Town of Farmington

1000 County Road 8

Farmington, New York 14425

**Zoning Board of Appeals**

*Established July 15, 1957*

**Monday, October 28, 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*

 Kelly Cochrane

 Tom Lay

 **Board Members Excused:** Jody Binnix

 Tod Ruthven

**Staff Present:**

Ron Brand, Director of Development, Town of Farmington

Paula Ruthven, Zoning Officer, Town of Farmington

**Applicant’s Present:**

Jacob Kirsch 6179 Buckskin Dr Farmington NY 14425

Daniel Kirsch 6179 Buckskin Dr Farmington NY 14425

Nicole Kirsch 6179 Buckskin Dr Farmington NY 14425

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**1. MEETING OPENING**

The October 28, 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 September *23, 2024***

 A motion was made by ***MS. COCHRANE*** seconded by ***MR. LAY***, that the minutes of the September 23, 2024, meeting be approved.

Motion carried.

**3. LEGAL NOTICE**

The following Legal Notices were published in the Canandaigua *Daily Messenger* news­paper on ***September 8, 2024***:

**ZB #0804-24, JACOB KIRSCH, 6179 BUCKSKIN DRIVE, FARMINGTON, NEW YORK 14425:** The applicant is requesting an area variance to the provisions contained within Chapter 165, Article VI, Section 58 A., Accessory Structures, of the Farmington Town Code, to enable the placement of an Accessory Structure, a 4-foot by 8-foot, wood shed within the Front Yard portion of the St. John’s Lutheran Church site, located at 153 Church Avenue, which is to be used as part of their established food pantry operations. Section 165-58 A. of the Town Code requires all Accessory Structures to be located within the rear yard portion of a lot. The property is zoned A-80 Agricultural District.

**ALL PARTIES IN INTEREST** will be given an opportunity to be heard in respect to such applications. Persons may appear in person, or by agent or via Zoom.

By Order of: Thomas Yourch, Chairman, Town of Farmington Zoning Board of Appeals

Publication: Daily Messenger, Sunday, September 8, 2024

**4. CONTINUED PUBLIC HEARING**

**ZB #0804-24, JACOB KIRSCH, 6179 BUCKSKIN DRIVE, FARMINGTON, NEW YORK 14425:**

Mr. Yourch: I now open the public hearing tonight, on File #ZB 0804-24, that was continued from our September 23. 2024, meeting. The applicant, Jacob Kirsch, 6179 Buckskin Drive, Farmington, New York 14425 is present in the meeting room. He is requesting an area variance which has been legally advertised and posted, and which is identified above on this meeting agenda.

Mr. Yourch: Who is here to speak on behalf of this application? Please come forward to the podium and give us your name and address.

Mr. Brand: We have you go over there because this public hearing is being recorded and the podium microphones better pick up your voice.

Mr. Jacob Kirsch: My voice isn't great, I am getting over a cold, so I appreciate that. My name is Jacob Kirsch., I'm a 20 plus year resident of Farmington and member of St. John's Lutheran Church, and former Cub Master of pack 50 for the Cub Scouts in Farmington. First, I want to thank the Board for waiving the application fees for this project because we feel it's going to benefit the community it already has; we're just looking to enhance it. Second, and full transparency, Daniel, my son, will be talking more about the project itself, but he has yet to get full approval for his Eagle Scout project. He still has to finish the planning phase and get a couple more signatures from our troop as well as our council. Regardless of whether it gets approved for an Eagle project, it is a project that we are fully committed to seeing through making sure it gets done. Okay, Daniel, do you want to introduce yourself and talk about the project?

Mr. Daniel Kirsch: I’m Daniel Kirsch. I am a life scout and Troop 16 located in Victor, NY. I'm 15. I am a member of St. John's Lutheran Church, and I am a sophomore attending Victor Senior High School. So, with the Food Pantry, a year or so ago, I noticed that it was a little small and I came to the thought that not many people could go within the food pantry. I thought that, if I made it a little bigger, then people could be out of the elements like be out of thunder, rain and lightning when they are either taking food in or taking food out. I want to increase the size of the food pantry, and I also want to make it visually more appealing.

 Mr. Yourch: Anything else?

Mr. Daniel Kirsch: I want to have the pantry done at the latest in the spring of 2025. When I finish the project, I am planning to Host a Food Drive to help stock the food.

Mr. Yourch: Staff comments.

Mr. Brand: First, I compliment you on the challenge that you’ve taken on and know that you will be successful in accomplishing this project. I also admire the leadership that you demonstrate to everybody, your parents should be very proud of you.

Mr. Brand: addressed the Board. I have prepared two draft resolutions tonight for the Zoning Board of Appeals consideration. One is a SEQRA resolution for classifying the Action under the State’s SEQR Regulations, determining that this is a Type II Action having no impact upon the environment. The other draft resolution follows you adopted Rules of Procedure using the State’s Finding & Determination Model Form for making your findings and the determination on the application. That draft resolution is to approve the requested area variance with conditions. I'll be glad to answer any questions that you may have about either draft resolution.

Mr. Brand: asked Mr. Kirsch, do you have any questions that you would like to ask me?

Jacob Kirsch: No, I forgot to mention one thing. Danny taught me. I am an assistant scout master for his trip as well this year. I am still learning the project myself, but our older son should be getting his board of review next month. He did a Gaga pit for Willowbrook Church in Victor.

Jacob Kirsch: One thing Danny discovered and taught me, as well as several other leaders, is that it's not his responsibility to get the permit. It's the beneficiary’s responsibility to get the permit. So coincidentally, I'm on the properties and maintenance committee of St. John's. So that fits in my wheelhouse so I’ll see what I can do about that, and I can take care of that for you.

Mr. Yourch: Comments from the public? Anyone online? I don’t see anyone online.

Mr. Yourch: Okay. Questions from the board members.

Ms. Cochrane: Daniel, are you doing this project by yourself? I mean, is this your sole project or are the other members of the cubs going to be doing this.

Daniel Kirsch: I will be recruiting volunteers not only from my pack, but also from the pack from the church, from friends and family, and even the members of the church.

Ms. Cochrane: Do you know roughly how many people the food pantry is currently servicing?

Daniel Kirsch: No, I do not.

Mr. Yourch: Have you got materials and things figured out where you are going to get them from.

Daniel Kirsch: Well, we're planning to get a lot of materials from Lowe's.

Jacob Kirsch: It's a kit. The shed itself is actually a kit that we're going to use.

Mr. Yourch: Painting and a bunch of other stuff and leveling it. I did a bunch of Scout projects myself. With a bunch of kids, because my son was one too. It’s work, that’s good. All right, I guess anything from you, Tom?

Mr. Lay: That was a question I had about the structure.

 Mr. Yourch: I guess that's it and no one else online will close the public hearing.

Mr. Yourch: Thank You, well done.

Ms. Cochrane: Thank you.

Mr. Yourch: Okay. We'll move on to deliberations and decisions. Can I have a motion? To waive the reading of the SEQRA resolution and then approve it as submitted by the town staff?

Ms. Cochrane: I will make a motion to waive the reading of the SERA and approve it as submitted by the town staff.

Mr. Lay: I will second it.

Mr. Yourch: All in favor

All: [3] Aye

 Mr. Yourch: Then secondly, I'd like to have a motion to waive the reading of the complete findings and decisions resolution and read the determination and petitions presented by the town staff. Can I have a motion?

Ms. Cochrane: I will make a motion to waive the reading of the findings and just approve it as submitted by the town staff.

Mr. Lay: I will second it.

Mr. Yourch: second by Tom

Mr. Yourch: All in favor

All: [3] Aye

**5. PUBLIC HEARINGS:**

None

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

**Farmington Zoning Board of Appeals Resolution**

**SEQR Resolution—Type II Action**

**ZB #0804-23**

**Applicant: JACOB KIRSCH**

 **6179 BUCKSKIN DRIVE**

**FARMINGTON, NEW YORK 14425**

**Action: Area Variance to place an Accessory Structure, a (4-foot by 8-foot) woodshed, within the Front Yard portion of St. John’s Lutheran Church, located at 153 Church Avenue.**

**WHEREAS,** the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Ac­tion.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board finds that the Action is clas­si­fied a Type II Action under Section 617.5 (c) (9) and (12) of the SEQR Regulations.

**BE IT FURTHER RESOLVED THAT** Type II Actions are not subject to further review under Part 617.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

The above resolution was offered by MS. COCHRANE and seconded by MR. LAY at a reg­ularly scheduled meeting of the Zoning Board of Appeals held on Monday, October 28, 2024. Following discussion, the following roll call vote was recorded:

Kelly Cochrane Aye

Jody Binnix Excused

Tom Lay Aye

Tod Ruthven Excused

Thomas Yourch Aye

Motion carried.

I, Carol Marvel, Clerk of the Board, do hereby attest to the accuracy of the above resolu­tion being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the October 28, 2024, meeting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ L. S.

Carol Marvel, *Pro-Tem* Clerk of the Board

**Town of Farmington**

**Zoning Board of Appeals**

**Area Variance Findings and Decision**

**Applicant:** Jacob Kirsch **File:** ZB #0804-24

6179 Buckskin Drive **Zoning District:** NB Neighborhood Business

Farmington, NY 14425 **Published Legal Notice on:**  9/08/2024

 **County Planning Action on:** N/A

 **County Referral #:** N/A

 **Public Hearing held on:** September 23, 2024

 Continued on October 28, 2024

**Property Location:**153 Church Avenue, Farmington, New York 14425

**Property Owner:** St. John’s Lutheran Church, 153 Church Avenue, Farmington, New York 14425

**Applicable Section of Town Code:** Chapter 165, Article V, Section 58 A.

**Requirement for Which Variance is Requested:** The applicant is requesting an area variance to allow for the replacement of an existing storage shed used for a food pantry, an accessory structure, with a slightly larger structure to continue to be used as a community food pantry. The proposed food pantry structure will be located in the same Front Yard portion of the property at 153 Church Avenue. The Town Code, Chapter 165, Article V, Section 58 A requires all accessory structures to be in the Rear Yard portion of a 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 (11) 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. Property is not located within the jurisdictional area specified in Section 239-l of the New York State General Municipal Law, therefore, no referral is required to the County Planning Board.

**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 \_X\_ No

**Reasons**: The Zoning Board of Appeals (hereinafter referred to as the Board) finds that the character of this neighborhood is predominantly single-family residential sites, on lots fronting along the north side of Allen Padgham Road and along both sides of Church Avenue. The Board further finds the proposed accessory structure will be located upon the same area of the St. John’s Lutheran Church parcel as the existing food pantry. The Board further finds that there are no complaints in the Town’s property file associated with the existing food pantry operations from this church parcel. The Board further finds that since there are no complaints on file that the granting of the requested area variance, to allow a slightly larger food pantry structure, will not produce an undesirable change in the character of the neighborhood or 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 \_\_X\_\_ No

**Reasons:** The Board finds there is one area of the church property where the proposed food pantry could be placed in the Rear Yard portion of the site. The Board further finds that this portion of the site is hidden from public view and would be in a dark area of the property. The Board further finds that such a location would necessitate on-site directional signs which would not be necessary with the reuse of the existing food pantry location. The Board further finds that the proposed area variance would enable the replacement of the existing food pantry in an area involving minimal site disturbance. The Board further finds that replacing the food pantry structure in the location shown 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. \_\_X\_ Yes \_\_ \_\_ No

**Reasons:** The Board finds that the requested encroachment into the Front Yard portion of the parcel 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 \_X\_ 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 article 8 of the New York State Environmental Con­­servation Law (ECL). The Board finds that Type II Actions listed within the ECL 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. \_X\_\_ Yes \_\_\_ No

**Reasons:** The Board finds that in this instance the alleged difficulty is self-created, as an area variance would be necessary to allow for the placement of any accessory structure to the existing principal structure (i.e., the Church) to be located in the Front Yard Area of the parcel. The Board further finds that placing the proposed accessory structure within the Rear Yard portion of the parcel would create restrictions for the public’s access to and use of the proposed food pantry and that a Rear Yard location would create visibility restrictions to the food cupboard which could also lead to vandalism. The Board further finds that placing the accessory structure in the proposed location would allow the food pantry to be more accessible and that it would have greater visibility by the public. The Board further finds that the applicant has followed all steps required in seeking approval for the proposed location on the site.

The Board, based upon these findings, determine that the difficulty facing the applicant, complying with the Front Yard Area restriction for accessory structures, cannot be achieved without some form of relief. The Board further finds that the relief being requested is felt to be the minimum relief necessary for allowing the continuation of this important community service to our residents.

**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 4-foot-wide by 8-foot-long accessory structure, a woodshed style community food pantry structure, placed within the Front Yard portion of the parcel is APPROVED with the following conditions:**

1. The proposed accessory structure shall be located within the Front Yard portion of the site and in the location shown on the aerial drawing submitted with the application entitled “Daniel Kirsch’s Eagle Project – Food Pantry Plot Plan,” which shows a Front Setback of fifty-seven (57) feet from the right-of-way of Church Avenue and a Front Setback of forty-seven (47) feet from the right-of-way of Allen Padgham Road and setback four (4) feet south of the Church’s paved south parking lot.
2. The accessory structure shall not be equipped with either electric or water service.
3. The accessory structure shall be placed on the existing ground elevation.
4. The materials to be used for the accessory structure are to match, to the extent practical, the exterior of the existing church structure.
5. All site lighting associated with the proposed accessory structure shall comply with the lighting standards contained in Chapter 165 of the Town Code.
6. Any commercial speech signage shall comply with the sign standards contained in Chapter 165 of the Town Code.
7. All inspections shall be performed and accepted by the 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 be provided to the applicant.

The above resolution was offered by MS. COCHRANE and seconded by MR. LAY at a regu­larly scheduled meeting of the Zoning Board of Appeals held on Monday, October 28, 2024. After Board discussion, the following roll call vote was recorded:

Kelly Cochrane Aye

Jody Binnix Excused

Tom Lay Aye

Tod Ruthven Excused

Thomas Yourch Aye

Motion carried.

I, Carol Marvel, Clerk of the Board, do hereby attest to the accuracy of the above resolu­tion being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals Meeting for October 28, 2024.

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Carol Marvel, *Pro-Tem* Clerk of the Board

**7. OTHER BOARD MATTERS**

Mr. Yourch: Board Member Tod Ruthven’s term is up so his last meeting will be in December.

Mr. Brand: I'll just throw this out there for whatever it's worth. If you know of someone that you think might be interested in replacing Tod, please reach out to them and have them submit something to the town board for consideration. I'm sure they'll check with you, Tom and me about qualifications and what they might add to the board. We have a great community here that has a lot of very talented individuals, and it is going to be difficult to replace Tod, but we hope to have somebody that can come in and learn quickly, just as he did.

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

None

**9. DIRECTOR OF DEVELOPMENT UPDATE:**

Mr. Brand: I provided you with copies of the programs that were presented at the Association of Towns as part of your training program. Keep in mind that if you have already achieved the number of hours that you need for this year, you can use these two hours towards next year's carry-over. You’ll need to get it approved by Tom and he must let Marcie know so she can keep track of those hours. Just a side note on that, that requirement is something that most municipalities in New York State have adopted and in doing so we have seen and found that court decisions have ruled in favor of the municipality based on their training experience. So, it's a state program that is not mandated, it's recommended, and it has shown to have benefits to the municipality. If there's anything in any of that information that you received that you have questions, I'd be more than glad to answer them. Perhaps you'd want to do it when you had a full board so that everybody could understand or ask questions. And finally, one of the things that I gave you was a kind of a cheat sheet if you will, to have with you so that when you do have meetings where there is more than three people in the audience, it's always nice to have something to look back to and try to help keep you focused on where we're going. Does anyone have any questions on that? [There were no questions asked]

**10. CODE ENFORCEMENT OFFICER UPDATE**

Ms. Ruthven: There are no applications for next month so it is up to you if you would like to meet next month or not.

The Planning Board uses One Drive to access the applications and supporting information for the hearings. We load the applications and supporting information onto the drive and send you an email inviting you to view the drive. If that is something that you would be interested in, we would like to extend the offer to use that format for this board.

For clarification, you will still get the Resolutions emails prior to your meeting, One drive will be a tool to use in place of picking up or mailing the physical packets.

**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, 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 on Monday, November 25, 2024, at 7:00 p.m. both in-person at the Farmington Town Hall, 1000 County Road 8, and on ZOOM.- HAS BEEN CANCELLED FOR THERE ARE NO HEARINGS.

**13. ADJOURNMENT**

 A motion was made by MS. COCHRANE, 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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Carol Marvel

Clerk *Pro-Tem* of the Zoning Board of Appeals