

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, August 24, 2020, 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: Jeremy Marshall, *Chairperson*
Jill Attardi
Aaron Sweeney
Thomas Yourch
One vacant position

Staff Present:
Ronald L. Brand, Town of Farmington Director of Development and Planning
Sarah Mitchell, Town of Farmington Development Office Administrator
John Weidenborner, Town of Farmington Zoning Officer

Applicants Present:
Matthew and Stacy Moroz, 5757 Wishing Well Lane, Farmington, N.Y. 14425
Joshua and Nicole Schaffer, 6183 Buckskin Drive, Farmington, N.Y. 14425

Resident Present:
Tod Ruthven, 6128 Ebony Court, Farmington, N.Y. 14425

1. MEETING OPENING

The meeting was called to order at 7:00 p.m. by Mr. Marshall.

Mr. Marshall said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 23, 2020, as amended above.

This meeting was held in person at the Farmington Town Hall. The safety measures were implemented in accordance with the Governor's relevant Executive Orders regarding the COVID-19 pandemic. Board members, Town staff and residents who were in attendance at the Town Hall remained at separated distances of at least six feet and used facemasks at distances of less than six feet. A sign-in sheet was not used to avoid contact with pens, pencils and papers. Temperature checks were conducted by Town staff at the entrance to the Town Hall. Hand sanitizers were available throughout the building. Guidelines and safety measures were posted on the meeting room door and in the lobby of the Town Hall. Separate entrance and exit locations were used. Public access was restricted to the lobby, the main meeting room and the public restrooms.

2. **APPROVAL OF MINUTES OF JULY 27, 2020**

■ A motion was made by MR. YOURCH, seconded by MS. ATTARDI, that the minutes of the July 27, 2020, meeting be approved.

Motion carried by voice vote.

3. **LEGAL NOTICE**

The following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper on Sunday, August 16, 2020:

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that Public Hearings will be held by and before the Zoning Board of Appeals of the Town of Farmington on the 24th day of August 2020 commencing at 7:00 p.m., Eastern Daylight Saving Time, at the Farmington Town Hall, 1000 County Road #8 in the Town of Farmington, Ontario County, New York 14425 to consider the following applications:

ZB #0801-20: MATHEW MOROZ, 5757 WISHING WELL LANE, FARMINGTON, N.Y. 14425: Request an Area Variance in accordance with Chapter 165, Article V, Section 58 of the Farmington Town Code. The applicant wishes to erect a 160-square-foot accessory structure (a shed) in the side yard portion of the lot. Town Code requires all accessory structures, in any district, to be located in the rear yard portion of the lot.

ZB #0802-20: MATHEW MOROZ, 5757 WISHING WELL LANE, FARMINGTON, N.Y. 14425: Request an Area Variance in accordance with Chapter 165, Article V, Section 58 of the Farmington Town Code. The applicant wishes to erect a 160-square-foot accessory structure (a shed) 4.4 feet from the side property line. The Town Code requires accessory structures to have (5-) five-foot rear and side setbacks.

ZB #0804-20: JOSHUA SCHAFFER, 6183 BUCKSKIN DRIVE, FARMINGTON,

N.Y. 14425: Request an Area Variance in accordance with Chapter 165A, Schedule 1, Attachment 1 of the Farmington Town Code. The applicant wishes to erect a 36.4-foot x 6-foot attached deck on the front of the residence, with a proposed front setback of 45.2 feet. The Town Code requires a minimum front setback of 50 feet.

THESE PUBLIC HEARINGS WILL BE HELD IN COMPLIANCE with the latest Executive Order issued by the Governor of the State of New York

SAID BOARD OF APPEALS WILL MEET at said time and place to hear all persons in support of, or having objections to, such matters.

Jeremy Marshall, Chairperson
Zoning Board of Appeals

4. NEW PUBLIC HEARINGS

ZB #0801-20 Mathew Moroz Area Variance
5757 Wishing Well Lane
Farmington, N.Y. 14425

The applicant is requesting an Area Variance in accordance with Chapter 165, Article V, Section 58 of the Farmington Town Code. The applicant wishes to erect a 160-square-foot accessory structure (a shed) in the side yard portion of the lot. Town Code requires all accessory structures, in any district, to be located in the rear yard portion of the lot. The property is located at the above address and is zone R-7.2 Planned Subdivision.

ZB #0802-20 Mathew Moroz Area Variance
5757 Wishing Well Lane
Farmington, N.Y. 14425

The applicant is requesting an Area Variance in accordance with Chapter 165, Article V, Section 58 of the Farmington Town Code. The applicant wishes to erect a 160-square-foot accessory structure (a shed) 4.4 feet from the side property line. The Town Code requires accessory structures to have (5-) five-foot rear and side setbacks. The property is located at the above address and is zone R-7.2 Planned Subdivision.

Mr. Marshall said that these applications would be considered concurrently.

He then opened the Public Hearings on ZB #0801-20 and ZB #0802-20.

Matthew and Stacy Moroz presented these applications.

Mr. Moroz distributed two sheets of photographs of his property and of sheds that have been installed on other properties in the neighborhood (*see* Appendix 1).

He described a photograph of one side yard of his yard in which the shed could not be located because of the proximity of the fence along the neighbor's property. He said that he would not be able to get anything in or out of the shed if it were to be located here. He also reviewed a photograph of the side yard as viewed from above.

Mr. Moroz then reviewed a photograph of the side yard in which he would like to place the shed. He said that nine different neighbors have signed off on the plan. Mr. Moroz said that they had no objections.

He said that he plans to have a shed that will match the siding [of the house]. He also said that he plans to install a new roof on the house and that the shed will have a matching black metal roof.

Mr. Moroz reviewed the photographs of the other areas of the yard. He said that there is no room for the shed between the swimming pool and the house; and that the proximity of an air conditioning unit, water meter and spigot also prevent having the shed in other areas of the yard.

Ms. Moroz said that their home is a lower rear entry with a walk-out, as shown on the second sheet of photographs.

Mr. Moroz said that his back lawn slopes down toward the park. He referred to the photograph that depicted the trampoline. Ms. Moroz said that the trampoline is on a slope and that this area of the yard floods with water following a heavy rain three-quarters of the year, starting from their yard all the way through.

Mr. Moroz said that a door from the house to the backyard is located where they replaced an old deck. He said that they could not place the shed in this location [where the shed would block the door]. He also reviewed the locations of the air conditioning unit and other power items which he said show that the shed could not be located between the swimming pool and the house. He said that the swimming pool has been located in this area for many years.

Mr. Moroz reviewed photographs of other houses with sheds in the Town of Farmington. Ms. Moroz said that these sheds are less attractive than the shed that they would like to put up.

Mr. Moroz said that he could agree [to put the shed in the backyard] if the property was a square. He requested that the board review his property map which he said shows that the property is shaped like a triangle. He said that a phone box is located in a portion of the yard that also would prevent the shed from being located in that area.

Mr. Moroz said that in reality trying to place shed anywhere except next to their house [in

the side yard] is impossible. He said that this is why the neighbors all have signed off on their plans. He said that they have come before the board this evening to get approval for this location.

Mr. Marshall asked if anyone in attendance wished to speak for or against this application. There were no requests from those in attendance.

Mr. Yourch asked about the width of the fence in the backyard near the swimming pool. Mr. Moroz said that the fence will not impede the door.

Ms. Attardi asked about the photographs of the pool with the chairs facing out toward the pool. She asked if the shed (with the doors facing out) could be placed in this location. Mr. Moroz said that the other side of the fence is not upon his property. Ms. Moroz said that the fence is two inches inside of it and that they would not be able to get in and out of it [the shed] because the swimming pool is located here. She said that although it may look like that there is a lot of space in this area, there is only about six feet of space here.

Ms. Attardi asked about smaller sheds that some people have put up. Mr. Moroz said that the yard slopes in this portion of the yard. Ms. Moroz said that it is hard to tell from the pictures.

Mr. Marshall said that he drove out to the property today but that he did not go inside the fence. Mr. Moroz said that they have two large maples trees on the other side of the yard where they put the deck. He said that the yard is cut up, small and angled, and that they will have a variance problem no matter where they propose to place a shed.

Ms. Attardi asked about the fence. Mr. Moroz said that his fence connects with the neighbor's fence. He said that two feet of the fence in the photograph belongs to the neighbors and that they signed off when they bought the house that they would maintain it [the fence].

Ms. Moroz said that their property slopes down just past the fire pit. She said that the portion of their swimming pool closest to the house sits way into the ground, and that by the time one gets to the back of it [the swimming pool], the swimming pool is sitting on top of the ground. Ms. Moroz said that their backyard is just a hill.

Ms. Attardi asked if the area of the fire pit could be leveled to provide a location for the shed. Mr. Moroz said that they then would not be able to open the gate to the fence.

Mr. Marshall asked about the other sheds that are shown on the photographs. Ms. Moroz said that these sheds are on her walking route in Farmbrook. She said that there are other sheds in the area, as well, and that people across the road from her sister have two sheds on the side of their house.

Mr. Weidenborner said that none of the sheds [to which Ms. Moroz referred] have been approved by the Town. He said that there are several outstanding violations which have been issued and that one shed had been placed illegally was removed today

Mr. Moroz said that this is why they are here—to do this the right way. He said that he would not have a problem with a shed eight feet wide (instead of 10 feet wide). He said that he has a four-wheeler to plow his driveway and a riding lawn mower, and that he just does not have the space. He said that their yard is not the biggest and that the garages in a Farmbrook house are not that big.

Mr. Weidenborner discussed an option that other homeowners have used to level off an area for the placement of a shed. He noted that about half of the sheds in the Hickory Rise Subdivision have been raised on the lots where the ground slopes down.

Ms. Moroz said that their property literally comes to a point. Mr. Moroz said that they have an awkward shaped lot and that trying to put it [the shed] down there is not feasible. He said that other areas of the lot have cable or TV wire, that the yard is all slope and that the alternate location would be too close to the property line.

Mr. Weidenborner said that the intent [of the Town Code] is to keep accessory structures to a minimum because of the lot sizes. He said that they may wish to pick and choose what they want on their lot regarding accessory structures because of the lot sizes.

Ms. Moroz said that right now Mr. Moroz leaves all his tools and “toys” outside because they have no room to store them. Mr. Moroz said that they do not have broken down cars or boats stored in the yard. He said that they try to keep their yard clean and their house looking well.

Ms. Attardi asked if the trampoline is on level ground. Ms. Moroz said that it is not [on level ground]. Mr. Moroz said that the trampoline is on its way out.

Ms. Attardi then asked if the ground [upon which the trampoline is now located] could be leveled for the placement of a shed. Mr. Moroz said that this is the area of the property that comes to a point and that a shed here would be too close to the pool and too close to the property line.

Ms. Attardi asked about the distance from the fence to a shed. Mr. Weidenborner said that this the reason for the second variance application.

Mr. Sweeney asked about having a smaller shed. Mr. Moroz said that a smaller shed in the backyard would not hold the four-wheeler and the John Deere riding lawnmower. He said that these just would not fit in a smaller shed.

Mr. Yurch asked how many sheds are allowed in a backyard. Mr. Weidenborner said that there is no maximum number of accessory structures that are permitted in a backyard as long as the setbacks and other requirements of the Town Code are met.

Mr. Weidenborner said that a shed must be a fire-rated structure if it is built within five feet of a house or a garage. Mr. Moroz said that he would have no problem if dry wall is required in the shed. Ms. Moroz said that they have had discussions about leaving space

between a shed and the garage for snow removal and to avoid water damage.

There were no further comments or questions on these applications this evening.

Mr. Marshall then closed the Public Hearing on these applications.

ZB #0804-20

**Joshua Schaffer
6183 Buckskin Drive
Farmington, N.Y. 14425**

Area Variance

The applicant is requesting an Area Variance in accordance with Chapter 165A, Schedule 1, Attachment 1 of the Farmington Town Code. The applicant wishes to erect a 36.4-foot x 6-foot attached deck on the front of the residence, with a proposed front setback of 45.2 feet. The Town Code requires a minimum front setback of 50 feet. The property is located at the above address and is zone R-1-15 Residential Single Family.

Mr. Marshall opened the Public Hearing on this application.

Mr. Schaffer presented this application.

Mr. Schaffer said that there are other porches in the Doe Haven neighborhood. He said that he has reviewed the setback of his house and that his house is 69 feet from the road. Mr. Schaffer said that [the width of the proposed] porch would only be six feet wide and that this would provide 63 feet to the road. He said that the [proposed] porch would not be close to the road, that plenty of his neighbors have porches and that this should not be an issue.

Mr. Marshall asked if anyone in attendance wished to speak for or against this application. There were no comments from those in attendance.

Mr. Brand clarified the Town right of way. He explained that the Town right of way is a generally a distance of 60 feet wide, and that it is measured from the centerline of the road 30 feet in each direction. He said that a property owners' land begins at a point 30 feet from the centerline of the road, and it is from this location that the setback measurement is taken.

Mr. Weidenborner said that there were two other Area Variances approved by the Zoning Board of Appeals in past years for similar porches of similar sizes. Mr. Marshall asked if an Area Variance had been issued on this specific property. Mr. Weidenborner said no, but that Area Variances had been issued for similar porches at similar sizes in this community.

There were no further comments or questions on these applications this evening.

Mr. Marshall then closed the Public Hearing on this application.

5. BOARD BUSINESS—DELIBERATIONS AND DECISIONS

■ A motion was made by MR. YOURCH, seconded by MR. SWEENEY, that the readings of the following State Environmental Quality Review (SEQR) resolutions be waived.

Motion carried by voice vote. The readings of the following resolutions were waived.

■ A motion was made by MR. YOURCH, seconded by MS. ATTARDI, that the following SEQR resolutions be approved as submitted by the Town staff:

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
SEQR RESOLUTION—TYPE II ACTION**

ZB #0801-20

**APPLICANT: Matthew Moroz, 5757 Wishing Well Lane,
Farmington, N.Y. 14425**

**ACTION: Area Variance to erect a 160- square-foot accessory structure
(a shed) in the side yard portion of a lot.**

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action; and,

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
SEQR RESOLUTION—TYPE II ACTION**

ZB #0802-20

**APPLICANT: Matthew Moroz, 5757 Wishing Well Lane,
Farmington, N.Y. 14425**

**ACTION: Area Variance to erect a 160- square-foot accessory structure
(a shed) in the side yard of the lot and located 4.4 feet from the
side yard lot line.**

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action; and,

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
SEQR RESOLUTION—TYPE II ACTION**

ZB #0804-20

**APPLICANT: Joshua Schaffer, 6183 Buckskin Drive,
Farmington, N.Y. 14425**

**ACTION: Area Variance to erect a 36.4-foot x 6-foot deck to be attached
on the front of the residence, creating a proposed front setback
of 45.2 feet.**

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action; and,

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

- Jill Attardi Aye
- Jeremy Marshall Aye
- Aaron Sweeney Aye
- Thomas Yourch Aye

One vacant position —

Motion to approve the preceding three resolutions carried.

ZB #0801-20 Mathew Moroz Area Variance

■ A motion was made by MR. YOURCH, seconded by MR. SWEENEY, that the reading of the following complete resolution be waived and that the chairperson read aloud the determination of the Zoning Board of Appeals.

Motion carried by voice vote.

Mr. Marshall then read aloud the determination of the Zoning Board of Appeals from the following complete resolution:

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

APPLICANT: Matthew Moroz
5757 Wishing Well Lane
Farmington, N.Y. 14425

File: ZB #0801-20
Zoning District: R-7.2 Planned
Subdivision
Published Legal Notice on:
August 16, 2020
County Planning Action on: N/A
County Referral #: N/A
Public Hearing held on:
August 24, 2020

Property Location: 5757 Wishing Well Lane, Farmington, New York 14425

Applicable Section of Town Code: Chapter 165, Article V, Section 58

Requirement for Which Variances are Requested: The applicant wishes to erect a 160-square-foot accessory structure (a shed) in the side yard portion of his lot. The Town Code requires all accessory structures, in any district, to be located in the rear yard portion of the lot.

State Environmental Quality Review Determination: The granting of an Area Variance for an a 160-square-foot accessory structure is classified as a Type II Action under Part 617.5 (15) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8

County Planning Referral Recommendation: N/A. Exempt Action by Ontario County Planning Board Bylaws.

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.

X Yes ___ No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds the neighboring properties are all zoned R-7.2 Planned Subdivision District. The Board further finds that these properties have been developed as single-family dwellings on 7,200-square-foot lots. The Board further finds that the majority of these properties have been developed within the long-established zoning district requirements; and without the need for area variances being granted which, had they been granted, would have reduced the minimum required open space portions of these small sized lots. The Board further finds the cumulative effect of such practice would have resulted in a major change to the character of the neighborhood as it was originally intended and as it has been used for many decades.

The Board further finds, that in this instance, the property owner has placed a number of temporary structures (e.g., trampoline, above ground swimming pool, a new deck [under construction] and other accessory structures) within the rear yard portion of the lot. The Board further finds that removal of one or more of these temporary accessory structures, will enable the placement of the proposed accessory structure within the rear yard portion of the site and without having the need for the requested area variance being granted. The Board further finds that the property owner has recently chosen to place an accessory structure (a deck for the above ground swimming pool) within this rear yard portion of the site instead of constructing what is now being cited as a necessary structure to contain materials being stored within the garage portion of the dwelling unit.

The Board further finds that it is a requirement of New York State Town Law (Section 267. B. (c) to grant the minimum variance deemed necessary and adequate and at the same time preserve and protect the character of the neighborhood. The Board, based upon these findings, determines that the applicant has failed to prove the existence of any practical difficulty in complying with the zoning district requirements. The Board further finds that the majority of the sites within this long-established neighborhood exist without over-crowding of their individual sites with accessory structures. The Board, based upon these findings concludes that, in this instance, the granting of an area variance without substantial proof of any practical difficulty would likely affect the character of the neighborhood; and would become a detriment to nearby properties.

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

Reasons: The Board finds, the property owner has placed a number of temporary structures (e.g., trampoline, above ground swimming pool, a new deck [under construction] and other accessory structures) within the rear yard portion of the lot. The Board further finds that removal of one or more of these temporary accessory structures, will enable the placement of the proposed accessory structure within the rear yard portion of the site and without having the need for the requested area variance being granted.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the requested encroachment into the side yard setback involves a 100% variance. The Board has consistently found that 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 Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 of the SEQR Regulations. The Board finds that the proposed Action is classified as a Type II Action under Section 617.5 (c) of the New York State Environmental Conservation Law (ECL), Article 8. The Board finds that Type II Actions have been determined not to have a significant adverse impact upon the environment and has thereby satisfied the procedural requirements of the ECL.

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 that the alleged difficulty is self-created due to the applicant’s choice of placing a swimming pool and other items in their back yard where the accessory structure could be placed.

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

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

The Board based upon its review of the record on this application finds that the benefit to the applicant does not outweigh the detriment to the community or neighborhood; and, therefore, the requested area variance to erect an Accessory Structure (shed) in the applicant’s side yard is denied.

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.

■ A motion was made by MR. YOURCH, seconded by MS. ATTARDI, that the preceding resolution be approved.

Jill Attardi	Aye
Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye
One vacant position	—

Motion carried.

ZB #0802-20 Mathew Moroz Area Variance

■ A motion was made by MR. YOURCH, seconded by MR. SWEENEY, that the reading of the following complete resolution be waived and that the chairperson read aloud the determination of the Zoning Board of Appeals.

Motion carried by voice vote.

Mr. Marshall then read aloud the determination of the Zoning Board of Appeals from the following complete resolution:

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

APPLICANT: Matthew Moroz
5757 Wishing Well Lane
Farmington, N.Y. 14425

File: ZB #0802-20
Zoning District: R-7.2 Planned
Subdivision
Published Legal Notice on:
August 16, 2020
County Planning Action on: N/A
County Referral #: N/A
Public Hearing held on:
August 24, 2020

Property Location: 5757 Wishing Well Lane, Farmington, New York 14425

Applicable Section of Town Code: Chapter 165, Article V, Section 58

Requirement for Which Variances are Requested: The applicant wishes to erect a 160-square-foot accessory structure (a shed) 4.4 feet from the side lot line. The Town Code requires accessory structures to have five- (5-) foot side setbacks.

State Environmental Quality Review Determination: The granting of an Area Variance for an a 160-square-foot accessory structure is classified as a Type II Action under Part 617.5 (15) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8

County Planning Referral Recommendation: N/A. Exempt Action by Ontario County Planning Board Bylaws.

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.

X Yes ___ No

Reasons: The Zoning Board of Appeals (hereinafter referred to as the Board) finds that there are other accessory structures located within The Farmbrook neighborhood. The Board further finds that to the best of their knowledge there have been no variances granted for allowing an accessory structure (shed) to be placed less than five (5) Feet from any side lot line in this neighborhood. The Board based upon these findings determines that granting the requested area variance could produce an undesirable change in the character of the neighborhood by establishing precedent with this application for justifying other similar applications for the placement of accessory structures in the future.

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

Reasons: The Board finds, the property owner has placed a number of temporary structures (e.g., trampoline, above ground swimming pool, a new deck [under construction] and other accessory structures) within the rear yard portion of the lot. The Board further finds that removal of one or more of these temporary accessory structures, will enable the placement of the proposed accessory structure within the rear yard portion of the site and without having the need for the requested area variance being granted.

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

Reasons: The Board finds that the requested encroachment into the Side Yard setback involves a 100% variance. The Board has consistently found that 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 Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 of the SEQR Regulations. The Board finds that the proposed Action is classified as a Type II Action under Section 617.5 (c) of the New York State Environmental Conservation Law (ECL), Article 8. The Board finds that Type II Actions have been determined not to have a significant adverse impact upon the environment and has thereby satisfied the procedural requirements of the ECL.

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

Reasons: The Board finds that the alleged difficulty is self-created due to the applicant's choice of placing a swimming pool (an accessory structure) and other non-permanent items in the rear yard portion of the lot where the proposed accessory structure could be placed without needing an area variance. In addition, the Board finds that there are alternative sizes for the proposed accessory structure that would allow placement to fit current space available within the rear yard portion of the lot.

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

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

The Board based upon its review of the record on this application finds that the benefit to the applicant does not outweigh the detriment to the community or neighborhood; and, therefore, the requested area variance to erect an Accessory Structure (shed) in the applicant's side yard is denied.

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.

■ A motion was made by MR. YOURCH, seconded by MS. ATTARDI, that the preceding resolution be approved.

Jill Attardi	Aye
Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye
One vacant position	—

Motion carried.

ZB #0804-20 Joshua Schaffer Area Variance

■ A motion was made by MR. YOURCH, seconded by MR. SWEENEY, that the reading of the following complete resolution be waived and that the chairperson read aloud the determination of the Zoning Board of Appeals.

Motion carried by voice vote.

Mr. Marshall then read aloud the determination of the Zoning Board of Appeals from the following complete resolution:

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

APPLICANT: Joshua Schaffer 6183 Buckskin Drive Farmington, N.Y. 14425	File: ZB #0804-20 Zoning District: R-1-15 Residential Single Family Published Legal Notice on: August 16, 2020 County Planning Action on: N/A County Referral #: N/A Public Hearing held on: August 24, 2020
--	--

Property Location: 6183 Buckskin Drive, Farmington, New York 14425

Applicable Section of Town Code: Chapter 165A, Schedule 1, Attachment 1.

Requirement for Which Variances are Requested: The applicant wishes to erect a 36.4 foot x 6 foot porch to be attached on the front of the residence, with a proposed front setback of 45.2 feet. The Town Code requires a minimum front setback of fifty (50) feet in the R-1-15 residential single-family district.

State Environmental Quality Review Determination: The granting of an Area Variance for an a 160-square-foot accessory structure is classified as a Type II Action under Part 617.5 (15) of the State Environmental Quality Review (SEQR) Regulations. Type II

Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8

County Planning Referral Recommendation: N/A. Exempt Action by Ontario County Planning Board Bylaws.

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 predominantly single-family dwellings. The Board further finds that there are other properties in the neighborhood having single-family dwellings which have had area similar variances granted for front yard setbacks to accommodate porches. The Board, based upon these findings, determines that the granting of 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 there are no other options available to install a porch attached to the front of the residence without requiring a variance from this setback. Therefore, based upon these findings, the Board determines that the benefit to the applicant cannot be achieved by a feasible alternative design

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the requested encroachment into the front yard setback involves a variance of nine percent (9%) from that required by town code. The Board has consistently found that 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 Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 of the SEQR Regulations. The Board finds that the proposed Action is classified as a Type II Action under Section 617.5 (c) of the New York State Environmental Conservation Law (ECL), Article 8. The Board finds that Type II Actions

have been determined not to have a significant adverse impact upon the environment and has thereby satisfied the procedural requirements of the ECL.

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. **X** Yes ___ No

Reasons: The Board finds that the alleged difficulty is self-created due to the applicant’s choice of wanting to attach a porch on the front of the residence.

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

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

The Board based upon its review of the record on this application finds that the benefit to the applicant does outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variance to erect a porch 45.2 feet from the front lot line instead of the required fifty (50) foot setback is approved with the following conditions:

1. The porch addition is to match, to the extent practical, the exterior treatment of the existing structure.
2. Any light fixture to be installed as part of the proposed porch addition shall comply with the Town’s Dark Sky lighting regulations contained in Chapter 165 of the Town Code.
3. A Building Permit shall be acquired by the applicant prior to the start of construction.

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.

■ A motion was made by MR. YOURCH, seconded by MS. ATTARDI, that the preceding resolution be approved.

Jill Attardi	Aye
Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye

One vacant position —

Motion carried.

6. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

None.

7. DIRECTOR OF DEVELOPMENT UPDATE

Mr. Brand said that the Town Board has initiated steps to enact a six-month moratorium on solar collection systems and solar farms to provide time for the consideration of amendments to Town Code Chapter 165, Article V, Section 65.3 Solar Photovoltaic (PV) Systems.

He said that the moratorium would apply to new applications for solar farms and those activities that generate electricity for sale to the power grid. Mr. Brand said that the moratorium would not apply to individual solar panels that may already have been installed on the roofs of homes.

He said that the Town has received valuable public input and has learned information about the ongoing operations of a solar collection system and solar farms during the past two and one-half years [of consideration of the prosolar farm proposed on Yellow Mills Road by Delaware River Solar]. He said that the proposed moratorium will not apply to the Delaware River Solar application and that there are no other pending applications. Mr. Brand said that the Delaware River Solar applications would be permitted to continue.

Mr. Brand said the Town Board's draft Local Law has been reviewed by the Ontario County Planning Board which issued this comment (Ontario County Planning Board Referral #144-2020):

In their review of large-scale solar energy collection systems, the Town has identified some desired regulatory changes. The moratorium is intended to pause consideration of new applications while the Town drafts, reviews and approves desired amendment.

—August 12, 2020

Mr. Brand said that hopefully the Town will not need the full six months to prepare the amendments to the Town Code. He said that the Town Board has requested a recommendation and report on the proposed moratorium from the Planning Board and that a draft resolution has been submitted for consideration by the board this evening.

The Town Board has scheduled a Public Hearing on the establishment of the moratorium on September 8, 2020, at 7:00 p.m., at the Town Hall.

8. ZONING OFFICER UPDATE

Mr. Weidenborner said that the Zoning Board of Appeals will hold a Workshop Session on Monday, September 28, 2020, at 6:30 p.m. (one-half hour prior to the regular Zoning Board of Appeals meeting) to discuss the State Route 96 Street Scape Corridor design criteria in preparation for a commercial speech sign application that will be on the agenda for the September 28th meeting.

9. BOARD MEMBERS' COMMENTS

None.

10. TRAINING OPPORTUNITIES

American Planning Association:

<https://www.youtube.com/user/PlanningWebcast/videos>

New York Association of Towns Virtual Training:

Wednesday, September 9, 2020

8:45 a.m. to 12:30 p.m.

2020 Town Finance School

Wednesday, September 16, 2020

10:00 a.m. to 11:00 a.m.

Ask the Attorneys

Tuesday, September 29, 2020

10:00 a.m. to 11:00 a.m.

The Ups and Downs of Town Budgets

Wednesday, October 7, 2020

10:00 a.m. to 11:00 a.m.

Ask the Attorneys

Tuesday, October 20, 2020

10:00 a.m. to 11:00 a.m.

Roles and Responsibilities of the Town Board and Highway Superintendent

Free to Association of Towns members. Registration required, www.nytowns.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>

11. NEXT WORKSHOP SESSION AND MEETING DATE

The next regular meeting of the Zoning Board of Appeals will be held on Monday, September 28, 2020, at 6:30 p.m. (Workshop Session) and at 7:00 p.m. (Regular Meeting) at the Farmington Town Hall, 1000 County Road 8.

12. ADJOURNMENT

■ A motion was made by MR. SWEENEY, seconded by MS. ATTARDI, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 7:35 p.m.

Respectfully submitted,

John M. Robortella L.S.
Clerk of the Zoning Board of Appeals

Appendix 1:

Photographs submitted by Matthew Moroz, 5757 Wishing Well Lane.



5757 WISHING Well Lane
MATTHEW MOROZ
August 24, 2020



5757 WISHING WELL LANE
MATHAU MORRIS
AUGUST 24, 2020