

**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 May 18, 2015.

Zoning Board of Appeals Members

Ann Vu	Chair	Present
Ed Hemminger		Present
Wesley Pettee		Excused
Cyril Opett		Present
Tim DeLucia		Present

Town Staff Members

Ron Brand	Director of Development
Floyd Kofahl	Code Enforcement Officer

Also Present

Billie Jo M Ross	Newark, NY
Scott Harter	Victor, NY
Peter Ingalsbe	Farmington, NY

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

Edward Hemminger made a motion to accept the April 27, 2015 meeting minutes and Cyril Opett seconded the motion. A voice vote was taken and the motion was passed with four (4) Ayes.

BOARD BUSINESS:

Ann Vu stated that the Legal Notices were published in the town’s official newspaper the Daily Messenger on Monday, April 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.

CONTINUED BUSINESS:

ZB 0402-15

William Larsen

Area Variance

Applicant is requesting an area variance to the provisions of Chapter 165, Article IV. Section 18. B. of the Farmington Town Code. The Applicant desires to erect an Accessory Structure, a pole barn, upon Lot #4 of the proposed "Larsen – Hook Road Subdivision." At the present there is no Principal Structure located on this parcel of land. The Town Code restricts Accessory Structures to a Lot having a Principal Structure. The property is located on the west side of Hook Road, between Martz Road and Green Road and is zoned Town Law Section 278 District, Commercial GB District.

Billie Jo Ross is present and speaking on behalf of her father William Larsen who was unable to attend the meeting this evening. Ms. Ross starts by explaining that they are planning on constructing three homes on the property. Ms. Ross explains that the area variance for this evening is to grant the property owners permission to erect a pole barn on the property prior to constructing the principal structure. The main purpose of the accessory structure is to store materials, to build the home, as well as equipment to maintain the property. Mr. Ross explains that her parents currently reside in Connecticut and do not have property in New York to store the equipment.

Scott Harter is also present to speak on behalf of the above application. Mr. Harter is the engineer for this project. He explains that he is present to provide support for this application in hopes that the applicant can precede with their project. Mr. Harter explains that the project has received final site plan approval. He also explains that the map needs to be filed with the county and they are also waiting for the easements to be approved by the Town of Farmington. He explains once the easements are approved they can file the map so then the property can officially be created. He believes that Mr. Larsen's attorney as well as the town attorney, Jeff Graff, are working on the easements. He feels that their position with the zoning board this evening would be to request the approval of the variance with the condition that if the map does not get filed that the variance would no longer be granted.

Ann Vu explains that the map is only one piece. She then reads the definition of an Accessory – The term applied to a building or use which is customarily incidental and subordinate to and serves as principal building or principal use; is subordinate in area, extent or purpose to the principal building or principal use served; contributes to the comfort, convenience or necessity of occupants of the principal building or principal use; and is located on the same zoning lot as the principal building or principal use.

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

Ron Brand, Director of Development, explains that this sounds as though it should be a slam dunk no concerns at all. The applicant is going to construct three nice structures and sell the forth lot. Unfortunately we have had other instances where the accessory

structure was constructed on a lot and then nothing ever happened after that. The irony in this situation is that it has been several months now since final approval has been granted and they are vastly approaching the 180 day time limit for final approval to be signed by everyone and filed. If there was a final plat that was signed and moving forward he would suggest that the board approve with conditions. He explains that the options here tonight are to deny without prejudice because the application does not meet the code by definition. This will allow for a rehearing once the maps were filed with the county.

Mr. Harter says that it sounds that Ann Vu's concerns are relative to the code which sounds irrespective of the plat map however; Mr. Brand's comments seem to be geared toward the filing of the plat map. He feels as though Ms. Vu is looking at it as that the map doesn't really matter and questions if his interpretation is correct.

Ann Vu then explains that there is a whole sequence of steps that need to be followed and the filing of the plat map is the first step in getting the building permit which creates the present or plan for the primary structure which creates the ability to have an accessory to the primary structure.

Mr. Brand adds that what we have here is a situation where you can show on your site plan map a location for a principal structure and the applicant would like to change that location after the accessory structure has been erected there could be an issue with the accessory no longer being in the rear yard but now located in the side yard for which the variance wasn't granted. The irony of all this isn't with this application it's with the next application that comes along and someone wants another area variance for another accessory structure on a vacant lot and there is no principal structure and the board has already granted approval for this application.

Mr. Brand explains that one of the criteria that the board considers is practical difficulty. The practical difficulty that they are facing here is that this is a large piece of land that they are going to construct four houses on and that they are going to maintain that land. He then asks Ms. Ross how difficult would it be for her to rent a mini-storage unit here in Town to house the equipment and then transport it from storage to the building site?

Ms. Ross explains that she does not have a vehicle or trailer to transport the equipment with so it would not be a feasible alternative for them. Ms. Ross explains that she and her husband will be maintaining the property and they live in Newark.

Mr. Brand adds that he did not see anything in the file that states the applicant intending on using the accessory structure as habitable space.

Ms. Ross says not at all.

Mr. Brand explains that the issue here is to look at the practical difficulty that may exist upon the applicant and determine if it is creating an unnecessary hardship given the fact that the hardship was self-created to begin with because they do not have a principal structure.

Ann Vu then asks for questions or comments from Floyd Kofahl.

Mr. Kofahl says that they are working with the attorneys and they have “boiler plate” easements that they want used and “boiler plate” language. Unfortunately both attorneys are very busy and after speaking to the town attorney a few weeks ago they are currently waiting on the owners’ attorney to return the “final” version, they hope. The applicant has about a month to file the map or they will be required to apply for an extension.

Mr. Harter explains that his understanding is that the attorney representing Mr. Larsen is aware of everything and is hoping to wrap everything up in a week after which point they can file the easements and wrap everything up for the next zoning board meeting if the board should approve to continue.

Mr. Kofahl adds that they have granted variances in the past to construct an accessory structure prior to the principal structure and in some cases it has worked out fine and other situations, like on Collett Road, where no principal structure has been constructed and the property has been sold twice. He adds that it is up to the building department to track and watch these things. He also adds that you can’t grant a variance for an accessory structure and then give the applicant a year to construct the principal structure. In looking at the whole situation they have site plans and the “meats and bounds” so having a survey and locating the accessory structure wouldn’t be an issue because these are the approved lots and locations. As long as the accessory structure is being constructed in the proposed location and the topography allows plenty of area for the house he doesn’t see a potential issue here for the house location to affect the accessory structure being in the side yard. However, if they changed it they would be required to come back and apply for another variance. If the board decides to deny without prejudice the applicant can come right back in and it is almost the same as continuing and will be very close to the 180 day time frame. The resolution will be enforced by the building department. They cannot and will not issue a building permit until they have a filing number. Once the filing number is received the building department can issue the accessory structure permit.

Mr. Harter explains that the site plans for this application are not generic. This site plan is very specific as to what Mr. Larsen wants. He supposes that things can change but generally speaking they are pretty locked into this design from septic and driveways to property lines and drainage. He understands that there is a risk but doesn’t want to leave them with something that would be embarrassing to the town.

Mr. Hemminger then asks Mr. Kofahl how long they issue building permits for.

Mr. Kofahl explains that town codes states eighteen months.

Mr. Hemminger then asks Ms. Ross what the plan is for building a principal structure on that lot.

Ms. Ross explains that his plan is to start building the house in the summer of 2016. She adds that Mr. Larsen plans to build the house himself. This will be his retirement home. They plan to retire in December of 2017 and live here full time beginning in 2018.

Mr. Brand adds that this is a cluster project as far as density. Although they have more land than they do houses right now Mr. Larsen has chosen to preserve the rural character by having four building lots. Unless the Town Board changes the zoning for that particular parcel of land this will not change.

Mr. Harter then approaches the board members and explains the site plans to the members. He explains where the easements are and what the attorneys are currently working on. He also shows where the proposed structure will be constructed as well as where the driveways and leach fields will be located.

Ann Vu then suggests to the board members that the public hearing be left open until the June 22, 2015 meeting so the easements can be finalized and the map can be filed with the county.

Edward Hemminger made a motion to continue the public hearing until June 22, 2015 for ZB 0402-15 and Ann Vu seconded that motion. A voice vote was taken and the motion passed with four (4) ayes.

ACTION RESOLUTION – CONTINUATION

ACTION: **Continuation of Public Hearing, Area Variance, Accessory Structure, Lot #4, Larsen/Hook Road Subdivision**

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Zoning Board of Appeals) has reopened the public hearing tonight upon the above referenced Action; and

WHEREAS, the Zoning Board of Appeals has identified at tonight’s meeting that the Applicant’s Engineer is finalizing the filing of the Final Plat Map for the Larsen/Hook Road Subdivision; and

WHEREAS, the Zoning Board of Appeals has received testimony at tonight’s public hearing that the Final Plat Maps are expected to be filed in the Ontario County Clerk’s Office next month; and

WHEREAS, the Zoning Board of Appeals desires to have the Final Plat Maps filed in order for the Board to continue its deliberation upon the requested Area Variance for Lot #4 of the above referenced subdivision.

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board of Appeals does hereby move to table further consideration upon this requested Area Variance and to

continue the public hearing upon this Action to the June 22, 2015 Zoning Board of Appeals meeting.

The above resolution was offered by Edward Hemminger and seconded by Ann Vu at a meeting of the Zoning Board of Appeals held on Monday, May 18, 2015. Following discussion thereon, the following roll call vote was taken and recorded:

Timothy DeLucia	-	Aye
Cyril Opett	-	Aye
Wesley Pettee	-	Excused
Edward Hemminger	-	Aye
Ann Vu	-	Aye

Public Comments – open forum

None

Other Board Matters:

None

Director of Development Update:

The meeting minutes now must reflect all the findings and the full resolutions per our Town Attorney.

Code Enforcement Update:

The building department is getting a lot of inquiries about “blue pools” which depending on deepness do require fencing. They are also very busy with applications for decks and various projects.

Next Meeting:

The next Zoning Board of Appeals meeting will be held on June 22, 2015. A motion was made to adjourn the meeting at 7:45 pm and was passed with a voice vote of four (4) Ayes.

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