

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS
Monday, August 28, 2017, 7:00 p.m.

MINUTES—APPROVED

The following minutes are written as a summary of the main points that were made and the actions taken at the Town of Farmington Zoning Board of Appeals meeting.

Board Members Present: Timothy DeLucia, *Chairperson*
Jeremy Marshall
Cyril Opett
Nancy Purdy
Thomas Yourch

Staff Present:
Ronald L. Brand, Town of Farmington Director of Development and Planning
James Morse, Town of Farmington Code Enforcement Officer

Applicants Present:
Jeff Smith, 4981 Maxwell Road, Palmyra, N.Y. 14522
John and Elvira Boonstra, 5059 Maxwell Road, Palmyra, N.Y. 14522

1. MEETING OPENING

The meeting was called to order at 7:00 p.m. After the Pledge of Allegiance was recited, Mr. DeLucia introduced the Zoning Board of Appeals members and staff, explained the emergency evacuation procedures, and noted that copies of the evening’s agenda were available at the door.

Mr. DeLucia said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 29, 2017.

2. APPROVAL OF MINUTES OF JUNE 20, 2017

■ A motion was made by Thomas Yourch, seconded by Cyril Opett, that the minutes of the June 20, 2017, meeting be approved.

Motion carried by voice vote.

3. LEGAL NOTICE

Mr. DeLucia attested that the following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper (the Town’s official newspaper) on Sunday, August 20, 2017, that it was posted upon the Town of Farmington website (www.townofarmington-ny.com), and that it was posted upon the Town Clerk’s bulletin board in the foyer of the Town Hall:

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 28th day of August 2017 commencing at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8, in the Town of Farmington, Ontario County, New York to consider the following applications:

ZB #0801-17: JEFF SMITH, 4981 MAXWELL ROAD, PALMYRA, N.Y. 14522: Request an Area Variance to Article V, Chapter 165-58 (A) to the Town of Farmington Codes. The applicant wishes to erect an Accessory Structure located in the front yard (Accessory Structures are to be located in the rear yard). The property is located at 4981 Maxwell Road and zoned A-80 District.

ZB #0802-17: JEFF SMITH, 4981 MAXWELL ROAD, PALMYRA, N.Y. 14522: Request an Area Variance to Article IV, Chapter 165-34 (A) Schedule A to the Town of Farmington Codes. The applicant wishes to locate an Accessory Structure with a 10-foot front setback from the front property line (a minimum of 60 feet is required). The property is located at 4981 Maxwell Road and zoned A-80 District.

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

Tim DeLucia, Chairperson
Zoning Board of Appeals
Town of Farmington

4. PUBLIC HEARINGS

ZB #0801-17 Jeff Smith Area Variance
4981 Maxwell Road
Palmyra, N.Y. 14522

The applicant is requesting an Area Variance to Article V, Chapter 165-58 (A) to the Town of Farmington Codes. The applicant wishes to erect an Accessory Structure (a 28-foot x 32-foot single-story garage) to be located in the front-yard portion of the lot. The Town Code requires Accessory Structures to be located in the rear-yard portion of the lot. The property is located at 4981 Maxwell Road and is zoned A-80 Agricultural District.

ZB #0802-17**Jeff Smith
4981 Maxwell Road
Palmyra, N.Y. 14522****Area Variance**

The applicant is requesting an Area Variance to Article IV, Chapter 165-34 (A) to the Town of Farmington Codes. The applicant wishes to locate an Accessory Structure (a 28-foot x 32-foot single-story garage) to be located 10 feet from the front lot line. The Town Code restricts the placement of structures in the front-yard portion of a lot to a minimum setback of 60 feet from the highway right-of-way line. The property is located at 4981 Maxwell Road and is zoned A-80 Agricultural District.

Mr. DeLucia declared the Public Hearings for ZB 0801-17 and ZB 0802-17 open.

Jeff Smith presented this application.

Mr. Smith questions if the second application ZB 0802-17 is required since his property is a flag lot and his front property line is about 500-600 feet off the road.

Mr. Morse, Code Enforcement officer, explains Chapter 165, Section 10, of the Town Code defines a Flag Lot, which is the classification of Mr. Smith's lot. A Flag Lot provides access from the highway to the interior portion of the lot. The definition notes that the access portion of the flag lot shall not be considered buildable and may not be used in calculation of the minimum lot area requirements or in determining required setbacks in relation to the property line and the front of the dwelling for the zoned district. Since Mr. Smith is requesting to erect the accessory structure 10 feet from the lot line the second application is required.

Mr. DeLucia then asks for any further questions or comments from the applicant. Hearing nothing, he then asks for comments and questions from town staff.

Mr. Brand, Director of Planning and Development, explains that the definition of the front lot line is the distance between the front of the building and the edge of the property, which in this instance, is the flag portion of the lot not the highway right of way.

Mr. Morse had nothing further.

Mr. DeLucia then asks for comments from the Board.

Mr. Marshall asks why Mr. Smith decided to build the proposed accessory structure in the front yard portion of the lot opposed to the rear yard portion of his lot as to follow Town Code.

Mr. Smith explains that it is the most convenient location in relation to the accessory structure already located on the lot as well as in relation to the location of his house.

Mr. DeLucia asks for any further comments or questions from the Board. Hearing nothing, he then asks if there are any questions or comments from the public.

Mr. and Mrs. Boonstra ask if there is a property map available for them to review.

Mr. DeLucia invites them to the front table and he and Mr. Smith explain where on the map he would like to erect the accessory structure. Mr. Brand also shows the Board members as well as the public a picture of the property to better understand the proposed location for the accessory structure.

Mr. Boonstra asks Mr. Smith what he will be using the structure for.

Mr. Smith explains that it will primarily be used for storage and he does not anticipate storing any vehicle there.

Mr. and Mrs. Boonstra add that they have no issues with the proposed accessory structure location.

Mr. DeLucia then asks if there are any further questions from the Board, staff or the public.

Hearing nothing, Mr. DeLucia then closed the Public Hearings for applications ZB 0801-17 and ZB 0802-17.

5. BOARD BUSINESS—DELIBERATIONS AND DECISIONS

ZB #0801-17 Jeff Smith Area Varince

■ A motion was made by Jeremy Marshall, seconded by Cyril Opett, that the reading of the State Environmental Quality Review (SEQR) resolution on this application be waived.

Motion carried by voice vote. The reading of the SEQR resolution on this application was waived.

■ A motion was made by Jeremy Marshall, seconded by Thomas Yourch, that the following resolution be approved:

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

ZB #0801-17

APPLICANT: Jeffrey Smith, 4981 Maxwell Road, Farmington, New York 14425

ACTION: Area Variance to erect a second accessory structure, a single story two car garage, in the front yard portion of the lot.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has received the above referenced Action; and

WHEREAS, the Board has reviewed the Type II Actions List contained in Part 617.5 of Article 8 of the New York State Environmental Conservation Law (hereinafter referred to as SEQR Regulations); and

WHEREAS, the Board, prior to making a decision upon the above referenced Action, is obligated to first determine the classification of the Action.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby find that the proposed Action is defined in Part 617.5 (c) (7) of article 8 of the New York State Environmental Conservation Law, the State’s Environmental Quality Review (SEQR) Regulations which involves the construction of a minor accessory residential structure not changing the land use of the site.

BE IT FINALLY RESOLVED in accordance with the SEQR Regulations this Action is not subject to further review having been determined not to have a significant impact upon the environment.

Timothy DeLucia	Aye
Jeremy Marshall	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

Mr. DeLucia then read aloud the following resolution:

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

APPLICANT: Jeffrey Smith
4981 Maxwell Road
Farmington, N.Y. 14425

File: ZB #0801-17
Zoning District: A-80 Agricultural
Published Legal Notice on:
August 20, 2017
County Planning Action on: N.A.
County Referral #: N.A.
Public Hearing held on: August 28, 2017

Property Location: 4981 Maxwell Road, Farmington, N.Y. 14425

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

Requirement for Which Variance is Requested: The applicant wishes to erect a second accessory structure, a single-story two car garage, to be located in the Front Yard portion of the lot. The Town Code requires accessory structures to be located in the Rear Yard portion of the lot in the A-80 Agricultural District.

State Environmental Quality Review Determination: The granting of an Area Variance to erect a second accessory structure on an approved residential lot is classified as a Type II Action under Part 617.5 (c) (7) 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: This application does not lay within the jurisdictional area provided in Section 239-1 of the New York State General Municipal Law. Therefore, no County Planning Board Referral, is required.

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 X No

Reasons: The Board finds that the lot is primarily a wooded area with mature trees and under growth which provides a good visual buffer from adjacent properties. The Board also finds that the developed portion of the lot is setback several hundred feet south of Maxwell Road and that none of the existing structures located upon the lot are visible from along the highway. The Board finds that placing the proposed accessory structure in the location shown on the submitted sketch plan will have the least impact upon removing the established mature trees located upon the site. The Board finally finds that placing the proposed accessory structure upon this portion of the lot will not produce an undesirable change in the character of the neighborhood or be 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 there is no feasible alternative to the requested area variance to permit an accessory structure to be placed within the open portion of the site. The Board finds that any other location would necessitate the removal of the mature trees on the lot.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the requested area variance involves granting a variance of 100 % to allow an accessory structure to be placed within the Front Yard portion of the lot. The Board has consistently found that granting an area variance in excess of 50% of what is required by Town Code 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 applicant desires to use a portion of the Front Yard for this lot to construct a single-story two car garage is a self-created hardship due to the placement of the Principal Structure upon 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:

X That the benefit to the applicant DOES outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to construct a second accessory structure, a single-story two car garage (28 feet by 32 feet) in the Front Yard portion of the lot located at 4981 Maxwell Road is APPROVED WITH THE FOLLOWING CONDITIONS:

1. There shall be no outdoor use of lighting that extends beyond the property boundary line onto adjacent properties.
2. The exterior of the proposed Accessory Structure is to follow the character of the existing Accessory Structure in building materials and color.
3. There shall be no water service installed within the proposed Accessory Structure.

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.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby find that the proposed Action is defined in Part 617.5 (c) (7) of article 8 of the New York State Environmental Conservation Law, the State’s Environmental Quality Review (SEQR) Regulations which involves the construction of a minor accessory residential structure not changing the land use of the site.

BE IT FINALLY RESOLVED in accordance with the SEQR Regulations this Action is not subject to further review having been determined not to have a significant impact upon the environment.

Timothy DeLucia	Aye
Jeremy Marshall	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

Mr. DeLucia then read aloud the following resolution:

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

APPLICANT: Jeffrey Smith 4981 Maxwell Road Farmington, N.Y. 14425	File: ZB #0802-17 Zoning District: A-80 Agricultural Published Legal Notice on: August 20, 2017 County Planning Action on: N.A. County Referral #: N.A. Public Hearing held on: August 28, 2017
--	---

Property Location: 4981 Maxwell Road, Farmington, N.Y. 14425

Applicable Section of Town Code: Chapter 165, Article V, Section 35. A.

Requirement for Which Variance is Requested: The applicant wishes to erect a second accessory structure, a single-story two car garage, to be located in the Front Yard Setback portion of the lot, ten (10) feet from the Front Lot Line. The Town Code requires a Front Setback of 60 feet in the A-80 Agricultural District.

State Environmental Quality Review Determination: The granting of an Area Variance to erect a second accessory structure on an approved residential lot is classified as a Type II Action under Part 617.5 (c) (7) 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 pre-

cluded from further environmental review under Environmental Conservation Law, Article 8.

County Planning Referral Recommendation: This application does not lay within the jurisdictional area provided in Section 239-1 of the New York State General Municipal Law. Therefore, no County Planning Board Referral, is required.

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 Board finds that the lot is primarily a wooded area with mature trees and under growth which provides a good visual buffer from adjacent properties. The Board also finds that the developed portion of the lot is setback several hundred feet south of Maxwell Road and that none of the existing structures located upon the lot are visible from along the highway. The Board finds that placing the proposed accessory structure in the location shown on the submitted sketch plan will have the least impact upon removing the established mature trees located upon the site. The Board finally finds that placing the proposed accessory structure upon this portion of the lot will not produce an undesirable change in the character of the neighborhood or be 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 there is no feasible alternative to the requested area variance to permit an accessory structure to be placed within the open portion of the site. The Board finds that any other location would necessitate the removal of the mature trees on the lot.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the requested area variance involves granting a variance of 83% to allow a structure to be placed within the Front Yard portion of the lot. The Board has consistently found that granting an area variance in excess of 50% of what is required by Town Code 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 applicant desires to use a portion of the Front Yard for this lot to construct a single-story two car garage is a self-created hardship due to the placement of the Principal Structure upon 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:

X That the benefit to the applicant DOES outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to construct a second accessory structure, a single-story two car garage (28 feet by 32 feet) in the Front Yard portion of the lot located at 4981 Maxwell Road is APPROVED WITH THE FOLLOWING CONDITIONS:

1. There shall be no outdoor use of lighting that extends beyond the property boundary line onto adjacent properties.
2. The exterior of the proposed Accessory Structure is to follow the character of the existing Accessory Structure in building materials and color.
3. There shall be no water service installed within the proposed Accessory Structure.

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 Jeremy Marshall, seconded by Cyril Opett, that the preceding resolution be approved.

Timothy DeLucia	Aye
Jeremy Marshall	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

6. PUBLIC COMMENTS—OPEN FORUM

None

7. OTHER BOARD MATTERS

Mr. Marshall asks if County Planning has any scheduled training classes.

Mr. Morse said that nothing has come up pertaining to the Zoning Board of Appeals but will notify them if he hears of anything.

8. CODE ENFORCEMENT OFFICER REPORT

Mr. Morse reported that they are very busy in the Building and Code Office. They are currently dealing with some drainage issues in some of the new subdivisions mostly pertaining to Hickory Rise. Sidewalks down Hook Road are being installed and they will potentially be completed by Thursday.

9. NEXT MEETING DATE

If necessary, the next regular meeting of the Zoning Board of Appeals will be held on Monday, September 25, 2017, at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8, Farmington, N.Y. 14425.

10. ADJOURNMENT

■ A motion was made by Thomas Yourch, seconded by Nancy Purdy, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Sarah L. Mitchell L.S.
Acting Clerk of the Zoning Board of Appeals