

seven (27) feet from the front property line. The Town Code requires a minimum sixty (60) foot set back from the front property line. The property is located at 290 Stonefield Lane, Lot #21 of the Stonewood Subdivision and is zoned A-80 Agricultural District.

Edward Hemminger read the legal notice for #ZB 0401-10 that was published in the Daily Messenger on May 17, 2010 requesting the area variance and stated that this Public Hearing is continued from the April 26, 2010 meeting.

Jon Stone stated that he believes Ryan Homes and all the members of the Stonewood community have reached a compromise that all can agree with. Jon showed maps and pointed out the different site positions of the house to be built on the lot and talked about the feasibility of each. The compromise resolution has taken all the feedback into consideration and results in a sixty one (61) foot set back off the side property line and a thirty one (31) foot set back off the front property line. The driving factor was to maintain the mature tree line which can't be replaced and is a benefit for everybody. As this brings the house forward it really does give my clients the opportunity to see a larger portion of their back yard. One of the most important things we want to talk about is the scale of the project, the distance from the other homes for the current and future residents as well as for usability of the back yard and to maintain the mature tree line. With the compromise resolution the house is two hundred and thirty five (235) feet from Lot 22, two hundred and sixty two (262) feet from Lot 20, and one hundred and eighty four (184) feet from Lot 24. So this is a significant benefit to having a sixty one (61) foot set back on the side property line rather than a twenty (20) foot set back. To make sure we took the concerns of the residents into account we have added some tree screenings, five foot pines fifteen feet apart, tree clumps to achieve privacy for the neighbors. I believe we have come up with a compromise resolution that satisfies the concerns that were laid out in the last meeting and satisfies concerns that the residents may have, the adjoining neighbors may have, and that the applicant may have.

Ron Brand advised the Board they should make a determination as to grant the minimum variance necessary to seek relief from the code. The Board, if granting the variance, might want to consider restricting it to the dimensions you want as a compromise and specially mention the map with those dimensions.

Neil Comstra said he wanted to thank the Board for coming out to look at the lot.

Jessie Hunter stated that he spoke with Jon Stone and although he would prefer it would be a forty (40) foot set back he thinks they can live with it. I would like to see my neighbors get the house and have everyone get along.

Leslie O'Malley stated that she would like to suggest that if the Board puts conditions with this and the Board does approve it that the Board states this is not a precedent because there are other flag lots coming up along the same area and Ryan Homes now knows our code. She suggested the Board say something about this being a one time variance and not a precedent for other homes in the development.

Ed Hemminger stated that the Board looks at every application on its own merits. The compromise location being thirty one (31) feet from the front property line has also moved the entire house back to sixty (60) feet from the other property line. So it gives a little more separation from Lot 24. So there has been a compromise there also.

Gary Scribner said the square footage of the house is over three thousand (3000) feet excluding the garage.

Ron Brand stated during the Board's discussion that the Board's findings are unique to this application. It does not set precedence for other applications. Ryan Homes will have to come back and justify any other circumstances.

Chairman Hemminger announced that this is a Public Hearing and asked if there is anyone present who wishes to speak for or against this application. No one responded. A motion was made by Gary Scribner

and seconded by Raymond Ward to close the Public Hearing at the May 24, 2010 meeting. There were five (5) Ayes. The Public Hearing was closed at 7:40 pm.

AREA VARIANCE FINDINGS & DECISION

Chris Dunfey made a motion to waive the reading of the SEQR Resolution and Gary Scribner seconded the motion. All present voted Aye.

Gary Scribner made a motion to accept the SEQR Resolution and Chris Dunfey seconded the motion. All present voted Aye.

After discussion of the factors to be considered the Board felt there would not be an undesirable change of the neighborhood or detriment to nearby properties, that the relief sought could be achieved by a feasible alternative, that the requested variance is not substantial, that the requested variance would not have an adverse impact upon the physical or environmental conditions in the neighborhood, that the alleged difficulty was self-created.

After discussing the variance, the Board approved the Area Variance Findings and Decision with conditions. Gary Scribner made a motion to approve the application and Raymond Ward seconded the motion. All present voted Aye.

Public Comments:

There were no Public Comments.

**Mr. & Mrs. Peter Ferstead
1257 Holland Drive
Farmington, N.Y. 14425**

#ZB 0501-10

AREA VARIANCE

The applicant is requesting an area variance to the provisions of Chapter 165, Article IV, Section 21. G. of the Farmington Town Code. The applicant wishes to construct a deck 20 feet from the rear property line. The Town Code specifies that a structure must be set back a minimum of 30 feet from the rear property line. The property is located at 1257 Holland Drive and is zoned R-7.2 Planned Subdivision District.

Edward Hemminger read the legal notice for #ZB 0501-10 that was published in the Daily Messenger on May 17, 2010 requesting the area variance.

Peter Ferstead addressed the Board saying we have a corner lot and our rear yard is small and our front yard is large. Our deck in the rear is twenty two (22) feet from the property line. The 8x10 deck is small and was built about 22 years ago. We want to replace the deck and add two (2) feet to the width and two (2) feet to the length and that will put the deck twenty (20) feet from the property line. We want to replace the wooden deck with a composite deck with a railing. We are asking for two (2) feet each way.

Ron Brand told the Board that they have a number of factors to consider in making their decision. I have drafted a resolution to start the thinking process. The variance of twenty (20) feet is a 33 1/3% variance so it is less than the 50% you have consistently looked at. The other issue is that the deck is now in violation of the code and is a pre-existing non-conforming condition.

Gary Scribner questioned the accuracy of the map and its scale and said the drawing shows a twenty three and seven tenth (23.7) foot set back from the rear of the dwelling to the property line. This dimension appears to be a lot longer than the twenty (20) foot set back shown for the deck addition.

Peter Ferstead said he walked it off and it looked like twenty (20) feet. It is close to twenty (20) feet as far as he could figure.

Ed Hemminger said we can put this on hold for 30 days to give you a chance to work with staff to determine the actual measurements because if it is shorter we will have to update the Public Notice and put it back out there so we can do it properly.

Gary Scribner asked Peter if he had talked to the neighbors Robert and Jean Carl about the variance.

Peter Ferstead stated that he has not talked to them about it.

Ed Hemminger said he doesn't have a problem with the two (2) foot additional but is really concerned that the Board will restrict him to twenty (20) feet. The Board can't make it less because of the Public Notice.

Ron Brand asked what kind of lighting is there on the deck now.

Peter Ferstead replied that there is just a single flood light attached to the dwelling.

Ron Brand said if there is a light that trespasses onto the neighboring property that would have to be corrected.

Ed Hemminger said the Board will keep the Public Hearing open and continue the Public Hearing to the next meeting on June 28, 2010 to allow the applicants and staff to review and see if there is a need to change the distance on the variance.

**Ronald Figler
150 Church Ave.
Farmington, N.Y. 14425**

#ZB 0502-10

AREA VARIANCE

The applicant is requesting an area variance to the provisions of Chapter 165, Article IV, Section 35. of the Farmington Town Code. The applicant wishes to erect an addition to his private garage that will be located 12.4 feet from the south side property line. The Town Code specifies that such a structure must be set back a minimum of 30 from the side property line. The property is located at 150 Church Avenue and is zoned NB Neighborhood Business.

Edward Hemminger read the legal notice for #ZB 0502-10 that was published in the Daily Messenger on May 17, 2010 requesting the area variance.

Ron Figler told the Board there is a single car garage there now. My neighbors are my in-laws and it is family property. The home belonged to my wife's grandmother so it is all family property although they are separate lots.

Ed Hemminger asked about the purpose for the two car garage.

Ron Figler said he wanted to be able to put his truck in the garage. We have always had a two car garage at all our homes.

Ron Brand conveyed to the Board that what we are dealing with is a situation where the only affected property owners are the property owners to the south by the encroachment of the set back from that property line. They submitted a letter stating they do not object to the encroachment. He also noted to the applicant, then when you are done with this addition to the garage we must think about the lighting issues.

Gary Scribner noted that this is a significant variance. It is over a 50% variance. The house is one thousand three hundred and fifty two (1352) square feet and the proposed garage is one thousand (1000) square feet.

Ed Hemminger stated that what hurts you here is that it is a neighborhood business area as opposed to an RS25.

Chairman Hemminger announced that this is a Public Hearing and asked if there is anyone present who wishes to speak for or against this application. No one responded. A motion was made by Chris Dunfey and seconded by Gary Scribner to close the Public Hearing at the May 24, 2010 meeting. There were five (5) Ayes. The Public Hearing was closed at 8:00 pm.

AREA VARIANCE FINDINGS & DECISION

After much discussion the Board decided to continue discussion at the next meeting on June 28, 2010. Staff will provide alternatives and work on clarifying the application numbers where one says seventeen (17) feet and the other says eighteen (18) feet, reduce the percentage of variance numbers in the application, and the distance of the new addition from the back of the house on Allen-Padgham Road.

**George DeRue
Home Leasing
630 Clinton Square
Rochester, N.Y. 14604**

#ZB 0503-10

AREA VARIANCE

The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 43. B. 1. (a) of the Farmington Town Code. The applicant wishes to erect two commercial speech ground signs on his property (Lot #2 of the George Mercier Subdivision). The Town Code allows only one ground sign on a parcel of land. The property is located at 6000 Mercier Boulevard and is zoned IZ Incentive Zoning District.

Edward Hemminger read the legal notice for #ZB 0503-10 that was published in the Daily Messenger on May 17, 2010 requesting the area variance.

George DeRue stated we are interested in putting up two monument signs, one to be put by Route 332 for marketing purposes, and another one by the cul-de-sac for the purpose of when the whole site is built out. The other portion of this application that is that we named this project 'The Gardens', that is our theme, and we set aside an area for residents to do gardening in which is 8 x10 feet and we have a green house so they can start their plants in the winter time. These are marketing tools.

Ron Brand said this was sent to the county because of its proximity to Route 332. The county sent back an Administrative Review which was a denial which we have seen consistently from the county. In this instance the sign is being used to identify a senior housing project that is not visible from the highway and in the interest of safety to provide a sign to safely allow people to exit the highway at that location is in the interest of public safety. The Board has to decide if you want to consider overriding the county and if you do you have to do it by a majority plus 1.

George DeRue said our first sign is on George Mercer's property and we have a letter from him saying we are authorized to act on his behalf to have the sign put on his parcel. After two years, when we fill the project up, we would be willing to take the one sign down. So this could be a two year variance only.

Ron Brand stated we can't put a time frame on a variance. We can continue the Public Hearing so we can do an override resolution.

Ed Hemminger said the Board will make a motion to keep the Public Hearing open and to continue the Public Hearing to the June 28, 2010 meeting and ask staff to create an override resolution for the County Planning Board's denial of said application.

AREA VARIANCE FINDINGS & DECISION

The Board decided to continue discussion at the next meeting on June 28, 2010. Ron Brand will advise the applicant to withdraw the area variance and to submit a Temporary Use Permit application.

Other Board Matters:

a. On-site use Wind Energy Local Law

Ron Brand said the Town Board Resolution asked for a response from the various Boards regarding did they see it, did they have any comments or concerns with it, if not a simple memo from the various Boards. Ed Hemminger said he would type a memo.

b. Wind Energy Farm District Local Law

The Board did not have any concerns or comments about this local law.

Director of Development Update:

a. None

Code Enforcement Officer Update:

a. None

Next Meeting:

The next Zoning Board of Appeals meeting will be held on June 28, 2010. Gary Scribner made a motion to adjourn the meeting at 9:00 pm. Leslie O'Malley seconded the motion. The motion was passed with a voice vote of five (5) ayes.

Minutes were respectfully submitted by Patricia Eddy, Clerk of the Board.