

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, May 21, 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*
Jeremy Marshall
Cyril Opett
Nancy Purdy
Thomas Yourch

Staff Present:
None

Applicants Present:
James Brenchley, 5106 Rushmore Road, Palmyra, N.Y. 14522
Wayne McClure, 5106 Rushmore 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, 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 March 19, 2018.

2. APPROVAL OF MINUTES OF MARCH 19, 2018

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the minutes of the March 19, 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, May 13, 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 21st day of May, 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 application:

ZB #0501-18: JAMES BRENCHLEY, 5106 RUSHMORE ROAD, PALMYRA, N.Y. 14522. Request an Area Variance to Article V, Chapter 165-58A to the Town of Farmington Codes. The applicant wishes to have an accessory structure remain in the front yard (accessory structures are to be located in the rear yard). The property is located at 5106 Rushmore 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 thereto.

Tim DeLucia, Chairperson
Zoning Board of Appeals
Town of Farmington

4. PUBLIC HEARING

ZB #0501-18	James Brenchley 5106 Rushmore Road Palmyra, N.Y. 14522	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 have an accessory structure (an open sawmill structure) to remain in the front yard. The Town Code requires accessory

structures to be located in the rear yard. The property is located upon proposed Lot #2 of the Brenchley Subdivision on the north side of Rushmore Road and zoned A-80 Agricultural District.

Mr. DeLucia opened the Public Hearing on this application.

Mr. Brenchley and Mr. McClure presented this application.

Mr. Brenchley explained that he would like to subdivide 2.645 acres of land to create Lot #2 for construction of a new single-family home. The remaining lands of the parent parcel will become Lot #1 and will consist of 19.668 acres with an existing home. A portion of Lot #1 will remain in agriculture by a local farmer who rents the land.

Mr. Brenchley said that the home site on proposed Lot #2 was selected to preserve as much of the farmland as possible. He said that the home site is on the high point of the property and that there is an existing brush row to the west which would screen the new home from the existing home on Lot #1.

He also explained that a minimum of 150 feet of frontage on Rushmore Road is required for installation of a conventional septic system on proposed Lot #2.

The proposed subdivision and the required amount of road frontage along Rushmore Road will place an existing Accessory Structure—a partially enclosed sawmill—in the front yard portion of proposed Lot #1. The Town Code requires Accessory Structures to be located in the rear yard of a lot.

Mr. Brenchley said that the sawmill is a portable band saw apparatus which is partially enclosed for protection from the weather. He said that it is used occasionally by Mr. McClure, his father-in-law, who will continue to reside on proposed Lot #1. He said that the sawmill is used to cut up wood and logs from his property and from his neighbors' properties on occasion, especially following storms when one or two trees may come down.

Mr. Brenchley said that he and Mr. McClure discussed relocating the sawmill on the lot to avoid the Area Variance application, but that there were no good options for the selection of another site without encroaching upon the active farmland. He also noted that the driveway to his new home will be approximately 300 in length and the partially enclosed sawmill could serve as a shelter to children waiting for the school bus at the end of the driveway.

Mr. McClure explained that the sawmill is only partially enclosed with a roof and a wall on the west side to avoid water damage from rain and weather conditions.

Mr. Brenchley then distributed a letter to the Zoning Board of Appeals signed by nearby residents on Rushmore Road and Sheldon Road who supported the Area Variance appli-

cation and indicated that they had no concerns. Mr. DeLucia then read the letter into the record of the meeting:

Dear Members of the Zoning Board:

We have reviewed the proposed subdivision of 5106 Rushmore Road. We understand that the applicants, James and Kimberly Brenchley, also have a variance to allow a pre-existing accessory structure to remain in front of the primary structure. We support the allowance of this variance and do not have concerns related to the structure’s current location.

William and Barbara Murphy, 4975 Rushmore Road,
Palmyra, N.Y. 14522

Vance and Maureen Kannapel, 5050 Rushmore Road,
Palmyra, N.Y. 14522

Brian and Beth Blazey, 5075 Rushmore Road, Palmyra, N.Y. 14522

Wade and Becky Griffin, 5060 Rushmore Road, Palmyra, N.Y. 14522

Gardner and Cheryl Sheldon, 640 Sheldon Road, Palmyra, N.Y. 14522

Patrick A. Behen, 5096 Rushmore Road, Palmyra, N.Y. 14522

(Attachment #1 to minutes)

Ms. Purdy asked how often the sawmill is used. Mr. Brenchley said that the sawmill may be used for a couple of weekends following a storm, when four or five logs may be cut. Then, the sawmill may not be used for several months in between.

Mr. DeLucia asked if there are logs awaiting cutting at the sawmill at the present time. Mr. McClure said that there are several logs from a nearby resident awaiting cutting.

Mr. DeLucia asked if there were any further comments or questions on these applications. There were no further comments or questions from board members or the applicant. No residents were in attendance.

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

5. BOARD BUSINESS—DELIBERATIONS AND DECISION

ZB #0501-18 James Brenchley 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 MR. DELUCIA, that the following SEQR resolution be approved:

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

ZB #0501-18

APPLICANT: James Brenchley, 5106 Rushmore Road, Palmyra, N.Y. 14522

ACTION: Area Variance request to Chapter 165, Article V, Section 58.A. of the Town Code. The applicant wishes to have an accessory structure (a partially enclosed sawmill structure) to remain in the front yard portion of proposed Lot #2 of the Brenchley Subdivision

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has determined the above referenced Action to be a Type II Action under Section 617.5 (c) (1), (3) and (7) of the State Environmental Quality Review (SEQR) Regulations; and,

WHEREAS, the Action involves the granting of an area variance to allow an existing structure—a partially enclosed sawmill structure—to remain in the front yard portion of proposed Lot #2 of the Brenchley Subdivision, located on the north side of Rushmore Road; and

WHEREAS, 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.

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

Motion carried.

Mr. DeLucia then read aloud the following resolution. During the reading, the “Reasons” paragraph in Question #1 was amended to read that the sawmill will be operated by Mr. Brenchley’s father-in-law. The resolution which is published below includes this amendment.

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

APPLICANT: James Brenchley
5106 Rushmore Road
Palmyra, N.Y. 14522

File: ZB #0501-18
Zoning District: A-80 Agricultural District
Published Legal Notice on: May 13, 2018
County Planning Action on: N.A.
County Referral #: N.A.
Public Hearing held on: May 21, 2018

Property Location: 5106 Rushmore Road, Palmyra, N.Y. 14522

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

Requirement for Which Variance is Requested: The applicant wishes to keep an Accessory Structure—a partially enclosed sawmill structure—in the front-yard portion of the proposed Lot #2. The Town Code requires Accessory Structures to be located in the rear yard of a lot.

State Environmental Quality Review Determination: The granting of an Area Variance to the construction of an accessory structure 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 neighborhood is predominantly active agricultural lands, surrounded by wooded areas, with single-family detached dwellings fronting along the public highway. The Board further finds that there are a number of other sites in the neighborhood that have accessory structures in the front yard portion of their sites, although none of those accessory structures involve a saw mill. The Board further finds that the applicant is proposing to subdivide a single-family residential lot (Lot #2) off from the parent parcel. The Board further finds that on the proposed new lot there is a partially enclosed structure—a

saw mill—that appears to be operable given the presence of logs stacked in front of the structure. The Board finds that this existing condition is related to the applicant’s parents (the owner of the original parcel) and that it has been used in the past for logging operations from the wooded portion of the site. The Board further finds that in order for the Town Planning Board to approve the proposed subdivision plat for Lot #2, an Area Variance is necessary for the accessory structure to remain on the property. However, the Board further understands that the applicant does not intend to operate the saw mill, but instead it will be operated by his father-in-law. Based upon these findings, the Board concludes that granting the requested Area Variance for the accessory structure to remain will not produce an undesirable change in the character of the neighborhood or 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 X No

Reasons: The Board finds that there is no feasible alternative to the requested Area Variance. The Board’s finding is based upon there being no other location on the site where the accessory structure could be located without adversely impacting the proposed single-family structure.

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

Reasons: The Board finds that the requested Area Variance involves a variance request which is a one hundred percent (100%) reduction from the required prohibition for placement of an accessory structure 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 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 associated with the existing accessory structure on the subject lot is a self-created condition in that it was placed in this area of the original parcel by the previous owner.

**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 to the neighborhood, or community and, therefore, the requested Area Variance is granted with the following conditions:

1. The variance granted is to allow the applicant to maintain the accessory structure, a small saw mill enclosure, upon the subject lot and within the front yard portion of the property along Rushmore Road and in the area shown on the proposed Subdivision Plat Map for Lot #2.
2. The accessory structure is to be used only for wood cutting operations conducted upon Lot #2 by the applicant and involving only wood products grown on the site.
3. The accessory structure shall not be increased in size, nor shall it be used for any commercial purposes without first obtaining a home occupation permit.
4. All logs used by the sawmill operation shall be stacked in a defined area of the site.
5. All sawmill operations shall be limited to between 7:00 a.m. and 5:00 p.m., Monday through Friday; and 8:00 a.m. and 5:00 p.m. on Saturdays. There shall be no sawmill operations on Sundays or holidays.
6. There is to be a landscaping plan prepared that provides a buffer screening of the structure from along the west and south sides of saw mill. This landscaping plan is to be submitted to the Town Code Enforcement Officer for his acceptance and said landscaping is to be installed prior to the issuance of the Certificate of Occupancy for the proposed single-family structure on Lot #2.
7. There shall be no lighting on the accessory structure.
8. There shall be no occupancy of 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 and to the Town Planning Board. A note is to be added to the Final Subdivision Plat Map that identifies this application's file number and date of action.

Following the reading of each condition of approval, there were no objections raised by Mr. Brenchley or Mr. McClure. Following the reading of all conditions, Mr. DeLucia asked Mr. Brenchley if he was OK with the conditions and that he understood the conditions. Mr. Brenchley indicated that he was OK with the conditions. He had no comments or objections.

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

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

Motion carried.

6. OTHER BOARD MATTERS

■ Ontario County Planning Training Seminar: June 5, 2018:

Training Opportunity for Planning and Zoning Officials

Sponsored by Ontario and Yates County Planning and
New York State Department of State

Tuesday, June 5, 2018	Zoning Board of Appeals Overview 4:30 p.m. to 6:30 p.m.
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Planning Board Overview 7:00 p.m. to 9:00 p.m.

Ontario County Safety Training Facility
2914 County Road 48, Canandaigua, N.Y.

Free and open to the public. Pre-registration is required.
Debbie Henderson, (585) 396-4455 or <https://tinyurl.com/ybmgq5a9>

Dinner and certificate of participation provided.

■ Continuing Education 2018 Training School and Annual Meeting, Association of Towns

The *2018 Training School and Annual Meeting Program for Town Attorneys* document was distributed to each member of the Zoning Board of Appeals.

7. PUBLIC COMMENTS

None.

8. NEXT MEETING DATE

If necessary, the next regular meeting of the Zoning Board of Appeals will be held on Monday, June 25, 2018, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

9. ADJOURNMENT

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

Motion carried by voice vote.

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

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

Respectfully submitted,

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

Attachment #1: Letter to Zoning Board of Appeals, re: Brenchley application.