

**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 August 22, 2016.

Zoning Board of Appeals Members

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

Town Staff Members

Jim Morse	Code Enforcement Officer
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Also Present

Peter Gorman	Marathon Engineering, Rochester NY
Mary Corbitt	5722 Bean Pole Circle, Farmington
Lena Martin	5731 Bean Pole Circle, Farmington
Matt Calabrese	5725 Bean Pole Circle, Farmington
Grace Calabrese	5725 Bean Pole Circle, Farmington
Peter VanScott	1412 Paddy Lane, Macedon
Mark DiMartino	126 East Main Street, Victor
Tom Fromberger	145 Culver Road Suite 160, Rochester
T.J. Cashette	2290 East Ave Suite 7, Rochester
Alicia Sturn	7614 Arbor Glen Drive, Victor

Open Meeting

Ann Vu called the meeting to order at 7:00 pm. She explained the emergency evacuation procedures and that they would follow the adopted Zoning Board of Appeals rules of procedures for all public meetings.

Approval of Minutes

Jim Russell made a motion to accept the July 18, 2016 meeting minutes and Ann Vu seconded the motion. A voice vote was taken and the motion was passed with five (5) Ayes.

BOARD BUSINESS:

Ann Vu stated that the Legal Notice was 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 notice and tonight's agenda are on the sign-in table.

NEW BUSINESS:

ZB 0801-16

MATTHEW CALABRESE

AREA VARIANCE

Request an Area Variance to Chapter 165, Article IV, Section 35 of the Town of Farmington Codes. The applicant wishes to construct a deck 19 inches from the south side yard property line. The Town Code requires a minimum setback of 7.5 feet from the side yard property line. The property is located at 5726 Bean Pole Circle and is zoned R-7.2 Planned Subdivision District.

Ann Vu declares the public hearings open.

Matthew and Grace Calabrese are present to speak on behalf of the above application. Mr. Calabrese explains that he would like to build a deck on the back of his house. He also currently does not have a door on the back of his house and would like to replace a set of windows with a sliding glass door. He explains that the deck cannot be placed the required seven and a half (7.5) feet from the property line because the southeast corner of his house is only six (6) feet off the property line. Mr. Calabrese shares with the board a letter from his neighbor stating that he does not have an issue with the proposed location of the deck.

Ann Vu read the letter as follows:

Dear Sir:

I am asking you to please allow my neighbors, Matt & Grace Calabrese to put up a deck. I live at 5721 bean Pole Circle. They live at 5719 Bean pole Circle. It would have no negative impact on me.

Thank you,
Robert Hess

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

Jim Morse, Code Enforcement Officer, explains that they have no objections to the proposed placement of the deck. He adds that the house was non-compliant to begin with due to the original configuration.

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

Tim DeLucia asks the applicant if there is currently a patio off the back of the house.

Mr. Calabrese explains that the previous owner installed a fourteen by fourteen foot patio with one foot tiles that is ground level. He explains that a lot of the tiles are going to be moved and put under the proposed deck and any spares will be relocated.

Mr. Calabrese then approaches the board and shows on the drawing the proposed location of the deck, sliding glass door and steps. He then shows pictures of his house to the board from his phone.

Ann Vu then asks for comments, questions or concerns from the public.

Mary Corbitt, of 5722 Bean Pole Circle, states that both her and her other neighbor at 5720 Bean Pole Circle have no issues with the proposed location of the deck.

Lena Martin, of 5731 Bean Pole Circle, adds that she also does not have any issues with the proposed location of the deck.

Ann Vu then asks for any further questions from the board, staff or the public. Hearing no response she moves to the next application.

ZB 0802-16

LARRY PFALTZGRAF

AREA VARIANCE

Request an Area Variance to Chapter 165, Article IV, Section 35 of the Town of Farmington Codes. The applicant wishes to construct an addition to the principal structure that would be eighteen (18) feet from the rear property line. The Town Code requires a minimum rear yard setback of 30 feet. The property is located at 2 Windigo Lane and is zoned R-7.2 Planned Subdivision District.

Larry Pfaltzgraf is present to speak on behalf of the above application. He explains that he would like to put an addition on his house. He adds that his lot is a corner lot and they are unable to comply with the thirty (30) foot rear set back requirement. Along with the addition they are hoping to add a handicapped door. Mr. Pfaltzgraf then approaches the board to show pictures, on his phone, where the proposed addition will be located on his lot. He adds that he has a very unique lot because it is a corner lot.

Ann Vu then asks for questions or comments from staff.

Jim Morse, Code Enforcement Officer, explains that he has no issues with this application and understands the hardship.

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

Ann asks the applicant if there is a shed on the property and if the applicant obtained a building permit for the shed.

Mr. Morse confirmed that the attached shed permit was closed out in 2014.

Ann Vu then asks for any further questions from the board, staff or the public. Hearing no response she moves to the next two applications.

ZB 0803-16 DR. MARK DIMARTINO, DDS AREA VARIANCE

Request an Area Variance to Chapter 165, Article V, Section 34.G. (2) to the Town of Farmington Codes. The applicant wishes to construct a 4,100 square foot building that would be twenty (20) feet from the front property line along Hathaway Drive. The Town Code requires a minimum front setback of fifty (50) feet. The property is located along the east side of Hathaway Drive, approximately 400 feet north of Perez Drive and is zoned GB General Business with the MTOD Major Thoroughfare Overlay District.

ZB 0804-16 DR. MARK DIMARTINO, DDS AREA VARIANCE

Request an Area Variance to Chapter 165, Article V, Section 34.G. (3) to the Town of Farmington Codes. The applicant wishes to construct a 4,100 square foot building that would be ninety two (92) feet from the front property line along State Route 332. The Town Code requires a minimum front setback of one hundred (100) feet. The property is located along the west side of State Route 332, approximately 400 feet north of Perez Drive and is zoned GB General Business with the MTOD Major Thoroughfare Overlay District.

Dr. Mark DiMartino, Tom Fromberger from MRB Group, T.J. Cashed, and Peter Gorman from Marathon Engineering are all present to speak on behalf of the above two applications. Peter Gorman explains that the project is on the eastside of Hathaway Drive off of New York State Route 332. It is a nearly two acre site zoned General Business and is also located in the Major Thoroughfare Overlay District. They are proposing to construct a 4100 square foot dental office with parking, utilities and storm water management. The proposed parking lot will have sixty three (63) spaces with twenty three (23) spaces land banked and constructed as needed. They will be connecting existing sanitary north of the property and will be extending an eight inch water main down Hathaway Drive and an inch and a half service will be run into the dental office. Site lighting will be LED and dark sky compliant on the private portion of the site with one pole located at the entrance. They are requesting two variances for this project one for a ninety two (92) foot setback off of New York State 332 and one for a twenty (20) foot setback off of Hathaway Drive.

Tom Fromberger, MRB Group, goes over the elevation maps and shows the board what the proposed building will look like from both New York State Route 332 and from Hathaway Drive.

Ann Vu asks the applicant what feedback they have received from the Town of Farmington Planning Board.

Mr. Gorman explains that the Planning Board was very receptive to the project and received a positive recommendation to the Zoning Board of Appeals.

Ann Vu adds that the Planning Board has a positive recommendation to the Zoning Board of Appeals based on the Draft Planning Board Meeting Minutes from the August 17, 2016 meeting.

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

Jim Morse, Code Enforcement Officer, explains that the orthodontics office that was built approximately five years ago was granted a variance for their setback as well. He adds that the NYSDOT does not allow for any clearing of the site; however it is the intent of the owner to purchase the right of way from NYSDOT so they can do some clearing. He also adds that the owners are intending to leave some of the mature trees on the property.

Ann Vu then asks for any further questions from the board, staff or the public.

Hearing no response Tim DeLucia makes a motion to close all four (4) public hearings for ZB 0801-16, ZB 0802-16, ZB 0803-16 and ZB 0804-16 and the motion is seconded by Cy Opett. A voice vote was taken and the motion was passed with five (5) Ayes.

Area Variance and Findings ZB 0801-16 Matthew Calabrese

SEQR Resolution - Type II Action

File: ZB # 0801-16

Applicant: Matthew Calabrese

Action: Area Variance, to construct a deck and stairs to be placed nineteen (19) inches from the south Lot Line and within the required seven and one-half (7.5) foot setback required by Town Code. The property is located at 5725 Bean Pole Circle.

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) (10) of the State Environmental Quality Review (SEQR) Regulations; and,

WHEREAS, the Action involves the granting of an individual setback for locating an Accessory Residential Structures, an attached deck and related stairs, within the Side Yard Setback portion of an existing residential Lot; 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.

The above Resolution was offered by Jim Russell and seconded by Nancy Purdy at a regularly scheduled Zoning Board of Appeals Meeting held on Monday, August 22, 2016. Following discussion, a roll call vote was recorded:

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

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

Applicant: **Matthew Calabrese**
5725 Bean Pole Circle
Farmington, NY 14425

File: **ZB # 0801-16**
Zoning District: **R-7.2 Planned Subdivision**
Published Legal Notice on: **8/14/16**
County Planning Action on: **N.A.**
County Referral #: **N.A.**
Public Hearing held on: **8/22/2016**

Property Location: **5725 Bean Pole Circle, Farmington, New York.**

Applicable Section of Town Code: **Chapter 165, Article IV, Section 35.**

Requirement for which Variance is requested: **The applicant wishes to construct an Accessory Structure, a deck that will be attached to the Principal Structure on the Lot and stairs from the deck to be placed nineteen (19) inches from the south Side Yard Lot Line. The Town Code requires Accessory Structures to be located a minimum of 7.5 feet from the Side Yard Lot Line.**

State Environmental Quality Review Determination: **The granting of an area variance to enable the construction of an accessory residential structure (an attached deck with stairs) upon 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 Sections 239-l & -m 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 both sides of the Town highway (Bean Pole Circle). The Board further finds that the Lot is partially enclosed by a six (6) foot high wooden fence that is located primarily in the Rear Yard portion where the proposed deck and stairs to be located. The Board further finds that both the Principal Structure and the fence have been maintained in good condition. The Board further finds that when the Principal Structure was constructed, over 40 years ago, it was placed six (6) feet from the Side Lot Line and not squarely to it.**

The Board, following testimony presented at tonight's public hearing, further finds that there is a known practical difficulty associated with placing any additional door on the Principal Structure without requiring some form of an area variance. The Board further finds that the proposed deck will not be readily visible from the public street and that it will be screened from adjacent parcels by the existing fence. The Board further finds that the Applicant desires to install a new door on the Principal Structure to improve access to and from the rear portion of their Lot. The Board further understands that the proposed second door will improve emergency exiting from the Principal Structure which currently has only one exit located in the front of the building.

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 compliance with the Town's Site Lighting Regulations will eliminate spillage of any deck lighting onto adjacent properties and/or the public highway.

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 feasible alternative location identified by the Applicants, for the placement of a second door on the dwelling unit that would not result in the need for an area variance. The Board further finds that although the Rear Yard portion of the Lot contains adequate open area where a deck and stairs could be placed, the placement**

of a door on the Principal Structure is restricted to the portion of the building that the Applicant has chosen.

The Board, based upon these findings determines that granting the requested area variance, to construct a second door and a deck with steps, in the location shown on the drawings submitted with this Application, would be granting the minimum relief necessary.

3. Whether the requested variance is substantial. Yes No

Reason: The Board finds that the requested Area Variance is to allow the placement of an attached deck within the Side Yard portion of the Lot is a variance involving a seventy-nine percent (79%) reduction in the setback dimensional requirement contained 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 SEQRA 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 Principal Structure has been placed upon the Lot in such a manner that the applicant's proposed location for the deck and stairs upon the Lot is not a self-created hardship. The hardship was created when the Principal Structure was constructed and the setback discrepancy was not discovered by the Town Building Inspector at the time. The Board further finds, based upon its' review of the submitted documents and maps for this Application that there is a known practical difficulty associated with locating the proposed deck and steps within the Side Yard portion of the Lot. The Board determines that locating the proposed deck and stairs to another portion of the Principal Structure where there would not be a need for an area variance would create an unnecessary hardship

upon the Applicant's ability to use the deck and stairs without incurring significant increase in the construction costs associated with the proposed new door, deck and stairs. Therefore, the Board determines that granting the requested Area Variance, for placing the proposed deck and stairs in the location shown, 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 the proposed construction of a deck and stairs to be located in the Side Yard portion of the subject Lot and only in the location shown on the submitted site sketch drawing. By granting this Area Variance the applicant will be allowed to place the proposed deck and stairs a distance not closer than nineteen (19) inches from the side property line. This dimension is to be placed upon the sketch plan and noted by the Applicants prior to the submission of a Building Permit application.
2. Any lighting of the proposed deck and stairs shall comply with the lighting standards contained in Chapter 165 of the Town Code. No lighting shall be permitted to extend beyond the property line onto adjacent properties, or the public highway.
3. The Applicant is to obtain a Building Permit from the Town Code Enforcement Officer for the construction of the proposed deck and stairs 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 Jim Russell and seconded by Ann Vu at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, August 22, 2016. Following discussion, the following roll call vote was recorded:

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

The applicant agrees to all the above conditions.

Area Variance and Findings ZB 0802-16 Larry Pfaltzgraf

SEQR Resolution - Type II Action

File: ZB # 0802-16

Applicant: Larry Pfaltzgraf

Action: Area Variance, to construct a 24 foot by 22 foot single story addition to the Principal Structure located at 2 Windigo Lane. The proposed addition would be setback 18 feet from the Rear Lot Line. The Town Code requires a minimum Rear Yard Setback of 30 feet.

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) (9) of the State Environmental Quality Review (SEQR) Regulations; and,

WHEREAS, the Action involves the granting of an individual setback, a Rear Yard Setback variance, for the expansion of a single-family residence on an approved Lot; 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.

The above Resolution was offered by Ann Vu and seconded by Tim DeLucia at a regularly scheduled Zoning Board of Appeals Meeting held on Monday, August 22, 2016. Following discussion, a roll call vote was recorded:

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

TOWN OF FARMINGTON

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

Applicant: **Larry Pfaltzgraf**
2 Windigo Lane
Farmington, NY 14425

File: **ZB # 0802-16**
Zoning District: **R-7.2 Planned Subdivision**
Published Legal Notice on: **8/14/16**
County Planning Action on: **N.A.**
County Referral #: **N.A.**
Public Hearing held on: **8/22/2016**

Property Location: **2 Windigo Lane, Farmington, New York.**

Applicable Section of Town Code: **Chapter 165, Article IV, Section 35.**

Requirement for which Variance is requested: **The applicant wishes to construct a 528 square foot single-story building addition to the Principal Structure, to be used for a master bedroom, bathroom and laundry room. The proposed addition would be setback 18 feet from the east property line, the Rear Lot Line. The Town Code requires Structures to be located a minimum of 30 feet from the Rear Lot Line.**

State Environmental Quality Review Determination: **The granting of an area variance to enable the construction of an expansion of a single-family residence upon an approve Lot is classified as a Type II Action under Part 617.5 (c) (9) 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 Sections 239-l & -m 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 both sides of the two adjacent Town highways (Windigo Lane and Cranberry Drive). The Board further finds that the Lot is a Corner Lot with Lot Frontage along Windigo Lane. The Board further finds that this Corner Lot is larger in size than other adjacent lots. The Board further finds that the Principal Structure and Accessory Structures on the Lot have been maintained in good condition. The Board further finds that the proposed building addition is to be used for**

a master bedroom, a bathroom and a laundry room. The Board further finds that the proposed building addition is on the north side of the Principal Structure and that this area was chosen to enable a design that meets current energy and building construction codes of the State of New York. The Board also finds that the proposed location of the building addition upon the site will enable the proposed roof line for the addition to blend with the roof lines on the remainder of the structure.

The Board, following testimony presented at tonight's public hearing, further finds that there is a known practical difficulty associated with placing the proposed addition on the Principal Structure. That difficulty is the existing chimney for the Principal Structure that is located on the north side of the structure. In order to avoid the need for an area variance, the chimney would need to be torn down and relocated closer to the front of the Principal Structure. The Board further finds that the proposed Rear Yard Setback of 18 feet will be greater than the Side Yard Setbacks of the two nearest Lots fronting along the south side of Cranberry Drive (Lots # 104 & # 102). Those two Lots have Side Yard Setbacks of 10 and 14 feet and 10.3 and 13.9 feet respectively from adjacent Lots.

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 compliance with the Town's Site Lighting Regulations will prevent light spillage onto adjacent properties and/or the public highway. The Board further finds that requiring the external building treatment for the proposed building addition to match the existing exterior building treatment will also not likely create an undesirable change in the character of the neighborhood.

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 feasible alternative location identified by the Applicants for the placement of the proposed building addition given the location of the existing chimney of the Principal Structure. The Board further finds that although the Rear Yard portion of the Lot contains only 24 feet of open area the construction of an addition to the Principal Structure that would not meet the expressed needs or desires of the property owners could not be constructed without some form of area variance. The Board further finds that an alternate design for the proposed building addition, even if it were feasible, would still result in the need for a setback variance from Cranberry Drive.

The Board, based upon these findings determines that granting the requested area variance, to construct the proposed building addition, in the location

shown on the drawings submitted with this Application, would be granting the minimum relief necessary.

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

Reason: The Board finds that the requested Area Variance is to allow the construction of a building addition to the Principal Structure with a Rear Setback of 18 feet instead of the required 30 feet involves a variance of 40% from 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 need for the proposed area variance is not a self-created hardship. The Board finds that given the Applicant's need to comply with the design considerations contained in the State's Uniform Code, which prescribes the design of roof lines matching existing roof lines; and the fact that the Principal Structure has been placed upon the Lot in such a manner that any addition to it would involve an area variance based upon the Principal Structure already being a non-conforming structure.

The Board further finds, based upon its' review of the submitted documents and maps for this Application, that there is a known practical difficulty associated with locating the proposed building addition closer to Windigo Lane. That difficulty is due to the placement of the chimney for the Principal Structure.

The Board determines that locating the proposed building addition to another portion of the Principal Structure, where there would not be a need for an area variance, does not appear feasible and would create an

unnecessary hardship upon the Applicant's ability to use the proposed building addition without incurring significant increase in the construction costs. Therefore, the Board determines that granting the requested Area Variance, for placing the proposed building addition in the location shown, 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 the proposed construction of a 24 foot by 22 foot building addition to be located on the north side of the Principal Structure and within the Side Yard portion of the subject Lot and only in the location shown on the submitted site sketch drawing. By granting this Area Variance the applicant will be allowed to construct the proposed 528 square foot building addition with a 36 foot Side Setback to Cranberry Drive and an 18 foot Rear Yard Setback to the adjacent Lot along the south side of Cranberry Drive. These dimensions are to be placed upon the sketch plan and noted by the Applicants as part of their submission to the Town of an application for a Building Permit.
2. The proposed building addition exterior (color and siding) shall match, to the greatest extent practical, the exterior treatment of the existing Principal Structure.
3. Any lighting of the proposed building addition shall comply with the lighting standards contained in Chapter 165 of the Town Code. No lighting shall be permitted to extend beyond the property line onto adjacent properties, or the public highways.
4. The Applicant is to obtain a Building Permit from the Town Code Enforcement Officer for the construction of the proposed building addition 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 Jim Russell at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, August 22, 2016. Following discussion, the following roll call vote was recorded:

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

The applicant agrees to all the above conditions.

Area Variance and Findings ZB 0803-16 Dr. Mark DiMartino, DDS

SEQR Resolution - Type II Action

File: ZB # 0803-16

Applicant: Dr. Mark DiMartino, DDS

Action: Area Variance, to construct a 4,100 square foot office building that is proposed to be twenty (20) feet from the Front Lot Line along Hathaway Drive and within the required fifty (50) foot Front Setback required in the GB General Business District. The property is located along the east side of Hathaway Drive, approximately 400 feet north of Perez Drive and adjacent to the west side of New York State Route 332.

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) (12) of the State Environmental Quality Review (SEQR) Regulations; and,

WHEREAS, the Action involves the granting of an individual setback variance for constructing a non-residential structure, an office building for a dentist, within the Front Yard Setback portion of an existing commercial Lot; 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.

The above Resolution was offered by Nancy Purdy and seconded by Tim DeLucia at a regularly scheduled Zoning Board of Appeals Meeting held on Monday, August 22, 2016. Following discussion, a roll call vote was recorded:

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

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

Applicant: **Dr. Mark DiMartino, DDS**
126 East Main Street
Victor, New York 14564

File: **ZB # 0803-16**
Zoning District: **GB General Business
and MTOD Major Thoroughfare Overlay
District**
Published Legal Notice on: **8/14/16**
County Planning Action on: **8/10/16**
County Referral #: **116.1-2016**
Public Hearing held on: **8/22/2016**

Property Location: **East side of Hathaway Drive, approximately 400 feet north of Perez Drive.**

Applicable Section of Town Code: **Chapter 165, Article V, Section 34. G. (2).**

Requirement for which Variance is requested: **The applicant wishes to construct a 4100 square foot single-story office building that would be twenty (20) feet from the Front Property Line along Hathaway Drive. The Town Code requires a minimum Front Setback of fifty (50) feet.**

State Environmental Quality Review Determination: **The granting of an area variance to enable the construction of a 4100 square foot office building upon an approved Lot is classified as a Type II Action under Part 617.5 (c) (12) 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 required under the provisions of Sections 239-l & -m of the New York State General Municipal Law. The County, in referral #116.1-2016, makes no specific recommendation other than to grant the minimum relief necessary.**

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 developing neighborhood is commercial office buildings fronting along the east side of Hathaway Drive and the west side of State Route 332. The Board also finds that the character of the neighborhood along the west side of Hathaway Drive is predominantly undeveloped land. The Board also finds that the property to the north of the proposed office building site has recently been zoned to incentive zoning for development of apartment buildings and additional office buildings similar in size to the one being proposed. The Board also finds that Hathaway Drive is to be extended north connecting with Mercier Boulevard in accordance with the Town's Official Corridor Plan Map. The Board further finds that the adopted Town of Farmington Comprehensive Plan Future Land Use Plan Map recommends commercial development along the frontage of Hathaway Drive and State Route 332. The Board, based upon these findings determines that there will not be an undesirable change in the character of the neighborhood or that the development of the proposed site will not be 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

Reason: The Board finds that the proposed location of the medical office building will eventually contribute to future traffic calming effects for motorists using Hathaway Drive. The Board also finds that having buildings closer to the public street and having sidewalks associated with the proposed commercial site development creates a condition where there is a sense of neighborhood and not just another commercial strip development along the highway. The Board further finds that the setback of the proposed medical office building complements the setback of other medical office buildings that are (or will be) located along Hathaway Drive. Finally, the Board, based upon its' review of the proposed preliminary site plan drawing finds that the proposed Front Setback would complement the Front Setback of other buildings along the State Route 332 Corridor. The Board, based upon these findings, concludes that moving the medical office building to another location on the site would not be feasible and would ultimately result in another non-conformity with the Town's setback regulations when applied to this site.

The Board, based upon these findings determines that granting the requested area variance, to construct the proposed building in the location shown on the drawings submitted with this Application, would be granting the minimum relief necessary.

3. Whether the requested variance is substantial. Yes No

Reason: **The Board finds that the requested Area Variance is to allow the construction of a single-story office building with a Front Setback of twenty (20) feet from the Front Property Line along Hathaway Drive instead of the required fifty (50) feet involves a variance of sixty percent (60%) from the Town Code requirement. 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 SEQRA 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 subject site is an irregular shaped parcel of land, subject to additional zoning overlay regulations and that development of any permitted or special permitted use on this site would most likely be subject to the need for area variance(s). The Board finds that maintaining as much as possible of the 100 foot Front Setback from along the State Route 332 frontage and the 50 foot Front Setback from along Hathaway Drive frontage has created difficulty for developing this site and that relief should be granted in the interests of the public.**

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 the proposed construction of a 4100 square foot, single-story, office building to be located upon the subject property a distance of twenty (20) feet from the Front Property Line along Hathaway Drive.
2. Prior to issuing a Building Permit, the applicant is to make application for a second area variance, a Front Setback variance from State Route 332, to allow development of this site in the manner set forth in the proposed Preliminary Site Plan.
3. The proposed building shall first require Final Site Plan approval from the Town Planning Board before a Building Permit may be granted. The Final Site Plan drawing is to contain a note that references this File Number, date and conditions of approval by the Zoning Board of Appeals.
4. Any lighting of the proposed building addition shall comply with the lighting standards contained in Chapter 165 of the Town Code. No lighting shall be permitted to extend beyond the property line onto adjacent properties, or the public highways.
5. The Applicant is to obtain a Building Permit from the Town Code Enforcement Officer for the construction of the proposed building in accordance with the conditions of approval for this Area Variance and the State's Uniform Code.
6. Proper Letter from the current property owner and/or trust, in regards to the applicant acting on their behalf for the requested area variance, is to be received prior to the issuance of a Building Permit.

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 Jim Russell and seconded by Nancy Purdy at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, August 22, 2016. Following discussion, the following roll call vote was recorded:

Jim Russell - Aye

Cyril Opett	-	Aye
Nancy Purdy	-	Aye
Tim DeLucia	-	Aye
Ann Vu	-	Aye

The applicant agrees to all the above conditions.

Area Variance and Findings ZB 0804-16 Dr. Mark DiMartino, DDS

SEQR Resolution - Type II Action

File: ZB # 0804-16

Applicant: Dr. Mark DiMartino, DDS

Action: Area Variance, to construct a 4,100 square foot office building that is proposed to be ninety-two (92) feet from the Front Lot Line along State Route 332 and within the required one hundred (100) foot Front Setback required in the GB General Business District and the MTOD Major Thoroughfare Overlay District. The property is located along the east side of Hathaway Drive, approximately 400 feet north of Perez Drive and adjacent to the west side of New York State Route 332.

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) (12) of the State Environmental Quality Review (SEQR) Regulations; and,

WHEREAS, the Action involves the granting of an individual setback variance for constructing a non-residential structure, an office building for a dentist, within the Front Yard Setback portion of an existing commercial Lot; 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.

The above Resolution was offered by Cyril Opett and seconded by Tim DeLucia at a regularly scheduled Zoning Board of Appeals Meeting held on Monday, August 22, 2016. Following discussion, a roll call vote was recorded:

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

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

**Applicant: Dr. Mark DiMartino, DDS
126 East Main Street
Victor, New York 14564**

**File: ZB # 0804-16
Zoning District: GB General Business
and MTOD Major Thoroughfare Overlay
District
Published Legal Notice on: 8/14/16
County Planning Action on: 8/10/16
County Referral #: 116.1-2016
Public Hearing held on: 8/22/2016**

Property Location: West side of New York State Route 332, approximately 400 feet north of Perez Drive.

Applicable Section of Town Code: Chapter 165, Article V, Section 34. G. (3).

Requirement for which Variance is requested: The applicant wishes to construct a 4100 square foot single-story office building that would be ninety-two (92) feet from the Front Property Line along New York State Route 332. The Town Code requires a minimum Front Setback of one hundred (100) feet.

State Environmental Quality Review Determination: The granting of an area variance to enable the construction of a 4100 square foot office building upon an approved Lot is classified as a Type II Action under Part 617.5 (c) (12) 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 required under the provisions of Sections 239-l & -m of the New York State General Municipal Law. The County, in referral #116.1-2016, makes no specific recommendation other than to grant the minimum relief necessary.

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 Board finds that the character of the developing neighborhood is commercial office buildings fronting along the west side of State Route 332.

The Board also finds that the character of the neighborhood along the west side of State Route 332 in this area is predominantly undeveloped land. The Board also finds that there will be no access from this site to State Route 332 but only to Hathaway Drive. The Board also finds that the property to the north of the proposed office building site has recently been zoned to incentive zoning for development of apartment buildings and additional office buildings similar in size to the one being proposed. The Board also finds that Hathaway Drive is to be extended north connecting with Mercier Boulevard in accordance with the Town's Official Corridor Plan Map. The Board further finds that the adopted Town of Farmington Comprehensive Plan Future Land Use Plan Map recommends commercial development along the frontages of Hathaway Drive and State Route 332. The Board, based upon these findings determines that there will not be an undesirable change in the character of the neighborhood or that the development of the proposed site will not be a detriment to nearby properties as the result of granting the requested area variance.

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 the Front Setback of the proposed medical office building, from along State Route 332, complements the setback of other medical office buildings that are (or will be) located along Hathaway Drive and State Route 332. The Board, based upon this finding, concludes that moving the medical office building to another location on the site would not be feasible and would ultimately result in another non-conformity with the Town's setback regulations when applied to this site.

The Board, based upon these findings determines that granting the requested area variance, to construct the proposed building, in the location shown on the drawings submitted with this Application, would be granting the minimum relief necessary.

3. Whether the requested variance is substantial. Yes No

Reason: The Board finds that the requested Area Variance is to allow the construction of a single-story office building with a Front Setback of ninety-two (92) feet from the Front Property Line along State Route 332 instead of the required one hundred (100) feet involves a variance of eight percent (8%) from the Town Code requirement. 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 X No

Reason: The Board finds that the subject site is an irregular shaped parcel of land, subject to additional zoning overlay regulations and that development of any permitted or special permitted use on this site would most likely be subject to the need for area variance(s). The Board finds that maintaining as much as possible of the 100 foot Front Setback from along the State Route 332 frontage and as much as possible of the 50 foot Front Setback from along Hathaway Drive has created difficulty for developing this site and that relief should be granted in the interests of the public.

**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 the proposed construction of a 4100 square foot, single-story, office building to be located upon the subject property a distance of ninety-two (92) feet from the Front Property Line along New York State Route 332.
2. Prior to issuing a Building Permit, the applicant is to make application for a second area variance, a Front Setback variance from Hathaway Drive, to allow development of this site in the manner set forth on the proposed Preliminary Site Plan.
3. The proposed building shall first require Final Site Plan approval from the Town Planning Board before a Building Permit may be granted. The Final Site Plan

drawing is to contain a note that references this File Number, date and conditions of approval by the Zoning Board of Appeals.

4. Any lighting of the proposed building shall comply with the lighting standards contained in Chapter 165 of the Town Code. No lighting shall be permitted to extend beyond the property line onto adjacent properties, or the public highways.
5. The Applicant is to obtain a Building Permit from the Town Code Enforcement Officer for the construction of the proposed building in accordance with the conditions of approval for this Area Variance and the State’s Uniform Code.
6. Proper Letter from the current property owner and/or trust, in regards to the applicant acting on their behalf for the requested area variance, is to be received prior to the issuance of a Building Permit.

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 Tim DeLucia and seconded by Jim Russell at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, August 22, 2016. Following discussion, the following roll call vote was recorded:

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

The applicant agrees to all the above conditions.

Public Comments – open forum

None

Other Board Matters:

None

Code Enforcement Update:

The Building Department has been fielding a lot of FOIL (Freedom of Information Law) Requests.

The demolition of the motel is tentatively scheduled for the first week of September after Labor Day. The owner's intent is to rebuild. The Building Department has made them aware of a few issues that will need to be addressed prior to rebuilding. Currently there is a septic system under the black top and they would like for them to hook in to our sanitary sewer. Also the owner plans on updating the existing unit at the same time of the rebuild.

The Finger Lakes Hotel on Loomis Road on the hill has changed ownership for the hotel and for the restaurant/bar.

Buffalo Hotel Supply has also changed owners. It will be a similar use but with a higher volume.

Frank Afonti has taken over the site work at Monarch Manor. He anticipates that the project will start to move a lot faster now.

No commercial leads, as of yet, for the corner of Hook and Collett Roads in front of Hickory Rise.

They have received an application for the southwest corner of Hook and Collett Roads for the Hook Industrial Complex that is owned by DiFelice.

Next Meeting:

The next Zoning Board of Appeals meeting will be held on September 26, 2016. A motion was made to adjourn the meeting at 7:55pm and was passed with a voice vote of five (5) Ayes.

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