

*Town of Farmington*

1000 County Road 8  
Farmington, New York 14425

**ZONING BOARD OF APPEALS***Established July 15, 1957***Monday, April 28, 2025 7:00 p.m.****MINUTES—Draft**

---

*The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Farmington Zoning Board of Appeals. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions. An audio recording of the meeting is made in accordance with the Zoning Board of Appeals adopted Rules of Procedure. The audio recording is retained for four months.*

**Board Members Present:** Thomas Yourch, *Chairperson*  
Kelly Cochrane  
Tom Lay  
Ralph Bocchino

**Board Members Excused:** Jody Binnix

**Staff Present:**  
Ron Brand, Director of Planning  
Paula Ruthven, Zoning Officer, Town of Farmington

**Applicant's Present:**  
Earl Johnson, 4686 Rushmore Rd  
Joe Howlett, 1067 Gateway Dr  
John Jones, Marks Engineering

Attending: Jon Warrick 343 Cline Rd, Farmington  
Niels Tygesen 343 Cline Rd, Farmington  
Margaret Brown 351 Cline Rd, Farmington  
Trisch Axsmith Tavolette 411 Cline Rd, Farmington

RECEIVED  
TOWN CLERK'S OFFICE  
TOWN OF FARMINGTON  
2025 JUN 24 AM 10:59

---

**1. MEETING OPENING**

The April 28, 2025, 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. Yourch said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on January 27, 2025.

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

**2. APPROVAL OF MINUTES OF February 24, 2025**

A motion was made by MS. COCHRANE seconded by MR. LAY, that the minutes of the FEBRUARY 24, 2025, meeting be approved.

Motion carried.

**3. LEGAL NOTICE**

The following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper on Friday, April 18, 2025:

ZB 2025-0301, DECAL LLC, 1067 Gateway Drive Farmington NY 14425: Requesting an area variance for Tax Map Account 29.00-1-1.210 to allow relief from the Town Code requirement [Chapter 165, Article IV, Section 34] that sidewalks are to be provided on the subject site fronting along State and Town highways withing the mapped (MTOD) Major Thoroughfare Overlay District that connect to, or contribute to, the completion of a pedestrian network in the area. The property is zoned GI General Industrial and MTOD Major Thoroughfare Overlay District.

ZB 2025-0302, Earl Johnson, 4686 Rushmore Road Palmyra NY 14522: Requesting an area variance for Tax Map Account 19.00-1-50.211 to allow relief from the Town Code requirement [Chapter 165, Article V, Section 62 B] that pools shall be located in the rear yard portion of a lot and not closer than 10 feet to the side or rear property lines. The property is zoned A-80 Agricultural.

**SAID BOARD OF APPEALS WILL MEET** at said time and place to hear all persons in support of, or having objections to, such matter.

By order of:  
Thomas Yourch, Chairperson  
Zoning Board of Appeals  
TOWN OF FARMINGTON

**4. CONTINUED PUBLIC HEARING(S): None**

## 5. PUBLIC HEARING

Mr. Yourch opened the public hearing on the following applications.

ZB 2025-0301, DECAL LLC, 1067 Gateway Drive Farmington NY 14425: Requesting an area variance for Tax Map Account 29.00-1-1.210 to allow relief from the Town Code requirement [Chapter 165, Article IV, Section 34] that sidewalks are to be provided on the subject site fronting along State and Town highways withing the mapped (MTOD) Major Thoroughfare Overlay District that connect to, or contribute to, the completion of a pedestrian network in the area. The property is zoned GI General Industrial and MTOD Major Thoroughfare Overlay District.

Mr. Yourch: So, who would be speaking on behalf?

Mr. Jones: John Jones of Marks Engineering.

Mr. Yourch: and your address for the record.

Mr. Jones: 4303 New York 5 Canandaigua

Mr. Yourch: The floor is yours.

Mr. Jones: Right. Yeah. Thanks everyone. So, Like Mr. Chairman, said I'm here for DECAL LLC for the sidewalk variance. We did get the findings and determination letter at the time provided the other day. I just wanted to go through the variances that were the three frontages that were spoken about in detail in the finding determination letter. Number one, we acknowledge that the town is waiving the requirement for the sidewalk on 332, that's just not feasible. Number two on Plaster Mill Drive, the town is allowing for the sidewalk not to be constructed, but an easement to be put into place, so in case of future sidewalk becomes available, they have the oportune time, the opportunity to install sidewalks. And then number three on Gateway Drive. similar, I would ask that the board consider. I should first start off saying what the board is requesting that they install sidewalks and the easement at this time. We're asking if the board would consider same as Plaster Rd. just providing an easement right now. So, in the future you know the town is worried about connection to the South over the railroad system which according to the Towns findings letter, the Ontario County Railroad Association is considering abandoning, so we would feel it would be a bit preemptive to install sidewalk along the Gateway Drive frontage to allow connection to the south just based on consideration that the County Railroad Association might abandon that railway. So, we're asking just to allow for an easement at this time and in the future, if and when you know the railway company abandons that railway and connects to the south is available, you know, then the town can come in and install sidewalks to accommodate that. That's pretty much all I got, like I said we're happy with the 332 easement and the easement on Plaster Mill, we're happy to provide that and we're asking the board to consider instead of installing sidewalks now to just provide an easement. Same thing as the plaster mill frontage because it just doesn't connect into anything any existing sidewalk infrastructure right now, it will just be a segment sidewalk with the assumption that County railroad is going to

abandon a portion of the rail system sometime in the future. So yeah, that's pretty much all I have.

Mr. Yourch: Anybody else like to comment?

Mr. Yourch: OK, staff comments.

Mr. Brand: Yeah, I drafted 2 resolutions for you. One the SEQR finding of Type 2 action on all these variances. The other one is a recommendation to modify the original request for sidewalks across the three frontages. The state DOT and Ontario County and the towns of Canandaigua and Farmington spent considerable money doing a study of the corridor, trying to find alternatives for people having to walk over that bridge and along the narrow shoulder at 55-60 miles an hour, especially those in wintertime, who insist on wearing dark clothes and can't be seen. It's a reality that the town has had sidewalk regulations as part of the MTOD since its inception back in the early 90s. The first variance that was granted was granted last month to the Victor Farmington Ambulance Corps for the sidewalks over there at their property at County Road 8 and 96, where there are no sidewalks at all. Unlike this area, where there are sidewalks that do connect into Victor that do connect across the Saratoga Crossing and we'll provide sidewalk for that five-acre parcel of land to the north of the subject property? All of which will, as plans go, take some time to materialize. The nice thing about concrete sidewalks, they last a long time, so in keeping with the criteria that you have in your town code, it's my professional opinion that sidewalks across the front of this property on Gateway Drive do contribute to an existing sidewalk network.

Mr. Yourch: Okay, any public comments?

Mr. Yourch: Is anyone online?

Ms. Ruthven: No.

Mr. Yourch: Okay, Board member comments, questions.

Ms. Cochrane: Are there a lot of walkers in that area in this specific area?

Mr. Brand: People are walking between Gypsum Mills and Farmington.

Ms. Cochrane: They are currently walking on.

Mr. Jones: There is a sidewalk on the other side of the road for the subdivision. I can't speak to the pedestrian traffic, the owner sons here as well. I can speak to direct traffic pedestrian traffic on his parcel. I can't speak to that, but there is a sidewalk on the other side of the road so this sidewalk segment would just be in front of the existing building. So, we're not asking to remove the sidewalk requirements at all. We're just asking instead of installing sidewalk now just to provide an easement so in the future when sidewalks do become more readily available in the area that they, would need to do that.

Mr. Brand: Just to clarify a point, the granting of the easement is one thing. The actual construction of the sidewalks is another thing. What he's asking the town to do is to accept an easement so that somebody else can put the sidewalks in, whether it's the taxpayers of the town of Farmington or somebody next door.

Mr. Yourch: The construction of these sidewalks would be wrapped into the site work, the drainage, the storm water and all that.

Mr. Brand: The Planning Board has sent him back to the ZBA to get either a variance or to have you make your decisions on what you want as far as easements or sidewalks at this time so that they can put it on the final site plan map. Once that's done, then he gets his building permits for his project over there on Gateway Drive.

Mr. Yourch: Tom, any questions?

Mr. Lay: No, I don't think so. I think Kelly had the concern and I want to make sure that was correct that the easement passes the construction to somebody other than the property developer.

Mr. Brand: See having the sidewalks and it will help the Town when they go for the next round of grant funding, which we've been successful twice now, getting almost \$4 million of federal funding for sidewalks by showing that we do have businesses in the Community that are contributing to the pedestrian network, to the multimodal transportation system that the Federal Highway administration funds.

Mr. Yourch: Any more questions?

Mr. Jones: I think this gentleman has something to say.

Mr. Yourch: Yup, they come up here and state your name and your address for the record.

Mr. Tygesen: Thank you, Neil Tygesen, 343 Cline Road, I came in today for a different matter, but I mean, heard really, the proposal. I have worked in municipal planning as a planner for over 2 decades and have grappled with this on both sides of the desk. I can appreciate what your audit director has stated and can attest to that fact that getting improvements in any infrastructure is very expensive and it's also very time it takes a long time to get there and it's incremental, it's pieces of the jigsaw puzzle. Also, I have come across a lot of projects for both street improvements and right of way where developers do requests to pass some rules for the infrastructure. I understand the issue with right away of the railroad potentially going away. That can also take it very extremely long time for that to occur. All I'm saying or requesting the board consider is the impact to the community that the director has already said that a lot of time has been invested into these reports. I also request and ask if you are aware of the town has an ADA transition plan for rights of away. A lot of the smaller municipal governments don't, I'm not sure if you guys do, but part of that is ensuring that all people at all levels have access and it doesn't matter if there's sidewalks on the other side of the street. If you can make improvements for development there's sometimes federal law that requires accessible means of transportation as part of that development.

Mr. Yourch: You're all set.

Mr. Jones: Yeah, yeah. I am all set.

Mr. Yourch: I will close the public hearing.

Mr. Yourch: The next public hearing, next up is



ZB 2025-0302, Earl Johnson, 4686 Rushmore Road Palmyra NY 14522: Requesting an area variance for Tax Map Account 19.00-1-50.211 to allow relief from the Town Code requirement [Chapter 165, Article V, Section 62 B] that pools shall be located in the rear yard portion of a lot and not closer than 10 feet to the side or rear property lines. The property is zoned A-80 Agricultural.

Mr. Yourch: Who's going to speak on behalf of this?

Mr. Johnson: Do you want me up there?

Mr. Yourch: Sure, state your name and address for the record.

Mr. Johnson: Earl Johnson, 4686 Rushmore Rd. There is no room in the back of my yard so side yard and that's where I want it. In the front is a three quarters of an acre pond. So, I bought around 20 acres, nobody's close to me, I was surprised that I had to go through zoning to put a pool there, actually that's about it. The back of the property that's over 100 foot to the line, and that's for future additions will go there. Leach lines in their other corner, so that's the only place. When we bought this property it's 80 acres and the only place you can put a house on it is where the house is, so I want to put a pool in, and this is where I want to put that sums it up.

Mr. Yourch: staff comments?

Mr. Lay: What did you say about the backyard? I missed part of that.

Mr. Johnson: The backyard goes up higher grade by about three foot and leach line and septic system and the other part of it is proposed addition, that's the only place it can go. The walkouts in the front of the house. You guys should have a layout of what the house is to see what I mean there's already a pond in the front, so I want to put a pool in the side yard I don't know what the big deal is though.

Mr. Lay: Thank you.

Mr. Yourch: Comments, Ron?

Mr. Brand: Yeah, the location of the proposed pool is in front of the front set back of the building, even though it's so far back off the highway. That's the front set back and there is very little area there, as Mr. Johnson said, to do anything else with because of topography. So, there is some practical difficulty here. There is no issue with side setbacks. The aerial photos show no immediate neighbors in proximity to the pool, and there are conditions there for the pool to comply with town code requirements for lighting and fencing and things of this nature.

Mr. Yourch: Board members comments questions?

Mr. Bocchino: I just had a question. So, you said expansion would be to the right or left of your property.

Mr. Johnson: I'll go off the back.

Mr. Bocchino: Off the back.

Mr. Johnson: Yes, if it happens after I go make my family. Well, that's only place you can. So, it's only a small house. It's a one-bedroom house. Even the town is calling it a 2 bedroom. It's 1. Someday we might want an extra bedroom.

Mr. Yurch: Thank you, public comments?

Mr. Yurch: No, we don't have anyone online, right?

Ms. Ruthven: No.

Mr. Yurch: I don't hear anything else. All right, I will close the public hearing for that.

## 6. BOARD BUSINESS—DELIBERATIONS AND DECISION

<b>ZB #2025-0301</b>	<b>DECAL, LLC</b> <b>Joseph DeGeorge</b> <b>1067 Gateway Dr</b> <b>Farmington, N.Y. 14425</b>	<b>Area Variance</b>
<b>ZB #2025-0302</b>	<b>EARL JOHNSON</b>  <b>4686 Rushmore Rd</b> <b>Rushmore Rd, N.Y. 14522</b> <b>Palmyra NY</b>	<b>Area Variance</b>

n A motion was made by MS. COCHRANE, seconded by MR. LAY, that the reading of the following State Environmental Quality Review (SEQR) resolution be waived, and that the resolution be approved as submitted by the Town staff:

### FARMINGTON ZONING BOARD OF APPEALS RESOLUTION SEQR RESOLUTION—TYPE II ACTION

**ZB #2025-0301**

**APPLICANT:**           **JOSEPH DEGEORGE, C/O DECAL, LLC**  
                                  **1067 GATEWAY DRIVE, FARMINGTON, NY 14425**

**ACTION:**               **Area Variance to the provisions of §165-34 J. (3) (g) [6] which requires sidewalks are to be provided along all sites fronting along state, county and 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.**

**WHEREAS** the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under 6 NYCRR, Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action.

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

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

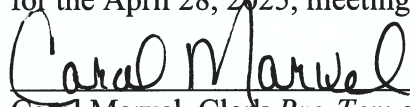
**NOW, THEREFORE, BE IT RESOLVED THAT** the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

The above resolution was offered by Ms. Cochrane and seconded by Mr. Lay at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 28, 2025. Following discussion, the following roll call vote was recorded:

Kelly Cochrane	- Aye
Jody Binnix	- Excused
Tom Lay	- Aye
Ralph Bocchino	- Aye
Thomas Yourch	- Aye

Motion - Carried

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 April 28, 2025, meeting.

 L. S.  
Carol Marvel, Clerk *Pro-Tem* of the Board

■ A motion was made by MS. COCHRANE, seconded by MR. BOCCHINO, that the reading of the complete findings and decisions of the Public Hearing resolution be waived, and that the determinations and conditions resolution be approved:

**TOWN OF FARMINGTON  
ZONING BOARD OF APPEALS  
AREA VARIANCE FINDINGS AND DECISION**

**APPLICANT:** Joseph DeGeorge  
1067 Gateway Drive  
Farmington, NY 14425

**File:** ZB #2025-0301  
**Zoning District:** GI General Industrial District  
**Published Legal Notice on:** April 18, 2025



**County Planning Action on:** April 9, 2025  
**County Referral #:** 57-2025  
**Public Hearing held on:** April 28, 2025

**Property Location:** 1067 Gateway Drive, Farmington, NY 14425

**Property Owner:** Joseph DeGeorge, DECAL, LLC

**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 having to provide sidewalks across the site's frontages along Gateway Drive, Plastermill Road and State Route 332. The Town Code, Chapter 165, requires sidewalks are to be provided along all sites fronting along state and county highways 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 an Area Variance for an accessory structure 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:** Class 1, 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 a mix of residential and industrial sites. The Board further finds that there are sidewalks located within this area the MTOD that contribute to the completion of a pedestrian network. The Board further finds that Town has an adopted Sidewalk/Trail Master Plan map which identifies a pedestrian network in this area that is to be completed. The Board further understands that the need for sidewalks in this area has also been identified in the November 2021 report entitled "State Route 332 and Route 96 Sub-Area Study," an inter-municipal project involving the Town of Canandaigua, Town of Farmington, Ontario County and the Region 4 Office of the New York State Department of Transportation. Federal Highway funding was provided for a portion of this study by the Genesee Transportation Council, the region's MPO Metropolitan Planning Organization. The Board further finds that the purpose for sidewalks in this area is to provide a connecting pedestrian network to established sidewalks located south of the Ontario Central Railroad Tracks in the future. The Board further finds that Ontario County continues consideration

of abandoning a portion of their railroad line which will include the area opposite the subject property, thereby allowing for a crossing of Plastermill Road, the railroad property and connection to the established sidewalks along West Collett Road at the intersection with Mertensia Road. The Board further finds that the vacant parcel of land north of the subject site will also be required to install sidewalks that will contribute to a connecting pedestrian network in this area.

The Board further finds that the above referenced Sub-Area Study identified concerns with pedestrians walking along the shoulders of State Route 332, over the bridge crossing of the railroad line and located between Gateway Drive and Collett Road, which further strengthens the need for completing this portion of a pedestrian network in this area. The Board further finds that there is not enough shoulder along Route 332 for construction of a sidewalk to meet federal and state standards. The Board further finds that the subject property does not have access to State Route 332 and, therefore, understands that sidewalk across the east property line of the subject property and State Route 332 is not feasible and it would not contribute to the completion of a pedestrian network in this portion of the area.

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. The change in character being a developing area of multi-modal transportation. The Board further finds that granting such a requested area variance would also create a detriment to nearby properties and prolong the completion of a pedestrian network in the area thereby adversely impacting the health and safety of pedestrians.

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 construction of pedestrian sidewalks along the State Route 332 frontage is not feasible. The Board also finds that the construction of sidewalk across the Plastermill Road frontage, at this time, does not contribute to the completion of a long-range pedestrian network connecting to Loomis Road and, therefore, a feasible alternative to the requested variance is requiring the applicant to provide an easement to the Town of Farmington for the future construction of sidewalk across the Plastermill Road frontage. Finally, the Board finds there is an alternative to granting the requested area variance along Gateway Drive frontage. The Board finds in this instance that not requiring the construction of sidewalk along the east side of Gateway Drive would be contrary to the completion of a pedestrian network in this area. The Board, based upon these findings, determines that the benefit to the community can be achieved by a feasible alternative to the requested variance.

3. Whether the requested variance is substantial.      X   Yes           No

**Reasons:** The Board finds that the requested relief from the installation of sidewalks across all three frontages of the subject site involves 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    ☒ No

**Reasons:** 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) (9) and (12) 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.  
     ☒ Yes        ☐ No

**Reasons:** The Board finds, as noted above herein, that the alleged difficulty was self-created, as the MTOD regulations have been in existence for several years since the adoption of the MTOD regulations without relief being granted where the sidewalk requirement is determined to contribute to the completion of a pedestrian network in the area. Therefore, based upon these findings, the Board determines the alleged difficulty is self-created and that granting the requested relief would not be granting the minimum area variance 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 proofs, makes the following decision:

**That the benefit to the applicant does not outweigh known detriment to the community or neighborhood; and, therefore, the requested area variance to not construct sidewalks across the three Frontages of the subject parcel is MODIFIED as follows:**

1. The Board grants a variance to the applicant for not constructing sidewalks across the Route 332 frontage of the subject parcel as such sidewalk would not contribute to the completion of a pedestrian network in the area.
2. The Board denies a variance to the applicant for not constructing sidewalks across the Plastermill Road Frontage and instead requires the filing of a pedestrian easement across this frontage of the subject site. The Board further requires that said easement be recorded in the office of the Ontario County Clerk, a copy of the filing be provided to the Town Development Office and shown on the Final Site Plan drawing prior to issuing of a certificate of occupancy/compliance.

3. The Board denies a variance to the applicant for not constructing sidewalks across the Gateway Drive Frontage and instead requires the construction of this sidewalk, to be designed and dedicated to the Town of Farmington, prior to issuing a certificate of occupancy/compliance for the proposed storage building and other related site improvements. The Board further requires the filing of said easement in the office of the Ontario County Clerk, a copy of the filing be provided to the Town Development Officer and shown on the Final Site Plan drawing prior to issuing of a certificate of occupancy/compliance.

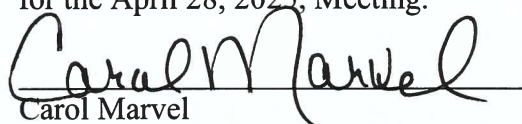
**NOW, THEREFORE, BE IT RESOLVED** that the Board in making this Decision has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

**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 Ms. Cochrane and seconded by Mr. Bocchino at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 28, 2025. After Board discussion, the following roll call vote was recorded:

Kelly Cochrane	Aye
Jody Binnix	Excused
Ralph Bocchino	Aye
Tom Lay	Aye
Thomas Yourch	Aye

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 April 28, 2025, Meeting.

 L.S.  
Carol Marvel

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

■ A motion was made by MS. COCHRANE, seconded by MR. LAY, that the reading of the complete findings and decisions of the Public Hearing resolution be waived, and that the determinations and conditions resolution be approved:



**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION  
SEQR RESOLUTION—TYPE II ACTION**

**ZB #2025-0302**

**APPLICANT: EARL JOHNSON  
4686 RUSHMORE ROAD, PALMYRA, NY 14522**

**ACTION: Area Variance to allow for the construction of an in-ground swimming pool to be located in the Front Yard area of the property located at the above referenced address.**

**WHEREAS** the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has reviewed the criteria, under 6 NYCRR, Part 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations, for determining the Classification associated with the above referenced Action.

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

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

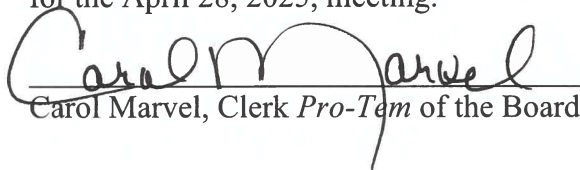
**NOW, THEREFORE, BE IT RESOLVED THAT** the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

The above resolution was offered by Ms. Cochrane and seconded by Mr. Lay at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 28, 2025. Following discussion, the following roll call vote was recorded:

Kelly Cochrane	-	Aye
Jody Binnix	-	Excused
Tom Lay	-	Aye
Ralph Bocchino	-	Aye
Thomas Yourch	-	Aye

Motion - Carried

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 April 28, 2025, meeting.

 L. S.  
Carol Marvel, Clerk *Pro-Tem* of the Board



**TOWN OF FARMINGTON  
ZONING BOARD OF APPEALS  
AREA VARIANCE FINDINGS AND DECISION**

**APPLICANT:** Earl Johnson  
4686 Rushmore Road  
Palmyra, NY 14522

**File:** ZB #2025-0302  
**Zoning District:** A-80 Agricultural District  
**Published Legal Notice on:** April 18, 2025  
**County Planning Action on:** Exempt  
**County Referral #:** Exempt  
**Public Hearing held on:** April 28, 2025

**Property Location:** 4686 Rushmore Road, Palmyra, NY 14522

**Property Owner:** Earl Johnson, 4686 Rushmore Road, Palmyra, NY 14522

**Applicable Section of Town Code:** Chapter 165, Article V, Section 62 B,

**Requirement for Which Variance is Requested:** The applicant is requesting an area variance to allow for the construction of an in-ground swimming pool to be placed in the Front Yard portion of the site. The Town Code, Chapter 165, requires outdoor swimming pools to be located in the Rear Yard area of a site.

**State Environmental Quality Review Determination:** The granting of an Area Variance for an accessory structure is classified as a Type II Action under Part 617.5 (c) (9) and (12) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under article 8 of the State Environmental Conservation Law (ECL).

**County Planning Referral Recommendation:** N/A. Exempt Action by Ontario County Planning Board Bylaws.

**FACTORS CONSIDERED AND BOARD FINDINGS**

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

☐ Yes      ☒ 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 fronting along the north side of Rushmore Road larger than the minimum lot size (40,000 square feet in area). The Board also finds that this lot is located within a predominantly rural residential area of the Town of Farmington. The Board further finds that the dwelling was constructed on the parcel in such a manner that there is an excessive Front Yard setback and a much smaller Rear Yard area on this site. The Board further finds that the Applicant is proposing an in-

ground swimming pool to be located in the Front Yard Setback of the property. The Board further finds that the proposed swimming pool will not be visible by motorists passing by on Rushmore Road due to the site's topography change between the highway and the proposed pool location. The Board further finds that there is an established wooded area on the adjacent property to the east of the proposed pool location, an area having no structure(s) location(s). The Board finally finds that the proposed in-ground swimming pool would not have an adverse visual effect upon the adjacent vacant parcel of land.

The Board, based upon these findings, determines that the granting of the requested Area Variance will not create an undesirable change in the character of the neighborhood; or create 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    ☒ No

**Reasons:** The Board finds the location of the existing single-family dwelling on the site in a manner that maximizes the scenic vistas and leaving a small area, the Rear Yard portion, where a swimming pool could be located in accordance with the Town Code. The Board further finds that the proposed location of the swimming pool has been proposed on the lot in a manner that leaves the most feasible area for the swimming pool to be located, along the east side of the lot and in front of the principal structure. The Board further finds that the location of the proposed swimming pool involves minimal site disturbance. The Board further finds that placing the proposed swimming pool in the location shown would have a minor visual impact upon surrounding properties. The Board further finds that the proposed location is most visible from within the principal structure and located in the most desirable portion of the site to facilitate on-going operations and maintenance of the swimming pool. The Board based upon these findings, determines that the benefit to the applicant cannot be achieved by a feasible alternative to the requested variance.

3. Whether the requested variance is substantial.    ☒ Yes    ☐ No

**Reasons:** The Board finds that the requested encroachment into the Front Yard area of the lot involves 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    ☒ No

**Reasons:** 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) (9) and (12) of article 8 of the New York State Environmental Conservation Law (ECL). The Board finds that Type II Actions listed within the ECL have been determined not to have a significant adverse impact upon the environment and has thereby satisfied the procedural requirements of the ECL.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the Area Variance.

  X   Yes             No

**Reasons:** The Board finds, as noted above herein, that in this instance the alleged difficulty was self-created, as the principal structure has been placed on the lot, thereby necessitating the requested Front Yard Setback area variance. The Board further finds that said in-ground swimming pool could be placed within the Rear Yard (eastern portion) of the Lot. The Board further finds that the Applicant has followed all steps required in seeking approval for the proposed in-ground swimming pool. The Board, based upon these findings determines that the difficulty for the Applicant in complying with the Front Setback provisions in Chapter 165 can be achieved without some form of relief. The Board further finds, however, that placing the in-ground swimming pool in the Rear Yard portion of the parcel would create a practical difficulty for the property owner for operating and maintaining the facility. The Board further finds that the relief being requested is felt to be the minimum relief necessary for locating the in-ground swimming pool in proximity to the Front Yard setback for the principal structure. Therefore, based upon these findings, the Board determines the alleged difficulty is self-created and that granting the requested relief would be granting the minimum area variance.

#### **DETERMINATION OF THE ZONING BOARD OF APPEALS BASED UPON THE ABOVE FACTORS**

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

**That the benefit to the applicant does outweigh any known detriment to the community or neighborhood; and, therefore, the requested area variance to construct an in-ground swimming pool in the Front Yard portion of the Lot is APPROVED with the following conditions:**

1. The proposed in-ground swimming pool shall be constructed the location shown on the drawing submitted with this application and in accordance with the provisions within Chapter 165, Article V, Section 62 of the Farmington Town Code.
2. No site development relating to the proposed installation of the in-ground swimming pool shall occur until an approved Building Permit is issued by the Town Code Enforcement Officer.
3. All site lighting associated with the proposed in-ground swimming pool shall comply with the lighting standards contained in Chapter 165 of the Town Code.
4. All inspections shall be performed and accepted by Town Code Enforcement Official(s) prior to issuance of the Certificate of Compliance.

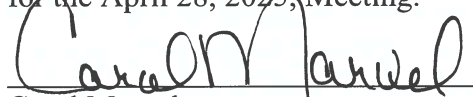
**NOW, THEREFORE, BE IT RESOLVED** that the Board in making this Determination has satisfied the procedural requirements under New York State Town Law and the Town of Farmington Town Code.

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

The above resolution was offered by Ms. Cochrane and seconded by Mr. Lay at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, April 28, 2025. After Board discussion, the following roll call vote was recorded:

Kelly Cochrane	Aye
Jody Binnix	Excused
Tom Lay	Aye
Ralph Bocchino	Aye
Thomas Yourch	Aye

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 April 28, 2025, Meeting.

 L.S.

Carol Marvel

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

## 7. OTHER BOARD MATTERS

None

## 8. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

Mr. Tygesen: Good evening again, Neil Tygesen 343 Cline Rd, appreciate the opportunities to provide comments on a project that's not on your desk and doesn't appear to have been submitted, but myself and some community members are concerned that perhaps you ought to have been included in distribution of notice. And so that's kind of why we're here. So, it pertains to a proposed major subdivision that will be phased and involve decisions from both the town of Farmington and the town of Victor. Given the materials that have been submitted under the proposal appears, it will require variances from Farmington ZBA. The proposal is titled Timberview Estates Subdivision, which was submitted to the town of Victor's Planning Board and reviewed on March 11th, 2025. At the end of that meeting, they passed a little resolution to declare themselves to the agency and give notice to potential agencies with authority.

00:28:39 Mr. Lay:

Including the town of Farmington, but it's unclear whether the town board was solicited and/or if the ZBA was also included as an opportunity to provide comments and review on the proposal from reviewing some of the draft minutes, it does not appear that this was brought to your



attention. So that's kind of where I'm at today. The majority of the land that's proposed under the subdivision will occur in the town of Victor. However, a portion of it will also be within the town of Farmington. There are two parcels, it's located on the northwest corner of the town on the Cline Rd, so if you're familiar with that area, Cline Road basically goes northwest, but it juts out and the town Farmington around the drumlin, and that's the portion that we're mostly concerned about. The proposal in Farmington has 20 lots in what is currently active farmland. And then at the top of the drumlin or steep slope, whatever you call that, they have an additional 4 lots that are proposed right along the ridgeline, and they are proposing having an access drive for those lots come down through the town of Farmington parcel through an access road. None of those four lots have street frontage, so it appears that they would require some sort of area variance or some kind of cluster sub in order to get that access down onto Cline road. On top of that, they're phase for phase 2 is an additional 3 lots on another parcel in Farmington at the base or within the slope of the drumlin. Part of our concern here is under the town of Farmington's, 2020 Comp plan, it designates this area as a steep slope/drumlin. Under the concerns it notes that the areas are steep and in most cases they're probable sub surfaces aren't stable. Developed measures to control erosion and steeply sloped plan can result in considerable expense to developers, adjacent property owners, the town and the environment. There are several wetlands on the west side. There's a ditch that conveys water on the east side on Cline road. Most of the concern is if that area is excavated and of a lot of mature vegetation. If you go on the site, there's 30 plus the mature conifers in order to deal with the proposing, they will have to remove a lot of the vegetation and take out the roots and put in some serious retaining walls in order to have that happen. We're concerned that there could be with extreme weather events that could impact the ecology and environment. So, part of what I'm requesting is if the ZBA has not received any application or request for comment that and because time is of essence, because the Planning Board has declared themselves lead agency and under SEQR. Forgive me if I'm giving information that you're already aware with, but if there's an action that consists of multiple phases or sets of activities and or separate agencies involved SEQR law requires joint consideration of the commutative impact. So even though the majority of the proposal right now is just in Farmington. The town of Victor's Planning Board has to be taken into consideration with ecological and environmental impacts that could happen in Farmington, and it does not appear that the developer is being as forthright with information as they should be. So, my concern and request is to ask if you haven't done already ask for the materials from the town of Victor's planning board. All the materials that have been submitted and ask for time to provide comment. The comment period is still open, but we're not sure if they're going to close that comment period at the next meeting. We provided the letter we provided 11 by 17 and appreciate these are hard to read. These are \*inaudible\* format, so, but at least what they did is highlighted the areas that are at the top of the drumlin in red. The access road that is highlighted in dark red that comes down through Farmington lot and the three lots along here were highlighted in yellow. Why it appears that the ZBA would be involved is that the area zoned A-80 and it looks like the town's requirement is to have 300 foot and they're proposing essentially 7 lots on an area that has roughly 1000-foot frontage. And if they all have 300 feet of frontage, that's over 2000 square feet. So, it appears that an area variance would be required, it could also impact variances needed for septic because it's unclear whether they can get a normal approved septic field approved septic fields on those steep slopes.



One of the images is a \*inaudible\* that they did provide that shows basically, so that's a 1 to 1 and so how they can get a normal septic field system and that operates normally there. So, it appears that there could be several variances that are going to be needed.

Mr. Brand: All materials go to the clerk of the board.

Mr. Yourch: Go ahead and state your name and address.

Ms. Ax Smith: My name is Patricia Axsmith Tavolette, I live on Cline road. So, in question where the development is proposed, primarily Victor and some spilling into Farmington, when you're looking at the speed at which safe travel happens even generally is 55 miles an hour on that street? OK. And based on Ingress and ingress egress from that development. I think that will seriously be a concern. We also have the Rochester Group of Cyclists Cycling Association, and they travel with up to 50 cyclists down Cline road doing a large walk. You bring that much traffic onto the road we do need to consider changing the speeds, but the visibility and the topography make it such that it will be challenged for traffic to come in and out of the parcel. So, I just want to share that.

Mr. Yourch: Thank you.

Mr. Brand: For those that may not remember, Trisha Axsmith was Town Justice here in Farmington for a number of years. I was also on the planning board so.

Mr. Brand: Yes, yes, I forgot that.

Mr. Yourch: Any other public comments?

Mr. Yourch: Okay, hearing none, we'll move on to the Director of Development update.

## **9. DIRECTOR OF DEVELOPMENT UPDATE**

Mr. Brand: Absolutely. We do have a capital project for sidewalks that we are very stingy on.

Filling in the blanks. But we have had nothing but very positive feedback from people who have used those sidewalks, including people from motor scooters and wheelchairs to one lady says it's great being able to get on that sidewalk and go to Aldi's and do my shopping and come back and not have to get in the car and go on 332. Responses that makes me feel good.

Mr. Yourch: I drive that every day and as he was just talking about the people and concerns of wheelchairs and going over the bridge crossing the tracks all the time.

Mr. Yourch: That's your update? I can tell you this that the Tops Plaza has come off life support and it has a faint heartbeat, but it is moving forward again. They have a new engineering firm.

The latest proposal is that they are not any longer going to be putting the Tops fueling station. Tops has decided they have better use for their money and they want to expand the building and make that a super store really with a lot of the features that you find in Wegmans these days, so competitions driving that. I hate to say this, but you know, there's a national coffee chain that comes to mind that people have really asked for here in this town and that's been voiced as being where that fuel station is going. We'll see. I don't want anybody coming at me and say, hey, you told us there was going to be.

Mr. Yourch: Alright, Sir.

Mr. Brand: That's it.

#### **10. CODE ENFORCEMENT OFFICER UPDATE**

- Checking in to see if the One drive is working out well for you.
- Next Meeting TBD, there are no new or continuing projects at this time.
- The building department has new software coming in that will give you access to applications and projects in real time. It is a web-based software that you will be able to log into. We will continue to use One drive for quite some time. We will phase the one drive out once we iron out any issues with the new software.
- Clerk of the Board is still vacant.

#### **11. TRAINING OPPORTUNITIES**

##### **■ 2025 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, May 22, 2025, 6:00 p.m.–7:00 p.m.**

Session 5: Planning Board Basics: Roles of the Planning Board in Community Development

**Thursday, June 26, 2025, 6:00 p.m.–7:00 p.m.**

Session 6: Zoning Board Basics: Roles of the Zoning Board in Community Development

**Thursday, July 24, 2025, 6:00 p.m.–7:00 p.m.**

Session 7: Soaking Up the Sun: Solar and Battery Storage and the Local Review Process

**Thursday, September 25, 2025, 6:00 p.m.–7:00 p.m.**

Session 8: Putting the Home in Hometown: Strategies for Attracting Housing Investments to Your Community

**Thursday, October 24, 2025, 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 18, 2024, 6:00 p.m.–7:00 p.m.**

Session 10: Santa's Nice and Naughty List: The Best and Worst of 2025

### **Registration**

**New York Planning Federation Recorded Webinars:**

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

### **General Code e-Code**

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

Information: <https://www.generalcode.com/training/>

### **Future Training Opportunities Online:**

Ontario County Planning Department website now lists upcoming training:

<https://www.co.ontario.ny.us/192/Training>

## **12. NEXT MEETING**


The next regular meeting of the Zoning Board of Appeals will be determined at a later date because there are no new or continuing hearings.

## **13. ADJOURNMENT**

A motion was made by MS. COCHRANE, seconded by MR. BOCCHINO, that the meeting be adjourned.

Motion carried by voice vote. The meeting was adjourned at 7:42 p.m.

Respectfully submitted,

  
Carol Marvel  
Clerk Pro Tem of the Zoning Board of Appeals

L.S.