

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS
Tuesday, April 18, 2017, 7:00 p.m.

MINUTES—APPROVED

The following minutes are written as a summary of the main points that were made and the actions taken at the Town of Farmington Zoning Board of Appeals meeting.

Board Members Present: Timothy DeLucia, *Chairperson*
Cyril Opett
Nancy Purdy
James Russell
Thomas Yourch

Staff Present:
Ronald L. Brand, Town of Farmington Director of Development and Planning
Don Giroux, Town of Farmington Highway Superintendent
Jamie Kincaid, Town of Farmington Fire Marshal

Applicants Present:
Edward and Judeann Mack, 6164 Brownsville Road, Farmington, N.Y. 14425
Kenn Giroux, Burger King Restaurant, 1298 State Route 332, Farmington, N.Y. 14425
Steven Vann, Burger King Restaurant, 1298 State Route 332, Farmington, N.Y. 14425

1. MEETING OPENING

The meeting was called to order at 7:00 p.m. After the Pledge of Allegiance was recited, Mr. DeLucia introduced the Zoning Board of Appeals members and staff, explained the emergency evacuation procedures, and noted that copies of the evening’s agenda were available at the door.

Mr. DeLucia said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 29, 2016.

2. APPROVAL OF MINUTES OF MARCH 21, 2017

■ A motion was made by MR. OPETT, seconded by MR. YOURCH, that the minutes of the March 21, 2017, meeting be approved.

Motion carried by voice vote.

3. LEGAL NOTICE

Mr. DeLucia attested that the following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper (the Town's official newspaper) on Sunday, April 9, 2017, that it was posted upon the Town of Farmington website (www.townofarmington-ny.com), and that it was posted upon the Town Clerk's bulletin board in the foyer of the Town Hall:

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that Public Hearings will be held by and before the Zoning Board of Appeals of the Town of Farmington at 1023 Hook Road, Farmington, N.Y., on the 18th day of April, 2017 commencing at 7:00 p.m. to consider the following applications:

ZB #0401-17: LAMAR OUTDOOR ADVERTISING, 55 ROCKWOOD STREET, ROCHESTER, N.Y. 14610: Request an area variance to Article V, Chapter 165-43 B. (c) to the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot sign (a maximum of 64 square feet is allowed). The property is located on the west side of NYS Route 332, south of Cobblestone Arts Center and zoned General Business District.

ZB #0402-17: LAMAR OUTDOOR ADVERTISING, 55 ROCKWOOD STREET, ROCHESTER, N.Y. 14610: Request an area variance to Article V, Chapter 165-45 A. (2) to the Town of Farmington Codes. The applicant wishes to erect a moving/motion sign (prohibited by codes). The property is located on the west side of NYS Route 332, south of Cobblestone Arts Center and zoned General Business District.

ZB #0403-17: LAMAR OUTDOOR ADVERTISING, 55 ROCKWOOD STREET, ROCHESTER, N.Y. 14610: Request an area variance to Article V, Chapter 165-41 to the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot changeable copy sign exceeding the maximum of 20 square feet. The property is located on the west side of NYS Route 332, south of Cobblestone Arts Center and zoned General Business District.

ZB #0404-17: LAMAR OUTDOOR ADVERTISING, 55 ROCKWOOD STREET, ROCHESTER, N.Y. 14610: Request an area variance to Article V, Chapter 165-45 A. (3) to the Town of Farmington Codes. The applicant wishes to locate an off-site commercial sign prohibited by codes. The property is located on the west side of NYS Route 332, south of Cobblestone Arts Center and zoned General Business District.

ZB #0408-17: LAMAR OUTDOOR ADVERTISING, 55 ROCKWOOD STREET, ROCHESTER, N.Y. 14610: Request an area variance to Article V, Chapter 165-49 (B) C to the Town of Farmington Codes. The applicant wishes to erect a sign 23 feet in

height (a maximum height of 15 feet is allowed). The property is located on the west side of NYS Route 332, south of Cobblestone Arts Center and zoned General Business District.

ZB #0405-17: BURGER KING, 1298 STATE ROUTE 332, FARMINGTON, N.Y. 14425: Request an area variance to Article V, Chapter 165-41 (2) to the Town of Farmington Codes. The applicant wishes to erect a changeable copy sign exceeding 20 feet. The property is located at 1298 NYS Route 332 and zoned General Business District.

ZB #0406-17: JOSEPH SORTINO, 2015 MAIDEN LANE, ROCHESTER, N.Y. 14626: Request an area variance to Article V, Chapter 165-44 to the Town of Farmington Codes. The applicant wishes to display a second subdivision sign. The property is located at the corner of New Michigan Road and Monarch Drive and zoned Incentive Zoning District.

ZB #0407-17: EDWARD MACK, 6164 BROWNSVILLE ROAD, FARMINGTON, N.Y. 14425: Request an area variance to Article IV, Chapter 165-35 to the Town of Farmington Codes. The applicant wishes to have an enclosed porch remain 49 feet from the front property line (a minimum 60-foot front setback is required). The property is located at 6164 Brownsville Road and zoned A-80 District.

SAID BOARD OF APPEALS WILL MEET at said time and place to hear all persons in support of such matters or any objections.

Tim DeLucia, Chairperson
Zoning Board of Appeals
Town of Farmington

4. CONTINUED BUSINESS

None

5. PUBLIC HEARINGS

ZB #0401-17	Lamar Outdoor Advertising 55 Rockwood Street Rochester, N.Y. 14610	Area Variance
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The applicant is requesting an area variance to Article V, Chapter 165-43 B (c) of the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot free-standing commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center, which is located at 1622 State Route 332. The Town Code allows a maximum size for a freestanding commercial speech sign to have 64 square feet in area. The property is zoned GB General Business District.

ZB 0402-17 Lamar Outdoor Advertising Area Variance
55 Rockwood Street
Rochester, N.Y. 14610

The applicant is requesting an area variance to Article V, Chapter 165-45 A (2) of the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot free-standing commercial speech sign with moving/motion signage to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center, which is located at 1622 State Route 332. The Town Code prohibits moving/motion signage. The property is zoned GB General Business District.

ZB 0403-17 Lamar Outdoor Advertising Area Variance
55 Rockwood Street
Rochester, N.Y. 14610

The applicant is requesting an area variance to Article V, Chapter 165-41 of the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot freestanding commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center, which is located at 1622 State Route 332. The Town Code restricts changeable-copy commercial speech signs to a maximum of 20 square feet in area. The property is zoned GB General Business District.

ZB 0404-17 Lamar Outdoor Advertising Area Variance
55 Rockwood Street
Rochester, N.Y. 14610

The applicant is requesting an area variance to Article V, Chapter 165-45 A (3) of the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot free-standing commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center, which is located at 1622 State Route 332. The variance request is to allow for the advertising for businesses that are not located on the premises. The Town Code restricts pertinent commercial speech advertising for only a bona fide business that is conducted in or on the premises. The property is zoned GB General Business District.

ZB 0408-17 Lamar Outdoor Advertising Area Variance

The applicant is requesting an area variance to Article V, Chapter 165-43 B (2) (a) of the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot, 23 feet high freestanding commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center, which is located at 1622 State Route 332. The Town Code restricts all ground signs to a height of not more than 15 feet above ground. The property is zoned GB General Business District.

Mr. DeLucia recused himself from participating in the discussions and deliberations on the applications submitted by Lamar Outdoor Advertising (ZB #0401-17, ZB #0402-17, ZB #0403-17, ZB #0404-17 and ZB #0408-18) citing an indirect relationship with the Cobblestone Arts Center, on whose behalf the applications have been submitted.

Mr. DeLucia then left the meeting room. Mr. Russell assumed the duties of chairperson.

Mr. Russell declared the Public Hearings open concurrently.

Mr. Brand reported that Bob Nersinger of Lamar Outdoor Advertising contacted Code Enforcement Officer James Morse this afternoon (April 18, 2017) via e-mail to request that the applications be continued to the next meeting because representatives of the Cobblestone Arts Center are traveling, would like to be present at the Public Hearings, but would not be able to return to Farmington in time for this evening's meeting.

Mr. Brand said that a draft resolution has been prepared for board consideration to continue the Public Hearings to the next meeting on Tuesday, May 30, 2017.

There were no further comments or questions from Town staff or members of the board.

Mr. Russell asked if anyone in attendance wished to speak for or against the application. There were no comments or questions from those in attendance.

Mr. Russell then read aloud the following resolution:

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS RESOLUTION**

**ZB #0401-17
ZB #0402-17
ZB #0403-17
ZB #0404-17
ZB #0408-17**

**APPLICANT: Lamar Outdoor Advertising, Attention: Bob Nersinger,
55 Rockwood Street, Rochester, N.Y. 14610**

**ACTIONS: Area Variances for sign installations south of the Cobblestone
Performing Arts Center, 1622 State Route 332, Farmington,
N.Y. 14425**

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has conducted a public hearing at tonight's meeting upon the above referenced files; and

WHEREAS, the Board has received testimony and information for consideration at tonight’s meeting; and

WHEREAS, the Board has reviewed the Ontario County Planning Board’s Referral #47-2017 recommendation of Denial of these requested area variances; and

WHEREAS, the Board desires time to review tonight’s public hearing records, to review the County Planning Board’s recommendation and to receive testimony from the applicant in order to make informed decisions upon these requested area variances.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby table further elaboration upon these requested Area Variances and does hereby move to continue the public hearings upon said variances to Tuesday evening, May 30, 2017, at 7:00 p.m., Eastern Daylight Savings Time.

■ A motion was made by MR. YOURCH, seconded by MR. OPETT, that the preceding resolution be approved.

Timothy DeLucia	Recused
Cyril Opett	Aye
Nancy Purdy	Aye
James Russell	Aye
Thomas Yourch	Aye

Motion carried.

ZB 0405-17	Burger King Restaurant 1298 State Route 332 Farmington, N.Y. 14425	Area Variance
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The applicant is requesting an area variance to Article V, Chapter 165-41 A (2) of the Town of Farmington Codes. The applicant wishes to erect a changeable-copy sign that exceeds 20 square feet in area. The Town Code restricts changeable-copy signs to a maximum of 20 square feet in area. The property is located at 1298 State Route 332 and is zoned GB General Business District.

Mr. DeLucia re-entered the meeting room, assumed the duties of chairperson and declared the Public Hearing open.

Mr. Vann presented this application. Kenn Giroux also attended.

Mr. Vann explained that the purpose of the LED-illuminated sign is to provide the Farmington Burger King Restaurant with more visibility on the high-traffic State Route 332 and to augment the existing sign that is currently on the property. He said that the image on the lighted sign would be a fixed static image which would be changed every 60 days at 3:00 a.m. via a computer signal. He said that the image on the sign would be of an

official Burger King corporate design, would not be obnoxious, and would advertise a particular menu special.

Mr. Brand asked about the type of messages to be displayed on the sign. Mr. Vann said that the sign may advertise a breakfast special for 60 days, and then be changed to another special. He said that the image would remain static for each 60-day period.

Mr. Brand asked if the sign would be flashing. Mr. Vann said that the image would remain static and would not flash or blink.

Mr. Brand reported that the application was submitted to the Ontario County Planning Board (OCPB) which recommended denial of the variance (Referral #48-2017). He explained that a “majority plus one” (four of the five board members) would be necessary for the Zoning Board of Appeals (ZBA) to override the OCPB recommendation of denial and that the ZBA must provide its reasons for overriding the county recommendation.

Mr. Opett noted that these types of signs may be the wave of the future and that the ZBA may encounter more of these types of applications as further development occurs.

Mr. Russell asked if the granting of this variance would establish a precedent for the ZBA. Mr. Brand said that each application for an electronic or changeable copy sign would stand upon its own merits.

Don Giroux asked about the lighted flashing sign at the entrance to the Finger Lakes Gaming and Racetrack from State Route 96. Mr. DeLucia said that the sign at this facility did not come under the purview of the ZBA and that it does not comply with the Town Code. Mr. Giroux noted that the Town fire department is researching the purchasing of a similar sign for the fire station located on the opposite corner at State Route 96 and Hook Road.

There were no further comments or questions from members of the Zoning Board of Appeals at this time.

Mr. DeLucia asked if anyone in attendance wished to speak for or against the application. There were no comments or questions from those in attendance.

Mr. DeLucia then closed the Public Hearing on this application.

ZB 0406-17

**Joseph Sortino
2015 Maiden Lane
Rochester, N.Y. 14626**

Area Variance

The applicant is requesting an area variance to Article V, Chapter 165-44 of the Town of Farmington Codes. The applicant wishes to erect a second freestanding ground subdivision identification sign at the entrance to Monarch Manor, which is to be located at the

intersection of Monarch Drive and New Michigan Road. The Town Code restricts subdivision identification signage to one such sign. The property is located at the northeast corner of New Michigan Road and the Canandaigua–Farmington Town Line Road and is zoned IZ Incentive Zoning.

Mr. DeLucia declared the Public Hearing open.

Mr. Brand said that Mr. Sortino was unable to attend the meeting and requested that Mr. Brand speak on his behalf.

Mr. Brand explained that Mr. Sortino has submitted an application for a noncommercial speech sign for installation at the corner of Monarch Drive and New Michigan Road at the entrance to the Monarch Manor Subdivision that is now under construction. Mr. Brand said that the sign would not advertise any product for sale and is to serve only as the identification of the subdivision. He said that the sign would not be lighted, that it would be encased in a stone setting with landscaping, and that it would ultimately be maintained by the subdivision's homeowners' association.

Mr. Brand noted that this would be a second subdivision sign and that the Code Enforcement Officer has determined that an Area Variance is required. He said that the first subdivision sign is located on the northeast corner of New Michigan Road and Canandaigua–Farmington Town Line Road and was installed as a condition of approval by the Town Board as part of the developer's Incentive Zoning agreement. In addition to the identification of the subdivision, Mr. Brand said that the first sign also includes the legend "Welcome to Farmington" and is visible to traffic traveling north on New Michigan Road.

Mr. Brand said that the Code Enforcement Officer's determination that an Area Variance is required is technically correct and that the applicant seeks the minimum relief for the identification of the subdivision.

Mr. Brand said that a similar sign may be requested for the entrance to the second section of the subdivision off Canandaigua–Farmington Town Line Road and that these identification signs would be no different than the identification sign at the Hickory Rise Subdivision entrance on Hook Road or the "Welcome to Farmington" sign to be installed on State Route 332 at Collett Road at the Collett Woods housing development.

Mr. Kincaid reported that Code Enforcement Officer James Morse asked if the sign would be lighted. Mr. Brand said that there is no indication in the application that the sign would be lighted.

There were no further comments or questions from members of the Zoning Board of Appeals at this time.

Mr. DeLucia asked if anyone in attendance wished to speak for or against the application. There were no comments or questions from those in attendance.

Mr. DeLucia then closed the Public Hearing on this application.

ZB0407-17

**Edward Mack
6164 Brownsville Road
Farmington, N.Y. 14425**

Area Variance

The applicant is requesting an area variance to Article IV, Chapter 165-35 of the Town of Farmington Codes. The applicant wishes to have an enclosed porch remain at 49 feet from the front property line. The Town Code requires a minimum front setback of 60 feet from the front property line. The property is located at 6164 Brownsville Road and is zoned A-80 Agricultural District.

Mr. DeLucia declared the Public Hearing open.

Mr. Mack presented his application.

He explained that he has had a deck on his home for the past seven years and recently decided to enclose it for use as a porch. He had not obtained a Building Permit at the time of construction.

Mr. Brand said that a draft resolution has been prepared for board consideration that provides for the granting of the Area Variance with a number of conditions including a condition that the applicant will obtain a Building Permit.

Mr. Mack asked about the draft resolution. Mr. Brand said that draft resolutions are posted in advance of the meeting on the Town website as public records but that the board may make changes to the draft resolutions as a result of their deliberations following the Public Hearings.

There were no further comments or questions from members of the Zoning Board of Appeals at this time.

Mr. DeLucia asked if anyone in attendance wished to speak for or against the application. There were no further comments or questions from those in attendance.

Mr. DeLucia then closed the Public Hearing on this application.

6. BOARD BUSINESS—DELIBERATIONS AND DECISIONS

ZB #0406-17**Joseph Sortino****Area Variance Findings and Decision**

■ A motion was made by MR. RUSSELL, seconded by MR. YOURCH, that the reading of the SEQR resolution on this application be waived.

Motion carried by voice vote. The reading of the SEQR resolution on this application was waived.

■ A motion was made by MS. PURDY, seconded by MR. OPETT, that the following resolution be approved:

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

ZB #0406-17

APPLICANT: Joseph Sortino, 2015 Maiden Lane, Rochester, N.Y. 14626

ACTION: Area Variance, to erect a second freestanding ground subdivision identification sign on property which it is located at the intersection of New Michigan Road and Canandaigua–Farmington Town Line Road

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

WHEREAS, the Board finds the Action is identified in Section 617.5 (c) (7) as construction of an accessory non-residential structure involving less than 4,000 square feet in area; and

WHEREAS, the Action involves the granting of a single area variance for erecting a second freestanding ground subdivision sign at the entrance to Section 1, of the Monarch Manor Subdivision Tract.

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) 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.

- Timothy DeLucia Aye
 - Cyril Opett Aye
 - Nancy Purdy Aye
 - James Russell Aye
 - Thomas Yourch Aye
- Motion carried.

■ A motion was made by MR. RUSSELL, seconded by MR. YOURCH, that the reading of the “Factors Considered” portion of the resolution on this application be waived.

Motion carried by voice vote. The reading of the “Factors Considered” portion of the resolution on this application was waived.

Mr. DeLucia then read aloud the board’s determination and conditions of approval. Mr. Brand reported that Mr. Sortino reviewed the draft resolution and had no objections to the proposed conditions of approval.

■ A motion was made by MR. OPETT, seconded by MS. PURDY, that the following resolution be approved:

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

APPLICANT: Joseph Sortino
2015 Maiden Lane
Rochester, NY 14626

File: ZB #0406-17
Zoning District: IZ Incentive Zoning
Published Legal Notice on: 4/09/17
County Planning Action on: N.A.
County Referral #: N.A.
Public Hearing held on: 4/18/17

Property Location: Northeast corner intersection of New Michigan Road and Monarch Drive

Applicable Section of Town Code: Chapter 165, Article V, Section 44

Requirement for which and Area Variance is Requested: The applicant wishes to construct a second freestanding ground subdivision identification sign at the entrance to Monarch Manor at the intersection of New Michigan Road and Monarch Drive. The Town Code restricts subdivision identification signs to one per project.

State Environmental Quality Review Determination: The granting of a single area variance to enable the construction of a second freestanding ground subdivision sign involving less than 4,000 square feet in area is classified as a Type II Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations, Article 8 of the New York State Environmental Conservation Law.

County Planning Referral Recommendation: A referral to the Ontario County Planning Board (OCPB) is not required under the provisions of Sections 239-1 & -m of the New York State General Municipal Law.

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

Reason: The Board finds that the character of the neighborhood consists of agricultural lands, single-family lots fronting along New Michigan Road and the Canandaigua–Farmington Town Line Road, and the developing Monarch Manor Incentive Zoning Project. The Board further finds that the proposed sign will be used to identify the Monarch Manor Project only and does not constitute a Commercial Speech Sign. The Board further finds that the location of the proposed sign, at the main entrance to the Monarch Manor Incentive Zoning Project is proposed to be located within the lands to be owned and maintained by a homeowners’ association and does not create distractions to passing motorists along New Michigan Road.

The Board further finds that the Town Board, as a condition of the incentive rezoning of this site required a freestanding non-Commercial Speech Sign to be placed at the corner of the project site and at the intersection of New Michigan Road and the Canandaigua–Farmington Town Line Road. Said sign welcomes motorists to the Town of Farmington and the Monarch Manor Project.

The Board, based upon these findings, determines that there will not likely be an undesirable change in the character of the neighborhood resulting from the granting of the requested area variance to allow a second freestanding ground sign identifying only the name of the project, Monarch Manor.

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

Reason: The Board finds that there is no feasible alternative to be considered by the Board, to the benefit sought by the applicant, for the requested additional non-commercial speech subdivision identification sign.

The Board, based upon this finding determines that granting the requested area variance, to construct an additional non-commercial speech subdivision identification sign would be granting the minimum relief necessary.

3. Whether the requested variance is substantial. Yes No

Reason: The Board finds that the requested Area Variance is to allow the placement of an additional Accessory Structure, a Non-Commercial Speech Subdivision Identification Sign, is a 100% increase above what is allowed by Code. The Board has consistently found that a variance request that is fifty percent (50%) or greater of what is otherwise required by the Code is a substantial variance request.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reason: The Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 of the SEQR Regulations. The Board finds that the proposed Action is classified as a Type II Action under Section 617.5 (c) of the New York State Environmental Conservation Law (ECL), Article 8. The Board finds that Type II Actions 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

Reason: The Board finds that the Applicant is seeking approval for the placement of an additional Non-Commercial Speech Subdivision Identification Sign that is not allowed by Code. Based upon this finding, the Board determines that the alleged difficulty is a self-created hardship.

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

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

That the benefit to the applicant DOES outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance is GRANTED with the following conditions:

1. A Building Permit is to be issued by the Town Code Enforcement Officer for the proposed freestanding non-commercial speech subdivision identification sign to be placed in the location shown on the sketch provided by the applicant.
2. Said sign is to be constructed of the materials identified by the applicant.
3. Said sign is not to be illuminated, either externally or internally.
4. There is to be landscaping installed and maintained around the proposed sign in the manner contained in the documents submitted by the applicant.
5. Said landscaping is to be installed within 30 days of the installation of said sign.
6. Said sign is to be maintained by the applicant until such time a homeowners' association is established, then the sign is to be maintained by the homeowners' association.

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.

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
James Russell	Aye
Thomas Yourch	Aye

Motion carried.

ZB #0405-17 Burger King Restaurant Area Variance Findings and Decision

■ A motion was made by MR. YOURCH, seconded by MS. PURDY, that the reading of the SEQR resolution on this application be waived.

Motion carried by voice vote. The reading of the SEQR resolution on this application was waived.

■ A motion was made by MS. PURDY, seconded by MR. OPETT, that the following resolution be approved:

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

ZB #0405-17

**APPLICANT: Burger King Restaurant, 1298 State Route 332,
Farmington, N.Y. 14425**

**ACTION: Area Variance, to erect a changeable copy freestanding
commercial speech sign which would be larger than allowed
by Town Code on property which it is located at 1298 State
Route 332**

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

WHEREAS, the Board finds the Action is identified in Section 617.5 (c) (7) as construction of an accessory non-residential structure involving less than 4,000 square feet in area; and

WHEREAS, the Action involves the granting of a single area variance for erecting a non-conforming commercial speech sign which would be larger in area than permitted by the Town Code.

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) 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.

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
James Russell	Aye
Thomas Yourch	Aye

Motion carried.

■ A motion was made by MR. RUSSELL, seconded by MS. PURDY, that the reading of the “Factors Considered” portion of the resolution on this application be waived.

Motion carried by voice vote. The reading of the “Factors Considered” portion of the resolution on this application was waived.

Mr. DeLucia then read aloud the board’s determination.

■ A motion was made by MR. YOURCH, seconded by MR. OPETT, that the following resolution be approved:

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

APPLICANT: Burger King Restaurant
1298 State Route 332
Farmington, NY 14425

File: ZB #0405-17
Zoning District: GB General Business
Published Legal Notice on: 04/09/17
County Planning Action on: 04/12/17

County Referral #: 48-2017
Public Hearing held on: 04/18/17

Property Location: 1298 State Route 332, Farmington, New York 14425

Applicable Sections of Town Code: Chapter 165, Article V, Section 41. A. (2)

Requirement for which Variance is Requested: The applicant wishes to keep an Accessory Commercial Speech changeable-copy sign having a total sign area of 33.75 square feet which would be attached to a freestanding commercial speech sign for the Burger King Restaurant located upon the above cited property. The Town Code restricts changeable-copy commercial speech signage to a maximum of 20 square feet in area.

State Environmental Quality Review Determination: The granting of an area variance to enable an Accessory Commercial Speech Structure (a changeable-copy sign) to remain attached to and to operate upon a freestanding commercial speech sign for the Burger King Restaurant, is classified as a Type II Action under Part 617.5 (c) (7) 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 Environmental Conservation Law, article 8.

County Planning Referral Recommendation: A recommendation of denial has been made by the Ontario County Planning Board, Referral #48-2017, under the provisions of Sections 239-l & -m of the New York State General Municipal Law.

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

Reason: The Board finds that the character of the neighborhood is predominantly general business types of highway oriented land use, involving a number of separate parcels of land located along the heavily traveled New York State Route 332. The Board further finds that the proposed sign will be used as a marketing tool with the advertisement of specials for the week, or month with displaying the featured menu item and price. The Board further finds there are a number of signs, both freestanding, located upon the restaurant building, or upon the building's windows that adequately identify the promotional menu items.

The Board, following testimony presented at tonight's public hearing, further finds that there is an identified concern with the movement of traffic through this area given its proximity to the intersection with State Route 96 and the number of other commercial sites having commercial speech signage that are located in the immediate area. The Board further finds that the access from State Route 332 to the Burger King Restaurant Site has

been the scene of a fatal accident along with a number of other traffic accidents. The Board finds that the other businesses located along this corridor do not have the type of electronic commercial speech changeable-copy Accessory Sign such as the one being proposed with this application. The Board finds that granting the requested area variance for the additional, over-sized, commercial speech sign could lead to other similar requests, which when compounded, would be a detriment to the traveling public creating distractions from along this heavily traveled major corridor into Ontario County.

The Board further finds that the Ontario County Planning Board has found, in their referral #48-2017 that the proposed signage is excessive and that excessive signage has a negative impact on community character and, therefore, have recommended denial of this application.

The Board, based upon these findings, determines that there will likely be an undesirable change in the character of the neighborhood resulting from the granting of the requested area variance to allow an over-sized Accessory Structure that is an attention getting device, a distraction to the motorists' attention from along the adjacent heavily traveled highway. Such distraction could contribute to additional traffic accidents and thus produce an undesirable change in the character of this neighborhood and adversely affect the health and safety of the traveling public.

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

Reason: The Board finds that there is no feasible alternative to be considered by the Board, to the benefit sought by the applicant, for the requested additional commercial speech signage that is intended to distract the attention of the traveling public from along the highway adjacent to the site.

The Board, based upon this finding determines that granting the requested area variance, to construct an additional commercial speech message sign having a total square foot sign area of 33.75 square feet would not be granting the minimum relief necessary.

3. Whether the requested variance is substantial. Yes No

Reason: The Board finds that the requested Area Variance is to allow the placement of an additional Accessory Structure, a Commercial Speech Message Sign, that involves a 59.25% increase above what is allowed by Code. The Board has consistently found that a variance request that is fifty percent (50%) or greater of what is otherwise required by the Code is a substantial variance request.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reason: The Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 of the SEQ Regulations, the information contained on Part

I of the Short Environmental Assessment Form and has determined that the proposed Action is a Type II Action. 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 Environmental Conservation Law, Article 8.

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

Reason: The Board finds that the Applicant is seeking approval for the placement of an Accessory Commercial Speech Changeable-Copy Sign that is large in area than is allowed by Code. The Board finds that this Accessory Sign does not comply with the Planning Board’s original conditions of Sign Site Plan Approval. Based upon this finding, the Board determines that the alleged difficulty is a self-created hardship.

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

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

X That the benefit to the applicant DOES NOT outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance is DENIED.

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.

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
James Russell	Aye
Thomas Yourch	Aye

Motion carried.

ZB #0407-17 Edward Mack Area Variance Findings and Decision

■ A motion was made by MR. RUSSELL, seconded by MR. OPETT, that the reading of the SEQR resolution on this application be waived.

Motion carried by voice vote. The reading of the SEQR resolution on this application was waived.

■ A motion was made by MS. PURDY, seconded by MR. OPETT, that the following resolution be approved:

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

ZB #0407-17

**APPLICANT: Edward Mack, 6164 Brownsville Road, Farmington, N.Y.
14425**

**ACTION: Area Variance, to allow an enclosed porch to remain on the
Principal Structure and within the front setback portion of the
lot located at 6164 Brownsville Road**

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

WHEREAS, the Board finds the Action is identified in Section 617.5 (c) (9) as an expansion of a single-family residence on an approved lot; and

WHEREAS, the Action involves the granting of a single area variance for allowing an enclosed porch to remain within the front setback area of the lot located at 6164 Brownsville Road.

NOW, THEREFORE, BE IT RESOLVED THAT the Board finds that the Action is classified a Type II Action under Section 617.5 (c) 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.

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
James Russell	Aye
Thomas Yourch	Aye

Motion carried.

■ A motion was made by MS. PURDY, seconded by MR. RUSSELL, that the reading of the “Factors Considered” portion of the resolution on this application be waived.

Motion carried by voice vote. The reading of the “Factors Considered” portion of the resolution on this application was waived.

Mr. DeLucia read aloud the board’s determination and conditions of approval. Mr. Mack indicated his agreement with the conditions of approval.

■ A motion was made by MR. YOURCH, seconded by MR. OPETT, that the following resolution be approved:

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

APPLICANT: Edward Mack
6164 Brownsville Road
Farmington, N.Y. 14425

File: ZB #0407-17
Zoning District: A-80 Agricultural
Published Legal Notice on: 4/09/17
County Planning Action on: N.A.
County Referral #: N.A.
Public Hearing held on: 4/18/2017

Property Location: North side of Brownsville Road, east of Crowley Road

Applicable Section of Town Code: Chapter 165, Article IV, Section 35.

Requirement for which Variance is Requested: The applicant wishes to have an enclosed porch remain having a Front Setback of 49 feet from the Front Lot Line. The Town Code requires a minimum Front Setback of 60 feet, in the A-80 Agricultural District, from the Front Lot Line.

State Environmental Quality Review Determination: The granting of an area variance to enable the placement of a structure on an approved Lot is classified as a Type II Action under Part 617.5 (c) (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 Environmental Conservation Law, Article 8.

County Planning Referral Recommendation: A referral to the Ontario County Planning Board is not required under the provisions of Sections 239-l & -m of the New York State General Municipal Law.

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

Reason: The Board finds that the character of the neighborhood is predominantly agricultural lands with low density single-family dwelling lots fronting along both sides of Brownsville Road. The Board finds that there is a large actively farmed lot to the east of the subject site. The Board finds that the lot is predominantly wooded with no immediate dwelling to the west. The Board finds that there is a single-family dwelling located across the street on the south side of Brownsville Road which is located several hundred feet from the subject structure. The Board finds that the enclosed porch is in keeping with the character of the neighborhood noting there are other structures in the area with front porches. The Board, based upon these findings, determines that there will not be an undesirable change in the character of the neighborhood resulting from a variance being granted to the Front Setback from the highway right-of-way line for Brownsville Road.

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

Reason: The Board finds that the applicant did not obtain a Building Permit for a porch addition to the Principal Structure. Enclosing the porch addition, making it an addition to the structure has resulted in the structure having a smaller Front Setback than what is required by Town Code. The Board finds that to correct this violation would involve removal of the enclosed portion of the structure and returning this area to a porch. The Board finds that such alternative is not feasible to the requested variance.

3. Whether the requested variance is substantial. Yes No

Reason: The Board finds that the requested Area Variance involves a variance that is 18.4% greater than what is otherwise required by the Town Code. The Board has consistently found that a variance request that is fifty percent (50%) or greater of what is otherwise required by the Town Code is a substantial variance request.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. Yes No

Reason: The Board has given consideration to the criteria for determining significance, as set forth in Section 617.7 of the SEQRA Regulations, the information contained on Part I of the Short Environmental Assessment Form and has determined that the proposed Action is a Type II Action. The Board, in making this Determination, in accordance with the provisions of the New York State Environmental Conservation Law, Article 8, has determined granting an area variance will not have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district.

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

Reason: The Board finds that the enclosed porch was completed by the applicant without obtaining a valid Building Permit and, therefore, determines that any alleged difficulty was self-created.

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

The Zoning Board of Appeals, after reviewing the above five proofs, finds:

That the benefit to the applicant DOES outweigh the detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance is GRANTED WITH THE FOLLOWING CONDITIONS:

1. The Zoning Board of Appeals does hereby grant an Area Variance from the Town Code requirements for the placement of an enclosed structure to have a Front Set-back of 49 feet from the right-of-way line of Brownsville Road.
2. There shall be a Building Permit issued for the enclosed porch area of the structure which satisfies all other required conditions of Code approval.
3. Any outdoor lighting to be placed upon the structure shall comply with the lighting standards contained in Chapter 165 of the Town Code. No lighting shall be permitted to extend beyond the property line onto adjacent properties, or cause glare upon the public highway.
4. The exterior of the enclosed porch portion of this structure is to match, to the extent practical, the exterior of the original principal structure.

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 by granting the minimum relief necessary.

BE IT FINALLY RESOLVED that the Board directs this Resolution be placed in the public file upon this Action.

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
James Russell	Aye
Thomas Yourch	Aye

Motion carried

7. PUBLIC COMMENTS—Open Forum

No requests.

8. OTHER BOARD MATTERS

2017 Rules of Procedure:

Mr. DeLucia noted the distribution of the draft 2017 Rules of Procedure by the clerk to board members and Town staff for consideration of adoption this evening. He asked if there were any additional amendments, questions or comments. There were no additional amendments, questions or comments from the board or Town staff regarding the draft.

■ A motion was made by MR. OPETT, seconded by MR. YOURCH, that the following resolution be approved:

TOWN OF FARMINGTON ZONING BOARD OF APPEALS RESOLUTION RULES OF PROCEDURE 2017

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has given consideration to the need to adopt Rules of Procedure for conducting the business of the Board during the calendar year 2017; and

WHEREAS, the Board has determined that such Rules of Procedure are in the best interests of the Town; and

WHEREAS, the Board determines the action to adopt Rules of Procedure is a Type II Action, under Part 617.5 (c) (20) of the State Environmental Quality Review (SEQR) Regulations, in that it involves routine agency administration, not including new programs or major re-ordering of priorities that may affect the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby adopt the following Rules of Procedure:

1. Order of Business

At each Board Meeting, the following order of business shall be:

- a. Call to order, pledge of allegiance and introduction of Board Members and Town Staff.
- b. Information about Emergency Exits and Evacuation Procedures.
- c. Reference to Sign-in Sheet and request that everyone in attendance sign in.

- d. Review and approval of previous Zoning Board Meeting Minutes.
- e. References to Legal Notices—their availability at the meeting and attesting to the date(s) of publication.
- f. The Chair shall open each Public Hearing or matter being considered by the Board.
- g. The Chair shall recognize the applicant and ask for testimony concerning the matter that is before the Zoning Board of Appeals.
- h. All Public Hearings will be conducted and, upon resolution of the Board, each Public Hearing will either be closed or continued. If continued, the Public Hearing will be continued to a specific date and time. If no specific date and time is decided upon, a new public notice shall be required. If closed, the Board shall have up to 62 days from the date of closing the Public Hearing to take action upon said application.
- i. The order of the meeting agenda will be first to conduct any continued Public Hearing(s) before hearing any new applications.
- j. If there are no continued Public Hearings, then the Board shall follow the order shown upon the public meeting agenda sheet.
- k. Should an applicant (or a designated agent) not be present when his/her application is called, then the application shall be moved to the end of the Public Hearing(s).
- l. Should an applicant (or a designated agent) not appear before the Board on the night of the public meeting, then the Board shall table the application and continue the Public Hearing to the next scheduled meeting of the Board. In addition, the Board shall direct the Code Enforcement Officer to provide written notification to the applicant of the date and time for the Board's next public meeting and request his/her attendance.
- m. A Public Hearing upon an application may be continued by the Board for a longer period of time based upon an applicant's written request setting forth the reasons for such an extended time period.
- n. Failure by the applicant to appear before the Board at the next scheduled Public Hearing and/or meeting may result in the Board taking action to deny without prejudice the requested application. In such an event, the applicant shall make a new application and pay a new fee for said application.
- o. Only the Town Board may waive an application fee. Any document(s) submitted, either by an applicant, his/her agent, or any person present at the convened Public

Hearing, after the opening of the Public Hearing, may result in a tabling of the application and an automatic continuation of the Public Hearing to the next scheduled public meeting. This will enable both the Board members and the general public an opportunity to review the newly submitted material.

- p. Following the close of (or the continuation of) a Public Hearing listed upon the public meeting agenda, the Board will then continue on to the next application listed upon the meeting agenda before making their findings and determination(s).
- q. All persons desiring to speak at a Public Hearing (or a public meeting) may be allowed to speak either during a Public Hearing, or during the public comment time listed upon the public meeting agenda. In no event may a person direct any question to an applicant, or any town Staff member. All matters to be discussed by the public shall be directed to the Chair of the Zoning Board of Appeals. The Chair is the only one who may recognize someone in attendance at the meeting.
- r. Once a Public Hearing has been closed, there shall be no discussion between the members of the Board, an applicant or a member of the public who is in attendance. Any point of concern identified during a Public Hearing that may require clarification will be directed by the Chair to Staff to obtain the information from the applicant. Staff will be directed to provide said information in writing to the Board either at, or prior to, the next public meeting.
- s. The Board will follow the guidelines set forth in the attached model forms for making its findings and determinations upon use variances, area variances, temporary use permits and/or interpretations.
- t. Following the Board's decisions upon the applications under consideration, the Board will then enter into public comment time. Public comment time is an open forum for discussion of any matter pertaining to the Board that is not listed upon the Board's meeting agenda. Persons wishing to speak on a particular subject are encouraged to submit a written request to the Chair of the Board one week prior to the Board Meeting. All written requests will be addressed first by the Board. In the event a question is raised from the floor, the Chair of the Board reserves the right to have Staff review the matter and make a written report to the Board and to the public prior to the next Board meeting.
- u. Following the public comment forum, the Zoning Board will address Other Board Matters that have been brought to their attention by either Board Members or Town Staff.
- v. Following Other Board Matters, the Board will hear reports from the Director of Planning and Development and/or the Code Enforcement Officer.
- w. Following the completion of all of the items listed upon the Board's Meeting Agenda, the Board will give notice of the next tentative meeting date of the Board

subject to receipt of application(s). If there are no new applications to be heard, the Chair shall notify the Development Office that the next tentative meeting will be canceled. Notices to this effect shall be published in the Town's Official Newspaper, posted on the Bulletin Board at the Town Hall and posted on the Town Website.

- x. Following the above, the Chair of the Board will then entertain a motion to adjourn the meeting.

2. Official Decision Forms to be Used by the Zoning Board of Appeals

The Board does hereby adopt and make part of these rules of procedure the attached forms as the Official Forms for Making Findings and Decisions upon Use Variances, Area Variances and Temporary Use Permits. Copies of these documents may be obtained from the Town Development Office or viewed on-line at the Town of Farmington's website www.townoffarmingtonny.com. At the time of adoption of these Rules of Procedure, there is no Guideline or Official Form for the Board to use to hear an appeal to an interpretation made by the Code Enforcement Officer.

3. Agendas and Legal Notices

Copies of all Legal Notices shall be available in the Town Development Office and the Town Clerk's Office not later than five (5) business days prior to the day of the scheduled meeting. In addition, a copy of the legal notice(s) for each meeting shall be posted on the Official Bulletin Board located at the Town Hall and on the Town's Official website www.townoffarmington-ny.com. Draft meeting agendas will be received by Board Members and the Clerk of the Board along with the packets of information, on or before the Friday prior to the Board Meeting. Copies of the meeting agenda, draft resolutions and legal notices shall be available in the meeting room by 6:45 p.m. on the day of the scheduled meeting.

4. Public Hearings

All Public Hearings shall commence with the Chair reading the application under consideration by the Board. Then the Chair will call upon the applicant (or his/her agent) to make a formal presentation to the Board. As a matter of policy, the Board will not take action until the applicant or agent has attended the Public Hearing and made a presentation to the Board. If the applicant is not the owner of the property for which the application is made, the applicant must have the owner certify in writing that there are no objections to the application being made on his/her behalf.

Next, Town Staff will be given the opportunity to discuss the application. The Code Enforcement Officer will report whether or not the applicant has duly posted the subject property and whether or not said public notice sign has been returned by the applicant. Town Staff will also identify whether or not a County Planning Referral has been re-

ceived. The Staff shall identify the County Referral Number, the Class of Action as determined by the County and their recommendation. This information shall also be placed upon the Official Decision Form referenced above herein. The Board shall identify the Type of Action under review, as first defined in the State Environmental Quality Review (SEQR) Regulations.

Once this information has been entered into the Public Hearing record, the Board Chair will open the meeting to the public. After first providing their names and addresses for the record, all persons speaking shall address the Chair. The Chair may, in turn, redirect the question or concern to another person. In no event, shall the public have the right to demand an answer to a specific question from a member of the Board or Town Staff. The Chair may limit the time each person can speak on a pending application. Once the Chair has determined that everyone has had an opportunity for input, the Chair may recognize a person wishing to speak again on the application.

In the event a petition or other written documentation is submitted as evidence, the material shall be given to the Board's Chair. Upon review by the Chair, the Clerk of the Board shall be instructed to make copies thereof and to distribute them to all Board Members, Town Staff and the Applicant, within three business days of the date of the Public Hearing. When this occurs, the Board shall continue the Public Hearing to the next regularly scheduled Board meeting, or establish a time, date and location for the continuation of the Public Hearing. Such action will afford anyone present an opportunity to see new information previously not within the public files. Any application for which a Public Hearing is continued requires the applicant to continue to post the Public Notification Sign on the subject property until such time as the Public Hearing has been closed.

All Public Hearings will either be closed or, when appropriate, adjourned until the next Board Meeting. The Board reserves the right to schedule an additional (or special) public meeting to hear comments at a continued Public Hearing. All public meetings shall be held in accordance with the timeline established in the various sections of the New York State Town Law.

After Town Staff and the public have commented on the application, the Board members shall have the opportunity to discuss the application. The Chair shall recognize each member present and request any comment on the pending application.

5. Motions, When in Order

When a question is under debate/discussion, no motion shall be received except a motion to amend the question, to put the question to a vote, to adjourn it to a day certain, to lay it on the table, to commit to Staff or legal counsel, or a motion to adjourn the Board.

6. Resolutions, Draft Copies

When draft resolutions have been prepared by Town Staff for the Board to review and consider at their public meeting and, when copies of said draft resolutions have first been

provided to the Board members, then such documents shall also be made available electronically to the applicant when possible and provided they have submitted an email address as part of the application process. In addition, upon request thereof, draft resolutions shall be made available to the public pursuant to Article Six, Section 103 of the Public Officers law, to the extent determined practicable as determined by the Board prior to the meeting during which the record will be discussed. In addition, every effort shall be made to post such records upon the Town website www.townoffarmingtonny.com. All draft resolutions shall be shadow marked with the word “Draft” across each page of the resolution.

7. Voting

The members of the Board shall be eligible to vote upon the Board meeting minutes only when they were present for the meeting. When a Board member was not in attendance at the Public Hearing, it should be noted in the record that the member has read the Public Hearing record and feels that he/she is prepared to make an informed decision upon the application.

The members of the Board shall, at the outset of any application, give public notice of their financial or other private interests in any project that is pending before the Board. Where such disclosure is made, the Board Member shall comply with Article 18 or any amendments thereto of the General Municipal Law, Relating to Conflicts of Interest as well as the Code of Ethics of the Town of Farmington, contained in Chapter 17 of the Farmington Town Code. In all matters voted upon by the Board, there must be a majority of the entire membership of the Board voting the same way in order for an action to be approved or modified. Failure of the Board to reach a majority vote on an application results in the application being automatically denied. All Board Members must record their action by a voice vote taken upon any resolution and duly recorded in the Minutes.

8. Votes, When Recorded

The ayes and nays upon a question shall be taken and entered into the minutes of the public record. All votes taken shall be taken by roll call vote of the entire Board membership. Board Members may abstain from voting. When a Board Member exercises this right, it is not necessary for the Board Member to state their reason(s) for abstaining unless there is disclosure of a conflict of interest associated with any application.

The Board may waive the requirement to read into the public record the standard resolutions for all Type 2 Actions under SEQR. When so approved, the Board must still take action to accept a Type 2 Determination of Significance upon such a resolution by a voice vote.

9. County Planning Recommendations and Board Voting Requirements

In the instance where there is an Ontario County Planning Referral made under the provisions of Section 239 of the New York State General Municipal Law and the County

Planning Board recommends modification or denial of an application, the Board, in order to override the County's recommendation, must have a majority plus one vote of the entire membership of the Board (or 4 of the 5 board members voting the same way). Said action must be based upon a separate resolution setting forth the reasons for the Board's intent to override the Ontario County Planning recommendation. All Board Members must record their action by a roll call vote taken upon such matters.

Failure by the Board to override the County's recommendation and approve the application by a majority plus one vote of the entire board results in a denial of the application. In the event the Board does override the County's recommendation, the Board shall by separate resolution set forth its reasons for overriding the County and must file a copy of said resolution with the County within the time frame prescribed in the General Municipal Law.

For any application referred to Ontario County Planning, a certified copy of the final action taken shall be filed by the Clerk of the Board within thirty (30) days after final action is taken.

10. Privilege of the Floor

Any person, upon request made during Public Comment Time on the meeting agenda, may address the Board upon a matter of public concern. The time allotted for addressing the Board shall be limited by the Chair depending upon specific circumstances. In no instance shall the Privilege of the Floor be used to make additional comments on an application pending before the Board.

11. Public Notification

Public notice shall be given in the manner prescribed by New York State Town Law and the posting requirements set forth in the Farmington Town Code. In addition, public notice shall be given by posting the notice upon the Town's website www.townof-farmingtonny.com at least five (5) business days prior to said meeting.

When an application has been continued by the Board, the posting of the Public Notification Sign shall continue to be displayed upon the subject site.

All applications that are to appear before the Board shall require the posting of the Public Notification Sign on the subject site. Failure to post the Public Notification Sign shall result in the Board taking action to continue its deliberation until the next public meeting date of the Board so as to provide public notification of a pending application.

12. Decision Notification

Within five (5) business days of the Board's decision having been made upon an application, the Clerk of the Board shall file a certified copy of said decision with the Town Clerk and provide copies thereof to the applicant and the Town Development Office.

13. Draft Meeting Minutes

The Board Members shall be mailed electronically draft meeting minutes within ten (10) business days of the date of the subject meeting.

14. Corrections to Draft Meeting Minutes

The Board Members shall, whenever possible, notify the Clerk of the Board of all corrections to the Meeting Minutes prior to the date of the next Board meeting. Any suggested corrections will be sent to all Board members at the same as notification to the Board Clerk.

15. Approved Meeting Minutes

The Board, after having reviewed the Draft Meeting Minutes, will (as part of the public meeting record) take action to accept the Minutes either with or without corrections. Once the Minutes have been accepted, the Clerk of the Board shall file certified copies with the Town Clerk's Office and the Development Office within five (5) business days.

16. Recordings of Board Meetings

Recordings of the proceedings of the Board meetings shall be maintained by the Clerk of the Board for a period of four (4) months after the transcription and approval of the Minutes and proceedings by the Board. When requested by the Chair of the Board, said tapes shall be maintained by the Clerk of the Board of a period of time specified by said Chair. Currently, this period is one year.

17. Duties and Responsibilities

The duties and responsibilities of the Board are set forth in the New York State Town Law and the Farmington Town Code. In addition to these responsibilities, all Board Members will attempt to visit each site prior to the Public Hearing. All Board Members shall also be familiar with the provisions of the Town Code pertaining to the application. All Board Members shall follow the criteria listed in New York State Town Law when acting upon an application. Whenever relief is granted by the Board, it shall be the minimum relief deemed necessary.

18. Acting Chair

The Board shall appoint an Acting Chair in the event the Board Chair will be absent at a meeting. For 2017, any duly sworn board member may substitute for Board Chair.

19. Training

Board Members shall attend annual training per requirements established by the Farmington Town Board. Currently, the training requirements are as follows:

1. Pursuant to the provisions of New York State Town Law, Sections 267 and 271, all Planning Board and Zoning Board of Appeals members, as well as any alternate members and the Town's representative on the Ontario County Planning Board, shall be required to complete at least:
 - a. Twelve (12) hours of suitable training during the first full calendar year of their term of office; or
 - b. Nine (9) hours of suitable training during the remaining nine months, of the first full calendar year, of their term of office; or
 - c. Six (6) hours of suitable training during the remaining six months, of the first full calendar year, of their term of office; or
 - d. Four (4) hours of suitable training during the remaining three months, of the first full calendar year, of their term of office; and then
 - e. Eight (8) hours of suitable training, each year, for the remaining term of office.
2. The authority to determine suitable training is hereby established by the Town Board and shall consist of training seminars, conferences or courses sponsored by the Ontario County Planning Department, the Monroe County Planning Department, the New York State Department of State, the New York Planning Federation, the Genesee/Finger Lakes Regional Planning Council, the New York State Department of Environmental Conservation, the New York State Department of Health, the New York State Association of Towns, the New York State Department of Transportation, the U.S. Army Corps of Engineers, or any other group or organization, first approved by the Town Board.
3. The training requirement may be satisfied by educational activities substantially devoted to planning, zoning, or other land use issues, such as 1) attending conferences, seminars or workshops; 2) participating in on-line training or tutorials; 3) attending fully accredited New York State colleges; 4) reading journal articles or books; or 5) any other educational activities considered acceptable by the Town Board. Training may be offered by a municipality, regional or county planning office or commission, county, regional or state planning federation, state agency, statewide municipal association, college or university or other similar entity.
4. A record of annual completion of training shall be maintained by the Chairpersons of the Town Planning Board and the Town Zoning Board of Appeals and copies of all Certificates of Attendance shall be provided to the Town Board (send to the Confidential Secretary to the Supervisor, who

will provide copies in Town Board Correspondence) and Town Clerk, on or before December 31st of each calendar year. Eligibility for reappointment to these Boards shall be conditioned upon completion of the minimum number of hours for training prior to the end of each calendar year.

5. After the first full year of appointment, suitable training in excess of eight (8) hours per calendar year may be accumulated and carried over into the succeeding calendar year, with the maximum of four (4) hours being credited in the succeeding calendar year for the purpose of satisfying these training requirements. In no event shall excess training be accumulated and carried over into any additional year of the member's remaining term of office.
6. Suitable training for the Town's representative on the Ontario County Planning Board shall be the minimum established by the County and shall be in addition to the eight (8) hours of annual training mandated for Town Planning Board and Town Zoning Board of Appeals members specified above herein.
7. Suitable training, up to a maximum total of twelve (12) hours, for the person that is identified by the Town Board who is to be appointed to serve either on the Town Planning Board, or the Town Zoning Board of Appeals, may be accumulated during a maximum period of up to twelve (12) months prior to appointment, on either Board, by the Town Board. In the event said person receives less than the maximum of twelve (12) hours, then the total number of hours of suitable training received during the twelve (12) month period prior to appointment may be combined with additional suitable training received during the first year of appointment, up to a maximum of twelve (12) hours, to satisfy the first full calendar year's requirement for training.
8. The respective Chairpersons of the Planning Board and Zoning Board of Appeals shall not exceed the budgeted contractual lines in their respective budgets in paying for the training (when required) without the expressed approval of the Town Board with a budget amendment approved by the Town Board.

20. Annual Summary Report

The Chair of the Zoning Board of Appeals shall provide to the Town Board an annual summary report describing the ZBA's conformance to training requirements, significant matters under review during the prior calendar year, key personnel changes, and plans for the coming year. This report shall be submitted to the Town Supervisor not later than first Town Board meeting following the first ZBA meeting of the following year.

21. Amendments

These Rules of Procedure may be amended from time to time by the Board upon resolution to amend.

22. Filing of Rules of Procedure

All adopted Rules of Procedure shall be filed with the Town Clerk's Office and the Town Development Office, posted on the Town website and made available for public inspection upon demand.

23. Effective Date

All adopted Rules of Procedure shall become effective upon their filing in the Office of the Farmington Town Clerk.

24. Distribution

Certified copies of the Board Rules of Procedure shall be filed by the Clerk of the Board with the members of the Zoning Board of Appeals, the Town Clerk, the Town Board, the Town Attorney, the Town Code Enforcement Officers, the Town Development Office Administrator and the Town Director of Planning and Development. An electronic copy shall be provided to all the ZBA members.

25. Conflict with New York State Town Law or Farmington Town Code

If any of these Rules of Procedure conflict with New York State Town Law, or any section of the Farmington Town Code, the text of said Law or Code shall take precedence and that (those) portion(s) of these Rules of Procedure shall be amended accordingly. In any event, only the portion(s) found to be in conflict shall be amended with the remainder of the rules retaining their effectiveness.

26. New Information Received

In the event an applicant submits new information pertaining to a matter under consideration by the Board, and provided the Board has not closed the Public Hearing record, said Board may consider such new information provided the public has been provided the opportunity to review and comment upon the new information. However, once the Board has closed the Public Hearing, no new information may be received or considered by the Board when rendering its decision.

27. Rehearing/Reconsideration of Actions

The Board may not reconsider or recall a decision made upon an application. A new application may be considered by the Board as the result of a majority plus one vote of the

Board and based upon the findings set forth in Chapter 165, Section 97.C of the Farmington Town Code.

BE IT FINALLY RESOLVED that the Board does hereby direct the Clerk of the Board to file certified copies of these Rules of Procedure along with the above referenced attachments hereto with all persons listed in #22 above as well as to cause the placement of these Rules of Procedure with the attachments on the Town's Official Website.

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
James Russell	Aye
Thomas Yourch	Aye

Motion carried.

9. DIRECTOR OF DEVELOPMENT AND PLANNING REPORT

Mr. Brand reported on his attendance at a meeting with representatives of the New York State Department of Environmental Conservation (DEC) at which proposed revisions to the State Environmental Quality Review (SEQR) regulations were reviewed. Following is a summary of the proposed changes:

Proposed Changes—Type I List:

- Lowered thresholds for residential subdivisions
- Added a threshold for parking spaces in smaller communities
- Align threshold for historic properties with other sensitive resources

Proposed Changes—Type II List:

- Green infrastructure
- Co-location of cellular antennas/repeaters
- Installation of fiber-optic in existing ROWs for expansion of broadband service
- Solar energy
- Minor subdivisions
- Sustainable development
- Reuse of a commercial or residential structure
- Acquisition/dedication of parkland
- Transfers of land for Affordable Housing
- Conveyance of property by public auction
- Brownfield clean-up agreements
- Organic digesters at publicly owned wastewater treatment plants or municipal landfills

Environmental Impact Statement (EIS) Process:

- Require scoping for all EISs

Add language to clarify when a submitted draft EIS is adequate
Clarify that information submitted after the final scope cannot be the basis for rejection
Information submitted after the final scope and not included in the draft EIS may require a supplemental EIS
Require that subsequent reviews must be based on the list of deficiencies identified in the prior review

Review Process:

Notice in State Register and ENB
Draft Generic EIS will provide context and assessment
90+-day public comment period
Public hearing in Albany

The DEC is accepting comments on the proposed amendments until May 19, 2017.

10. CHAIRPERSON'S COMMENTS

Mr. DeLucia asked that Mr. Brand provide a review of the Town Code for board members. Mr. Brand said that this would be scheduled as soon as the Town Hall renovations have been completed. Mr. Brand also noted that continuing education materials for board members which were distributed at the most recent Association of Towns meeting are being duplicated and would be distributed to board members in satisfaction of annual training requirements.

Mr. DeLucia reported his attendance at a recent training session on solar installations and noted that these installations are being treated as Accessory Structures and would require an Area Variance. Mr. Brand noted that under the proposed SEQR amendments solar panels and farms are considered a Type II Action.

11. NEXT MEETING DATE

The next regular meeting of the Zoning Board of Appeals will be held at 1023 Hook Road, Farmington, N.Y. 14425, on Tuesday, May 30, 2017, at 7:00 p.m.

12. ADJOURNMENT

A motion was made by MR YOURCH, seconded by MR. RUSSELL, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 7:50 p.m.

Following the meeting, Town Highway Superintendent Don Giroux secured the building.

Respectfully submitted,

John M. Robortella L.S.
Clerk of the Zoning Board of Appeals