

*Town of Farmington*

1000 County Road 8  
Farmington, New York 14425

**ZONING BOARD OF APPEALS**

*Established July 15, 1957*

**Monday, December 18, 2017, 7:00 p.m.**

**MINUTES—APPROVED**

*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, *Chairperson*  
Cyril Opett  
Nancy Purdy  
Thomas Yourch

**Board Member Excused:** Jeremy Marshall

**Staff Present:**  
Ronald L. Brand, Town of Farmington Director of Development and Planning  
James Morse, Town of Farmington Code Enforcement Officer

**Applicants Present:**  
J. Lincoln (Link) Swedrock, P.E., BME Associates, 10 Lift Bridge Lane East,  
Fairport, N.Y. 14450  
Kevin and Lisa Schrader, 145 Rausler Road, Farmington, N.Y. 14425

**1. MEETING OPENING**

The meeting was called to order at 7:00 p.m. After the Pledge of Allegiance was recited, Mr. DeLucia introduced the Zoning Board of Appeals members and staff, explained the emergency evacuation procedures, and noted that copies of the evening’s agenda were available at the door.

Mr. DeLucia said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 29, 2017.

**2. APPROVAL OF MINUTES OF NOVEMBER 27, 2017**

■ A motion was made by MR. OPETT, seconded by MR. YOURCH, that the minutes of the November 27, 2017, meeting 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 (the Town’s official newspaper) on Sunday, December 10, 2017, that it was posted upon the Town of Farmington website (www.townofarmington-ny.com), 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 18th day of December 2017 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 #1201-17: CYNTHIA CHIERICHELLA, 1468 FRASER WAY, FARMINGTON, N.Y. 14425:** Request an Area Variance to Article III, Chapter 144-29 J (3) to the Town of Farmington Codes. The applicant wishes to re-subdivide Lot #230 of Phillips Landing Subdivision, creating Lot #1 and Lot #3 with a minimum lot width of 30 feet each. The property is located at 1468 Fraser Way and zoned Town Law 278 Cluster Development District.

**ZB #1202-17: MR. & MRS. KEVIN SCHRADER, 145 RAUSLER ROAD, FARMINGTON, N.Y. 14425:** Request an Area Variance to Article IV, Chapter 165-35 to the Town of Farmington Codes. The applicant wishes to erect an Accessory Structure 25 feet from the front property line (a minimum 60 feet front setback is required). The property is located at 145 Rausler Road and zoned A-80 District.

**ZB #1203-17: MR. & MRS. KEVIN SCHRADER, 145 RAUSLER ROAD, FARMINGTON, N.Y. 14425:** Request an Area Variance to Article V, Chapter 165-58A to the Town of Farmington Codes. The applicant wishes to erect an Accessory Structure in the front yard. Accessory Structures are to be located in the rear yard. The property is located at 145 Rausler Road and zoned A-80 District.

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

Tim DeLucia, Chairperson

Zoning Board of Appeals  
Town of Farmington

#### 4. PUBLIC HEARINGS

**ZB #1201-17**                      **Cynthia Chierichella**                      **Area Variance**  
**1468 Fraser Way**  
**Farmington, N.Y. 14425**

Mr. DeLucia declared the Public Hearing open on ZB #1201-17.

The applicant wishes to re-subdivide Lot #230 of the Phillips Landing Subdivision Tract creating two non-approved building lots identified as Lot #1 and Lot #3 with each proposed lot having a minimum lot width of 30 feet. The Town Code requires minimum lot widths for lots in a Cluster Development shall not be less than 75% of the average lot widths occurring along the public highway for a distance of 1,000 feet in each direction.

Mr. Swedrock presented this application.

He explained that the applicant seeks to subdivide a 32.2-acre parcel, currently identified as Lot #230 of the Phillips Landing Subdivision Tract, in order to create Lot #1 of 13.427 acres and Lot #3 of 12.548 acres as non-buildable lots. An existing two-story home is located on the future subdivided Lot #2 of 6.208 acres. Mr. Swedrock said that separate site plan applications would need to be submitted to the Planning Board if and when construction of single-family homes is proposed on Lot #1 and/or Lot #3.

Mr. Swedrock said that the Preliminary Three-Lot Re-Subdivision application was presented to the Planning Board on December 6, 2017, and was continued to the Planning Board meeting to be held on December 20, 2017, pending the consideration of this Area Variance application by the Zoning Board of Appeals (ZBA).

Mr. Brand said that two draft resolutions have been prepared for ZBA consideration this evening, i.e., the State Environmental Quality Review (SEQR) resolution with a determination that the application is a Type II Action, and the second with approval of the Area Variance application with conditions.

Mr. Morse said that each of his concerns has been addressed in the draft resolution conditions of approval. He noted that two lots would have a shared access off from Fraser Way and that one lot would have access off from County Road 41 following the re-subdivision of Lot #230.

Mr. DeLucia asked if anyone in attendance wished to speak for or against the application or had questions or comments. There were no questions or comments from those in attendance.

Mr. DeLucia then closed the Public Hearing on this application.

Mr. DeLucia concurrently declared the Public Hearings open on ZB #1202-17 and ZB #1203-17, as follows:

<b>ZB #1202-17</b>	<b>Mr. and Mrs. Kevin Schrader 145 Rausler road Farmington, N.Y. 14425</b>	<b>Area Variance</b>
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The applicants wish to erect an Accessory Structure—a pole barn—that would be set back 25 feet from the edge of pavement and located within the highway right-of-way line along Maxwell Road. Therefore, the proposed accessory structure would be set back 13 feet from the highway right-of-way line for Maxwell Road. The Town Code defines setbacks from street lines to building lines. The Town Code also defines “street lines” as being the right-of-way line of a street and the front lot line. The Town Code requires a minimum front setback of 60 feet from a front lot line for land located within the A-80 Agricultural District.

<b>ZB #1203-17</b>	<b>Mr. and Mrs. Kevin Schrader 145 Rausler Road Farmington, N.Y. 14425</b>	<b>Area Variance</b>
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The applicants wish to erect an Accessory Structure—a pole barn—in the front-yard portion of the lot. The Town Code requires Accessory Structures to be located in the rear yard.

Kevin and Lisa Schrader attended the meeting and presented this application.

Ms. Schrader explained that they would like to construct a pole barn in the side portion of their backyard but which is considered a front yard under the provisions of the Town Code because they are on a corner lot with frontages along both Rausler Road and Maxwell Road.

Mr. Brand said that four draft resolutions have been prepared for ZBA consideration this evening, i.e., the State Environmental Quality Review (SEQR) resolutions with determinations that the applications are Type II Actions, and draft resolutions for Area Variance approvals with conditions.

Mr. Brand explained that the various conditions of approval are proposed for the protection of the public highways, the shoulders of the roads, and the lines of sight at the intersection, and to provide screening of the pole barn from visibility by the neighbors to the east to avoid potential issues of concern. He noted that the Town Highway Superintendent was provided a draft copy of the resolutions and that he is in agreement with them.

Mr. DeLucia asked if anyone in attendance wished to speak for or against the application or had questions or comments. There were no others in the audience.

Mr. DeLucia then closed the Public Hearings on these applications.

**5. BOARD BUSINESS—DELIBERATIONS AND DECISIONS**

**ZB #1201-17                      Cynthia Chierichella                      Area Variance**

■ A motion was made by MR. OPETT, seconded by MR. YOURCH, that the reading of the State Environmental Quality Review (SEQR) resolution on this application be waived.

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

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

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

**ZB #1201-17**

**APPLICANT:                      Cynthia Chierichella, 1468 Fraser Way,  
Farmington, N.Y. 14425**

**ACTION:                              Area Variance to Chapter 144, Article III, Section 29. J. (3) for  
two proposed lots (Lots #2 and #3) with each having a lot width  
of 30 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 the Action is identified in Section 617.5 (c) (10) and (13) as being a Type II Action in that it involves the granting of an area variance relating to lot size for a single-family residence on an approved lot having necessary utilities.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board finds that the Action is classified 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.

**NOW, THEREFORE, BE IT 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.

Timothy DeLucia	Aye
Jeremy Marshall	Excused
Cyril Opett	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion result.

Mr. DeLucia then read aloud the following resolution:

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

**APPLICANT:** Cynthia Chierichella  
 1468 Fraser Way  
 Farmington, N.Y. 14425

**File:** ZB #1201-17  
**Zoning District:** Cluster Development District  
**Published Legal Notice:** December 10, 2017  
**County Planning Action:** Nov. 8, 2017  
**County Referral #:** 228.1-2017  
**Public Hearing held:** December 18, 2017

**Property Location:** 1468 Fraser Way, Farmington, N.Y. 14425

**Applicable Section of Town Code:** Chapter 144, Article III, Section 144-29 J. (3)

**Requirement for Which Variance is Requested:** The applicant wishes to re-subdivide Lot #230 of the Phillips Landing Subdivision Tract creating two non-approved building lots identified as Lot #1 and Lot #3 with each proposed lot having a minimum lot width of 30 feet. The Town Code requires minimum lot widths for lots in a Cluster Development shall not be less than 75% of the average lot widths occurring along the public highway for a distance of 1,000 feet in each direction.

**State Environmental Quality Review Determination:** The granting of an Area Variance to the minimum lot width is classified as a Type II Action under Part 617.5 (c) (7) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

**County Planning Referral Recommendation:** The Ontario County Planning Board made only comments on the proposed re-subdivision application (Referral #228-2017)

without making any specific recommendation on either that application or this application (228.1-2017) for an area variance.

**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 character of the neighborhood is primarily single-family lots with each lot having a principal structure and several of the lots having accessory structures. The Board further finds that each of the lots in this neighborhood have their own driveway. The Board further finds that there is a proposed shared ingress/egress and utility easement shown on the re-subdivision drawing for lots #2 and #3. The Board further finds that this application requests an area variance to the minimum lot width requirement to enable the re-subdivision of Lot #230 which contains a total of 32.183 acres of land located within the Phillips Landing Subdivision Tract. The Board finds that the Area Variance, if granted, would permit the sharing of an existing driveway from the single-family dwelling on Lot #230 (to be known as Lot R230-2) and a future single-family dwelling to be constructed on the Lot to be know as R230-3, to Fraser Way and, therefore, would not result in any change to the character of the neighborhood. The Board also finds that since a portion of the driveway to Fraser Way is to be contained within the sixty-foot-wide strip of land currently owned by the applicant residing at 230 Fraser Way that there would not any 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 proposed lot R230-3 would be a land locked parcel of land due to the presence of an existing sanitary sewer trunk line and drainage easements along the west side of Lot #230. The Town’s policy is to not allow private driveways to be placed on top of a sanitary sewer trunk line. The Town also encourages not crossing the existing drainage area for the Farmbrook and Runningbrook neighborhoods. Therefore, the Board finds that there is no feasible alternative to the requested area variance.

3. Whether the requested variance is substantial.       Yes       No

**Reasons:** The Board finds that the requested variance would reduce the lot width for Lot #230, at Fraser Way, from 60 feet in width to 30 feet in width. As such, the effect of granting the requested area variance would be granting a variance that would create a lot having one-half the lot width originally required by the Planning Board. The Board finds that this request involves the granting of an area variance that would be fifty percent (50%) of what is otherwise required. The Board has consistently found that granting a variance of fifty percent (50%) or more is 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 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 is self-created as this width was chosen by the applicant at the time of final plat approval by the planning board.

#### **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 outweighs the detriment to the neighborhood or community and, therefore, the requested area variance is GRANTED with the following conditions:

1. There shall be only one additional lot, lot R230-3, allowed to share the existing driveway from 1468 Fraser Way (existing Lot #230 or future lot #R230-2).
2. The driveway width from 1468 Fraser Way is to remain so as to avoid two vehicles coming and going from lots R230-2 and R230-3 at the same time in the future.
3. At the time a Building Permit is issued for a building on Lot R230-3 there is to be two street address signs installed, one on each side of the existing driveway, identifying the two property addresses.
4. The lot width for both lots R230-2 and R230-3 shall be thirty (30) feet.
5. The proposed cross access easement identified on the Preliminary Re-Subdivision Plat Map as . . . “Proposed 60' wide ingress/egress & utility easement,” is to be filed in the Ontario County Clerk’s Office before submission of a site plan application for any structure proposed for lot R230-1 and the liber and page for the filed easement is to be shown on any site plan.

- 6. This area variance is based only upon the information provided with this application which identifies two lots sharing a common driveway from 1468 Fraser Way to the public street known as Fraser Way.

The Board, in making this decision, finds that the relief granted is the minimum relief necessary to enable the applicant to re-subdivide Lot #230 of the Phillips Landing Subdivision Tract and, thereby, satisfies the requirements set forth in New York State Town Law.

**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.

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

Timothy DeLucia	Aye
Jeremy Marshall	Excused
Cyril Opett	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

<b>ZB #1202-17</b>	<b>Mr. and Mrs. Kevin Schrader</b>	<b>Area Variance</b>
<b>ZB #1203-17</b>	<b>Mr. and Mrs. Kevin Schrader</b>	<b>Area Variance</b>

■ A motion was made by MS PURDY, seconded by MR. YOURCH, that the readings of the State Environmental Quality Review (SEQR) resolutions on these applications be waived.

Motion carried by voice vote. The readings of the SEQR resolutions on these applications were waived.

■ A motion was made by MR. OPETT, seconded by MS. PURDY, that the following SEQR resolutions be combined for concurrent action and be approved:

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

**ZB #1202-17**

**APPLICANT: Mr. & Mrs. Kevin Schrader, 145 Rausler Road, Farmington, N.Y. 14425**

**ACTION: Area Variance to Chapter 165, Article IV, Section 35, for a front setback from the highway right-of-way to erect an accessory structure**

**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 the Action is identified in Section 617.5 (c) (10) and (13) as being a Type II Action in that it involves the granting of an area variance relating to front setback dimension for an accessory structure on an approved lot having necessary utilities.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board finds that the Action is classified 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.

**NOW, THEREFORE, BE IT 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.

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

**ZB #1203-17**

**APPLICANT: Mr. & Mrs. Kevin Schrader, 145 Rausler Road, Farmington, N.Y. 14425**

**ACTION: Area Variance to Chapter 165, Article IV, Section 35, to erect an accessory structure within the front yard portion of a lot located at the corner of Rausler Road and Maxwell Road**

**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 the Action is identified in Section 617.5 (c) (10) and (13) as being a Type II Action in that it involves the granting of an area variance relating to an accessory structure on an approved lot having necessary utilities.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board finds that the Action is classified 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.

**NOW, THEREFORE, BE IT 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.

Timothy DeLucia	Aye
Jeremy Marshall	Excused
Cyril Opett	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

Mr. DeLucia then read aloud the complete resolution for ZB #1202-17 and only those portions of the resolution for ZB #1203-17 which were different from ZB #1202-12.

Both resolutions are published below in their entirety.

Following the reading of the resolution, it was noted that Draft Condition #10 on both resolutions must be corrected to note that there shall be “no water service provided” to the proposed accessory structure. The resolutions published below include this correction.

■ A motion was made by MS. PURDY, seconded by YOURCH, that the Area Variance Findings and Decision resolutions for ZB #1202-17 and ZB #1203-17 be combined for concurrent action and that the following resolutions be approved:

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

<b>APPLICANT:</b> Mr. & Mrs. Kevin Schrader	<b>File:</b> ZB #1202-17
145 Rausler Road	<b>Zoning District:</b> A-80 Agricultural District
Farmington, N.Y. 14425	<b>Published Legal Notice:</b> Dec. 10, 2017
	<b>County Planning Action on:</b> N.A.
	<b>County Referral #:</b> N.A.
	<b>Public Hearing held:</b> December 18, 2017

**Property Location:** 145 Rausler Road, Farmington, N.Y. 14425

**Applicable Section of Town Code:** Chapter 165, Article IV, Section 35

**Requirement for Which Variance is Requested:** The applicant wishes to erect an Accessory Structure that would be set back 25 feet from the edge of pavement located within the highway right-of-way line along Maxwell Road. Therefore, the proposed accessory structure would be set back 13 feet from the highway right-of-way line for Maxwell Road. The Town Code defines setbacks from street lines to building lines. The Town Code also defines “street lines” as being the right-of-way line of a street and the front lot line. The Town Code requires a minimum front setback of 60 feet from a front lot line for land located within the A-80 Agricultural District.

**State Environmental Quality Review Determination:** The granting of an Area Variance to the front property line is classified as a Type II Action under Part 617.5 (c) (7) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

**County Planning Referral Recommendation:** The property does not lie within the jurisdictional area set forth in Section 239-1 of the New York State General Municipal Law and, therefore, is not subject to a referral to the Ontario County Planning Board.

## **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 character of the neighborhood is predominantly single-family detached dwellings fronting along the two public highways (Rausler and Maxwell Roads). The Board further finds that there are a number of other sites in the neighborhood that have accessory residential structures. The Board further finds that there is an on-site waste water treatment system that has been installed which is located behind the principal structure on the subject lot. The Board finds that this existing condition restricts any practical opportunity for relocating the proposed accessory structure on the lot. The Board further finds that the proposed location for the accessory structure will partially block the visibility of the adjacent property located on Maxwell Road, however, that structure is already partially blocked by the existing mature pine trees located along the north property line. Based upon these findings, the Board concludes that the proposed location for the accessory structure will not produce an undesirable change in the character of the neighborhood or be detrimental 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 there is no feasible alternative to the requested area variance. The Board finds that the only other location on the site where the proposed accessory structure could be located would adversely impact the on-site waste water treatment facility by the driving of vehicles across such facility to use the proposed accessory structure. The Board further finds that is not feasible to relocate the on-site waste water treatment facility on this site.

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

**Reasons:** The Board finds that the requested front setback for the proposed accessory structure from the highway right-of-way line for Maxwell Road is 13 feet. The minimum setback distance from the highway right-of-way line is sixty (60) feet. Therefore, the requested area variance is a seventy-eight percent (78%) reduction from the required front setback for a structure on a parcel of land located within this zoning district. The Board has consistently found that a variance in excess of fifty percent (50%) of what is otherwise required by Town Code is a substantial requested 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.     X Yes     \_\_\_ No

**Reasons:** The Board finds that the alleged difficulty associated with the placement of the proposed accessory structure on the subject lot is a self-created condition.

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

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

That the benefit to the applicant outweighs any known detriment to the neighborhood, or community and, therefore, the requested area variance is GRANTED with the following conditions:

1. The variance granted is to allow the applicant to erect the proposed accessory structure upon the subject lot 13 feet from the front property line along Maxwell Road.
2. The proposed exterior siding of the accessory structure is to match, to the extent practical, the exterior siding of the principal structure on the lot.
3. The applicant is to obtain a driveway permit from the Town Highway Superintendent for the proposed driveway to the accessory structure from Rausler Road.
4. The proposed driveway apron is to be installed in accordance with the standards contained in Sections 2.05 B. and 2.06 of the adopted Town of Farmington Site Design and Development Criteria.
5. The driveway pavement portion is to be installed not later than May 15, 2018.
6. There is to be a landscaping plan prepared that extends the planting of evergreen trees along the east property line, for a distance of at least equal to and in-line with the north building elevation of the principal structure on the lot. This landscaping plan is to be submitted to the Town Code Enforcement Officer for his acceptance and said landscaping is to be installed prior to the issuance of the Certificate of Completion for the accessory structure.
7. There must be a driveway turnaround for the proposed accessory structure constructed on the subject lot so as to avoid any backing of vehicles from the site onto Rausler Road.
8. All lighting on the proposed accessory structure shall comply with the Town's Lighting Standards contained in Chapter 165 of the Town Code.
9. There shall be no parking of any vehicle upon the proposed driveway to the accessory structure that would be located within the intersection visibility area of the adjacent intersection of Maxwell Road with Rausler Road.
10. There shall be no water service provided to the proposed accessory structure.
11. There shall be no occupancy of the proposed accessory structure.
12. The applicant is to obtain a Building Permit for the proposed accessory structure after the highway work permit has been issued by the Town Highway Superintendent. A copy of said highway permit is to be placed in the Building Department's files for this project.

**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.

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

**APPLICANT:** Mr. & Mrs. Kevin Schrader **File:** ZB #1203-17  
145 Rausler Road **Zoning District:** A-80 Agricultural District  
Farmington, N.Y. 14425 **Published Legal Notice:** Dec. 10, 2017  
**County Planning Action on:** N.A.  
**County Referral #:** N.A.  
**Public Hearing held:** December 18, 2017

**Property Location:** 145 Rausler Road, Farmington, N.Y. 14425

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

**Requirement for Which Variance is Requested:** The applicant wishes to erect an Accessory Structure in the front-yard portion of the lot. The Town Code requires Accessory Structures to be located in the rear yard.

**State Environmental Quality Review Determination:** The granting of an Area Variance to the construction of an accessory structure in the front yard portion of an approved residential lot is classified as a Type II Action under Part 617.5 (c) (7) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

**County Planning Referral Recommendation:** The property does not lie within the jurisdictional area set forth in Section 239-1 of the New York State General Municipal Law and, therefore, is not subject to a referral to the Ontario County Planning Board.

**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 character of the neighborhood is predominantly single-family detached dwellings fronting along the two public highways (Rausler and Maxwell Roads). The Board further finds that there are a number of other sites in the neighborhood that have accessory residential structures. The Board further finds that there is an on-site waste water treatment system that has been installed which is located behind the principal structure on the subject lot.

The Board finds that this existing condition restricts any practical opportunity for relocating the proposed accessory structure on the lot. The Board further finds that the proposed location for the accessory structure will partially block the visibility of the adjacent property located on Maxwell Road, however, that structure is already partially blocked by the existing mature pine trees located along the north property line. Based upon these findings, the Board concludes that the proposed location for the accessory structure will not produce an undesirable change in the character of the neighborhood or be detrimental 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 there is no feasible alternative to the requested area variance. The Board finds that the only other location on the site where the proposed accessory structure could be located would adversely impact the on-site waste water treatment facility by the driving of vehicles across such facility to use the proposed accessory structure. The Board further finds that is not feasible to relocate the on-site waste water treatment facility on this site.

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

**Reasons:** The Board finds that the requested area variance involves a variance request which is one hundred percent (100%) reduction from the required prohibition for placement of an accessory structure within the front yard portion of a lot located within this zoning district. The Board has consistently found that a variance in excess of fifty percent (50%) of what is otherwise required by Town Code is a substantial requested 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.      X  Yes     \_\_\_ No

**Reasons:** The Board finds that the alleged difficulty associated with the placement of the proposed accessory structure on the subject lot is a self-created condition.

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

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

That the benefit to the applicant outweighs any known detriment to the neighborhood, or community and, therefore, the requested area variance is **GRANTED** with the following conditions:

1. The variance granted is to allow the applicant to erect the proposed accessory structure upon the subject lot and within the front yard portion of the property line along Maxwell Road.
2. The proposed exterior siding of the accessory structure is to match, to the extent practical, the exterior siding of the principal structure on the lot.
3. The applicant is to obtain a driveway permit from the Town Highway Superintendent for the proposed driveway to the accessory structure from Rausler Road.
4. The proposed driveway apron is to be installed in accordance with the standards contained in Sections 2.05 B. and 2.06 of the adopted Town of Farmington Site Design and Development Criteria.
5. The driveway pavement portion is to be installed not later than May 15, 2018.
6. There is to be a landscaping plan prepared that extends the planting of evergreen trees along the east property line, for a distance of at least equal to and in-line with the north building elevation of the principal structure on the lot. This landscaping plan is to be submitted to the Town Code Enforcement Officer for his acceptance and said landscaping is to be installed prior to the issuance of the Certificate of Completion for the accessory structure.
7. There must be a driveway turnaround for the proposed accessory structure constructed on the subject lot so as to avoid any backing of vehicles from the site onto Rausler Road.
8. All lighting on the proposed accessory structure shall comply with the Town's Lighting Standards contained in Chapter 165 of the Town Code.
9. There shall be no parking of any vehicle upon the proposed driveway to the accessory structure that would be located within the intersection visibility area of the adjacent intersection of Maxwell Road with Rausler Road.
10. There shall be no water service provided to the proposed accessory structure.
11. There shall be no occupancy of the proposed accessory structure.
12. The applicant is to obtain a Building Permit for the proposed accessory structure after the highway work permit has been issued by the Town Highway Superintendent.

dent. A copy of said highway permit is to be placed in the Building Department's files for this project.

**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.

Timothy DeLucia	Aye
Jeremy Marshall	Excused
Cyril Opett	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

## 6. PUBLIC COMMENTS

None

## 7. OTHER BOARD MATTERS

### **Status of Indus Hospitality Group Area Variance and Planning Board Applications:**

Mr. Brand reviewed the status of the Indus Hospitality Group Area Variance applications (ZB #0701-17 through ZB #0708-17) which are pending before the Zoning Board of Appeals; and the Preliminary Subdivision Plat application, the Preliminary Site Plan application and the Special Use Permit applications which are pending before the Planning Board (PB #1202-17 through PB #1205-17), as follows:

**November 27, 2017**                      ZBA Public Hearings opened, Area Variance applications presented to the ZBA; SEQR 30-day public review period established by ZBA (November 28, 2017 to December 29, 2017); Project Notification Review Letters (PNRL) and information packets sent to Involved and Interested Agencies along with a request for a Lead Agency to be established; Public Hearings originally continued to January 15, 2018 (*see below for amended continuation date*)

**November 27, 2017**                      The ZBA requests, in the PNRL, that the Planning Board consider declaring its intent to be designated as the Lead

Agency for making the SEQR determination following the completion of the 30-day public review period

**December 6, 2017**

Planning Board Public Hearings opened on the Two-Lot Preliminary Subdivision and two Special Use Permit applications; discussion opened on Preliminary Site Plan application; Planning Board Public Hearings continued to January 3, 2018

**December 6, 2017**

Planning Board declares its intent to be designated as the Lead Agency for making the SEQR determination following the 30-day public review period

**December 18, 2017**

Mr. Brand recommends that the ZBA reschedule the continuation date of the ZBA Area Variance Public Hearings from January 15, 2018 (which is Martin Luther King Jr. Day, a legal holiday) to January 8, 2018. The ZBA directs a new Legal Notice to be published in the Town's Official Newspaper and posted on the Town's website of the change in date for the January meeting.

**December 18, 2017**

Mr. Brand recommends that the ZBA take action to indicate that it has no objection to the Planning Board designating itself as the Lead Agency for making the SEQR determination regarding the Indus Hospitality Group applications at its January 3, 2018, meeting; and that the ZBA directs Town staff to give written notice to the SEQR Involved and Interested Agencies of the Board having no objection.

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

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION**

**SEQR RESOLUTION—UNLISTED ACTIONS**

**ZB #0701-17 through #0708-17**

**APPLICANT:** Indus Hospitality Group, Attention: Kip Finley, P.E., Director of Development, 950 Panorama Trail South, Rochester, N.Y. 14625

**ACTION:** Agreement with the Town Planning Board's declared intent to be designated Lead Agency under the State Environmental Quality Review (SEQR) Regulations.

**WHEREAS**, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the ZBA) has received the attached Project Notification Review Letter Response Form from the Town Planning Board (hereinafter referred to as Planning Board); and,

**WHEREAS**, the ZBA finds that the Planning Board has declared its intent to be designated the Lead Agency for the Actions identified above herein which are pending before the ZBA; and, for Preliminary Subdivision Plat approval, Preliminary Site Plan approval and the granting of two special use permits, which are pending before the Planning Board.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board finds that the Planning Board is the most appropriate involved agency for making the required determination of significance upon the pending Actions before the ZBA and the Planning Board.

**BE IT FURTHER RESOLVED THAT** the ZBA does not object to the Planning Board, at its January 3, 2018, meeting, designating itself as the Lead Agency for these pending Actions subject to the ongoing reviews under Part 617 of the SEQR Regulations.

**BE IT FURTHER RESOLVED THAT** the ZBA in making this determination further instructs the Town Director of Planning and Development to provide by U.S. Mail, a revised PNRL to the original lists of Involved and Interested agencies along with a copy of this resolution.

**BE IT FURTHER RESOLVED THAT** the ZBA does hereby change the date of the Board's January meeting, a continuation of the Public Hearing upon the requested Area Variances, from Monday, January 15, 2018, to Monday, January 8, 2018, to avoid holding a Public Hearing on a National Holiday.

**BE IT FURTHER RESOLVED THAT** the ZBA directs public notices be published and posted in accordance with the ZBA's 2017 adopted Rules of Procedure.

**BE IT FINALLY RESOLVED THAT** the ZBA in making this decision has satisfied the procedural requirements under SEQR and the New York State Open Meetings Law; and directs this Resolution to be placed in the Town file upon this Action.

Motion carried by voice vote.

## **8. CODE ENFORCEMENT OFFICER**

Mr. Morse reported that the Home Leasing is planning an aggressive construction schedule in early 2018 for the Farmington Gardens Phase II apartment project located along the west side of State Route 332 and along the extension of Hathaway Drive to Mercier Boulevard.

He also reported that more than 600 building permits have been issued by the Town in 2017; this is the second year in a row that more than 600 building permits have been issued.

Mr. Morse noted that staff from the New York State Department of Agriculture and Markets will present a program on updates for planning and zoning on farmland protection on Thursday evening, January 18, 2018, in Canandaigua, N.Y. He will send information to board members via e-mail. This program may be used for training credits in 2018.

**9. NEXT MEETING DATE**

The next regular meeting of the Zoning Board of Appeals will be held on Monday, January 8, 2018, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

**10. ADJOURNMENT**

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

Motion carried by voice vote.

The meeting was adjourned at 7:55 p.m.

Following the meeting, the clerk locked the front entrance doors to the Town Hall.

The Local Solid Waste Management Committee was still meeting in the Conference Room at the time of adjournment.

Respectfully submitted,

\_\_\_\_\_  
John M. Robortella L.S.  
Clerk of the Zoning Board of Appeals