

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, June 28, 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*
Thomas Yourch
Jill Attardi
Tod Ruthven

Board Members Excused: Aaron Sweeney

Staff Present:
Ronald L. Brand, Town of Farmington Director of Development and Planning
John Weidenborner, Town of Farmington Zoning Officer

Applicant Present:
Timothy Mickelsen 1306 Beaver Creek Road, Farmington, NY 14425
Brendon & Lindsay Walters 5812 Mountain Ash Drive, Farmington, NY 14425

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 January 25, 2021, 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 MAY 24, 2021

■ A motion was made by MR. YOURCH seconded by MS. ATTARDI, that the minutes of the May 24, 2021, meeting be approved with MR. MARSHALL obtaining.

Motion carried by voice vote.

3. LEGAL NOTICE

The following Legal Notice was published in the *Canandaigua Daily Messenger* newspaper on Sunday, June 20, 2021:

ZB #0601-21, BRENDON WALTERS, 5812 MOUNTAIN ASH DRIVE, FARMINGTON, NEW YORK 14425:

Request an Area Variance in accordance with Chapter 165A, Schedule 1, Attachment 1 of the Farmington Town Code. The applicant wishes to erect a 11' x 5' (55 sq ft) attached deck on the front of the residence, with a proposed front setback of 20.2 feet and Town Code requires a minimum front setback of 40 feet. The property is zoned R-1-10 Residential Single Family.

ZB #0602-21, TIMOTHY MICKELSON, 1306 BEAVER CREEK RD, FARMINGTON, NEW YORK 14425:

Request an area variance to Chapter 165, Article V, Section 58. C. of the Town of Farmington Codes. The applicant wishes to erect an accessory structure, (a shed), having a total area of 288 square feet. The Town Code restricts the maximum buildable area of such accessory structure to 200 square feet in the General Business District. The property is located at 1306 Beaver Creek Rd and is zoned GB – General Business

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 #0601-21, BRENDON WALTERS, 5812 MOUNTAIN ASH DRIVE, FARMINGTON, NEW YORK 14425:

Request an Area Variance in accordance with Chapter 165A, Schedule 1, Attachment 1 of the Farmington Town Code. The applicant wishes to erect a 11' x 5' (55 sq ft) attached deck on the front of the residence, with a proposed front setback of 20.2 feet and Town Code requires a minimum front setback of 40 feet. The property is zoned R-1-10 Residential Single Family.

Mr. Marshall opened the Public Hearing on this application.

Mr. Walters presented this application. He explains that currently he has concrete steps on the front of the house. Their plan currently is to remove the concrete steps and replace them with composite decking with an aluminum railing. The deck will be centered on the door. The deck will come out seven feet from the house length wise and five feet wide with a four-foot landing so total eleven feet off of house. The deck will be trimmed white to match the house. The design will be similar to the house across the street from him and the neighbor to the west also has a very similar design. The deck will have a 20.2-foot front setback and the Town requires a forty-foot front setback.

Ms. Attardi asks what the dimensions of the current landing are verses the proposed deck.

Mr. Walters explains on the submitted site plan where the proposed deck and steps will be located.

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 #0602-21, TIMOTHY MICKELSON, 1306 BEAVER CREEK RD, FARMINGTON, NEW YORK 14425:

Request an area variance to Chapter 165, Article V, Section 58. C. of the Town of Farmington Codes. The applicant wishes to erect an accessory structure, (a shed), having a total area of 288 square feet. The Town Code restricts the maximum buildable area of such accessory structure to 200 square feet in the General Business District. The property is located at 1306 Beaver Creek Rd and is zoned GB – General Business

Mr. Marshall opened the Public Hearing on this application.

Mr. Mickelsen presented this application. He is the owner of Clean Your Carpets. He moved to Farmington in 1975 and started the business in February of 1977. Forty-four years and four months ago. He presented the site plan that was approved by the Planning Board when he purchased the property in 2011. The request is to put a storage shed behind

the garage that will be entirely blocked from vision from the road. Why do they need a storage shed? When they bought the property ten or eleven years ago, they thought there would be some increase in business and there has been. It is impossible to project everything 100% accurately. Business is growing more than their original projections. This is a good problem for a business to have. They even survived 2020 the year of covid. April of 2020 was a tough month, and their business was down over 60% compared to April 2019 and they were struggling. Fortunately, once May hit things were bouncing back. Business has been very good, and he is very thankful and blessed to have that. They primarily clean oriental rugs under the business name of Rochester Oriental Rug Spa a division of Clean Your Carpets. They typically go to someone's home to pick up their rug and bring it back to the shop to clean. Right now, they are telling customers four to six weeks wait time. Right now, in their shop they are running seventy to one hundred rugs at a time. When they first started the business, they would have ten, fifteen to twenty rugs at a time. As you can see it has been multiple of increases over the years. Fortunately, their reputation has grown. They have rugs brought to them from Geneva, Penn Yan, out of state, and he has also shipped rugs out of the Country to Canada. They have a rug pit, where the rugs are washed in the shop, and they have a drying rack, where they hang ten, fifteen, twenty rugs to dry at a time. The rugs take two to three days to dry and then they have a large shelving area with cardboard tubes to put the rugs in to. Beside that they have a huge stack of rugs on the floor. They are just running out of room. The endgame to this would be to put up the storage shed behind the garage. The shed will be a brand-new shed that he will be purchasing from Dave's Digs here in Farmington. The shed is currently sitting there waiting for the Board's approval. They will be building shelving into the storage shed to increase their capacity. They will be putting in a second drying rack. So instead of telling people four to six weeks they will be able to cut the wait time in half. He did read the draft letter of denial and spoke to council regarding that. If you go by the letter of the law, if you will, the zoning code, yes, we do not qualify. He gets that. But that is why he is here to the ZBA the Zoning Board of Appeals. If all you are going to do is go strictly by the letter of the law, we might as well throw his application out and he will go home and leave and do whatever he has to do at that point in time. Look his appeal to you is as a business owner in Farmington who is running a successful business. If you are going to go by the letter of the law, then write him off. If you would like to see his business stay in Farmington, succeed in Farmington, grow in Farmington we have a plan in place and takes time and money to do this. Storage sheds these days are not inexpensive. It is an investment in the property and is totally hidden by the public view behind the garage not out front not on the north side. Previously he did get a permit years ago to expand the existing pole barn north. As a businessman that was a huge investment at around \$80,000 - \$100,000 but he got cold feet about spending that much money and backed out. This storage shed would be a whole lot less money but will still meet the needs of the business and will be kept out of public view. This will be good for the community, good for the business, and not have a negative change to the character of the neighborhood. The property to the west he asks Mr. Brand if it is still zoned GB General Business.

Mr. Brand states that area is zoned IZ Incentive Zoning.

Mr. Mickelsen asks if there will be more business in there at some point in time.

Mr. Brand states some kind of business yes.

Mr. Mickelsen then states that he would be very surprised if there is going to be housing in that track of land.

Mr. Brand says that he really cannot say. That is not something that would be prohibited because they can always go back to the Town Board.

Mr. Mickelsen says you can always ask for anything. But we have Kentucky Fried Chicken, we have Taco Bell, we have the Microtel and to the south of the property at some point in time the Town approved a road from Beaver Creek Road all the way over to Route 332. That's my appeal. He is asking for honest consideration as opposed to the letter that you wrote that says basically that he is dead in the water. Give it some thought. That is what the Zoning Board of Appeals is for to make the exception where it is reasonable, makes sense and does not have a negative effect on the community. Thank you for your time.

Mr. Marshall then asks if anyone else would like to speak for or against this application. Hearing none he asks for questions or comments from the board.

Mr. Ruthven asks Mr. Mickelsen if he already bought the shed.

Mr. Mickelsen says no that Dave's Diggs is holding it for him.

Mr. Ruthven says so then you have not bought it.

Mr. Mickelsen says well he did put a deposit on it.

Mr. Ruthven asked if he could get his deposit back.

Mr. Mickelsen says no it's gone. He has been holding it for him for two months. He originally had it sold and knew he was in the market for a shed, so he called Mr. Mickelsen to let him know the shed was available. He asked him if he wanted it and Mr. Mickelsen went over to look at it. He told Dave that would be perfect for him. The shed is 12x24 a total of 288 square feet. He said he knew that it was eighty-eight square feet over the 200 square feet allowed but the extra room would be valuable to us as a business. A lot of the rugs they get in are 8x10, 10x12, 12x9, 12x16 oriental rugs. You have to have room for those they take up space. One thing he learned after he got into the business is that he has a customer that he has been storing four of her rugs since 2019 and she has been paying him a small monthly fee to store her rugs. When covid hit she said she did not want the rugs back until covid is history.

Mr. Ruthven then verifies with the applicant that he was aware that the maximum square footage allowed for the shed was 200 square feet before he put the deposit down.

Mr. Mickelsen says yes, he was aware he is not trying to pull the wool down over their eyes.

Ms. Attardi then asks the applicant if he checked with the Town prior to putting down the deposit.

Mr. Mickelsen says no because he knew the was going to have to come to the Zoning Board anyways. He is a businessman and in life there is risk and reward. To him the reward exceeded the risk, and it was a reasonable risk to take. Sometimes in life risk pays off and sometimes it doesn't. But if you get back 80% on your rewards and lose 20% you are still coming out ahead in the long run. He does not play the short game he plays the long game. That is why he has been in business for forty-four years and four months. If you go online and google Clean Your Carpets out of Farmington, NY you will find well over 300 five star google reviews. They have the Angie's List Super Service Award for three years in a row. They are not a cleaning company they are a customer service company that does cleaning. Their goal is to take care of their clients and to treat people honestly, fairly and to do fantastic work for a fair price. It seems to be a winning formula because they seem to still be going strong after forty-four years and four months.

Mr. Yourch asks the applicant if he will be running power to the shed and if he will be placing the shed on a concrete slab.

Mr. Mickelsen says no power will be needed in the shed. He plans to have the shed sit on a stone base.

Mr. Marshall then states that this board is to only grant the minimum relief. Looking at the draft resolution it states the Board finds that the applicant can apply for an area variance to the minimum lot size requirement of 40,000 square feet within the GB district and also where it does not have restrictions on accessory structures being a percentage of the principal structure. Mr. Marshall asks the applicant if he has thought about doing that.

Mr. Mickelsen says absolutely. Number one shortly after he bought the property, he contacted the gentlemen who owned it at that point in time. He ended up going to his office he believed was in Pittsford and honestly, he thought all he wanted to do is size him up and see who he was and what he was about, and he did not want to sell him any property. Since getting the draft letter knowing that all the property around him is for sale, he contacted that realtor and asked him. He made a courtesy call for him today to the current owner, who has owned the property for four years.

Mr. Brand states that the current owner is Andy Prestigiaco, the owner of A&P Plumbing . He owns everything between State Route 332 to Beaver Creek Road from KFC down to the gas station.

Mr. Mickelsen states that the realtor made a courtesy call for him today and unfortunately it was a quick no. They are not interested in selling off 12,000 – 15,000 square feet to help him hit the Town requirement of 40,000 square feet. The owner said the cost of doing the

subdivision would be prohibited. So unfortunately bringing it up to an acre isn't an option. It wasn't then and it isn't now. All three structures were on the property when he bought it. The Planning Board granted the current approval. He was required to put in 245 feet of sidewalk, expand the parking lot and put in the tree plantings. He has the property commercially mowed and commercially plowed. He tries to maintain the property and keep it looking good. He is just trying to run a respectful growing business and is asking for the board's consideration.

Mr. Marshall then asks for comments from Town Staff.

Mr. Weidenborner states that this began with a simple request for an eighty-eight square foot variance for the shed. The applicant did not want to put in concrete flooring to make the structure a detached garage. That started the deep dive into everything else that has been going on with this property. The biggest concern with this property is the Town considers it an existing non-conforming lot. The applicant has a single-family residential lot in an area that is zoned General Business. The applicant is currently renting out the house and is also operating his carpet business from the same lot. When the applicant came in a few years ago for the expansion of the barn it was approved but was never acted on. With the current codes that expansion would no longer be approved. The existing non-conforming status basically means that nothing can be done on that property until it is brought up to code. That is a very strict New York State requirement. We tried to look at different options that the applicant could do but as long as that house is still there and used as a residential property there really is nothing they can do to add onto that property whether it be the business or the residential aspect of it because it is existing non-conforming. The other options he has is to convert the house to an office and remove the residential aspect and convert it into an entire business lot. After that, the only concern would be the 40,000 square foot requirement which could be addressed at that point by you as a board. Until the lot is turned into a conforming lot our hands are tied as to what the applicant is allowed to do on that property. The draft resolution does state that the applicant has been informed of this in the past. The site plan is the granting of the home occupation on the residential lot which allows him to run the business out of it. The biggest thing that should come out of this is this is an existing non-conforming lot and the State and Town Laws that go along with those, and nothing can go on this lot until it becomes conforming.

Mr. Ruthven asks Mr. Weidenborner if that includes a 200 square foot shed.

Mr. Weidenborner says that includes everything. Once they started their research, they found more of the technicalities that exist with this property. This was not an easy application to research. They spent many days going through things to see what they could do. There is not much that can be done as the lot sits especially because it has been pointed out before in public record and in comments that nothing can be done to this lot.

Mr. Brand states that there is an alternative to the variance that the board is being asked to grant. The alternative is identified in the draft resolution, and he understands the desire to move quickly to get this storage building on the lot. Mr. Brand asks the applicant, based on comments made tonight, if the shed will be used as a drying room.

Mr. Mickelsen says no. The shed will only be used to store the rugs and rug pads. The extra drying rack will go into the existing pole barn.

Mr. Brand then asks if he will be removing some of the items from the pole barn to be stored in the shed then.

Mr. Mickelsen says correct but there will be a lot more capacity in the storage shed then they would have within the pole barn at this point in time.

Mr. Weidenborner adds that the applicant had mentioned that the shed is not visible from Beaver Creek Road however the shed will be fully visible from Route 332 because currently the only thing between his house and Route 332 is a field.

Mr. Mickelsen states there is a distance, and you could see it if you were rubber necking and driving looking for something like that sure.

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

Hearing no Mr. Marshall then closed the Public Hearing on this application

5. BOARD BUSINESS—DELIBERATIONS AND DECISION

ZB #0601-21	Brendon Walters 5812 Mountain Ash Drive Farmington, N.Y. 14425	Area Variance
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■ 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 #0601-21**

APPLICANT: Brendon Walters, 5812 Mountain Ash Drive, Farmington, N.Y. 14425

ACTION: Request an Area Variance to Chapter 165, Attachment 1, Schedule 1, of the Farmington Town Code. The applicant wishes to erect an eleven foot by five foot wide (11’ x 5’ 55 sq ft) attached deck and stairs to the front of the residence, with a proposed front setback of 20.2 feet. The Town Code requires a minimum front setback of 40 feet. The property is zoned R-1-10 Residential Single Family

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 New York State Environmental Quality Review (SEQR) Regulations, for determining the Classification as 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) (17) 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 MR. YOURCH and seconded by MR. RUTHVEN at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, June 28, 2021. Following discussion, the following roll call vote was recorded:

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

Motion carried

■ A motion was made by MR. YOURCH, seconded by MS. ATTARDI, that the reading of the complete Area Variance Permit 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.

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

APPLICANT: Brendon Walters 5812 Mountain Ash Dr Farmington, N.Y. 14425	File: ZB #0601-21 Zoning District: R-1-10 Residential Single Family Published Legal Notice on: June 20, 2021 County Planning Action on: N/A County Referral #: N/A Public Hearing held on: June 28, 2021
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Property Location: 5812 Mountain Ash Drive, Farmington, New York 14425

Applicable Section of Town Code: Chapter 165, Attachment 1, Schedule 1.

Requirement for Which Variance is Requested: The applicant wishes to erect an eleven foot by five foot (55 sq. ft.) attached deck and stairs to the front entrance of the residential dwelling at the above cited location. The proposed deck and stairs would have a front setback twenty point two (20.2) feet from the front lot line. The Town Code (Chapter 165, Attachment 1, Schedule 1) requires a minimum front setback of forty (40) feet. The property is zoned R-1-10 Residential Single Family.

State Environmental Quality Review Determination: The granting of an Area Variance for a fifty-five (55) square-foot accessory structure (a deck and stairs) is classified as a Type II Action under Part 617.5 (15) of article 8 of the New York State Environmental Conservation Law, the State’s 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 article 8 of the State’s Environmental Conservation Law.

County Planning Referral Recommendation: N/A. Exempt Action by Ontario County Planning Board Bylaws.

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 the Board) finds that the character of this neighborhood is predominantly single-family residential detached dwellings. The Board further finds that there are other properties within the neighborhood which have had similar area variances granted and approved decks and stairs have been installed to replace deteriorating front entrances. The Board further finds that the design of the proposed front entrance to the residential dwelling is in keeping with other front entrances in the neighborhood. The Board, based upon these findings, determines that the granting of the requested Area Variance will not create an undesirable change in the character of the neighborhood, or 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 replacing the front entrance to the dwelling could be accomplished using bricks and mortar (in-kind) repairs to the existing structure, however, the Board finds that such in-kind replacement would not be as long a term solution as would

be provided by the proposed design using pressure treated materials. The Board also finds that replacing the entranceway with in-kind materials would involve a greater cost for materials and labor than would the proposed deck and stairs replacement. Based upon these findings, the Board determines that there are no other feasible alternative design options available to allow for the installation of a deck and stairs to be attached to the front of the dwelling without granting the requested area variance for relief. Therefore, based upon this finding, the Board determines that the benefit to the applicant cannot be achieved by a feasible alternative design.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the requested variance involves granting relief of forty-eight percent (48%) from that required by Town Code. The Board has consistently found that a variance involving fifty percent (50%) or more relief than what is required 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 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 article 8, Section 617.5 (c), of the New York State Environmental Conservation Law (ECL). The Board finds that Type II Actions have been determined not to have a significant adverse impact upon the environment and by making this finding has 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 but shall not necessarily preclude the granting of the Area Variance. Yes No

Reasons: The Board finds that the alleged difficulty is self-created due to the applicant's choice of replacing the deteriorating front entrance to the residential dwelling with the design being proposed for the new deck instead of replacing the front entrance with in-kind materials.

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

The Board, after reviewing the above five proofs, determines:

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 attached front entranceway deck located twenty-point two (20.2) feet from the front lot line, instead of the required forty (40) foot front setback required by Town Code, is **APPROVED with the following conditions:**

1. **The variance granted is for only an open-air deck and stairs to replace the existing open-air entrance to the dwelling. It does not allow for this deck to be enclosed.**
2. **The deck/stair design and materials are to match, to the extent practical, the design of the exterior front entrance to the existing structure.**
3. **Any light fixture(s) to be installed as part of the proposed deck addition shall comply with the Town’s Dark Sky lighting regulations contained in Chapter 165 of the Town Code.**
4. **A Building Permit for the proposed deck and stairs shall be obtained by the applicant prior to the start of construction.**
5. **The Applicant is to maintain the deck and stairs in a safe condition.**

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 MS. ATTARDI at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, June 28, 2021. Following discussion, the following roll call vote was recorded:

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

Motion carried.

ZB #0602-21	Timothy Mickelsen 1544 Meadowbrook Lane Farmington, N.Y. 14425	Area Variance
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■ 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 #0602-21

APPLICANT: Timothy Mickelsen, 1544 Meadowbrook Lane, Farmington, N.Y. 14425

ACTION: Request an area variance to Chapter 165, Article V, Section 58. C. of the Town of Farmington Codes. The applicant wishes to erect an accessory structure, (a shed), having a total area of 288 square feet. The Town Code restricts the maximum buildable area of such accessory structure to 200 square feet

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) (17) 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 MR. YOURCH and seconded by MR. RUTHVEN at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, June 28, 2021. Following discussion, the following roll call vote was recorded:

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

Motion carried

■ A motion was made by MR. YOURCH, seconded by MS. 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.

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

APPLICANT: Timothy Mickelsen
1544 Meadowbrook Lane
Farmington, N.Y. 14425

File: ZB #0602-21
Zoning District: GB - General Business
Published Legal Notice on: June 20, 2021
County Planning Action on: N/A
County Referral #: N/A
Public Hearing held on: June 28, 2021

Property Location: 1306-1308 Beaver Creek Rd Farmington, New York 14425

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

Requirement for Which Variances are Requested: Request an area variance to Chapter 165, Article V, Section 58. C. of the Town of Farmington Codes. The applicant wishes to erect an accessory structure, (a shed), having a total area of 288 square feet. The Town Code restricts the maximum buildable area of such an accessory structure to 200 square feet in area.

State Environmental Quality Review Determination: The granting of an Area Variance for a Two Hundred Eighty-Eight square-foot (288 sq. ft.) 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: N/A. Exempt Action by Ontario County Planning Board Bylaws.

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 subject parcel is a pre-existing residential site located within a mapped GB General Business District (hereinafter referred to as GB District). The Board further finds that the site contains a total of 0.67 acres (or 28,183.52 square feet) of land. The Board further finds that the minimum lot area for the GB District is 40,000 square feet. The Board further finds from its’ review of the March 2, 2011, Planning Board Meeting Minutes, that the Applicant acknowledged that... “no future expansion is possible on the site because it is less than an acre.” (A copy of the referenced Planning Board Meeting Minutes for March 2, 2011, is hereby attached to and made a copy of this resolution of findings). The Board further finds that Final Site Plan Approval was granted by Planning Board Resolution, dated March 2, 2011, for File #PB 0301-11, for a Major Home Occupation using the existing structures (i.e. the single-family dwelling and two accessory structures) that are located on the site.

The Board further finds that a Major Home Occupation is regulated within §165-72 of the Farmington Town Code. The Board further finds that a Major Home Occupation is restricted to being subordinate to the permitted principal use of the premises which in this instance was identified as a single-family dwelling to qualify for the Major Home Occupation. The Board further finds that a Special Use Permit for a Major Home Occupation is valid only for the owner of the premises who is an actual resident of the premises, who at the time the Major Home Occupation and Site Plan Approval was acted upon was a relative of the Applicant who was residing in the dwelling. The Board further finds that a Special Use Permit for a Major Home Occupation is valid for only two employees, whether full-time or part-time, whether paid or unpaid, who are not residents of the premises. The Board further finds that the Applicant is one of two people employed by the business. The Board further finds that a Major Home Occupation may have an accessory structure that is smaller in size than fifty percent (50%) of the size of the principal structure (i.e. the single-family dwelling unit). The Board further finds that the size of the principal structure, according to Town Records, is 1,216 square feet in area. The Board further finds that 50% of 1,216 square feet is 608 square feet. The Board further finds that the size of the existing accessory structures (the two accessory buildings on the site) is 1,751.84 square feet which is two hundred eighty-eight and 13/100 percent (288.13%) greater in size than what is allowed by Code for accessory structures for a Major Home Occupation based upon the square footage of the principal structure on the parcel. The Board further finds that this calculation includes an allowance of 304 square feet in the area for accessory structures for a Major Home Occupation. The Board further finds that the size of the proposed accessory structure is 288 square feet in area which, by itself, does not exceed 25% of the principal structure (or 304 square feet in area) but does exceed the 200 square foot maximum area for an accessory structure when located on a lot having less than one acre of land [§165-58. C. of the Town Code].

The Board, based upon the above findings, determines that granting the requested area variance for the 288 square foot accessory structure would result in a total square footage of 2,039.84 square feet in accessory structure total area on the site which exceeds fifty percent (50%) of the square footage for the existing principal structure (i.e 50% of 1,216 square feet, or 608 square feet in area).

The Board finally finds that it is a requirement of New York State Town Law (Section 267. B. (c)) to grant the minimum variance deemed necessary and adequate and at the same time preserve and protect the character of the neighborhood. The Board determines that the character of the neighborhood is appropriately protected by the regulations governing Major Home Occupations as contained in the Farmington Town Code.

The Board, based upon these findings, determines that: (a) the applicant has failed to prove the existence of any unnecessary hardship exists in complying with the requirements for a Major Home Occupation within the GB District; (b) the applicant owns land that is zoned for and would allow for continued use for the rug cleaning business operating on the site provided the dwelling is converted to office space, or some other aspect of the business; and (c) the applicant over the past ten (10) years has been unable to acquire any adjacent land to add to the existing parcel which would allow the parcel to conform to the 40,000 square foot minimum lot size for the GB District, which when documented by the Applicant would serve to help justify the granting of an area variance for a minimum lot size required in the GB District; and (d) the GB District has less restriction

on the size of accessory structures than that which is currently provided for by the Major Home Occupation restrictions.

The Board further determines that there is not a justified need for granting the requested relief. The Board further determines that without documentation which would help justify the need to grant the relief being sought in this instance that such action would contribute to an undesirable change being produced in the character of all of the neighborhoods that have, since 2009, been effectively regulated by the Major Home Occupations provisions. The Board also determines that the Major Home Occupation restrictions are applicable within a vast number of the mapped zoning districts in the Town.

The Board finally determines that granting the requested relief without justification, such as in this instance, would also likely serve to be a detriment to other properties, both nearby and in other areas of the community, whose land use are regulated by the Major Home Occupation provisions in Article VI, Section 72, of the Farmington Town Code.

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 applicant can apply for an area variance to the minimum lot size requirement of 40,000 square feet within the GB District. The Board further finds that the GB District identifies the carpet cleaning business as a permitted principal use. The Board further finds that the GB District does not have the restrictions for accessory structures being a percentage of the principal structure [see above findings for a Special Use Permit for a Major Home Occupation]. The Board further finds that the maximum size of an accessory structure within the GB District is 200 square feet in area; and that the only governing factor for the number of accessory structures is the maximum building coverage of the lot which in this instance is thirty-five percent (35%). The Board further finds that currently the building coverage of the site is approximately ten and one-half percent (i.e. 10.52 %).

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

Reasons: The applicant is seeking an area variance that would allow an accessory structure, a shed, to have a total of 288 square feet in area. The Board finds this requested variance to be an increase in building area of thirty-eight percent (38%) above what is allowed by Code for an accessory structure in the GB District. The Board has consistently found that a variance greater than fifty percent (50%) of what is otherwise required by the Town Code is a substantial variance. The Board, however, has made the finding above herein that the size of the two accessory structures on the parcel when combined with this request would result in granting an area variance in excess of a four hundred seventy percent (i.e. + 476.26%) of the size governed for accessory structures for a Major Home Occupation. The Board, based upon these findings, determines that the proposed area variance to allow an accessory structure having a total area of 288 square feet when added to the existing square foot total of the other existing accessory structures would 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 No

Reasons: The Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 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 further 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 is self-created in that the applicant has failed to adequately identify why an alternative relief to the requested area variance cannot be pursued. The Board finds that granting the requested relief would not be granting the minimum relief necessary, as is required by New York State Town Law.

**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 shed) in the applicant’s 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 MR. YOURCH and seconded by MR. RUTHVEN at a regularly scheduled meeting of the Zoning Board of Appeals held on June 28, 2021. Following discussion, the following roll call vote was recorded:

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

Motion carried.

6. OTHER BOARD MATTERS

Mr. Marshall asks the board members to review the Route 96 Street Scape Plan to discuss at the next meeting to count towards one hour of required training hours.

7. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

Mr. Mickelson says he has a question. He says so the draft letter pre-determined the outcome and there is no board discussion tonight on the matter.

Mr. Marshall states that the applicant answered all the questions the board had.

Mr. Mickelsen says so that's it it's just denied.

Mr. Yourch suggests to the applicant to talk with Town Staff about some of the other options discussed to maybe have the ability to put a shed on the property.

Mr. Marshall then asks for any other public comments. Hearing none he moves on.

8. DIRECTOR OF PLANNING AND DEVELOPMENT UPDATE

Mr. Brand discussed the following topic:

- Code Book updates have been distributed to the board members. The updates reflect a lot of work that has been done over the winter by himself, the Code Officers, and the Town Board.
- Delaware River Solar Decommissioning plan has been approved. They have been instructed to provide a Letter of Credit for the construction of the site and were directed to start preparing maintenance bonds for each of the three sites. These will be reviewed every three years as we go through the lifespan of the solar farm to determine any changes that are needed.
- We do have a draft to the solar regulations that are awaiting the judge's ruling on all of the appeals that have been made on the Delaware River Solar Project.
- The Town has heard from Mr. Ingrassia, the owner of the property where Top's Market is located, he has decided he would like to seek incentive zoning for his project. Mr. Weidenborner has done a brief review of the site plan and has identified a number of area variances and special use permits that will be needed.
- Major new business will soon be announced that is coming to Farmington.
- Working with Country Max on the redesign of the industrial building on the corner of Hook and Collett Road.
- There was a steering committee meeting last Monday with the consultants who are working on the Routes 332 and 96 corridor Genesee Transportation Council. One of the ideas that came from the meeting is instead of trying to figure out how to put a sidewalk along Route 332 up over the railroad bridge to find a different alternative he suggested they consider a trail walking path from Gateway Drive and Plastermill south along the abandoned right of way of Mertensia down to connect with the sidewalks there at Mertensia and Collett Roads. Another idea that came out of the meeting is there is now action at the County level to abandon portions of the railroad at Route 332 that is no longer serving Victor. If that is true it will be the opportunity to start the other regional trail parallel to that railroad bed that connects into Manchester,

Phelps, and other areas. They asked the consultants to contact the Thruway Authority to try to find out what is going on and how safe everything is going to be.

***Mr. Mickelsen then asks the board if he came back and asked for a 200 square foot shed if the board would consider that application.

Mr. Marshall states that they consider every application with an open mind, but you have an issue because you have a non-conforming lot.

Mr. Mickelsen says he has addressed that and does not see a viable option short of buying all that land.

Mr. Ruthven asks Mr. Weidenborner about the statement he made regarding changing the residence into a business office.

Mr. Weidenborner says that would make it more feasible but that would be up to the board.

Mr. Yourch reiterates to the applicant that there are other options he can explore, and the issue is just not Farmington Law it is also New York State Law.

Mr. Mickelsen then states that he believes that the board does have the ability to make a decision that would not grieve with New York State. Thanked the board again for their time.

9. ZONING OFFICER UPDATE

- Explained the shared folder and the link that they soon will be receiving so they can review all applications electronically.
- Zoom meetings will begin at the next meeting
- Reviewed open meeting laws with the board
- There will be a meeting on July 26, 2021, for the Farmington Commons Plaza.

10. 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 MRB Group.

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@mrbgroup.com
(315) 220-0740

Registration link:

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

10. NEXT MEETING

The next regular meeting of the Zoning Board of Appeals will be held on Monday, July 26, 2021, at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8.

11. ADJOURNMENT

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

Motion carried by voice vote.

The meeting was adjourned at 7:54 p.m.

Respectfully submitted,

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