

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

ZB #1002-21

APPLICANT: Scott A. Harter, 7172 Victor-Pittsford Rd, Victor, N.Y. 14564

ACTION: Area Variance to erect a 3,456-square-foot accessory structure (a barn) in the front yard portion of the lot.

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 Board finds that the granting of an area variance is classified as a Type II Action under Part 617.5 (c) (16) of article 8 of the New York State Environmental Conservation Law.

NOW, THEREFORE, BE IT RESOLVED THAT the Board does hereby classify the proposed Action as a Type II Action under Section 617.5 (c) (16) of the SEQR Regulations.

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

BE IT FINALLY 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 NAME and seconded by NAME at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, November 22, 2021. Following discussion, the following roll call vote was recorded:

Jill Attardi	Aye or Nay	Thomas Yourch	Aye or Nay
Jeremy Marshall	Aye or Nay	Jody Binnix	Aye or Nay
Tod Ruthven	Aye or Nay		

Motion result

I, Sarah Mitchell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being act upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the November 22, 2021 meeting.

_____ L. S.
Sarah Mitchell, Clerk of the Board

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

APPLICANT: SCOTT A. HARTER P.E.
7171 Victor-Pittsford Rd
Victor, N.Y. 14564

File: ZB #1002-21
Zoning District: RR-80 Rural Residential
Published Legal Notice on: October 17, 2021
County Planning Action on: October 13, 2021
County Referral #: 199-2021
Public Hearing held on: October 25, 2021 &
November 22, 2021

Property Location: 640 County Road 8, Farmington, New York 14425

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

Requirement for Which the Area Variance is Requested: The applicant wishes to erect a 3,456 square-foot single-story Accessory Structure (a barn) in the front yard portion of his lot. The Town Code requires all Accessory Structures, in any district, to be located in the rear yard portion of the lot.

State Environmental Quality Review (SEQR) Classification: The granting of a single Area Variance for the construction of a 3,456 square-foot Accessory Structure is classified as a Type II Action under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, article 8

County Planning Referral Recommendation: The County Planning Board retained the referral listed above as a Class 1 and returned it to the Zoning Board of Appeals with no additional comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the Rear Yard portion of a Lot is defined as the Yard extending between the side lot lines, situated between the rear line of the building and the rear lot line. The Board finds that the front yard is defined as a yard extending between the side lot lines across the front of a lot adjoining a public street, situated between the street line and the front building line. The Board further finds that the location for the proposed Accessory Structure is entirely within the Front Yard portion of the lot.

The Board further finds that neighboring properties located along the west side of County Road 8 are all zoned RR-80 Rural Residential. The Board further finds that properties located along the east side of County Road 8 are all zoned A-80 Agricultural. The Board further finds that the character of this neighborhood is predominantly single-family sites fronting along both sides of County Road 8. The Board further finds that the minimum Front Setback for the RR-80 District is 60 feet. The Board further finds that in this instance, the Principal Structure has been placed on the Lot a distance of 893.5 feet from the right-of-way of County Road 8 which leaves approximately 352.5 feet behind the Front Yard portion of the lot to the property's Rear Lot Line. The Board further finds that the Zoning Officer reports that there are no records of any building permits that have been issued in the neighborhood for an Accessory Structure to be placed within the Front Yard portion of any Lot.

The Board further finds that there are other sites adjacent to or nearby the subject site that have Principal Structures with Front Setbacks that also greatly exceed the minimum Front Setback for the RR-80 Rural Residential District. The Board further finds that the property adjacent to the south of the subject parcel has a number of Accessory Structures (barns) which are all located primarily in the Rear Yard with no intrusion into the Front Yard portion of that lot.

The Board further finds that it has consistently denied application requests to place Accessory Structures in the Front Yard portions of residential lots within the RR-80 Rural Residential District where, as in this instance, there has been no proof provided which would demonstrate a practical difficulty for the property owner's complying with the Town Code requirements.

The Board did hold this application and public hearing open for an additional twenty-eight (28) days to allow the applicant to provide additional information for the Boards review.

The Board further finds that it is a requirement of New York State Town Law (Section 267. B. (c) for it to grant only the minimum variance deemed necessary and adequate and at the same time preserve and protect the character of the neighborhood. The Board, based upon these findings, determines that the applicant has failed to provide the existence of any practical difficulty in complying with the zoning district requirements. The Board finally finds that granting the requested relief without such documentation would contribute to an undesirable change being produced in the character of the neighborhood or would likely 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. X Yes No

Reasons: The Board finds that the property contains a total of approximately 10 acres of land which, based upon an aerial photo of the subject lot identifies a number of alternative locations for this Accessory Structure (a barn) to be placed while meeting the Town of Farmington zoning requirements. The Board based upon this finding determines that the benefit sought by the applicant can be achieved by a feasible alternative to the requested variance.

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

Reasons: The Board finds that the requested placement of the Accessory Structure in the front yard portion of the lot would require granting a 100% variance to what is otherwise prohibited by Town Code. The Board has consistently found that granting an area variance involving fifty percent (50%) or more of that restricted by Town Code is a substantial variance.

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

Reasons: The Board has given consideration to the classification of the proposed action as set forth in Section 617.5 of the SEQRA Regulations. The Board finds that the proposed Action is classified as a Type II Action under Section 617.5 (c) of the New York State Environmental Conservation Law (ECL), article 8. The Board finds that Type II Actions have been determined not to have a significant adverse impact upon the environment and has thereby satisfied the procedural requirements of the ECL.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the Area Variance. X Yes ___ No

Reasons: The Board finds that the alleged difficulty is self-created in that the applicants has proposed where, on the site, he is requesting to locate the proposed Accessory Structure (a barn). The Board finds that by relocating the Accessory Structure to other available locations on the property where allowed by Town Code will provide the applicant the structure, he is requesting without the need for granting 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:

The benefit to the applicant does NOT outweigh the detriment to the community or neighborhood; and, therefore, the requested area variance to erect an Accessory Structure (a barn) in the applicant's front yard portion of the lot 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.

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

The above resolution was offered by NAME and seconded by NAME at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, November 22, 2021. Following discussion, the following roll call vote was recorded:

Jill Attardi	Vote
Tod Ruthven	Vote
Jeremy Marshall	Vote
Thomas Yourch	Vote
Jody Binnix	Vote

Motion result.

I, Sarah Mitchell, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the November 22, 2021, Meeting.

Sarah Mitchell
Clerk of the Zoning Board of Appeals

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