

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, February 26, 2018, 7:00 p.m.

MINUTES—APPROVED

The following 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:

Timothy DeLucia, *Chairperson*
Jeremy Marshall
Cyril Opett
Nancy Purdy
Thomas Yourch

Applicants Present:

Kip Finley, P.E., Director of Development, Indus Hospitality Group, 950 Panorama Trail South,
Rochester, N.Y. 14625
Lloyd Twitchell, 5107 Shortsville Road, Shortsville, N.Y. 14548

Residents Present:

Richard W. Deys, 89 S. Main Street, Manchester, N.Y. 14504
Edward Hemminger, Chairperson, Town of Farmington Planning Board
Mary Neale, Member, Town of Farmington Planning Board

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, 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, 2017.

2. APPROVAL OF MINUTES OF JANUARY 8, 2018

■ A motion was made by MR. OPETT, seconded by MR. YOURCH, that the minutes of the January 8, 2018, 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, February 18, 2018, 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 a Public Hearing will be held by and before the Zoning Board of Appeals of the Town of Farmington on the 26th day of February, 2018, commencing at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8 in the Town of Farmington, Ontario County, New York, to consider the following application:

ZB #0201-18: LLOYD TWITCHELL, 5107 SHORTSVILLE ROAD, SHORTSVILLE, N.Y. 14548: Request to renew a Temporary Use Permit according to the Town of Farmington Codes, Article VII, Section 165-91, to permit a commercial business of fabricating and painting of farm/construction equipment. The property is located at 5107 Shortsville Road and is zoned A-80 District.

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

Tim DeLucia, Chairperson
Zoning Board of Appeals
Town of Farmington

4. CONTINUED BOARD BUSINESS

Mr. DeLucia concurrently resumed the Public Hearings on ZB #0701-17 through ZB #0708-17 which were opened on November 27, 2017, and continued on January 8, 2018, as follows:

ZB #0701-17	Indus Hospitality Group 950 Panorama Trail S. Rochester, N.Y. 14625	Area Variance
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The applicant is requesting an Area Variance to Article V, Chapter 165–37–11 to the Town of Farmington Codes. The applicant wishes 140 parking spaces (a minimum of 191 spaces are required). The property is located at proposed Lot #2, 1301 NYS Route 332 and zoned General Business District.

ZB #0702-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article IV, Chapter 165–35A to the Town of Farmington Codes. The applicant wishes a variance for a side setback of 22 (a minimum of 30 feet is required). The property is located at proposed Lot #2, 1301 NYS Route 332 and zoned General Business District.

ZB #0703-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article V, Chapter 165–35 to the Town of Farmington Codes. The applicant wishes a variance for lot width of 15 feet (a minimum of 150 is required). The property is located at proposed Lot #2, 1301 NYS Route 332 and zoned General Business District.

ZB #0704-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article IV, Chapter 165–35A to the Town of Farmington Codes. The applicant wishes a variance for a front setback of 20 feet (a minimum of 50 feet is required). The property is located at Lot #2, 1301 NYS Route 332 and zoned General Business District.

ZB #0705-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to New York State Town Law 280a. The applicant wishes to create a parcel without direct access to a mapped street. The property is located at proposed Lot #2, 1301 NYS Route 332 and zoned General Business District.

ZB #0706-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article IV, Chapter 165–35A to the Town of Farmington Codes. The applicant wishes a variance for lot width of 15 feet (a minimum of 150 is required). The property is located at proposed Lot #3, 1301 NYS Route 332 and zoned General Business District.

ZB #0707-17 **Indus Hospitality Group** **Area Variance**
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article IV, Chapter 165–35A to the Town of Farmington Codes. The applicant wishes a variance for a front setback of 30 feet (a minimum of 50 is required). The property is located at proposed Lot #3, NYS Route 332 and zoned General Business District.

ZB #0708-17 **Indus Hospitality Group** **Area Variance**
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to New York State Town Law 280a. The applicant wishes to create a parcel without direct access to a mapped street. The property is located at proposed Lot #3, 1301 NYS Route 332 and zoned General Business District.

Chronology of the Indus Hospitality Group applications:

November 27, 2017 ZBA Public Hearings opened, Area Variance applications presented to the ZBA; SEQR 30-day public review period established by ZBA (November 28, 2017 to December 29, 2017); Project Notification Review Letters (PNRL) and information packets sent to Involved and Interested Agencies along with a request for a Lead Agency to be established; Public Hearings originally continued to January 15, 2018 (*see below for amended continuation date*)

November 27, 2017 The ZBA requests, in the PNRL, that the Planning Board consider declaring its intent to be designated as the Lead Agency for making the SEQR determination following the completion of the 30-day public review period.

November 27, 2018 The Farmington Conservation Board issues the following comments on the Area Variance applications: 1) Fire truck radius would be tight for the Taco Bell building; 2) there is very little green space and landscaping; and 3) there are drainage concerns, i.e., where will the water runoff go?

- December 6, 2017** The Planning Board Public Hearings are opened on the Two-Lot Preliminary Subdivision and two Special Use Permit applications; discussion opened on Preliminary Site Plan application; Planning Board Public Hearings and discussion continued to January 3, 2018
- December 6, 2017** The Planning Board declares its intent to be designated as the Lead Agency for making the SEQR determination following the 30-day public review period.
- December 18, 2017** The ZBA reschedules the continuation date of the ZBA Area Variance Public Hearings from January 15, 2018 (which is Martin Luther King Jr. Day, a legal holiday) to January 8, 2018. The ZBA directs that a new Legal Notice be published in the Town's Official Newspaper and posted on the Town's website of the change in date for the January meeting.
- December 18, 2017** The ZBA takes action to indicate that it has no objection to the Planning Board designating itself as the Lead Agency for making the SEQR determination regarding the Indus Hospitality Group applications. The ZBA directs Town staff to give written notice to the SEQR Involved and Interested Agencies of the ZBA having no objection.
- January 3, 2018** The Planning Board designates itself as the Lead Agency for making the SEQR determination of significance; the Planning Board finds that four potentially moderate to large environmental impacts may occur; the Planning Board completes Parts 2 and 3 of the Short Environmental Assessment Form with an Attachment requesting additional information from the applicant; Public Hearings on the Planning Board applications continued to February 7, 2017 (rescheduled to February 14, 2018, due to inclement weather on February 7th).
- January 8, 2018** Zoning Board of Appeals continues the Public Hearings on the Area Variance applications to February 26, 2018.
- February 14, 2018** Planning Board continues the Public Hearings and discussion on the applications to February 21, 2018.
- February 14, 2018** Planning Board continues the Public Hearings and discussions on the applications to March 7, 2018.

Mr. Finley presented these applications.

He said that he would like to discuss the Area Variance applications this evening to determine if the members of the Zoning Board of Appeals (ZBA) have questions or require additional information prior to deliberations.

Mr. Finley said that the concerns which were raised by the Planning Board regarding the project's impact upon traffic have been mitigated with the presentation to the Planning Board of traffic impact analyses and reports from the traffic engineering consultants (SRF Associates and Erdman Anthony) and the New York State Department of Transportation. He said that traffic was the remaining State Environmental Quality Review (SEQR) issue and that the Planning Board is expected to consider the SEQR determination at its meeting on March 7, 2018.

Mr. Finley then addressed the concerns expressed by members of the ZBA at previous meetings regarding the parking variance application. He has requested an Area Variance to allow 140 parking spaces when the Town Code requires 191 spaces.

Mr. Finley presented a projection of the parking requirements of his company's existing KFC Restaurant and proposed businesses (Microtel Hotel and Taco Bell Restaurant) on the site at four times of the day and at projected 100 percent peak operations, i.e.:

Time	Business	# of Projected Spaces Required
6:00 a.m.	Microtel Hotel	66
	KFC Restaurant	0
	Taco Bell Restaurant	0
	Vacant Spaces	71
12:00 noon	Microtel Hotel	5
	KFC Restaurant	38
	Taco Bell Restaurant	33
	Vacant Spaces	61
6:00 p.m.	Microtel Hotel	42
	KFC Restaurant	38
	Taco Bell Restaurant	33
	Vacant Spaces	24
12:00 midnight	Microtel Hotel	65
	KFC Restaurant	2
	Taco Bell Restaurant	4
	Vacant Spaces	65

He said that he prepared the above projections to address the concern that there would not be enough parking on the site for the cluster of three businesses. Mr. Finley said that he

doubted that the parking areas would ever become overloaded. He said that his experience is that hotels are generally at about 60 percent to 65 percent occupancy and that they rarely reach 100 percent occupancy. He noted that the popular Taco Bell Restaurant which his company operates on State Route 96 in Victor, N.Y. only has a full parking lot from about 11:30 a.m. to 1:00 p.m. He said the lot is usually available parking spaces at other hours and that many customers use the drive-through. He said that he expects a similar use at the proposed Farmington location.

Mr. Finley also said that he has never seen his company's restaurants fully occupied by customers indoors. He said that many use the drive-through for take-out orders.

Mr. Finley said that his goal this evening is to present the parking projections to increase the ZBA comfort level with the requested Area Variance parking application. He said that the proposed cluster of three businesses (KFC, Taco Bell and Microtel) will provide sufficient parking areas to be shared among the businesses at various times of the day. Mr. Finley said that he does not foresee the parking areas ever becoming overloaded.

Ms. Purdy asked about the ability of vehicles to exit the site onto State Route 332. Mr. Finley said that each of his three businesses and the existing Dunkin' Donuts location have peak operations at different times of the day. He noted that the Dunkin' Donuts peak hours are from about 5:30 a.m. to 8:00 a.m. and would not interfere with the peak hours of the KFC and Taco Bell, which would generally be around the noon hour. He said that traffic would tend to trickle in and out of the site during the day rather than having a large volume of vehicles at any one time.

Mr. Hemminger explained that traffic flow into and out of the site, and within the site, would be part of the Planning Board's site plan review. He said that an additional left-turn lane onto State Route 332 has been required by the New York State Department of Transportation. He also noted that drainage issues would be part of the site plan.

Mr. Opett asked about ingress and egress from Beaver Creek Road. Mr. Finley said that an access easement across the property owned by another party to the south of the Indus Hospitality site may be possible in the future but is not part of the current application. He noted that his company plans to extend an existing gravel driveway leading from Beaver Creek Road onto the Indus site to serve as an additional access onto the Indus site for emergency vehicles.

Mr. DeLucia asked if anyone in attendance wished to comment or ask questions on the applications. There were no comments or questions from those in attendance.

Mr. DeLucia said that the Public Hearings on these applications would remain open.

5. NEW PUBLIC HEARING

ZB #0201-18 **Lloyd Twitchell** **Renewal of Temporary Use Permit**
5107 Shortsville Road
Shortsville, N.Y. 14548

Mr. DeLucia declared the Public Hearing open on ZB #0201-18.

The applicant desires to continue to use existing farm buildings and open areas immediately adjacent thereto for a commercial business of fabricating and painting farm and construction equipment.

Mr. Twitchell presented this application.

He said that he has downsized his operations and wishes to continue in a low-key manner. He said that he does not have a sign to advertise his business and that he does not wish to have walk-in customers. Mr. Twitchell said that his customers include American Equipment, several local farmers, and a few customers from outside the Town. He said that he prefers to avoid dealing with the general public and limits his business. He said that some of his customers bring equipment to his facility on trailers and that he has complied with all requests of the Town.

Mr. DeLucia asked if anyone in attendance wished to speak for or against the application, or had questions or comments.

Mr. Deys of Manchester, N.Y., distributed to the board hard copies of the minutes of the Zoning Board of Appeals meeting of September 23, 2013, at which Mr. Twitchell was granted a Temporary Special Use Permit for a two-year period from September 24, 2013, to September 23, 2015.

Mr. Deys said that he owns and operates a sandblasting and coating company on Main Street in Manchester, N.Y., and businesses at several other locations in neighboring towns. He said that although he would like Mr. Twitchell to continue his business, he has a problem with the manner in which the Special Use Permit was granted. He said that Mr. Twitchell is operating a commercial business and should be held to the same requirements which he has to meet for his businesses in the other municipalities. Mr. Deys said that in the few times in which he has competed with Mr. Twitchell, Mr. Twitchell's prices have been lower because he follows fewer rules in the operation of his business in the Town of Farmington than he must follow in the other municipalities.

Mr. Deys said that before he could begin his business in the Industrial Zone in Manchester, he had to prove to that municipality that he had proper facilities for paint and chemical use and storage, adequate insurance, and Workers' Comp. coverage. He said that similar requirements were required for his business in the Town of Hopewell and that it does not appear that Mr. Twitchell is required to comply with these types of regulations in Farmington.

Mr. Deys said that Mr. Twitchell has never had a fire inspection at his business in Farmington. He said that he has to continually meet the requirements of the municipalities in which his businesses are located, that he has had fire inspections, and that he had to make corrections following the fire inspections or risk being shut down.

Mr. Deys said that Mr. Twitchell's operation seemed to have expanded from more of a hobby to a commercial business. Mr. Deys said that he has to pay Workers' Comp., unemployment taxes and proper insurances.

Mr. Deys referred to the minutes of the meeting in 2013 which listed the conditions of Mr. Twitchell's first Special Use Permit. He said that he knows that Mr. Twitchell was shut down on at least one occasion by the Farmington zoning officer but that Mr. Twitchell continues to operate his business.

Mr. Deys also said that Mr. Twitchell had several employees.

In response, Mr. Twitchell said that he has downsized the business and decided that he wanted to get back to the business more as a hobby. He said that he always has complied with whatever the Town has required and that he renewed the application in 2015. He said that there was a short lapse in the permit which required him to begin the process again and resubmit the application which is before the ZBA this evening.

Mr. Twitchell said that he has downsized his business to reduce stress and that many people actually think that he has closed the business because there is little activity on the site. He said that all his equipment is stored indoors.

Mr. Deys said that he could not start his businesses in any town in which he operates without having to go through a long process to comply with each municipality's requirements. He said that these were long processes but that he had to do it. He said that the issue is why are there are differences in zoning?

Mr. Deys said that he has fire inspections every year at his company and that he has been told that Mr. Twitchell has never had a fire inspection.

Mr. Twitchell said that he has complied with everything which the Town of Farmington has asked of him. Mr. Deys asked who shut him down. Mr. Twitchell said no one has ever shut him down. He said that there was a lapse in the expiration of his Special Use Permit and that he resubmitted the paperwork and paid the fee when he was notified of the lapse by the Town of Farmington.

Mr. Deys said that the Town of Farmington does not have the same compliance which he must meet at his businesses in other towns. He said that Mr. Twitchell is not complying with the same requirements to which he must comply.

Mr. DeLucia said that he cannot comment on the requirements of other towns. He said that he has discussed this application with the Farmington Town staff and that their rec-

ommendation indicated that they are satisfied that Mr. Twitchell has complied with all conditions of his previous Special Use Permits, that Mr. Twitchell was notified that his previous Special Use Permit had expired, and that he has now reapplied for a five-year extension.

Mr. DeLucia referred Mr. Deys to the draft resolution under consideration by the ZBA this evening. Mr. DeLucia said that the draft resolution includes each of the requirements to which Mr. Twitchell must comply.

Mr. DeLucia said that he would also look into Mr. Deys's comments that he (Mr. Deys) received inconsistent information from members of the Town Building Department staff. Mr. Deys said that he would encourage the board to look into that.

Mr. Deys said that he has to comply completely with rules concerning the use and storage of chemicals. He said that he is pretty certain that these requirements are statewide standards. He said that he is not here to destroy Lloyd but that he is here to see that he is operating a low-key business when he (Mr. Deys) is under a microscope all the time. He said that his business is called out on if something is done wrong. He said that he is bringing this up to the board because he does not believe that the board is reading the book all the way.

Mr. DeLucia asked if there were any further comments or questions from those in attendance. There were no further questions or comments.

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

6. BOARD BUSINESS—DELIBERATIONS AND DECISIONS

Mr. DeLucia read aloud the following resolution:

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

ZB #0701-17	Area Variance to Chapter 165, Article V, Section 37 A (11)
ZB #0702-17	Area Variance to Chapter 165, Article IV, Section 35 A, Schedule I
ZB #0703-17	Area Variance to Chapter 165, Article IV, Section 35 A, Schedule I
ZB #0704-17	Area Variance to Chapter 165, Article IV, Section 35 A, Schedule I
ZB #0705-17	Area Variance to New York State Town Law, Section 280-a

ZB #0706-17 **Area Variance to Chapter 165, Article IV, Section 35 A, Schedule I**

ZB #0707-17 **Area Variance to Chapter 165, Article IV, Section 35 A, Schedule I**

ZB #0708-17 **Area Variance to New York State Town Law, Section 280-a**

APPLICANT: **Indus Hospitality Group, 950 Panorama Trail S., Rochester, N.Y. 14625**

ACTION: **Area Variances to Chapter 165, to permit site plan approval, subdivision plat approval and the issuance of special use permits by the Town Planning Board for a proposed Taco Bell Restaurant (to be located on proposed Lot #2) and a proposed 60-room Microtel (to be located on proposed Lot #3) of the drawing entitled “1301 Route 332 Lot Combination Subdivision Filed Map #32716;” all of which are currently located upon property at 1301 New York State Route 332**

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has opened Public Hearings upon the above referenced Area Variance applications (hereinafter referred to as Actions) on November 27, 2017, which are part of the Town’s approval process for the development of the above referenced Taco Bell Restaurant and Microtel Hotel Projects; and

WHEREAS, the Board determined the above referenced Actions to be classified as Unlisted Actions under the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Board established a 30-day public review and comment period and a coordinated review with the identified involved/interested agencies; and

WHEREAS, both the public review period and the coordinated review period upon the proposed Actions began on Tuesday, November 28, 2017, and ended at noon on Friday, December 29, 2017; and

WHEREAS, the Board received a response from the Town Planning Board (hereinafter referred to as Planning Board) following that Board’s December 6, 2017, meeting, that they desired to be the designated Lead Agency for making the determination of significance upon the above referenced actions and further intended to make such declaration at the January 3, 2018 meeting; and

WHEREAS, the Board, at their December 18, 2017, meeting adopted a resolution agreeing with the Planning Board’s declared intent to be designated the Lead Agency; and

WHEREAS, the Planning Board, at their January 3, 2018, meeting did establish themselves as the Lead Agency, completed the Parts 2 and 3 of the Short Environmental Assessment Form (EAF) and has further determined that supplemental information is required to identify how the applicant intends to mitigate the identified potentially significant impacts on the Part 2 Short EAF; and

WHEREAS, the Board may not take action upon the above identified area variances until such time as the lead agency has made a determination of significance under the SEQR Regulations; and

WHEREAS, the Planning Board has not, at this time, made the required determination of significance under the SEQR Regulations.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby table any further consideration upon the requested Area Variances and continues the Public Hearings thereon to Monday, March 19, 2018, at 7:00 p.m.

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

Timothy DeLucia	Aye
Jeremy Marshall	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

ZB #0201-18 Lloyd Twitchell Renewal of Temporary Use Permit

Mr. DeLucia then read aloud the following resolution:

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

ZB #0201-18

APPLICANT: Lloyd Twitchell, 5107 Shortsville Road, Shortsville, N.Y. 14548

ACTION: Renewal of Temporary Use Permit to conduct a commercial business—the fabricating and painting of farm and construction equipment—on the premises located at 5107 Shortsville Road

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has determined the above referenced Action to be a Type II Action under Section 617.5 (c) (1), (3) and (7) of the State Environmental Quality Review (SEQR) Regulations; and,

WHEREAS, the Action involves the continued temporary use of existing farm buildings for conducting the fabricating and painting of farm and construction equipment on a site located at 5107 Shortsville Road; and

WHEREAS, 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.

■ A motion was made by MR. MARSHALL, seconded by MS. PURDY, that the preceding resolution be approved.

Timothy DeLucia	Aye
Jeremy Marshall	Aye
Nancy Purdy	Aye
Cyril Opett	Aye
Thomas Yourch	Aye

Motion carried.

Mr. DeLucia then read aloud the following resolution:

**TOWN OF FARMINGTON
TEMPORARY USE PERMIT FINDINGS & DECISION**

APPLICANT: Lloyd Twitchell
5107 Shortsville Road
Shortsville, NY 14548

Application #: ZB – 0201-18
Zoning District: A-80 Agricultural
Notice published: 02/18/18
County Meeting: N.A.
Hearing Held: 02/26/18

Property Location: 5107 Shortsville Road, south side, between Payne Road and County Road 28. Tax Map Account No. 42.00-1-24.100. Approximately 9.959 acres of total land area.

Use for which Permit is requested: Applicant desires to continue to use existing farm buildings and open areas immediately adjacent thereto for a commercial business of fabricating and painting farm equipment and construction equipment.

State Environmental Quality Review Determination: The above referenced application has been determined to be a Type II Action in accordance with the provisions contained in Part 617.5 (c) (1), (3) and (7), New York Codes, Rules and Regulations and Article 8 of the New York State Environmental Conservation Law.

County Planning Referral Number and Recommendation: In 2013, the County Referral #128-2013. Class 1 with comment that “. . . application provides an important support service (ag machine repairs) for farm operations.” This Action involves no change in what was previously submitted to the County for their review and is, therefore, an Exempt Action.

In accordance with the provisions contained in Chapter 165, Section 91, of the Farmington Town Code, this application for a Temporary Use Permit is based upon the following Findings by Zoning Board of Appeals:

Test: No Temporary Use Permit will be granted without a clear understanding of the nature of the permit, the time period covered by the permit and a detailed listing of the conditions of approval. The following findings must be made by the Zoning Board of Appeals on any Temporary Use Permit:

- (1) The temporary use will be in harmony with the general purposes and intent of Chapter 165, Section 38 of the Farmington Town Code, taking into account the location and size of the proposed use, the nature and intensity of the operation involved in or connected with the proposed use and the size and location of the site in relation to adjacent sites and uses.

Proof: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the original Temporary Use Permit, granted by this Board on December 28, 2015. The Board further finds that this Application is the last renewal available under the Temporary Use Permit provisions and shall expire on February 26, 2022. The Board further finds that this Application proposes no changes to the conditions originally agreed to by the Board. The Board further finds that the maximum period of time this Temporary Use Permit may be granted for is five (5) years.

The Board finds that the purpose of the proposed Temporary Use Permit is to allow the use of existing farm buildings and adjacent areas thereto, for the fabricating and painting of farm and construction equipment. The Board further finds that the subject property is located within the Ontario County Consolidated Agricultural District #1 and that the proposed use is felt to be an important agri-business service to farmers within the Town and within the County Agricultural District. The Board further finds that there will be no sales of farm or construction equipment from the premises. The Board further finds that the approximately 9.9-acre parcel of land is not large enough to sustain a livelihood from general farming operations. The Board further finds that the applicant does not intend to store used or abandoned farm or construction equipment on the premises that is not under contract for repairs and/or painting.

The Board further finds that the applicant does not intend to hire any employees to work on repairs and/or painting of the farm and construction equipment. The Board further finds that the applicant does not intend to have any commercial speech signs located on the property. The Board further finds that the applicant will not be storing petroleum products on the site that would otherwise be regulated by the New York State Department of Environmental Conservation. The Board further finds that there will be no disposal of any hazardous or contaminated materials on the premises. The Board further finds that there will be no outdoor repairs and/or painting of farm or construction equipment conducted on the premises. The Board further determines that the applicant is aware of the limitations contained in the Town Code for the granting and renewal of a Temporary Use Permit. The Board further determines that the proposed hours of operation will be consistent with those established by the Town for construction sites, in that hours of operation will not exceed 7:00 a.m. to 7:00 p.m. Monday through Friday; 7:00 a.m. to 6:00 p.m. on Saturdays; and there shall be no Sunday or Holiday operations permitted.

The Board further finds that there have been no additional Building Permits issued for any expansion associated with the proposed Temporary Use Permit since the original Site Plan Approval from the Town Planning Board was granted on March 19, 2014. The Board further finds that there are no changes requested, as part of this Application, to the original Site Plan Approval.

- (2) The proposed temporary use will not tend to depreciate the value of adjacent properties.

Proof: The Board finds that the character of the neighborhood is agricultural land operations, agricultural buildings and low density residential single-family dwellings most of which are on lots of five acres or greater in size. The Board further finds that the applicant intends to maintain and to improve the farm buildings to sustain the ongoing farm and construction equipment repairs and painting operations. The Board further finds that the temporary storage of farm and construction equipment on the site will be consistent with the storage of farm equipment on adjacent farmlands. The Board further finds that the applicant has identified an existing arrangement with another implement dealer located in the Town to make repairs and do painting of farm and construction equipment. The Board further finds that the applicant intends to maintain the property and associated buildings in a general characteristic of the farming operations occurring in the neighborhood and not become a competitor to other established farm and construction equipment operations.

The Board, based upon these findings, concludes that the proposed temporary use will not tend to depreciate the value of adjacent properties. On the contrary, the Board finds that said temporary use will provide an opportunity to enhance the agricultural sector of the Town and County.

- (3) The proposed temporary use will not create a hazard to health, safety or general welfare.

Proof: The Board finds that the proposed use with the findings identified above herein will not create a hazard to health, safety or general welfare of the community. The Board further finds that granting the Temporary Use Permit with conditions will enable the Town to evaluate the temporary operations associated with the proposed Temporary Use Permit, thereby allowing the Town opportunity to establish rule and regulations for creating a Special Use Permit for this type of land use in the rural agricultural areas of the community. Such action it is felt should promote and sustain the viability of agricultural operations and businesses within the community and county.

Based upon the above findings, the Board hereby makes the following decision:

- The request for the Temporary Use Permit is hereby granted.
- The request for the Temporary Use Permit is hereby granted with the following conditions set forth below:
- The request for the Temporary Use Permit is hereby denied.

The Board hereby grants approval of the requested Temporary Use Permit with the following conditions:

1. The Temporary Use Permit is hereby granted for a period of five (5) years that is to commence on Tuesday, February 27, 2018, and will automatically terminate on February 26, 2022.
2. The Temporary Use Permit is not transferrable to another party.
3. The Temporary Use Permit does not enable the applicant to hire employees without first coming back to the Zoning Board of Appeals to amend this application.
4. The Temporary Use Permit is hereby granted with the understanding that the applicant will not be seeking any additional Building Permit(s) which would first require Site Plan Approval from the Town Planning Board.
5. The Temporary Use Permit is hereby granted with the condition that the findings contained above herein by the Zoning Board of Appeals are hereby made conditions of approval for the proposed Temporary Use Permit.
6. The Temporary Use Permit is hereby granted to the applicant for the sole purpose of fabricating and painting of farm equipment and construction equipment.
7. All conditions of Site Plan approval previously granted by the Town Planning Board are to be confirmed by the Code Enforcement Officer prior to issuing a Certificate of Compliance for the Temporary Use Permit.

- 8. The fabricating and painting operations on the site shall be maintained in good condition during the five-year period specified above. At the end of the five-year period, the equipment, supplies and materials used in the fabrication and painting operation shall be removed unless another Temporary Use Permit has been issued.

The Temporary Use Permit is hereby issued to Lloyd Twitchell and is not transferable to a second party.

Copies of this Finding and Decision are to be filed with the Farmington Town Clerk, the Farmington Development Office and the Applicant within five (5) business days of the date of this action.

Upon the expiration of the requested Temporary Use Permit, the temporary use shall immediately cease; and all equipment, supplies and materials relating to this permit shall be removed from the site and the site shall be returned to a condition acceptable to the Town Code Enforcement Official within sixty (60) days.

The Board does hereby recommend the Applicant work with the Town Board in creating Special Use Permit criteria for allowing the continuation of this agriculture related business. Such regulations would become part of Chapter 165, Article VI, of the Town Code, entitled Zoning.

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

Discussion on the motion:

Mr. Marshall asked if Mr. Twitchell had any employees. Mr. Twitchell said that he considered to grow the business but that he decided to downsize to reduce stress and that he has no employees.

Mr. Yurch asked how paint and other materials are contained. Mr. Twitchell said that paint and materials are stored in a fireproof cabinet. He said that his paint booth has a filtration system to filter the air before it leaves the building.

Mr. Yurch asked if the volume of the chemicals being used is in compliance with the Town requirements. Mr. Twitchell said yes.

Mr. Yurch asked if the Town has verified compliance. Mr. DeLucia said yes.

There were no further questions or comments on the resolution.

Timothy DeLucia	Aye
Jeremy Marshall	Aye
Cyril Opett	Aye
Nancy Purdy	Aye

Thomas Yourch Aye

Motion carried.

7. CODE ENFORCEMENT OFFICER

No report.

8. PUBLIC COMMENTS

Mr. Hemminger said that the Planning Board will address the traffic flow on the Indus property during site plan review. He said that concerns about the ingress and egress have been mitigated by the New York State Department of Transportation requirement that an additional left-turn lane be installed onto State Route 332.

Ms. Neale described a traffic situation which occurred today in which a van was stuck in the middle of State Route 332 near the driveway to the Aldi Supermarket opposite the Indus site. She described the traffic in this area as an accident waiting to happen.

Mr. Hemminger said that the Planning Board also would address the percentage of green-space and the stormwater issues on the Indus site. He noted that Indus proposes to use a portion of the adjacent property owned by Canine Campus for stormwater mitigation. He said that this would require the owner of Canine Campus to grant an easement to Indus for the use of the property.

Mr. Hemminger also explained that the Planning Board could permit some of the parking spaces on the site to be land banked if the ZBA approves applicant's variance to have fewer parking spaces than the Town Code allows.

9. NEXT MEETING DATE

It was the consensus of the board to change the date of the March meeting from the usual fourth Monday of the month. The next regular meeting of the Zoning Board of Appeals will be held on Monday, March 19, 2018, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

Mr. DeLucia also noted that the fourth Monday of May is Memorial Day. It was the consensus of the board that the May meeting be held on Monday, May 21, 2018.

The ZBA clerk will notify the Town Clerk and the Building Department Administrator of the change in dates.

10. ADJOURNMENT

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

Motion carried by voice vote.

The meeting was adjourned at 8:10 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