

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, October 28, 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*
Jill Attardi
Jeremy Marshall
Thomas Yourch
One vacant position

Staff Present:
Ronald L. Brand, Town of Farmington Director of Development and Planning
John Weidenborner, Town of Farmington Zoning Officer

Applicants Present:
Jason and Kiah Bowerman, 5756 Allen Padgham Road, Farmington, N.Y. 14425
Kip Finley, P.E., Victory Hill Land Company, 868 Winslow Road, Churchville, N.Y. 14428

1. MEETING OPENING

The meeting was called to order at 7:00 p.m. After the Pledge of Allegiance was recited, Mr. DeLucia introduced the Zoning Board of Appeals members and explained the emergency evacuation procedures.

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.

Mr. DeLucia then announced that Nancy Purdy has retired from the Zoning Board of Appeals. He expressed the Town’s thanks and appreciation for her many years of service. The remainder of Ms. Purdy’s term will expire on December 31, 2022.

2. APPROVAL OF MINUTES OF AUGUST 26, 2019

■ A motion was made by MR. MARSHALL, seconded by MS. ATTARDI, that the minutes of the August 26, 2019, meeting be approved.

Motion carried by voice vote. Mr. Yourch abstained due to his absence from the meeting on August 26, 2019.

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, October 20, 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 a Public Hearing will be held by and before the Zoning Board of Appeals of the Town of Farmington on the 28th day of October 2019, commencing at 7:00 p.m., at the Farmington Town Hall, 1000 County Road 8, in the Town of Farmington, Ontario County, New York 14425 to consider the following application:

ZB #1001-19: JASON AND KIAH BOWERMAN, 5756 ALLEN PADGHAM ROAD, FARMINGTON, N.Y. 14425: Request an Area Variance in accordance with Chapter 165A, Schedule 1, Attachment 1 of the Farmington Town Code. The applicants wish to erect a 624-square-foot attached two- (2-) car garage with master bedroom located on the second floor with a proposed side setback of 16.3 feet and Town Code requires a minimum side setback of thirty (30) feet in the district. The property is located at 5756 Allen Padgham Road and is zoned NB Neighborhood Business.

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

Tim DeLucia, Chairperson, Zoning Board of Appeals

4. NEW PUBLIC HEARING

ZB #1001-19	Jason and Kiah Bowerman 5756 Allen Padgham Road Farmington, N.Y. 14425	Area Variance
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The applicants are requesting an Area Variance to Chapter 165A, Schedule 1, Attachment 1 of the Farmington Town Code. The applicant wishes to erect at 624-square-foot at-

tached two- (2-) car garage with master bedroom, located on the second floor, with a proposed side setback of 16.3 feet and Town Code requires a minimum side setback of thirty (30) feet in the district. The property is located at 5756 Allen Padgham Road and is zoned NB Neighborhood Business.

Mr. DeLucia opened the Public Hearing on this application.

Mr. Finley (Victory Hill Land Company), and Jason and Kiah Bowerman presented this application.

Mr. Finley said that several photographs of the existing home and the proposed addition, and the application, have been included in the board packets.

He said that the back of the house (north side) was considered for the addition but was not selected because the addition would encroach upon the existing septic system on the north side of the property. He said that that it was best to propose the addition on the driveway side (west side/service side) of the property where it would have access to the existing laundry room, kitchen and entrance to the home—everything that the applicants would need for a new garage with a bedroom on the second floor.

Mr. Finley said that the additional width for the garage has been proposed to deal with several terrible stairways in the home, which was built in the 1830s. Several photos of the risers and odd-shaped stairs were included in the board packets. He said that the applicants would like to improve the existing stairs and risers for safety purposes for their future family. He said that he is proposing a new double stairway—one stairway to the cellar and one stairway to the proposed new bedroom over the garage.

Mr. Finley said that the existing cellar is about 10 feet x 10 feet in area. The rest of the cellar is a crawl space.

Mr. Finley said that the new garage will be located in front of an existing pole barn. He said that the proposed garage will not be out of character with the existing home.

He said that he received the draft resolutions provided by the Town staff and that he has no issues with them. He also said that he provided copies of the draft resolutions to the property owners.

Mr. Brand said that a number of the parcels of land on Allen Padgham Road have been zoned Neighborhood Business for several years and that very few of them have actually be used for businesses. He said that Neighborhood Business zoning, which requires larger lot sizes and greater setbacks, will be among the topics to be reviewed during the update to the Town's *Comprehensive Plan* that will begin next month.

Mr. Brand referred to a similar Area Variance that was granted on an adjacent property by the Zoning Board of Appeals in 2010 (ZB #0502-10, Ronald Figler, 150 Church Avenue) for a 15.3-foot setback for a garage addition. He said that the Town staff determined

that the applicants’ request to construct a garage addition on the side of the existing home with a second-story master bedroom would not create a hardship or a change in the character of the neighborhood. Mr. Brand also said that the property is well buffered from the property to the west by the mature pine trees that are located on the adjacent property.

Mr. Brand said that two resolutions have been prepared for the board’s consideration this evening, i.e., the State Environmental Quality Review (SEQR) classification (Type II Action) and a resolution to approve the Area Variance with conditions. He noted that one of the condition requires that the proposed garage addition is to have siding that matches the color and design of the existing siding on the home, to the extent practicable.

Mr. DeLucia asked if a turnaround area is planned in the driveway to avoid having vehicles back out onto Allen Padgham Road. Ms. Bowerman said that she backs out of the driveway daily and that it has not been a problem. Mr. Finley said that there is room on the property to install a turnaround but that it is not part of this project.

Mr. Finley said that Ms. Bowerman spoke today with the owner of the adjacent property to the west (Nora Rachow, 5728 Allen Padgham Road). He said that Ms. Rachow was going to attend the meeting this evening but that she decided not to attend because she is satisfied with the applicants’ plans.

Mr. DeLucia said that he viewed a line of pine trees on the applicants’ western property boundary with Ms. Rachow’s property. Ms. Bowerman said that the pine trees are on the Rachow parcel.

Mr. DeLucia asked if there were any further comments or questions on this application evening. There were no further comments or questions.

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

5. BOARD BUSINESS—DELIBERATIONS AND DECISIONS

ZB #1001-19 Jason and Kiah Bowerman Area Variance

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, 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 #1001-19

**APPLICANTS: Jason and Kiah Bowerman, 5756 Allen Padgham Road,
Farmington, N.Y. 14425**

ACTION: Area Variance to erect a 624-square-foot attached two-car garage with master bedroom located on the second floor, with a proposed side setback of 16.3 feet.

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.

Jill Attardi	Aye
Timothy DeLucia	Aye
Jeremy Marshall	Aye
Thomas Yourch	Aye
One vacation position	

Motion carried.

Mr. DeLucia then read aloud the conditions of approval from the following complete resolution:

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

APPLICANTS: Jason and Kiah Bowerman 5756 Allen Padgham Road Farmington, N.Y. 14425	File: ZB #1001-19 Zoning District: NB Neighborhood Bus. Published Legal Notice: October 20, 2019 County Planning Action on: N/A County Referral #: N/A Public Hearing held on: October 28, 2019
Property Location: 5756 Allen Padgham Road, Farmington, N.Y. 14425	

Applicable Section of Town Code: Chapter 165A, Schedule 1, Attachment 1.

Requirement for Which Variance is Requested: The applicant wishes to erect a 624-square-foot attached two-car garage with master bedroom, located on the second floor,

with a proposed side setback of 16.3 feet and Town Code requires a minimum side setback of thirty (30) feet.

State Environmental Quality Review Determination: The granting of an Area Variance for an a 624-square-foot attached two-car garage with master bedroom, located on the second floor, is classified as a Type II Action under Part 617.5 (15) 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: N/A.

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 character of this neighborhood is predominantly single-family dwellings located along the frontage of Allen Padgham Road and along the north side of the road. The Board further finds that there are other properties in the neighborhood having single-family dwellings which have had area variances granted for side yard setbacks. The Board further finds that granting the requested setback to allow improvements to be made to the existing single-family dwelling will not be a detriment to the property adjacent to the west which is well buffered, by natural landscaping, from the adjacent single-family dwelling and accessory structure located on said parcel of land. The Board, based upon its review of the aerial photos of the site, further finds that granting the requested setback will not be a detriment to the properties adjacent to the north, east and south. 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 proposed design of the improvements to the existing dwelling has resulted in the applicants’ decision to locate the attached two-car garage and master bedroom in such a manner that has resulted in the requested setback variance. The Board further finds that any alternative design would result in considerable more costs associated with the project. 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 proposed side yard setback of 16.3 feet instead of the required 30 foot side yard setback involves granting an Area Variance of forty-six percent (46%). The Board has consistently found that granting an area variance greater than fifty percent (50%) of what is otherwise required by the Zoning Code is a substantial variance. Therefore, the Board, based upon these findings, determines that the requested variance is not 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 complying with the side yard setback requirements for the zoning district is a self-created hardship based upon the location of the applicants’ desired building addition. The Board further finds that while there are more expensive design alternatives available to the applicants, the applicants have stated those alternatives would create a financial hardship.

**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 applicants does outweigh any known detriment to the neighborhood or community and, therefore, grants the requested area variance to allow the construction of a two car garage with a second floor bedroom addition to be located on the lot 16.3 feet from the west side yard lot line instead of the required 30 foot setback, with the following conditions:

1. The proposed building addition is to have siding that matches the color and design of the existing siding of the structure, to the extent practical.
2. All outdoor lighting that is to be placed upon the building addition shall comply with the Town’s lighting standards.

3. There shall be no outdoor storage of vehicles or equipment located within the 16.3-foot side yard setback area from the west property line.
4. A Building Permit is to be required from the Town Development Office 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 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.

Mr. DeLucia asked the applicants if they received the draft resolution prior to the meeting, if they understood the resolution and if they agreed with the conditions. The applicants said that they received the draft resolution prior to the meeting, that they understood the resolution and that they agreed with the conditions

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

Jill Attardi	Aye
Timothy DeLucia	Aye
Jeremy Marshall	Aye
Thomas Yourch	Aye
One vacant position	

Motion carried.

6. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

There were no public comments or questions this evening.

7. DIRECTOR OF DEVELOPMENT UPDATE

Mr. Brand discussed the following topics:

- The Town Board is expected to appoint the committee to update the *Comprehensive Plan* at the meeting on November 12, 2019. The committee will meet on the third Tuesday of the month beginning on November 19, 2019. Mr. Brand said that he hopes that the committee can complete the update by March 2020.
- Construction is proceeding on the Byrne Dairy Store on the southwest corner of State Route 96 and Mertensia Road. The store is scheduled to open on November

20, 2019, at 6:00 a.m. Mr. Brand said that paving work in the State right of way on State Route 96 may be completed this fall. If this work is not completed this fall, then the only entrance to the store will be off Mertensia Road until the work in the State right of way can be completed in the spring.

- A meeting of representatives of the Farmington Market Center and LeFrois projects (south side of State Route 96 between Mertensia Road and State Route 332) with the New York State Department of Transportation was held to discuss road improvements on State Route 96. A combination of residential and commercial uses is planned for the LeFrois property. Mr. Brand said that the proposal includes the connection of Mercier Boulevard to State Route 96.
- The developer of Farmington Pointe (west side of State Route 332 in the vicinity of the existing Farmington Post Office and the Cobblestone Arts Center) will meet with the Project Review Committee on Friday, November 1, 2019, to discuss the concept plan for this large mixed-use commercial and residential project.
- A Special Town Board meeting will be held tomorrow (Tuesday, October 29, 2019) to approve a proposed Takeover Agreement between the bonding company for the Auburn Trail project and a Geneva, N.Y., firm. This Agreement has been negotiated by the bonding company for the completion of the Auburn Trail. The original contractor for the Auburn Trail abandoned the project prior to completing the remaining work. The Town Board, by resolution, found the contractor to be in default of the Contract Agreement and notified the bonding company. The remaining items to be completed will be paid by the bonding company to the new contractor. The bonding company is also working with a number of businesses that have filed liens on the project seeking reimbursement for their products and services that were provided to the original contractor.
- Representatives from the Zoning Board of Appeals are needed to serve on the *Comprehensive Plan* Committee and the Town Code Committee that also will resume work in November.

8. ZONING OFFICER UPDATE

Mr. Weidenborner said that three to five zoning applications may be on the agenda for the November meeting. He said that several of the applications may be referred to the Town Board as they involve amendments to the Incentive Zoning approvals that were created by the Town Board.

Mr. Weidenborner said that he and Code Enforcement Officer August Gordner have one remaining class next week to complete their New York State Code Enforcement Officer certification.

9. TRAINING OPPORTUNITIES

Genesee/Finger Lakes Regional Planning Council Fall 2019 Regional Local Government Workshop

Friday, November 15, 2019

Quality Inn & Suites, 8250 Park Road, Batavia, N.Y. 14020

Information: David Zorn, Genesee/Finger Lakes Regional Planning Council at
(585) 454-0190, ext. 14 or dave.zorn@gflrpc.org

Livable Communities and other Site Plan Review Topics

Wednesday, November 20, 2019

6:00 p.m. to 8:00 p.m.

Ontario County Safety Training Facility

2914 County Road 48, Canandaigua, N.Y. 14424

Two-hour training certificate awarded to participants

Register online (by November 15th) to:

<https://preview.tinyurl.com/y662pmcs>

or Ontario County Planning Department, (585) 396-4455

Conservation Easement Workshops for Farmland Owners

Tuesdays, December 9 and 16, 2019; and January 6 and 13, 2020

6:30 p.m. to 8:30 p.m.

Ontario County Safety Training Facility

2914 County Road 48, Canandaigua, N.Y. 14424

Registration link: <https://tinyurl.com/y6wadcg>

or Ontario County Planning Department, (585) 396-4455

Future Training Opportunities Online

Ontario County Planning Department website now lists upcoming training:

<https://www.co.ontario.ny.us/192/Training>

10. NEXT MEETING DATE

The next regular meeting of the Zoning Board of Appeals, if necessary, will be held on Monday, November 25, 2019, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

11. ADJOURNMENT

■ A motion was made by MR. MARSHALL, seconded by MS. ATTARDI, 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