

**TOWN OF FARMINGTON  
ZONING BOARD OF APPEALS MEETING MINUTES**

**APPROVED MINUTES**

The following minutes are a written summary of the main points that were made and the actions taken at the Town of Farmington Zoning Board of Appeals meeting held on August 24, 2015.

**Zoning Board of Appeals Members**

Ann Vu	Chair	Present
Timothy DeLucia		Present
Cyril Opett		Present
Nancy Purdy		Present
James Russell		Present

**Town Staff Members**

Ron Brand	Director of Development
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**Also Present**

There was no public attending this meeting.

**Open Meeting**

Ann Vu called the meeting to order at 7:00 pm. She explained the emergency evacuation procedures and rules of procedures of the meeting.

**Approval of Minutes**

Timothy DeLucia made a motion to accept the July 27, 2015 meeting minutes and Cyril Opett seconded the motion. A voice vote was taken and the motion was passed with four (4) Ayes with James Russell abstaining.

**BOARD BUSINESS:**

Ann Vu attests that no legal notices are required for tonight's agenda. She also attests to the posting of tonight's agenda on the Town's website and upon the bulletin board located at the Town Hall.

**CONTINUED BUSINESS:**

**ZB 0705-15 Burger King Restaurant, The Holland Trotta Project, Area Variances**

**to erect two additional Building Mounted Commercial Speech Signs upon the proposed structure to be located at 1290 State Route 332.**

Ann Vu asks for any further comments from the Board or Town Staff.

Ron Brand, Director of Development, states that the resolution to over-ride the county has been reviewed by the Town Attorney and he found the resolution to be informative and acceptable.

**Resolution: Over-ride Ontario County Planning Board Referral #90.1 – 2015 Recommendations of Denial.**

**WHEREAS**, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has conducted a public hearing upon the applications by The Holland Trotta Project, for two additional Building Mounted “Medallion Burger King Logo type” Commercial Speech Signs and one additional Building Mounted Commercial Speech Sign that reads... “Home of the Whopper;” and

**WHEREAS**, the Board having received testimony at said public hearing, including the Ontario County Planning Board’s referral #90.1 of 2015 which recommend denial of all three of the requested area variance applications; and

**WHEREAS**, the Board understands that it is required to adopt a resolution, by a majority plus one vote of the entire membership of the Board, in order to over-ride the County Planning Board’s recommendations made under the provisions of Sections 239-l and –m of the New York State General Municipal Law; and

**WHEREAS**, it is the Board’s desires to approve one of these two requested additional signs is based upon its findings and decision rendered on Monday, July 27, 2015.

**NOW, THEREFORE, BE IT RESOLVED** that the Board understands that the Ontario County Planning Board’s (hereinafter referred to as OCPB) finding for making a recommendation of denial of all three (3) area variances is based upon the OCPB’s bylaws that require requests for sign area variances to be classified as a Class 2 with a recommendation of disapproval.

**BE IT FURTHER RESOLVED** that the Board takes great exception to the OCPB’s finding to their having to automatically recommend denial of any sign area variance is in any way based upon the stated intent contained in Section 239-l of the New York State General Municipal Law. This Section states ... “The purposes of this section, sections 239-m and 239-n of this article shall be to bring pertinent inter-community and county-wide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction.”

**BE IT FURTHER RESOLVED** that the Board finds that the OCPB’s automatic recommendation of denial is at best arbitrary.

**BE IT FURTHER RESOLVED** that the Board finds that the OCPB's position that any area variance is excessive fails to acknowledge circumstances where an area variance might be justified in promoting the safety of the traveling public by enabling adequate reaction time for the safe exiting from along the primary travel corridors for tourists, who after all may not be familiar with the Burger King's location.

**BE IT FURTHER RESOLVED** that the Board does not understand how an unfounded finding by the OPCB can, or should be used as a basis for denial of all three of the area variance requests for additional commercial speech signage for the proposed Burger King Restaurant.

**BE IT FURTHER RESOLVED** that the Board finds the OCPB's recommendation is acting contradictory to the enabling powers set forth in New York State Town Law, that reserves the authority to grant area variances to the local zoning board of appeals.

**BE IT FURTHER RESOLVED** that the OCPB's declared assumption that all local legislators have adopted adequate standards for signage that allows for business identification signs that are sufficient to safely direct customers onto a specific site is at best undocumented and that there has never been any municipal code adopted in Ontario County that could possibly anticipate sufficient regulations for all commercial speech signage and settings.

**BASED UPON THESE FINDINGS**, the Board does hereby take action to over-ride the Ontario County Planning Board's referrals # 90.1 of 2015 recommendations for denial of all three (3) of the requested area variances for Commercial Speech Signage at the proposed Burger King Restaurant.

**BE IT FINALLY RESOLVED** that in accordance with the provisions of Sections 239-1, -m and -n of the New York State General Municipal Law, a certified copy of this resolution is to be sent to the Ontario County Planning Board.

The above resolution was offered by Timothy DeLucia and seconded by Ann Vu at a meeting of the Town of Farmington Planning Board held on Monday, August 24, 2015. The following roll call vote was taken and recorded in the minutes of said Board meeting:

Timothy DeLucia	-	Aye
Cyril Opett	-	Aye
Nancy Purdy	-	Aye
James Russell	-	Aye
Ann Vu	-	Aye

**Public Comments – open forum**

None

**Other Board Matters:**

None

**Director of Development Update:**

Mr. Brand answered questions from the Board Members pertaining to the Simmons-Rockwell Project which, at this time, is currently at a standstill due to franchising.

Mr. Brand also adds that he has met with James Russell for an hour towards his training credits for the year.

**Next Meeting:**

The next Zoning Board of Appeals meeting will be held on September 28, 2015. A motion was made to adjourn the meeting at 7:16 pm and was passed with a voice vote of five (5) Ayes.

Minutes were respectfully submitted by Sarah Mitchell, Clerk of the Board.