences and setbacks to this lot because they all exist today.

Mr. Delpriore: said the community building is within the other areas that we are acting on tonight, which would then allow the existing community building to be approved.

Ms. Binnix: stated that was clarified.

Hearing no further comments, Mr. Yurch closed the public hearing for [#ZB0303-24 through #ZB0307-24] these resolutions.

5. **PUBLIC HEARINGS (0):** There are no new public hearings scheduled for this meeting.

**6. BOARD BUSINESS—DELIBERATIONS AND DECISION**

■ A motion was made by MR. RUTHVEN seconded by MS. BINNIX, to accept the following resolution for this application.

FILE: ZB #0301-24

APPLICANT: Fowler Family Trust, 6176 Hunters Drive,  
Farmington, New York 14425

ACTION: ADJOURNMENT AND CONTINUATION OF THE PUBLIC HEARING  
UPON THE REQUESTED AREA VARIANCE FOR PROPOSED LOT  
#R5-C OF THE FOWLER FAMILY TRUST RE-SUBDIVISION

**Whereas**, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has tonight continued the public hearing on this application which was received on February 22, 2024, from the Town Planning Board (hereinafter referred to as the Planning Board), the designated lead agency under SEQR, for making the required determination of significance upon the proposed amended Re-Subdivision Plat of Lots #R5-A and #R5-B, of the Fowler Family Trust Application (PB #0702-23); and the granting of an area variance for proposed Lot R5-C (ZBA #0301-24); and

**Whereas**, the Board since their adjournment and continuation of this public hearing on Monday March 25, 2024, received from the Clerk of the Planning Board two documents that were introduced at the Planning Board's continued hearing on Wednesday, April 3, 2024; and

**Whereas**, the two documents include a report from Rowe Realty & Appraisal, Inc., dated March 5, 2024, and a letter from James M. Baker, P.E., dated August 29, 2023, to Jim Fowler, 6240 Pheasant Crossing; and

**Whereas**, the Planning Board, at their meeting on April 17, 2024, adjourned and continued their public hearing upon PB #0702-23, to Wednesday, May 1, 2024, to provide time for the Applicant to in turn provide requested supplemental information requested in the Town Director of Planning and Development's April

10, 2024, memorandum to the Planning Board for a more detailed soils analysis of the property and then upon receiving such analysis there is to be authorized an independent analysis of said soils report; and

**Whereas**, the Planning Board continues to be the designated Lead Agency under SEQR for the proposed amended Action referenced above herein; and

**Whereas**, the Planning Board, on May 1, 2024, has declared that it intends to seek the independent soils analysis report submitted and will adjourn and continue their public hearing to a specific date and time; and

**Whereas**, the Board may not take any action on the pending area variance for proposed Lot R5-C until the Planning Board, as the designated Lead Agency, has made a determination of significance on the classified Unlisted Action under the provisions of the State Environmental Quality Review Act (SEQRA).

**Now, therefore, be it resolved**, that the Board again confirms that no decision may be made by this Board, as an involved agency defined under the State’s Environmental Quality Review Act (SEQRA), until a determination of significance thereon has been made by the designated Lead Agency.

**Be it further resolved** that the Board does hereby move to table further deliberations upon the above referenced Action and adjourns the public hearing to be continued on Monday evening May 20, 2024, starting at 7:00 p.m., to again provide time for the Planning Board, to comply with SEQRA.

**Be it finally resolved** that the Board having made this decision does hereby instruct the Clerk of the Board to provided notice hereof to the Planning Board, the Clerk of the Planning Board, the Applicant, the Applicant’s Attorney, the Applicant’s Engineer, the Town Code Enforcement Officer, the Attorney to the Town, and the Town Director of Planning and Development.

The above resolution was offered by \_\_\_\_ Tod Ruthven\_\_\_\_\_ and seconded by \_\_\_\_ Kelly Cochran\_\_\_\_\_ at a regular scheduled meeting of the Farmington Zoning Board of Appeals on Monday, April 22, 2024. After Board discussion, the following roll call vote was taken and recorded in the official minutes of the Zoning Board of Appeals for this date.

Kelly Cochran	- Aye
Tod Ruthven	- Aye
Tom Lay	- Aye
Jody Binnix	- Aye
Tom Yourch	- Aye

Motion - Adopted and public hearing continued to Monday, May 20, 2024.

I, Paula Ruthven, Clerk of the Zoning Board of Appeals, do hereby certify the accuracy of the above resolution, to its being acted upon as referenced above herein and to it being recorded in the Board’s meeting minutes of April 22, 2024.

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Paula Ruthven, Clerk of the Zoning Board of Appeals

■ A motion was made by MR. RUTHVEN seconded by MR. LAY, to waive the reading of the SEQR resolution and to approve the resolution submitted by the town staff.

Motion carried.

■ A motion was made by MR. RUTHVEN seconded by MS. BINNIX, to waive the reading of the complete findings and decision resolution and read the determinations and conditions out loud.

Motion carried.

**TOWN OF FARMINGTON  
ZONING BOARD OF APPEALS  
AREA VARIANCE FINDINGS AND DECISION**

**APPLICANT:** Evan Van Epps  
c/o Brickwood Mgmt.  
25 Silverlight Way  
Rochester, NY 14624

**File:** ZB #0302-24  
**Zoning District:** RMF Residential Multi-Family  
**Published Legal Notice on:** March 17, 2024  
**County Planning Action on:** N/A  
**County Referral #:** N/A  
**Public Hearing held on:** April 22, 2024

**Property Location:** Buildings A, B, D and E of the proposed Creekwood Extension Brickwood Management Townhouse Project, located along the extension of Pintail Crossing, Farmington, New York 14425

**Property Owner:** Evan Van Epps, c/o Brickwood Management, 25 Silverlight Way, Rochester, New York 14624

**Applicable Section of Town Code:** Chapter 165, Section 79 G. (1).

**Requirement for Which Variances are Requested:** The applicant is requesting a Front Setback, of twenty-two (22) feet from the proposed Pintail Crossing Town Highway right-of-way, for the proposed Building E of the Creekwood Extension Brickwood Management Townhouse Project. The Town Code, Chapter 165, requires a minimum Front Setback of seventy (70) feet from any public street within the RMF Residential Multi-Family District.

**State Environmental Quality Review Determination:** The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of a Preliminary Two-Lot Subdivision (PB #0201-24) and the granting of the above requested Area Variance for Building E, has resulted in a Negative Declaration being issued, thereby satisfying the procedural requirements of the State Environmental Quality Review (SEQR) Regulations.

**County Planning Referral Recommendation:** N/A. Site not located within the 500-foot dimension specified in Section 239-1 of the New York State General Municipal Law.

## FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes  No

**Reasons:** The Zoning Board of Appeals (hereinafter referred to as the Board) finds that the character of this neighborhood is mix of attached single-family residential dwellings (townhouses) and multi-family residential dwellings (apartments) fronting along Pintail Crossing, Running Brook and Redfern Drive. The Board further finds that the Front Setback proposed, twenty-two (22) feet, is generally consistent with the Front Setbacks of nearby residential apartment structures. The Board further understands that the Town Highway Superintendent, the Town Engineer and the Town's Acting Water & Sewer Superintendent have reviewed this proposed area variance request and based upon their findings, determines that the granting of the requested Area Variance will not conflict with existing utilities or the continued operation of the proposed Town dedicated highway in this area. The Board, based upon these findings, determines that granting the requested area variance will not create an undesirable change in the character of the neighborhood; or create a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance.  Yes  No

**Reasons:** The Board finds that where there are more than 12 dwelling units in a multiple-family dwelling development, such as the one being proposed by the applicant, that direct access must be provided to a public road either directly or by private driveway(s). The Board further finds that in this instance that since completion of the Pintail Crossing Apartment Project - Phase 1, the Town has learned of the need to replace the Wood Drive highway bridge. The Board further finds that the Town now desires to have Pintail Crossing be a dedicated public road to avoid traffic movements through the nearby Farmbrook Neighborhood, during bridge replacement and to provide an alternate route from where there are no sidewalks that could provide pedestrian/vehicular separation and safety. The Board further finds that it is in the best interests of the public's health, safety and welfare, to avoid as much as possible the movements of vehicles through the Farmbrook Neighborhood to the intersection of Farmbrook Drive and State Route 332, which is currently the only available option to the public. The Board further finds that there are other existing buildings in the neighborhood that do not meet the seventy (70) foot setback requirement from a public street in the RMF District. The Board also finds that in this instance the proposed townhouse buildings A, B and D at their proposed setbacks do not currently meet the required seventy (70) foot front setback dimension. The Board further finds that the Front Setback for proposed Building E, 22 feet is the shortest front setback being proposed as part of the townhouse project under review by the Planning Board. The Board further finds that a dedicated Town highway's right-of-way width is sixty (60) feet as is depicted on the submitted Preliminary Site Plan drawing prepared by Marathon Engineering, having a revised date of 2/15/24. The Board further finds that Front Yard Setback of twenty-two (22) feet will not interfere with any existing utilities or travel lanes. The Board further finds that the Front Setback for Buildings A, B and D, also will not interfere with proposed

utilities or the travel lanes of the public street, Pintail Crossing. The Board, based upon these findings determines the twenty-two-foot Front Setback required for Building E will be in keeping with the character of this neighborhood and that it will not be a detriment to nearby properties. The Board also finds that the other Front Setbacks for Buildings A, B and D will not be a detriment to the neighborhood or nearby properties.

3. Whether the requested variance is substantial.      X   Yes             No

**Reasons:** The Board finds that the requested forty-eight-foot (48) encroachment into the minimum seventy-foot (70) required Front Yard Setback involves granting a variance of sixty-nine percent (69%) from that required by Town Code. The Board has consistently found that granting a variance involving fifty percent (50%) or more is a substantial variance.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district.         Yes      X   No

**Reasons:** The coordinated review procedures contained in 6NYCRR, Part 617, has resulted in a Negative Declaration (a Determination of Non-Significance) being issued, thereby satisfying the requirements of article 8 of the New York State Environmental Conservation Law (ECL). The Board finds SEQR has been complied with.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the Area Variance.  
     Yes          X   No

**Reasons:** The Board finds, as noted above herein, that the alleged difficulty is not self-created, as the Front Setback for Building E is changing from a private drive to being from a proposed public highway by the Town’s desire to accept dedication of this public road (Pintail Crossing). The Board further finds that granting the requested area variances for the proposed Buildings A, B, D and E will mitigate a potential traffic safety issue from occurring within the neighborhoods. The Board further finds that the Applicant has followed all steps required in seeking approvals from Town Departments for the granting of the requested area variances for Buildings A, B, D and E. The Board further finds that there is a benefit to the community from the proposed construction of the continuation of Pintail Crossing to Town Standards. The Board further finds that once Pintail Crossing is constructed to Town Highway Standards, that an alternative solution will be provided for local traffic from having to drive through the adjacent Farmbrook Planned Subdivision Project where there are no sidewalks to separate vehicular/pedestrian movements. The Board, based upon these findings determines that the difficulty for the Applicant in complying with the Front Setback provisions in Chapter 165 cannot be achieved by any feasible alternative. The Board further finds that the relief being requested is felt to be the minimum



relief necessary. Therefore, based upon these findings, the Board determines the alleged difficulty is not self-created.

**DETERMINATION OF THE ZONING BOARD OF APPEALS  
BASED UPON THE ABOVE FACTORS**

The Zoning Board of Appeals, after reviewing the above five proofs, makes the following decision:

**That the benefit to the applicant does outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variance to enable the proposed Townhouse Buildings A, B, D and E, with E having a twenty-two (22) foot Front Setback from the proposed public road, Pintail Crossing, and the necessary area variances for Buildings A, B and D, are hereby APPROVED with the following conditions.**

1. **The Front Setback for proposed Townhouse Building A shall be twenty-eight (28) feet from the future town right-of-way for Pintail Crossing; and**
2. **The Front Setback for proposed Townhouse Building B shall be twenty-six (26) feet from the future town right-of-way for Pintail Crossing; and**
3. **The Front Setback for proposed Townhouse Building D shall be forty (40) feet from the future right-of-way for Pintail Crossing.**
4. **All Buildings and related site improvements are subject further to Planning Board approval of a Preliminary Site Plan for the Creekwood Extension Brickwood Management Townhouse Project.**
5. **There is a note added to the Preliminary Site Plan drawings that identify these variances by file number and date.**

**NOW, THEREFORE, BE IT RESOLVED** that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

**BE IT FINALLY RESOLVED** that the Board directs this Resolution to be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

The above resolution was offered by MR. RUTHVEN and seconded by MS. BINNIX at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 22, 2024. After Board discussion, the following roll call vote was recorded:

Kelly Cochran	Aye
Todd Ruthven	Aye
Jody Binnix	Aye
Tom Lay	Aye
Thomas Yourch	Aye

I, Paula Ruthven, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the April 22, 2024, Meeting.

\_\_\_\_\_  
Paula Ruthven  
Clerk of the Zoning Board of Appeals

- A motion was made by MR. RUTHVEN seconded by MR. LAY, to waive the reading of the complete findings and decision resolution and read the determinations and conditions out loud.

Motion carried.

## TOWN OF FARMINGTON

### ZONING BOARD OF APPEALS

#### AREA VARIANCE FINDINGS AND DECISION

APPLICANT: Pintail Crossing, LLC File: ZB #0303-24

1000 University Avenue Zoning District: RMF Residential Multi-Family

Suite 500 Published Legal Notice on: March 17, 2024

Rochester, NY 14607 County Planning Action on: N/A

County Referral #: N/A

Public Hearing held on: April 22, 2024

Property Location: Building #8 of the existing Pintail Crossing Apartment Project, located at 5792 Pintail Crossing, Farmington, New York 14425

Property Owner: Pintail Crossing, LLC, 1000 University Avenue, Suite 500, Rochester, New York 14607

Applicable Section of Town Code: Chapter 165, Section 79 G. (1).

Requirement for Which Variances are Requested: The applicant is requesting a Front Setback, from the proposed Pintail Crossing Town Highway, for the existing Building #8 of the Pintail Crossing Apartment Project. The Town Code, Chapter 165, requires a minimum Front Setback of seventy (70) feet from any public street within the RMF Residential Multi-Family District.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of a Preliminary Two-Lot Subdivision (PB #0201-24) and the granting of the above requested Area Variance for Building #8, has resulted in a Negative Declaration being issued, thereby satisfying the procedural requirements of the State Environmental Quality Review (SEQR) Regulations.

County Planning Referral Recommendation: N/A. Site not located within the 500-foot dimension specified in Section 239-1 of the New York State General Municipal Law.

#### FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes  No

Reasons: The Zoning Board of Appeals (hereinafter referred to as the Board) finds that the character of this neighborhood is mix of attached single-family residential dwellings (townhouses) and multi-family residential dwellings (apartments) fronting along Pintail Crossing, Running Brook and Redfern Drive. The Board further finds that the Front Setback proposed, two (2) feet, is generally consistent with the Front Setbacks of nearby residential structures. The Board further understands that the Town Highway Superintendent, the Town Engineer and the Town's Acting Water & Sewer Superintendent have reviewed this proposed area variance request and based upon their findings, determines that the granting of the requested Area Variance will not conflict with

existing utilities or the continued operation of the proposed Town dedicated highway in this area. The Board, based upon these findings, determines that granting the requested area variance will not create an undesirable change in the character of the neighborhood; or create a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance.  Yes  No

Reasons: The Board finds that where there are more than 12 dwelling units in a multi-family dwelling development, such as the one developed, direct access must be provided to a public road by private driveway(s). The Board further finds that in this instance when building #8 was constructed as part of the Pintail Apartment Project – Phase 1, there was no defined need for Pintail Crossing to be a public roadway. The Board further finds that since completion of the Phase 1 Project the Town has learned of the need to replace the Wood Drive highway bridge. The Board further finds that the Town now desires to have Pintail Crossing be a dedicated public road to avoid traffic movements through the nearby Farmbrook Neighborhood where there are no sidewalks that could provide pedestrian/vehicular separation and safety. The Board further finds that it is in the best interests of the public’s health, safety, and welfare, to avoid as much as possible the movements of vehicles through the Farmbrook Neighborhood to the intersection of Farmbrook Drive and State Route 332, which is currently the only available option to the public. The Board further finds that there are other existing buildings in the neighborhood that do not meet the sixty (60) foot setback requirement. The Board further finds that a dedicated Town highway’s right-of-way width is sixty (60) feet as is depicted on the submitted Preliminary Site Plan drawing prepared by Marathon Engineering, having a revised date of 2/15/24. The Board further finds that Front Yard Setback of two (2) feet will not interfere with any existing utilities or travel lanes. The Board, based upon these findings determines the two-foot Front Setback required for Building #8 will be in keeping with the character of this neighborhood and that it will not be a detriment to nearby properties.

3. Whether the requested variance is substantial.  Yes  No

Reasons: The Board finds that the requested fifty-eight-foot (58) encroachment into the minimum sixty-foot (60) required Front Yard Setback involves granting a variance of ninety-seven percent (97%) from that required by the Town Code. The Board has consistently found that granting a variance involving fifty percent (50%) or more is a substantial variance.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district.  Yes  No

Reasons: The coordinated review procedures contained in 6NYCRR, Part 617, has resulted in a Negative Declaration (a Determination of Non-Significance) being issued, thereby satisfying the requirements of article 8 of the New York State Environmental Conservation Law (ECL). The Board finds SEQR has been complied with.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the Area Variance. \_\_\_ Yes X No

Reasons: The Board finds, as noted above herein, that the alleged difficulty is not self-created, as the Front Setback from Building #8 is changing from a private drive to being from a proposed public highway by the Town's desire to accept dedication of this public road. The Board further finds that granting the requested area variance for the existing Building #8 will mitigate a potential traffic safety issue from occurring within the neighborhoods. The Board further finds that the Applicant has followed all steps required in seeking approvals from Town Departments for the granting of the requested area variance for Building #8. The Board further finds that there is a benefit to the community from the proposed construction of the continuation of Pintail Crossing to Town Standards. The Board further finds that once Pintail Crossing is constructed to Town Highway Standards, that an alternative solution will be provided for local traffic from having to drive through the adjacent Farmbrook Planned Subdivision Project where there are no sidewalks to separate vehicular/pedestrian movements. The Board, based upon these findings determines that the difficulty for the Applicant in complying with the Front Setback provisions in Chapter 165 cannot be achieved by any feasible alternative. The Board further finds that the relief being requested is felt to be the minimum relief necessary. Therefore, based upon these findings, the Board determines the alleged difficulty is not self-created.

## DETERMINATION OF THE ZONING BOARD OF APPEALS

### BASED UPON THE ABOVE FACTORS

The Zoning Board of Appeals, after reviewing the above five proofs, makes the following decision:

That the benefit to the applicant does outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variance to maintain the existing Building #8 with a two (2) foot Front Setback from the proposed public road right-of-way, Pintail Crossing, is hereby APPROVED without further conditions.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

The above resolution was offered by Tod Ruthven and seconded by Tom Lay at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 22, 2024. After Board discussion, the following roll call vote was recorded:

Kelly Cochrane Aye

Todd Ruthven Aye

Jody Binnix Aye

Tom Lay Aye

Thomas Yourch Aye

I, Paula Ruthven, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the April 22, 2024, Meeting.

\_\_\_\_\_ L.S.

Paula Ruthven

Clerk of the Zoning Board of Appeals

- A motion was made by MR. RUTHVEN seconded by MS. COCHRANE, to waive the reading of the complete findings and decision resolution and read the determinations and conditions out loud.

Motion carried.

TOWN OF FARMINGTON

ZONING BOARD OF APPEALS

AREA VARIANCE FINDINGS AND DECISION

APPLICANT: Pintail Crossing, LLC File: ZB #0304-24

1000 University Avenue Zoning District: RMF Residential Multi-Family

Suite 500 Published Legal Notice on: March 17, 2024

Rochester, NY 14607 County Planning Action on: N/A

County Referral #: N/A

Public Hearing held on: April 22, 2024

Property Location: Building #8 of the existing Pintail Crossing Apartment Project, located at 5792 Pintail Crossing, Farmington, New York 14425

Property Owner: Pintail Crossing, LLC, 1000 University Avenue, Suite 500, Rochester, New York 14607

Applicable Section of Town Code: Chapter 165, Section 79 G. (1).

Requirement for Which Variances are Requested: The applicant is requesting a Rear Setback of thirty-one (31) feet for the existing Building #8 of the Pintail Crossing Apartment Project – Phase 1. The Town Code, Chapter 165, requires a minimum Rear Setback of forty (40) feet within the RMF Residential Multi-Family District.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of a Preliminary Two-Lot Subdivision (PB #0201-24) and the granting of the above requested Area Variance for Building #8, has resulted in a Negative Declaration being issued, thereby satisfying the procedural requirements of the State Environmental Quality Review (SEQR) Regulations.

County Planning Referral Recommendation: N/A. Site not located within the 500-foot dimension specified in Section 239-1 of the New York State General Municipal Law.



## FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes  No

Reasons: The Zoning Board of Appeals (hereinafter referred to as the Board) finds that the character of this neighborhood is mix of attached single-family residential dwellings (townhouses) and multi-family residential dwellings (apartments) fronting along Pintail Crossing, Running Brook and Redfern Drive. The Board further finds that the Rear Setback proposed, thirty-one (31) feet, is for the existing Building #8 and is a part of the proposed Creekwood Extension Brickwood Management Townhouse Project located adjacent to the Pintail Crossing Apartment Project – Phase 1. The Board further understands that the Town Highway Superintendent, the Town Engineer and the Town’s Acting Water & Sewer Superintendent have reviewed this proposal.

area variance and based upon their findings, determines that the granting of the requested area variance that it will not conflict with existing utilities, or the operation of the proposed Town dedicated public highway (Pintail Crossing) in the area. The Board, based upon these findings, determines that granting the request area variance will not create an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. Yes X No

Reasons: The Board finds that the boundary line for the Pintail Crossing Apartment Project – Phase 1 was required by the State of New York as a condition of their partial funding assistance for the development of that first phase and that it may not be amended. The Board further finds that the State, since the completion of Phase 1, has denied subsequent applications for funding assistance for the construction of the Phase 2 project, as was originally intended. The Board further finds that the owner of the Pintail Crossing Apartment Project – Phase 1 has no plans or intentions for constructing Phase 2 of the project. The Board further finds that the proposed Rear Yard setback of thirty-one (31) feet, instead of the forty (40) feet required by Code, will continue to be committed open space and that this open space will not encroach upon design plans for the adjacent Creekwood Extension Brickwood Management Townhouse Project. The Board further finds that the Planning Board has granted Preliminary Subdivision Plat Approval for the Townhouse Project with conditions, one of

which involves the granting of this requested area variance. The Board further finds that Rear Yard Setback of nine (9) feet will not interfere with any existing utilities or the proposed public highway (Pintail Crossing) travel lanes. The Board, based upon these findings determines that granting the nine-foot Rear Setback required for Building #8 will be in keeping with the character of this neighborhood and that it will not be a detriment to nearby properties.

3. Whether the requested variance is substantial.  Yes  No

Reasons: The Board finds that the requested nine-foot (9) encroachment into the minimum forty-foot (40) required Rear Yard Setback involves granting a variance of twenty-two and one-half percent (22.5%) from that required by the Town Code. The Board has consistently found that granting a variance involving fifty percent (50%) or more is a substantial variance.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district.  Yes  No

Reasons: The coordinated review procedures contained in 6NYCRR, Part 617, has resulted in a Negative Declaration (a Determination of Non-Significance) being issued, thereby satisfying the requirements of article 8 of the New York State Environmental Conservation Law (ECL). The Board finds SEQR has been complied with.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the Area Variance.  Yes  No

Reasons: The Board finds, as noted above herein, that the alleged difficulty is not self-created, as the Rear Setback for Building #8 is based upon previously approved plans having a boundary line established as part of the State's funding requirements separating phase 1 from the proposed phase 2 portion of the overall apartment project site. The Board further finds that had phase 2 been approved for funding by the State that the boundary line between the two phases would not have created a need for the requested area variance. The Board further finds that now, however, with the inability to change the boundary line between the two phases there is a need for the requested area variance to enable the subdivision of land and, in turn, the development of the adjacent townhouse project by Brickwood Management. The Board further finds that the Applicant has followed all steps required in seeking approvals from Town Departments for the granting of the requested area variance for Building #8. The Board, based upon these findings determines that the difficulty for the Applicant in complying with the Rear Setback provisions in Chapter 165 is not self-created and that relief cannot be achieved by any feasible alternative. The Board further finds that the relief

being requested is felt to be the minimum relief necessary. Therefore, based upon these findings, the Board determines the alleged difficulty is not self-created.

## DETERMINATION OF THE ZONING BOARD OF APPEALS

### BASED UPON THE ABOVE FACTORS

The Zoning Board of Appeals, after reviewing the above five proofs, makes the following decision:

That the benefit to the applicant does outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variance to maintain the existing thirty-one (31) foot Rear Yard Setback for Building #8 from the proposed property line with the adjacent Creekwood Extension Brickwood Management Townhouse Project is hereby APPROVED without further conditions.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

BE IT FINALLY RESOLVED that the Board directs this Resolution to be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

The above resolution was offered by Tod Ruthven and seconded by Kelly Cochrane at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 22, 2024. After Board discussion, the following roll call vote was recorded:

Kelly Cochrane Aye

Todd Ruthven Aye

Jody Binnix Aye

Tom Lay Aye

Thomas Yourch Aye

I, Paula Ruthven, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the April 22, 2024, Meeting.

\_\_\_\_\_ L.S.

Paula Ruthven

Clerk of the Zoning Board of Appeals

■ A motion was made by MR. RUTHVEN seconded by MS. BINNIX, to waive the reading of the complete findings and decision resolution and read the determinations and conditions out loud.

Motion carried.

**TOWN OF FARMINGTON  
ZONING BOARD OF APPEALS  
AREA VARIANCE FINDINGS AND DECISION**

**APPLICANT:** Pintail Crossing, LLC  
1000 University Avenue  
Suite 500  
Rochester, NY 14607

**File:** ZB #0305-24  
**Zoning District:** RMF Residential Multi-Family  
**Published Legal Notice on:** March 17, 2024  
**County Planning Action on:** N/A  
**County Referral #:** N/A  
**Public Hearing held on:** April 22, 2024

**Property Location:** Building #8 of the existing Pintail Crossing Apartment Project, located at 5792 Pintail Crossing, Farmington, New York 14425

**Property Owner:** Pintail Crossing, LLC, 1000 University Avenue, Suite 500, Rochester, New York 14607

**Applicable Section of Town Code:** Chapter 165, Section 79 G. (2).

**Requirement for Which Variances are Requested:** The applicant is requesting a Side Yard Setback of thirty-one (31) feet, for the existing Building #8 of the Pintail Crossing Apartment Project – Phase 1. The Town Code, Chapter 165, requires a minimum Side Yard Setback of forty (40) feet within the RMF Residential Multi-Family District.

**State Environmental Quality Review Determination:** The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of a Preliminary Two-Lot Subdivision (PB #0201-24) and the granting of the above requested Area Variance for Building #8, has resulted in a Negative Declaration being issued, thereby satisfying the procedural requirements of the State Environmental Quality Review (SEQR) Regulations.

**County Planning Referral Recommendation:** N/A. Site not located within the 500-foot dimension specified in Section 239-1 of the New York State General Municipal Law.

## FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes  No

**Reasons:** The Zoning Board of Appeals (hereinafter referred to as the Board) finds that the character of this neighborhood is mix of attached single-family residential dwellings (townhouses) and multi-family residential dwellings (apartments) fronting along Pintail Crossing, Running Brook and Redfern Drive. The Board further finds that the proposed Side Yard Setback, thirty-one (31) feet, is for the proposed preliminary subdivision plat for the proposed Creekwood Extension Brickwood Management Townhouse Project located adjacent to the Pintail Crossing Apartment Project – Phase 1. The Board further understands that the Town Highway Superintendent, the Town Engineer and the Town’s Acting Water & Sewer Superintendent have reviewed this proposed area variance request and based upon their findings, determines that the granting of the requested Area Variance will not conflict with existing utilities or the continued operation of the proposed Town dedicated highway in this area. The Board, based upon these findings determines that granting the requested area variance will not create an undesirable change in the character of the neighborhood; or create a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. Yes  No

**Reasons:** The Board finds that the boundary line for the Phase 1 Project was required by the State of New York as a condition of their partial funding assistance for the development of that first phase and that it may not be amended. The Board further finds that in this instance when Building #8 was constructed as part of the Pintail Apartment Project – Phase 1, all State requirements were complied with. The Board further finds that the State has since Phase 1 denied subsequent applications for funding assistance for the Phase 2 portion of the Pintail Crossing Apartment Project. The Board further finds that the owner of the Pintail Crossing Apartment Project – Phase 1 has no

plans or intentions for constructing Phase 2 as originally intended. The Board further finds that that proposed Side Yard Setback will involve a variance of nine (9) feet leaving thirty-one (31) feet of open space and that this open area will not encroach upon design plans for the adjacent Creekwood Extension Brickwood Management Townhouse Project. The Board further finds that the Planning Board has granted Preliminary Subdivision Plat Approval for the Creekwood Extension Brickwood Management Townhouse Project with conditions, one of which involves the granting of this requested area variance. The Board, based upon these findings determines that granting the request nine-foot Side Yard Setback required for Building #8 will be in keeping with the character of this neighborhood and that it will not be a detriment to nearby properties.

3. Whether the requested variance is substantial.    Yes     No

**Reasons:** The Board finds that the requested nine-foot (9) encroachment into the minimum forty-foot (40) required Side Yard Setback involves granting a variance of twenty—two and one-half percent (22.5%) from that required by Town Code. The Board has consistently found that granting a variance involving fifty percent (50%) or more is a substantial variance.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district.    \_\_\_ Yes     No

**Reasons:** The coordinated review procedures contained in 6NYCRR, Part 617, has resulted in a Negative Declaration (a Determination of Non-Significance) being issued, thereby satisfying the requirements of article 8 of the New York State Environmental Conservation Law (ECL). The Board finds SEQR has been complied with.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the Area Variance.    \_\_\_ Yes     No

**Reasons:** The Board finds, as noted above herein, that the alleged difficulty is not self-created, as the reclassification of Pintail Crossing from a private drive to a public highway also changes the definition of Side Yard for the existing apartment buildings. The Board further finds that there is a benefit to the community by granting the requested area variances thereby allowing the proposed construction of the Creekwood Extension Brickwood Management Townhouse Project and the continuation of Pintail Crossing as a Town Highway connecting County Road 41 to the intersection of Running Brooke Drive and Redfern Drive. The Board, based upon these findings determines that the difficulty for the Applicant in complying with the change in definitions of the terms Front Yard and Side Yard, as contained within Chapter 165 cannot be achieved by any feasible alternative. The Board further finds that the relief being requested is felt to be the minimum relief necessary. Therefore, based upon these findings, the Board determines the alleged difficulty is not self-created.

**DETERMINATION OF THE ZONING BOARD OF APPEALS  
BASED UPON THE ABOVE FACTORS**

The Zoning Board of Appeals, after reviewing the above five proofs, makes the following decision:

**That the benefit to the applicant does outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variance to allow a Side Yard Setback for Building #8 of the existing apartment project known as Pintail Crossing Apartments – Phase 1 is hereby APPROVED without further conditions.**

**NOW, THEREFORE, BE IT RESOLVED** that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

**BE IT FINALLY RESOLVED** that the Board directs this Resolution be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

The above resolution was offered by Tod Ruthven and seconded by Jody Binnix at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 22, 2024. After Board discussion, the following roll call vote was recorded:

Kelly Cochran	Aye
Todd Ruthven	Aye
Jody Binnix	Aye
Tom Lay	Aye
Thomas Yourch	Aye

I, Paula Ruthven, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the April 22, 2024, Meeting.

\_\_\_\_\_  
Paula Ruthven  
Clerk of the Zoning Board of Appeals

■ A motion was made by MR. RUTHVEN seconded by MR. LAY, to waive the reading of the complete findings and decision resolution and read the determinations and conditions out loud.

Motion carried.





Reasons: The Zoning Board of Appeals (hereinafter referred to as the Board) finds that the character of this neighborhood is mix of attached single-family residential dwellings (townhouses) and multi-family residential dwellings (apartments) fronting along Pintail Crossing, Running Brook and Redfern Drive. The Board further finds that the proposed Front and Side Yard Open Parking Areas is for the existing buildings located within the Pintail Crossing Apartment Project – Phase 1 and is related to the proposed preliminary subdivision plat for the proposed Creekwood Extension Brickwood Management Townhouse Project located adjacent to the Pintail Crossing Apartment Project – Phase 1. The Board further understands that the Town Highway Superintendent, the Town Engineer and the Town’s Acting Water & Sewer Superintendent have reviewed this proposed area variances request and based upon their findings, determines that the granting of the requested Area Variances will not conflict with existing utilities or the continued operation of the proposed Town dedicated highway in this area. The Board, based upon these findings, determines that granting the requested area variance will not create an undesirable change in the character of the neighborhood; or create a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance.      Yes      X      No

Reasons: The Board finds that the boundary line for the Phase 1 Project was required by the State of New York as a condition of their partial funding assistance for the development of that first phase and that it may not be amended. The Board further finds that in this instance when the apartment buildings were constructed as part of the Pintail Apartment Project – Phase 1, Pintail Crossing was a private drive and that all State requirements were complied with. The Board further finds that the State has since the construction of Phase 1 denied subsequent applications for funding assistance for the Phase 2 portion of the Pintail Crossing Apartment Project. The Board further finds that the owner of the Pintail Crossing Apartment Project – Phase 1 has no plans or intentions for constructing Phase 2 as originally intended. The Board further finds that the proposed area variance to allow Open Parking Areas to remain in the Front and Side Yard portions of Phase 1 will involve granting an area variance and that this open area parking will not encroach upon design plans for the adjacent Creekwood Extension Brickwood Management Townhouse Project. The Board further finds that the Planning Board has granted Preliminary Subdivision Plat Approval for the Creekwood Extension Brickwood Management Townhouse Project with conditions, one of which involves the granting of this requested area variance. The Board based upon these findings determines that granting the request area variances to allow open area parking to remain within the Front and Side Yards otherwise required for the existing apartment buildings will be in keeping with the character of this neighborhood and that it will not be a detriment to nearby properties.

3. Whether the requested variance is substantial.      Yes      X      No

Reasons: The Board finds that the encroachment into the Front and Side Yard portions of Lot #1A involves granting a variance of one hundred percent (100%) from that required by the Town Code. The Board has consistently found that granting a variance involving fifty percent (50%) or more is a substantial variance.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district.  Yes  No

Reasons: The coordinated review procedures contained in 6NYCRR, Part 617, has resulted in a Negative Declaration (a Determination of Non-Significance) being issued, thereby satisfying the requirements of article 8 of the New York State Environmental Conservation Law (ECL). The Board finds SEQR has been complied with.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the Area Variance.  Yes  No

Reasons: The Board finds, as noted above herein, that the alleged difficulty is not self-created, as the reclassification of Pintail Crossing from a private drive to a public highway changes the definition of Front Yard and Side Yard areas for the existing apartment buildings. The Board further finds that there is a benefit to the community by granting the requested area variances thereby allowing the proposed construction of the Creekwood Extension Brickwood Management Townhouse Project and the continuation of Pintail Crossing as a Town Highway connecting County Road 41 to the intersection of Running Brooke Drive and Redfern Drive.

The Board, based upon these findings determines that the difficulty for the Applicant in complying with the change in definitions of the terms for Front Yard and Side Yard, as contained within Chapter 165,s cannot be achieved by any feasible alternative. The Board further finds that the relief being requested is felt to be the minimum relief necessary. Therefore, based upon these findings, the Board determines the alleged difficulty is not self-created.

DETERMINATION OF THE ZONING BOARD OF APPEALS  
BASED UPON THE ABOVE FACTORS

The Zoning Board of Appeals, after reviewing the above five proofs, makes the following decision:

**That the benefit to the applicant does outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variances to allow continued open area parking within the Front Yard and Side Yard portions of the existing apartment project known as Pintail Crossing Apartments – Phase 1 is hereby APPROVED without further conditions.**

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

BE IT FINALLY RESOLVED that the Board directs this Resolution to be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

The above resolution was offered by Tod Ruthven and seconded by Tom Lay at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 22, 2024. After Board discussion, the following roll call vote was recorded:

Kelly Cochrane	Aye
Todd Ruthven	Aye
Jody Binnix	Aye
Tom Lay	Aye
Thomas Yourch	Aye

I, Paula Ruthven, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the April 22, 2024, Meeting.

\_\_\_\_\_  
Paula Ruthven  
Clerk of the Zoning Board of Appeals

■ A motion was made by MR. RUTHVEN seconded by MS. COCHRANE, to waive the reading of the complete findings and decision resolution and read the determinations and conditions out loud.

Motion carried.

TOWN OF FARMINGTON

ZONING BOARD OF APPEALS

AREA VARIANCE FINDINGS AND DECISION

APPLICANT: Pintail Crossing, LLC File: ZB #0307-24

1000 University Avenue Zoning District: RMF Residential Multi-Family

Suite 500 Published Legal Notice on: March 17, 2024

Rochester, NY 14607 County Planning Action on: N/A

County Referral #: N/A

Public Hearing held on: April 22, 2024

Property Location: Building #7 of the existing Pintail Crossing Apartment Project, located at 5792 Pintail Crossing, Farmington, New York 14425

Property Owner: Pintail Crossing, LLC, 1000 University Avenue, Suite 500, Rochester, New York 14607

Applicable Section of Town Code: Chapter 165, Section 79 G. (2).

Requirement for Which Variances are Requested: The applicant is requesting an area variance to allow a three (3) foot wide planted buffer area for the open-air parking for building #7 of the Pintail Crossing Apartment Project – Phase 1. The Town Code, Chapter 165, Article V, Section 37-4. C. requires a planted buffer area to have a minimum width of ten (10) feet between the parking area and the adjoining residential area. The property (Building #7) is located at 5792 Pintail Crossing and is zoned RMF Residential Multi-Family District.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of a Preliminary Two-Lot Subdivision (PB #0201-24) and the granting of the above requested Area Variance for Building #7, has resulted in a Negative Declaration being issued, thereby satisfying the procedural requirements of the State Environmental Quality Review (SEQR) Regulations.

County Planning Referral Recommendation: N/A. Site not located within the 500-foot dimension specified in Section 239-1 of the New York State General Municipal Law.

## FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes  No

Reasons: The Zoning Board of Appeals (hereinafter referred to as the Board) finds that the character of this neighborhood is mix of attached single-family residential dwellings (townhouses) and multi-family residential dwellings (apartments) fronting

along Pintail Crossing, Running Brook and Redfern Drive. The Board further finds that the proposed Front.

and Side Yard Open Parking Areas are being encroached upon by the proposed dedication of Pintail Crossing as a public highway and that such action has reduced the width of the planted buffer strip for parking for the existing building #7 down to three (3) feet in width. The Board further understands that the Town Highway Superintendent, the Town Engineer and the Town's Acting Water & Sewer Superintendent have reviewed this proposed area variance request and based upon their findings, determines that the granting of the requested Area Variance is necessary so as to not conflict with existing utilities or the continued operation of the proposed Town dedicated highway in this area. The Board, based upon these findings, determines that granting the requested area variance will not create an undesirable change in the character of the neighborhood; or create a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. Yes  No

Reasons: The Board finds that the reduction in the width of the planted buffer strip for the open-air parking for building #7 is necessitated and recommended by the Planning Board as a condition of their preliminary subdivision plat for the Pintail Crossing Subdivision, Lots #1A and #1B (PB 0201-24 referenced above herein). The Board based upon this finding determines that granting the request area variance to the minimum planting width required for the open area parking for building #7 will be in keeping with the character of this neighborhood and that it will not be a detriment to nearby properties.

3. Whether the requested variance is substantial.  Yes  No

Reasons: The Board finds that the proposed reduction in the minimum planted width for open area parking for building #7 involves granting a variance of seventy percent (70%) from that required by the Town Code. The Board has consistently found that granting a variance involving fifty percent (50%) or more is a substantial variance.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environment-mental conditions in the neighborhood or district.  Yes  No

Reasons: The coordinated review procedures contained in 6NYCRR, Part 617, has resulted in a Negative Declaration (a Determination of Non-Significance) being issued, thereby satisfying the requirements of article 8 of the New York State Environmental Conservation Law (ECL). The Board finds SEQR has been complied with.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the Area Variance. \_\_\_ Yes X No

Reasons: The Board finds, as noted above herein, that the alleged difficulty is not self-created, as the reclassification of Pintail Crossing from a private drive to a public highway also changes, in this instance, available planted minimum width for open area parking for building #7. This reduction has been deemed necessary by Town Officials, during their reviews of the preliminary subdivision plat and the preliminary site plan for the related Creekwood Extension Brickwood Maintenance Townhouse Project, which is caused in part to the redesign of Pintail Crossing from a private drive to a public street. The Board, based upon these findings determines that the difficulty for the Applicant in complying with the minimum width for required planted buffer areas as contained within Chapter 165 cannot be achieved by any feasible alternative. The Board further finds that the relief being requested is felt to be the minimum relief necessary. Therefore, based upon these findings, the Board determines the alleged difficulty is not self-created.

#### DETERMINATION OF THE ZONING BOARD OF APPEALS

#### BASED UPON THE ABOVE FACTORS

The Zoning Board of Appeals, after reviewing the above five proofs, makes the following decision:

That the benefit to the applicant does outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variance to allow a three-foot-wide planted buffer strip to remain, instead of a minimum ten-foot-wide planted buffer strip for continued open area parking for the existing apartment building #7, a part of the Pintail Crossing Apartment Project – Phase 1 is hereby APPROVED without further conditions.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

BE IT FINALLY RESOLVED that the Board directs this Resolution to be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

The above resolution was offered by MR. RUTHVEN and seconded by MS. COCHRANE at a regularly scheduled meeting of the Zoning Board of Appeals held



on Monday, April 22, 2024. After Board discussion, the following roll call vote was recorded:

Kelly Cochrane Aye

Todd Ruthven Aye

Jody Binnix Aye

Tom Lay Aye

Thomas Yourch Aye

I, Paula Ruthven, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the April 22, 2024, Meeting.

\_\_\_\_\_ L.S.

Paula Ruthven

Clerk of the Zoning Board of Appeals

**7. OTHER BOARD MATTERS:**

None

**8. PUBLIC COMMENTS—OPEN FORUM DISCUSSION:**

None

**9. DIRECTOR OF DEVELOPMENT UPDATE:**

- We had a meeting today with the contractor from the sidewalks project and went over several things and introduced everybody. We are waiting for the contract documents to come in, we were told they would be here today at four and they weren't so we will have to just wait until we get them before we move on. You will see some action up there pretty quickly. The first thing they are going to start on is the bridge crossing of Beaver Creek. There is a lot of sitework preparation involved with that.
- We are still waiting on The Farmington market center to come in. We received an email from someone at mavis tire wanting to know if they're building elevation

drawings would be acceptable for the planning board and I told them to check back with us in a couple of months and maybe we would be prepared to talk to them then.

**10. ZONING/CODE ENFORCEMENT OFFICER UPDATE:**

- Zoning Officer position still has not been filled.
- Caitlyn Miller, our recent new hire, that started on April 9<sup>th</sup>, has been sending you emails. We are all working along with Paula to get the correct information sent out to you. If you feel you are missing something reach out to me and we will work on getting you what you need.
- For our next meeting we have no new applications. We will have the Fowler continuation. Our pace for moving forward with Fowler is dependent on his movement with the Planning Board.

**13. TRAINING OPPORTUNITIES:**

■ **2024 Municipal Bootcamp Trainings:**

A free annual program to provide certification credits to newly elected officials, planning and zoning boards, and municipal officials presented by Hancock Estabrook and MRB Group.

**Thursday, May 23, 2024, 6:00 p.m.–7:00 p.m.**

Session 5: A History Lesson: Challenges and Opportunities with Historic Properties

**Thursday, June 27, 2024, 6:00 p.m.–7:00 p.m.**

Session 6: Putting the Home in Hometown: Strategies for Attracting Housing Investment to Your Community

**Thursday, July 25, 2024, 6:00 p.m.–7:00 p.m.**

Session 7: From Big to Small: Translating Comprehensive Plans into Land Use Regulations

**Thursday, September 26, 2024, 6:00 p.m.–7:00 p.m.**

Session 8: Under the Tent: Open Meetings, Record Keeping, and Engaging the Public in Community Development

**Thursday, October 24, 2024, 6:00 p.m.–7:00 p.m.**

Session 9: Short, But Not Too Short: How Short-Term Rentals Are Changing the Development and Regulatory Landscape

**Thursday, December 19, 2024, 6:00 p.m.–7:00 p.m.**

Session 10: Santa's Nice and Naughty List: The Best and Worst of 2024

Questions and registration:

<https://www.hancocklaw.com/events/2024-municipal-bootcamp-trainings/>

■ **New York Planning Federation Recorded Webinars:**

For information: (518) 512-5270 or [nypf@nypf.org](mailto:nypf@nypf.org)

■ **General Code e-Code**

Daily drop-in lunchtime training Q&A sessions plus webinars in several categories.

Information: <https://www.generalcode.com/training/>

■ **Future Training Opportunities Online:**

Ontario County Planning Department website now lists upcoming training:

<https://www.co.ontario.ny.us/192/Training>

**12. NEXT MEETING:**

The next regular meeting of the Zoning Board of Appeals will be held on Monday, **May 20, 2024**, at 7:00 p.m. both in-person at the Farmington Town Hall, 1000 County Road 8, and via ZOOM.

**13. ADJOURNMENT:**

■ A motion was made by MS. COCHRANE, seconded by MS. BINNIX, that the meeting be adjourned.

Motion carried by voice vote. The meeting was adjourned at 7:50 p.m.

Respectfully submitted,

\_\_\_\_\_  
Paula Ruthven L.S.  
Clerk of the Zoning Board of Appeals