

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, June 26, 2023, 7:00 p.m.

MINUTES—Approved

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

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

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

Applicant’s Present:
Michael Hogenes 888 Hook Road, Farmington

1. MEETING OPENING

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

The Pledge of Allegiance was recited.

Mr. Yourch said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 27, 2023.

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

2. APPROVAL OF MINUTES OF MAY 15, 2023

■ MR. RUTHVEN stated that he has read the meeting minutes from the MAY 15, 2023, meeting and made a motion to approve the minutes as drafted, MS. COCHRANE seconded the motion.

Motion carried.

3. LEGAL NOTICE

The following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper on Sunday, June 19, 2023:

ZB #0602-23: MICHAEL HOGENES 888 HOOK ROAD, FARMINGTON, NEW YORK 14425: Request an Area Variance to Chapter 165, Attachment 1, Schedule 1, of the Farmington Town Code. The applicant wishes to erect a fifteen foot long by twenty-eight- and one-half feet wide (15' x 28.5' 196 sq ft) porch to be attached to the front of the residence, with a proposed front setback of 40.3 feet. The Town Code requires a minimum front setback of sixty (60) feet. The property is located at 888 Hook Road and is zoned A-80 Agricultural.

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

By order of:
Thomas Yourch, Chairperson
Zoning Board of Appeals
TOWN OF FARMINGTON

4. PUBLIC HEARING

ZB #0602-23: MICHAEL HOGENES 888 HOOK ROAD, FARMINGTON, NEW YORK 14425:

Request an Area Variance to Chapter 165, Attachment 1, Schedule 1, of the Farmington Town Code. The applicant wishes to erect a fifteen foot long by twenty-eight- and one-half feet wide (15' x 28.5' 196 sq ft) porch to be attached to the front of the residence, with a proposed front setback of 40.3 feet. The Town Code requires a minimum front setback of sixty (60) feet. The property is located at 888 Hook Road and is zoned A-80 Agricultural.

Mr. Yourch says for the record he lives down the street from the applicant and has nothing to gain from this application. He then asks if anyone in the audience or online has objection to him sitting in on the public hearing. Hearing none he opens the public hearing on this application and asks if there is anyone in attendance, either in person or online, that wishes to speak on behalf of this application.

Michael Hogenes is present to speak on behalf of the area variance application. He says

overall there is a covered porch there now that is dilapidated and not built very well. That is where the fifteen feet comes from. The actual projection from the house is seven feet not the fifteen feet. Full projection from the house as to where the footprint is now is seven foot. The fifteen foot comes from tearing down the old covered porch that is there now. It is like and “L” shape. The porch in the front now is covered so I want to still keep that section covered and put a door with a double sidelight for more curb appeal facing Hook Road just to give it more of an aesthetically pleasing look. I think building a front porch will give it a little more “wow” and it will just look better. I actually have a permit in that is approved to side the house and it is going to be pelican grey with white trim. The porch would have a composite floor, white railing with black spindles. The stairs will be going towards Crowley Road. I’m just trying to make the house look better.

Mr. Yurch then asks for staff comments.

Mr. Brand said I drafted two resolutions for the board to consider tonight. One is to address the environmental aspects which is a Type II Action classified under those regulations. The other is a resolution to approve with conditions. It’s always great to see someone improve their property in the manner that you are proposing to do, and I commend you for that. Thank you very much.

Mr. Delpriore said from a zoning point of view, this did not meet the sixty feet setback and obviously where the house is it does not meet the sixty feet setback so that is why it is in front of you tonight.

Mr. Yurch then asks for public comments from anyone present or online. Hearing none he then asks for comments from the board.

Ms. Binnix said I have a question for Town staff. Dan, I know Ron and John have previously talked about maybe changing the Town Codes so we would not keep seeing the setback requirements especially since the house has been there a long time and there is no way it can meet the zoning requirements. Just curious where that stood or if the Town has given that more thought.

Mr. Brand said it is on our radar screen. Given all the other things going on right now it is not very much of a big blip right yet, but it could be maybe dealt with with some of these other local laws that we are looking at.

Mr. Delpriore said we do have plans with codes in the hopper right now, but it is something we can look at, but it is probably going to be in the Fall or Winter.

Mr. Yurch then asked if there were any further questions or comments from the board.

Mr. Lay said so your plan is that you are going to side the house and build the porch all at the same time so it will be one project.

Mr. Hogenes said yes.

Mr. Lay said that is all I had.

Mr. Yourch then asks for any further comments or questions for this application. Hearing none he then closes the public hearing.

5. BOARD BUSINESS—DELIBERATIONS AND DECISION

ZB #0602-23	Michael Hogenes 888 Hook Road Farmington, N.Y. 14425	Area Variance
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■ A motion was made by MR. RUTHVEN, seconded by MR. LAY, that the reading of the following State Environmental Quality Review (SEQR) resolution be waived, and that the resolution be approved as submitted by the Town staff:

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

ZB #0602-23

APPLICANT: Michael Hogenes, 888 Hook Road, Farmington, N.Y. 14425

ACTION: Area Variance - Chapter 165, Schedule 1, Attachment 1, to erect a front porch addition to an existing structure and located within the Front Yard Setback from Hook Road.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under 6NYCRR, 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 that the granting of an area variance is classified as a Type II Action under 6 NYCRR, Parts 617.5 (c) (16) and (17) of article 8 of the New York State Environmental Conservation Law.

NOW, THEREFORE, BE IT RESOLVED THAT the Board does hereby classify the proposed Action as a Type II Action under Section 6 NYCRR, Parts 617.5 (c) (16) and (17) of the SEQR Regulations.

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

BE IT FINALLY 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.

The above resolution was offered by MR. RUTHVEN and seconded by MR. LAY at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday June 26, 2023. Following discussion, the following roll call vote was recorded:

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

Motion carried.

■ A motion was made by MR. RUTHVEN, seconded by MS. COCHRANE, that the reading of the complete Area Variance Findings and Decision resolution be waived, and that the Chairperson read aloud the Determination of the Zoning Board of Appeals.

Motion carried by voice vote.

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

APPLICANT: Michael Hogenes 888 Hook Road Farmington, N.Y. 14425	File: ZB #0602-23 Zoning District: RR-80 Rural Residential Published Legal Notice on: June 18, 2023 County Planning Action on: N/A Exempt Action County Referral #: N/A Public Hearing held on: June 26, 2023
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Property Location: 888 Hook Road, 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 fifteen foot long by twenty-eight and one-half foot (15ft. by 28 ft. 6-inch) porch to be attached to the front of the residence located at the above address, with a proposed front setback of 40 feet and 3-inches. The Town Code requires a minimum front setback of sixty (60) feet in the RR-80 Rural Residential District.

State Environmental Quality Review Determination: The granting of an Area Variance for an a 196-square-foot addition to an existing residential structure is classified as a Type II Action under Part 617.5 (c) (16) and (17) 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 article 8 of the State Environmental Conservation Law (ECL).

County Planning Referral Recommendation: N/A. Exempt Action provided for in the 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 residential character of this neighborhood is predominantly single-family dwellings fronting along Town Highways and lying within a rural (low density) neighborhood. The Board further finds that the proposed porch is in keeping with the character of other dwellings in the neighborhood noting there are other structures with front porches. The Board further finds that the Lot is defined as a Corner Lot having two (2) Front Property Lines and two (2) Front Setbacks. The Board further finds that there is no encroachment into the existing Front Setback from Crowley Road for the proposed porch addition. The Board further finds that once the requested area variance is granted the proposed porch addition will not interfere with the thirty-foot (30 ft.) line-of-site setbacks for structures [§144-20] at the street intersections [Crowley and Hook Roads]. The Board further finds that the proposed architectural design for this building addition will complement the front elevation of the existing structure. 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 that the existing structure is located forty-seven (47) feet and three (3) inches from the Front Lot Line of Hook Road and was constructed prior to the Town’s adoption of zoning regulations for the RR-80 Rural Residential District. The Board further finds that the proposed porch addition involves encroachment of seven (7) feet into the Hook Road Front Yard Area of the Lot and that this would leave forty (40) feet and three (3) inches between the front of the proposed addition and the Front Lot Line along Hook Road. The Board further finds that there are no other options available for installing a porch that is attached to the front of the residence without requiring a variance from the zoning district requirements. 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 from Hook Road involves a variance of thirty-three percent (33%) 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 _X_ 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, having the proposed size, to 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 an open-air porch thirty-five (35) feet from the Front Lot Line of Hook Road instead of the required sixty-feet (60) is **APPROVED with the following conditions:**

1. **The exterior of the porch addition is to match, to the extent practical, the exterior treatment of the existing structure.**
2. **The porch addition shall not be enclosed.**
3. **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.**
4. **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 FURTHER RESOLVED that a certified copy of this Resolution be provided to the Applicant and a copy of this resolution filed with the Town Clerk’s Office.

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

The above resolution was offered by MR. RUTHVEN and seconded by MS. COCHRANE at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, June 26, 2023. Following discussion, the following roll call vote was recorded:

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

Motion carried.

6. OTHER BOARD MATTERS

a. Review of Chapter 9 Article 9

Mr. Brand said well the draft was sent to you for discussion and input. It came about as a result of the Ag. Advisory Committee wanting to amend their duties and responsibilities. As a result of that, we discovered that there are other boards that didn't exist in this chapter that probably ought to exist, such as the Zoning Board of Appeals. I have drafted six different articles for chapter 9. This is the last one that I have drafted. I am still waiting to hear back from the Recreation Advisory Board, but they've been very busy setting up for summer programs. They won't get to it until next month, so if you want to hold it over till next month please do so. If you have questions, or things you want to ask have at it, or send your questions to Tom and he can get them to Dan and me.

Mr. Ruthven said did you only add the Zoning Board stuff? That's all that changed in it.

Mr. Brand said this is not your rules of procedure now.

Mr. Ruthven said you said this was there and you added different boards.

Mr. Brand said no this was not there. There was nothing for the Zoning Board. The draft is Article 6 for Chapter 9.

Mr. Delpriore said so Article 6 is for Zoning. The other articles are for the other boards, so you are not seeing the whole chapter. You are just seeing your article.

Mr. Yourch asked the board if they have read through it.

Ms. Cochrane said not fully.

Mr. Ruthven said not fully.

Mr. Yourch said should we hold it over to the next meeting to give everyone a chance to read it and get comments back to me and then I can relay it to the Town Staff.

Mr. Brand said if they could give you their comments, we could redo it, make any changes and have a draft and final form that would be great rather than coming to the meeting discussing it and carrying it out another one.

Ms. Binnix said so obviously this, and the Rules of Procedure would compliment each other, right? There is nothing in here that will be a friction point?

Mr. Delpriore said there shouldn't be, but if you see something let us know.

Mr. Brand said one of the things that we did put in there was to clarify the process for when you come to the Zoning Board of Appeals for an area variance for a re-subdivision of land.

Ms. Binnix said yes, I saw that.

Mr. Lay said I read through it, but I don't know if I let it fully sink in, so I am fine with carrying it over.

Mr. Brand said if you have questions get them to Tom or call me with questions or Dan. We will try to get answers and revise the draft and send it back out for you to review.

All board members agreed to carry over their review until the July 24, 2023, meeting.

b. Set a Public Hearing for ZB #0301-23 Fowler Family Trust Area Variance

Mr. Delpriore said they have submitted their re-subdivision application to the Planning Board and their application will be on the agenda next month.

Mr. Lay said have we seen it yet, the rough idea of what he is thinking?

Mr. Delpriore said it is what was submitted to this board with the flag lot in the middle. He did try to apply for both in one application, but the rules say he has to apply for what was applied for with the Zoning Board. We anticipate the Planning Board to look at it and refer it back to this board and that is why we need to set the Public Hearing again.

Mr. Brand said the Planning Board meeting is scheduled for July 19, 2023. You are more than welcome to attend that meeting. You are more than welcome to watch it on YouTube. You just cannot comment unless you are a neighbor.

Mr. Ruthven said how many of us can come if we wanted to come.

Mr. Brand said all of you. It is an open meeting.

Mr. Lay said are we starting from scratch?

Ms. Cochrane said so there is potential that everything that has already been said could be said again.

Mr. Brand said could be.

Mr. Delpriore said and they have every right to do that because it is a new public hearing.

Mr. Brand said and you have the benefit of hearing what the public has to say about the subdivision aspect of this when it comes before the Planning Board.

Ms. Binnix said does the Planning Board know the history of all of this.

Mr. Delpriore said they are well aware of it because they have dealt with the previous applications. The applicant will have to present just like they did here to this board.

Ms. Cochrane makes a motion to set the public hearing for ZB #0301-23 Fowler Family Trust for the July 24, 2023 meeting, and the motion was seconded by Ms. Binnix. The motion was carried with all voting aye.

7. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

None

8. DIRECTOR OF DEVELOPMENT UPDATE

- We are still working on a solution to moving Farmington Market Center forward. We will see where it is going to go in the very near future.
- The New York Planning Federation is having a series of round the state trainings. There is one scheduled in Canandaigua coming up in August at Finger Lakes Community College.

10. CODE ENFORCEMENT OFFICER UPDATE

- Next Meeting will be July 24, 2023
- Open Clerk of the Board of Position
- Open Zoning Inspector Position
- If you ever have questions about projects, please review the Town Ops report that Ron generates every other week. It is a very detailed report reflecting where the projects are at.

11. TRAINING OPPORTUNITIES

■ New York Planning Federation Recorded Webinars:

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

■ General Code e-Code

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

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

■ **Future Training Opportunities Online:**

Ontario County Planning Department website now lists upcoming training:
<https://www.co.ontario.ny.us/192/Training>

■ **4th Thursday 2023 Monthly Municipal Boot Camp Program
Presented by MRB Group, and Hancock and Estabrook**

<https://register.gotowebinar.com/register/5013248983683015766>

Thursday, July 27, 2023, 6 p.m. to 7 p.m.: Local Regulation of Cannabis

Thursday, September 28, 2023, 6 p.m. to 7 p.m.: Transforming Former Industrial Properties

Thursday, October 26, 2023, 6 p.m. to 7 p.m.: Preventing Sexual Harassment

Thursday, December 14, 2023, 6 p.m. to 7 p.m.: Case Studies: Good and Bad of 2022

12. NEXT MEETING

The next regular meeting of the Zoning Board of Appeals will be held on Monday, July 24, 2023, at 7:00 p.m. both in-person at the Farmington Town Hall, 1000 County Road 8, and on ZOOM.

13. ADJOURNMENT

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

Motion carried by voice vote. The meeting was adjourned at 7:25 p.m.

Respectfully submitted,

Sarah Mitchell L.S.
Clerk *Pro Tem* of the Zoning Board of Appeals