Town of Farmington

1000 County Road 8

Farmington, New York 14425

**Zoning Board of Appeals**

*Established July 15, 1957*

**Monday, September 23, 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 Present:**

Ron Brand, Director of Development, Town of Farmington

Dan Delpriore, Code Enforcement Officer, Town of Farmington

Jeff Graff, Attorney, Town of Farmington

**Applicant’s Present:**

James Fowler 6176 Hunters Dr Farmington, NY 14425

Jared Hirt, Esquire, Evans, and Fox

Noelle Porretta, 4484 State St Shortsville, NY 14548

Bridges for Brain Injury, 5760 Duke of Gloucester Way Farmington, NY 14425

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**1. MEETING OPENING**

The September 23, 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 AUGUST 26, 2024**

A motion was made by MS. COCHRANE seconded by MR. LAY, that the minutes of the August 26, 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 #0801-24, NOELLE PORRETTA, 4484 STATE STREET, SHORTSVILLE, NEW YORK 14548:** The applicant is requesting a Temporary Use Permit, on behalf of Mark Porretta Excavating, Inc., to operate an Excavating Business on land located within the A-80 Agricultural District; and in accordance with the criteria contained in Chapter 165 of the Farmington Town Code, entitled Zoning Law, Article VII, Nonconformities, Section 91 Temporary Use Permits. The applicant wishes to continue to operate their long-established excavation operations from their new site at 4484 State Street, a 2.7-acre parcel of land located along the north side of State Street Extension, between the Niagara Mohawk Power Company land and the Village of Manchester. The Temporary Use Permit is for the storage of excavation equipment and materials within an existing building and within a canvass covered structure located behind said building, and an outdoor area for the storage of materials which is located behind the existing building.

**ZB #0802-24, BRIDGES FOR BRAIN INJURY, INC., 5760 DUKE OF GLOUCESTER WAY, FARMINGTON, NEW YORK 14425:** The applicant is requesting a Temporary Use Permit, to operate their existing Community Collaboration For the Rehabilitation of Brain Injury Survivors & People with Disabilities on 24.7 acres of land, zoned A-80 Agricultural, at 1111 County Road 8, which is located along the east side of County Road 8, south of the Ontario County-owned Railroad and north of State Route 96; and to allow for the renovation of existing structures, to provide for educational programming, vocational and life skills, building activities for brain injury survivors and individuals with disabilities, in accordance with the criteria contained in Chapter 165 of the Farmington Town Code, entitled Zoning Law, Article VII, Nonconformities, Section 91 Temporary Use Permits.

**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 #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 who is going to be speaking on your behalf?

Mr. Hirt stated Jared Hirt of Evans Fox on behalf of the applicant.

Mr. Hirt said good evening, Mr. Chairman and members of the Board. I won’t belabor you with going through the procedural history and the underlying facts of this application. I trust that everyone has had an opportunity to review both the December 18, 2023, submission from EBT along with all of the various other submissions that have been made. As this board is aware, this has been before both the planning board and your board for a number of continuations. The planning board has looked at this to get back to you with recommendations as to the relief for what is currently before this board, a request that we have a variance so that we can install a 22-foot-wide driveway that would allow for a flag lot in the subdivision, creating three lots. There are currently two lots as it currently exists to meet the 125-foot requirement. For the third lot we are requesting the 22-foot easement. I open this up to members of the board if there are any questions. There are a number of items that have been submitted, are there any comments that you guys have?

Mr. Yourch asked if there were any staff comments.

Mr. Brand said, I have no comments, I submitted a draft which everyone has had the opportunity to review.

Mr. Yourch then asked for Public Comments. Whoever would like to speak please come up and state your name and address.

Mr. DiFrancisco approached the podium and stated his name and address, 6256 Pheasants Crossing. I am speaking this evening in opposition to the three-lot subdivision. We are at the conclusion of a frustrating four-year quest to implement something that a majority of the Pheasant Crossing homeowners disapprove of. In 2020 Mr. Fowler asked for and received approval for a two-lot subdivision. In the same year he asked for a three-lot subdivision. On July 24th of 2023, he asked for an area variance for a lot with 30 feet, far below the town code requirement of 125 feet. There has since been a parade of Lawyers, Architects, submitted plans and proposals, many times incomplete and many times late. 2023 July 19 continuance, 2023 August 2 continuance, 2023 September 6 continuance, 2023 November 1 continuance, 2023 December 6 continuance from our town board and similarly the Zoning Board of Appeals had at least five continuances on this issue. Just when we thought progress was being made, on January 17th, 2024, asked for a variance of 22 feet rather than 30 feet, both ridiculous. The board asked him to withdraw the previous request and submit a new application thus delaying and starting the process over. I think the time has come to say no to this poorly handled and unwanted proposal. I ask that the character of the Pheasants Crossing neighborhood be protected and preserved. Thank you.

Mr. Yourch asked if there was anyone else.

Mr. Coon approached the podium and stated his name and address, 6250 Pheasants Crossing. We were the third or fourth house in the neighborhood to be built. When we moved in, we were told that 6240 was going to be one lot with a nice house on it to fit in with the rest of the neighborhood. As Luke spelled out, there’s been numerous requests for changes. This will affect my neighborhood. It is going to affect the usable size of the lots. We have to be concerned with the size of the house that can be built on a lot and any additional variances that are going to be asked for to put these houses on these lots. That has been brought up in these meetings before because they’re going to be smaller. Are they going to have to come back to the board, to the town and to the neighborhood to deal with saying that they have to be closer to the boundaries and the property lines. Our homes, we tried to have the proper setback, we have them centered in our lots. It’s a nice neighborhood, and now the Fowler family is trying to change our entire neighborhood. That’s about all, I have talked before and it is very frustrating to have to come here continuously to deal with this, so from the neighborhood experience, I know that I can speak with them that it is a lot for is to do this, but we are dedicated to it and we’re not going to stop. We want our neighborhood to stay the way that it is. I have not heard anybody complain about the two lots but three lots is ridiculous. There’s a lot of other bags that go with this that nobody really wants to hear about. Yes, I would object to this, my family objects to it so we would appreciate your consideration on that.

Ms. DePalma approached the podium and stated her name and address, 6233 Pheasant Crossing. I am both a neighbor within the neighborhood, but I am also an attorney that has followed closely with the variance requests, paperwork and background on this. I think it is interesting that the attorneys at various meetings have asked to gloss over procedural history of this. I think it is poignant and the procedural history is quite important. Namely, the number of times that these specific elements for a variance and flag lots were not met.

The improper papers submitted to various boards, and any number of explanations given for why a flag would be appropriate where there is no true elemental meaning of what is required to do so. The history, I think, is also important, while we are all here to support anything that a person wants to do on their property that is appropriate and helps maintain the character of the neighborhood. I think everyone would quietly do so in our neighborhood, speaks to that. What started out as 2 lots, including frankly some knocking on doors to talk about those lots. What the prices were, what neighbors should do, including a knock on my door one day about those properties, and how much they cost, and I had a candid conversation about how they were set up. Their frontage to the creek. How that was going to affect water runoff. Why, the pricing wasn't appropriate for the neighborhood, and multiple conversations where those of us in the neighborhood even suggested we might be interested in buying those parcels if they were priced properly. Including a candid conversation where I was told I'm retired. I didn't really want to deal with buying a house or building a house. I gave up on that long ago, but then, after a course of events and improper pricing, sizing no interest, we now have this desire to make a flag lot. There are no flag lots in our neighborhood. The history of this is one that this one can address, namely, that when all this property was sold there's an ability to carve out. Such that this particular lot didn't have to meet any of the requirements of all of the rest of us. History is what history is. There were 2 attorneys involved who negotiated that, I suppose, to their credit. Nonetheless, we're now here. It's led to all of this where they were allowed to carve out a property where they met no requirements. It's now led to this part. I think self-creation is a very important piece that this board needs to look at in terms of how we got here. In other words, there was no reason at the time that there was really a desire to have three lots to not work with appropriate architects, and environmental. Design those lot widths. Come to you, seek advice, work with attorneys, and figure it out. It is not a difficult process. Should somebody want to make 3 lots from the start. But it didn't. I think the practicality is we couldn't sell it. The values aren't right. It wasn't working out. So now let's try to do something different and maybe squeeze my house in too. All that said, that is not an issue that this Board should have to take on, and frankly create what is a troubling procedural history from what was allowed to be done with carving out that property from everything else during that first sale to now what is going to be frankly, very difficult and presidential history that you are all going to set by allowing this flag lot in this way in this neighborhood where it conforms with nothing else near it whether it be just the Pheasants Crossing neighborhood or Doe Haven or any of the other areas. In a town growing as fast as ours with what is really positive history from a real estate perspective. To then be taking existing neighborhoods, and have people think that once they move into the existing neighborhood, this is the type of issue that’s going to happen, and this is the type of thing that the board will look past. I think it is going to be troubling as you all move forward

Looking at other subdivisions, aspects of the real estate in our area. I don't think there's any question the dedication, frankly, some of our neighbors, namely Maureen, in trying to work through this. The fact that we're all here and that we've all spoken multiple times. This isn't something that we support. It is not a personal issue. If they're appropriate and appropriate sizes, then maintain the consistency of the neighborhood and values of properties. No problem, but I think any objective look at this, whether the attorneys or any other specialties that should be involved in this, this doesn't conform with any of it. It's going to be a very troubling presidential history for the board so I hope that you all will consider that as well.

Mr. Yourch asked if there was anyone else.

Mr. Prankie approached the podium and stated, my name is Scott Prankie. I live at 6243

The biggest issue that I can see. The biggest thing that I just heard was consistency. We need consistency in our development. It is big for the future of the development, it makes a huge difference on the sale and the resales, and what the land is worth. When you look at what was put in front of us, and you look at a house behind 2 other houses that are up front.

It doesn't even look right. The development was set up is for you have a good size lot, your

front yard shouldn’t be kissing somebody else's backyard. If the flag lot is going to be back there the people that are going to be in front of them are going to have to look at them.

And yes, we see each other's backyards but we're not sitting in our backyard looking at somebody's front yard. Somebody's fixing the vehicle, somebody, you know, pulling in the driveway all the time. There's got to be some type of. normalcy within the whole development And I think that's what you people want, unfortunately, Mr. Fowler doesn't want it that way, and I don't think he is taking into consideration us, the people who live there and have taken care of the place and have taken care of all those years. You know it’s self-gratification, and that's not fair, it's not fair to us because we do take care of everywhere, all of our houses, and it does make a difference and when you saw the letter from, Cretekos [the realtor]. I mean, even when he says yes, there were other places here that did work, it worked here, it worked here. It doesn't work in Pheasants Crossing. It may have worked in Doe Haven because they were corner lots. It's on the corner and it is set back. Mertensia, it’s set back. This one is going to have a driveway in between two houses with a house in the back. That's not even going to be close to what the distances of these other two are, and it's not even in the corner, it is in the middle. So aesthetically, it's going to look awful, and I don't know what kind of house he's going to build on there. We don't know that we don't know what houses are going to be in front of us. I think like Ms. DePalma said, they must be a certain distance back. You know, we're all aesthetically the same when you look around our whole lot and when you drive around that whole area. If these ones are going to be in front, they are going to look even worse. You have got two houses that are in the front and another one in the back and everybody else is set back, very off putting and it’s just not right. Like everybody has said already, you can have two lots, everything moves around in a flow. That is what I looked at when I bought my place, that is what everybody else looked at when they bought theirs. It is a nice flow, it is perfect, it is a development, it’s not a flag log, it’s made for somewhere else it’s not made for Pheasants Crossing.

Ms. Dispensa approached the podium and stated her name, Maureen Dispenza and address of 2367 Pheasants Crossing and said to me when you look at the zoning criteria the most significant piece to be considered is the question, Is the variance request significant to whatever they are trying to do? So, if you are looking at 125 feet is the minimum requirement, most of our homes are 140 wide. You are asking for 22 feet; you are only meeting 17 percent of the town requirement. I would define that as significant. You owned all that land and for whatever reason you chose to keep that parcel knowing it’s limitations with the creek and what not, that is self-created. For those two reasons alone, if I were sitting on the Zoning Board, I don’t know how in good conscience I could possibly approve this request because you have no basis to do it. Apart from that, you did receive a two-page letter in advance to save time. I just want to thank you all for the last eighteen on and off months, I realize that this has been a long hall for all of us, so thank you.

Mr. Yourch asked if anyone else would like to speak. Hearing no response, he asked if there was anyone online that would like to speak.

Ms. Mandanas spoke, she identified herself as Janet Mandanas living at 6262 Pheasants Crossing. We are in opposition of the subdivision. We would like to keep the character of the circle and preserve the integrity of it.

Mr. Yourch asked if there were any others online that would like to speak.

Ms. Constantino spoke, she identified herself as Stephanie Constantino living at 6212 Pheasants Crossing, she said, I love my neighborhood, I have been here for ten years and as most of you know we are getting an addition, and we are not going anywhere. So, I just would like to speak to what everyone else is saying. Aesthetically this will drastically change the neighborhood, and nobody wants to see that as neighbors. Two would be okay, three is ridiculous. Thank you for all your time working on this.

Mr. Yourch asked if there was anyone else online that would like to comment, hearing no comments, Mr. Yourch asked for comments or questions from the board members. There were no comments or questions from the board.

Mr. Hirt said that he would like the opportunity to respond. There were a lot of comments made about changing the character of the neighborhood and there not being flag lots. The reality exists that there are three flag lots right outside of this subdivision, there are two more flag lots right down the road. The procedural history of this regardless of the comments that have been made frankly show my clients ability to cooperate and work with town in this development. There have been a lot of requests made to my client which he has worked with the town to hopefully dispel any concerns or issues that the town had. The reality of the situation is what is before this board tonight is the request for an area variance so that Mr. Fowler can put in a third flag lot. The code itself as everyone knows provides for flag lots. They are permitted lots within the Town of Farmington. So what we are asking for right now in order to get that flag lot is instead of the 125 foot width, we have the flagpole in essence which we are asking for that to be 22 feet to provide for the flag lot. So that everyone is on the same page as to the lot within this subdivision, we have heard about uniformity. It is not as if each one of these lots have the same frontage within the subdivision. As you go down through there 168, 150 136, 100, 103, 129, 137, 126, 118, 243, 147, 156, it is all over the board. The fact that these lots are all uniform and that they are the same with is ludacris and that is not accurate. The reality of it is whether there are two lots or three lots there are setbacks that are set forth within your code which the applicant needs to comply with or must come back before you and ask for a variance. That is why we have zoning laws, currently right now there is only one request before this board, we all know what the balancing test is, it was addressed in APB letter to the board. Also, we have heard comments made about the values of these homes being somehow reduced and or affected. The reality is, you have before you the opinions of two experts in the industry, both which have indicated that there is not going to be any detrimental impact on any of the homes within this subdivision. In fact, on the contrary they are saying that the home values are going to go up. Howard Hanna, Sam Cretekos even indicated that it is supported by the very flag lot that sits outside the subdivision and sold for a twenty percent plus increase over the course of one year on a flag lot. Although I can appreciate the frustrations of the neighbors and the concerns, there is documentation, there is evidence before this board which clearly supports the applicant’s request. It is not emotions; it is not feelings it is evidence it is documents it is submissions. That is what this board is tasked with, it is to go through the balancing test set forth by New York State Law and make a determination based upon that and that is it. I am more than happy to answer any questions that the board has about the application and the documents before you.

Ms. Binnix said, I would like to clarify that the town code defines flag lots, but the town code currently does not allow for a flag lot.

Mr., Yourch said, is that correct Dan?

Mr. Delpriore said, that is correct. If you go back in the minutes this has been discussed before with this board. The code is clear that it does define what a flag lot is because we do have them as the applicant has said in the town. When you look at the schedule for the lot widths it does not allow for a flag not to be created without coming to you.

Mr. Graff said, I did a search of the zoning code for flag lot and the only reference is the definition itself, in the first part of the definition is that a flag lot is unapproved lot. So the only way to be an approved lot for a flag lot is to get an area variance for the frontage so as of this moment the lot is not an approved flag lot because it does not exist because this board has not approved the area variance. If you did approve the area variance then it would be an approved lot.

Mr. Hirt said, flag lots are permitted in the town with permission from you. So, my point of saying that is there is a definition within the code. Flag lots are permitted, in fact there are at least twenty-seven flag lots in the town based on the FOIL request which doesn’t even take into account the five that I mentioned and that was just a quick search online of the flag parcels. If flag lots were not permitted in the town there would be a prohibition against them. However, it is defined and because we opt to come before the board if it is approved then it is a permitted lot. Is that fair?

Mr. Graff said if it is approved, yes.

Mr. Yourch said, under descriptions of A-80and all of them does it say sizes, lengths, minimum or maximums for flag lots?

Mr. Graff said, not specifically for flag lots, it just gives the width and that is what they are requesting the area variance for.

Mr. Prankie said I must disagree with his mentioning of the flag lots being worth more because when you look at what Sam assessed that is a totally different flag lot as opposed to where this one wants to be, it is not in a development with thirteen houses of the same size. This flag lot is located on Mertensia road at least 200 feet back from the house in from of it so you can’t compare that as to where we are, also the house that is in Doe Haven is a sizeable difference all the way back, so it does not affect the development of Doe Haven so you can’t say that it is going to be worth more. He is almost saying he is going to guarantee it because he is an expert. If he is going to guarantee it tell him to write it down, tell him to write the check. This is a flag lot that is going to be literally how close from the other house that is going to be in front of it.

Mr. Yourch said, we are just talking about Mr. Hirt’s comments about flag lots at this point not the values somewhere else. I got your point though, thank you.

Mr. Prankie said well he did mention that they are worth more but they are not. It wouldn’t be in our development, maybe there yes but not in a development of our stature.

Mr. Coon said, I believe from one of the earlier hearings about a year ago we heard that no new flag lots have been approved in Farmington since around 2000. I could be incorrect, but I am pretty sure, but I am pretty sure.

Ms. Dispenza said, I think 2005.

Mr. Yourch said we were unable to clarify for certain, but it has been quite a while.

Mr. Lay said that was discussed in a previous meeting.

Ms. Binnix said the code has been changed since the last approved flag lot.

Mr. Yourch asked if there were any other comments from anyone online, hearing none he closed the public hearing for ZB#0301-24.

Mr. Yourch asked for a motion to close the public hearing

Motion made to close the hearing offered by MS. COCHRANE and seconded by MS. BINNIX All in favor, Aye

**5. PUBLIC HEARINGS:**

**ZB #0801-24, NOELLE PORRETTA, 4484 STATE STREET, SHORTSVILLE, NEW YORK 14548:**

The applicant is requesting a Temporary Use Permit, on behalf of Mark Porretta Excavating, Inc., to operate an Excavating Business on land located within the A-80 Agricultural District; and in accordance with the criteria contained in Chapter 165 of the Farmington Town Code, entitled Zoning Law, Article VII, Nonconformities, Section 91 Temporary Use Permits. The applicant wishes to continue to operate their long-established excavation operations from their new site at 4484 State Street, a 2.7-acre parcel of land located along the north side of State Street Extension, between the Niagara Mohawk Power Company land and the Village of Manchester. The Temporary Use Permit is for the storage of excavation equipment and materials within an existing building and within a canvass covered structure located behind said building, and an outdoor area for the storage of materials which is located behind the existing building.

Mr. Yourch asked our guest who is going to be speaking on your behalf?

Ms. Porretta approached the podium and Mr. Yourch asked her to state her name and address.

Ms. Porretta stated Noelle Porretta 4484 State Street Shortsville New York 14548.

We have lived in Farmington for over thirty years, and we were at our previous location on Latting Road, and we had a home and a barn where we use for storage of our equipment and trucks for our business. We were there for twenty years and we relocated two years ago this January onto State Street and have the same thing a house and a barn. I want to be able to continue doing that. We applied for a special use permit, and we were told that was not viable for us so now we are here asking for the temporary use permit. Nothing has changed, we park and store there. We do not have customers come to the location, we have no signage, we are just doing the same thing that we have been doing for the last twenty years.

Mr. Yourch asked if there were any staff comments.

Mr. Brand said the applicant has a business that supports our agricultural economy providing site drainage improvements and has been doing so for the past thirty years. There is no provision right now in the town code for the special use permit in the A-80 District. However, there is a caveat of provision of temporary use which has been used successfully in other applications. One, over on Shortsville Road, allowing construction equipment repair and Agricultural equipment repair to occur over there. I know a number of farmers in the community have used this business to maintain their equipment and keep it in good condition and appearance, they do not employ a large number of people. They won’t have customers coming to the site and they do understand that they need a site plan. They are asking for this temporary use permit for a two-year period, which is the maximum that you can grant it for. It is something that takes into account the situation that they we are in and the supply demand chain. As you all know, others up there having the opportunity to store material so that you can complete a job once you start it as opposed to having to wait for a delivery. Something that I can tell you, right now we are waiting six months for the delivery of bolts for the pedestrian bridge across Beaver Creek. We can’t go any further until we have those bolts, so that is a fact of life that we have to deal with. The applicant did meet with the Planning Board and did meet with the Town staff we have gone over everything. County planning has reviewed it and referred it back as a class I their only comment was to be careful when you start getting into the area of stormwater that you don’t exceed the requirements, and they are far from that right now. I have drafted two resolutions for you, one is a resolution classifying this as a type two because we are not changing anything other than existing use of the land. The other one is a resolution to approve a two-year temporary use permit with conditions, part of which is the approval of the site plan from the Planning Board. That’s it.

Mr. Yourch asked if there were any public comments. Hearing none he asked if there were any comments from anyone online, hearing none he asked if there were any Board Members comments or questions.

Mr. Yourch said that he drove by, and you keep it very neat.

Mr. Lay said he agrees that you do keep it very nicely kept.

Mr. Yourch asked if there were any further comments. Hearing no further comments,

Mr. Yourch asked for a motion to close the public hearing

Motion made to close the hearing offered by MS. COCHRANE and seconded by MR. LAY All in favor, Aye

Mr. Yourch closed the public hearing for ZBA #0801-24.

**ZB #0802-24, BRIDGES FOR BRAIN INJURY, INC., 5760 DUKE OF GLOUCESTER WAY, FARMINGTON, NEW YORK 14425:**

The applicant is requesting a Temporary Use Permit, to operate their existing Community Collaboration For the Rehabilitation of Brain Injury Survivors & People with Disabilities on 24.7 acres of land, zoned A-80 Agricultural, at 1111 County Road 8, which is located along the east side of County Road 8, south of the Ontario County-owned Railroad and north of State Route 96; and to allow for the renovation of existing structures, to provide for educational programming, vocational and life skills, building activities for brain injury survivors and individuals with disabilities, in accordance with the criteria contained in Chapter 165 of the Farmington Town Code, entitled Zoning Law, Article VII, Nonconformities, Section 91 Temporary Use Permits.

Mr. Yourch asked our guest who is going to be speaking on your behalf?

Ms. Donaldson approached the podium and Mr. Yourch asked her to state her name and address.

Ms. Donaldson said, my name is Laura Donaldson I am CEO and also co-founder of the organization Bridges for Brain Injury. I am Sara, I am a wildlife education director for Bridges for Brain Injury Wildlife Rockstars.

Ms. Donaldson said, we meet at 5760 Duke of Gloucester Way, and I’d love to talk to whoever created that name because that is misspelled, and miss spoken quite often. We lease the property over there, we have been in business for sixteen years and we have been at that location for thirteen of those years. It is about 8,000 square feet and we have access

To about an acre or half an acre. We serve people like you and I, the only difference is a few seconds in time. They have had a terrible accident, some have had motor vehicle accidents, a fall, an assault or a medical condition, stroke, aneurism or a brain tumor. All of our folks are moderately to severely disabled. They require long term care, for the most part all of them live at home with their families or in their own apartments, and we set them up with supportive services to make them as independent as possible. We also serve folks with other neurological conditions and chronic health conditions. Everyone that we serve lives at or below poverty level, they are all on Medicaid and all are eligible for nursing home treatment. Our services keep them from going into a nursing home. Our mission is about bridging that gap, the hospital fixes you, sews you up sends you home but there is a gap between surviving and thriving. Once you get home you realize there is more to your brain injury. You look fine to your friends and family. It is also called the invisible injury because you look fine and people can’t see the injury, but you are really struggling with, can you get up and remember to feed the dog? Are you able to drive? Are you able to take a shower? Most of our folks are not able to do that. We provide a variety of services, most of them are home based, in their homes. We provide case management services. We link them to healthcare services; they may need transportation for medical and financial benefits. We also provide life skills training. We go into their home and teach them. Our mission is to give them purpose, teaching them new skills and increasing their independence again. We also have a day program setting located at 5760 Duke of Gloucester. We have about forty-five participants attending throughout the week. They are able to come in for social connection with their peers. They are able to participate in arts and crafts and things that make them feel good about themselves. One of the things that we created was a meeting program called Wildlife Rock Stars and Sara is going to tell you a little bit about that.

Ms. Saylor said, The Bridges for Brain injury is a very unique program, the wildlife rockstars is a program that we offer to our participants where they’re able to come in and focus on those skills that they have lost. So, what better way than working with animals to that that emotional connection to help you inside, or that physical rehabilitation. Whether you are going to a show or carrying an animal crate or brushing a rabbit. They don’t necessarily see that they are doing physical rehabilitation while they are working with animals, but they are. It is inspiring and rewarding to see our participants come in with a walker, and only be able to pronounce a few words and then get up in front of an audience and read from a script and host, and retain all of that knowledge, and then teach it to the community. So not only for our participants, but for our animals and for our community, getting this permit will be wonderful for Bridges for Brain Injury.

Ms. Donaldson said, currently we are leasing about 8,000 square feet in an upstairs and downstairs building which is not fully accessible for our folks. We have outgrown it. We have been there for thirteen years. We have half an acre to use for the wildlife education program, so a lot of we do is outreach. We did 150 outreach programs to nursing homes and schools, nature centers and libraries this past year. In July we purchased 1111 County Rd 8, a beautiful horse farm. We are very excited; this has been our dream since started the organization and our goal is to renovate some of the buildings there so that we can move our operations and expand our wildlife program. We can get more vocational opportunities for our folks who want that purpose and a sense of meaning to themselves. We are requesting the Temporary use permit to allow us to renovate the existing buildings on site and to allow us to build a 12,000 square foot wildlife education center where we would be able to welcome more of the community into what we do. We would like to renovate the home that is on site into an office setting and a Day Program for our folks. What we are really envisioning is not a clinical setting but something that is peaceful and serene and healing for our people. Our Wildlife program is the only of its kind in the United States and we want to be sure that our services are always changing always innovative and getting folks with disabilities meaning and purpose in a healing environment. If you haven’t seen that property, it is absolutely gorgeous and has a lot of opportunity.

Mr. Yourch asked if there were any staff comments

Mr. Brand said, Anne and I and the Fire Marshall met with the applicants and their team, we explained to them the issues of concern that we had with fire protection, water supply and access. They explained their needs to us and shared that their needs have been outgrown for some time now. The one thing that didn’t come out with Laura’s presentation is that this is not a service just for the residents of Farmington, this program serves residents of the entire region. It is a unique service that is the setting that they are dealing with I believe is a storybook setting that provides long term solutions and opportunities for individuals who have this problem that they have inherited in one way or another and I thank them for their service to this community. I think that using this Farmland in this farming area is consistent with what we are trying to do here to promote and sustain the Ag operations of the community. When they do get to the point of bringing in animals the local farmers will be providing feed and materials for them. I think that it is important for the community that we move forward. I have drafted two resolutions for this. They will be hiring an engineering firm, and an architectural firm. All of their projects have to be approved by the State Health Department before we can grant the final blessing to them, so they are very regulated at that level. There have been no recorded complaints at their current location over there on Duke of Gloucester. You have two resolutions, that’s it.

Mr. Yourch asked Mr. Delpriore for comment.

Mr. Delpriore said, Ron summed it up very nicely. The only thing that I would add to this is that it is another Temporary Use Permit because it is not called out in the code. So, we are going in the same direction as we did with the previous applicant.

Mr. Yourch asked if there were any other comments from either the public online or in the room.

Ms. Binnix said, I have fundraising in two weeks for you. I turned an unfortunate into a positive and I work for an organization that fundraises. I think your work is extraordinary. Thank you so much and I hope everything works out.

Mr. Yourch asked for a motion to close the public hearing

Motion made to close the hearing offered by MR. RUTHVEN and seconded by MS. COCHRANE All in favor, Aye

Mr. Yourch closed the public hearing for ZBA #0802-24.

**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.

Mr. Yourch said, I will turn this over to the town staff.

Mr. Delpriore said, due to a scheduling conflict, we have an email from the applicant requesting that you continue this public hearing until the October 28th meeting when they will be available to present to you guys.

Mt. Yourch asked if there were any comments from the public in the room or online. Hearing none he asked

Mr. Yourch asked for a motion to accept the resolution as offered by the town. The resolution was offered by MR. RUTHVEN and seconded by MS. BINNIX

Motion - Approved

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

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

*Town of Farmington*

*Zoning Board of Appeals*

*SEQR Classification*

*File: ZB #0801-24*

*Applicant: Noelle Porretta, 4484 State Street,* Shortsville, New York 14548

Action: Classification under 6NYCRR Part 617.5, article 8 of the New York State Environmental Conservation Law (ECL) for the granting of a two- year Temporary Use Permit to operate a commercial excavation business on land zoned A-80 Agricultural District.

**WHEREAS**, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has reviewed the criteria contained under the above referenced ECL; and

**WHEREAS**, the Board finds that said Action involves only the use of existing buildings, structures and land without any further site development; and

**WHEREAS**, the Board finds that said Action is defined under the ECL, Part 617.5 (c) (1), (18) and (21).

**NOW, THEREFORE, BE IT RESOLVED** that based upon the above findings the Board classifies this Action as a Type II Action under the ECL.

**BE IT FURTHER RESOLVED** that Actions that are classified as Type II are not subject to further review, as these Actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under the ECL.

**BE IT FINALLY RESOLVED** that the Board in making this classification has satisfied the procedural requirements under the ECL and directs this resolution to places in the Town file upon this Action.

The above resolution was offered by MR. RUTHVEN and seconded by MR.LAY at a regular scheduled meeting of the Board held on Monday, September 23, 2024. After Board discussion thereon the following roll call vote was taken and recorded:

Kelly Cochrane Aye

Tod Ruthven Aye

Tom Lay Aye

Jody Binnix Aye

Tom Yourch Aye

Motion: Carried

I, Paula Ruthven, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Farmington Zoning Board of Appeals for the September 23, 2024, meeting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_L.S.

Paula Ruthven, Clerk of the Board

**Town of Farmington**

**Temporary Use Permit Findings & Decision**

**Applicant:** Noelle Porretta **Application:** ZB # 0801-24

4484 State Street **Zoning District:** A-80 Agricultural

Shortsville, NY 14548 **Notice published:** 09/08/24

**County Meeting:** 09/11/24

**County Referral:** # 179-2024

**Public Hearing Held:** 09/23/24

**Property Location:** 4484 State Street, north side, between State Route 96 and the Farmington/Manchester Town Line. Tax Map Account No. 31.00-1-20.130. Approximately 2.7 acres of total land area.

**Use for which Permit is requested:** Applicant desires to continue to use a portion of an existing building located on this site for the storage of excavation equipment and related materials used in this long-established commercial site excavation/drainage business. The Applicant is also seeking the outdoor storage of supplies and materials used in connection with the commercial site excavation/drainage business. The Applicant is seeking approval to use an existing, fabric covered storage structure and an adjacent open storage area, both located immediately behind the existing equipment storage building, for his commercial business of site excavation and drainage improvements.

**State Environmental Quality Review Determination:** The above referenced application has been determined to be a Type II Action in accordance with the provisions contained in Part 617.5 (c) (1), (18) and (27), New York Codes, Rules and Regulations and Article 8 of the New York State Environmental Conservation Law.

**County Planning Referral Number and Recommendation:** County Referral #179-2024. Class 1 with comment that asks... “What stormwater management facilities are need to accommodate the increased stormwater from the added rooftop and paved areas?”

*In accordance with the provisions contained in Chapter 165, Section 91, of the Farmington Town Code, this application for a Temporary Use Permit is based upon the following Test Findings by Zoning Board of Appeals:*

*Test: No Temporary Use Permit will be granted without a clear understanding of the nature of the permit, the time period covered by the permit and a detailed listing of the conditions of approval. The following findings must be made by the Zoning Board of Appeals on any Tem­po­rary Use Permit:*

**(1)** The temporary use will be in harmony with the general purposes and intent of Chapter 165, Section 38 of the Farmington Town Code, taking into account the location and size of the proposed use, the nature and intensity of the operation involved in or connected with the proposed use and the size and location of the site in relation to adjacent sites and uses.

**FINDING:** The Zoning Board of Appeals (hereinafter referred to as Board) finds that the Applicant has operated his site excavation/drainage business for over the past twenty years from his former location on Latting Road in the Town of Farmington. The Board further finds that a part of his excavation business includes the installation of drainage improvements across farmlands located within the Town of Farmington and nearby municipalities. The Board further finds that the Town of Farmington Farmland Protection Plan identifies approximately 3,000 acres of farmland in the Town, if drainage improvement were installed, would be classified as Prime and Unique Soils of Statewide Importance. The Board further finds that the Applicant proposes no changes to his operating practices. The Board further finds that there will be no customers coming to the site and that all equipment and materials associated with the business will continue to be maintained in their present order. The Board further finds that due to the nationwide delays in the deliveries of supplies and materials that on-site temporary storage has become an important part of successful business operations. The Board further finds that the Applicant is not proposing any additional structures or buildings for this Temporary Use Permit. The Board further finds that there will be no outdoor storage of used equipment or materials used in conjunction with the commercial excavation/drainage business. The Board further finds that the maximum period of time that this Temporary Use Permit may be granted for is a two (2) year period.

The Board further finds that the subject property is located adjacent to the On­tario County Consolidated Agricultural District #1 and that the proposed use is felt to be an important agri-business service to farmers within the Town and within the County’s Agricultural District. The Board further finds that there will be no direct sales to customers of the construction equipment, drainage materials or supplies. The Board further finds that the approximately 2.7-acre parcel of land is large enough to sustain a livelihood by the sole proprietor from general operations.

The Board further finds that the applicant does not intend to hire any employees to work at these premises. The Board further finds that the applicant does not intend to have any commercial speech signs located on the property. The Board further finds that the applicant will not be storing petroleum products on the site that would otherwise be regulated by the New York State Department of Environmental Con­ser­va­tion. The Board further finds that there will be no disposal of any hazardous or contaminated materials on the premises. The Board further finds that there will be no outdoor storage on the premises of site excavation/construction equipment. The Board further determines that the applicant is aware of the limitations contained in the Town Code for the granting and then the renewal of a Temporary Use Permit. The Board further determines that the pro­posed hours of operation will be consistent with those established by the Town for construction sites, in that hours of operation will not exceed 7:00 a.m. to 7:00 p.m. Monday through Friday; 7:00 a.m. to 6:00 p.m. on Saturdays; and there shall be no Sunday or Holiday operations per­mitted.

The Board further finds that there have been no additional Building Permits issued for any ex­pan­sion associated with the proposed Temporary Use Permit since the original Building Permit for the Storage Building. The Board further finds that there are no known changes requested to this Temporary Use Permit. The Board further finds that the Applicant has prepared a Preliminary Site Plan for review and approval by the Town Planning Board, as a Condition of Approval for this Application.

**(2)** The proposed temporary use will not tend to depreciate the value of adjacent prop­erties.

**FINDING:** The Board finds that the character of the neighborhood includes a mix of agricultural land operations, agricultural buildings, low density residential single-family dwellings, a municipal water supply site, and nearby industrial sites [an RG&E Sub-station and a large-scale mulch grinding and bagging operation]. The Board further finds that the temporary open-air storage of construction equipment and materials on the site will be consistent, at a lesser extent, with the nearby open-air storage of bagged mulch materials. The Board further finds that the applicant has a long-established business providing site drainage improvements, including such improvements to active agricultural sites located within the Town. The Board further finds that the applicant intends to maintain the property and the associated buildings in the general good condition.

The Board, based upon these findings, concludes that the proposed temporary use will not tend to depreciate the value of adjacent properties. On the contrary, the Board finds that said tem­po­rary use will provide an opportunity to enhance the agricultural sector of the Town and County.

**(3)** The proposed temporary use will not create a hazard to health, safety or general welfare.

**FINDINGS:** The Board finds that the proposed use identified above herein will not create a hazard to health, safety or general welfare of the community. The Board further finds that granting the Temporary Use Permit with conditions will enable the Town to evaluate the operations associated with the proposed Temporary Use Permit, thereby allowing the Town the opportunity to establish rules and regulations for creating a Special Use Permit for this type of land use within the mapped A-80 Agricultural District areas of the community. Such action it is felt promotes and helps to sustain the viability of agricultural operations and businesses within the community and county.

**Based upon the above findings, the Board hereby makes the following decision:**

**The request for the Temporary Use Permit is hereby granted.**

**⮽ The request for the Temporary Use Permit is hereby granted with the following con­di­tions:**

**The request for the Temporary Use Permit is hereby denied.**

1. The Temporary Use Permit is hereby granted for a period of two (2) years that is to commence on date of the Planning Board’s Final Site Plan Approval for the Temporary Use Permit in accordance with the Conditions of Approval contained herein and will automatically terminate two (2) calendar years from said Planning Board date of Final Site Plan Approval.

2. The Temporary Use Permit is issued to Noelle Porretta and is not transferable to another party.

3, The Temporary Use Permit is valid for a sole proprietor to operate a site excavation and drainage service from the subject property [4484 State Street].

4. There shall be no direct sales of materials to the general public from the site.

5. The Temporary Use Permit does not enable the applicant to hire employees without first coming back to the Zoning Board of Appeals to amend this application.

6 The Temporary Use Permit is hereby granted with the understanding that the applicant will not be seeking any additional Building Permit(s) which would first require an amendment to this Temporary Use Permit and an amendment of the Final Site Plan Ap­proval from the Town Planning Board.

7. The Temporary Use Permit is hereby granted with the condition that the findings contained above herein by the Zoning Board of Appeals are hereby also made conditions of ap­proval for the proposed Temporary Use Permit.

8. The Temporary Use Permit is hereby granted to the applicant for the sole purpose of storing equipment and materials in a portion of the existing storage building, the storing of materials under the canvas covered storage structure located behind the existing storage building, the conducting of office operations associated with the business from the existing dwelling located on the site and the temporary storage of materials behind the existing storage building.

9. All conditions of Final Site Plan approval to be granted by the Town Planning Board are to be confirmed by the Code Enforcement Officer prior to issuing a Certificate of Com­pli­ance for the Temporary Use Permit.

10. The site shall be maintained in good condition during the two-year period specified above. At the end of the two-year period, the equipment, supplies and materials used in the operation shall be removed within sixty (60) days unless a second Temporary Use Permit has been applied for and pending, as is provided for within Chapter 165 of the Town Code.

**Be it further resolved** that copies of this Finding and Decision are to be filed with the Farmington Town Clerk, the Clerk of the Farmington Planning Board, the Farm­ing­­ton Development Office, and the Applicant within five (5) business days of the date of this action.

**Be it finally resolved that** the Board does hereby recommend the Applicant continue to work with Town Staff and the Town Board in creating Special Use Permit amendment to Chapter 165 of the Town Code for allowing the continuation of this agriculture related business within the mapped A-80 Agricultural District.

The above Resolution was offered by MS. BINNIX and seconded by MR. LAY at a reg­u­larly scheduled meeting of the Zoning Board of Appeals held on Monday, September 23, 2024. After discussion by the Board, the following roll call vote was recorded:

Kelly Cochrane Aye

Tod Ruthven Aye

Tom Lay Aye

Jody Binnix Aye

Thomas Yourch Aye

Motion: Carried

I, Paula Ruthven, 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 September 23, 2024, meeting.

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

Paula Ruthven

Clerk of the Board

Town of Farmington

Zoning Board of Appeals

SEQR Classification

File: ZB #0802-24

Applicant: Bridges for Brain Injury, Inc., 5760 Duke of Gloucester Way, Farmington, New York 14425

Action: Classification under 6NYCRR Part 617.5, article 8 of the New York State Environmental Conservation Law (ECL) for the granting of a two- year Temporary Use Permit to operate their existing Community Collaboration For the Rehabilitation of Brain Injury Survivors & People with Disabilities on land zoned A-80 Agricultural District.

**WHEREAS**, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has reviewed the criteria contained under the above referenced ECL; and

**WHEREAS**, the Board finds that said Action, the granting of a Temporary Use Permit, involves only the use of existing buildings, structures and land without any further site development; and

**WHEREAS**, the Board finds that said Action is defined under the ECL, Part 617.5 (c) (1), (18) and (21).

**NOW, THEREFORE, BE IT RESOLVED** that based upon the above findings the Board classifies this Action as a Type II Action under the ECL.

**BE IT FURTHER RESOLVED** that Actions that are classified as Type II are not subject to further review, as these Actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under the ECL.

**BE IT FINALLY RESOLVED** that the Board in making this classification has satisfied the procedural requirements under the ECL and directs this resolution to places in the Town file upon this Action.

The above resolution was offered by MR. RUTHVEN and seconded by MS. COCHRANE at a regular scheduled meeting of the Board held on Monday, September 23, 2024. After Board discussion thereon the following roll call vote was taken and recorded:

Kelly Cochrane Aye

Tod Ruthven Aye

Tom Lay Aye

Jody Binnix Aye

Tom Yourch Aye

Motion: Carried

I, Paula Ruthven, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Farmington Zoning Board of Appeals for the September 23, 2024, meeting.

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Paula Ruthven, Clerk of the Board

**Town of Farmington**

**Temporary Use Permit Findings & Decision**

**Applicant:** Bridges for Brain Injury, Inc. **Application:** ZB # 0802-24

5760 Duke of Gloucester Way **Zoning District:** A-80 Agricultural

Farmington, New York 14425 **Notice published:** 09/15/24

**County Meeting:** 09/11/24

**County Referral:** # 180-2024

**Public Hearing Held:** 09/23/24

**Property Location:** 1111 County Road 8, east side, between State Route 96 and the Ontario Central Railroad Crossing. Tax Map Account No. 30.00-1-61.100. Approximately 24.7 acres of total land area.

**Use for which Permit is requested:** Applicant desires to use the above referenced site and its’ existing buildings, over a two-year period, for the operation of their existing Community Collaboration for the Rehabilitation of Brain Injury Survivors & People with Disabilities. The Temporary Use Permit will allow for the future renovation of existing structures and including the construction of a 12,000 square foot addition to an existing single-family structure to be used for administrative offices and additional day programs; and the future construction of an approximate 12,000 square foot building to provide for educational programming, vocational and life skills, building activities for brain injury survivors and individuals with disabilities.

**State Environmental Quality Review Determination:** The above referenced application has been determined to be a Type II Action in accordance with the provisions contained in Part 617.5 (c) (1), (18) and (27), New York Codes, Rules and Regulations and Article 8 of the New York State Environmental Conservation Law.

**County Planning Referral Number and Recommendation:** County Referral #180-2024. Class 1 with comments.

*In accordance with the provisions contained in Chapter 165, Section 91, of the Farmington Town Code, this application for a Temporary Use Permit is based upon the following Test Findings by Zoning Board of Appeals:*

*Test: No Temporary Use Permit will be granted without a clear understanding of the nature of the permit, the time period covered by the permit and a detailed listing of the conditions of approval. The following findings must be made by the Zoning Board of Appeals on any Tem­po­rary Use Permit:*

**(1)** The temporary use will be in harmony with the general purposes and intent of Chapter 165, Section 91 of the Farmington Town Code, taking into account the location and size of the existing site, the nature and intensity of the operation involved in or connected with the proposed use and the size and location of the site in relation to adjacent sites and uses.

**FINDING:** The Zoning Board of Appeals (hereinafter referred to as Board) finds that the Applicant has operated the Bridges for Brain Injury for over the past thirteen years from their current location, 5760 Duke of Gloucester Way, in the Town of Farmington. The Board further finds that the Applicant needs additional space to continue to provide the services being demanded by their clients; and the space to meet the standards for these services as required by the New York State Department of Health.

The Board further finds that the Applicant has provided a sketch plan drawing identifying the site’s existing buildings, structures and access, and future buildings and structures. The Board further finds that the Applicant intends to use several of the existing buildings to provide their programs and services to their clients. The Board further finds that based upon initial architectural/engineering evaluations, the site contains a number of existing buildings and structures which can be renovated to meet the Applicant’s long-term needs for providing educational programming, vocational and life skills, building activities for brain injury survivors and individuals with disabilities.

The Board further finds that one of their existing programs, the Wildlife Rockstars Program, a component of their day program that provides wildlife education and environmental conservation programs to their clients and the community will be enhanced with the redevelopment of the site’s existing and proposed buildings and structures. The Board further finds that the Applicant intends to construct, during the first two-year period, a 12,000 square foot Wildlife Educational Center and related site improvements, to be used in delivering an expanded Wildlife Rockstars Program.

The Board further finds that the Applicant proposes no changes to their operating practices and programs which are first regulated by the New York State Department of Health. The Board further finds that the Applicant is aware of the need for a Final Site Plan Approval from the Town Planning Board as a condition of any Temporary Use Permit and is currently interviewing engineering and architectural firms for preparing such plan for submission to the Town Planning Board this November. The Board further finds that the Applicant is aware that no new Building Permits may be issued for new site improvements that are not shown on an approved Final Site Plan.

The Board further finds that the Applicant’s long-range plans include a 12,000 square foot addition to the existing dwelling unit on the site that is to be used for administrative offices and for expanded day programs. The Board further finds that there will be no outdoor storage of used equipment, buildings or materials.

The Board further finds that the subject property is located adjacent to the On­tario County Consolidated Agricultural District #1 and that the proposed use is felt to be in keeping with the ongoing agricultural operations within the Town and within the County’s Agricultural District. The Board further finds that there will be no events planned on the site during the first two-year period that are not approved by the New York State Department of Health, the Town Code Enforcement Officer and the Town Fire Marshal, to accommodate the public needs and safety.

The Board further finds that there will be no disposal of any hazardous or contaminated materials on the premises. The Board further determines that the applicant is aware of the limitations contained in the Town Code for the granting and then the renewal of a Temporary Use Permit.

The Board further determines that the pro­posed hours of operation will be consistent with those established by the Town for the current Bridges for Brain Injury operations; and there shall be no Sunday or Holiday operations per­mitted.

**(2)** The proposed temporary use will not tend to depreciate the value of adjacent prop­erties.

**FINDING:** The Board finds that the character of the neighborhood includes a mix of agricultural land operations, agricultural buildings, low density residential single-family dwellings, and other existing horse boarding operations. The Board further finds that the Applicant has a long-established business providing essential programs and services to the public. The Board further finds that the Applicant intends to maintain the property and the associated buildings in their general good condition.

The Board, based upon these findings, concludes that the proposed temporary use will not tend to depreciate the value of adjacent properties. Finally, the Board finds that said tem­po­rary use will provide an opportunity to enhance the quality of life for Town and County residents.

**(3)** The proposed temporary use will not create a hazard to health, safety or general welfare.

**FINDINGS:** The Board finds that the proposed use identified above herein will not create a hazard to health, safety or general welfare of the community. The Board further finds that granting the Temporary Use Permit with conditions will enable the Town to evaluate the operations associated with the proposed Temporary Use Permit, thereby allowing the Town the opportunity to establish rules and regulations for creating a Special Use Permit for this type of land use within the mapped A-80 Agricultural District areas of the community. Such action it is felt promotes and helps to sustain the Applicant’s current programs and services within the community and county.

**Based upon the above findings, the Board hereby makes the following decision:**

**The request for the Temporary Use Permit is hereby granted.**

**⮽ The request for the Temporary Use Permit is hereby granted with the following con­di­tions:**

**The request for the Temporary Use Permit is hereby denied.**

1. The Temporary Use Permit is hereby granted for a period of two (2) years that is to commence on date of the Planning Board’s Final Site Plan Approval for the Temporary Use Permit in accordance with the Conditions of Approval contained herein and will automatically terminate two (2) calendar years from said Planning Board date of Final Site Plan Approval.

2. The Temporary Use Permit is issued to The Bridges for Brain Injury, Inc., and is not transferrable to another party.

3, The Temporary Use Permit is valid for the sole proprietor to operate from the subject property [1111 County Road 8].

4. There shall be no change in any existing programs or services without first obtaining approval from the New York State Department of Health and then from the Town Code Enforcement Officer or Fire Marshal that would involve the general public being on the site.

5. The Temporary Use Permit is hereby granted with the understanding that the applicant will not be seeking any additional Building Permit(s) which would first require an amendment to this Temporary Use Permit and an amendment of the Final Site Plan Ap­proval from the Town Planning Board.

7. The Temporary Use Permit is hereby granted with the condition that the findings con­tained above herein by the Zoning Board of Appeals are accurate and are made as conditions of ap­proval for the proposed Temporary Use Permit.

8. The Temporary Use Permit is hereby granted to the applicant for the sole purpose of the Applicant using existing buildings, structures and the site in a manner approved by the New York State Department of Health and identified on an approved Final Site Plan.

9. All conditions of Final Site Plan approval to be granted by the Town Planning Board are to be confirmed by the Code Enforcement Officer prior to issuing the Temporary Use Permit.

10. The site shall be maintained in good condition during the two-year period specified above. At the end of the two-year period, the buildings, supplies and materials used in the operation shall be re­moved within sixty (60) days unless a second Temporary Use Permit has been applied for and pending, as is provided for within Chapter 165 of the Town Code.

**Be it further resolved** that copies of this Finding and Decision are to be filed with the Farmington Town Clerk, the Clerk of the Farmington Planning Board, the Geneva Regional Office of the New York State Department of Health, the Farm­ing­­ton Development Office, the Farmington Code Enforcement Officer and the Farmington Fire Marshal, and the Applicant within five (5) business days of the date of this action.

**Be it finally resolved that** the Board does hereby recommend the Applicant continue to work with Town Staff and the Town Board in creating Special Use Permit amendment to Chapter 165 of the Town Code for allowing the continuation of this business within the mapped A-80 Agricultural District.

The above Resolution was offered by MR. RUTHVEN and seconded by MS. BINNIX at a reg­u­larly scheduled meeting of the Zoning Board of Appeals held on Monday, September 23, 2024. After discussion by the Board, the following roll call vote was recorded:

Kelly Cochrane Aye

Tod Ruthven Aye

Tom Lay Aye

Jody Binnix Aye

Thomas Yourch Aye

Motion: Carried

I, Paula Ruthven, 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 September 23, 2024, meeting.

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

Paula Ruthven

Clerk of the Board

**Town of Farmington**

**Zoning Board of Appeals**

**Applicant:** James Fowler **File:** ZB #0301-24

c/o Fowler Family Trust **Zoning District:** RS-25 Residential Suburban

6176 Hunters Drive **Published Legal Notice on:**  March 19, 2023

Farmington, N.Y. 14425 **County Planning Action on:** April 12, 2023

**County Referral #:** 52-2024.1

**Public Hearing held on:** March 25, 2024, and

Continued on: April 22, 2023; May 27, 2024; June 24, 2024; July 22, 2024; August 26, 2024; and September 23, 2024

**Property Location:** Lots R-5A and R-5B, Pheasants Crossing Subdivision Tract, Farmington, New York 14425

**Applicable Section of Town Code:** Chapter 165A, Schedule 1, Attachment 1.

**Requirement for Which Variance is Requested:** The applicant wishes to further Re-subdivide Lots R-5A and R-5B by creating a third lot to be known as Lot R-5C. Proposed Lot R-5C would have a Lot Width of twenty-two (22) feet instead of the minimum required Lot Width of One-Hundred Twenty-Five (125) feet.

**State Environmental Quality Review Determination**: The Town of Farmington Planning Board, the designated lead agency for this classified Unlisted Action under 6NYCRR, Part 617 of article 8 of the New York State Environmental Conservation Law, the State’s Quality Review (SEQR) Regulations. has completed a coordinated review with the Town Zoning Board of Appeals and has made a Determination of Non-Significance upon the granting of the requested area variance and the re-subdivision of these two lots into three lots in accordance with SEQRA.

**County Planning Referral Recommendation:** County Planning referral # 52-2024.1, a Class 1 Action, with comments.

**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.**

X 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 residential sites with the majority of the lots, a total of fifteen (15) Lots, fronting along Pheasants Crossing and the remaining four (4) Lots fronting along the west side of Mertensia Road.

The Board further finds that this subdivision tract originally contained a total of nineteen (19) lots. The Board further finds that 19 of the 20 Lots within the subdivision tract contain Lot Areas larger than the minimum 25,000 square foot Lot Area required for the RS-25 Residential Suburban District.

The Board further finds that the Applicant has identified a five-foot-wide strip of land upon each of two lots (R-5A and R-5B), that is proposed between the Pheasants Crossing right-of-way line (Front Lot Lines) and the Front Yard portion of proposed Lot R-5C, that is to be reserved for two Utility Easements to Lot R-5C. The Board further finds that there are no other Lots within the Pheasants Crossing Subdivision Tract that are restricted in such a manner to be used for the benefit of an adjacent Lot (Lot R-5C). The Board further finds that enabling such practice is a detriment to these two properties (R-5A and R-5B) and, therefore, does not meet the criteria contained in New York State Town Law, Article 16, Section 267-b. 3. (b) and (c).

The Board, based upon these findings, determines that the granting of the requested Area Variance will create an undesirable change in the character of the neighborhood; or create a detriment to nearby properties.

Ms. Cochrane said, granting this is going to create an undesirable change in this neighborhood. There are no flag lots in this specific neighborhood. I have driven over there, and I have sat in front of the property. It is not appropriate for what all of the other houses are in this neighborhood.

Mr. Ruthven said, I would agree with that.

Mr. Yourch said The Town does not allow flag lots there.

Mr. Lay said, I also drove by, and I also looked at some of the other flag lots that have been mentioned in previous meetings, and there is a distinct difference between the other ones and what this will produce the house so close to the back of the other houses. So, I would agree.

Ms. Binnix said, I agree too. As I said earlier the Town code defines the flag lot but town code does not allow for the creation of new flag lots. If we approve the variance, we would be creating a new flag lot which would set a precedent in the town. My understanding is the town code does not wish for new flag lots then the town doesn’t want them created, we should follow the town code. We also agree that the neighborhood is defined in Pheasants Crossing and those lots from Mertensia, none of those lots are flag lots. Flag lots would not be in the character of the neighborhood. I also have concerns that the building lot is non-conforming with a small buildable area compared to the existing lots R-5A and R-5B. Therefor I am also concerned that creating those nonconforming lots will just be creating the need for additional variances in the future. Additionally, although the planning board has proposed recommendations that mitigate the potential impacts to the character in the neighborhood and nearby properties, I don’t believe that these mitigation measures are reasonably enforceable once all parties involved no longer work, and or serve the town. They might be enforceable for a brief period of time. Once everyone that is involved in the decision is gone, the property will always be that way, but there is not always going to be people that are aware that it has these stipulations on it. I just don’t believe that these mitigation measures provide any long term protection to the character of the neighborhood or the nearby properties. Additionally, the applicant is requesting easements along the other two lots and that is not the character of the neighborhood. I think if anything it muddles things for whoever is buying these two lots, if they're not going to be aware of this for long term use of the property. The variance doesn't go with the property owner it stays with the property.

**2.** **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the re­quested variance.** \_\_X\_\_ Yes \_\_\_\_ No

**Reasons:** The Board finds the Applicant has previously been informed on several occasions that any additional lots to be created upon the original Lot 5, beyond the two existing re-subdivided lots (Lots R-5A and R-5B), would require approval of an area variance. The Board finds that the Front Lot Line widths for Lot R-5A is one hundred twenty-five (125) feet and for Lot R-5B it is one hundred seventy-five (175) feet in width. The Board further finds that the minimum Front Lot Line width has not changed since the re-subdivision of Lot 5 and that it continues to be one hundred twenty-five (125) feet in this mapped RS-25 Residential Suburban District. The Board finds that the applicant can still build his home on one of the approved lots (R-5A or R-5B)

Mr. Yourch said, they have the right to build two houses on the property as it stands now.

Ms. Binnix said There are already two available lots on the property that conform to the code. So, I do think the applicant has full use of the properties, to build single family homes, and that is what it is zoned for.

Mr. Ruthven said that he would concur with that statement.

Mr. Yourch asked Mr. Lay if he agreed

Mr. Lay said I agree.

**3.** **Whether the requested variance is substantial.** \_\_X\_ Yes \_ \_ No

**Reasons:** The Board finds that the proposed Front Lot Line width for the proposed Lot R-5C is twenty-two (22) feet. The Board further finds that the minimum width for a Front Lot Line in the RS-25 Residential Suburban District is one hundred twenty-five (125) feet. The Board further finds granting the requested variance of one hundred three (103) feet from the required minimum Front Lot Line width (one hundred twenty-five (125) feet) involves granting a variance of eighty-three-point-four percent (83.4%) from the minimum width required for a Front Lot Line in the RS-25 Residential Suburban District. The Board has consistently found that granting an area variance involving fifty percent (50%) or more, from the minimum area required in the zoning district, is a substantial variance.

Mr. Ruthven said, twenty-two feet is a variance of eighty-three-point four percent so yes that is substantial.

Ms. Binnix said in keeping with the board’s past decisions, the board always finds anything above fifty percent to be substantial, this would be 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 Town Planning Board, the designated lead agency under SEQRA for the two pending and related Actions (Files ZB#0301-24 and PB #0702-23), has made a determination of non-significance thereon, thereby documenting compliance with 6NYCRR, Part Section 617.7 of article 8 of the New York State Environmental Con­­servation Law (ECL).

Ms. Binnix said that the Planning Board was the agency for SEQR and they did find that there would be no adverse environmental impacts. I am okay with that, I don’t think that building a house is going to have any adverse or environmental impact in the neighborhood, as far as environmental goes.

**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 the Pheasants Crossing Subdivision Tract originally consisted of a total of nineteen (19) lots. The Board further finds that at the time of the original subdivision of land all of the nineteen (19) lots had minimum Front Lot Line widths that exceeded the minimum 125 feet, except for Lots #7 and #8 which were granted area variances prior to final subdivision plat approval. The Board further finds that all but one of the nineteen (19) lots created were larger in size than the minimum twenty-five thousand (25,000) square foot Lot Size. The Board further finds that there remains only one (1) lot located within the subdivision tract that does not contain the minimum Lot Area of twenty-five thousand (25,000) square feet. The Board also finds that a total of eighteen (18) of the approved lots within the Pheasants Crossing Subdivision Tract contain a minimum of 29,211 square feet in lot area, and that 15 of the 19 lots contain over 30,316 square feet in Lot Area.

The Board further finds that the Lot Frontage width for Lot 5 was originally three hundred (300) feet. The Board further finds that Lot 5 has been re-subdivided into two lots, Lot R-5A, with a Lot Frontage of 125 feet and Lot R-5B, with a Lot Frontage of 175 feet. The Board further finds that the proposed re-subdivision action involves the creation of Lot R-5C by further re-subdividing Lots R-5A and R-5B. The Board further finds that the proposed area variance applies only to the Front Lot Line width for the proposed Lot R-5C. The Board finally finds that the Applicant has known, since the original subdivision tract was approved, that an area variance would be necessary to create a third Building Lot, thereby enabling a third Lot to be created on the original Lot 5 and the re-subdivision of Lot 5 creating Lots R-5A and R-5B.

The Board based upon these findings determines that the Applicant’s alleged difficulty is self-created, as the current Applicant was the previous Applicant at the time of the original subdivision of land and was again the Applicant at the time of the proposed re-subdivision of Lot 5.

**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 determination:

**That the benefit to the applicant does not outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variance for proposed Lot R-5C, for a Front Lot Line width of twenty-two (22) feet for allowing the approval of the re-subdivision of proposed Lot R-5C, from Lot R-5A and Lot R-5B, to erect a single-family dwelling upon Lot R-5C, does not result in the Board’s granting the minimum relief necessary and, therefore, is NOT APPROVED.**

Mr. Lay said, yes, it went from 30 feet to 22 feet.

Ms. Cochrane said there has been a lot of indecisiveness about this.

Ms. Binnix said, as I stated before, the applicant does have full use of the property because they had to buildable lots that conform to code.

**BE IT FURTHER 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 Town Planning Board, the Applicant, the Applicant’s Surveyor, and the Applicant’s Attorney.

The above resolution was offered by Mr. Yourch and seconded by Ms. Kelly Cochrane at a regu­larly scheduled meeting of the Zoning Board of Appeals held on Monday, September 23, 2024. Following discussion, the following roll call vote was recorded:

Kelly Cochrane Aye

Tod Ruthven Aye

Jody Binnix Aye

Tom Lay Aye

Thomas Yourch Aye

Motion: Carried

The resolution has been accepted as not approved.

I, Paula Ruthven, 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 September 23, 2024, Meeting.

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

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**

* Mr. Brand said for our next meeting [October 28, 2024] There will be a public hearing next month for the St. John’s Lutheran church, there are no others.
* The work continues on the sidewalks, and we are moving along.
* We are in the process of getting the trail connection between County Rd 41 and the existing Auburn trail [the stone dust trail] redesigned because it was not properly laid out it is going to have to be redone.
* We are waiting on the bolts so we can put them into the abutments, and once we get the abutments done, we can bring the sidewalks up to the edge of where the bridge will be put in place hopefully sometime in January or February weather permitting.

* The application is pending for the Whitestone Incentive Zoning Project on Route 332 and Route 96 that will be coming to us in November.
* There is no new information on the Farmington Marketplace Incentive Zoning

Project.

* We continue to work with the Agricultural Advisory committee on creating an overlay district for the Agricultural conservation overlay

**10. CODE ENFORCEMENT OFFICER UPDATE**

* We have been very busy as a result of the hailstorm that has affected a bunch of our residents.
* We now have an open Clerk of the Board position because we hired her as our Zoning Officer so for your next meeting she should be sitting where I am as your Zoning Officer moving forward.
* We are interviewing for our Office Clerk position

**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, 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/](about:blank)

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

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

◼ **General Code e-Code**

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

Information: [https://www.generalcode.com/training/](about:blank)

◼ **Future Training Opportunities Online:**

Ontario County Planning Department website now lists upcoming training:

[https://www.co.ontario.ny.us/192/Training](about:blank)

**12. NEXT MEETING**

The next regular meeting of the Zoning Board of Appeals will be held on Monday, October 28, 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. COCHRANE, seconded by MR. LAY, that the meet­ing be adjourned.

Motion carried by voice vote. The meeting was adjourned at 8:37 p.m.

Respectfully submitted,

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Paula Ruthven

Clerk of the Zoning Board of Appeals