

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, February 24, 2020:

Workshop Session at 6:30 p.m.

Regular Meeting at 7:00 p.m.

MINUTES—APPROVED

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: Jeremy Marshall, *Chairperson*
Jill Attardi
Aaron Sweeney
Thomas Yourch
One vacant position

Staff Present:
Ronald L. Brand, Town of Farmington Director of Development and Planning
John Weidenborner, Town of Farmington Zoning Officer

Applicants Present:
Mickelle Camp, 501 Hook Road, Farmington, N.Y. 14425
Joyce Pimm, 501 Hook Road, Farmington, N.Y. 14425
One person who did not sign in

Residents Present:
Dale Hunt, 471 Hook Road, Farmington, N.Y. 14425
Rusty and Terri Stetzel, 495 Hook Road, Farmington, N.Y. 14425

WORKSHOP SESSION

Mr. Marshall opened the Workshop Session at 6:30 p.m.

Board members and the Town staff discussed the applications to be considered at this evening's meeting and the relevant sections of the Town Code pertaining to these applications:

- **Joyce Pimm, 501 Hook Road (ZB #0201-20)**
Temporary Use Permit to keep chickens on a nonfarm residential premises that is less than five acres in size.
- **Cobblestone Arts Center, 1622 State Route 332 (ZB #0202-20)**
Area Variance to erect an 11½-square-foot freestanding commercial speech sign with moving/motion message signage.

The Workshop Session ended at 6:55 p.m.

1. MEETING OPENING

The meeting was called to order at 7:00 p.m. by Mr. Marshall.

Mr. Marshall introduced the Zoning Board of Appeals members and Town staff; and explained the emergency evacuation procedures.

Mr. Marshall said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 25, 2019.

2. APPROVAL OF MINUTES OF JANUARY 27, 2020

■ A motion was made by MR. YOURCH, seconded by MS. ATTARDI, that the minutes of the January 27, 2020, meeting be approved.

Motion carried by voice vote.

3. LEGAL NOTICE

Mr. Marshall attested that the following Legal Notice was published in the *Canandaigua Daily Messenger* newspaper (the Town's official newspaper) on Sunday, February 16, 2019, 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 on the 24th day of February 2020 commencing at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8 in the Town of Farmington,

Ontario County, New York 14425 to consider the following applications:

ZB #0201-20: JOYCE PIMM, 501 HOOK ROAD, FARMINGTON, NEW YORK 14425: Request a Temporary Use Permit in accordance with Chapter 165, Article V, Section 55 of the Farmington Town Code. The applicant wishes to keep chickens on her non-farm residential premise that is less than five acres in size. The Town Code requires all nonfarm animals to be kept on a premise greater than five acres. The property is located at 501 Hook Road and is zoned RR-80 Rural Residential.

ZB #0202-20: COBBLESTONE ARTS CENTER, 1622 STATE ROUTE 332, FARMINGTON, NEW YORK 14425: Request an Area Variance in accordance with Chapter 165, Article V, Section 45 of the Farmington Town Code. The applicant wishes to erect an eleven-and-a-half (11.5) square-foot freestanding commercial speech sign with moving/motion signage. The Town Code prohibits signs which move or simulate motion. The property is located at 1622 State Route 332 and is zoned GB General Business.

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

Jeremy Marshall, Chairperson
Zoning Board of Appeals

4. NEW PUBLIC HEARINGS

ZB #0201-20	Joyce Pimm 501 Hook Road Farmington, N.Y. 14425	Temporary Use Permit
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The applicant is requesting a Temporary Use Permit in accordance with Chapter 165, Article V, Section 55 of the Farmington Town Code. The applicant wishes to keep chickens on her nonfarm residential premise that is less than five acres in size. The Town Code requires all nonfarm animals to be kept on a premise greater than five acres. The property is located at 501 Hook Road and is zoned RR-80 Rural Residential.

Mr. Marshall opened the Public Hearing on this application.

Ms. Pimm presented this application. Ms. Camp and one other person also attended.

Ms. Pimm said that she would like to keep six chickens in a coop on her property as support animals for her grandchildren.

Prior to the meeting, Miss Pimm submitted letters from Jeffrey Young, LCSW-R (Victor Counseling Practice, 6539 Anthony Drive, Suite A, Victor, N.Y. 14564), Diane Hahn, Psy. D., Licensed Clinical Psychologist (3180 West Street, Suite #8, Canandaigua, N.Y. 14424); and Susan M. Sweep, NPP, Child Adolescent and Adult Psychiatry (100 Allens Creek

Road, Rochester, N.Y. 14618) regarding behavior and emotional concerns with Ms. Pimm's grandchildren and recommending the keeping of therapeutic intervention/emotional support animals for them on the property.

Ms. Pimm had no further comments at this point in the Public Hearing.

Mr. Marshall asked if anyone in attendance wished to speak for or against this application, or ask questions.

Mr. Stetzel (495 Hook Road) said that he and Terri Stetzel live directly next door to the Pimm residence. He read the following letter into the record of the meeting:

“ . . . We are not in support of any variance which includes the addition of farm animals of any kind, including chickens and/or roosters, due to their noise, smells and other rodents/bugs they might attract. Also, the devaluing of our property as a result.

“We have a small community within these houses on Hook Road that all work very hard to maintain our properties with the exception of 501 Hook Road. They have various vehicles and all sorts of items all over the front/side yard and abandoned pool(s) in the backyard. So, it is apparent they don't/can't take care of their property for whatever reason, let alone any additional responsibility of farm animals/chickens.”

—Rusty and Terri Stetzel, 495 Hook Road

Mr. Stetzel then read into the record of the meeting the following letter signed by Chris and Debbie MacWilliams, 489 Hook Road:

“ . . . Our family resides at 489 Hook Road, two houses north of this residence on the same side of the road. We are not in support of any variance which includes the addition of farm animals (chickens, roosters, etc.) with their corresponding smells, sounds and other attributes, living on any properties location in our small residential community. We have a handful of houses on our side of the road that work hard year-round to maintain our properties, functionally and aesthetically, to insure our property and the surrounding area maintain a favorable curbside appeal and resale value, with one exception—the residence at 501 Hook Road. Currently, this residence has an assortment of curb-side (eye-sore) vehicles (some unregistered?) and other unsightly items scattered about the front lawn in the front of, and south side of the house that clearly detract from the appearance of this residence. Although I can only guess as to the reason for this neglect, the perception is that there is a clear disregard for the negative impact it has on the surrounding Hook Road properties. It is for this reason we cannot support code variances, temporary or otherwise, that 1) contribute to further diminishing the appeal of our neighborhood and 2) result in a monetary devaluation of our property values. We

are confident that the very presence of any farm animals would deter some prospective buyers. When contemplating all of this, one can only wonder what will be next if this permit is allowed. Do not hesitate to contact us should require additional clarification.

—Chris and Debbie MacWilliams, 489 Hook Road

Ms. Stetzel said that another point is that the chicken coop [on the Pimm property] is right next to their property line. She said that if you sit on the deck in the summer you can smell the chickens. Ms. Stetzel said that she loves animals but that she did not think that the size [of the Pimm property] is the place to keep a chicken coop.

Mr. Stetzel then submitted seven photographs of the Pimm property (*see* Appendix 1).

Mr. Hunt (471 Hook Road) submitted 14 photographs of his property, the Pimm property, and other properties on Hook Road. Several of the photographs provide pictometry views with property-line references (*see* Appendix 2). Mr. Hunt said that he believes that they (the applicants) have built an accessory structure on his property.

Mr. Hunt said that he spoke with Mr. Weidenborner in the Building Department and that Mr. Weidenborner's suggestion to Mr. Hunt [regarding the accessory structure issue] was to contact an attorney to start the process of notifying the neighbors.

Mr. Hunt said that this might be an appropriate time for some support from the Town. He said that if they [the applicants] are applying for a permit then the rest [of the property] should conform to the Town Code.

Mr. Hunt said that the pool has weeds six to seven feet high, that there are unlicensed vehicles, and that his sense is that there are some code violations there. Mr. Hunt said that he certainly would entertain an application in the future if these issues were resolved and if the Code Enforcement Officer could enter the property and take a look. He said that this [501 Hook Road] is a significant eyesore in the neighborhood.

Mr. Hunt said that Rusty (Stetzel) has the worst view of the place. He said that he would submit to the board that this is not a place that you would like to look at from your back deck having dinner with friends. Mr. Hunt said that he is not in support of the application at this time.

Ms. Pimm said that the chickens are taken care of.

Mr. Brand said that the Town staff originally looked at this [the application] as an Area Variance but because of the size of the parcel the staff did not wish to recommend approval of a variance that would run with the property for this particular use indefinitely. Mr. Brand said that the problem is that we have only one provision in the Town Code that says that an applicant must have five acres of land if he or she wishes to have animals. He said that five acres of land might be OK for a horse but that five acres seems quite excessive for a dog, a

cat or a chicken.

Mr. Brand said that there are other areas in Town with requests to have chickens both as support animals and as pets. He said that the Town staff feels that a Temporary Use Permit is a candidate for consideration because it would allow for a certain number of animals for a certain period of time during which the board can assess what changes to the Town Code would be required to allow these to exist on something smaller than a five-acre lot. He said that right now we do not have this capability.

Mr. Brand said that definitely this application would not justify a use variance. He said that there was no thought from Town staff about going there [to a use variance].

Mr. Weidenborner said that the chickens must be housed in an accessory structure approved by both the Town Zoning Officer and the Town Code Enforcement Officer. He said that the existing coop may have to change down the road just to make sure it is sturdy enough to house the chickens.

Mr. Weidenborner said that the Town staff performed an inspection of the property following receipt of the residents' complaints. He said that additional issues may be forthcoming but this evening the board is addressing only the Temporary Use Permit application.

Mr. Hunt asked if there will be a follow-up meeting to discuss the other issues that Mr. Weidenborner mentioned.

Mr. Marshall said that the Temporary Use Permit for the chickens is the only issue being discussed by the board this evening. He said that the other issues that have been raised such as the pool are outside of this application and that residents should contact the Code Enforcement Officer about those other issues.

Mr. Stetzel said that the whole purpose of bringing up the other issues is that if they [the applicants] cannot take care of their yard, how do they think that they can take care of the chickens. He said that it all kind of goes together to him.

Mr. Yourch asked about placing a condition in the Temporary Use Permit resolution regarding the keeping of the chickens humanely. Mr. Brand said that the board has the right to bring any matter to the attention of the Code Enforcement Officer. He said that if this is an issue of unsuitable conditions for the animals, then the next step is a legal action to be taken by the Code Enforcement Officer to have the chickens removed. Mr. Weidenborner said that the Humane Society could also become an involved agency.

Mr. Hunt asked if this would be an annual permit. Mr. Brand said that a Temporary Use Permit is issued for an initial period of up to two years. Ms. Stetzel said that if this is approved she could have a chicken coop next to her deck for two years. Mr. Marshall said that she could.

Ms. Attardi asked about fencing or shrubbery around the property. Mr. Stetzel said that there is a hedge on the west side and an opening all the way to the road. He said that there is brush

on the [Pimm] property but that they [the Stetzels] can still see completely through it.

Ms. Attardi asked how long Ms. Pimm has had the chickens. Ms. Pimm said that they have had the chickens since April of last year. Ms. Attardi asked if Ms. Pimm bought the chickens as chicks. Ms. Pimm said yes. Mr. Stetzel said that they had a rooster in the beginning plus six chickens. Ms. Camp said that the rooster is now at a friend's house because the friend's house is considered a farm.

Ms. Attardi asked if there is one chicken per grandchild. Ms. Camp said that there are two chickens for each of them. Ms. Camp said that she and her brother and sister had major setbacks when the chickens were removed this past summer. She said that it was terrible and that she was having so many setbacks that she could not even go over to the friend's house to see the rooster. She said that she did not even want to leave her house.

Ms. Camp said that she was so upset about everything that she did not want to do anything anymore. She said that going out to [the chickens] and just knowing that they are there gives her the chance to sit with them if she was having a bad day. She said that they really helped. She said that her brother goes out and takes care of them and gets the eggs. She said that they make sure that the chickens have food and water.

Ms. Camp said that they are cold hardy chickens so they are not bothered by the cold weather and winter. Ms. Attardi asked about a heat lamp right now. Ms. Camp said that no heat lamp is needed. She said that if a heat lamp was put in [the coop] it would create a fire hazard and the whole house could catch on fire. She said that there is a heat [element] in their water to keep the water from freezing. Ms. Camp said that the chickens are cold hardy. She said that it is not like they are not taking of them—we are. Ms. Camp said that the coop also has a nesting box for the chickens.

Ms. Attardi said that she assumes that there will be a coop size prescribed by the Town Code. Mr. Weidenborner said that the size of the accessory structure will be determined by the Code Enforcement Officer.

Ms. Stetzel said that she works from home at times and that she can honestly say that she never sees any of the children out there with these chickens. Ms. Camp said that she is in college and she works, and that her sister works. She said they do go out [to the chickens] when they get home. During the summer, they go out and check, and hang out with them.

Ms. Attardi asked if the chickens are ever brought into the house. Ms. Camp said that they do not bring the chickens into the house to avoid the dogs from attacking the chickens or having the dogs scare the chickens. Ms. Attardi said that she was asking if they would bring the chickens into the house to bond with them, especially because it is winter.

Ms. Attardi asked about the process of cleaning the chicken coop. Ms. Camp said that a shovel is used to clean and replace the bedding. She said that with chickens you do not have to clean [the coop] every single day or week. She said that the bedding can go a couple of months before it needs to be changed.

Ms. Attardi asked about the disposal of the used bedding. Ms. Pimm said that the used bedding is put into large bags and placed in the garbage. She said that the bedding is composed of wood chips and straw.

Mr. Sweeney asked about the smell from the coop that is coming onto the Stetzel deck. Ms. Stetzel said that the smell is there constantly and that they know that there are chickens there. She said that she never noticed it [the smell] being gone. She said that it is no different than if you have a dog and you never clean the yard.

Mr. Marshall recommended that the Public Hearing be kept open to provide time to receive further information from the Building Department on the code issues and on the U.S. Fair Housing Act in regard to the letters that have been submitted by Ms. Pimm from professionals regarding the chickens as emotional support animals.

There were no further comments or questions on this application this evening.

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

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
CONTINUATION OF PUBLIC HEARING**

ZB #0201-20

APPLICANT: Joyce Pimm, 501 Hook Road, Farmington, N.Y. 14425

ACTION: Temporary Use Permit—Continuation of Public Hearing

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has received an application for a Temporary Use Permit (ZB #0201-20) from Joyce Pimm. The applicant wishes to obtain a Temporary Use Permit to keep chickens on her property that are being used as emotional support animals for residents of the property. The Town Code does not allow the keeping of poultry on residential property with less than five (5) acres. The Town Code also requires land devoted to the housing of poultry shall not be closer than 100 feet to all lot lines other than front lot lines; and

WHEREAS, a Public Hearing on the proposed Temporary Use Permit was opened by the Board on February 24, 2020, at which testimony from the applicant and others was received; and

WHEREAS, the Board requests additional information from the Town Zoning Officer regarding the United States Fair Housing Act and other issues that were discussed at the Public Hearing.

NOW, THEREFORE, BE IT RESOLVED that the Board directs the Town Zoning Officer to provide the requested additional information to the Board in the board packets that will be distributed in advance of the meeting to be held on Monday, March 23, 2020.

BE IT FINALLY RESOLVED that the Board does hereby continue the Public Hearing upon the requested Temporary Use Permit application to their meeting on Monday, March 23, 2020.

Jill Attardi	Aye
Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye
One vacant position	—

Motion carried.

ZB #0202-20	Cobblestone Arts Center	Area Variance
	1622 State Route 332	
	Farmington, N.Y. 14425	

The applicant is requesting an Area Variance in accordance with Chapter 165, Article V, Section 45 of the Farmington Town Code. The applicant wishes to erect an eleven-and-a-half (11.5) square-foot freestanding commercial speech sign with moving/motion signage. The Town Code prohibits signs which move or simulate motion. The property is located at 1622 State Route 332 and is zoned GB General Business.

Mr. Marshall opened the Public Hearing on this application.

The applicant was not present at this evening’s meeting.

No residents were present at this evening’s meeting.

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

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
CONTINUATION OF PUBLIC HEARING**

ZB #0202-20

**APPLICANT: Cobblestone Arts Center, 1622 State Route 332,
Farmington, N.Y. 14425**

ACTION: Area Variance—Continuation of Public Hearing

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has received an application for an Area Variance (ZB #0202-20) from the Cobblestone Arts Center. The applicant wishes to erect a 39½-square-foot freestanding commercial speech sign with 11½ square feet of it being electronic changeable copy commercial speech with moving/motion messages. The Town Code prohibits signs with changeable copy moving messages.

WHEREAS, a Public Hearing on the proposed Area Variance was opened by the Board on February 24, 2020. The applicant was not present at the Public Hearing. No testimony from the applicant and no testimony from others was received.

WHEREAS, the adopted Rules of Procedure for the Zoning Board of Appeals requires continuation of any application where the applicant was not present to provide testimony into the Public Hearing record.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby continue the Public Hearing upon the requested Area Variance application to their meeting on Monday, March 23, 2020.

Jill Attardi	Aye
Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye
One vacant position	—

Motion carried.

5. ZONING BOARD OF APPEALS ACTION ITEMS

2020 Rules of Procedure:

Mr. Marshall confirmed that prior to the meeting the clerk provided the board members and Town staff with two proposed amendments to the 2020 Rules of Procedure that had been discussed at the meeting on January 27, 2020.

Based upon advice from the Town’s legal counsel, Mr. Marshall recommended that the proposed addition to Section 6 (Resolutions, Draft Copies) be deleted. He said that the Town staff and legal counsel have no concerns with the proposed new section regarding Workshop Sessions of the board.

Mr. Marshall asked if there were any further amendments to the 2020 Rules of Procedure. No further amendments were offered.

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

**TOWN OF FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
2020 RULES OF PROCEDURE**

ADOPTED—February 24, 2020

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 2020; 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 2020 Rules of Procedure as amended per this document appended to the minutes of the meeting of Zoning Board of Appeals on February 24, 2020:

Jill Attardi	Aye
Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye
One vacant position	—

Motion carried.

(See Appendix 3)

6. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

None

7. DIRECTOR OF DEVELOPMENT UPDATE

Mr. Brand said that information on legal issues for planning and zoning boards was provided at the Association of Towns meeting that concluded last week in New York City. He said that the material will be available for study by members of the board. Board members who complete the review of this material will receive two hours of training credit. Mr. Brand also noted that there was considerable discussion of 5G broadband networks at the Association of Towns meeting.

8. CODE ENFORCEMENT/ZONING OFFICER UPDATE

Mr. Weidenborner reported that three Area Variance applications are expected to be on the agenda of the Zoning Board of Appeals meeting on Monday, March 23, 2020, for the Mark DiMartino, D.D.S., dental office at 1375 Hathaway Drive.

He also noted that the two applications discussed this evening also will be on the agenda for March 23, 2020, as continued Public Hearings.

9. BOARD MEMBERS' COMMENTS

Ms. Attardi suggested that a Workshop Session be held in March on a date separate from the March 23rd meeting to discuss Ms. Pimm's Temporary Use Permit application (ZBA #0201-20).

Following discussion, it was the consensus of the board and the Town staff that a Workshop Session will be held on Monday, March 23, 2020, at 6:00 p.m. (one hour prior to the regular March meeting).

10. TRAINING OPPORTUNITIES

82nd Annual New York Planning Federation Conference

April 19–April 21, 2019

The Sagamore Resort, Bolton Landing, N.Y.

For information and updates: www.nypf.org, (585) 512-5270

Future Training Opportunities Online

Ontario County Planning Department website now lists upcoming training:

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

11. NEXT WORKSHOP SESSION AND MEETING DATE

A Workshop Session of the Zoning Board of Appeals will be held on Monday, March 23, 2020, at 6:00 p.m. at the Farmington Town Hall, 1000 County Road 8.

The next regular meeting of the Zoning Board of Appeals will follow the Workshop Session at 7:00 p.m. on Monday, March 23, 2020.

12. ADJOURNMENT

■ A motion was made by MR. SWEENEY, seconded by MS. ATTARDI, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 8:00 p.m.

Following the meeting, the clerk locked the front entrance doors to the Town Hall.

Respectfully submitted,

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

Appendix 1:
Photos submitted by Rusty Stetzel

Appendix 2:
Photos submitted by Dale Hunt

Appendix 3:
Zoning Board of Appeals 2020 Rules of Procedure

Appendix 1:
ZBA #0201-20: Photos submitted by Rusty and Terri Stetzel, 495 Hook Road















Appendix 2:
ZBA #0201-20: Photos submitted by Dale Hunt, 471 Hook Road











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<https://lh3.googleusercontent.com/UhOp2HDhnrlii5So17roesg7DbbYTcHOkfCZj6HQev...> 2/24/2020



https://lh3.googleusercontent.com/m-s_8nLJiFWZ1vY6EHftDSIFZgnrlqw-6HlhYZk98c... 2/24/2020



https://lh3.googleusercontent.com/NImxNChs0SiRFzpImDwiaACuCebidxv13AUqQW_Y... 2/24/2020



<https://lh3.googleusercontent.com/hdvCZcXydV8BBBezGavPWEhR5gP1qGm8raRGjXDh...> 2/24/2020



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https://lh3.googleusercontent.com/LnnhNPVVwSxY2KfbELcUYW8VWec3rHr_J6U3zlb... 2/24/2020



<https://lh3.googleusercontent.com/utdpRUK9aqGCOwxtEF49S1jEGEYauZnz6L7uEPKH...> 2/24/2020



<https://lh3.googleusercontent.com/dtoBMZTP1j36SEGYuOx0mndbijRkbthJKbycDg6P0P...> 2/24/2020

Appendix 3:

**TOWN OF FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
2020 RULES OF PROCEDURE**

ADOPTED—February 24, 2020

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 2020; 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 as amended per this document appended to the minutes of the meeting of Zoning Board of Appeals on February 24, 2020:

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. Posting of property, posting of Legal Notice on bulletin board at Town Hall, and attesting that Legal Notices were made available in compliance with the provisions of New York State Town Law.
- f. The Chair shall open each Public Hearing or public meeting on a matter being considered by the Board.
- g. The Chair shall ask the Code Enforcement Officer to explain the matter(s) before the Board, to include the section of the Town Code for which relief is being sought.

- h. The Chair shall recognize the applicant(s) and ask for testimony concerning the matter that is before the Board.
- i. 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.
- j. The order of the meeting agenda will be first to conduct any continued Public Hearing(s) before hearing any new applications.
- k. If there are no continued Public Hearings, then the Board shall follow the order shown upon the public meeting agenda sheet.
- l. Should an applicant (or a designated agent) not be present when his or her application is called, then the application shall be moved to the end of the Public Hearing(s).
- m. 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 or her attendance.
- n. 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.
- o. 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.
- p. Only the Town Board may waive an application fee. Any document(s) submitted, either by an applicant, his or 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.
- q. 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).
- r. 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.
- s. 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.
 - t. 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.
 - u. 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.
 - v. 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.
 - w. Following Other Board Matters, the Board will hear reports from the Director of Planning and Development and/or the Code Enforcement Officer.
 - x. 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.
 - y. 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 Tem-

porary 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. Legal Notices and Meeting Agendas

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.townoffarmingtonny.com. Draft meeting agendas will be prepared by the Town Code Enforcement Officer, in consultation with the Director of Planning and Development, for acceptance by the Board Chairperson. On or before the Friday prior to the Board Meeting, Board Members and the Clerk of the Board shall be notified of the availability of the Meeting Agenda along with the packets of information. Copies of the Meeting Agenda, draft resolutions and Legal Notices shall be available for the public 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 or 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 (or attest in public at the meeting) that there are no objections to the application being made on his or her behalf.

Next, Town Staff will be given the opportunity to discuss the application. The Code Enforcement Officer (CEO) will report whether or not the property has been properly posted and whether or not a County Planning Referral has been received. The CEO 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 scheduled 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 provided they have submitted an e-mail 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 or 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 SEQ. 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 239-1 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.townoffarmingtonny.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 2020, any duly sworn board member may substitute for Board Chair.

19. Workshop Sessions of the Board

The Board may hold a Workshop Session at 6:30 p.m. (or at such other time as to be determined by the Board) prior to a regularly scheduled board meeting (or on such other date as to be determined by the Board) for the purpose of reviewing the application(s) to come before the Board at the subsequent meeting and to discuss the relevant section(s) of the Town Code that pertain to the application(s). The Workshop Session will be informational only. Town Staff is invited to attend. Specific members of the Town Staff may be requested to attend by the Chairperson. The Workshop Sessions are open to the public, however no questions or comments from the public will be taken until the Public Hearing(s) are officially opened in the subsequent meeting.

20. 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.

21. 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.

22. Amendments

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

23. 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.

24. Effective Date

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

25. 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.

26. 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.

27. 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.

28. 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 #25 above as well as to cause the placement of these Rules of Procedure with the attachments on the Town’s Official Website.

■ The above Resolution was offered by MR. YOURCH and seconded by MR. SWEENEY at a regularly scheduled meeting of the Town of Farmington Zoning Board of Appeals held on February 24, 2020.

Following discussion thereon, the following voice vote was taken and recorded:

Jill Attardi	Aye
Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye
One vacant position	—

Motion carried.

I, John M. Robortella, Clerk, of the Board, do hereby certify to the above resolution and to its being acted on by the Zoning Board of Appeals at a meeting held on February 24, 2020.

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