

**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 November 28, 2016.

Zoning Board of Appeals Members

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

Town Staff Members

Ron Brand	Director of Development
James Morse	Code Enforcement Officer

Also Present

Tom Yourch	855 Hook Rd Farmington
David Chapman	5513 Holtz Rd Farmington
Cindy Sue Chapman	5513 Holtz Rd Farmington
Adrian Bellis	104 Gannett Rd Farmington
Orlando & Aurora Crespo	62 Lored Rd Farmington
Kevin Holtz	5499 Holtz Rd Farmington
Derek Brocklebank	51 N. Main St Canandaigua
Scott Johnson	6227 County Rd 41 Farmington

Open Meeting

Tim DeLucia called the meeting to order at 7:00 pm. He 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

Cyril Opett made a motion to accept the October 24, 2016 meeting minutes and Nancy Purdy seconded the motion. A voice vote was taken and the motion was passed with four (4) Ayes.

BOARD BUSINESS:

Mr. DeLucia attests to the publishing of the three (3) legal notices, for the public hearings on tonight's agenda, in the November 21, 2016 edition of the Daily Messenger, the Town's Official Newspaper; to the posting of the meeting notice on the town's website www.townoffarmingtonny.com ; and the posting of the meeting notice upon the Town Hall Bulletin Board. Copies of the legal notices and tonight's agenda are on the sign-in table.

CONTINUED BUSINESS: ZB 1001-16 & ZB 1002-16 are continued public hearings from the October 24th Meeting.

ZB 1001-16 DAVID CHAPMAN AREA VARIANCE

Requests an area variance to Chapter 165, Article V, Section 58. A. of the Town of Farmington Codes. The applicant wishes to keep an accessory structure, a 30 foot by 50 foot detached pole barn (with an unknown sized addition that has been added to the pole barn), that is to be located 3 feet - 6 inches within the side yard portion of the adjacent lot that is owned by Michael Collins. The Town Code requires accessory structures to be located only in the rear yard portion of a lot and located five feet from an adjacent property line. The property is located at 5513 Holtz Road and is zoned A-80 Agricultural District.

ZB 1002-16 Mr. & Mrs. MICHAEL COLLINS AREA VARIANCE

Requests an area variance to Chapter 165, Article V, Section 58.A. of the Town of Farmington Codes. The applicant wishes to keep an accessory structure, a 30 foot by 50 foot detached pole barn (with an unknown sized addition that has been added to the pole barn), that is owned by David Chapman, 5513 Holtz Road, that is to be located 3 feet – 6 inches within the rear yard portion of the their lot. The Town Code requires accessory structures to be located in the rear portion of a lot and located five feet from an adjacent property line. The property is located at 579 County Road 8 and is zoned A-80 Agricultural District.

Mr. DeLucia states that the public hearings on these two related applications are still open for the above two applications and asks if there is any additional or new information to be presented to the Board.

Derek Brocklebank is present to speak on behalf of the above two applications. He states that since the previous public hearings he has provided some additional submissions in response to a lot of the areas of inquiry. He explains that he does not have anything new to add at this point. He believes that the record is relatively straight forward in terms of submissions in regards to both the Chapman application and the Collins application. He adds that there is one thing that he would like to bring to the Boards attention and is not sure the Board is aware that this particular genesis of what is before the Board right now is that the Collins application and the Chapman application were queued up in accordance with directives from the Code Enforcement Officer and the Town's Attorney. He explains that he initially submitted an application just for Mr. Chapman and at the

time the Town's position was that Mr. Collins had to join in and there had to be a separate application. Mr. Brocklebank adds that he filed an interpretation and an appeal request from that decision but it never went anywhere. He explains that at this point he is unaware if the Zoning Board was aware of the decision for an appeal and interpretation request. He explains that what we have today is a result of what the Town wanted in terms of presenting the application. He adds that he knows one of the issues that were wrestled with by one Board member in particular last time was the idea of an accessory structure and how the structure was an accessory to the Collins property. At the time he explained that there was an underlining contractual relationship between the parties and that Mr. Collins is bound to follow. He adds that he feels the real genesis is that we all recognize that this is a structure that is accessory for the Chapman property and that the Chapman's are the only ones able to use the structure but exists by virtue of a boundary line agreement that was signed by Collins. The unusual nature of this application is there are two applications trying to reach the right decision based on directives from the Town and how he is trying to queue this up for the relief his client is seeking. He adds their position is that the benefit to Chapman far outweighs any detriment. He adds he will be happy to answer and questions or concerns but that he has nothing further to present at this time.

Mr. DeLucia then asks the Board is they had any further questions or comments pertaining to application ZB1001-16.

Hearing no response he then asks staff for any further questions or comments pertaining to application ZB1001-16.

Hearing no response he then asks the Board if they have any further questions or comments pertaining to application ZB1002-16.

Hearing no response he then asks staff for any further questions or comments pertaining to application ZB1002-16.

Hearing no response he then closes the public hearing for ZB1001-16 and then closes the public hearing for ZB1002-16

NEW BUSINESS:

ZB 1101-16

SCOTT JOHNSON

AREA VARIANCE

Requests an area variance to Chapter 165, Article V, Section 58.A. of the Town of Farmington Codes. The applicant wishes to reconstruct a detached private garage that was recently destroyed by a tree falling upon the original structure. The original structure was a detached private garage having a total building area of 484 square feet (a 22 foot by 22 foot design). The proposed structure would have a total building area of 720 square feet (a 24 foot by 30 foot design). The previous structure was located in the front yard portion of the lot. The applicant wishes to keep the new private garage, an accessory structure, within the front yard portion of their lot. The Town Code requires accessory

Orlando and Aurora Crespo are present to speak on behalf of the above two applications. Mr. Crespo explains that they are new to the Farmington area. He explains that the shed that is currently on his lot is 10x8 and is not big enough. They are hoping to obtain approval to construct an additional accessory structure on their lot. The new accessory structure will be 10x12. They would like to keep the original 10x8 structure and use it as a tool shed and use the new 10x12 accessory structure as a storage shed.

Mr. DeLucia then asks for questions or comments from the board.

Hearing no response he then asks for questions or comments from the staff.

Mr. Morse explains that the first application is for the size of the accessory structure and the second is for having a second accessory structure on the same lot. He adds that there are two other lots with additional accessory structures within the Farmington Manufactured Community.

Ron Brand, Director of Development, informs the Board that he has drafted and posted upon the town's website four Resolutions for them to review. Two of which are SEQR Resolution-Type II Actions. The other two draft resolutions are for approval with conditions.

Mr. DeLucia then asked for any further questions or comments from the Board, staff or the public pertaining to application ZB1102-16 or ZB1103-16.

Hearing no response he then closes the Public Hearing for ZB1102-16 and ZB1103-16.

Area Variance and Findings ZB 1001-16 David Chapman

**SEQR Resolution - Type II Action
File: ZB # 1001-16**

Applicant: David Chapman

Action: Area Variance, to keep a detached Accessory Structure located in the Rear Yard area of the Lot, but also encroaching within the Side Yard setback area of the Lot and extending onto the adjacent property located at 579 County Road 8 that is owned by Mr. & Mrs. Michael Collins. The subject property of this area variance is located at 5513 Holtz Road.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action; and,

WHEREAS, the Action involves the granting of a single area variance for an individual setback for locating an Accessory Residential Structure, within the Side Yard portion of an existing residential Lot.

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) (12) of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

The above Resolution was offered by Cyril Opett and seconded by Jim Russell at a regularly scheduled Zoning Board of Appeals Meeting held on Monday, November 28, 2016. Following discussion, a roll call vote was recorded:

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

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

Applicant: **DAVID CHAPMAN**
5513 Holtz Road
Farmington, New York 14425

File: **ZB # 1001-16**
Zoning District: **A-80 Agricultural**
Published Legal Notice on: **10/17/16**
County Planning Action on: **N.A.**
County Referral #: **N.A.**
Public Hearing held on: **10/24/16 & 11/28/16**

Property Location: **South side of Holtz Road.**

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

Requirement for which Variance is requested: **The applicant wishes to keep a detached Accessory Structure, a pole barn, that has been constructed on the subject property within the Side Yard setback from the west property line and to allow said structure to continue to extend into the Rear Yard setback portion of the adjacent Lot which fronts along County Road 8. The Town Code requires an Accessory Structure to be subject to the same locational requirements affecting the Principal Structure and a Lot. The minimum Rear and Side Yard setbacks for an Accessory Structure in the A-80 District is five (5) feet from the property lines provided there is an existing Residential Structure on the Lot which there is on the subject Lot.**

State Environmental Quality Review Determination: **The granting of an area variance to enable the placement of an Accessory Structure 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 not required for this application under the provisions of Sections 239-1 & -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 primarily agricultural lands with a rural density of residential single-family dwellings fronting along both sides of Holtz Road. The Board also finds that there are no other identified sites located within this neighborhood that have structures extending onto adjacent properties. The Board also finds that the stated purpose contained in Section 263 of New York State Town Law for zoning regulations is, among other listed criteria,... “to provide adequate light and air; to prevent the overcrowding of land;...” The Board further finds that another stated purpose in the Town Law reads ... “Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality.” The Board, based upon these findings, determines that there will be an undesirable change in the character of the neighborhood and a detriment to nearby properties resulting from the granting of an Area Variance that is deemed to be detrimental to the stated purposes of zoning regulations, as set forth in Section 263 of New York State Town Law, because constructing a barn that encroaches onto the neighboring property diminishes the light onto the Collins Property, crowds his land and is not the most appropriate use of the Collins Property.**

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 known reason why the Applicant can not: (1) remove that portion of the structure that extends onto the adjacent property and provides the adequate five foot side yard setback from the west property line; (2) acquire additional land from the adjacent Lot, owned by Mr. & Mrs. Michael Collins, to allow the existing structure to comply with the Town's Zoning Law; (3) relocates the existing structure entirely onto the subject Lot and within the required setbacks; or, (4) removes the structure completely from the subject Lot and the adjacent Lot owned by Mr. & Mrs. Michael Collins. The Board, based upon this finding, concludes that there are a number of feasible options that would ultimately result in the elimination of a non-conformity with the Town's setback regulations when applied to this Lot.**

3. Whether the requested variance is substantial. Yes No

Reason: **The Board finds that the requested Area Variance is to allow the Accessory Structure to remain within the five foot Side Yard Setback of this Lot from the west property line and to continue to allow the Accessory Structure to this Lot to extend onto an adjacent Lot involves a variance that is in excess of one hundred percent (+100%) from the Town Code requirement. The Board has consistently found that an area 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 Part 617.7 of the State SEQRA Regulations, the information contained on Part I of the Short Environmental Assessment Form and has determined that the proposed Action is classified as a Type II Action. The Board, in making this Determination, in accordance with the provisions of Part 617, of article 8 of the New York State Environmental Conservation Law, has merely determined that the action of granting a single area variance has been determined by the State of New York to 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 placement of the subject Accessory Structure was constructed by Adam Jacobs, the owner of the property prior to David Chapman, and that the structure was completed without regard to approved conditions of the Building Permit issued by the Town, or**

determining where the property boundary is located on the subject Lot. The Board further finds that a Boundary Line Agreement (dated July 24, 2007) between Adam J. Jacobs & Jennifer A. Jacobs and Michael Collins & Carolyn K. Collins acknowledging... “ the existence of a pole barn located 3.6 feet more or less over a portion of the east line of the Collins property which is the common boundary line between Jacobs and Collins.” The Board further finds that Mr. Chapman purchased the subject Lot from Mr. Jacobs, knowing at the time, according to the filed Warranty Deed (dated July 27, 2007) between Adam J. Jacobs and Jennifer A. Jacobs and David A. Chapman, that the Accessory Structure on the Lot at 5513 Holtz Road was indeed located upon a portion of the adjacent Lot owned by Mr. & Mrs. Collins. The Board finds that the alleged difficulty is self-created and that it is relevant to the decision to preclude the granting of the requested area variance.

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

The Zoning Board of Appeals, after reviewing the above five proofs and making findings, determines that granting the requested area variance, to allow the Accessory Structure to remain, in the location identified, would not be granting the minimum relief necessary.

The Board further finds that in granting the requested Area Variance it would not comply with requirements in Section 267-b. 3. (c) of New York State Town Law, which states... “The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.”

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board of Appeals finds that benefit to the applicant DOES NOT outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance is DENIED.

BE IT FURTHER 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 not finding justification for granting the minimum relief necessary.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action and that a copy thereof be provided to the Applicant.

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, November 28, 2016. Following discussion, the following roll call vote was recorded:

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

Area Variance and Findings ZB 1002-16 Mr. & Mrs. Michael Collins

SEQR Resolution - Type II Action
File: ZB # 1002-16

Applicant: Mr. & Mrs. Michael Collins

Action: Area Variance, to allow a portion of a detached Structure located upon an adjacent Lot at 5513 Holtz Road and partially upon the Applicant’s Lot, to remain in the Rear Yard portion of the Lot located at 579 County Road 8, with a zero setback from the property line instead of the 20 foot minimum Rear Yard Setback for a Structure located on a Lot within the A-80 District as required by Town Code. The property is located at 579 County Road 8.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has review the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action; and,

WHEREAS, the Action involves the granting of a single area variance for an individual setback for locating an Accessory Residential Structure, within the Rear Yard portion of an existing residential Lot.

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) (12) of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

The above Resolution was offered by Jim Russell and seconded by Cyril Opett at a regularly scheduled Zoning Board of Appeals Meeting held on Monday, November 28, 2016. Following discussion, a roll call vote was recorded:

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

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

Applicant: **MR. & MRS. MICHAEL COLLINS**
579 County Road 8
Farmington, New York 14425

File: **ZB # 1002-16**
Zoning District: **A-80 Agricultural**
Published Legal Notice on: **10/17/16**
County Planning Action on: **N.A.**
County Referral #: **N.A.**
Public Hearing held on: **10/24/2016**
& 11/28/16

Property Location: **East side of County Road 8 and south side of Holtz Road.**

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

Requirement for which Variance is requested: **The applicants wish to keep a detached Accessory Structure, a pole barn, that has been constructed on their subject property within the Rear Yard setback from the adjacent property line of a Lot that fronts along the south side of Holtz Road. The Town Code requires an Accessory Structure to be located in the Rear Yard setback portion of a Lot and shall be subject to the same locational requirements affecting the Principal Structure and a Lot. The minimum Rear Yard setbacks in the A-80 District is five (5) feet from the property line.**

State Environmental Quality Review Determination: **The granting of an area variance to enable the placement of an Accessory Structure upon an approved 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 for this application under the provisions of Sections 239-l & -m of the New York State General Municipal Law and Appendix B of the Ontario County Planning Board Bylaws.**

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.
X Yes No

Reason: **The Board finds that the character of the neighborhood is primarily agricultural lands with a rural density of residential single-family dwellings fronting along both sides of County Road 8 and Holtz Road. The Board also finds that there are no other identified sites located within this neighborhood that have structures extending onto adjacent properties. The Board also finds that the stated all accessory structures in any zoning district, as specified in Chapter 165, Article V, Section 58.A. of the Town Code requires a rear and side yard setback of five feet, provided that there is an existing residential structure on the lot. The Board further finds that there is an existing residential structure located on the lot at 579 County Road 8 and that Lot has another existing Accessory Structure. The Board further finds that the area variance being requested for the proposed Accessory Structure located on an adjacent lot and extending onto the Lot at 579 County Road 8 is not ACCESSORY to the Principal Structure or Principal Use of said Lot. The Board further finds that the definition of the term ACCESSORY, as contained in Chapter 165, Article II, Terminology, of the Town Code, reads... “The term applied to a building or use which is customarily incidental and subordinate to and serves a principal building or principal use; is subordinate in area, extent or purpose to the principal building or principal use serve; contributes to the comfort, convenience or necessity of occupants of the principal building or principal use; and is located on the same zoning lot as the principal building or principal use.” The Board, based upon these findings determines that there will be an undesirable change in the character of the neighborhood and a detriment to nearby properties resulting from the granting of an Area Variance for a structure that is deemed not to be accessory to the permitted principal use of the Lot or for the necessity of the occupants of the principal building or principal use of the Lot located at 579 County Road 8.**

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 known reason what benefit there is to the Applicant to use a portion of a structure that is owned by another party located upon another Lot. The Board has found in a separate application, ZB 1001-16, David Chapman, 5513 Holtz Road, that there are two alternative options available to said applicant that would correct and eliminate the need for that variance, and thus this requested variance. The Board based upon these findings, concludes that these two options are feasible and would ultimately result in the elimination of a 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 allow the existing Structure to remain, that is defined as not being an Accessory Structure in the location identified, would not be granting the minimum relief necessary. The Board finally finds in granting the requested Area Variance that it would not comply with requirements in Section 267-b. 3. (c) of New York State Town Law, which states... “The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.”

3. Whether the requested variance is substantial. Yes No

Reason: **The Board finds that the requested Area Variance is to allow the existing Structure to remain within the five foot Rear Yard Setback of this Lot from the east property line and to allow it continue when it has been determined not to be an Accessory Structure, involves an area variance in excess of one hundred percent (+100%) 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 Part 617.7 of the State SEQR Regulations, the information contained on Part I of the Short Environmental Assessment Form and has determined that the proposed Action is classified as a Type II Action. The Board, in making this Determination, in accordance with the provisions of Part 617, of article 8 of the New York State Environmental Conservation Law, has merely determined that the action of granting a single area variance has been determined by the State of New York to 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 granting of the requested area variance to enable an existing structure that has been determined not to be an Accessory Structure to the Principal Structure or Principal Use of the Lot at 579 County Road 8, to remain on the subject Lot as an Accessory Structure is not the minimum relief necessary to justify the granting of the requested area variance. The Board also finds that the alleged difficulty is self-created and that it is relevant to the decision to preclude the granting of the requested area variance.**

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 NOT outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance is DENIED.**

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 not finding justification for 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 Tim DeLucia, at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, November 28, 2016. Following discussion, the following roll call vote was recorded:

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

Area Variance and Findings ZB 1101-16 Scott Johnson

SEQR Resolution - Type II Action
File: ZB # 1101-16

Applicant: Scott Johnson

Action: Area Variance, to keep a detached pre-existing non-conforming Accessory Structure, located in the Front Yard area of the Lot, and to enlarge the size of the structure from 484 square feet to 720 square feet. The property is located at 6227 County Road 41 and is zoned RR-80 Rural Residential.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action; and,

WHEREAS, the Action would involves the granting of a single area variance for an individual setback for locating an Accessory Residential Structure, within the Front Yard portion of an existing residential Lot.

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) (12) of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

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, November 28, 2016. Following discussion, a roll call vote was recorded:

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

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

Applicant: **SCOTT JOHNSON**
6227 County Road 41
Farmington, New York 14425

File: **ZB # 1101-16**
Zoning District: **RR-80 Rural Res.**
Published Legal Notice on: **11/21/16**
County Planning Action on: **N.A.**
County Referral #: **N.A.**
Public Hearing held on: **11/28/2016**

Property Location: **6227 County Road 41, opposite Mertensia Road intersection.**

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

Requirement for which Variance is requested: **The applicant wishes to remove a pre-existing non-conforming accessory structure, a private two car garage, that has been damaged by a falling tree limb. The existing garage contains a total of 484 square feet in area, and is located in the Front Yard portion of the Lot. The applicant wishes to replace it, in the Front Yard portion of the Lot, with a larger two car private garage containing a total of 720 square feet. The Town Code requires any Accessory Structure to be located in the Rear Yard portion of the Lot. The Town Code, Section 165-88.A. further requires that a non-conforming structure may not be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.**

State Environmental Quality Review Determination: **The granting of an area variance to enable the replacement of an Accessory Structure 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 not required for this application under the provisions of Sections 239-l & -m of the New York State General Municipal Law.**

FACTORS CONSIDERED & BOARD FINDINGS

- 2. 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 primarily rural residential sites with single-family dwellings fronting along both sides of County Road 41. The Board also finds that the existing structure is a pre-existing non-conforming structure which is located in the Front Yard portion of the site. The**

Board also finds that the existing accessory structure is located approximately 18 feet from the County Road 41 right-of-way line, the Front Lot Line. The Board further finds that there are a number of other Lots located in the neighborhood that have accessory structures. The Board further finds that no other Lots located in proximity to the subject Lot have an accessory structure located within the front yard portion of a Lot. The Board further finds that the existing non-conforming structure has been located in this portion of the Lot for a number of years, and that said structure existed before other properties to the east were developed.

The Board further finds that in 2013 there was a similar request for an area variance in the neighborhood to erect an accessory structure, a storage shed, on property located at 1484 New Michigan Road (two Lots to the east of the subject Lot), which is located at the corner of New Michigan Road and County Road 41. The proposed accessory structure on that property would have been placed twenty-seven (27) feet from the Front Lot Line, the right-of-way line of County Road 41. In that instance, the Board also found that accessory structures were required to be placed in the Rear Yard portion of the Lot. In that instance, the Board found that there was an alternative location to place an accessory structure which, in the Board's finding, would not create an unnecessary hardship upon the applicant and would have created an undesirable change in the character of the neighborhood and would have been a detriment to nearby properties. The Board, in this instance, however, finds that a non-conforming structure may not be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity. The Board finds that decreasing the non-conformity of the accessory structure, in this instance increasing or maintaining the Front Setback from the Front Property Line could be achieved by not reducing the placement of the portion of the new accessory structure closer to the Front Yard Setback of 18 feet. The Board finds that placing the proposed new accessory structure not closer than 18 feet to the Front Lot Line would not create an unnecessary hardship upon the applicant and would not create an undesirable change in the character of the neighborhood, of which the proposed accessory structure in this general location upon this Lot has long been a part of. The Board also finds that the property to the east of the subject Lot has recently had an accessory structure placed upon that Lot which partially blocks the view of the proposed accessory structure being located on the subject Lot in the area identified. The Board, based upon these findings, determines that there will not be an undesirable change in the character of the neighborhood or a detriment to nearby properties resulting from the granting of 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 there is no known reason why the Applicant cannot relocate the proposed accessory structure to another portion of the approximately five acre site that would be located behind the Principal Structure and in the Rear Yard portion of the Lot. The Board, based upon this finding, concludes that there appears to be a feasible alternative that would ultimately result in the elimination of a non-conformity with the Town's setback regulations when applied to this Lot.

3. Whether the requested variance is substantial. Yes No

Reason: **The Board finds that the requested area variance, is to allow an Accessory Structure to remain within the Front Yard Setback portion of this Lot. The Board finds that to continue to allow a larger Accessory Structure to remain upon this Front Yard portion of the Lot involves a variance that is in excess of one hundred percent (+100%) from the Town Code requirement. The Board has consistently found that an area variance request that is fifty percent (50%) or greater of what is otherwise required by the Code is a substantial variance request. The Board further finds that, in this instance, the Town Code allows for the replacement of a damaged pre-existing non-conforming structure or portion thereof as long as the placement of the new structure decreases its non-conformity. The Board finds that the applicant is maintaining the existing Front Yard Setback of 18 feet from the right-of-way line of County Road 41, and, therefore does not increase the non-conformity of the proposed Accessory Structure in this location.**

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 Part 617.7 of the State SEQR Regulations, the information contained on Part I of the Short Environmental Assessment Form and has determined that the proposed Action is classified as a Type II Action. The Board, in making this Determination, in accordance with the provisions of Part 617, of article 8 of the New York State Environmental Conservation Law, has merely determined that the action of granting a single area variance has been determined by the State of New York to 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 placement of the subject Accessory Structure was constructed prior to the enactment of the Town Code requirement prohibiting the placement of Accessory Structures in the Front Yard portion of a Lot. The Board finds that the alleged difficulty is not self-created and that it is relevant to the decision to approve the granting of the requested area variance with conditions that are deemed to protect the character of the neighborhood and not be detrimental to nearby properties.**

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

The Zoning Board of Appeals, after reviewing the above five proofs and making findings, determines that granting the requested area variance, to allow the Accessory Structure to remain in the location identified, would be granting the minimum relief necessary provided and, therefore, approves the requested area variance subject to the following conditions:

- 1. The Front Setback of the nearest corner of the proposed 720 square foot Accessory Structure shall not be closer than 18 feet to the Front Lot Line (the right-of-way line for County Road 41).**

2. The proposed new Accessory Structure shall be designed to complement the exterior treatment of the existing Principal Structure on the Lot.
3. There shall be a landscaping planting along the north and east sides of the new Accessory Structure to further reduce any potential adverse effect upon adjacent properties to the east. Said landscaping plan to be reviewed by the Town Code Enforcement Officer and installed prior to the issuance of compliance for the proposed new Accessory Structure.
4. All site lighting on the Accessory Structure is to comply with the Town’s Lighting Standards contained in Chapter 165 of the Town Code.

The Board finds that granting the requested area variance would comply with the requirements in Section 267-b. 3. (c) of New York State Town Law, which states... “The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.”

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board of Appeals finds 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 CONDITIONS SETFORTH ABOVE HEREIN.**

BE IT FURTHER 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 finding justification for granting the minimum relief necessary.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action and that a copy thereof be provided to the Applicant.

The above Resolution was offered by Cyril Opett and seconded by Jim Russell, at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, November 28, 2016. Following discussion, the following roll call vote was recorded:

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

The applicant agrees to all the above conditions.

Area Variance and Findings ZB 1102-16 Orlando Crespo

**SEQR Resolution - Type II Action
File: ZB # 1102-16**

Applicant: Orlando Crespo

Action: Area Variance, to allow the construction of an accessory structure, 120 square foot shed (10 feet by 12 feet), to be placed within the Side Yard portion of a Lot. The Town Code allows a maximum size for an accessory structure located within the RMF – Residential Multiple Family District of 100 square feet in area. The property is located at 62

Lored Road, within the Farmington Mobile Home Community along Mertensia Road and is zoned RMF – Residential Multiple Family District.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has review the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action; and,

WHEREAS, the Action would involves the granting of a single area variance for an individual setback for locating an Accessory Residential Structure, within the Side Yard portion of an existing residential Lot.

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) (12) of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

The above Resolution was offered by Jim Russell and seconded by Tim DeLucia at a regularly scheduled Zoning Board of Appeals Meeting held on Monday, November 28, 2016. Following discussion, a roll call vote was recorded:

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

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

Applicant: **Orlando Crespo**
62 Lored Road
Farmington, NY 14425

File: **ZB # 1102-16**
Zoning District: **RMF Res. Multi-Family**
Published Legal Notice on: **11/21/16**
County Planning Action on: **N.A.**
County Referral #: **N.A.**
Public Hearing held on: **11/28/2016**

Property Location: **62 Lored Road, Farmington, New York.**

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

Requirement for which Variance is requested: **The applicant wishes to construct an Accessory Structure, a 120 square foot storage shed, within the Side Yard portion of the Lot. The Town Code requires Accessory Structures to be a maximum 100 square feet in area or less within this zoning district.**

State Environmental Quality Review Determination: **The granting of an area variance to enable the construction of an accessory residential structure (a storage building) 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

3. 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 manufactured dwellings located along both sides of Lored Road. The Board further finds that the Lot is partially enclosed by a fence that is located primarily in the Side Yard portion where a proposed second Accessory Structure is to be located. The Board further finds that both the Principal Structure and the fence have been maintained in good condition.**

The Board, following testimony presented at tonight's public hearing, further finds that there is an identified need for a second Accessory Structure on this Lot that is to be used primarily for storage, while the existing 80 square foot Accessory Structure is to be used primarily as a tool shed. The Board further finds that the owner of the Farmington Manufactured Homes Park, on October 31, 2016 has given its' approval for the placement of a second storage shed upon the site with a number of conditions, one of which is Town approval. The Board further finds that there are other Lots located within the manufactured home park with one Accessory Structure and a few Lots that have two Accessory Structures. 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 the requested area variance to allow an Accessory Structure that is 20 square feet in area greater than what is allowed by the Code. The Board further finds that compliance with the Farmington Manufactured Homes Park conditions of approval will also minimize any detriment to nearby properties located in the Park.

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 identified by the Applicant for the placement of a 120 square foot Accessory Structure to meet the needs of the Applicant for storage. The Board further finds that removing the existing 80 square foot Accessory Structure and replacing it with a 200 square foot structure to meet the combined square foot needs for both would not be feasible when located upon the open portion of the site.**

The Board, based upon these findings determines that granting the requested area variance, to construct a 120 square foot Accessory Structure, 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 Accessory Structure that is 20% larger than the maximum allowed by 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 is seeking approval for the placement of an Accessory Structure that is larger than what is allowed by Code. Based upon this finding, the Board determines that the alleged difficulty is a self-created hardship.**

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

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

- 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 120 square foot Accessory Structure to be located in the Side Yard portion of the Lot and in the area shown on the submitted sketch plan.
4. There shall be no outdoor storage of materials associated with the principal use of the Lot. All storage and tools are to be contained inside both Accessory Structures.
5. This area variance does not replace the conditions of approval granted by the Farmington Mobile Home Company.
6. Any lighting of the proposed Accessory Structure 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.
7. The Applicant is to obtain a Building Permit from the Town Code Enforcement Officer for the construction of the proposed shed 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, November 28, 2016. Following discussion, the following roll call vote was recorded:

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

The applicant agrees to all the above conditions.

Area Variance and Findings ZB 1103-16 Orlando Crespo
SEQR Resolution - Type II Action

File: ZB # 1103-16

Applicant: Orlando Crespo

Action: Area Variance, the applicant wishes to be allowed to construct a second accessory structure, a storage shed having a total of 120 square feet in area, to be placed upon a lot. The Town Code restricts accessory structures to one, 100 square foot structure, per lot. The property is located at 62 Lored Road, within the Farmington Mobile Home

Community along Mertensia Road, and is zoned RMF – Residential Multiple Family District.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has review the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action; and,

WHEREAS, the Action would involves the granting of a single area variance for an individual setback for locating an Accessory Residential Structure, within the Side Yard portion of an existing residential Lot.

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) (12) of the SEQR Regulations.

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

The above Resolution was offered by Cyril Opett and seconded by Jim Russell at a regularly scheduled Zoning Board of Appeals Meeting held on Monday, November 28, 2016. Following discussion, a roll call vote was recorded:

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

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

Applicant: **Orlando Crespo**
62 Lored Road
Farmington, NY 14425

File: **ZB # 1103-16**
Zoning District: **RMF Res. Multi-Family**
Published Legal Notice on: **11/21/16**
County Planning Action on: **N.A.**
County Referral #: **N.A.**
Public Hearing held on: **11/28/2016**

Property Location: **62 Lored Road, Farmington, New York.**

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

Requirement for which Variance is requested: **The applicant wishes to construct a second Accessory Structure, a storage shed, on the Lot at 62 Lored Road. The Town Code requires that there not be more than one (1) Accessory Structures on any mobile (manufactured) home lot within a mobile home park.**

State Environmental Quality Review Determination: **The granting of an area variance to enable the construction of a second accessory residential structure (a storage shed) upon an approved 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

8. 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 Lored Road. The Board further finds that the Lot is partially enclosed by a fence that is located primarily in the Side Yard portion where the proposed second Accessory Structure is to be located. The Board further finds that both the Principal Structure and the fence have been maintained in good condition.**

The Board, following testimony presented at tonight's public hearing, further finds that there is an identified need for a second Accessory Structure on this Lot that is to be used primarily for storage, while the existing 80 square foot Accessory Structure is to be used primarily as a tool shed. The Board further finds that the owner of the Farmington Manufactured Homes Park, on October 31, 2016 has given its' approval for the placement of a second storage shed upon the site with a number of conditions. The Board further finds that there are other Lots located within the manufactured home park with one Accessory Structure and a few Lots have more than one Accessory Structure. The Board further finds there is a known practical difficulty associated with removing the existing Accessory Structure and replacing it with one larger size that would meet the desired 200 square foot of enclosed storage area. The practical difficulty is siting a 200 square foot accessory structure upon the Side Yard portion of the Lot given the physical constraints of the site. The Board further finds that the proposed Accessory Structure will not be readily visible from Mertensia Road and that it could be buffered from adjacent parcels within the mobile home park.

The Board, based upon these findings, determines that providing the second Accessory Structure, to enable the storage of all tools, materials and other personal

items inside both structures would not likely contribute to an undesirable change in the character of the neighborhood or 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 there is no feasible alternative location identified by the Applicant, for the placement of a second Accessory Structure containing 200 square feet in area upon the Lot that would not result in the need for an area variance. The Board further finds that although the Side Yard portion of the Lot contains adequate open area where a second Accessory Structure could be placed, the placement of a 200 square foot Accessory Structure within the Side Yard portion of the Lot would create an unfavorable alternative with the use of the open space portion of this Lot.

The Board, based upon these findings, determines that granting the requested area variance, to construct a second Accessory Structure of the size proposed 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 involves a one hundred percent (100%) increase in the requirement contained within 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 there is an existing Accessory Structure located on the Lot. The Board further finds that placing the proposed second Accessory Structure on the Lot is a self-created hardship which is being requested as the result of the applicant's desires for an additional storage building.

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 second Accessory Structure. By granting this Area Variance, the applicant will be allowed to place the proposed 120 square foot Accessory Structure, in the location shown on the information filed with the Town.
2. There is to be no outdoor storage of any tools, parts, or other personal items on this Lot.
3. The applicant is to install and maintain a total of four (4) arbor vitae plants, two on each side of the proposed 120 square foot Accessory Structure, to serve as a buffer to adjacent Lots located within the mobile home park. These plants are to be a minimum of five feet in height and installed not later than May 15, 2017.
4. Any lighting of the proposed second Accessory Structure 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.
5. The Applicant is to obtain a Building Permit from the Town Code Enforcement Officer for the construction of the proposed shed 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, November 28, 2016. Following discussion, the following roll call vote was recorded:

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

The applicant agrees to all the above conditions.

Public Comments – open forum

None

Other Board Matters:

Due to the December 26, 2016 meeting falling on a holiday the Board has agreed to move the next Zoning Board meeting to Monday, December 19, 2016 at 7pm.

Mr. DeLucia passed out to the Board members information pertaining to planning and zoning that was left for them in the mail box.

Code Enforcement Update:

Burger King is applying for a variance to have a digital sign. The Burger King building was hit by a car.

The Building Department was contacted by United Rental looking for information pertaining to the Town Code in regards to signs. They were potentially inquiring about having five signs.

Director of Development Update:

Beginning in March 2017 the Zoning Board of Appeals will not be able to meet on Monday nights due to the renovations taking place at the Town Hall. All meetings will be held at the Town Court Facility on Tuesday's, Wednesday's, or Thursday's. Coordination of the meeting schedules will be done through Marcy Daniels, Confidential Secretary.

Clerk of the Board Update:

Ms. Mitchell announced that starting in January 2017, she would no longer be serving as the Clerk of the Board. Mr. DeLucia will be coordinating this need with the Town Supervisor's Office.

Next Meeting:

The next Zoning Board of Appeals meeting will be held on December 19, 2016. Nancy Purdy made a motion to adjourn the meeting at 8:26pm and was seconded by Cyril Opett. A voice vote was taken and the motion was passed with four (4) Ayes.

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