Town of Farmington

Zoning Board of Appeals

Area Variance Findings and Decision

**Applicant:** Timothy Lawless **File: ZB #2025-0705**

# T&M Properties of WNY Zoning District: GI & MTOD

1 Capron Street, Unit 3C Published Legal Notice on: August 19, 2025

Rochester, NY 14607 County Planning Action on: August 13, 2025

 County Referral #: 129-2025 (Class 1)

 Public Hearing held on: August 25, 2025

**Property Location:** Loomis Park, LLC, Loomis Road/Jetman Drive1796 Opal Drive, Farmington, NY 14425

**Property Owner:** Loomis Park, LLC, 1 Capron Street, Unit 3C, Rochester, NY 14067.

**Applicable Section of Town Code:** Chapter 165, Article IV, Section 34 J. (3) (g) [6].

**Requirement for Which Variance is Requested:** The applicant is requesting an area variance to not construct a public sidewalk across the frontages of their properties located along the north side of Loomis Road [currently Tax Map Account Numbers 17.00-1-67.01 through -67.011]. The Town Code, Chapter 165, Article IV, Section 34 J. (3) (g) (6) requires sidewalks are to be provided along all sites fronting along state and county and other Town highways within the mapped MTOD Major Thoroughfare Overlay District that connect to, or contribute to, the completion of a pedestrian network in the area.

**State Environmental Quality Review Determination:** The granting of a single Area Variance for an is classified as a Type II Action under Part 617.5 (c) (9) 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:** County Planning Referral Number, 129-2025, Class 1 Action without further recommendation.

**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 a mix of single-family residential lots and industrial sites fronting along both sides of Loomis Road. The Board further finds this area of Loomis Road is identified on the latest version of the Town of Farmington Sidewalk/Trail Master Plan as an area to have public sidewalks. The Board further finds that the applicant has decided to leave the public sidewalk across the property frontages along Loomis Road as shown on the signed Final Site Plan Map for Villager Project. The Zoning Board of Appeals further finds that the above referenced section of the Town Code requires sidewalks to be installed within the mapped MTOD along state, county and town highways that contribute to the completion of a pedestrian network in the area.

The Zoning Board of Appeals, based upon the above findings, determines that granting the requested area variance thereby not requiring the construction of public sidewalk across the Loomis Road frontage in this planned sidewalk area would create an undesirable change in the character of the neighborhood or be 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**

**Reason:** The Board finds that there is no feasible alternative to the requested area variance.

The Zoning Board of Appeals, based upon their above finding that the Town has identified this area for sidewalks and that this site contributes to the completion of a planned pedestrian network cannot grant a variance for not contributing sidewalks to this planned area. The Board, based upon this finding, determines that there is no feasible alternative to the required installation of public sidewalk in this location at the time of proposed development.

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

**Reason:** The Board finds that the requested relief from the installation of public sidewalks involves granting a variance of one hundred percent (100%) from that required by Town Code. The Board has consistently found that a variance involving encroachment of 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**

**Reason:** The Board has considered the criteria for determining significance, as set forth in 6 NYCRR, Part 617.7 of the SEQR Regulations. The Board finds that the proposed Action is clas­­sified as a Type II Action under 6 NYCRR, Part 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 Zoning Board of Appeals finds that the alleged difficulty was self-created, as the Applicant was aware of the MTOD sidewalk provisions contained in the Town Code prior to acquiring title to the property. The Board also finds that the Applicant has decided to include the costs of constructing said sidewalk in his proposed Letter of Credit for the Villager Project. The Board further finds that the Planning Board, at its meeting on August 20, 2025, accepted the Applicant’s Engineer’s Estimated Cost of Site Improvements and recommended to the Town Board that they also accept the identified site improvement that is to be dedicated to the Town.

Therefore, based upon these findings, the Board determines the alleged difficulty is self-created and that granting the requested relief would not be in the best interests of the health, safety and general welfare of the community as is otherwise required by New York State Town Law.

**DETERMINATION OF THE ZONING BOARD OF APPEALS**

**BASED UPON THE ABOVE FACTORS**

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

**That the benefit to the applicant does not outweigh a known detriment to the community or neighborhood; and, therefore, the requested area variance is DENIED.**

**NOW, THEREFORE, BE IT RESOLVED** that the Board in making this Decision has satis­fied the procedural requirements under New York State Town Law and the Town of Farm­ing­ton Town Code.

**BE IT FINALLY RESOLVED** that the Board directs this Resolution be placed in the public file upon this Action and that a copy hereof be provided to the applicant.

The above resolution was offered by \_\_\_\_\_\_\_\_\_\_\_\_ and seconded by \_\_\_\_\_\_\_\_\_\_\_\_at a regu­larly scheduled meeting of the Zoning Board of Appeals held on Monday, August 25, 2025. After Board discussion, the following roll call vote was recorded:

Ralph Bocchino Aye or Nay

Kelly Cochrane Aye or Nay

Matt DeMarco Aye or Nay

Tom Lay Aye or Nay

Thomas Yourch Aye or Nay

I, Carol Marvel, Clerk *Pro-Tem* 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 August 25, 2025, Meeting.

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

Carol Marvel

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