

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, January 25, 2021 7:00 p.m.

MINUTES—APPROVED

The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Farmington Zoning Board of Appeals. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions. An audio recording of the meeting is made in accordance with the Zoning Board of Appeals adopted Rules of Procedure. The audio recording is retained for four months.

Board Members Present:

Jeremy Marshall, *Chairperson*
Jill Attardi
Tod Ruthven
Aaron Sweeney
Thomas Yourch

Staff Present:

Ronald L. Brand, Town of Farmington Director of Development and Planning
Dan Delpriore, Town of Farmington Code Enforcement Officer
John Weidenborner, Town of Farmington Zoning Officer

Applicant Present:

Ryan T. Destro, P.E., BME Associates, 10 Lift Bridge Lane East, Fairport, N.Y. 14450
John LeFrois, GLN Farmington Realty LLC, 1020 Lehigh Station Road, Henrietta, N.Y. 14467
Kurt & Christine Catalano, 2593 Putnam Road, Ontario, N.Y. 14519

Others Present:

None

1. MEETING OPENING

The meeting was called to order at 7:00 p.m. by Mr. Marshall.

The Pledge of Allegiance was recited.

Mr. Marshall said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 23, 2020, as amended above.

This meeting was held in person at the Farmington Town Hall. The safety measures were implemented in accordance with the Governor's relevant Executive Orders regarding the COVID-19 pandemic. Board members, Town staff and residents who were in attendance at the Town Hall remained at separated distances of at least six feet and used facemasks at distances of less than six feet. A sign-in sheet was not used to avoid contact with pens, pencils and papers. The names of those attending tonight's meeting is available for public tracing should it be deemed necessary. Temperature checks were conducted by Town staff at the entrance to the Town Hall. Hand sanitizers were available throughout the building. Guidelines and safety measures were posted on the meeting room door and in the lobby of the Town Hall. Separate entrance and exit locations were used. Public access was restricted to the lobby, the main meeting room and the public restrooms.

2. **APPROVAL OF MINUTES OF NOVEMBER 23, 2020**

■ A motion was made by MR. RUTHVEN, seconded by MS. ATTARDI, that the minutes of the November 23, 2020, meeting be approved.

Motion carried by voice vote with one abstention by MR. YOURCH.

3. **LEGAL NOTICE**

The following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper on Sunday, January 17, 2021:

ZB #0101-21, GLN FARMINGTON REALTY, LLC 1020 LEHIGH STATION ROAD, HENRIETTA, NEW YORK 14467:

Request an Area Variance in accordance with Chapter 165, Article IV, Section 34.G.(3) of the Farmington Town Code. The applicant proposes to erect up to ±16,000 SF of General Business space consisting of possible tenants that may include a ±2,400 SF proposed bank, a ±3,500 SF quick service restaurant, a ±4,400 SF commercial building, and a proposed ±4,800 SF commercial building. The project is proposed to have a front setback of seventy (70) feet and Town code requires a minimum front setback of one hundred (100) feet in this district. The property is identified as Tax Map 29.00-1-18.100. The property is located along the south side of New York State Route 96 west of New York State Route 332 and east of Mertensia Road in Farmington, New York 14425 and is zoned GB General Business and MTOD Major Thoroughfare Overlay District.

ZB #0102-21, KURT CATALANO, 2593 PUTNAM ROAD, ONTARIO, NEW YORK 14519:

Request an Area Variance in accordance with Chapter 165, Article V, Section 58 of the Farmington Town Code. The applicant wishes to erect a 3,840 square-foot accessory structure (a barn) in the front yard portion of the lot. The Town Code requires all accessory structures, in any district, to be located in the rear yard portion of the lot. The property is located at 1308 Payne Road and is zoned A-80 Agricultural District.

SAID BOARD OF APPEALS WILL MEET at said time and place to hear all persons in support of, or having objections to, such matters.

By order of:
Jeremy Marshall, Chairperson
Zoning Board of Appeals
TOWN OF FARMINGTON

4. NEW PUBLIC HEARINGS

ZB #0101-21, GLN FARMINGTON REALTY, LLC 1020 LEHIGH STATION ROAD, HENRIETTA, NEW YORK 14467:

Request an Area Variance in accordance with Chapter 165, Article IV, Section 34.G.(3) of the Farmington Town Code. The applicant proposes to erect up to ±16,000 SF of General Business space consisting of possible tenants that may include a ±2,400 SF proposed bank, a ±3,500 SF quick service restaurant, a ±4,400 SF commercial building, and a proposed ±4,800 SF commercial building. The project is proposed to have a front setback of seventy (70) feet and Town code requires a minimum front setback of one hundred (100) feet in this district. The property is identified as Tax Map 29.00-1-18.100. The property is located along the south side of New York State Route 96 west of New York State Route 332 and east of Mertensia Road in Farmington, New York 14425 and is zoned GB General Business and MTOD Major Thoroughfare Overlay District.

Mr. Marshall opened the Public Hearing on this application.

Mr. Destro and Mr. LeFrois presented this application.

Mr. Destro said that they are requesting an area variance to reduce the front setback from NYS Route 96 from 100 feet to seventy (70) feet. The Tops Market Center is located to the west of the site and the existing Auto Zone commercial plaza is located to the east of the site. The zoning for the property is General Business with and MTOD Overlay District. The project is located on a twenty seven (27) acres parcel. Phase 1A does include up to 16,000 square feet of General Business space. It also includes up to four (4) structures and may include uses of a 2,400 square foot bank structure, a 3,500 square foot quick service restaurant, a 4,800 square foot commercial building, and a 4,400 square foot commercial building. The Mercier Blvd setback off of NYS Route 96 has been coordinated through multiple Town staff and multiple PRC meetings over the years in conjunction there was a conceptual layout developed for the Market Center to the west and the setback was created in conjunction with that project. That project also included seventy (70) foot setbacks, so

they are consistent with the conceptual layout that was provided to the Town in the past for the Market Center plaza. The existing structure to the east, the Auto Zone plaza, is only forty six (46) feet from NYS Route 96 (e.g. right-of-way). Also the goal of the December 2019 draft of the Town of Farmington Route 96 street scape design guidelines promotes the development to be closer to NYS Route 96 corridor than is currently allowed under the MTOD zoning district. This project also starts the construction of a long standing Town goal to create a MTOD connection from NYS Route 96 all the way to NYS Route 332 via the extension of Mercier Blvd and is currently shown on the submitted site plan. The General Business uses that are currently shown are allowed within the existing zoning district therefore this project and the uses within it are consistent within the neighborhood. In summary, the setbacks were coordinated with Town Staff and this project has been going on for three of four years with multiple meetings coordinating with the property to the west and has been consistent with input from PRC and the Planning Board. Next week they are continuing their site plan application seeking preliminary approval from the Planning Board.

Mr. Brand stated on the record of being very supportive of the project presented. Instead of having four commercial sites with four individual driveways coming out onto a very heavily traveled very congested area of NYS Route 96 they have chosen to have access off the Town road. The Mercier Blvd and NYS Route 96 intersection was agreed upon with the State Department of Transportation years ago to be a signalized intersection. With no activity going on with the Tops plaza site to the west he gives compliments to the developers with this project moving forward realizing that they are stepping up to do a great service to the Town. The variance involved here (e.g. set back from State Route 96 right-of-way) was discussed and designed with MRB, the Town Engineers, and meets their specifications as well as the draft main street overlay district regulations which he completed today. This is a very timely project one of which the Planning Board is very supportive of and was on the record there.

Mr. Marshall asked if anyone in attendance wished to speak for or against this application, or to ask questions.

Hearing none Mr. Marshall then closed the Public Hearing on this application.

ZB #0102-21, KURT CATALANO, 2593 PUTNAM ROAD, ONTARIO, NEW YORK 14519:

Request an Area Variance in accordance with Chapter 165, Article V, Section 58 of the Farmington Town Code. The applicant wishes to erect a 3,840 square-foot accessory structure (a barn) in the front yard portion of the lot along State Route 96. The Town Code requires all accessory structures, in any district, to be located in the rear yard portion of the lot. The property is located at 1308 Payne Road and is zoned A-80 Agricultural District.

Mr. Marshall opened the Public Hearing on this application.

Mr. and Mrs. Catalano presented this application.

Mr. Catalano spoke with Zoning Officer Weidenborner about a possible location that may be approved by the Zoning Board of Appeals to place an accessory structure on his lot. They decided on the current location as presented to the board at tonight’s meeting. He understands that his front setback for the proposed building will need to be behind the existing building.

Mr. Sweeney verifies with the applicant that the third proposed location of the accessory structure is where the applicant wishes to erect the building. Mr. Catalano agrees.

Mr. Weidenborner has worked with the applicant as well as Town Staff and visited the site to come up with the best location for the proposed accessory structure. The structure will be located next to the existing barn structure and is to be setback off from the Front Yard Area of the Lot fronting along Payne Road. The proposed barn will still be located within the Front Yard Area of the Lot fronting along State Route 96.

Mr. Brand noted that this site is being actively farmed and is located within the existing Consolidated Ontario County Agricultural Use District. He further noted that the proposed structure is intended for agricultural use only and will not be a habital structure.

Mr. Brand adds that the recommended location is buffered by the existing vegetation along the creek (located to the north of the proposed location) and for most of the year the structure will be hidden view by passing motorists. He noted that the applicant is dealing with an anomaly here with a site that has very large front setback to NYS Route 96 created due to the wording of the Town Code. Anything we can do to minimize that, we have done with this application by locating the accessory structure adjacent to the existing agricultural structure and having it screened from NYS Route 96 on the north side. Thank you was extended to the applicant for working with Town Staff in finding a suitable location on the property.

Mr. Sweeney questions Ontario County Planning Board comments for this project.

Mr. Weidenborner explains the County did not recommend denial of the application only suggested that the referring body require more planting beds along NYS Route 96 frontage to partially screen views which already exist on the property.

Mr. Marshall asked if anyone in attendance wished to speak for or against this application, or to ask questions.

Hearing none Mr. Marshall then closed the Public Hearing on this application

5. BOARD BUSINESS—DELIBERATIONS AND DECISION

ZB #0101-21

GLN Farmington Realty LLC

Area Variance

**1020 Lehigh Station Road
Henrietta, N.Y. 14467**

■ A motion was made by MR. YOURCH, seconded by MR. SWEENEY, that the reading of the following State Environmental Quality Review (SEQR) resolution be waived, and that the resolution be approved as submitted by the Town staff:

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

ZB #0101-21

Applicant: GLN Farmington Realty, LLC, 1020 Lehigh Station Road,
Henrietta, New York 14467

Action: Request for an area variance to erect up to 16,000 square feet of General Business types of land use consisting of possible tenants that may include a +/- 2,400 square foot bank with drive up teller windows, a +/- 3,500 square foot fast food service restaurant with drive up window service, a +/- 4,000 square foot commercial building, and a proposed +/- 4,800 square foot commercial building. The proposed Action requests a Front Setback of seventy (70) feet from the right-of-way of State Route 96 for these proposed buildings. The Town Code requires a minimum Front Setback of one hundred (100) feet from the State’s right-of-way.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria contained in 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 individual setback and lot line variances and adjustments is classified as a Type II Action under Part 617.5 (c) (16) of the above referenced SEQR Regulations.

NOW, THEREFORE, BE IT RESOLVED THAT the Board does hereby classify the proposed Action as a Type II Action under the provisions contained within 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 of the SEQR Regulations.

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

The above resolution was offered by MR YOURCH and seconded by MR. SWEENEY at a regularly scheduled meeting of the Town of Farmington Zoning Board of Appeals held on Monday, January 25, 2021. Following discussion, the following roll call vote was recorded:

Jill Attardi	-	Aye
Tod Ruthven	-	Aye
Aaron Sweeney	-	Aye
Thomas Yourch	-	Aye
Jeremy Marshall	-	Aye

Motion carried.

■ A motion was made by MR. YOURCH, seconded by MS. ATTARDI, that the reading of the complete Area Variance Findings and Decision resolution be waived, and that the Chairperson read aloud the Determination of the Zoning Board of Appeals.

Motion carried by voice vote.

The Chairperson then read aloud the Determination of the Zoning Board of Appeals from the following complete resolution:

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

**APPLICANT: GLN FARMINGTON REALTY,
LLC

1020 Lehigh Station Road

Henrietta, New York 14467**

**File: ZB #0101-21
Zoning District: GB General Business and
MTOD Major Thoroughfare
Overlay District
Published Legal Notice on: January 17, 2021
County Planning Action on: December 9, 2020
County Planning Referral Number: 216.1 - 2020
Public Hearing held on: January 25, 2021**

Property Location: South side of State Route 96 between the former Wade’s Plaza on the west and the Farmington Commons Plaza on the east (located at the south west corner of State Routes 96 and 332).

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

Requirement for Which Variances are Requested: The applicant wishes to erect up to 16,000 square feet of General Business types of land use consisting of possible tenants that may include a +/- 2,400 square foot bank with drive up teller windows, a +/- 3,500 square foot fast food service restaurant with drive up window service, a +/- 4,000 square foot commercial building, and a +/- 4,800 square foot commercial building, all with related site improvements. The applicant requests a Setback of seventy (70) feet from the right-of-way of State Route 96 for any of the proposed buildings to be placed upon the site. The Town Code requires a minimum Setback of one hundred (100) feet from the right-of-way of State Route 96.

State Environmental Quality Review Determination: The granting of an individual setback, an area variance for a reduced Setback from one hundred (100) feet to a setback of seventy (70) feet is classified as a Type II Action under Part 617.5 (c) (16) 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 the State’s Environmental Conservation Law (ECL), article 8.

County Planning Referral Recommendation: The Ontario County Planning Board, Referral #216.1 – 2020 recommends approval of the requested area variance with 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 X No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the property lies within the mapped GB General Business District, the mapped Major Thoroughfare Overlay District (MTOD) and the proposed Main Street Overlay District (MSOD). The Board further finds that the neighboring properties fronting along this Main Street Corridor are all zoned GB, MTOD and will soon be zoned MSOD. The Board further finds that the character of this neighborhood is predominantly a mix of individual commercial sites having either their own separate access points or consolidated commercial sites located within existing plaza settings with shared access points, to State Route 96 a major highway classification serving the town of Farmington and the County of Ontario.

The Board further finds that the applicants and their engineers have met on several occasions with state, county and town officials at recent Project Review Committee (PRC) meetings; and as a result of these meetings there have been a number of amendments made to the current preliminary site plan pending before the Town Planning Board. The Board further finds, based upon its’ review of the PRC and Planning Board meeting minutes on

this project that the current design plan shown on the drawing prepared by BME Associates and identified as Project No. 2527, having the latest revision date of 12/09/19 and entitled “GLN Farmington Realty Property Preliminary Site Plan” showing the proposed seventy (70) foot setback from State Route 96, has been endorsed by the members of the Planning Board, as well as the PRC staff members who have participated in this site plan process to date.

The Board further finds that the Town is currently making final edits to the document entitled “Town of Farmington Street Scape Design Guidelines Route 96 Corridor” and is developing the State Route 96 Main Street Overlay District (MSOD) zoning regulations. The Board further finds and understands that having one standard dimension for setbacks of commercial buildings fronting along the two major highways (State Routes 96 and 332), which have different functional classifications, different highway designs (i.e. 2 lane and 4 lane travel), and different posted speed limits (i.e. 40 miles per hour for State Route 96 and 55 miles per hour for State Route 332) does not allow for the Town to create a Main Street Corridor having a sense of destination. The Board further finds that the update to the Town of Farmington Comprehensive Plan identifies this area as the community center and State Route 96 is the Town’s Main Street. The Board further finds that placing structures closer to the adjacent highway creates a sense of destination and works to calm (slow down) the movements of traffic through the area. The Board further finds that in this instance a number of individual curb cuts from this site onto State Route 96 is being avoided by the preliminary site plan under review by the Planning Board.

The Board further understands that there are other nearby sites being proposed for development that will also incorporate the seventy (70) foot Setback from the Route 96 right-of-way. The Board based upon these findings determines that granting an area variance to allow the placement of proposed structures on this site to be setback seventy (70) feet instead of the required one hundred (100) feet would contribute to the town’s on-going transportation planning and land use programs. The Board based upon these findings determines the granting of the requested setback variance would not produce an undesirable change in the character of the neighborhood or would it create 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 X No

Reasons: The Board finds that the property could alternatively be developed with a number of separate parcels of land having individual, or combined, access points fronting along the south side of State Route 96. The Board finds that such alternative development would contribute to traffic congestion and traffic conflict turning movements (i.e. safety concerns) in this area; and would likely result in the need for additional variances to the town’s driveway separation spacing standards contained in Chapter 165 of the Town Code.

The Board further finds that such alternative development would be contrary to the transportation goals and objectives contained in the adopted 2011 Edition of the Town of Farmington Comprehensive Plan; and to the stated intent in §165-34 (MTOD Major

Thoroughfare Overlay District) zoning regulations, a part of the Town’s adopted Zoning Law. The Board further finds that such alternative development would not contribute to the completion of an important portion of the adopted Town Official Major Thoroughfare Overlay District Map. That portion being the completion of an alternative route for local traffic between County Road 41 to the south and State Route 96 to the north. The Board, based upon these findings, determines that while there is at least one feasible alternative design to the requested variance, however, the Board determines that such an alternative would not be in keeping with the Town’s officially adopted land use and transportation plans, nor would it contribute to the continued safe and orderly development of the defined community’s center area.

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

Reasons: The Board finds that the requested setback variance for four (4) proposed buildings located along the south side of State Route 96 involves a reduction of thirty-percent (30%) of what is required in the Town Code, Chapter 165. The Board has consistently found that granting an area variance that would be in excess of fifty-percent (50%) of what is required by the Town Code would not be granting a substantial variance. The Board, based upon these findings, determines that granting the requested variance would not be granting 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 criteria for determining significance, as set forth in Section 617.7 of the SEQR 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. ___ Yes X No

Reasons: The Board finds that the alleged difficulty, necessitating the granting of the requested setback variance, was not self-created. The Board finds that the applicant could develop this portion of the overall site under existing zoning regulations which, in the findings above herein, would not contribute to the Town’s on-going land use and transportation planning programs. The Board further finds that the proposed location for the intersection of State Route 96 and Mercier Boulevard is subject to approval by the New York State Department of Transportation (NYSDOT) and not the applicant’s decision. The Board further finds that, in this instance, the NYSDOT, in a letter dated January 6, 2021 to Amy Dake, SRF Associates, the Applicants Traffic Engineer, states ... “We agree with changing the location of the driveway”... [reference should have said to the Town Road intersection

with State Route 96]. The Board further finds that the relocated intersection was previously proposed to be on the adjacent Wade's Plaza site. The Board further finds that proposal has been withdrawn by the property owner.

**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 Board based upon its review of the record on this application finds that the benefit to the Town does outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variance to place commercial buildings on this site within seventy (70) feet from the right-of-way boundary of State Route 96, is APPROVED, with the following conditions:

1. The setback from the proposed access road right-of-way (Mercier Boulevard) to the four (4) proposed commercial buildings shall be fifty (50) feet in accordance with the provisions contained in § 165-34 G. (2) of the Town Code.
2. This setback variance is based upon the above referenced Preliminary Site Plan drawing prepared by BME Associates having the latest revision date of 12/09/20.
3. The applicant is to provide a note on any of the Final Site Plan drawings for these four (4) sites citing the file number for this variance and the date of adoption.
4. No Certificates of Occupancy shall be issued for any buildings on this site until Final Site Plan approval(s) have been granted by the Town Planning Board, Mercier Boulevard as shown on the approved Final Site Plan for Phase 1A has been dedicated to the Town, and acceptable form(s) of surety have been approved by the Town Board and filed with the Town Clerk's Office.

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 MR. YOURCH and seconded by MR. ATTARDI at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, January 25, 2021. Following discussion, the following roll call vote was recorded:

Jill Attardi	Aye
Tod Ruthven	Aye

Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye

Motion carried.

ZB #0102-21 Kurt Catalano Area Variance
2593 Putnam Road
Ontario, N.Y. 14519

■ A motion was made by MR. YOURCH, seconded by MR. RUTHVEN, that the reading of the following State Environmental Quality Review (SEQR) resolution be waived, and that the resolution be approved as submitted by the Town staff:

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

ZB #0102-21

APPLICANT: Kurt Catalano 2593 Putnam Road, Ontario, N.Y. 14519

**ACTION: Area Variance to erect a 3,840-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) and (18) 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) 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, January 25, 2021. Following discussion, the following roll call vote was recorded:

Jill Attardi	Aye
Aaron Sweeney	Aye
Jeremy Marshall	Aye
Thomas Yourch	Aye
Tod Ruthven	Aye

Motion carried.

■ A motion was made by MR. YOURCH, seconded by MR. RUTHVEN that the reading of the complete Area Variance Findings and Decision resolution be waived, and that the Chairperson read aloud the Determination of the Zoning Board of Appeals.

Motion carried by voice vote.

The Chairperson then read aloud the Determination of the Zoning Board of Appeals from the following complete resolution:

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

APPLICANT: Kurt Catalano
2593 Putnam Rd
Ontario, N.Y. 14519

File: ZB #0102-21
Zoning District: A-80 Agricultural
Published Legal Notice on: January 17, 2021
County Planning Action on: January 13, 2021
County Referral #: 9-2021
Public Hearing held on: January 25, 2021

Property Location: 1308 Payne Rd, Farmington, New York 14425

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

Requirement for Which Variances are Requested: The applicant wishes to erect a 3,840 square-foot accessory structure (a barn for the storage of equipment) 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 Determination: The granting of an Area Variance for an a 1,680-square-foot accessory structure is classified as a Type II Action under Part 617.5 (15) 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: N/A. This type of Action has been determined by the adopted Ontario County Planning Board Bylaws to be an exempt Action from referral.

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 property is defined as a Corner Lot and is a Lot having frontages along both State Route 96 and Payne Road. The Board further finds that the placement of the existing principal structure upon the Lot, the single-family dwelling, has established the Front Yard portions of the Lot from both adjacent highways. In doing so, the Board finds that there is a large Front Yard setback for any accessory structure to be located upon this Lot from State Route 96. The Board further finds that the Lot is located within the established Consolidated Ontario County Agricultural Use District #1 and is used for agricultural related operations (raising and boarding of horses) similar in nature to other adjacent properties. The Board finds that the proposed agricultural related structure, for which the area variance is being requested, involves a structure to be used to house equipment used in conjunction with the existing agricultural operations. The Board further finds that the neighboring properties are all zoned A-80 Agricultural. The Board further finds that the character of this neighborhood is predominantly agriculture in use single-family dwelling fronting along the adjacent highways. The Board further finds that based on the layout and use of the property, that the proposed location of the new accessory structure (adjacent to the existing barn) would be the minimum relief necessary to allow for the continuation of the current agricultural-related uses of the property. The Board based upon these findings determines that granting an area variance to allow the placement of the proposed accessory structure in the location described above herein would not produce an undesirable change in the character of the neighborhood or would it create 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

Reasons: The Board finds that the property contains a total of approximately 47 acres of land, the land is currently used for residential, and agricultural purposes including the boarding, and training of horses as well as the farming and cultivating of crops. Based upon the current layout and use of the property the board finds the proposed location, in close proximity to the existing barn, would be the most feasible location for this accessory structure as it would best complement existing agricultural structures on the lot and is well buffered from nearby residential dwellings located along both State Route 96 and Payne Road.

The Board, based upon these findings, determines that there is no more feasible alternative to the requested variance.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the requested placement of the accessory structure in the front yard setback portion of the lot, from State Route 96, would require granting a 100% variance to what is otherwise required by Town Code. The Board has consistently found that granting an area variance that would be in excess of fifty-percent (50%) of what is required by the Town Code would be granting a substantial variance. The Board further finds that the proposed location for the accessory structure is in the Rear Yard portion of the Lot that fronts along Payne Road.

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

Reasons: The Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 of the SEQR 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. Yes No

Reasons: The Board finds that the alleged difficulty, locating an accessory structure in the Rear Yard portions of this large Lot, is self-created in that it is the applicant's choice of where he is requesting to locate the accessory structure (a barn) on the property. The Board further finds that the restrictions that have been created upon the property were created by the placement of the principal residential dwelling and the previous placements of the accessory structures on the property by the previous property owner. The Board further finds that this existing large parcel of land has two Front Yard setbacks from along the two adjacent highways. The Board further finds that the Applicant has changed his original location that was proposed for the Accessory Structure (the barn) on the site thereby eliminating the need for a Front Yard Setback variance from along the Payne Road frontage. The Board further finds that the location now being proposed for the Accessory Structure (the barn) is located in the Rear Yard portion of the lot fronting along Payne Road and that the Applicant in doing this has minimized the alleged difficulty that has been created for placing an Accessory Structure (the barn) in the Front Yard Setback from along State Route 96. The Board further finds that placing the proposed Accessory Structure (the barn) close to the existing (a much larger barn) to be an effort by the Applicant to minimize the visual impact of the proposed structure from along the more heavily traveled State Route 96.

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 Board based upon its review of the record on this application finds that the benefit to the applicant does outweigh any known 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 from State Route 96, is **APPROVED, with the following conditions:**

- 1. The Front of the proposed accessory structure (the barn) is not to be placed ahead of the established setback of the existing barn structure from Payne Road. This dimension has been determined to be 358.8 feet from the Payne Road right-of-way.**
- 2. The maximum size approved for the proposed Accessory Structure (the barn) is that identified in the application (3,840 square feet).**
- 3. The exterior of the new Accessory Structure (the barn) is to match, to the extent practical, the exterior color of the existing structure.**
- 4. All site lighting for the proposed Accessory Structure (the barn) is to comply with the lighting regulations contained in Chapter 165 of the Town Code.**
- 5. A Building Permit shall be acquired by the applicant prior to the start of construction.**

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 Thomas Yourch and seconded by Tod Ruthven at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, January 25, 2021. Following discussion, the following roll call vote was recorded:

Jill Attardi	Aye
Tod Ruthven	Aye
Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye

Motion carried.

6. OTHER BOARD MATTERS – 2021 RULES OF PROCEDURE

Mr. Marshall confirmed that prior to the meeting the clerk provided the board members and Town staff with the draft 2021 Rules of Procedure.

Mr. Marshall asked if there were any amendments to the 2021 Rules of Procedure. No amendments were offered.

■ A motion was made by MS. ATTARDI, seconded MR. YOURCH, that the following resolution be approved:

**TOWN OF FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
2021 RULES OF PROCEDURE**

ADOPTED—January 25, 2021

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has given consideration to the need to adopt Rules of Procedure for conducting the business of the Board during the calendar year 2021; and

WHEREAS, the Board has determined that such Rules of Procedure are in the best interests of the Town; and

WHEREAS, the Board determines the action to adopt Rules of Procedure is a Type II Action, under Part 617.5 (c) (20) of the State Environmental Quality Review (SEQR) Regulations, in that it involves routine agency administration, not including new programs or major re-ordering of priorities that may affect the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby adopt the 2021 Rules of Procedure as amended per this document appended to the minutes of the meeting of Zoning Board of Appeals on January 25, 2021:

Jill Attardi	Aye
Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye
Tod Ruthven	Aye

Motion carried.

6. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

None

7. DIRECTOR OF PLANNING AND DEVELOPMENT UPDATE

Mr. Brand discussed the following topic:

- Today was the court appearance for the Delaware River Solar Project. We believe we have a very good record of review, and we are waiting to hear from the judge to see if the plaintiff has standing or not. Standing is something very technically oriented to enable an aggrieved person to be successful when they argue being an adjacent neighbor affects them more than anyone else. We have a very complete abstract of about 100+ pieces. We are hoping the court understands we are following the Governor’s program for creating regulations for solar energy and complying with his guidelines for the year 2030.
- Working on draft regulations for solar. Advance draft copies will be given to both the Planning Board and Zoning Board to review.
- Working on the Main Street Overlay District. Looking forward to creating this “speedway” more of a destination.

8. ZONING OFFICER UPDATE

Currently looking for a Clerk for the Zoning Board of Appeals. Anyone interested please contact the Supervisor’s Office.

Mr. Weidenborner reported that no applications for the February 22, 2021 meeting of the Zoning Board of Appeals had been received by today’s deadline. He said that the next tentative meeting of the ZBA will be on Monday, March 22, at 7:00 p.m.

9. TRAINING OPPORTUNITIES

2021 Municipal Bootcamp

A free annual program to provide certification credits to newly elected officials, planning and zoning boards and town officials sponsored by Hancock Estabrook and MRB Group. The program includes 10 hours of remote training designed to provide a comprehensive education that encompasses all aspects of municipal governance. Each program will be provided remotely on the fourth Thursday of the month with subject matter experts and attorneys from Hancock Estabrook and MREB Group.

Thursday, January 28, 2021, 6:00 p.m. to 7:00 p.m.
Session 1: Who Am I? How Did I Get Here?

Thursday, February 25, 2021, 6:00 p.m. to 7:00 p.m.
Session 2: How Does This Whole Thing Work?

Thursday, March 25, 2021, 6:00 p.m. to 7:00 p.m.
Session 3: Leave It Better Than You Found It

Thursday, April 22, 2021, 6:00 p.m. to 7:00 p.m.
Session 4: What Not To Say, and What *Really* Not To Do

Thursday, May 27, 2021, 6:00 p.m. to 7:00 p.m.
Session 5: Come One, Come All to the Greatest Show on . . . well . . .

Thursday, June 24, 2021, 6:00 p.m. to 7:00 p.m.
Session 6: Planning From (At Least) Six Feet Away

Thursday, July 22, 2021, 6:00 p.m. to 7:00 p.m.
Session 7: Ask Me Anything

Thursday, September 23, 2021, 6:00 p.m. to 7:00 p.m.
Session 8: From Big to Small

Thursday, October 28, 2021, 6:00 p.m. to 7:00 p.m.
Session 9: Well, Aren't You Special?

Thursday, December 23, 2021, 6:00 p.m. to 7:00 p.m.
Session 10: All the Right Forms in All the Right Places

Questions to:

Wendy A. Marsh, Partner, Hancock Estabrook
wmarsh@hancocklaw.com
(315) 565-4536

Matt Horn, Director, Local Government Services, MRB Group
matt.horn@mrbgroupp.com
(315) 220-0740

Registration link:

<https://register.gotowebinar.com/rt/4608077833213548299>

Open Government in Planning and Zoning Decision Making

February 3, 2021, 12:00 noon to 1:00 p.m.

Free webinar to members of New York Planning Federation

This session will discuss how open government laws apply to planning and zoning decision making, including technical legal requirements and recommended practices that go above and beyond them. The webinar is part of the New York Planning Federation series “The Basics of Planning and Zoning in New York State.” The presenter will be Mark Schachner, Esq., Senior Principal Attorney of Miller, Mannix, Schachner & Hafner LLC in Glens Falls, N.Y., and Round Lake, N.Y.

Registration link:

<https://register.gotowebinar.com/register/9517785066313488>

10. NEXT MEETING

The next regular meeting of the Zoning Board of Appeals will tentatively be held on Monday, March 22, 2021, at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8.

11. ADJOURNMENT

■ A motion was made by MR. MARSHALL, seconded by MS. ATTARDI, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 7:33 p.m.

Respectfully submitted,

Sarah Mitchell L.S.
Clerk *Pro Tem* of the Zoning Board of Appeals