

*Town of Farmington*

1000 County Road 8  
Farmington, New York 14425

**ZONING BOARD OF APPEALS**

*Established July 15, 1957*

**Monday, March 25, 2019, 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*  
Jeremy Marshall  
Cyril Opett  
Nancy Purdy  
Thomas Yourch

**Staff Present:**  
Dan Delpriore, Town of Farmington Code Enforcement Officer

**Applicants Present:**  
Hyland and Anne Hartsough, 128 County Road 8, Farmington, N.Y. 14425

**Also Present:**  
Thomas Rogers, 6272 County Road 41, 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 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 25, 2019.

**2. APPROVAL OF MINUTES OF FEBRUARY 25, 2019**

■ A motion was made by MS. PURDY, seconded by MR. OPETT, that the minutes of the February 25, 2019, 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, March 17, 2019, 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** the Zoning Board of Appeals of the Town of Farmington, 1000 County Road 8, Ontario County, New York, will hold a Public Hearing on the 25th day of March 2019, commencing at 7:00 p.m., for the purpose of considering the applications of:

**ZB #0301-19: HYLAND HARTSOUGH, 128 COUNTY ROAD 8, FARMINGTON, N.Y. 14425:** Request an Area Variance to Article IV, Chapter 165-18E/165-35A to the Town of Farmington Codes. The applicant wishes to create a parcel consisting of 63,000 square feet (a minimum of 80,000 square feet parcel is required with a non-conventional septic system). The property is located at 140 County Road 8 and zoned A-80 District.

**ALL PARTIES IN INTEREST** and citizens will be given an opportunity to be heard in respect to such application. Persons may appear in person or by agent.

Timothy Delucia, Chairperson, Zoning Board of Appeals

**4. CONTINUED PUBLIC HEARINGS**

<b>ZB #0201-19</b>	<b>Create A Scape Enterprise LLC 6162 State Route 96 Farmington, N.Y. 14425</b>	<b>Area Variance</b>
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The applicant is requesting an Area Variance to Article V, Chapter 165-43 B 1 (c) to the Town of Farmington Codes. The applicant wishes to erect a 20-foot-high two-sided ground business identification sign (a maximum height of 15 feet is required). The property is located at 6162 State Route 96 and zoned General Business District.

**ZB #0202-19                      Create A Scape Enterprise LLC                      Area Variance**  
**6162 State Route 96**  
**Farmington, N.Y. 14425**

The applicant is requesting an Area Variance to Article V, Chapter 165-43 B 1 (c) to the Town of Farmington Codes. The applicant wishes to erect a two-sided ground business identification sign of 300 square feet (a maximum of 64 square feet is allowed). The property is located at 6162 State Route 96 and zoned General Business District.

Mr. DeLucia concurrently reconvened the Public Hearings on ZB #0201-19 and ZB #0202-19 which were continued from the meeting on February 25, 2019.

Mr. Delpriore said that Ryan Del Re (Managing Member, Create A Scape Enterprise LLC) informed him today via e-mail that he (Mr. Del Re) decided to withdraw his sign variance applications at this time, as follows:

Dan,

After some thought, I have decided to withdraw my sign variance application from tonight's ZBA meeting.

I will reevaluate and resubmit once I have a chance to come up with an alternate design that will most likely fit within the current Town codes.

Please thank the Town and ZBA board for their time and consideration in this matter. . . .

—Ryan Del Re, via e-mail, March 25, 2019

Mr. DeLucia asked if anyone in attendance wished to comment upon these applications or upon Mr. Del Re's request. There were no comments or questions from those in attendance.

Mr. DeLucia then closed the Public Hearings on ZB #0201-19 and ZB #0202-19. He requested the clerk to confirm the withdrawals of the applications to Mr. Del Re by letter.

**5. NEW PUBLIC HEARING**

**ZB #0301-19                      Hyland Hartsough                      Area Variance**  
**128 County Road 8**  
**Farmington, N.Y. 14425**

The applicant is requesting an Area Variance to Article IV, Chapter 165, Sections 18 (E) (3) and 35 (A) of the Town of Farmington Codes. The applicant wishes to create a lot consisting of 63,000 square feet having a non-conventional septic system. The Town Code requires a minimum lot size of 80,000 square feet for a lot having a non-conven-

tional septic system. The property is located at 140 County Road 8 and is zoned A-80 Agricultural District.

Mr. DeLucia opened the Public Hearing on this application.

Hyland and Anne Hartsough presented this application.

Mr. Hartsough said that his mother owned the property and that the lot was created in 2000. He said that his mother is in a nursing home and that the family would like to improve the configuration of the lot in preparation for a sale. He said that the current configuration is affected by the slope of the land and the difficulty of mowing.

Mr. Hartsough said that the proposed Area Variance would provide the lot with more road frontage and that the variance is being requested on the portion of the property which is on the opposite side of the existing septic system.

Mr. Delpriore said that draft resolutions have been prepared for board consideration this evening for the State Environmental Quality Review (SEQR) determination (Type II Action) and for the board’s determination of findings and decision on the Area Variance.

He said that an Area Variance is required for the applicant’s proposed lot size of 60,000 square feet. He said that the Town Code requires a minimum lot size of 80,000 square feet when a non-conventional septic system is located on a lot.

Mr. Delpriore reviewed the applicant’s drawing. He said that the proposal reconfigures the front of the parcel along the road into more of a triangular shape which reduces the size of the 80,000-square-foot lot and requires the Area Variance.

Mr. DeLucia asked if anyone in attendance wished to speak for or against this application, or ask questions. 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 #0301-19                      Hyland Hartsough                      Area Variance**

■ A motion was made by MR. YOURCH, seconded by MR. MARSHALL, that the following State Environmental Quality Review (SEQR) resolution be approved as submitted by the Town staff:

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

**ZB #0301-19**

**APPLICANT: Hyland Hartsough, 128 County Road 8, Farmington, N.Y. 14425**

**ACTION: Area Variance to Chapter 165, Article IV, Sections 18 (E) (3) and 35 (A) to create a lot consisting of 60,000 square feet having a non-conventional septic system on property at 140 County Road 8.**

**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.

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

Motion carried.

Mr. DeLucia then read aloud the Area Variance Findings and Decision draft resolution submitted by the Town staff for ZB #0301-19 and each of the five proof questions. Following the reading of each question, the board determined the answer to each question.

During the discussion of the Area Variance Findings and Decision, Mr. Delpriore said that the board may wish to take into consideration that the alleged difficulty was self-created by the applicant.

Mr. DeLucia asked about the ramifications if the existing non-conventional septic system should fail in the future. Mr. Delpriore said that the system is currently working efficiently and that it would be located on the opposite side of the house and down slope if the Area Variance is approved. He said that the installation of a non-conventional septic system is an option for the property owner in the future.

Mr. DeLucia then recommended that a condition of approval be added to the draft resolution regarding the future replacement of the existing septic system with a non-conventional system. There were no objections to this recommendation from the applicant or board members.

■ A motion was made by MR. MARSHALL, seconded by MR. OPETT, that the draft resolution be amended to include Mr. DeLucia’s recommendation regarding the septic system, as follows:

- 1. A note is to be placed on the plans that in the event that the existing non-conventional septic system must be replaced in the future, then it must be replaced with a non-conventional septic system.

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

Motion to amend the resolution carried.

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

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

<b>APPLICANT:</b> Hyland Hartsough 128 County Road 8 Farmington, N.Y. 14425	<b>File:</b> ZB #0301-19 <b>Zoning District:</b> A-80 Agricultural District <b>Published Legal Notice:</b> March 17, 2019 <b>County Planning Action on:</b> Exempt <b>County Referral #:</b> Exempt <b>Public Hearing held on:</b> March 25, 2019
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**Property Location:** 140 County Road 8 & 128 County Road 8

**Applicable Section of Town Code:** Chapter 165, Article IV, Sections 18 (E) (3) and 35 (A).

**Requirement for Which Variance is Requested:** The applicant wishes to complete a lot-line adjustment to remove 20,000 square feet from TM #9.00-1-9.200—an 80,000-square-foot lot— creating a lot consisting of 60,000 square feet and transferring the 20,000 square feet to TM #9.00-1-9.210—an existing 839,401-square-foot (19.27-acre) parcel—creating a 859,401-square-foot (19.73-acre) parcel located at 128 County Road 8. The 140 County Road 8 parcel has an existing non-conventional septic system and sin-

gle-family dwelling. The Town Code requires a minimum lot size of 80,000 square feet for a lot having a non-conventional septic system.

**State Environmental Quality Review Determination:** The granting of an Area Variance is classified as a Type II Action under Part 617.5 (c) (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 Environmental Conservation Law, Article 8.

**County Planning Referral Recommendation:** The Ontario County Planning Board has determined this action to be an Exempt Action not requiring a referral.

**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 granting of the requested Area Variance is necessary to allow the re-subdivision of land between the two above identified Tax Map Parcels to occur. The Board finds that both property owners are in agreement with the proposed adjustment to the common property boundary line between their two lots. The Board also finds the effect of filing the lot line adjustment map for the re-subdivision of these two parcels will create neither an undesirable change in the character of the neighborhood nor will it be a detriment to nearby properties. The Board finds that there will be no change in permitted land use for either site, no increase in the density of either site, no new area variances are being created by this action, and there will be no adverse impacts upon the environment.

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 granting the requested Area Variance will not create any new non-conforming setbacks on either property. In addition, the Board finds that granting of the requested area variance documents compliance of both of the properties under the existing zoning district.

3. Whether the requested variance is substantial.     Yes     No

**Reasons:** The Board finds that granting the requested area variance for Tax Map #9.00-1-9.200 involves a decrease of thirty-one percent (31%) in the total lot area thereby making the total area of said lot to be 60,000 square feet. The Board also finds this variance request to be substantially less than fifty percent (50%) of what is otherwise required by Town Code. The Board has consistently found that granting an area variance less than 50% of what otherwise is required by Town Code to not be 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 was self-created.

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

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

- 1. A note is to be placed on the plans that in the event that the existing non-conventional septic system must be replaced in the future, then it must be replaced with a non-conventional septic system.

**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.

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

Motion carried.

**6. PUBLIC COMMENTS—OPEN FORUM DISCUSSION**

None

**7. OTHER BOARD MATTERS**

None

**8. CODE ENFORCEMENT OFFICER UPDATE**

Mr. DeLucia congratulated and welcomed Mr. Delpriore to his new position as Town Code Enforcement Officer. Mr. Delpriore succeeds James Morse who resigned in February to take a similar position in the Town of Gorham (N.Y.).

Mr. Delpriore discussed the following topics:

- The next meeting of the Zoning Board of Appeals (April 22, 2019) may be held at the Town Highway Department, 985 Hook Road, to accommodate an expected large attendance for the Delaware River Solar Area Variance applications. Mr. Delpriore said that the location will depend upon the timing of the Planning Board's State Environmental Quality Review (SEQR) determination on the Area Variance, Subdivision, Site Plan and Special Use Permit applications which may occur at the Planning Board's meeting on April 17, 2019. However, Planning Board action on the SEQR determination is dependent upon the timing of the receipt of the applicant's Notice of Intent from the New York State Commissioner of Agriculture and Markets.
- The Town is in the process seeking candidates to fill three positions in the Building Department, i.e., the new position of Zoning Officer; the existing vacant position of Code Officer; and the Department's administrative position currently held by Janyce Feistel, who will retire on May 31, 2019, following many years of service.

**9. NEXT MEETING DATE**

The next regular meeting of the Zoning Board of Appeals will be held on Monday, April 22, 2019, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m. (or at the Town Highway Department, 985 Hook Road, depending upon the status of the Delaware River Solar application; *see* discussion above).

**10. TRAINING OPPORTUNITY**

**Genesee–Finger Lakes Regional Planning Council  
Spring 2019 Regional Local Government Workshop**

May 17, 2019

*Information: dave.zorn@gflrpc.org*

**11. ADJOURNMENT**

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

Motion carried by voice vote.

The meeting was adjourned at 7:25 p.m.

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

Respectfully submitted,

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