

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS MEETING MINUTES**

Approved MINUTES

The following minutes are a written summary of the main points that were made and the actions taken at the Town of Farmington Zoning Board of Appeals meeting held on December 28, 2015.

Zoning Board of Appeals Members

Ann Vu	Chair	Present
Timothy DeLucia		Present
Cyril Opett		Present
Nancy Purdy		Present
James Russell		Present

Town Staff Members

James Morse	Code Enforcement Officer
Ron Brand	Director of Development

Also Present

Craig Record	4513 State Street, Farmington
Lloyd Twitchell	5107 Shortsville Road, Farmington
Greg Atwood	5041 Shortsville Road, Farmington

Open Meeting

Ann Vu called the meeting to order at 7:00 pm. She explained the emergency evacuation procedures and rules of procedures of the meeting.

Approval of Minutes

Nancy Purdy made a motion to accept the November 23, 2015 meeting minutes and James Russell seconded the motion. A voice vote was taken and the motion was passed with five (5) Ayes.

BOARD BUSINESS:

Ann Vu stated that the Legal Notices were published in the town's official newspaper the Daily Messenger on Sunday, December 20, 2015 for tonight's Public Hearings. She also attests to the posting of the agenda on the Town's website and on the Bulletin Board located at the Town Hall. Copies of the legal notices and tonight's agenda are on the sign-in table. She asked everyone in attendance to please sign-in.

NEW BUSINESS:

ZB 1201-15

Craig Record

Area Variance

Applicant is requesting an area variance to the provisions of Chapter 165, Article IV. Section 58.A. of the Farmington Town Code. The Applicant desires to have an existing storage shed, an accessory structure, to remain in the front yard portion of the lot. The Town Code requires accessory structures to be located in the rear yard portion of the lot. The property is located at 4513 State Street and is zoned A-80 Agricultural District.

Ann Vu declares the public hearing open.

Craig Record is present to speak on behalf of the above application. Mr. Record explains that when he purchased his property there was a very old shed erected on the lot without obtaining a building permit. Mr. Record then distributes a picture he printed from google maps showing his property and where he has erected a 10x12 shed. He explains that he owns about 100 acres and that he has erected a new shed in the same area of the site which is not visible from the road. He explains that the shed is movable but would like an area variance to leave it in its current location due to the improvements he has made to his driveway and due to the location of his septic system on the lot.

Mr. DeLucia asks if the dirt area shown on the google map around Mr. Record's house is not fortified driveway.

Mr. Record says no and explains that is due to the leach fields and septic system.

Ann Vu then asks for questions or comments from the staff.

Ron Brand, Director of Development, informs the Board that he has drafted and posted upon the town's website two Resolutions for them to review. One of which is a SEQR Resolution-Type II Action. The second resolution is a draft findings and decision granting approval with conditions.

James Morse, Code Enforcement Officer, adds the new shed that Mr. Record has erected on the lot is an improvement to what was on the property when it was purchased.

Nancy Purdy asks if the shed is any bigger then what was originally on the property.

Mr. Record says it is the same size it just looks a lot nicer.

Cyril Opett asks the applicant what the aesthetics of the shed look like.

Mr. Record explains that the shed is colonial style painted and shingled to match the house.

Ann Vu then asks for any questions or comments from the Board, staff or the public for the applicant.

Hearing no response Cyril Opett makes a motion to close the public hearing for ZB 1201-15 and is seconded by Nancy Purdy. A voice vote was taken and the motion was passed with five (5) Ayes.

ZB 1202-15

Lloyd Twitchell

Temporary Use Permit

Applicant is requesting renewal of an existing temporary use permit to the provisions of Chapter 165, Article VII., Section 165-91. of the Farmington Town Code. The Applicant desires to continue, for a five year period, a fabricating and painting commercial business for farm machinery and construction equipment. The Town Code allows for the renewal of a temporary use permit for a maximum period of five years. The property is located at 5107 Shortsville Road and is zoned A-80 Agricultural District.

Ann Vu declares the public hearing open.

Lloyd Twitchell is present to speak on behalf of the above application. Mr. Twitchell explains that everything has stayed the same since he first received the temporary use permit two years ago. He repairs farm and construction equipment as well as some fabricating and painting in the existing buildings on the property. He explains that he has added more millings and stone to the driveway which has stayed the same size and shape.

Ann Vu then asks for comments or questions from the staff.

James Morse explains that in the last couple of years they have not received any complaints about Mr. Twitchell regarding noise or anything else. Mr. Morse adds that Mr. Twitchell has obtained all the proper permits, when needed, pertaining to the temporary use permit.

Ron Brand clarifies that this is not a renewal of the temporary use permit due to the fact that the original permit expired in September 2015. Due to the pervious permit expiring, under code, Mr. Twitchell can obtain the temporary use permit for two years and will need to reapply prior to the expiration in December 2017 for an additional three years. He adds that Mr. Twitchell's business has become a very good business and feels that in the future it should become a special permitted use in the A-80 Agricultural District.

Ann Vu then asks for any further questions or comments from the Board, staff or the public for the applicant.

Mr. Record adds that his kids love driving buy Mr. Twitchell's property simply because of his Monster Truck.

Ann Vu then asks for any further questions or comments from the Board, staff or the public for the applicant.

Hearing no response James Russell makes a motion to close the public hearings for ZB 1202-15 and is seconded by Timothy DeLucia. A voice vote was taken and the motion was passed with five (5) Ayes.

Area Variance and Findings

ZB 1201-15

Craig Record

Timothy DeLucia made a motion to waive the reading of the SEQR Type II Resolution and was seconded by Ann Vu. All present voted Aye. Cyril Opett made a motion to accept the SEQR Resolution and was seconded by James Russell. All present voted Aye.

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

Applicant: **Craig Record**
4513 State Street
Farmington, NY 14425

File: **ZB # 1201-15**
Zoning District: **A-80 Agricultural**
Published Legal Notice on: **12/20/2015**
County Planning Action on: **N.A.**
County Referral # **N.A. Exempt Action**
Public Hearing held on: **12/28/2015**

Property Location: **4513 State Street, Farmington, NY 14425**

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

Requirement for which Variance is requested: **The applicant wishes an Area Variance to be granted to allow an existing 120 square foot single story Accessory Structure, a Storage Shed, to remain to be located within the Front Yard portion of the parcel located at 4513 State Street. The Town Code requires Accessory Structures, in the A-80 Agricultural District, to be located only within the rear yard portion of the Lot.**

State Environmental Quality Review Determination: **The granting of the area variance, to enable a minor accessory residential structure, including garages, barns, storage sheds or other buildings not changing land use or density, 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 not to have a significant impact upon the environment or are otherwise precluded from environmental review under the Environmental Conservation Law, Article 8.**

County Planning Referral Recommendation: **This Application is not required to be reviewed by the Ontario County Planning Board under the provisions of the New York State General Municipal Law. It is classified as an Exempt Action.**

FACTORS CONSIDERED & 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

Reason: The Board finds that the proposed Accessory Structure is located upon a Lot having a Principal Structure that is located approximately 350 feet south of State Street. The Board further finds that this lot contains extensive wooded areas and that neither the Principal Structure or the Accessory Structure are visible to passing motorists along State Street. The Board further finds that in this area there are very few single family dwellings. The Board further finds that in this instance, this portion of the Lot is where there is located is the most open area of the lot besides the Principal Structure. The Board further finds that the Accessory Structure is located well in excess of the minimum sixty (60) foot Front Setback required for a Principal Structure within the A-80 District. The Board further finds that the proposed Accessory Structure will be placed in front of the Principal Structure, and beyond the minimum Front Building Line of a Principal Structure in the A-80 District. The Board further finds that the proposed Accessory Structure will be well screened from the nearest adjacent dwellings and from the public highway.

The Board also finds that the minimum lot size in the A-80 District is 80,000 square feet in area. The Board further finds that the subject Lot has a total area of 100 acres of land. The Board finds that as the result of the site's existing dense wooded areas and the existing established buffer area that a building of the total size proposed, when placed upon the site in the location identified, is not likely to have an undesirable change in the character of the neighborhood or will it be a detriment to nearby properties provided.

The Board, therefore, finds that with these considerations, the proposed Accessory Structure will not create an undesirable change to the character of the residential neighborhood, nor will it 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 No

Reason: A review of the aerial photos and site topography and open areas for this lot shows that the Accessory Structure is located upon a more open portion of the site than if it were to be placed within the Rear Yard portion of the site. The Board finds that based upon its review of the aerial photo for this property that the existing site conditions identify that there is little usable space in the Rear Yard portion of the lot that would be in close

proximity to the Principal Structure and its' driveway without having to remove additional areas of trees. The Board finds that the cost associated with such clearing and relocation of the existing structure cannot be achieved by a feasible alternative to granting the variance being requested.

3. Whether the requested variance is substantial. Yes No

Reason: The requested area variance is determined to be substantial since the Code prohibits the placement of any Accessory Structure within the Front Yard portion of a Lot in this zoning district. The variance being requested by this application is a variance involving a 100 percent increase from what is allowed by Code. The Board has consistently held that granting a variance greater than fifty percent (50%) of 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

Reason: The granting of an individual variance from a lot line has been classified as a Type II Action under SEQR. Type II Actions have been determined not to have a significant impact upon the environment or are otherwise precluded from environmental review under the Environmental Conservation Law, Article 8.

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

Reason: The Board finds that there have been no changes to the A-80 Agricultural District Regulations since the time when the applicant placed the Accessory Structure upon the property. The Board further finds that the alleged difficulty was self-created due to the Applicant's placement of the Accessory Structure upon the site. The Board finds that any Accessory Structure that would be located upon the site would likely necessitate the need for an area variance given the extensive coverage of the site with mature trees.

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 DOES NOT outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the area variance is DENIED.

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 area variance is GRANTED with the following Conditions.

Conditions:

1. **The applicant is to apply for and obtain a Building Permit for the proposed 120 square foot Accessory Structure that is to be located within the Front Yard portion identified upon the drawing submitted with this application. In no instance is the location or size of the existing Accessory Structure to change.**
2. **A condition of this area variance shall be that prior to issuing a Building Permit, the Code Enforcement Officer shall reviewed a detailed delineation of the setback dimensions for the existing Principal Structure and the proposed Accessory Structure from the property line along State Street. These dimensions are to be retained upon the above referenced plan drawing that is to be made a part of the file for this property.**
3. **A condition of this area variance is that the Accessory Structure shall not encroach closer to the adjacent property to the west of the site. The area variance hereby granted with conditions does not apply to any other setback variances that may become necessary based upon the Code Enforcement Officer's review of the more detailed drawing identified in Condition #2 above.**
4. **A condition of this area variance is that the siding for the Accessory Structure shall be made known to the Code Enforcement Officer prior to the issuance of any Building Permit and that said siding is to complement the siding and color of the siding on the existing Principal Structure.**
5. **A condition of this area variance is that the Accessory Structure may not be used as a dwelling unit.**
6. **A condition of this area variance is that any lighting that is to be associated with the Accessory Structure shall be compliant with the Town's Lighting Regulations in Chapter 165 of the Town Code.**

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 and directs this Resolution be placed in the public file on this Action.

The above Resolution was offered by Timothy DeLucia and seconded by Cyril Opett at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, December 28, 2015. Following discussion, the following roll call vote was recorded:

James Russell	- Aye
Nancy Purdy	- Aye
Cyril Opett	- Aye
Tim DeLucia	- Aye
Ann Vu	- Aye

The applicant agrees to all the above conditions.

Temporary Use Permit Findings & Decision ZB 1202-15 Lloyd Twitchell

Timothy DeLucia made a motion to waive the reading of the SEQR Type II Resolution and was seconded by Ann Vu. All present voted Aye. James Russell made a motion to accept the SEQR Resolution and was seconded by Cyril Opett. All present voted Aye.

**Town of Farmington
Temporary Use Permit Findings & Decision**

Applicant:	Lloyd Twitchell	Application # ZB – 1202-15
	5107 Shortsville Road	Zoning District: A-80 Agricultural
	Shortsville, NY 14548	Notice published: 12/20/15
		County Meeting: N.A.
		Hearing Held: 12/28/15

Property Location: 5107 Shortsville Road, south side, between Payne Road and County Road 28. Tax Map Account 42.00-1-24.100. Approximately 9.959 acres - total land area.

Use for which Permit is requested: Applicant desires to use existing farm buildings and open areas immediately adjacent thereto for a commercial business of fabricating and painting farm equipment and construction equipment.

State Environmental Quality Review Determination: the above referenced application has been determined to be a Type II Action in accordance with the provisions contained in Part 617.5 (c) (1), (3) and (7), New York Codes, Rules and Regulations and article 8 of the New York State Environmental Conservation Law.

County Planning Referral Number and Recommendation: In 2013, the County Referral # 128-2013. Class 1 with comment that... “application provides an important support service (ag machine repairs) for farm operations.” This Action involves no change in what was previously submitted to the County for their review and is, therefore, an Exempt Action.

In accordance with the provisions contained in Chapter 165, Section 91 of the Farmington Town Code, this application for a Temporary Use Permit is based upon the following Findings by Zoning Board of Appeals:

Test: No Temporary Use Permit will be granted without a clear understanding of the nature of the permit, the time period covered by the permit and a detailed listing of the conditions of approval. The following findings must be made by the Zoning Board of Appeals on any Temporary Use Permit:

- (1) The temporary use will be in harmony with the general purposes and intent of Chapter 165, Section 38 of the Farmington Town Code, taking into account the location and size of the proposed use, the nature and intensity of the operation involved in or connected with the proposed use and the size and location of the site in relation to adjacent sites and uses.**

Proof: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the original Temporary Use Permit, granted by this Board on September 24, 2013 has expired without the Applicant requesting renewal on or before September 23, 2015. The Board further finds that this Application is, therefore, considered to be a new application for a Temporary Use Permit that proposes no changes to the conditions originally agreed to by the Board. The Board further finds that the maximum period of time this Temporary Use Permit may be granted for is two (2) years.

The Board finds that the purpose of the proposed Temporary Use Permit is to allow the use of existing farm buildings and adjacent areas thereto, for the fabricating and painting of farm and construction equipment. The Board further finds that the subject property is located within the Ontario County Consolidated Agricultural District #1 and that the proposed use is felt to be an important agri-business service to farmers within the Town and within the County Agricultural District. The Board further finds that there will be no sales of farm or construction equipment from the premises. The Board further finds that the approximately 9.9 acre parcel of land is not large enough to sustain a livelihood from general farming operations. The Board further finds that the applicant does not intend to store used or abandoned farm or construction equipment on the premises that is not under contract for repairs and/or painting.

The Board further finds that the applicant does not intend to hire any employees to work on repairs and/or painting of the farm and construction equipment. The Board further finds that the applicant does not intend to have any commercial speech signs located on the property. The Board further finds that the applicant will not be storing petroleum

products on the site that would otherwise be regulated by the New York State Department of Environmental Conservation. The Board further finds that there will be no disposal of any hazardous or contaminated materials on the premises. The Board further finds that there will be no outdoor repairs and/or painting of farm or construction equipment conducted on the premises. The Board further determines that the applicant is aware of the limitations contained in the Town Code for the granting and renewal of a Temporary Use Permit. The Board further determines that the proposed hours of operation will be consistent with those established by the Town for construction sites, in that hours of operation will not exceed 7:00 a.m. to 7:00 p.m. Monday through Friday; 7:00 a.m. to 6:00 p.m. on Saturdays; and there shall be no Sunday or Holiday operations permitted.

The Board further finds that there have been no additional Building Permits issued for any expansion associated with the proposed Temporary Use Permit since the original Site Plan Approval from the Town Planning Board was granted on March 19, 2014. The Board further finds that there are no changes requested, as part of this Application, to the original Site Plan Approval.

(2) The proposed temporary use will not tend to depreciate the value of adjacent properties.

Proof: The Zoning Board of Appeals finds that the character of the neighborhood is agricultural land operations, agricultural buildings and low density residential single-family dwellings most of which are on lots of five acres or greater in size. The Board further finds that the applicant intends to maintain and to improve the farm buildings to sustain the ongoing farm and construction equipment repairs and painting operations. The Board further finds that the temporary storage of farm and construction equipment on the site will be consistent with the storage of farm equipment on adjacent farmlands. The Board further finds that the applicant has identified an existing arrangement with another implement dealer located in the Town to make repairs and do painting of farm and construction equipment. The Board further finds that the applicant intends to maintain the property and associated buildings in a general characteristic of the farming operations occurring in the neighborhood and not become a competitor to other established farm and construction equipment operations.

The Board, based upon these findings, concludes that the proposed temporary use will not tend to depreciate the value of adjacent properties. On the contrary, the Board finds that said temporary use will provide an opportunity to enhance the agricultural sector of the Town and County.

(3) The proposed temporary use will not create a hazard to health, safety or general welfare.

Proof: The Zoning Board of Appeals finds that the proposed use with the findings identified above herein will not create a hazard to health, safety or general welfare of the community. The Board further finds that granting the Temporary Use Permit with

conditions will enable the Town to evaluate the temporary operations associated with the proposed Temporary Use Permit, thereby allowing the Town opportunity to establish rule and regulations for creating a Special Use Permit for this type of land use in the rural agricultural areas of the community. Such action it is felt should promote and sustain the viability of agricultural operations and businesses within the community and county.

Based upon the above findings, the Zoning Board of Appeals hereby makes the following decision:

- The request for the Temporary Use Permit is hereby granted.**
- The request for the Temporary Use Permit is hereby granted with the following conditions set forth below:**
- The request for the Temporary Use Permit is hereby denied.**

The Zoning Board of Appeals hereby grants approval of the requested Temporary Use Permit with the following conditions:

- 1. The Temporary Use Permit is hereby granted for a period of two (2) years that is to commence on Tuesday, December 29, 2015 and will automatically terminate on December 29, 2017 unless renewed by the applicant prior to said date.**
- 2. The Temporary Use Permit is not transferrable to another party.**
- 3. The Temporary Use Permit does not enable the applicant to hire employees without first coming back to the Zoning Board of Appeals to amend this application.**
- 4. The Temporary Use Permit is hereby granted with the understanding that the applicant will not be seeking any additional Building Permit(s) which would first require Site Plan Approval from the Town Planning Board.**
- 5. The Temporary Use Permit is hereby granted with the condition that the findings contained above herein by the Zoning Board of Appeals are hereby made conditions of approval for the proposed Temporary Use Permit.**
- 6. The Temporary Use Permit is hereby granted to the applicant for the sole purpose of fabricating and painting of farm equipment and construction equipment.**
- 7. All conditions of Site Plan approval previously granted by the Town Planning Board are to be confirmed by the Code Enforcement Officer prior to issuing a Certificate of Compliance for the Temporary Use Permit.**
- 8. The fabricating and painting operations on the site shall be maintained in good condition during the two year period specified above. At the end of the two year period, the equipment, supplies and materials used in the fabrication and**

painting operation shall be removed unless another Temporary Use Permit has been issued.

The Temporary Use Permit is hereby issued to Lloyd Twitchell and is not transferable to a second party.

Copies of this Finding and Decision are to be filed with the Farmington Town Clerk, the Farmington Development Office and the Applicant within five (5) business days of the date of this action.

Upon the expiration of the requested Temporary Use Permit, the temporary use shall immediately cease unless it has been renewed by the Board; and all equipment, supplies and materials relating to this permit shall be removed from the site and the site shall be returned to a condition acceptable to the Town Code Enforcement Official within sixty (60) days.

The above Resolution was offered by Ann Vu and seconded by Timothy DeLucia at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, December 28, 2015. Following discussion, the following roll call vote was recorded:

**James Russell-- Aye
Nancy Purdy – Aye
Cyril Opett – Aye
Tim DeLucia – Aye
Ann Vu -- Aye**

The applicant agrees to all the above conditions.

Public Comments – open forum

None

Other Board Matters:

Ann Vu will distribute 2016 Rules of Procedures to the board members prior to the January meeting for their review.

Ann Vu will also submit a summary report of the 2015 Zoning Board of Appeals meetings to the board members as well as to staff.

Ann Vu will also distribute recommendations, updates, changes, modifications and amendments for potential changes to Chapter 165 of the Town Code.

Ron Brand reviewed the Case Law Updates with the board members and highlighted important cases for the members to review closely. He will email the confidential

secretary Tuesday so the board members can receive two (2) training hours to be used for 2015 or carried over to 2016.

Code Enforcement Update:

Mr. Morse contacted BAS (Business Automation Systems) about enabling a tracking system on their current system to help remind our residents about permits or applications they currently have that may be expiring.

Director of Development Update:

No further Updates

Next Meeting:

The next Zoning Board of Appeals meeting will be held on January 25, 2016. A motion was made to adjourn the meeting at 8:02 pm and was passed with a voice vote of five (5) Ayes.

Minutes were respectfully submitted by Sarah Mitchell, Clerk of the Board.