

**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 April 26, 2010.

**Zoning Board of Appeals Members**

Edward Hemminger--Chairman  
Leslie O'Malley  
Raymond Ward  
Chris Dunfey  
Gary Scribner

**Staff Members**

Floyd Kofahl -Code Enforcement Officer  
Ron Brand -Director of Development

**Also Present**

Ronald Weigert -6008 Green Road, Farmington, N.Y. 14425  
Dave Kavanagh -Ryan Homes  
Jesse Hunter -298 Stonefield Lane, Farmington, N.Y. 14425  
Nancy Weaver -1432 Sand Hill Road, Shortsville, N.Y. 14548  
Michael Lord -308 Stonefield Lane, Farmington, N.Y. 14425  
Neil & Rebecca Comstra -290 Stonefield Lane, Farmington, N.Y. 14425

**Open Meeting**

Edward Hemminger called the meeting to order at 7:00 pm. He explained the emergency evacuation procedures and rules of procedures of the meeting and stated that copies of the evening's agenda and legal notices were available on the table by the door. He then asked those present to sign in if they had not already done so.

**Approval of Minutes**

Gary Scribner made a motion to accept the March 22, 2010 meeting minutes as corrected and the motion was seconded by Raymond Ward. A voice vote was taken and the motion was passed with five (5) Ayes.

**BOARD BUSINESS:**

**JON STONE  
RYAN HOMES of NY  
400 Air Park Drive, Suite 30  
Rochester, New York 14624**

**#ZB 0401-10**

**AREA VARIANCE**

**The applicant is requesting an area variance to the provisions of Chapter 165, Article IV, Section 35. of the Farmington Town Code. The applicant wishes to construct a single family dwelling twenty seven (27) feet from the front property line. The Town Code requires a minimum sixty (60) foot set back from the front property line. The property is located at 290 Stonefield Lane, Lot #21 of the Stonewood Subdivision and is zoned A-80 Agricultural District.**

Edward Hemminger read the legal notice for #ZB 0401-10 that was published in the Daily Messenger on Monday, April 19, 2010 requesting an area variance.

Dave Kavanagh, speaking for Jonathan Stone of Ryan Homes, stated that they have customers ready to build a home on the lot. The maps filed with the town show a 20' setback around the entire property and we did not know there was a town code that showed anything different with what was the front of the property and what was not. The front of the property is shown even with the road and we thought it would be facing the opposite direction. We are asking for a variance to have the front of the house where we thought it would be. If we have to move the house back to the 60' setback requirement we would have to turn the house in order to make it fit and have the 20' setback in the rear of the property. The backyard basically becomes useless and they would then have only a side yard.

Neil Comstra added that they would like to bring the house forward so they could turn the house on the lot in order to have a useable backyard.

Ron Brand reminded the Board that this would be a Type II action with a 55% variance at 27 feet.

Floyd Kofahl told the Board that on the approved plans, all the site data for the subdivision, the building requirements are 60' front setback, 20' side setbacks, and 20' rear setback. When these were approved there were no variances requested or any reductions. When this was approved it was zoned A-40 and has always been 60' front setback. One of the main issues that was addressed in Mr. Stone's letter is whether it was self created or not. From my standpoint I believe it was self created.

Ronald Weigert, a neighbor, said that with the 60' front setback they would not be able to get any machinery around to the back without encroaching on a neighbor's land.

Jessie Hunter, also a neighbor, stated that he didn't hear anything about what the effect is for the people living there now. Jessie sees being that close to the property as something that will devalue his property. It will take away a view from his backyard and would invade his privacy to a point.

Michael Lord said that he is Jessie's neighbor and feels the same as Jessie does.

Floyd Kofahl told the Board that a letter was received from a neighbor, Robert Salmon, requesting that the Zoning Board reject the area variance requested by Ryan Homes. Floyd stated that there are other lots with the same situation as this lot.

Dave Kavanagh asked if they could come up with a compromise. We are willing to do whatever we can.

Ron Brand reminded the Board that the variance being requested is a variance of 55%. The Board is obligated to consider the criteria for granting a variance of 55% and your ultimate decision, if you do grant a variance, is the minimum variance necessary in order to accomplish the development of an existing approved lot in a manner that may not fit exactly what one party wants but is the minimum necessary to allow the construction of the home.

Edward Hemminger stated that he would like to see some options that do not require a variance so we can see how bad it really is on the property.

The Board, after discussing different options for putting the house on the lot, decided they would like to see the building physically staked out on the land with a 60' front setback and a 40' front setback.

Edward Hemminger stated that the Board will keep the Public Hearing open and the Board will visit the site, two members at a time, and will discuss it again at the May 24 meeting.

Edward Hemminger made a motion to continue the Public Hearing at the May 24 meeting and Gary Scribner seconded the motion. A voice vote was taken and the motion was passed with five (5) Ayes.

**BOARD BUSINESS:**

**NANCY WEAVER  
1432 Sand Hill Road  
Shortsville, N.Y. 14548**

**#ZB 0402-10**

**USE VARIANCE**

**The applicant is requesting a use variance to the provisions of Chapter 165, Article V, of the Farmington Town Code. The applicant wishes to construct a second single family dwelling, a second principal building, on a single parcel of land. The Town Code specifies that no lot in a residential district shall have more than one principal building. The property is located at 1432 Sand Hill Road and is zoned A-80 Agricultural District.**

Edward Hemminger read the legal notice for #ZB 0402-10 that was published in the Daily Messenger on Monday, April 19, 2010 requesting a use variance.

Nancy Weaver told the Board that she would like to build a guest house. My property is 2.4 acres and there are 20' setbacks on the sides and the rear. It would be just a two room structure, 22' X 44', and would blend in with the surroundings.

Edward Hemminger asked Nancy if she has seen the four proofs that must be met for a use variance. They are specific relating to financial, etc. We did not receive any financial data. Use variances are very difficult. Let's talk about different options with staff and see if we can find a solution.

Ron Brand stated that unlike an area variance, with a use variance you have to find four positive proofs.

Edward Hemminger stated that a use variance is forever. It runs with the property. Two of the criteria, the financial and the self created, are two of the four criteria I think would be impossible for you to justify. I think the use variance has a slim possibility. I would like to see the applicant work with staff for a possible area variance or other alternatives.

Floyd Kofahl said they did review some options that did not work out because of needing a mortgage.

Edward Hemminger told Nancy that it sounds like staff has gone over all the different options with you.

All Board members were asked and verbally rejected the request for a use variance.

Edward Hemminger stated that there are options, we can continue the Public Hearing to give you a chance to come up with the data we need at the next meeting or, if you feel you can't do that you can withdraw the application or, you can ask us to vote on the use variance tonight.

Nancy Weaver said she would withdraw the application for a use variance and will send staff a letter stating her withdrawal and will work with staff for an alternative solution.

The Public Hearing was closed at 8:17 pm.

**Other Board Matters:**

None

**Director of Development Update:**

Ron Brand said he would like the Zoning Board to ask the chairman to submit a memo to him or to Ted stating that the Zoning Board understands the ramifications of repealing the Land Conservation District and that the Zoning Board has no objections to the Town Board repealing it given the fact that there are sections of the state law and town codes that protect the environmental resources.

**Code Enforcement Officer Update:**

None.

**Next Meeting:**

The next Zoning Board of Appeals meeting will be held on Monday, May 24, 2010.

Gary Scribner made a motion to adjourn the meeting at 8:29 pm. Leslie O'Malley seconded the motion. The motion was passed with a voice vote of five (5) ayes.

Minutes were respectfully submitted by Patricia Eddy, Clerk of the Board.