

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, June 25, 2018, 7:00 p.m.

MINUTES—APPROVED

The following 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: Timothy DeLucia, *Chairperson*
Cyril Opett
Nancy Purdy
Thomas Yourch

Board Member Excused: Jeremy Marshall

Staff Present:
None

Applicants Present:
Ann Borgus, 1761 Estate Drive, Farmington, N.Y. 14425
Reynold Christenson, 5914 Tweed Trail, Farmington, N.Y. 14425
Joshua Harding, 1721 Maplewood Drive, Farmington, N.Y. 14425
Robert Hills, 1108 Harlowe Lane, Farmington, N.Y. 14425
John Leisenring, 1107 Harlowe Lane, Farmington, N.Y. 14425
Eric and Elaine Thomas, 1110 Harlowe Lane, Farmington, N.Y. 14425
Laura VanBuren, 5914 Tweed Trail, Farmington, N.Y. 14425
Matthew Vansickle, 340 Hook Road, Farmington, N.Y. 14425
Gary Weidenborner, 5799 Mountain Ash Drive, Farmington, N.Y. 14425
John and Sarah Weidenborner, 5 Heritage Circle, Farmington, N.Y. 14425

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, explained the emergen-

cy 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 March 19, 2018.

2. APPROVAL OF MINUTES OF MAY 21, 2018

■ A motion was made by MR. OPETT, seconded by MS. PURDY, that the minutes of the May 21, 2018, 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, June 17, 2018, 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 a Public Hearing will be held by and before the Zoning Board of Appeals of the Town of Farmington on the 25th day of June, 2018, 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 #0601-18: GARY WEIDENBORNER, 5799 MOUNTAIN ASH DRIVE, FARMINGTON, N.Y. 14425: Request an Area Variance to Article V, Chapter 165-61A to the Town of Farmington Codes. The applicant wishes to erect a fence in height of 6 feet in the front yard (a maximum of 4-foot-high fence is allowed in the front yard). The property is located at 5799 Mountain Ash Drive and zoned R-1-10 District.

ZB #0602-18: LAURA VAN BUREN, 5914 TWEED TRAIL, FARMINGTON, N.Y. 14425: Request an Area Variance to Article V, Chapter 165-58A to the Town of Farmington Codes. The applicant wishes to erect an accessory structure in the side yard (accessory structures are to be located in the rear yard). The property is located at 5914 Tweed trail and zoned Incentive Zoning District.

ZB #0603-18: STEPHEN BORGUS, 1761 ESTATE DRIVE, FARMINGTON, N.Y. 14425: Request an Area Variance to Article V, Chapter 165-58B to the Town of Farmington Codes. The applicant wishes to erect an accessory structure of 240 square feet (a

maximum of 200 square feet is allowed). The property is located at 1761 Estate Drive and zoned T.L. 278 District.

ZB #0604-18: MATTHEW VANSICKLE, 340 HOOK ROAD, FARMINGTON, N.Y. 14425: Request an Area Variance to Article V, Chapter 165-58A to the Town of Farmington Codes. The applicant wishes to erect a detached garage (pole barn) located in the side yard (accessory structures are to be located in the rear yard). The proposed is located at 340 Hook Road and zoned RS25 Residential Suburban District.

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

Tim DeLucia, Chairperson
Zoning Board of Appeals
Town of Farmington

4. PUBLIC HEARINGS

ZB #0601-18	Gary Weidenborner 5799 Mountain Ash Drive Farmington, N.Y. 14425	Area Variance
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The applicant is requesting an Area Variance to Article V, Chapter 165, Section 165-61A of the Town of Farmington Codes. The applicant wishes to erect a six-foot-high fence in the front yard portion of this lot. The Town Code requires a maximum height of four feet for a fence located within the front yard portion of a site. The property is located at 5799 Mountain Ash Drive and is zoned R-1-10 Residential Single Family District.

Mr. DeLucia opened the Public Hearing on this application.

Mr. Weidenborner presented this application.

He said that he would like to install a six-foot-high fence on the back/side portion of his yard to provide privacy due to the increase in traffic on the road which is coming from the nearby Stone Hedge residential development and which will come from the proposed new Town road which will intersect with Mountain Ash Drive. He said that the new fence would be installed no farther than the front of the existing garage.

Mr. Weidenborner said that the property of Mr. Harding (1721 Maplewood Drive) would be the most impacted by the installation of the fence and that Mr. Harding, who was present at the meeting, had no concerns with the application. Mr. Weidenborner also noted that a neighbor across the street has no concerns with the proposed fence.

He said that the fence will not impede any view from Mountain Ash Drive or Maplewood Drive and that the fence will provide privacy from the current traffic and the future increase in traffic on the road.

Mr. Harding said that his side yard abuts Mr. Weidenborner’s back yard. He said that he would see the majority of the proposed fence and that he has no objection to the height or to the placement of the fence.

Mr. Weidenborner said that the fence would be constructed of vinyl with lattice, and that it would be a high-end fence.

Mr. DeLucia asked if others in attendance wished to speak for or against the application, or had questions or comments. There were no further comments or questions on this application.

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

ZB #0602-18	Laura Van Buren 5914 Tweed Trail Farmington, N.Y. 14425	Area Variance
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The applicant is requesting an Area Variance to Article V, Chapter 165, Section 58A of the Town of Farmington Codes. The applicant wishes to erect an accessory structure—a 12-foot x 12 foot gazebo—to be located within the side yard setback portion of the lot. The Town Code allows accessory structures to be located within the side and rear yard setback portions of a lot located within this Incentive Zoning District. The property is located at 5914 Tweed Trail and is zoned IZ Incentive Zoning District, Hickory Rise Project.

Mr. DeLucia opened the Public Hearing on this application.

Ms. Van Buren presented this application.

She said that she met with a Town staff member at her home to review the location of the proposed gazebo and that she was told that there were no issues. Following this conversation, she said that concrete for the gazebo was poured.

Subsequently Ms. Van Buren then said that another Town staff member informed her that an Area Variance was needed. Ms. Van Buren said that corner lots are challenging with easements and rights-of-way.

Ms. Van Buren said that her property is sloped and that the proposed location for the gazebo is the only remaining flat portion of the property. She said that her neighbor is not opposed to this application and that the gazebo would be an open structure and would not encroach upon easements or rights-of-way.

Mr. Leisenring (1107 Harlowe Lane) said that his home is side-by-side with Ms. Van Buren's and that he has no objections to the gazebo.

Mr. DeLucia explained that the Zoning Board of Appeals (ZBA) has incomplete information regarding the placement of an Accessory Structure in the side yard in this Incentive Zoning district. He said that the dilemma facing the ZBA is the vague language in the original Hickory Rise Subdivision Incentive Zoning resolution regarding whether or not an Accessory Structure is permitted in a side yard.

Mr. DeLucia suggested that the Public Hearing be continued to the next meeting to provide time for the Town Board and the Town staff to clarify the language in the Town Code and in the Hickory Rise Incentive Zoning resolution to enable the ZBA to make an appropriate decision.

Mr. Thomas (1110 Harlowe Lane) said that he is also considering the submission of a similar application for an Accessory Structure. He said that he would like to construct a 20-foot x 30-foot addition to his garage for storage of a bass boat. He said that the builder—Ryan Homes—has indicated that this would be acceptable but that Ms. Van Buren's application is on the same topic of Accessory Structures and that he would like to hear the ZBA's decision on her project.

Mr. DeLucia said that the ZBA's dilemma is that whatever is done could cause havoc or comfort.

Ms. Van Buren said that she sensed some confusion from the Town when she received a telephone call regarding the need for an Area Variance after having been told there were no issues with the gazebo.

Mr. DeLucia said that the ZBA has received different interpretations of the Town Board's resolution on whether or not an Accessory Structure is permitted in a side yard in the Hickory Rise Subdivision. He again suggested that the application be continued and referred to the Town Board for clarification of the language in the Incentive Zoning resolution to enable the ZBA to make an appropriate decision.

Ms. Van Buren said that the confusion began when the Town inspector answered confidently that the gazebo would be permitted. She said that he had no qualms with what he was telling them. She said that it has been disheartening that the gazebo has been sitting in the box for the past year and that they have not been able to install it.

Mr. DeLucia said that he viewed Ms. Van Buren's property and that the selected location seems to be the only flat spot on the property for the gazebo. He said that the ramifications of the ZBA's decision on this application will extend far beyond Ms. Van Buren's property alone and that he wants to make sure that the ZBA does the right thing. He noted that many properties in the subdivision do not have room for an Accessory Structure in the side yard.

Mr. Yourch agreed with Mr. DeLucia that clarification on this issue is needed.

Mr. DeLucia asked if others in attendance wished to speak for or against the application, or had questions or comments. There were no further comments or questions on this application.

■ A motion was made by MR. YOURCH, seconded by MR. OPETT, that the following resolution be approved:

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS RESOLUTION—CONTINUATION**

ZB #0602-18

APPLICANT: Laura Van Buren, 5914 Tweed Trail, Farmington, N.Y. 14425

ACTION: Area Variance to Chapter 165, Article V, Section 58.A., to permit an accessory structure—a gazebo—to be located within the side yard setback of a lot

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has opened a Public Hearing at tonight’s meeting upon the above referenced file; and

WHEREAS, the Board has received testimony and information for consideration at tonight’s meeting; and

WHEREAS, the Board desires time to review tonight’s Public Hearing record and to receive testimony from the Town of Farmington staff in order to make an informed decision upon this requested Area Variance.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby table further elaboration upon this requested Area Variance and does hereby move to continue the Public Hearing upon said variance to Monday evening, July 23, 2017, at 7:00 p.m., Eastern Daylight Savings Time.

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

Motion carried.

ZB #0603-18**Stephen Borgus
1761 Estate Drive
Farmington, N.Y. 14425****Area Variance**

The applicant is requesting an Area Variance to Article V, Chapter 165, Section 58B of the Town of Farmington Codes. The applicant wishes to erect an accessory structure—a 240-square-foot storage building—in the rear yard portion of the lot. The Town Code requires a maximum of 200 square feet in area for an accessory structure. The property is located at 1761 Estate Drive and is zoned T.L. 278 District.

Mr. DeLucia opened the Public Hearing on this application.

Ms. Borgus presented this application.

She explained that Mr. Borgus uses a wheelchair and that a 240-square-foot storage building has been proposed to provide Mr. Borgus with adequate space to maneuver within the shed in the wheelchair. She said that although the Town requires an overhead door, she would like to install a side-by-side door to enable Mr. Borgus to enter the shed. She also noted that a side-by-side door is needed because electricity will not be run to the shed and therefore an automatic door opener would not be available.

Ms. Borgus said that the adjacent neighbors are not opposed to the storage shed. She said that her daughter lives on one side of their home and that the neighbors on the other side also have no objections.

Ms. Borgus said that the storage shed will be positioned six feet from the back lot line and six feet from the side lot line with two windows and a door on the front and a larger door on the side. She said that the extra 40 square feet are needed to provide Mr. Borgus with space to maneuver in the shed with the wheelchair.

Mr. DeLucia asked if anyone in attendance wished to speak for or against the application, or had questions or comments. There were no comments or questions from those in attendance.

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

ZB #0604-18**Matthew Vansickle
340 Hook Road
Farmington, N.Y. 14425****Area Variance**

The applicant is requesting an Area Variance to Article V, Chapter 165, Section 58A of the Town of Farmington Codes. The applicant wishes to erect a detached three-bay garage, having a total of area of 1,440 square feet, located within the side yard setback portion of the lot. The Town Code requires accessory structures to be located within the rear

yard setback portion of the lot. The property is located at 340 Hook Road and is zoned RS25 Residential Suburban District.

Mr. DeLucia opened the Public Hearing on this application.

Mr. Vansickle presented this application.

He said that he would like to remove an approximately 30-year-old existing shed and construct a new three-bay garage to match the siding and color of his home. The location of the garage has been selected to avoid additional paving and to avoid the removal of an existing Maple tree which would be necessary if the garage were to be located in the back of the home.

Mr. Vansickle said that the garage will be blocked by a row of pine trees from the view of the neighbor across the street. He said that trees will lessen the impact of the neighbor's view of the structure. He also said that the garage will be constructed so that it will align with the house and will not be farther forward than the existing shed.

Mr. DeLucia asked if anyone in attendance wished to speak for or against the application, or had questions or comments. There were no comments or questions from those in attendance.

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

5. BOARD BUSINESS—DELIBERATIONS AND DECISION

ZB #0601-18 Gary Weidenborner Area Variance

■ A motion was made by MR. YOURCH, seconded by MS. PURDY, that the reading of the State Environmental Quality Review (SEQR) resolution be waived.

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

■ A motion was made by MR. OPETT, seconded by MS. PURDY, that the following SEQR resolution be approved:

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
SEQR RESOLUTION—TYPE II ACTION
ZB #0601-18**

**APPLICANT: Gary Weidenborner, 5799 Mountain Ash Drive,
Farmington, N.Y. 14425**

ACTION: Area Variance to Chapter 165, Article V, Section 61.A., to permit a six foot high fence to be located within the front 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,

WHEREAS, the Board finds the Action is identified in Section 617.5 (c) (10) and (13) as being a Type II Action in that it involves the granting of an area variance relating to a front setback dimension for an accessory structure, a fence, located upon an approved lot having necessary utilities.

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.

Timothy DeLucia	Aye
Jeremy Marshall	Excused
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: Gary Weidenborner
5799 Mountain Ash
Farmington, N.Y. 14425

File: ZB #0601-18
Zoning District: R-1-10 Residential District
Published Legal Notice on: June 17, 2018
County Planning Action on: N.A.
County Referral #: N.A.
Public Hearing held on: June 25, 2018

Property Location: 5799 Mountain Ash Drive, Farmington, N.Y. 14425

Applicable Section of Town Code: Chapter 165, Article V, Section 61. A.

Requirement for Which Variance is Requested: The applicant wishes to erect a six-foot-tall fence, an Accessory Structure, in the front-yard portion of the lot. The Town Code requires a maximum height of four feet for a fence, an Accessory Structure, within the front yard portion of a lot.

State Environmental Quality Review Determination: The granting of an Area Variance to enable the construction of a taller Accessory Structure than is allowed by Town Code, in the front yard portion of 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: The property does not lie within the jurisdictional area set forth in Section 239-1 of the New York State General Municipal Law and, therefore, is not subject to a referral to the Ontario County Planning Board.

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 Board) finds that the character of the immediate neighborhood is predominantly single-family detached dwellings, on 10,000 square foot lots, fronting along the two public highways (Mountain Ash Drive and Maplewood Drive). The Board further finds that there are a number of other sites in the neighborhood that have fences, which are classified as accessory residential structures. However, none of these fences are six feet in height and are located within the front yard portions of any lots. The Board further finds that this lot is a corner lot having two front yards, one fronting Maplewood and one fronting Mountain Ash Drive. The Board further finds that it is the front yard portion of this corner lot fronting along Maplewood where there is proposed a six-foot-high fence. The Board further finds that according to the information submitted the proposed six-foot-high fence would be located ten feet from the street line for Maplewood Drive. The Board further finds that there is an existing ten-foot-wide utility easement setback from the street line for Maplewood Drive across the front portion of this corner lot. The Board further finds that the minimum setback in the R-1-10 District is 40 feet. The Board further finds that the proposed location for the six-foot-high fence would partially block the visibility of vehicles traveling west on Mountain Ash Drive from vehicles traveling north on Maplewood Drive. Based upon these findings, the Board concludes that the proposed location for the six-foot-high fence would produce an undesirable change in the character of the neighborhood or would be detrimental 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 a feasible alternative to the requested area variance. The Board finds that placing a four-foot-high fence, setback forty feet from the street line would be a feasible alternative to the proposed six-foot-high fence being located ten feet from the street line of Maplewood Drive. The Board further finds that it is feasible to place a four-foot-high fence on this site and within the front setback requirements of the R-1-10 zoning district.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the requested area variance involves a variance request which is a one hundred percent (100%) increase from the required prohibition for placement of a six-foot-high fence within the front yard portion of a lot located within this zoning district. The Board has consistently found that a variance in excess of fifty percent (50%) of what is otherwise required by Town Code is a substantial requested 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 associated with the placement of the proposed six-foot-high fence on the subject lot and within the front setback portion is a self-created difficulty. The Board further finds that there has not been any practical difficulty proven tonight which could help the Board in making its decision that any relief being granted would be the minimum relief required under New York State Town Law.

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

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

That the benefit to the applicant does not outweigh known detriment(s) to the neighborhood, or community and, therefore, the requested area variance 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 MR. OPETT, that the preceding resolution be approved.

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

Motion carried.

ZB #0603-18 Stephen Borgus Area Variance

■ A motion was made by MS. PURDY, seconded by MR. OPETT, that the reading of the State Environmental Quality Review (SEQR) resolution be waived.

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

■ A motion was made by MR. OPETT, seconded by MR. DELUCIA, that the following SEQR resolution be approved:

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

ZB #0603-18

APPLICANT: Stephen Borgus, 1761 Estate Drive, Farmington, N.Y. 14425

ACTION: Area Variance to Chapter 165, Article V, Section 58.B., to permit an accessory structure, a 240-square-foot storage building, to be located within the rear yard setback 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,

WHEREAS, the Board finds the Action is identified in Section 617.5 (c) (10) and (13) as being a Type II Action in that it involves the granting of an area variance relating to a larger sized dimension for an accessory structure, a storage building, than what is allowed by Code, to be located upon an approved lot having necessary utilities.

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.

Timothy DeLucia	Aye
Jeremy Marshall	Excused
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: Stephen Borgus 1761 Estate Drive Farmington, N.Y. 14425	File: ZB #0603-18 Zoning District: T.L. 278 Cluster Published Legal Notice on: June 17, 2018 County Planning Action on: N.A. County Referral #: N.A. Public Hearing held on: June 25, 2018
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Property Location: 1761 Estate Drive, Farmington, N.Y. 14425

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

Requirement for Which Variance is Requested: The applicant wishes to erect an Accessory Structure, a 12-foot by 20-foot storage building, upon property at the above address. Section 58. B. of the Town Code allows Accessory Structures to have a maximum square footage of 200 square feet in area. The applicant is proposing a storage building having a total of 240 square feet in area.

State Environmental Quality Review Determination: The granting of an Area Variance to enable the construction of an Accessory Structure in the rear yard portion of 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: The property does not lie within the jurisdictional area set forth in Section 239-1 of the New York State General Municipal Law and, therefore, is not subject to a referral to the Ontario County Planning Board.

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 Board) finds that there are a number of other lots located within this developed neighborhood that have Accessory Structures (i.e. storage sheds). The Board further finds that some of these other Accessory Structures have been granted Area Variances due to size. The Board further finds that the proposed location for the storage shed does not appear to create a detriment to nearby properties. Based upon these findings, the Board concludes that the proposed size and design for the storage shed would not produce an undesirable change in the character of the neighborhood or would be detrimental 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 to provide access by the property owner to inside the storage shed and then to move around within the storage shed requires the size and design of the storage shed being proposed. Said size and design has been shown to meet the spatial needs of the physically impaired resident living on the property. Thus the Board finds that it is not necessary to consider any other alternative size for the proposed storage shed on this site.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the requested area variance involved with this application is a variance request which is a twenty percent (20%) increase from the permitted size requirement in Section 58. B. of the Town Code. The Board has consistently found that a variance that is less than fifty percent (50%) of what is otherwise required by Town Code is not a substantial requested 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 has a medical condition which is not self-created and which results in the need for a storage building slightly larger in size than permitted by Town Code. The Board further finds that the increase in size of the storage building being requested will enable the property owner adequate access into and within the proposed structure. The Board further finds that there is indeed a practical difficulty in restricting the size of the proposed Accessory Use to what is otherwise required by the Code. The Board, in making this finding has determined that its' decision is the minimum relief being granted as is required under New York State Town Law.

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

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

That the benefit to the applicant outweighs any known detriment(s) to the neighborhood, or community and, therefore, the requested area variance is approved with the following conditions:

1. The storage shed shall be located within the rear yard portion of the lot and only in the area shown on the application sketch plan; and
2. The storage shed shall have landscaping around two sides and within the six foot setback area from the rear and side yard lot lines. The landscaping shall be similar to that shown on the brochure provided by the applicant; and
3. There shall be no water or electrical service provided to the storage shed; and
4. The storage shed shall be secured to the ground and maintained in a good condition.

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.

Following the reading of each condition of approval by Mr. DeLucia, Ms. Borgus indicated that she had no objections.

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

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

Motion carried.

ZB #0604-18 Matthew Vansickle Area Variance

■ A motion was made by MR. YOURCH, seconded by MR. OPETT, that the reading of the State Environmental Quality Review (SEQR) resolution be waived.

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

■ A motion was made MR. OPETT, seconded by MS. PURDY, that the following SEQR resolution be approved:

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

ZB #0604-18

APPLICANT: Matthew Vansickle, 340 Hook Road, Farmington, N.Y. 14425

ACTION: Area Variance to Chapter 165, Article V, Section 58.A., to permit an accessory structure, a 1,440-square-foot three-bay detached garage, to be located within the side yard setback 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,

WHEREAS, the Board finds the Action is identified in Section 617.5 (c) (10) and (13) as being a Type II Action in that it involves the granting of an area variance to allow an accessory structure identified above herein to be located within the side yard portion of an approved lot having necessary utilities.

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.

Timothy DeLucia	Aye
Jeremy Marshall	Excused
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: Matthew Vansickle 340 Hook Road Farmington, N.Y. 14425	File: ZB #0604-18 Zoning District: RS 25 Residential Suburban Published Legal Notice on: June 17, 2018 County Planning Action on: N.A. County Referral #: N.A. Public Hearing held on: June 25, 2018
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Property Location: 340 Hook 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 an Accessory Structure, a three-bay garage having a total area of 1,440 square feet, to be located in the side-yard portion of the lot. Section 58. A. of the Town Code allows Accessory Structures to be located only within the rear yard portions of a lot in this zoning district.

State Environmental Quality Review Determination: The granting of an Area Variance to enable the construction of a Accessory Structure in the side yard portion of 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: The property does not lie within the jurisdictional area set forth in Section 239-1 of the New York State General Municipal Law and, therefore, is not subject to a referral to the Ontario County Planning Board.

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 Board) finds that the character of the neighborhood is predominantly single-family dwellings located on lots of 25,000 square feet in area and larger, which front along Hook Road. The Board further finds that there are a number of lots in this neighborhood that have private detached garages and/or storage sheds similar to what is being proposed by this application. The Board further finds that this lot is well screened by pine trees along the south and west borders of the site from adjacent properties. The Board further finds that the proposed garage location will be effectively screened from adjacent residential sites and from along the public highway. Based upon these findings, the Board concludes that the proposed location for the private garage would not produce an undesirable change in the character of the neighborhood or would be detrimental 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. The Board finds that placing the proposed garage structure in the location identified on this lot is a desirable location which is not likely to adversely affect the character of the neighborhood or be a detriment to nearby properties. Thus the Board finds that it is not necessary to consider any other alternative location for the proposed garage on this site.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the requested area variance involved with this application is a variance request which is a one hundred percent (100%) increase from the prohibition in Section 58. A. for placement of an Accessory Structure within the side yard portion of a lot. The Board has consistently found that a variance in excess of fifty percent (50%) of what is otherwise required by Town Code is a substantial requested 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 SEQOR 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 development of this site has resulted in limitations for alternative placement of a three bay private garage. The Board has further found above herein that placing the proposed Accessory Structure in this side yard portion of this lot will have less of an adverse impact upon the neighborhood and adjacent properties than would otherwise be achieved by placing the garage structure in any other location upon the lot. Therefore, the Board finds that there is indeed a practical difficulty in locating the permitted Accessory Structure in any other location on the site. The Board, in making this finding has determined that its decision is the minimum relief being granted as is required under New York State Town Law.

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

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

That the benefit to the applicant outweighs any known detriment(s) to the neighborhood, or community and, therefore, the requested area variance is approved with the following conditions:

1. The existing shed shown on the sketch plan shall be removed and the proposed three bay private garage shall be located in the area shown on the sketch plan; and
2. The siding for the proposed three bay private garage shall match the siding and color of the principal structure to the extent practical; and
3. Access to the three-bay garage, from Hook Road, shall be via the existing driveway. A separate access driveway to the proposed structure is not warranted as part of this requested Area Variance; and
4. There shall be no water service provided to the garage structure; and

- 5. All lighting associated with the proposed garage structure shall be in compliance with the Town’s Lighting Standards contained in Chapter 165 of the Town Code; and
- 6. The garage shall be maintained in a good condition.

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.

Following the reading of each condition of approval by Mr. DeLucia, Mr. Vansickle indicated that he had no objections.

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

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

Motion carried.

6. OTHER BOARD MATTERS

None.

7. PUBLIC COMMENTS

Ms. Weidenborner, a member of the Board of Trustees of the Farmington Volunteer Fire Association, said that the fire department would like to replace its existing sign at 1225 Hook Road with an LED sign to be used as part of the emergency notification system to be connected to the national weather and amber alert programs. She said that the sign would be auto-dimmed at night for the benefit of motorists and neighbors.

Ms. Weidenborner said that the sign also would be used to notify the public about fire-related events such as the carnival and open house activities. She said that the use of the sign would also be offered to Town groups as needed. She said at this point the fire department would like to know if it will be worth the time of the ZBA to submit a variance application.

Mr. DeLucia said that the Town Code does not permit these types of signs. He said that the likelihood of the granting of a variance without an amendment to the Town Code by the Town Board is slight, in his opinion.

Mr. Opett said that the ZBA recently denied a variance application from the Burger King Restaurant on State Route 332 for this type of sign.

Ms. Weidenborner said that she heard from the Town Supervisor that amendments to the Town Code are under consideration. Mr. DeLucia said that the Town Code is being reviewed at this time to determine recommended updates. He said that this is a lengthy process and that he could not predict when it will conclude. He said that although there is a possibility of an amendment to the Town Code to permit these signs, the current Town Code does not permit them. Mr. DeLucia also noted that sign variances of this type have been consistently denied by the Ontario County Planning Board.

8. NEXT MEETING DATE

The next regular meeting of the Zoning Board of Appeals will be held on Monday, July 23, 2018, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

9. ADJOURNMENT

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

Motion carried by voice vote.

The meeting was adjourned at 7:55 p.m.

Following the meeting, the clerk locked the front entrance doors to the Town Hall.

Respectfully submitted,

John M. Robortella
Clerk of the Zoning Board of Appeals

L.S.