

**TOWN OF FARMINGTON ZONING BOARD OF APPEALS
MINUTES OF THE MEETING OF SEPTEMBER 28, 2015**

APPROVED MINUTES

The following minutes are written as a summary of the main points that were made and the actions taken at the Town of Farmington Zoning Board of Appeals meeting.

Board Members Present: Timothy DeLucia, *Acting Chairperson*
Cyril Opett
Nancy Purdy
James Russell

Board Member Excused: Ann Vu

Staff Present:
Ronald L. Brand, Town of Farmington Director of Development and Planning

Applicants Present:
Mark Dean, 1198 Mertensia Road, Farmington, N.Y. 14425
James A. Gindling, 1365 County Road 8, Shortsville, N.Y. 14548
Robert Stowe, Stowe Construction Inc., 8091 Route 20A, Honeoye, N.Y. 14471

Residents Present:
None

1. MEETING OPENING
The meeting was called to order at 7:00 p.m. After everyone recited the Pledge of Allegiance, Mr. DeLucia introduced the Zoning Board of Appeals members and staff, and noted that copies of the evening’s agenda were available on the table at the door.

2. APPROVAL OF MINUTES OF AUGUST 24, 2015
A motion was made by MR. OPETT, seconded by MR. RUSSELL, that the minutes of the meeting of August 24, 2015, be approved.

Motion carried by voice vote.

3. LEGAL NOTICE
Mr. DeLucia attested that the following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper on September 20, 2015, that it was posted on the Town of

Farmington web site, and that it was posted upon the Town Clerk's bulletin board in the foyer of the Town Hall:

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that Public Hearings will be held by and before the Zoning Board of Appeals of the Town of Farmington on the 28th day of September 2015, commencing at 7:00 p.m. at the Farmington Town Hall, 1000 County Road #8 in the Town of Farmington, Ontario County, New York, to consider the following applications:

ZB #0901-15: BOB STOWE, STOWE CONSTRUCTION INC., 8091 ROUTE 20A, HONEOYE, N.Y. 14471: Request an area variance to Article IV, Chapter 165, Section 35A to the Town of Farmington Codes. The applicant wishes to construct a garage addition 16.6 feet to the side property line (a minimum of 20 feet is required). The property is located at 1365 County Road 8 and zoned RR-80 District.

ZB #0903-15: MARK DEAN, 1198 MERTENSIA ROAD, FARMINGTON, N.Y. 14425: Request an area variance to Article V, Section 58B to the Town of Farmington Codes. The applicant wishes to construct an accessory structure allowing a second story (a one-story accessory structure is allowed). The property is located at 1198 Mertensia Road and zoned RMF District.

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

R. Ann Vu, Chairperson
Zoning Board of Appeals
Town of Farmington

4. CONTINUED BUSINESS

None

5. PUBLIC HEARINGS

ZB #0901-15 Bob Stowe, Stowe Construction Inc. Area Variance

The applicant is requesting an area variance to the provisions of Chapter 165, Article IV, Section 35A of the Farmington Town Code. The applicant desires to construct a garage addition to be located 16' 6" feet from the side property line. The Town Code requires a twenty-foot (20') side yard setback from a property line. The property is located at 1365 County Road 8 and is zoned RR-80 Rural Residential.

Mr. DeLucia declared the Public Hearing open.

Mr. Stowe appeared on behalf of the applicant, Mr. Gindling, the owner of the property, who also attended.

Mr. Stowe explained that Mr. Gindling seeks to construct a carport on the south side of the property to serve as a storage area for a sailboat. He said a 10-foot carport is needed to accommodate the boat, which would bring construction to 16' 6" from the side yard setback. The Town code requires a 20-foot setback; and the applicant is seeking a variance from the code to allow for the encroachment of 3' 4" into the setback area.

Mr. Brand clarified with Mr. Stowe that the area variance requested is 16' 6" and this is the distance that was published in the Legal Notice and requested on the application. Mr. Stowe confirmed this distance.

Mr. Brand said two resolutions have been prepared for board consideration this evening, i.e., the first that the proposed action is classified as a Type II action under the State Environmental Quality Review (SEQR) regulations, and the second to approve the area variance with conditions.

Mr. Brand also asked for verification of the posting of the property with the required town-provided sign. He noted that the sign was in place but then apparently had been removed. Mr. Stowe said he removed the sign when his original application indicated that the zoning board meeting was to be held on September 21st but that he replaced the sign two days later upon his return from an out-of-town trip. Mr. Gindling said that when he and his wife received a telephone call from the building department on Tuesday (September 22, 2015) that the sign was not in place, his wife immediately came to the Town Hall for a replacement sign and put it in place that afternoon.

Prior to deliberations, Mr. DeLucia asked if there were any additional questions or comments from the board. There were no further questions or comments.

ZB #0903-15

Mark Dean

Area Variance

The applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 58B of the Farmington Town Code. The applicant desires to construct an Accessory Structure having a second story. The Town Code requires only a single story for an Accessory Structure. The property is located at 1198 Mertensia Road and is zoned RMF Residential Multiple Family.

The Public Hearing remained open.

Mr. Dean appeared on behalf of his application. He explained that he is proposing to construct a pole barn with a 6-foot-high attic truss area for storage. He said this space would not be a full-size second story. He said the storage space would be 12 feet wide and would run the full 40-foot length of the pole barn.

WHEREAS, said Action is classified as a Type II Action under Sections 617.5 (c) (10) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board does hereby determine the granting of the above referenced area variance is a Type II Action.

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

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
Jim Russell	Aye
Ann Vu	Excused

Motion carried.

Mr. DeLucia then read aloud the following resolution:

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

APPLICANT: Robert Stowe Stowe Construction Inc. 8091 State Route 20A Honeoye, N.Y. 14471	File: ZB #0901-15 Zoning District: RR-80 Rural Residential Published Legal Notice on: 9/20/2015 County Referral #: Exempt Action Public Hearing Held on: 9/28/2015 Property Location: 1365 County Road 8
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Applicable Section of Town Code: Chapter 165, Article IV, Section 35. A.

Requirement for which Variance is requested: The applicant wishes to erect a porch addition to an existing single-family dwelling resulting in a side yard setback of 16' 6" from the south property line. The Town Code requires a 20-foot side yard setback from a property line in the RR-80 Rural Residential District.

State Environmental Quality Review Determination: The granting of the area variances to enable the erection of minor accessory residential structures to be a Type II Action under Part 617.5 of the State Environmental Quality Review (SEQR) Regulations.

Type II Actions have been determined not to have a significant impact upon the environment or are otherwise precluded from environmental review under Environmental Conservation Law, Article 8.

County Planning Referral Recommendation: This Action is not subject to referral to the Ontario County Planning Board as it has been classified as an Exempt Action.

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**

Reason: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the character of this neighborhood is low density residential development fronting along a County-owned highway. The Board further finds that the proposed porch addition will be well screened from adjacent properties and from along the County Highway.

Based upon these findings, it is felt that the proposed porch addition would be consistent with the neighborhood and that it would not likely be a detriment to nearby properties.

2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance. Yes X No**

Reason: The Board finds that given the site's topography and the placement of the existing dwelling upon the site that there is no feasible alternative for the construction of the proposed porch structure.

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

Reason: The Board finds that the requested area variance involves encroachment of 3' 6" into the side yard setback area of 20 feet to be a variance of seventeen and one-half percent (17.5%) from the required minimum side yard setback dimension. The Board has consistently found that an area variance less than 50% of what is required by Town Code to not be a substantial variance request.

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

Reason: The Board, under separate resolution, has determined the proposed Action to be a Type II Action under the provisions of Article 8 of the New York State Environmental Conservation Law. Type II Actions are not subject to review

and have been determined not to have a significant adverse impact upon the environment.

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

Reason: The Board finds that the property owners' desired porch addition is the minimum necessary for their needs. However, their needs have resulted in the need for an area variance to permit the structure to be placed closer to the required side yard setback dimension. Therefore, the Board finds that the alleged difficulty is self-created.

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

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

- X** That the benefit to the applicant DOES outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to allow the construction of a porch addition, an Accessory Structure to the existing single-family dwelling, is APPROVED with the following conditions:
1. The proposed Structure is to comply with the proposed site location and the building's design plan submitted with this application.
 2. The exterior finish of the Accessory Structure is to match, to the extent practical, the exterior of the Principal Structure located upon the Lot.
 3. All lighting for the finished Accessory Structure is to comply with the Town's Lighting Standards contained in Chapter 165 of the Town Code.

Finally, the Board finds that by imposing these conditions of approval, that are authorized under New York State Town Law, that it is granting the minimum relief necessary. In this instance, the Board further finds that with these conditions there is justification for granting the relief requested with this Application.

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.

Mr. DeLucia asked Mr. Stowe if he agreed with each of the conditions. Mr. Stowe said that he agreed with each of the conditions.

A motion was made by MR. RUSSELL, seconded by MS. PURDY, that the preceding resolution be approved.

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
Jim Russell	Aye
Ann Vu	Excused

Motion carried.

ZB #0903-15 Mark Dean Area Variance Findings and Decision

A motion was made by MR. OPETT, seconded by MR. RUSSELL, that the reading of the SEQR resolution for ZB #0903-15 be waived.

Motion carried by voice vote. The reading of the SEQR resolution was waived.

A motion was made by MS. PURDY, seconded by MR. OPETT, that the following resolution be approved:

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

ZB #0903-15

APPLICANT: Mark Dean, 1198 Mertensia Road, Farmington, N.Y. 14425

**ACTION: Area Variance to construct a 1,200-square-foot two-story pole
Barn on property at 1198 Mertensia Road**

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has determined the above referenced Action involves the granting of an area variance to enable the construction of minor accessory residential structure, not changing the land use or density; and

WHEREAS, said Action is classified as a Type II Action under Sections 617.5 (c) (7) and (10) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board does hereby determine the granting of the above referenced area variance is a Type II Action.

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

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
Jim Russell	Aye
Ann Vu	Excused

Motion carried.

Mr. DeLucia then read aloud the following resolution:

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

**APPLICANT: Mark Dean
 1198 Mertensia Road
 Farmington, N.Y. 14425**

**File: ZB #0903-15
 Zoning District: RMF Residential
 Published Legal Notice on:
 9/20/2015
 County Planning Action on: N.A.
 County Referral #: Exempt Action
 Public Hearing Held on: 9/28/2015
 Property Location:
 1198 Mertensia Road**

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

Requirement for which Variance is requested: The applicant wishes to construct a 1,200- square foot two-story pole barn, an Accessory Structure, on property located at 1198 Mertensia Road. The Town Code restricts Accessory Structures to a single story. The property is located in the RMF Residential Multi-Family District.

State Environmental Quality Review Determination: The granting of the area variance to enable the construction of minor accessory residential structures, involving less than 4,000 square feet in area, to be a Type II Action under Part 617.5 of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined not to have a significant impact upon the environment or are otherwise precluded from environmental review under Environmental Conservation Law, Article 8.

County Planning Referral Recommendation: This Action is not subject to referral to the Ontario County Planning Board as it is located outside the jurisdictional area set forth under Section 239-1 of the New York State General Municipal Law.

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**

Reason: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the character of this neighborhood is both two-story multiple family residential developments and single-family residential development. The Board further finds that the proposed pole barn will be well screened from adjacent properties and from along the Town Highway.

Based upon these findings, it is felt that the proposed two-story pole barn, an Accessory Structure, would be consistent with the character of the neighborhood and that it would not likely be a detriment to nearby properties.

- 2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance. Yes X No**

Reason: The Board finds that the only alternative to constructing a two-story Accessory Structure would be to construct a larger single story pole barn upon the property. Increasing the size of the Accessory Structure results in losing more of the remaining open space portion of the site. In addition, a larger single-story structure being placed upon the site could likely result in the removal of the site’s existing natural buffer, the mature trees.

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

Reason: The Board finds that the requested area variance involves a one hundred percent (100%) increase in the height of the proposed Accessory Structure. The Board has consistently found that an area variance greater than 50% of what is required by Town Code to be a substantial variance request.

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

Reason: The Board, under separate resolution, has determined the proposed Action to be a Type II Action under the provisions of article 8 of the New York State Environmental Conservation Law. Type II Actions are not subject to review and have been determined not to have a significant adverse impact upon the environment.

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

Reason: The Board finds that the property owner desires a pole barn with a second story addition to meet their needs. However, their needs have resulted in the need for an area variance to permit the structure to have a second story. Therefore, the Board finds that the alleged difficulty is self-created.

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

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

- X** That the benefit to the applicant DOES outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to allow the construction of a pole barn, an Accessory Structure to the existing single-family dwelling, is APPROVED with the following conditions:
1. The proposed Structure is to comply with the proposed site location and the building's design plan submitted with this application.
 2. The exterior finish of the Accessory Structure is to match, to the extent practical, the exterior of the Principal Structure located upon the Lot.
 3. All lighting for the Accessory Structure is to comply with the Town's Lighting Standards contained in Chapter 165 of the Town Code.
 4. The existing mature trees located in the southwest portion of the site are to be preserved to the fullest extent practical.
 5. The Applicant is to submit a landscaping plan for the east and south elevations of the proposed pole barn that will meet with the Town Code Enforcement Officer's approval and install the plant materials before May 30, 2016.
 6. This Accessory Structure is not to be used for occupancy by humans or animals.

Finally, the Board finds that by imposing these conditions of approval, that are authorized under New York State Town Law, that it is granting the minimum relief necessary. In this instance, the Board further finds that with these conditions there is justification for granting the relief requested with this Application.

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.

Mr. DeLucia asked Mr. Dean if he agreed with each of the conditions. Mr. Dean said that he agreed with each of the conditions.

A motion was made by MR. OPETT, seconded by MR. RUSSELL, that the preceding resolution be approved.

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
Jim Russell	Aye
Ann Vu	Excused

Motion carried.

7. DIRECTOR OF DEVELOPMENT AND PLANNING UPDATE

Mr. Brand commented on the following topics:

- A Zoning and Planning Case Law Update training session will be held on October 28, 2015, at the Country Club of Rochester, 2935 East Avenue, Rochester, N.Y. Registration: 2:30 p.m. to 3 p.m. Program: 3 p.m. to 4:30 p.m. Networking Reception: 4:30 p.m. to 6 p.m. Robert H. Feller of the Bond, Schoeneck & King law firm will present the program on topics of interpretation of zoning code, variances, special use permits, non-conforming uses, vested rights, SEQRA, substantial evidence in zoning cases, religious uses and cell towers. The program is co-sponsored by the New York Planning Federation. The program session fulfills 1.5 hours of the four-hour mandatory training required for planning and zoning board members. Registration fee is \$25.
- Work at the Federal Express Distribution Facility on Collett Road is continuing; the Collett Road hill is being reduced; the road is expected to reopen by mid-November.
- The path of the future Auburn Trail through Farmington has been cleared between County Road 41 and Route 332, and the spur near the Cobblestone Arts Center on Route 332, to enable survey crews to begin their work next week.

- A developer has expressed interest in the parcel of land on the southwest corner of Route 332 and County Road 41 and has proposed commercial uses along the road frontages and residential uses for the interior portion of the property.
- Final plans for Section 1 of the Redfield Grove project are expected soon from DiFelice Development. Plans will include a new street off Hook Road opposite King Hill Drive.
- No further information has been provided by Tops Supermarkets, which will move into the Wade’s Supermarket location in November. Mr. Brand said Tops might require variances for signage. To date, no further information on plans for a gasoline station at Tops have been submitted.

8. NEXT MEETING DATE

The next regular meeting of the Zoning Board of Appeals will be held at the Town Hall on Monday, October 26, 2015, 2015, at 7:00 p.m.

9. ADJOURNMENT

A motion was made by MS. PURDY, seconded by MR. RUSSELL, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 7:40 p.m.

Following the meeting, the clerk secured the building.

Respectfully submitted,

_____ L.S.
 John M. Robortella,
 Clerk of the Zoning Board, *Pro Tempore*