

*Town of Farmington*

1000 County Road 8  
Farmington, New York 14425

**ZONING BOARD OF APPEALS**

*Established July 15, 1957*

**Monday, November 27, 2023, 7:00 p.m.**

**MINUTES—Approved**

*The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Farmington Zoning Board of Appeals. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions. An audio recording of the meeting is made in accordance with the Zoning Board of Appeals adopted Rules of Procedure. The audio recording is retained for four months.*

**Board Members Present:** Thomas Yourch, *Chairperson*  
Tod Ruthven  
Jody Binnix  
Kelly Cochran  
Tom Lay

**Staff Present:**  
Dan Delpriore, Code Enforcement Officer, Town of Farmington  
Ron Brand, Town of Farmington Director of Development  
Jeff Graff, Town Attorney, Graff Attorney at Law

**Applicant’s Present:**  
David Lowry 230 Ellsworth Road, Farmington  
Jim Fowler 6176 Hunters Drive, Farmington

**1. MEETING OPENING**

The meeting was called to order at 7:00 p.m. by Mr. Yourch.

The Pledge of Allegiance was recited.

Mr. Yourch said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 27, 2023.

This meeting was held both in person at the Farmington Town Hall and virtually on Zoom.

## 2. APPROVAL OF MINUTES OF AUGUST 28, 2023

■ A motion was made by MR. RUTHVEN seconded by MR. LAY, that the minutes of the AUGUST 28, 2023, meeting be approved.

Motion carried.

## 3. LEGAL NOTICE

The following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper on Sunday, November 19, 2023:

**ZB 1101-23 DAVID LOWRY, 230 ELLSWORTH ROAD, PALMYRA, NEW YORK, 14522:** The applicant is requesting an area variance to the provisions contained within Chapter 165, Article V, Section 58A, of the Farmington Town Code. The applicant wishes to erect a 12-foot-wide x 34-foot-long open lean-to to be attached to the existing pole barn located in the front yard portion of the lot. The Town Code requires all accessory structures in any zoning district to be located in the rear yard portion of a lot having a principal structure. The property is zoned A-80 Agricultural District and is located at 230 Ellsworth Road, in the Town of Farmington.

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

By order of:  
Thomas Yourch, Chairperson  
Zoning Board of Appeals  
TOWN OF FARMINGTON

## 4. CONTINUED PUBLIC HEARING

**ZB 0301-23 FOWLER FAMILY TRUST, 6176 HUNTERS DRIVE, FARMINGTON, NEW YORK, 14425:**

The applicant is requesting an area variance to the provisions contained in Chapter 165, Attachment 1, Schedule 1 of the Farmington Town Code. The applicant wishes to create a third lot that would have a minimum lot width of thirty (30) feet. The Town Code requires a minimum lot width of one hundred and twenty-five (125) feet. The proposed lot would be parts of a proposed re-subdivision of the Lot #R-5A with Tax ID #29.13-1-5.100, and Lot #R-5B with Tax ID #29.13-1-5.200 of the Pheasants Crossing Subdivision. These three (3) proposed lots would be located along the west side of Pheasants Crossing and within the Pheasants Crossing Subdivision Tract. All lots are zoned RS-25 Residential Suburban.

Mr. Yourch continued the public hearing for the above application and asked if there was anyone who would like to speak on behalf of the application.

Mr. Fowler stated to update you October 10, 2023, we had a meeting with Ron Brand and the chairperson of the Planning Board, and several other members of the Town and I think the engineering group was at that meeting. Out of that meeting came up four pages, from Ron Brand, of what we had to do in order to make you guys happy. We had a subsequent meeting afterwards where we showed the concept. These requirements that Ron gave us changes the whole concept of what we were going to do. Every one of our lots were 25,000 square feet or more. The 25,000 square feet that we had, by Ron's standards or the Town's, did not meet the 25,000 square feet that is needed. They also came up with another code saying that in a development your lot width to the depth cannot be more than two and a half times the width of the property, which doesn't make any sense to me. Anyways, that also required another lot to be changed. With those requirements, I'm assuming at this point, there is an exception to that rule of two and a half times the width of the lot. According to Ron, even though there is an exception to that, the Town can't find it. It's in the codes but they can't find it and I am assuming they are not going to supply me that exception. Is that correct?

Mr. Yurch said right now you are addressing us, and he will have his chance.

Mr. Fowler said so I am assuming they are not going to give me any code that shows what that exception is. So, we are moving on the direction that we have to be no more than two and a half times the width of one of the lots. So, we are moving in that direction. I am waiting for an answer from Dan, which I can take care of in a meeting next week, about an issue. That should take care of the last of my questions for the Town. I read your resolutions for tonight. Reading these resolutions, I am assuming that the portion about me supplying you data applies to Ron's letter of October 10<sup>th</sup>. Those would be the requirements that I need to meet as in your resolution.

Mr. Yurch said those are for the Planning Board.

Mr. Fowler said that is correct and as far as I know there is no other questions being asked of the Zoning Board other than I supply the information to the Planning Board.

Mr. Yurch said correct for SEQR so they can make their evaluation.

Mr. Fowler said right, so as long as the letter from the Town on October 10<sup>th</sup> *\*inaudible\** asking for requirements, I'm okay with that. Anything beyond that or in the future, that will have to be discussed. Fair enough? That's all I got to say tonight.

Mr. Yurch then asked for staff comments.

Mr. Brand said first of all the meeting was with the Planning Board Chairman not the Zoning Board of Appeals Chairman and it was in regard to the Planning Board resolution passed earlier this year that identified items that the code required the Planning Board ask for. Since that meeting, we have met with the applicant and his engineer, Dan and I, saw a revised drawing which we understood would be submitted as a new application and this application pending before the Planning Board was going to be withdrawn. What's before

you tonight is a public hearing that is being continued because the Planning Board hasn't received the necessary information they asked for or an explanation of why that should be waived and as a result of that we are standing here once again before the public with a public hearing that we can't take any action on. This is more than one or two times that we have done this, and we need to bring this to some kind of closure because it is not fair to the public, it is not fair to the applicant, and it is not fair to the Planning Board or this board. So, give the Planning Board what they are asking for and let the Planning Board determine if it is complete or not and then move on. The resolution that is before you tonight is a resolution to continue the public hearing until your meeting in January. \*inaudible\* for at least two meetings in December for the Planning Board and one in January if not two before you meet again. By that time, hopefully, whatever it is that we are going to be receiving will be received and will be determined by the Planning Board to be complete or incomplete. At some point you have to figure out how long you want to continue the public hearing waiting for information that was promised way back in August. That's all I have tonight.

Mr. Yurch said okay, Dan.

Mr. Fowler said noted we did still have one requirement, that wasn't there before, the two and a half times the one that you just found recently. That was added to the list.

Mr. Yurch said Dan.

Mr. Delpriore said I concur with Ron. We have had meetings with the applicant and the engineer for the applicant. He has shown us a different drawing which we have informed him that would come to a different application. It would not be an amendment it would be a completely different application that would have to be submitted. At this time, Ron is correct, we are waiting on answers to the Planning Board on the current application or if we are going to see a withdrawal of that application to submit a new application. That is what we are waiting on.

Mr. Fowler said there will be no withdrawals. We will submit our data this week before the 6<sup>th</sup> of December.

Mr. Yurch said any other comments from the public or online.

Mr. Delpriore said there is no one on Zoom tonight.

Mr. Yurch then asks if there were any further questions or comments from the board.

Mr. Ruthven said so the new drawing that is going to you guys has to have a new application to it?

Mr. Delpriore said correct.

Mr. Yurch said because it's not anything that has to do with us.

Mr. Ruthven said but you are planning on submitting a new drawing.

Mr. Fowler said I have to leave that up to my attorney to decide this week or next week how we are going to submit that data. Your attorney that is sitting over there on that chair understands where I am coming from.

Mr. Yourch said okay any other comments from the board.

Ms. Cochrane said so what is being said here is that you are not sure if you are going to submit the new application even though you are being told that what you are looking for requires a new application.

Mr. Fowler said I am saying I am waiting for my attorney's and my engineers to give me the paperwork to delivery here to your building. We are talking December 7<sup>th</sup> is the deadline for submitting new applications, correct?

Ms. Mitchell confirmed the submittal date is December 7<sup>th</sup> by noon.

Mr. Delpriore said so the 7<sup>th</sup> is fine.

Mr. Fowler said Dan has told me the 7<sup>th</sup> is when new applications have to be in by noon. We are going to submit our data before the 6<sup>th</sup>. As you can see, we are indicating that there is going to be a new application. I can't say that at this time. Attorneys get very complicated.

Mr. Ruthven said I guess what I am getting at is, if there is a new drawing that's going to require a new application why are we keeping this application open?

Mr. Fowler said that is because I am waiting for my attorneys to tell me what to do and I have until the 6<sup>th</sup> or 7<sup>th</sup> to submit whatever I am going to do.

Mr. Yourch said what he is saying is he can't answer that until his counsel recommends him to pull the application or submit a new one, so the continuation is what we have.

Mr. Ruthven said I understand that, but if the drawing is different it is going to require a new application period.

Mr. Yourch said if he submits one.

Mr. Ruthven said and that's your point.

Mr. Lay said and that seems to be the grey area.

Mr. Fowler said my plan is to wait for my attorney to tell me how they are going to proceed in submitting this data.

Mr. Ruthven said either way if you submit a new drawing it’s going to need a new application period. It’s a requirement. I am trying to understand that if you change the drawing, why are we keeping this one open and why don’t we just do a new one?

Mr. Yurch said we have to wait and see what he does.

Mr. Fowler said as I said the gentlemen sitting over there, the Town Attorney, understands where I am coming from, don’t you?

Mr. Graff said I can’t say that I understand your point of view. If you are simply saying that you want advice of counsel, of course.

Mr. Fowler said no I’m not saying that. I’m saying you know why I am saying what I am.

Mr. Graff said I can’t say (Mr. Graff was interrupted by Mr. Fowler prior to finishing his statement.)

Mr. Fowler said I know that you can’t, so anyways let me put it this way an attorney in this position knows what’s going on here and I am not an attorney so I’m going to wait for my attorney to tell me exactly what to do. That will be before the 6<sup>th</sup> of December.

Mr. Yurch then asks for comments from the Board. Hearing none he continues the public hearing on ZB #0301-23.

■ A motion was made by MR. RUTHVEN, seconded by MS. COCHRANE, that the reading of the following Adjournment and Continuation of Public Hearing resolution be waived, and that the resolution be approved:

**Town of Farmington Zoning Board of Appeals Resolution  
Adjournment and Continuation of the Public Hearing Upon the  
Proposed Granting of an Area Variance for Proposed Lot #R5-C  
to Allow for the Creation of a Proposed Three-Lot  
Preliminary Re-Subdivision Plat for the Fowler Family Trust**

**ZB #0301-23**

**Applicant:** Fowler Family Trust, 6176 Hunters Drive,  
Farmington, N.Y. 14425

**Action:** Adjournment and Continuation of the Public Hearing Upon the  
Requested Area Variance for Proposed Lot #R5-C of the Fowler  
Family Trust Re-Subdivision

**WHEREAS**, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has tonight continued the Public Hearing on this application which was continued from the Board’s meeting held on Monday, September 23, 2023, to allow the

Applicant time to provide information requested from the Town Planning Board (hereinafter referred to as the Planning Board), the designated Lead Agency under SEQR, for making the required determination of significance upon the proposed Re-Subdivision of Lots #R5A and #R5B, of the Fowler Family Trust Applications (PB #0703-23 and ZBA #0301-23); and

**WHEREAS**, the Board at its August 28, 2023, meeting acted to continue the Public Hearing and its deliberations thereon to November 27, 2023, to provide time for the Applicant to submit additional information requested by the Planning Board on Wednesday, August 2, 2023; and

**WHEREAS**, the Planning Board had, on Wednesday, September 6, 2023, continued their Public Hearing on the proposed re-subdivision application to Wednesday, November 1, 2023, to provide the Applicant time to submit the information originally requested; and

**WHEREAS**, the Planning Board received a letter dated October 13, 2023, from Christopher V. Kamar, P.E., Senior Principal of Engineering, APD Engineering/Architecture, requesting the continuation of the November 1, 2023, Public Hearing before the Planning Board; and

**WHEREAS**, the Planning Board, on Wednesday, November 1, 2023, honored this request for additional time to enable all procedures to be complied with and continued their Public Hearing to Wednesday, December 6, 2023; and

**WHEREAS**, the Planning Board, on Wednesday, November 1, 2023, also directed the Applicant to submit the requested information to the Town Development Office not later than noon on Wednesday, November 15, 2023; and

**WHEREAS**, the Planning Board Resolution (PB #0702-23, dated November 1, 2023) again declared that all requested information must first be addressed by the Planning Board before it can determine the application to be complete, and, therefore, continued their public hearing to Wednesday, December 6, 2023, and directed the Applicant to submit the requested information to the Town Development Office on the above referenced November 15, 2023, date; and

**WHEREAS**, the Town Code Enforcement Officer in a letter to the Applicant and copied to the Board and the Planning Board, provided notice that the Applicant has once again failed to meet an agreed-to deadline for submission of information requested by the Planning Board; and

**WHEREAS**, the Town Code Enforcement Officer, in said letter also notified the Applicant that there will be a continued Public Hearing tonight before the Board (and that a second Public Hearing continued to December 6, 2023, before the Planning Board, had been agreed-to) and further noting that the Applicant's attendance at both these scheduled continued Public Hearings is required; and

**WHEREAS**, the Board tonight has continued the previously scheduled Public Hearing upon the above referenced Action and has received testimony that was entered into the public record for this Action.

**NOW, THEREFORE, BE IT RESOLVED** that the Board again confirms that no decision may be made by this Board, as an Involved Agency defined under the State’s Environmental Quality Review Act (SEQRA), until a complete application has been received by the designated Lead Agency and a determination of significance thereon has been made.

**BE IT FURTHER RESOLVED** that the Board does hereby move to table further deliberations upon the above referenced Action and adjourns the Public Hearing to be continued on Monday evening January 22, 2024, starting at 7:00 p.m. prevailing time, to again provide time for the Applicant to submit a complete Application to the Planning Board, for its review and acceptance as being a complete Application.

**BE IT FURTHER RESOLVED** that the Board does hereby declare its intent to close the Public Hearing upon this Action at its meeting on Monday, January 22, 2024, if the applicant by that date has not provided the Planning Board with the requested additional information; and to deny without prejudice the requested area variance, on the grounds that the Applicant has failed to provide required information for the Board to take action upon.

**BE IT FINALLY RESOLVED** that the Board having made this decision does hereby instruct the Clerk of the Board to provided notice hereof to the Planning Board, the Applicant, the Applicant’s Engineer, the Town Code Enforcement Officer, the Attorney to the Town, and the Town Director of Planning and Development.

The above resolution was offered by MR. RUTHVEN and seconded by MS. COCHRANE at a regularly scheduled meeting of the Farmington Zoning Board of Appeals on Monday, November 27, 2023. After Board discussion, the following roll call vote was taken and recorded in the official minutes of the Zoning Board of Appeals for this date.

Jody Binnix	Aye
Kelly Cochran	Aye
Tom Lay	Aye
Tod Ruthven	Aye
Tom Yourch	Aye

Motion carried.

**5. PUBLIC HEARING**

**ZB 1101-23 DAVID LOWRY, 230 ELLSWORTH ROAD, PALMYRA, NEW YORK, 14522:**

The applicant is requesting an area variance to the provisions contained within Chapter

165, Article V, Section 58A, of the Farmington Town Code. The applicant wishes to erect a 12-foot-wide x 34-foot-long open lean-to to be attached to the existing pole barn located in the front yard portion of the lot. The Town Code requires all accessory structures in any zoning district to be located in the rear yard portion of a lot having a principal structure. The property is zoned A-80 Agricultural District and is located at 230 Ellsworth Road, in the Town of Farmington.

Mr. Yurch opened the public hearing for the above application and asked if there was anyone who would like to speak on behalf of the application.

David Lowry states that he has read the draft resolution and that it covers everything and looks very complete. The only thing I would add is if you have any questions I can answer. I am very impressed with the paperwork and how complete that it is. I think the barn was built before the house was and the house is way in the back of the property so there really isn't much of a backyard. The position of the barn was in the survey map that I sent but everything we want to build is well out of sight of the road and behind the barn. There really is no other place to build another barn because it would have to be in front of the house and we really don't want to do that. The existing field, the elevation is such that it could be engineered but it would be much more difficult than what we are requesting. Where we want to put this thing is probably the best place for it.

Mr. Yurch then asks for staff comments.

Mr. Brand said the property did have an area variance granted a number of years ago on the basis that the location shown on your drawings for the proposed addition is to the area variance that was granted for that pole barn. It was done based on the previous Zoning Board of Appeals findings that it would cause the least disturbance to the environment without getting into a lot of site alterations or moving earth around to find a level spot big enough to accommodate a barn. If you take a close look at the aerial photos that were provided you'll see the rear of the house the swimming pool in the backyard and that it looks out into a wooded area, a natural setting. They would have to do an awful lot of earthwork back there to get something level enough to build a structure in the rear portion and as much as the applicant is putting the addition on the rear side of the existing pole barn the impact on the neighborhood is minimal given the fact that it is not visible by a passing motorist. There are extensive trees around the property lines to buffer the adjacent properties. The recommendation is to approve with those conditions, which are the normal standard conditions of building permits, site lighting, Town Code, exterior of the addition to match to the extend practical. Thank you [Mr. Lowry] for those kind words. I appreciate that.

Mr. Delpriore said so the board is aware this has been posted with the public hearing sign. The legal notice was mailed to all the neighbors with no responses for or against this project. As Ron did mention it did have a variance beforehand, so this is an additional variance to the first one. Code does state that this cannot be located in the front yard, so this would be 100% variance just so the board is aware of that. I do echo Ron's comments that when you look at the property layout that what we recommended in the draft resolution

would be appropriate, so we are not affecting the environment by cutting down trees and changing the landscape. It's not just building something behind the house, we would have to add a driveway to get to that facility, so you are talking a lot more impervious surface. Those are all the things that staff looked at on this project and those are the recommendations to the board.

Mr. Yourch then asks for any further comments or questions for this application. Hearing none he then closes the public hearing for ZB #1101-23.

## 6. BOARD BUSINESS—DELIBERATIONS AND DECISION

**ZB #1101-23**

**David Lowry  
230 Ellsworth Road  
Palmyra, N.Y. 14522**

**Area Variance**

■ A motion was made by MR. RUTHVEN, seconded by MR. LAY, that the reading of the following State Environmental Quality Review (SEQR) resolution be waived, and that the resolution be approved as submitted by the Town staff:

**Farmington Zoning Board of Appeals Resolution  
Area Variance – SEQR Classification  
David Lowry, Lean-to addition to existing barn**

**ZB #1101-23**

**Applicant: David Lowry, 230 Ellsworth Road, Palmyra, New York 14522**

**Action: Area variance to erect a 12-foot-wide by 34-foot-long open lean-to addition to the existing pole barn located in the front yard portion of the lot located at the above address.**

**WHEREAS**, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has received an application submitted by the above referenced Applicant, to construct a lean-to addition to the existing pole barn located in the front yard portion of the lot at the above address; and

**WHEREAS**, the Board has reviewed the latest published lists of Type I and Type II Actions contained within Parts 617.4 and 617.5 of article 8 of the New York State Environmental Conservation Law (ECL), for classifying the class of the above referenced Action under the State Environmental Quality Review Act (SEQRA).

**NOW, THEREFORE, BE IT RESOLVED** that the Board finds the proposed Action involves construction of an addition to an approved pole barn in connection with other actions listed in Part 617.5.

**BE IT FURTHER RESOLVED** that the Board does hereby classify the above referenced Action as being Type II Action under the provisions contained in Part 617.5 (9) and (12) of article 8 of the New York State Environmental Conservation Law (ECL) thereby satisfying the procedural requirements under the State Environmental Quality Review Act (SEQRA).

**BE IT FURTHER RESOLVED** that Type II Actions, under SEQRA, have been determined not to have a significant impact upon the environment or are otherwise precluded from environmental review un the ECL.

**BE IT FINALLY RESOLVED** that a certified copy of this resolution be placed in the file for this application and a certified a certified copy provided to the Town Code Enforcement Officer and the Applicant.

The above resolution was offered by MR. RUTHVEN and seconded by MR. LAY at a regular scheduled meeting of the Zoning Board of Appeals held on Monday, November 27, 2023. After discussion, the following roll call vote was recorded:

Kelly Cochrane	-	Aye
Tod Ruthven	-	Aye
Tom Lay	-	Aye
Jody Binnix	-	Aye
Tom Yourch	-	Aye

Motion carried.

■ A motion was made by MR. RUTHVEN, seconded by MS. COCHRANE, that the reading of the complete Area Variance Findings and Decision resolution be waived, and that the Chairperson read aloud the Determination of the Zoning Board of Appeals.

Motion carried by voice vote.

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

<b>APPLICANT:</b> David Lowry 230 Ellsworth Road Palmyra, New York 14522	<b>File:</b> ZB #1101-23 <b>Zoning District:</b> A-80 Agricultural <b>Published Legal Notice on:</b> November 19, 2023 <b>County Planning Action on:</b> N/A <b>County Referral #:</b> N/A <b>Public Hearing held on:</b> November 27, 2023
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**Property Location:** 230 Ellsworth Road, Palmyra, New York 14522

**Applicable Section of Town Code:** Chapter 165, Article V, Section 58 1,  
**Requirement for Which Variances are Requested:** The applicant is requesting an area variance to the provisions contained in the above referenced section of the Farmington Town Code, to erect a 12-foot-wide by 34-foot-long open lean-to addition to an existing pole barn within the Front Yard portion the Lot, located at 230 Ellsworth Road. The Town Code, Chapter 165, requires all accessory structures be in the Rear Yard portion of any Lot.

**State Environmental Quality Review Determination:** The granting of an Area Variance for an accessory structure is classified as a Type II Action under Part 617.5 (c) (9) and (12) 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 article 8 of the State Environmental Conservation Law (ECL).

**County Planning Referral Recommendation:** N/A. Exempt Action by Ontario County Planning Board Bylaws.

## 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 the Board) finds that the character of this neighborhood is predominantly single-family rural residential sites fronting along existing Town highways and agricultural lands. The Board further finds that the existing accessory structure, the pole barn, was granted an area variance (ZB# 0808-02) in July 2002, allowing for the pole barn to be located on the property in the area that is now shown with this application. The Board further finds that previous decision was based upon the Town's desire to minimize disturbance to the site's topographical changes, finding the requested location to have the least impact upon the physical environmental setting and the character of the neighborhood. The Board further finds that there are other lots in this neighborhood with similar style accessory structures. The Board further finds that the structure is well separated by several hundred feet from the nearest residential structures. The Board further finds that the proposed lean-to structure is well screened by mature trees along the property lines. The Board further finds that the applicant's is proposing the lean-to addition behind the existing pole barn, thereby eliminating the view of the proposed building addition from along the adjacent public highway, Ellsworth Road. The Board further finds that the appearance of the proposed accessory structure (lean-to) is in keeping with the character of the neighborhood. The Board, based upon these findings, determines that the granting of the requested Area Variance will not create an undesirable change in the character of the neighborhood; or create a 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 there are no other economically feasible alternatives available to the applicant, that would not result in extensive site earth work or unnecessary financial commitment. The Board further finds that any alternative to the variance request would result in placing a free-standing structure in the Rear Yard portion of the Lot, thereby adversely impacting the natural environmental setting of this area. The Board further finds that the proposed area variance involves minimal site disturbance. The Board further finds that placing the proposed lean-to structure in the rear portion of the existing pole barn is the most feasible alternative. The Board, based upon these findings, determines that the benefit to the applicant cannot be achieved by a feasible alternative to the requested variance.

3. Whether the requested variance is substantial.     Yes     No

**Reasons:** The Board finds that the requested encroachment into the front yard setback involves a variance of one hundred percent (100%) from that required by town code. The Board has consistently found that a variance involving fifty percent (50%) or more 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

**Reasons:** The Board has considered 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, as noted above herein, that in this instance the alleged difficulty was not self-created, as an area variance has been granted previously to allow for the placement of the existing pole barn in the Front Yard portion of the Lot. The Board further finds that the Applicant has followed all steps required in seeking approval for the proposed lean-to addition to the existing pole barn. The Board further finds that the applicant has followed staff recommendations by proposing the lean-to addition in the rear side portion of the existing pole barn, thereby minimizing any visual impact to passing motorists from along the adjacent public highway and sustaining the visual character of the neighborhood. The Board, based upon these findings determines that the difficulty for the Applicant in complying with the provisions in Chapter 165 would result in unnecessary site disturbance, excessive site preparation expense and would result in a separate free-standing structure from the existing pole barn. Therefore, based upon these findings, the Board determines the alleged difficulty is not self-created.

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

The Zoning Board of Appeals, after reviewing the above five proofs, makes the following decision:

**That the benefit to the applicant does outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variance to erect a lean-to accessory structure attached to the existing pole barn located within the Front Yard portion of the Lot is APPROVED with the following conditions:**

1. The structure shall be constructed and attached to the rear portion of the existing pole-barn accordance with an approved Building Permit to be issued by the Town Code Enforcement Officer.
2. The lean-to building addition is for an open-air structure only.
3. The exterior of the lean-to building addition is to match, to the extent practical, the exterior of the existing pole barn.
4. All site lighting associated with the lean-to building addition shall comply with the lighting standards contained in Chapter 165 of the Town Code.
5. All inspections shall be performed and accepted by Town Code Enforcement Official(s) prior to issuance of the Certificate of Compliance.

**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.

The above resolution was offered by MR. RUTHVEN and seconded by MS. COCHRANE at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, November 27, 2022. Following discussion, the following roll call vote was recorded:

Kelly Cochran	Aye
Tod Ruthven	Aye
Jody Binnix	Aye
Tom Lay	Aye
Thomas Yourch	Aye

Motion carried.

**6. OTHER BOARD MATTERS**

Mr. Delpriore said you were handed your 2023 Rules of Procedures that we would like you guys to start reviewing so we can discuss it in December and hopefully approve them in

January. Also, for the December meeting, we will have you review your 2024 submittal date and meeting dates.

## 7. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

None

## 8. DIRECTOR OF DEVELOPMENT UPDATE

- The Conservation Board is wrapping up their update to the Open Space Index.
- The Planning Board will be meeting on December 6<sup>th</sup> and will be discussing a new project coming in. They also have a pending report and recommendation to the Town Board on a rezoning of approximately 65-70 acres of land at the southeast corner of Route 332 and 41 which is proposing Incentive Zoning with new Town roads, major intersection improvement preplanned and approved location from state DOT.
- Continuing work on other code amendments as time allows.

## 10. CODE ENFORCEMENT OFFICER UPDATE

- Next Meeting will be December 18, 2023, which is a week earlier due to the Christmas holiday.
- The Planning Board, at their next meeting, will start the coordinated SEQR review for Paddock Landing formally the Power's Property Incentive Zoning Project. It is a 186 residential and 4 commercial lots along 96. Both entrances are off of 96 and goes from 96 over to railroad tracks almost. They will run subdivision and site plan review at the same time.
- Open Clerk of the Board of Position

## 11. TRAINING OPPORTUNITIES

### ■ New York Planning Federation Recorded Webinars:

For information: (518) 512-5270 or [nypf@nypf.org](mailto:nypf@nypf.org)

### ■ General Code e-Code

Daily drop-in lunchtime training Q&A sessions plus webinars in several categories.

Information:

<https://www.generalcode.com/training/>

### ■ Future Training Opportunities Online:

Ontario County Planning Department website now lists upcoming training:

<https://www.co.ontario.ny.us/192/Training>

### ■ 4th Thursday 2023 Monthly Municipal Boot Camp Program Presented by MRB Group, and Hancock and Estabrook

<https://register.gotowebinar.com/register/5013248983683015766>

Thursday, December 14, 2023, 6 p.m. to 7 p.m.: Case Studies: Good and Bad of 2022

**12. NEXT MEETING**

The next regular meeting of the Zoning Board of Appeals will be held on Monday, December 18, 2023, at 7:00 p.m. both in-person at the Farmington Town Hall, 1000 County Road 8, and on ZOOM.

**13. ADJOURNMENT**

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

Motion carried by voice vote. The meeting was adjourned at 7:32 p.m.

Respectfully submitted,

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Sarah Mitchell L.S.  
Clerk *Pro Tem* of the Zoning Board of Appeals