

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS MEETING MINUTES**

Approved MINUTES

The following minutes are a written summary of the main points that were made and the actions taken at the Town of Farmington Zoning Board of Appeals meeting held on April 11, 2016.

Zoning Board of Appeals Members

Ann Vu	Chair	Present
Timothy DeLucia		Excused
Cyril Opett		Present
Nancy Purdy		Present
James Russell		Present

Town Staff Members

Jim Morse	Code Enforcement Officer
-----------	--------------------------

Also Present

Ron & Kim Kaiser	5329 Shortsville Road, Farmington
Bob & Linda Bailey	5160 Fox Road, Farmington
Matthew Calder	324 Hook Road, Farmington

Open Meeting

Ann Vu called the meeting to order at 7:00 pm. She explained the emergency evacuation procedures and rules of procedures of the meeting.

Approval of Minutes

James Russell made a motion to accept the February 20, 2016 meeting minutes and Cyril Opett seconded the motion. A voice vote was taken and the motion was passed with four (4) Ayes.

BOARD BUSINESS:

Ann Vu stated that the Legal Notices were published in the town's official newspaper the Daily Messenger for tonight's Public Hearings. She also attests to the posting of the agenda on the Town's website and on the Bulletin Board located at the Town Hall. Copies of the legal notices and tonight's agenda are on the sign-in table. She asked everyone in attendance to please sign-in.

NEW BUSINESS:

ZB 0301-16

ROBERT & LINDA BAILEY

AREA VARIANCE

Request an area variance to Chapter 165, Article V, Section 18. B. of the Town of Farmington Codes. The applicant wishes to subdivide a 29.7 acre parcel of land into two lots. Lot #2 is a proposed two acre parcel with an existing barn, (an accessory structure without a principal structure). The property is located at 5165 Fox Road and zoned A-80 Agricultural District.

Ann Vu declares the public hearings open.

Robert and Linda Bailey are present to speak on behalf of the above application. Mrs. Bailey begins by explaining that both her and Mr. Bailey have lived on Fox Road for about seventeen (17) years and have worked there for about twenty three (23) years and love the area. They purchased a piece of property across the street from their house in 2014. The parcel is a thirty (30) acre parcel that they would like to subdivide into two parcels. One parcel would be a two acre parcel with an existing barn that they would like to build their retirement home upon.

Ann Vu then asks for questions or comments from the staff.

James Morse, Code Enforcement Officer, explains that both he and the Director of Development went to the property today. He verifies with the residents that the principal structure will be constructed in front of the barn. He explains that he has reviewed the plans and there are no code issues and everything meets requirements.

Ann Vu then asks for any questions or comments from the Board, staff or the public for the applicant.

Hearing no response she then moves on to the next application.

ZB0302-16

RON & KIM KAISER

AREA VARIANCE

Request an area variance to Chapter 165, Article V, Section 62. B. of the Town of Farmington Codes. The Applicant wishes to erect an aboveground swimming pool in the side yard. The Code requires swimming pools to be located in the rear yard. The property is located at 5329 Shortsville Rd and zoned A-80 Agricultural District.

Ron and Kim Kaiser are present to speak on behalf of the above application. Mrs. Kaiser begins by explaining that they would like to erect an aboveground swimming pool in their side yard a little closer to their house due to a pond and their septic system locations on their property and wet and uneven ground in their backyard.

Ann Vu then asks for questions or comments from the staff.

James Morse explains that they have reviewed the applicant's plans. He explains that both he and the Director of Development went to the property today. He adds that the requested placement of the pool is also due to ease of access off of the driveway. He also explains to the applicant that some form of buffer with landscaping will be required as a condition of approval.

Ann Vu then asks for any questions or comments from the Board, staff or the public for the applicant.

Hearing no response she then moves on to the next application.

ZB0401-16

MATTHEW CALDER

AREA VARIANCE

Request an area variance to Chapter 165, Article V, Section 62. B. of the Town of Farmington Codes. The Applicant wishes to erect an aboveground swimming pool in the side yard. The Code requires swimming pools to be located in the rear yard. The property is located at 324 Hook Road and zoned RS-25 Residential Suburban District.

Matthew Calder is present to speak on behalf of the above application. Mr. Calder explains that he would like to erect an aboveground pool in his side yard. Located in his backyard is his septic system as well as related drainage. He is requesting to erect the pool about 350 feet from the street. Mr. Calder then approaches the Board and explains, on the map, the layout of his property as well as where he would like to place the pool.

Ann Vu then asks for questions or comments from the staff.

James Morse explains that both he and the Director of Development went to the property today and found that the applicant already has a substantial buffer between his side yard and adjacent property where he would like to erect the pool. Mr. Morse adds that they have no objections to the placement of the pool in "Location B".

Ann Vu then asks for any further questions or comments from the Board, staff or the public for the applicant or any of the applicants here tonight.

Hearing no response Nancy Purdy makes a motion to close the public hearings for ZB 0301-16, ZB 0302-16 and ZB 0401-16 and is seconded by Ann Vu. A voice vote was taken and the motion was passed with four (4) Ayes.

Area Variance and Findings

ZB 0301-16

Robert & Linda Bailey

SEQR Resolution – Unlisted Action

Applicant: Robert & Linda Bailey, 5165 Fox Road

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) finds that the above referenced Action involves the granting of an area variance that is not defined as either a Type I Action or a Type II Action under Part 617 of article 8 of the New York State Environmental Conservation Law (hereinafter referred to as the SEQR Regulations).

NOW, THEREFORE, BE IT RESOLVED THAT the Board does hereby determine the granting of the above referenced area variance to be an Unlisted Action under Section 617 of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT the Board in making this Determination has reviewed Part 1 of the Short Environmental Assessment Form (EAF) prepared by the Applicant and Part 2 of the Short EAF prepared by the Town’s Director of Planning and Development upon this Action.

BE IT FURTHER RESOLVED THAT the Board does hereby accept Part 2 of the Short EAF as being an accurate evaluation of the anticipated impacts associated with the proposed area variance.

BE IT FINALLY RESOLVED THAT the Board does hereby make a determination of non-significance upon this Action and directs the Chairperson to sign and date the Part 2 Form.

The above Resolution was offered by James Russell and seconded by Cyril Opett at a Zoning Board of Appeals Meeting held on Monday, April 11, 2016. Following discussion, this roll call vote was recorded:

James Russell	--	Aye
Nancy Purdy	--	Aye
Timothy DeLucia	--	Excused
Cyril Opett	--	Aye
Ann Vu	--	Aye

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

Applicant: **Robert & Linda Bailey**
5165 Fox Road
Palmyra, NY 14522

File: **ZB # 0301-16**
Zoning District: **A-80 Agricultural**
Published Legal Notice on: **3/20/2016**
County Planning Action on: **N.A.**
County Referral # **N.A.**
Public Hearing held on: **4/11/2016**

Property Location: **5165 Fox Road, Lot #2, Bailey Subdivision.**

Applicable Section of Town Code: **Chapter 165, Article IV, Section 65-18. B.**

Requirement for which Variance is requested: **The applicant wishes to create Lot #2 which has an existing accessory structure, a barn, without a Permitted Principal Structure located upon said Lot.**

State Environmental Quality Review Determination: **The granting of the area variance to enable the proposed subdivision is classified as an Unlisted Action under Part 617 of article 8 of the New York State Environmental Conservation Law, the State Environmental Quality Review (SEQR) Regulations. The Zoning Board of Appeals, based upon its review of Parts 1 and 2 of the Short Environmental Assessment Form has been determined the Action not to have a significant adverse impact upon the environment and has issued a separate determination of non-significance.**

County Planning Referral Recommendation: **The site does not lie within the jurisdictional area requiring a referral to the Ontario County Planning Board for this application.**

FACTORS CONSIDERED & 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 X No

Reason: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the character of this neighborhood is comprised of both agricultural lands, numerous farm structures such as the existing barn and residential dwellings located upon single family lots. The Board further finds that the Applicants intend to construct a Permitted Principal Use, a single family dwelling, upon proposed Lot #2. The Board further finds that granting the requested Area Variance is required to enable the Planning Board to grant approval of the creation of proposed Lot #2 of the Bailey Subdivision. The Board based upon these findings determines that granting the requested Area Variance will not create an undesirable change to the character of the neighborhood, or would it likely be a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance. ___ Yes X No

Reason: The Board finds that based upon its' review of the preliminary subdivision plat maps and preliminary site plan for Lot #2 of the Bailey Subdivision finds that the proposed Lot will comply with the dimensional requirements of the Town Code for the A-80 Agricultural District. The Board further finds that the setback of the proposed Principal Structure and the existing Accessory Structure will not likely have an adverse visual impact

upon adjacent sites and the neighborhood. The Board based upon these findings determines that there is no feasible alternative to the variance being requested.

3. Whether the requested variance is substantial. Yes No

Reason: The Board finds that the applicant is requesting a 100% increase from what is allowed by Town Code. The Board has consistently found that an area variance in excess of 50% of what is allowed by Town Code to be a substantial variance request.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reason: The Board, under separate resolution, has considered the criteria contained within Part 2 of the Short EAF and has determined that the action is not likely to result in a significant adverse impact upon the environment within the neighborhood or zoning district.

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

Reason: The Board finds that the alleged difficulty is self-created in that the proposed Lot #2 involves an existing barn, an Accessory Structure, that is otherwise permitted upon the original parcel of land (Lot #1) where there is an existing Principal Structure. However, there is no Principal Structure on Lot #2. The Board further finds that the Applicant in proposing the subdivision of land in the manner shown on the proposed Preliminary Subdivision Plat for the Bailey Subdivision, is aware of the alleged difficulty being proposed. The Board determines that based upon these considerations that although the alleged difficulty is self-created, imposing the need to remove the existing Accessory Structure from proposed Lot #2 would be excessive. The Board further determines that once the Applicant's proposed single family dwelling is constructed upon Lot #2, the necessity for the requested Area Variance would no longer exist.

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 the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the area variance is DENIED.

X That the benefit to the applicant DOES outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the area variance is GRANTED with the following Conditions.

1. The applicant is required to obtain Final Subdivision Plat and Final Site Plan Approval from the Town Planning Board which provides for the proposed Bailey Two Lot Subdivision.
2. The Final Subdivision Plat and Final Site Plan drawings are to contain notes identifying the Area Variance that has hereby been approved by the Zoning Board of Appeals, to include the ZBA File Number (ZB #0301-16) and date of approval.
3. Any change in the Final Site Plan which affects the need for any additional Area Variance to be approved will require a separate application to the Zoning Board of Appeals.
4. No Building Permit shall be issued until the Final Plat Map has been filed in the Office of the Ontario County Clerk and the County Real Property Tax Service Agency has issued Tax Identification Numbers for both Lots.
5. No Building Permit shall be issued until the Planning Board has granted Final Site Plan approval for the proposed Lot #2.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law, New York State General Municipal Law and the Town of Farmington Town Code and directs this Resolution be placed in the public file on this Action.

The above Resolution was offered by Cyril Opett and seconded by Nancy Purdy at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 11, 2016. Upon discussion, the following roll call vote was recorded:

James Russell	-	Aye
Nancy Purdy	-	Aye
Cyril Opett	-	Aye
Tim DeLucia	-	Excused
Ann Vu	-	Aye

The applicant agrees to all the above conditions.

Area Variance and Findings

ZB 0302-16

Ron & Kim Kaiser

James Russell made a motion to waive the reading of the SEQR Type II Resolution and was seconded by Nancy Purdy. All present voted Aye. Cyril Opett made a motion to accept the SEQR Resolution and was seconded by Ann Vu. All present voted Aye.

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

Applicant: **Ron & Kim Kaiser**
5329 Shortsville Road
Shortsville, NY 14548

File: **ZB # 0302-16**
Zoning District: **A-80 Agricultural**
Published Legal Notice on: **3/20/16**
County Planning Action on: **N.A.**
County Referral #: **N.A.**
Public Hearing held on: **4/11/2016**

Property Location: **5329 Shortsville Road, Shortsville, New York.**

Applicable Section of Town Code: **Chapter 165, Article V, Section 62. B.**

Requirement for which Variance is requested: **The applicant wishes to construct an above ground swimming pool in the Side Yard portion of the Lot. The Town Code requires swimming pools to be located in the Rear Yard portion of Lots.**

State Environmental Quality Review Determination: **The granting of an area variance to enable the construction of an accessory residential structure (a swimming pool) on an approved building Lot is classified as a Type II Action under Part 617.5 (c) (10) 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: **A referral to the Ontario County Planning Board is not required under the provisions of Section 239-1 of the New York State General Municipal Law.**

FACTORS CONSIDERED & 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

Reason: **The Board finds that the character of the neighborhood is predominantly single family dwellings located along the highway and active agricultural lands. The Board further finds that the subject Lot contains a total of 25.26 acres of land and this Lot size is much larger than the 80,000 square foot minimum lot size required for the A-80 Agricultural District. The Board further finds that the Code defines the Rear Yard portion of a Lot as that portion opposite the street access to the Lot. The Board further finds that the Side Yard of a Lot is defined as a yard extending between the side**

building line and the nearest side lot line, situated between the front and rear yards. The Board further finds that: the portion of the Lot where the applicant proposes to place the accessory structure is on the east side of the Lot; the proposed above ground swimming pool would be visible from along Shortsville Road; and that there is in excess of 800 feet between the proposed pool (Location B) and the east property line. The Board further finds that the Rear Yard portion of the subject Lot appears to have soil that do not drain well and possess prolonged periods of wetness, making the placement of the proposed swimming pool difficult and accessibility difficult. The Board further finds that the minimum separation allowed, under the New York State Fire Prevention and Building Code (Uniform Code), between the edge of an above ground swimming pool and a residential structure, is four (4) feet and, therefore, is not a concern with the proposed Location B. The Board further finds that locating the proposed swimming pool closer to the principal structure would reduce the distances to be traveled by the Applicants, one of whom has documented physical limitations due to physical conditions.

The Board, following testimony presented at tonight's public hearing, further finds that there is no known practical difficulty associated with placing the proposed above ground swimming pool in the proposed location to the principal structure. The Board, based upon these findings, determines that there will not likely be an undesirable change in the character of the neighborhood resulting from the granting of an Area Variance. The Board further finds that placing a solid fence, or a dense planting of landscaping at least six feet in height extending along the north and east sides of the above ground swimming pool, in the area identified as Location B, will lessen the visual appearance of the Accessory Structure from along the public street. The Board further finds that compliance with the Town's Site Lighting Regulations will eliminate spillage of lighting onto adjacent properties and the public highway.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. **X** Yes No

Reason: The Board finds that there is one location identified by the Applicants, Location A, that is behind the Front Setback of the Principal Structure and that an above ground pool could be placed in this location without the need for the requested Area Variance. The Board further finds, however, that this Location A would not be as accessible for the property owners given the limiting physical ability of one of the owners as based upon information submitted by Jim Lynch, the Applicant's Nurse Practitioner – Certified, attesting to his patient's difficulty walk long distances and that it is unsafe to walk on uneven surfaces. The Board further finds that the Applicants attest to the best location for the above ground swimming pool is

Location B which is adjacent to the hard driveway surface making this location more accessible. The Board further finds that although the Rear Yard portion of the Lot contains adequate open area, where the proposed swimming pool could be placed, these areas are constrained by the on-site septic system location, large trees, an on-site pond and a barn. The Board further finds that there are: no impacts upon the Uniform Code requirements for separation of the above ground swimming pool from nearby structures; fewer impediments to the Applicant associated with placing the proposed swimming pool in Location B as listed above in this section; and Location B provides optimal sun, better accessibility by water delivery trucks to the proposed pool and closer proximity to the electrical service located upon the Lot. The Board, based upon these findings determines that granting the requested Area Variance, to place an above ground swimming pool in Location B, as shown on the drawings submitted with this Application, would be granting the minimum relief necessary to enable the placement of the proposed swimming pool upon the Lot in a manner that is more readily accessible to the Applicants.

3. Whether the requested variance is substantial. Yes No

Reason: The Board finds that the requested Area Variance is to allow the placement of a swimming pool within the Side Yard portion of the Lot is a variance involving a one hundred percent (100%) reduction in the dimensional requirement in the Town Code. The Board has consistently found that a variance request that is fifty percent (50%) or greater of what is otherwise required by the Code is a substantial variance request.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reason: The Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 of the SEQOR Regulations, the information contained on Part I of the Short Environmental Assessment Form and has determined that the proposed Action is a Type II Action. The Board, in making this Determination, in accordance with the provisions of the New York State Environmental Conservation Law, article 8, has determined granting an area variance will not have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district.

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

Reason: The Board finds that the applicant's proposed location for the Accessory Structure on the Lot is a self-created hardship. The Board further

finds, based upon its' review of the submitted documents and maps for this Application that there are known practical difficulties associated with locating the proposed swimming pool to the Rear Yard portion of the Lot. The Board determines that locating the proposed above ground swimming pool to a portion of the Lot where such an Accessory Structure would be permitted would create an unnecessary hardship upon the Applicants ability to use the pool without jeopardy to personal health and safety. Therefore, the Board determines that granting the requested Area Variance, for placing the above ground swimming pool in Location B is granting the minimum relief necessary.

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

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

X That the benefit to the applicant DOES outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance is GRANTED WITH THE FOLLOWING CONDITIONS:

1. The Zoning Board of Appeals does hereby grant an Area Variance from the Town Code requirements for a swimming pool to be located in the Side Yard portion of the subject Lot and only in the Location B, as shown on the submitted site sketch drawing. By granting this Area Variance the applicant will be allowed to place the proposed swimming pool a distance of approximately seventy one (71) feet from the Principal Structure and a distance of ninety (90) feet from the Front and approximately 801 feet from Side Property Lines for the Lot and maintain the separation from the principal structure as required by the Uniform Code. These dimensions are to be placed upon the sketch plan and noted by the Applicants prior to the submission of a Building Permit application.
2. In the event there is to be a deck associated with the above ground pool, then the location of such a deck is to be placed upon the revised Sketch Site Plan prior to the submission of a Building Permit. Any decking must be located behind the screened areas listed below in Condition #3.
3. The Applicants are to install and maintain either a solid wood fence six feet in height or landscaping three to six feet in height commencing at the north west corner of the proposed above ground swimming pool location (including any decking) and extending to the east edge of the pool and then south to the southern edge of the pool. This visual barrier is to be installed prior to the issuance of a Certificate of Compliance by the Town Code Enforcement Officer.
4. Any lighting of the proposed swimming pool shall comply with the lighting standards contained in Chapter 165 of the Town Code. No lighting shall be

permitted to extend beyond the property boundary and onto adjacent properties, or the public highway.

- 5. The Applicant is to obtain a Building Permit from the Town Code Enforcement Officer for the construction of the proposed swimming pool in accordance with the conditions of approval for this Area Variance and the State’s Uniform Code.

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 by granting the minimum relief necessary.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action.

The above Resolution was offered by Nancy Purdy and seconded by James Russell at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 11, 2016. Following discussion, the following roll call vote was recorded:

**Jim Russell - Aye
Cyril Opett - Aye
Nancy Purdy - Aye
Tim DeLucia - Excused
Ann Vu - Aye**

The applicant agrees to all the above conditions.

Area Variance and Findings ZB 0401-16 Matthew Calder

Cyril Opett made a motion to waive the reading of the SEQR Type II Resolution and was seconded by James Russell. All present voted Aye. James Russell made a motion to accept the SEQR Resolution and was seconded by Ann Vu. All present voted Aye.

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

**Applicant: Matthew Calder
324 Hook Road
Farmington, NY 14425**

**File: ZB # 0401-16
Zoning District: RS-25 Res. Suburban
Published Legal Notice on: 4/03/16
County Planning Action on: N.A.
County Referral #: N.A.
Public Hearing held on: 4/11/2016**

Property Location: 324 Hook Road, Farmington, New York.

Applicable Section of Town Code: **Chapter 165, Article V, Section 62. B.**

Requirement for which Variance is requested: **The applicant wishes to construct an above ground swimming pool in the Side Yard portion of the Lot. The Town Code requires swimming pools to be located in the Rear Yard portion of Lots.**

State Environmental Quality Review Determination: **The granting of an area variance to enable the construction of an accessory residential structure (a swimming pool) on an approved building Lot is classified as a Type II Action under Part 617.5 (c) (10) 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: **A referral to the Ontario County Planning Board is not required under the provisions of Section 239-1 of the New York State General Municipal Law.**

FACTORS CONSIDERED & 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

Reason: **The Board finds that the character of the neighborhood is predominantly single family dwellings fronting along the highway. The Board further finds that the subject Lot is a Flag Lot with the Principal Structure placed over 300 feet from the Front Property Line. The Board further finds that the minimum Front Yard Setback for a Lot in the RS-25 District is 50 feet. The Board further finds that the subject Lot contains a total of 2.8 acres of land (or 121,968 square feet in area) which is larger than the 25,000 square foot Minimum Lot Area required for the RS-25 Residential Suburban District. The Board further finds that the Code defines the Rear Yard portion of a Lot as that portion opposite the street access to the Lot. The Board further finds that the Side Yard of a Lot is defined as a yard extending between the side building line and the nearest side lot line, situated between the Front and Rear Yards. The Board further finds that the portion of the Lot where the applicant proposes to place the Accessory Structure is within the Side Yard and on the south side of the Lot. The Board further finds that the Rear Yard portion of the subject Lot is constrained by the location of the on-site waste water disposal system, including open space that may be necessary in the future to accommodate repairs to the existing system. The Board also finds that this Side Yard portion of the Lot is well screened from adjacent properties and from along Hook Road. The Board further finds that the placement of the proposed swimming pool in another**

location allowed by Town Code would be difficult as well as not being readily accessibility from the Principal Structure to the proposed Accessory Structure. The Board further finds that the minimum separation allowed, under the New York State Fire Prevention and Building Code (Uniform Code), between the edge of an above ground swimming pool and a residential structure, is four (4) feet and, therefore, is not a concern with the proposed location.

The Board, following testimony presented at tonight's public hearing, further finds that there is known practical difficulty associated with placing the proposed above ground swimming pool in the Rear Yard portion of the Lot. The Board, based upon these findings, determines that there will not likely be an undesirable change in the character of the neighborhood resulting from the granting of an Area Variance. The Board further finds that requiring maintenance of the existing natural buffer, the mature trees. The Board further finds that compliance with the Town's Site Lighting Regulations will eliminate spillage of lighting onto adjacent properties. The Board further finds that the Applicant does not intend to construct a deck for the proposed Accessory Structure at this time. The Board determines that any such deck structure will require a separate Building Permit to be issued.

2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance. Yes No

Reason: The Board finds that there is no other feasible alternative location identified by the Applicants where an above ground pool could be placed upon this Lot without the need for the requested Area Variance. The Board further finds that although the Rear Yard portion of the Lot contains adequate open area, where the proposed swimming pool could be placed, this area may likely be needed in the future for any repairs required to the on-site waste water treatment system. The Board further finds that there are: no impacts upon the Uniform Code requirements for separation of the above ground swimming pool from nearby structures; fewer impediments to the Applicant associated with placing the proposed swimming pool in the proposed location on the site; and this proposed location provides greater visibility from the Principal Structure, optimal sun, better accessibility by water delivery trucks to the proposed pool and closer proximity to the electrical service located upon the Lot. The Board, based upon these findings determines that granting the requested Area Variance, to place an above ground swimming pool in the proposed location, as shown on the drawings submitted with this Application, would be granting the minimum relief necessary to enable the placement of the proposed swimming pool upon the Lot in a manner that is more readily accessible to the Applicants.

3. Whether the requested variance is substantial. Yes No

Reason: The Board finds that the requested Area Variance is to allow the placement of a swimming pool within the Side Yard portion of the Lot is a variance involving a one hundred percent (100%) reduction in the dimensional requirement in the Town Code. The Board has consistently found that a variance request that is fifty percent (50%) or greater of what is otherwise required by the Code is a substantial variance request.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reason: The Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 of the SEQR Regulations, the information contained on Part I of the Short Environmental Assessment Form and has determined that the proposed Action is a Type II Action. The Board, in making this Determination, in accordance with the provisions of the New York State Environmental Conservation Law, article 8, has determined granting an area variance will not have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district.

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

Reason: The Board finds that the applicant's proposed location for the Accessory Structure on the Lot is a self-created hardship. The Board further finds, based upon its' review of the submitted documents and maps for this Application that there are known practical difficulties associated with locating the proposed swimming pool to the Rear Yard portion of the Lot. The Board determines that locating the proposed above ground swimming pool to a portion of the Lot where such an Accessory Structure would be permitted would create an unnecessary hardship upon the Applicants ability to use the pool. Therefore, the Board determines that granting the requested Area Variance, for placing the above ground swimming pool in Location B is granting the minimum relief necessary.

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

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

- X That the benefit to the applicant DOES outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance is GRANTED WITH THE FOLLOWING CONDITIONS:**

1. The Zoning Board of Appeals does hereby grant an Area Variance from the Town Code requirements for a swimming pool to be located in the Side Yard portion of the subject Lot and only in the location as shown on the submitted site sketch drawing. By granting this Area Variance the applicant will be allowed to place the proposed swimming pool a distance of approximately twenty six (26) feet from the Principal Structure and a distance of seventy (70) feet from the Front Lot Line and approximately 275 feet from Side Property Lines for the Lot and maintain the separation from the principal structure as required by the Uniform Code. These dimensions are to be placed upon the sketch plan and noted by the Applicants prior to the submission of a Building Permit application.
2. In the event there is to be a deck associated with the above ground pool, then the location of such a deck is to be placed upon the revised Sketch Site Plan prior to the submission of a Building Permit. Any decking must be located behind the screened areas listed below in Condition #3.
3. The Applicants are to maintain the existing natural buffer located on the Lot around the proposed above ground swimming pool location (including any decking). This visual barrier is to be documented by the Town Code Enforcement Officer prior to the issuance of a Certificate of Compliance.
4. Any lighting of the proposed swimming pool shall comply with the lighting standards contained in Chapter 165 of the Town Code. No lighting shall be permitted to extend beyond the property boundary and onto adjacent properties, or the public highway.
5. The Applicant is to obtain a Building Permit from the Town Code Enforcement Officer for the construction of the proposed swimming pool in accordance with the conditions of approval for this Area Variance and the State's Uniform Code.

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 by granting the minimum relief necessary.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action.

The above Resolution was offered by James Russell and seconded by Nancy Purdy at a scheduled meeting of the Zoning Board of Appeals held on Monday, April 11, 2016. Following discussion, the following roll call vote was recorded:

James Russell	-	Aye
Cyril Opett	-	Aye
Nancy Purdy	-	Aye

Tim DeLucia - **Excused**
Ann Vu - **Aye**

The applicant agrees to all the above conditions.

Public Comments – open forum

None

Other Board Matters:

All Board Members are registered for the May 2016 training conference.

Code Enforcement Update:

FedEx is planning to move their first box in the Collett Road facility on July 1, 2016. They have an incredible and impressive conveyer belt in that facility. There has been a lot of canvassing in the Agricultural District in regards to Solar Farms. These farms will need variances and approvals through the Zoning Board of Appeals. They may have an application for the next meeting in regards to a retail shed business located south of Kentucky Fried Chicken. The application would be for a retail business with no principal structure. The Town is considering a partnership with Ewing Graphics to provide signs and to place signs upon the applicant's properties prior to Zoning Board of Appeals and Planning Board Meetings. They are currently waiting for a quote.

Next Meeting:

The next Zoning Board of Appeals meeting will be held on April 25, 2016. A motion was made to adjourn the meeting at 7:55 pm and was passed with a voice vote of four (4) Ayes.

Minutes were respectfully submitted by Sarah Mitchell, Clerk of the Board.