Town of Farmington

1000 County Road 8

Farmington, New York 14425

**Zoning Board of Appeals**

*Established July 15, 1957*

**Monday, August 26, 2024, 7:00 p.m.**

**MINUTES—Approved**

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*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*

Kelly Cochrane

Tod Ruthven

 Tom Lay

Jody Binnix

**Staff Excused:** Dan Delpriore, Town Code Enforcement Officer [fire call]

**Staff Present:**

Ron Brand, Town of Farmington Director of Development

**Applicant’s Present:**

James Fowler 6176 Hunters Dr Farmington, NY 14425

Jared Hirt, Esquire, Evans and Fox ***R***

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**1. MEETING OPENING**

The August 26, 2024, meeting of the Zoning Board of Appeals was called to order at 7:00 p.m. by Mr. Yourch.

The Pledge of Allegiance was recited.

Mr. Yourchsaid that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on January 22, 2024.

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

**2. APPROVAL OF MINUTES OF JULY 22, 2024**

 A motion was made by MS. COCHRANE seconded by MR. LAY, that the minutes of the July 22, 2024, meeting be approved.

Motion carried.

**3. LEGAL NOTICE**

There was no legal notice published for tonight’s agenda: ZB #0301-24 Fowler Family Trust, as this public hearing was continued to tonight’s meeting from the June 24, 2024, meeting. There also is no new application for tonight’s meeting that would have otherwise required publishing, posting, and giving public notice thereof.

**4. CONTINUED PUBLIC HEARING**

**ZB #0301-24, FOWLER FAMILY TRUST, 6176 HUNTERS DRIVE, FARMINGTON, NEW YORK 14425:**

The applicant is requesting an area variance to the provisions contained within Chapter 165, Schedule 1, Attachment 1, of the Farmington Town Code. The applicant wishes to create a third lot that would have a minimum lot width of twenty-two (22) feet. The Town Code requires a minimum lot width of 125 feet. The proposed lot would be part of a proposed re-subdivision of Lot # R5-A with tax ID #29.13-1-5.100 and Lot #R5-B 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 on the above application.

Mr. Yourch asked our guest to state his name and address and said, the floor is yours.

Mr. Fowler stated, Jim Fowler 6176 Hunters Drive Farmington. We saw the resolution and we are fine with it and ready to move on. I believe Ron talked to Jared today and those two are happy with the resolution from what I understand.

Mr. Yourch asked for staff comments.

Mr. Brand said I did have a conversation with Mr. Hirt from Evans and Fox, and his email at 5:30 tonight says that as a result of our conversation earlier today and as we discussed, I have reviewed the resolution for tonight’s ZBA meeting and have no objection to the same. I will present on the applicants’ behalf at the September 23rd meeting.

Mr. Yourch asked if there was anyone in person or online to speak about the above-mentioned application. Hearing no response, Mr. Yourch moved on to board comments.

Ms. Binnix said, so we got the letter from the planning board and in it there's a lot of conditions like if we were to approve the variance, different things we could propose to do.

to mitigate impacts, I guess my question is how enforceable are these over the long term?

You talk about not clear-cutting trees on three different properties. We talk about R5-C not to be cleared of trees and not to be maintained as a lawn area. We have all these different stipulations, but how do we enforce this in the long term? I mean if say you know two people by the side lots, Mr. Fowler, whomever owns the back lot. They understand this perhaps, and they respond a lot, but if once the ownership changes over, how would you enforce these things?

Mr. Brand said those conditions, if approved by the Zoning Board, should be on the final re-subdivision plat map, enforceable by the Town and any attorney should be informed of those, whatever conditions there are in place.

Ms. Binnix said so if they're not informed and then like say the person that owns one of the front lots decides to cut all the trees down.

Mr. Brand said there’s not that many trees on the front two parcels. I believe the draft condition of cutting trees would only apply to proposed Lot R5-C.

Mr. Fowler said maybe six.

Mr. Brand said that the tree line is basically the front of lot C the widening out part, right.

Ms. Binnix said, I guess even so the question could still be whoever owns the backlot if they are not aware that these are conditions on their property and they go ahead and, you know, go against these conditions. Is there any repercussion for that?

Mr. Brand said, I think it's going to be carefully watched by neighbors.

I think it'll be something that when it comes time for any kind of permits, the town will get involved and hopefully the code officers will do their due diligence to check the records to see what constraints, if any, exist on the property.

Mr. Yourch said, what about the dead trees?

Mr. Brand said dead trees, if they want to leave them there, that's up to the owner.

But if there are trees that die off after a building permit is issued, then they're to be replaced.

I think that was one of the conditions against the Planning Board wanted there.

Mr. Fowler said trees are to be replaced with 4-inch caliper of trees, I believe.

Yeah, 8 foot tall. But there’s really not dead trees. When I cleared the property for the weeds and the brush and that type of stuff, it didn't leave many mature trees left. That property was originally leveled to be a home lot, and the only stuff that was on that piece of property is anything that grew up in the last 25 years. So, it was just basically brush. cracked trees, if you want to call it. You know, it was really nothing there that was worth anything. Even the trees that are there now are scrub trees. It's not like the road for maple or something like that. They're just...And so what Ron is saying, the tree line is the front lot of the Lot C Scrub tree line. Yes. And that's, like I said, it's probably not more than six trees.

Mr. Yourch said, so that third house could be behind a bunch of scrub trees.

Mr. Fowler said, I'm not committed, but I'm telling you, I'm putting up a hedgerow the entire 300 feet of green giant Arborvitae’s to separate the properties. Both sides of that would be straight across the back two lots, not along the driveway, just the back of lots A and B. So, the only thing you'll see is the 20-foot opening with a probably a 14-foot driveway. I'm not going to go for a double wide driveway. So now you'll just see green giant Arborvitae’s. I'll plant them probably four to five feet, and they grow two to three feet a year. So, it won’t be too long before you’re not even going to see the house [on lot C].

Mr. Yourch asked if there were any other questions from the board.

Ms. Binnix said, we asked earlier about the side setback for the district, and you [Mr. Brand] said that you or Mr. Delpriore could look that up.

Mr. Brand said, maybe I have it here in the project file. It is 15 feet as is shown on Venezia’s Preliminary Re-subdivision Plat Map.

Mr. Yourch said if we have questions between now and September, we can just ask them [the applicant] if we wanted any other information ahead of time.

Mr. Brand said, once I have completed the draft resolutions and they're distributed for you to review, they should not be changed until the night of the meeting.

Mr. Yourch said I wasn’t meaning it that way, I meant additional information.

Ron said, if you think of something additional between now and next week, when I will probably be drafting the resolutions, please let the chairperson and me know.

Mr. Lay said, when do you [Mr. Brand] think you will have them ready?

Mr. Brand said, I don’t know for sure, likely the end of next week.

Mr. Lay said, but we will probably have a couple of weeks to review them.

Mr. Brand said absolutely.

Mr. Yourch asked if there were any other questions or comments from the board.

Mr. Yourch asked the Board if everyone had read the draft resolution. All members and the Applicant said that they had.

Mr. Brand said, that earlier today he had received an email from the Applicant’s Attorney, Jared Hirt, Evans and Fox, stating he had reviewed the proposed resolution for tonight’s meeting and have no objections to the same.

**5. PUBLIC HEARINGS:**

The is no new public hearing scheduled for this meeting.

**6. BOARD BUSINESS—DELIBERATIONS AND DECISION**

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 #0301-24

APPLICANT: Fowler Family Trust, 6176 Hunters Drive,

 Farmington, New York 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 from their July 22, 2024, meeting to allow time for the Town Planning Board (hereinafter referred to as the Planning Board) to complete the environmental record and make a determination of significance upon the above identified Action; and

Whereas, the Planning Board is the designated lead agency under SEQR, for making the required determination of significance upon the proposed amended Re-Subdivision Plat of Lots #R5-A and #R5-B, of the Fowler Family Trust Application (PB #0702-23); and the granting of an area variance for proposed Lot R5-C (ZB #0301-24); and

Whereas, the Board since their adjournment and continuation of this public hearing on Monday July 22, 2024, has received from the Clerk of the Planning Board, on Thursday, August 22, 2024, a copy of a certified copy of a resolution dated August 21, 2024, accepting Parts 2 and 3 of the Full Environmental Assessment Forms and a resolution making a determination of non-significance upon the above referenced Action; and

Whereas, the Board has the right under the provisions of Article 16, Section 277. 6. of New York State Town Law to request from the Planning Board a written recommendation concerning the proposed variance under review by this Board; and

Whereas, said request for a written recommendation had been previously requested by the Board, on March 25, 2024, during the coordinated review process on this Unlisted Action as classified under 6NYCRR, Parts 617.4 & 618.5, article 8 of the New York State Environmental Conservation Law and as provided for under New York State Town Law; and

Whereas, the Board has received a memorandum, dated August 21, 2024, from Ed Hemminger, Chairperson, Town of Farmington Planning Board, containing the Planning Board’s written recommendations on potential mitigation conditions for the above referenced Action; and

Whereas, the Board may now take any action on the pending area variance for proposed Lot R5-C.

Now, therefore, be it resolved, that the Board having received the recent Planning Board’s written recommendations on potential conditions of approval should the Board decide to take action to approve the requested area variance, determines that it is in need of time to review said recommendations, the public hearing record upon said Action, and to consider the criteria for granting an area variance as are set forth in Article 16, Section 267 of New York State Town Law and Chapter 165 of the Farmington Town Code.

Be it further resolved that the Board requests the Town’s Director of Planning and Development to prepare two (2) draft resolutions of findings and determinations for the Board’s review and consideration, one for approving the requested area variance with conditions and one denying the requested area variance.

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 September 23, 2024.

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 Clerk of the Planning Board, the Applicant, the Applicant’s Attorney, the Applicant’s Surveyor, 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. BINNIX at a regular scheduled meeting of the Farmington Zoning Board of Appeals on Monday, August 26, 2024. 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.

Kelly Cochrane - Aye

Tod Ruthven - Aye

Tom Lay - Aye

Jody Binnix - Aye

Tom Yourch - Aye

Motion - Approved

The Resolution has been accepted and the meeting is to continue.

I, Paula Ruthven, Clerk of the Zoning Board of Appeals, do hereby certify the accuracy of the above resolution, to its being acted upon as referenced above herein and to it being recorded in the Board’s meeting minutes of August 26, 2024.

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Paula Ruthven, Clerk of the Zoning Board of Appeals

**7. OTHER BOARD MATTERS**

None

**8. PUBLIC COMMENTS—OPEN FORUM DISCUSSION**

Mr. Fowler said there was one issue in that resolution that I had a question on. I don’t know

 If I should be asking you personally or if I should be asking the Board.

 Mr. Brand said the public hearing is closed.

 Mr. Fowler said, so I can just ask you the question. The issue is about the footprint, and

 You and Jared decided that that really doesn’t fit.

 Mr. Brand said we can talk about that tomorrow.

**9. DIRECTOR OF DEVELOPMENT UPDATE**

* The work continues on the sidewalks, and we are moving along with installation. The foundation is being installed for the pedestrian/bicycle bridge crossing over Beaver Creek. When the bridge comes it will be transferred by crane to the foundation.
* They continue to work over on Route 96 by Maggie’s power sports, and they have begun restoring driveways and landscaping. Hynes Concrete should be done this week.
* The engineers are considering a redesign of the stone dust trail connection between the sidewalk along the south side of County Road 41 and the Auburn trail.

* Design plans are being prepared for the Whitestone Incentive Zoning Project on Route 332 and Route 96.
* We still await the preliminary site plans for the Farmington Marketplace Incentive Zoning

Project.

* We have been informed that a contract has been signed between A&D Real Estate Development Corporation and Ryan Homes. Ryan Homes will be purchasing the remaining three sections of Monarch Manor and will be developing them all at once. Meanwhile Sortino Properties will be finishing Section 2 of this Project.
* The Town continues working with Farmbrook and Paddocks Landing on electrical and gas supplies for their projects.
* Sky Solar received a negative declaration last week at the Planning Board meeting. Since then, I have drafted two special use permit resolutions and am expecting them to go out tomorrow for discussion at the September 4th meeting.

**10. CODE ENFORCEMENT OFFICER UPDATE**

* Mr. Brand said for our next meeting [September 23, 2024] we have a few new applications. Porretta Excavating, a Temporary Use Permit on land located along State Street [near the Village of Manchester], The Church up in the Hook is seeking an area variance to enable construction of a storage shed to be used for a food

pantry, a variance to allow an accessory structure in the side yard, a Temporary Use Permit for The Bridges from Brain Injury to relocate to a site on County Road 8, and we will have the Fowler area variance continuation.

**11. TRAINING OPPORTUNITIES**

◼ **2024 Municipal Bootcamp Trainings:**

A free annual program to provide certification credits to newly elected officials, planning and zoning boards, and municipal officials presented by Hancock Estabrook and MRB Group.

**Thursday, September 26, 2024, 6:00 p.m.–7:00 p.m.**

Session 8: Under the Tent: Open Meetings, Record Keeping, and Engaging the Public in Community Development

**Thursday, October 24, 2024, 6:00 p.m.–7:00 p.m.**

Session 9: Short, But Not Too Short: How Short-Term Rentals Are Changing the Development and Regulatory Landscape

**Thursday, December 19, 2024, 6:00 p.m.–7:00 p.m.**

Session 10: Santa’s Nice and Naughty List: The Best and Worst of 2024

Questions and registration:

https://www.hancocklaw.com/events/2024-municipal-bootcamp-trainings/

◼ **New York Planning Federation Recorded Webinars:**

For information: (518) 512-5270 or 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

**12. NEXT MEETING**

The next regular meeting of the Zoning Board of Appeals will be held on Monday, September 23, 2024, 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 MR. LAY, seconded by MS. COCHRANE, that the meet­ing be adjourned.

Motion carried by voice vote. The meeting was adjourned at 7:21 p.m.

Respectfully submitted,

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Paula Ruthven

Clerk of the Zoning Board of Appeals