Town of Farmington

1000 County Road 8

Farmington, New York 14425

**Zoning Board of Appeals**

*Established July 15, 1957*

**Monday, May 20, 2024 7:00 p.m.**

**MINUTES—Draft**

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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*

Jody Binnix

Kelly Cochrane

Tom Lay

**Board Members Excused:** Tod Ruthven

**Staff Present:**

Ron Brand, Town of Farmington Director of Development

Dan Delpriore, Code Enforcement Officer, Town of Farmington

**Applicant’s Present:**

James Fowler, 6176 Hunters Drive Farmington, NY 14425

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**1. MEETING OPENING**

The May 20, 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 APRIL 18, 2024**

A motion was made by MS. COCHRANE seconded by MR. LAY, that the minutes of the APRIL 18, 2024, meeting be approved.

Motion carried.

**3. LEGAL NOTICE**

There were no legal notices published for tonight’s agenda: ZB #0301-24, Fowler Family Trust. This public hearing is a continuation to tonight’s meeting from the March 25th, 2024, Zoning Board of Appeals meeting. There are no new applications 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, to be known as Lot R5-C, 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.

James Fowler presented the above application. He said that the Resolution is fine as presented by Mr. Yourch.

Mr. Yourch then asks for staff comments.

Mr. Brand said the Planning the Planning Board received the requested the soil report and two maps from Venezia & Associates on the evening of their meeting on May 15, 2024, and they continued their public hearing until their June 5th, 2024, meeting to have time to review the material and the information that was provided. Copies of those documents were also provided to you by the clerk of the Planning Board so that you could also be aware of the status of, and the information provided in the soils report as well as review the maps provided by Venezia & Associates. The Planning Board anticipates making a decision at their first meeting in June and to determine whether they have adequate information or not to make that decision.

Mr. Yourch then referred to a sentence from the report that states the site can reasonably support construction of a new residence. What does reasonably mean?

Mr. Fowler said based on his expertise and his years in the business, he is saying that we can put the home anywhere we want, the soil will hold the home. I think that is more of a question for the person writing the letter. He [Mr. Baker] said, you can do anything that you want, the soil will hold, and you can get as close to the slopes as you want. Mr. Fowler said that Mr. Baker also issued drawings that indicate that we would be within the limitations of the soils as well as the Town code.

Mr. Yourch asked if there were any borings in the soil to prove what is there. Mr. Fowler said that Mr. Bakers determination was based on the soil types. The soil types indicate the strengths of the soil and that they can withstand being built on.

Mr. Yourch asked where Mr. Baker got the soil information from.

Mr. Fowler said that the information is available on the internet.

Mr. Yourch said information from the internet would fall within reasonably support. Borings would substantiate the information about the soil.

Mr. Fowler said that at this point his attorney would be saying that these types of questions should be directed to the experts.

Mr. Yourch said that asking the question puts it on record for further review and then to pass along any additional information to the Town.

Mr. Yourch said that for the record, I would also ask how the reports provided support the determination that the soil conditions maintain stability.

Ms. Binnix said, if you build the house to the edge of the slope, what happens if you want to build an accessory structure in the future? Town code requires accessory structures to be behind the residence.

Mr. Fowler said that all the documents that he has supplied have indicated that there would be a deed restriction indicating that there will be nothing built on that slope. I think it says the only exception would be if posts would be put into the slope for a platform, no buildings.

Mr. Delpriore said that deed restrictions can be placed by property owners, however, deed restrictions are not enforceable by the town. We can only enforce the town code.

Mr Yourch asked if deed restrictions have been brought up in the past?

Mr. Brand said they have been brought up several times. It is common not just in our town and often results in court cases. They are a civil matter with nothing involving the town.

Mr. Lay said the letter is suggesting either a raised basement with less depth or slab not a basement due to concerns about the horizontal geometric separation. Further down the letter sounds like Mr. Baker is implying risk. What are the definitive concerns?

Mr. Fowler said this is the second time and the second report provided by Mr. Baker.

Mr. Lay said he understands, however the letter supplied has contradictory information that needs to be clarified.

Mr. Yourch said that he has concerns that the letter is based on just a walk through.

Mr. Fowler asked if these questions were building permit questions or subdivision questions.

Mr. Yourch said No, the questions are a response to the letter.

Mr. Fowler asked if he should get clarification. Members of the board expressed that clarification was needed.

Mr. Brand said the planning board may have additional questions that will also require further clarification.

Mr. Brand asked if Mr. Fowler was no longer using APD engineering and confirmed that Venezia & Associates was his engineer. Mr. Brand asked if Mr. Baker reviewed the drawings that were submitted by Venezia & Associates.

Mr. Fowler said that the drawings were submitted for review before we went out there.

Mr. Brand said There is nothing on any of the maps that say that the delineation of the soils was based upon his findings. Mr. Brand suggests that Mr. Foler talk with Mr. Venezia so that there is some relationship between what the soil report is saying and what the maps are showing. Mr. Brand stated that was his initial review.

Mr. Yourch then asked for comments from the public or from anyone online.

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

Mr. Brand noted that he has drafted the following resolution to continue this to next month to allow this to go in front of the Planning Board and hopefully take some action next month after we know what the Planning Board will come up with.

**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 which was received on February 22, 2024, 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 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 (ZBA #0301-24); and

Whereas, the Board since their adjournment and continuation of this public hearing on Monday April 22, 2024, received from the Clerk of the Planning Board three documents, two drawings prepared by Venezia Associates and a soils report by James Baker, P.E., that were introduced at the Planning Board’s continued hearing on Wednesday, May 15, 2024; and

Whereas, the Planning Board, at their meeting on May 15, 2024, adjourned and continued their public hearing upon PB #0702-23, to Wednesday, June 5, 2024, to provide time for the Planning Board and Town Staff to review this new information; and

Whereas, the Planning Board continues to be the designated Lead Agency under SEQR for the proposed amended Action referenced above herein; and

Whereas, the Board may not take any action on the pending area variance for proposed Lot R5-C until the Planning Board, as the designated Lead Agency, has made a determination of significance on the classified Unlisted Action under the provisions of the State Environmental Quality Review Act (SEQRA).

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 determination of significance thereon has been made by the designated Lead Agency.

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 June 24, 2024, starting at 7:00 p.m., to again provide time for the Planning Board, to comply with SEQRA.

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 Jody Binnix and seconded by Kelly Cochrane at a regular scheduled meeting of the Farmington Zoning Board of Appeals on Monday, May 20, 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 - Excused

Tom Lay - Aye

Jody Binnix - Aye

Tom Yourch - Aye

Motion – Approved

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 May 20, 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**

None

**9. DIRECTOR OF DEVELOPMENT UPDATE**

* The work on the first section of sidewalks on County Road 41 has begun, they are working on the section between Savala and Route 332.
* Design work is being done on the bridge crossing Beaver Creek and the neighbors are starting to see all the flags out on their lawns and curious as to where they will be digging.
* We meet tomorrow with the engineers and attorneys for The Whitestone Incentive Zoning Project on Route 332 and County Road 41 and they have started work over in Farmbrook.

**10. CODE ENFORCEMENT OFFICER UPDATE**

* Next Meeting will be June 24, 2024
* Open Zoning Officer Position
* Still training new staff

**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, June 27, 2024, 6:00 p.m.–7:00 p.m.**

Session 6: Putting the Home in Hometown: Strategies for Attracting Housing Investment to Your Community

**Thursday, July 25, 2024, 6:00 p.m.–7:00 p.m.**

Session 7: From Big to Small: Translating Comprehensive Plans into Land Use Regulations

**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](http://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, June 24, 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 MS. BINNIX, seconded by MR. LAY, 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