

*Town of Farmington*

1000 County Road 8  
Farmington, New York 14425

**ZONING BOARD OF APPEALS**

*Established July 15, 1957*

**Monday, July 22, 2019, 7:00 p.m.**

**MINUTES—DRAFT #2**

*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*  
Jill Attardi  
Jeremy Marshall  
Nancy Purdy  
Thomas Yourch

**Staff Present:**

Ronald L. Brand, Town of Farmington Director of Development and Planning  
Dan Delpriore, Town of Farmington Code Enforcement Officer  
John Weidenborner, Town of Farmington Zoning Officer

**Applicants Present:**

Jeffrey M. Ashline, CSI, Senior Project Manager, Mossien Associates, 70 Linden Oaks, Suite 110, Rochester, N.Y. 14625-2804  
Michael Best and Lisa Spath, 6165 Brownsville Road, Farmington, N.Y. 14425  
Michael J. Colacino, Vice President, Lyons National Bank, 399 Exchange Street, Geneva, N.Y. 14456  
Steve DeRaddo, Executive Vice President, Lyons National Bank, 399 Exchange Street, Geneva, N.Y. 14456  
Jeff Friend, District Manager, Lyons National Bank, 399 Exchange Street, Geneva, N.Y. 14456  
Matthew Guche, Ontario Mall Antiques, 1740 State Route 332, Farmington, N.Y. 14425  
Thomas L. Kime, President, Lyons National Bank, 399 Exchange Street, Geneva, N.Y. 14456  
J. Lincon (Linc) Swedrock, P.E., BME Associates, 10 Lift Bridge Lane East, Fairport, N.Y. 14450

**In Attendance:**

Cynthia L. Allen, 6218 Brownsville Road, Farmington, N.Y. 14425

Pamela J. Allen, 6250 Brownsville Road, Farmington, N.Y. 14425  
 Tim Cole, 6250 Brownsville Road, Farmington, N.Y. 14425  
 Greg Allen, 6210 Brownsville Road, Farmington, N.Y. 14425  
 James Falanga, 395 Ellsworth Road, Palmyra, N.Y. 14522  
 Frances Kabat, Esq., The Zoughlin Group PLLC, 300 State Street, Suite 502,  
 Rochester, N.Y. 14614  
 Ed and Judy Mack, 6164 Brownsville Road, Farmington, N.Y. 14425

## 1. MEETING OPENING

The meeting was called to order at 7:00 p.m. After the Pledge of Allegiance was recited, Mr. DeLucia introduced the Zoning Board of Appeals members and explained the emergency evacuation procedures.

Mr. DeLucia 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 JUNE 24, 2019

■ A motion was made by MS. ATTARDI, seconded by MR. YOURCH, that the minutes of the June 24, 2019, meeting be approved.

Motion carried by voice vote. Mr. Marshall abstained due to his absence from the meeting on June 24, 2019.

## 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, July 14, 2019, that it was posted upon the Town of Farmington website ([www.townofarmington-ny.com](http://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 22nd day of July 2019, 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 #0701-19: ONTARIO MALL ANTIQUES, 1740 STATE ROUTE 332, FARMINGTON, N.Y. 14425:** Request a Temporary Use Permit in accordance with Chapter 165, Article VII, Section 91 of the Town of Farmington Codes. The applicant wishes to

operate a farmers market on Saturdays and Sundays in the Spring, Summer and Fall months to be located in a portion of their parking lot. The property is zoned GB General Business and is located at 1740 State Route 332.

**ZB #0702-19: MICHAEL BEST, POND’S EDGE VENUE, 6165 BROWNSVILLE ROAD, FARMINGTON, N.Y. 14425:** Request a Temporary Use Permit in accordance with Chapter 165, Article VII, Section 91 of the Farmington Town Code. The applicant wishes to operate an outdoor special events venue for wedding ceremonies and small events such as corporate events, bridal showers and baby showers. Seasonal operation beginning March 1st through November 1st each calendar year. The property is zoned RR-80 Rural Residential and is located at 6165 Brownsville Road.

**ZB #0703-19: LYONS NATIONAL BANK, 399 EXCHANGE STREET, GENEVA, N.Y. 14456:** Requests two (2) area variances to: Chapter 165, Article IV, Section 34. G. (3) of the Town of Farmington Codes. The applicant wishes to construct a branch bank addition to the original Hathaway’s Farmhouse, located at the northwest corner of the intersection of New York State Route 332 and County Road 41, by adding a new building containing a total of 4,339 square feet that is proposed to be set back forty-four (44) feet from the right-of-way line with New York State Route 332. The Town Code requires a minimum front yard setback of one hundred (100) feet from New York State Route 332; and Chapter 165, Article X, Schedule I, Lot Area, Bulk and Coverage Requirement. The applicant wishes to construct a branch bank addition to the original Hathaway’s Farmhouse by adding a new building containing a total of 4,339 square feet that is proposed to be set back fifty-five (55) feet from the right-of-way line with Ontario County Road 41. The Town Code requires a minimum front yard setback of seventy-five (75) feet from the highway right-of-way line. The property is located at 1423 Hathaway Drive and is zoned both GB General Business and MTOD Major Thoroughfare Overlay District.

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

Tim DeLucia, Chairperson, Zoning Board of Appeals

**4. CONTINUED PUBLIC HEARINGS**

**ZB #0902-18                      Delaware River Solar LLC                      Area Variance**  
**33 Irving Place**  
**New York, N.Y. 10003**

The applicant is requesting an Area Variance to Chapter 165, Section V, Section 65.3 F. of the Town of Farmington Codes. The applicant wishes to erect solar panels having a setback of 20 feet from along the south property line on proposed Lot 2 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum rear setback of 160 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

**ZB #0903-18**                      **Delaware River Solar LLC**                      **Area Variance**  
**33 Irving Place**  
**New York, N.Y. 10003**

The applicant is requesting an Area Variance to Chapter 165, Section V, Section 65.3 F. of the Town of Farmington Codes. The applicant wishes to erect solar panels having a setback of 20 feet from along the south property line on proposed Lot 3 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum rear setback of 160 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

**ZB #0904-18**                      **Delaware River Solar LLC**                      **Area Variance**  
**33 Irving Place**  
**New York, N.Y. 10003**

The applicant is requesting an Area Variance to Chapter 165, Section V, Section 65.3 F. of the Town of Farmington Codes. The applicant wishes to erect solar panels having a setback of 20 feet from along the north property line on proposed Lot 3 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum front setback of 180 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

**ZB #0905-18**                      **Delaware River Solar LLC**                      **Area Variance**  
**33 Irving Place**  
**New York, N.Y. 10003**

The applicant is requesting an Area Variance to Chapter 165, Section V, Section 65.3 F. of the Town of Farmington Codes. The applicant wishes to erect solar panels having a setback of 20 feet from along the north property line on proposed Lot 4 of the Delaware River Solar LLC Solar Energy Facility Site Plan, dated July 3, 2018. The Town Code requires a minimum front setback of 180 feet. The property is located at 466 Yellow Mills Road and is zoned A-80 Agricultural district.

This project was discussed at the Project Review Committee (PRC) meetings on August 3, 2018, and September 7, 2018.

Mr. DeLucia reconvened the Public Hearings on ZB #0902-18, ZB #0903-18, ZB #0904-18 and ZB #0905-18 which were opened by the Zoning Board of Appeals on September 24, 2018; and which were continued on November 26, 2018; December 17, 2018; January 28, 2019; April 22, 2019; May 20, 2019; and June 24, 2019.

(The Public Hearings on the Preliminary Four-Lot Subdivision, Preliminary Site Plan and Special Use Permit applications were opened by the Planning Board on November 7, 2018, and were continued on December 5, 2018; January 16, 2019; April 17, 2019; May

15, 2019; June 5, 2019; and July 17, 2019. The Public Hearings before the Planning Board will reconvene on August 7, 2019.)

There were no representatives of the applicant in attendance this evening.

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

There were no comments or questions on these applications from those in attendance.

Mr. DeLucia said that these Public Hearings would have to be continued to the next meeting in August. He said that a resolution to this effect has been prepared for board action this evening.

## 5. NEW PUBLIC HEARING

<b>ZB #0703-19</b>	<b>Lyons National Bank 399 Exchange Street Geneva, N.Y. 14456</b>	<b>Area Variances (2)</b>
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The applicant is requesting Area Variances (2) to:

Chapter 165, Article IV, Section 34 (G) (3) for a branch bank addition to the original Hathaway Farmhouse located at the northwest corner of State Route 332 and County Road 41 by adding a new building containing a total of 4,339 square feet that is proposed to be set back 44 feet from the State Route 332 right-of-way line (the Town Code requires a minimum front yard setback of 100 feet from State Route 332); and to

Chapter 165, Article X, Schedule I, Lot Area, Bulk and Coverage Requirement for a branch bank addition to the original Hathaway Farmhouse by adding a new building containing a total of 4,339 square feet that is proposed to be set back 55 feet from the right of way line with County Road 41 (the Town Code requires a minimum front yard setback of 75 feet from the highway right-of-way line).

The property is located at 1423 Hathaway Drive and is zoned both GB General Business and MTOD Major Thoroughfare Overlay District.

Mr. DeLucia opened the Public Hearing on this application.

Mr. Swedrock (BME Associates) and Mr. Kime (Lyons National Bank) presented this application. Mr. Colacino, Mr. DeRaddo and Mr. Friend from Lyons National Bank; and Mr. Ashline from Mossien Associates also attended.

*(Clerk's Note: Prior to the meeting, copies of a letter dated July 12, 2019, from Edward Varno, Executive Director of the Ontario County Historical Society—were distributed to*

members of the Zoning Board of Appeals. *See Attachment #1.* The letter is in support of this application.)

Mr. Swedrock displayed a map of the property that delineated the existing Hathaway House and elevation renderings of the proposed bank construction from several views.

He described the two requested setback Area Variances, as follows:

*From MTOD State Route 332:*

100 feet required	Existing = 37 feet	Proposed = 44 feet
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*From County Road 41:*

75 feet required	Existing = 24 feet	Proposed = 24 feet
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Mr. Swedrock said that the new bank—pending approval of the Area Variances and as proposed—would be 44 feet from State Route 332, which would increase the setback of the existing Hathaway House and thereby reduce the pre-existing non-conformance.

The total area of the new construction will be 4,339 square feet, with 3,421 square feet on the first floor and 918 square feet on the second floor. The two-story frame Hathaway House will be preserved.

Mr. Swedrock said that the application included responses to the five standard zoning test questions.

He said that the intent of the full-service bank branch project is to maintain the existing Hathaway House and its front entrance on County Road 41, and to renovate the house to provide community meeting areas and a local history room. He said that the bank offices and facilities would be located in the new structure that will be attached to the north portion of the original Hathaway House.

Mr. Brand said that Mr. Swedrock and bank representatives provided concept presentations of this project to the Project Review Committee on June 28, 2019; and to the Planning Board on July 2, 2019.

Mr. Brand said that the development of the Hathaway's Corners Incentive Zoning Project (residential and commercial land uses), located across from the Hathaway House on the southwest corner of State Route 332 and County Road 41, will include the construction of highway safety improvements to the State Route 332/County Road 41 intersection, none of which will encroach upon the bank property.

Mr. Brand then asked the chairperson to have Mr. Kime to elaborate on the preservation of the Hathaway House.

Mr. Kime said that a Community Room, a History Room and two Meeting Rooms would be located in the existing Hathaway House. The Community Room will be made avail-

able to local groups and organizations (i.e., Rotary Club, etc.) for meetings and events (including after-hours events when the bank is closed). Historical artifacts of the Town of Farmington will be displayed in the History Room.

He said that the bank was determined to preserve the Hathaway House and incorporate it into this project after he toured the home and learned of its history and significance to the Town of Farmington. The house was built in 1793 and is the oldest house in Farmington and the second oldest in Ontario County.

Mr. Kime said that a cobblestone design will be used around the new barn portion of the structure and that the bank seeks to select items of historic significance for display in the Community and History rooms. He said that community rooms at some bank locations are often in use 80 to 100 days a year by local organizations and that the bank is more than glad to open the facilities for these purposes. He said that the groups would have access to the Hathaway House portion of the bank via a key fob during evening hours and at times when the bank branch is closed. He said that the bank offices and tellers would be located in the new construction portion of the project.

Mr. Kime said that local contractors will be used, among them New Energy Works, located in Farmington. This company will build a post-and-beam structure that will mimic the agricultural structures that were on the property.

Mr. Kime said that the project has been discussed with Farmington Town Historian Donna Hill-Herendeen; and with Edward Varno and Wilma Townsend, Executive Director and Curator, respectively, of the Ontario County Historical Society, who have each expressed support for the project, especially for the preservation of the Hathaway House. Mr. Kime said that the approval of the Area Variances would enable the bank to do so.

Mr. Brand said that he was pleased with the attention that the bank was giving to the site and that there will be no access onto the bank property from State Route 332 or from County Road 41, which are two of the more heavily traveled highways in the Town. Access to the bank will be from Hathaway Drive.

Mr. Brand said that the bank representatives, its engineering firm of BME Associates, and their architects have been reviewing every detail of this project, including paint chips to select the proper colors for the new structure.

He said that he has prepared two draft resolutions for the board's consideration this evening. One is for approval of the State Environmental Quality Review (SEQR) classification as a Type II Action and the other is for approval of the two Area Variances with conditions. Mr. Brand said that the Ontario County Planning Board's review of the application has been forwarded to the Town Planning Board and that the Site Plan application will appear on the Planning Board's agenda on August 7, 2019, pending approval of the Area Variances.



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

Town Historian Donna Hill-Herendeen said that she has been working with the bank representatives, their engineer and their architects from the standpoint of the preservation of the Hathaway House. She acknowledged the consultation with the representatives of the Ontario County Historical Society and said that they all fully support this project.

Ms. Hill-Herendeen also said that she received a letter from a Hathaway family descendant who is also supportive of project. She said that the preservation of the Hathaway House will be an asset to the community.

Mr. DeLucia then asked if there were any further comments on this application.

There were no further comments or questions from those in attendance.

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

## 5. NEW PUBLIC HEARING

<b>ZB #00701-19</b>	<b>Matthew Guche</b>	<b>Temporary Use Permit</b>
	<b>Ontario Mall Antiques</b>	
	<b>1740 State Route 332</b>	
	<b>Farmington, N.Y. 14425</b>	

The applicant is requesting a Temporary Use Permit in accordance with Chapter 165, Article VII, Section 91 of the Town of Farmington Codes. The applicant wishes to operate a farm stand on Saturdays and Sundays in the Spring, Summer and Fall months to be located in a portion of their parking lot. The property is zoned GB General Business.

Mr. DeLucia opened the Public Hearing on this application.

Mr. Guche, who is the owner of Ontario Mall Antiques, presented this application.

He said that he has applied for this Temporary Use Permit to have a farmers market on a portion of the Ontario Mall Antiques parking lot on Saturdays and Sundays. Mr. Guche said that the farmers market would be beneficial to Ontario Mall Antiques by providing an opportunity to have more customers come into the mall and to local farmers by providing an additional opportunity for them to sell their produce. He said that the farmers market would also benefit the Town of Farmington through the support of local growers.

Mr. Guche said that this market would be another initiative in the continuing improvement of the mall.



Mr. Brand asked for clarification of the farm stand operation. Mr. Guche said that he plans to have a single farm stand located in the parking area.

Ms. Attardi asked about the number of farmers who would participate. Mr. Guche said that he has one farmer who has committed to the farm stand already and that he has dedicated a total of six parking spaces for farmers pending an increase in the number of vendors who may wish to participate.

Ms. Attardi asked if there are any food carts on the mall property. Mr. Guche said that Finger Lakes Hots operates a food cart in the parking lot on weekends during the season.

Mr. Brand said that a Temporary Use Permit was approved for the operation of the food cart and that there have been no issues or complaints with its operation. He said that he has every reason to believe that Mr. Guche will follow through with a similar operation for the farm stand.

Mr. Brand said that there is another farmers market that was recently approved for operation at the Farmington Country Plaza. This market has only been open once this month due to the recent rainstorm and high temperatures that seem to only want to occur on Friday afternoons. He said that this farmers market is operated by the Farmington Chamber of Commerce and will not be in competition with Mr. Guche's farm stand because the Chamber of Commerce market will be open only on Friday afternoons. Mr. Brand said that Mr. Guche's farm stand provides another opportunity for the sale of local agricultural products in the Town.

He said that he has prepared two draft resolutions for the board's consideration this evening. One is for the State Environmental Quality Review (SEQR) classification as a Type II Action and the other is for approval of the Temporary Use Permit with conditions.

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

There were no comments or questions from those in attendance.

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

## 6. NEW PUBLIC HEARING

**ZB #0702-19**

**Michael Best  
Pond's Edge Venue  
6165 Brownsville Road  
Farmington, N.Y. 14425**

**Temporary Use Permit**

The applicant is requesting a Temporary Use Permit in accordance with Chapter 165, Article VII, Section 91 of the Town of Farmington Codes. The applicant wishes to operate

an outdoor special events venue for wedding ceremonies and small events such as corporate events, bridal showers and baby showers on a seasonal operation beginning May 1st through November 1st. The property is zoned RR-80 Rural Residential.

Mr. DeLucia opened the Public Hearing on this application.

Mr. Best and Ms. Spath presented this application.

Ms. Spath said that they currently offer Pond's Edge Venue as a location for photoshoots ranging from wedding photographs to senior portraits. She said that they would like to offer the site for such events as wedding ceremonies, corporate events, bridal and baby showers, and similar gatherings. She said that no large parties or wedding receptions are proposed.

Ms. Spath acknowledged receipt of the draft Temporary Use Permit resolution that was prepared by the Town staff prior to the meeting. She said that the proposed conditions of approval look fine and that none of them seem unreasonable.

Ms. Spath asked about Draft Condition #4 that no event shall be scheduled on a Federally designated holiday. Mr. Brand said that this refers to the actual day of a Federally designated holiday. He said that events could be held on the other days of a long weekend such as the Friday, Saturday and Sunday prior to Memorial Day or prior to Labor Day, for example. He said that this condition does not permit events to be held on the actual day of a holiday, such as the Fourth of July.

Ms. Spath asked about Condition #2 that no event shall be scheduled to end later than 30 minutes past sunset for any given day. She said that they are not looking to go into the evening hours and that they have revised their original plan that requested a 10:00 p.m. closing. Mr. Best said that they would like to offer the property for photographs to be taken at sunset. Mr. Brand said that the closing time and the vacating of the premises by customers would be determined by the Planning Board during consideration of the Final Site Plan application.

Ms. Spath said that they would like to be able to offer the venue for photographs during sunset, which she said would be beautiful for a wedding ceremony. She said that no events would be planned at night and that the pathways and main areas of the venue are lit for the safety of the customers. Mr. Brand requested that they inform the Planning Board of this during their Final Site Plan presentation.

Mr. Brand said that the topics under discussion this evening reflect the conditions of approval for the proposed Temporary Use Permit by the Zoning Board of Appeals. He said that the Planning Board will consider specific operation details during the presentation of the Final Site Plan. He said that the Town's intent is to make sure that customers leaving the various venues can see where they will be walking at dusk hours and that access to a safe parking lot can be provided.

Mr. Brand said that this Temporary Use Permit is related to the Major Home Occupation Area Variance that was previously approved by the Zoning Board of Appeals on June 20, 2017; and to the Special Use Permit and Final Site Plan that were approved with conditions by the Planning Board on June 21, 2017 (ZB #0501-17, PB #0402-17 and PB #0404-17, respectively). But he said that this Temporary Use Permit application is a separate operation that, if approved, would only be in effect for two years, and that it could be extended for an additional period of time up to five years if no issues occur.

Mr. Weidenborner said that the applicant's Major Home Occupation Area Variance for photography on the site was issued in 2017, that no complaints have been received, that the Town staff has met with neighbors regarding the current Temporary Use Permit application, and that proposed conditions have been included in the draft approval resolution to address their concerns. He also noted that the Temporary Use Permit would be for a two-year period during which the Town staff would address any complaints or operational concerns.

Mr. Brand said that the Temporary Use Permit is not for a full two-year period but that it would be limited to the months of operation from March 1st to November 1st. He said that the Temporary Use Permit will commence upon Final Site Plan approval by the Planning Board and will expire on November 1, 2021.

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

Pamela Allen (6250 Brownsville Road) said that she is Mr. Best's neighbor. She said that he came down to speak with her in 2017 to express his aspirations regarding previous incidents on the site. She said that they cleared the air regarding past issues, and that now he said that he just wanted to do ceremonies. She said that she told him to just follow the code. That's fine. Ms. Allen said that there was no mention at that time of corporate events. She said that she told Mike that it would have been great if he had come down and talked to the neighborhood prior to do this, which would have saved a lot of time, money, aggravation, animosity, whatever. She said that this is water under the bridge and that the olive branch had been extended.

Ms. Allen then referred to Section 165-9.1 of the Town Code. She said that Mr. Best is applying for a variance to use structures that do not conform to the regulations of the chapter. She said that it seems as though Mike built an illegal commercial operation—basically a square peg—and that he is trying to make it fit into a round hole right now. She said that there is no place in the neighborhood for something like this.

Ms. Allen said that during Mike's visit, she told him that the previous wedding [2017] that he had [on the property] basically crashed down in the neighborhood. She said that she did not think that they [the neighbors] explained to him why [this happened]. Ms. Allen said that they are basically surrounded by drumlins so that the sound comes down [from the nearby drumlins] in this valley, and reverberates, and that it is deafening. She

said that anything that is done up there is problematic for the neighborhood. She said that this is a problem.

Ms. Allen presented two petitions in opposition to the application. She said that there are 23 immediate neighbors from their encapsulated areas who are vehemently opposed to this business going in. She said that she has another petition signed by approximately 60 Farmington residents saying that they do not want commercial venues in residential neighborhoods—commercial venues that encroach upon the quality of life, personal safety, property security, property cleanliness, property values, rental income, and neighborhood integrity, etc. (*See* attachment #2.)

Ms. Allen said that there is much [neighbor] aversion to what he [Mr. Best] is trying to do.

Ms. Allen also said that there is no problem with the current photography business, of course. She said a car here or there is not a problem. She said that no one is opposed to the click of a camera. She said that is not a problem. But she asked that when they have a corporate event in the neighborhood—what does that look like. She said that we [the Town] does not have a Noise Ordinance so there is no controlling what happens up there. She said that this is just going to be a problem all the way around. Ms. Allen said that he [Mr. Best] built something illegally and kind of put a cart before the horse. She said that it does not fit with a Minor Home Occupation or a Major Home Occupation. Ms. Allen said that this variance is the next approach to try and wedge something in.

Ms. Allen referred to comments by Ms. Spath regarding the parking situation and if it is just three spots. Mr. Weidenborner said that the parking will be a topic for review by the Planning Board during the board's consideration of the Final Site Plan application. He said that the applicant will be required to have the required amount of parking based upon the number of people who will attend an event. Mr. Delpriore said that Ms. Allen was referring to the conditions of approval in the draft Temporary Use Permit resolution prepared by the Town staff and that was posted on the Town website today. He said that one of the draft conditions of approval of the Temporary Use Permit is that the applicant also must receive Final Site Plan approval from the Planning Board.

Ms. Allen said that she is happy to submit the petitions as evidence that there is much aversion to the application. She provided the petitions to the board (*see* attachment #2).

Ms. Spath said that she understands that this venue has an unpleasant history. She said that the noise issue has been addressed and that the application has been toned back. Ms. Spath said that no music would be projected beyond the property line. She said that she is also a neighbor, that she does not want to listen to someone else's music either, and that she has every intention of treating this in a respectful manner. She said that they are not looking to upset anyone. Ms. Spath said that people love the property and that they want to come to this beautiful place. She said that it is a beautiful place for a bride to get married and that she is not looking for the big parties. Ms. Spath said that she does not want to deal with the drama of the big parties and things of that nature. She said that she just

wants to share the beautiful property with people who can respectfully be there and who can respect the neighbors as much as they [she and Mr. Best] will.

Ms. Spath said that she is a neighbor to the residents. She said that she has had several large gatherings of her family and has not received one complaint in the last year.

Mr. Best said that they have been approached by people interested in having corporate events, baby showers and bridal showers [at the venue]. He said that they do not hold birthday parties at the site. He said that they do not want the booze [on the property]. He said that they did not accept these events because they are not permitted under their current Major Home Occupation permit from the Town.

Mr. Best said that he did approach Pam (Ms. Allen) and told her that this is what he wanted to do. Mr. Best said that he has followed all the rules to make everybody happy. He said that he does not know what else to do.

Mr. DeLucia then read aloud Draft Condition #11 of the Temporary Use Permit resolution, i.e., “There shall be no loud noise used with any of the proposed events, such as fireworks or music, that would extend the noise level beyond the property boundary line.” He said that this is one of the conditions for this board to consider.

Ms. Allen asked how noise can be contained within the property line. She asked if there is an invisible barrier that contains the noise. She said that this is a great and promising restriction but that it cannot be enforced. Mr. DeLucia said that quite honestly he does not have an answer for that.

Ms. Allen said that no one in the neighborhood has a problem with family gatherings or parties. But she said that nobody in the neighborhood wants a gathering every weekend or from potential business hours Monday through Sunday. She said that the best case scenario for a business objective is that there is a party every day. She said that no one in the neighborhood wants a party seven days a week. Ms. Allen said that this is problem for the neighborhood.

Mr. Allen (6210 Brownsville Road) asked who is responsible to maintain adherence to the noise variance and any other restrictions [on the operations]. He asked if the code officers are going to be there on the weekends. He said that they will need to be. Mr. Weidenborner said that a code officer will respond if complaints are received. Mr. Allen said that this is an important consideration. Mr. DeLucia agreed.

Mr. Allen asked about traffic on Brownsville Road. He said that safety is involved regarding the number of cars. Mr. Delpriore said that it must be remembered that this application is for a Temporary Use Permit and that it is not a permanent application. He said that it is valid for two years with an option for renewal of up to an additional five-year period. Mr. Delpriore said that it takes the neighbors to let the Town know what is going on and that complaints will need to be addressed with the applicant. Mr. Delpriore

said that input from the neighbors is necessary to for the Town to enforce the conditions once the Temporary Use Permit is approved.

Ms. Spath encouraged that they be engaged if there is a problem. She requested that they be allowed to fix a problem, and that they cannot fix it if they do not know about it. Ms. Spath said they are not looking to upset anyone. She said that they would just like to share their beautiful property.

Ms. Allen said that the door swings both ways, that Mr. Best knows where she lives, and that he is welcome to come down at any time and have a neighborly discussion. Ms. Allen said that they do not need to hash this out in a public forum every month. She said that as she stated earlier it would have been great if they could have had a neighborly meeting. She said that you [Mr. Best and Ms. Spath] would be negatively impacted possibly [by complaints]—one person's benefit to everyone's detriment.

Ms. Spath said that the venue provides opportunities for others [in the community] to receive additional business, such as florists, and local hotels and restaurants that would benefit from people who travel in for weddings and events which would flourish in the Town and not just on their property. She said that people would only be on their property for a couple of hours [at an event].

Mr. Best said that their door is always **open**. He said that neighbors can come and see him if any issues develop.

Mr. Mack (6164 Brownsville Road) said that he lives across the street and that a study is needed regarding the traffic on the road before anything is done. He said that the traffic is incredible and that he does not think that there is room for any more cars. He expressed concern about the safety of his child and that the land is all downhill.

Ms. Spath said that she has submitted a driveway permit to have an alternate access into the property that is not across from Mr. Mack.

Mr. Mack said that he purchased his house to live in the country and that he does not want to look at a party all the time.

Cindy Allen (6218 Brownsville Road) expressed concern about the precedent that would be set if Mr. Best receives approval to operate a business in the rural area in which they live. She referred to other potential uses of agricultural areas for activities such as churches, barbecues, motocross races—business, business, business—and suddenly their neighborhood—where they go to relax and enjoy the country—is a bunch of businesses. She said that she realizes that Mr. Best has a lovely property, but that she does not feel that all of us who have lovely properties feel that they need to make money off their lovely properties. Ms. Allen expressed concern about the precedent that approval of this application would have upon their neighborhood and the Town of Farmington—what does this mean for other people in their neighborhood.

Ms. Attardi asked Ms. Spath about noise and music. She said that she does not see where music is coming into play except perhaps for wedding music when a bride is coming down [the aisle]. She asked if any other music would be played at any given time. Ms. Spath said that she is not looking for any other music and that no DJs are planned. Ms. Attardi said that this may address the residents’ concerns about loud music.

Pamela Allen asked what a corporate event would look like. She said that the application indicates a maximum of 200 people and that this number of people would generate quite a bit of noise without volume or a PA. She said that this is a concern. She said that she has tried to visualize what these would like like—a baby shower or a wedding shower with no alcohol—that is not a problem. She said that a corporate event is dicey and that the traffic that 200 people would generate is crazy and problematic.

Ms. Allen said that another concern is that the application begins in March. She asked where the events would be held in March when it is cold.

Mr. DeLucia said that this is a temporary use and will be a trial to see how the operation would work. He said that a number of specific answers are not available at this point and that this is a trial. Ms. Allen asked if it is outdoors. Mr. DeLucia said yes.

Mr. Delpriore said that the Planning Board may require the applicant to submit a traffic study because of the traffic concerns expressed by residents this evening.

Mr. Mack said that there is a huge ditch along the road and that he has seen several cars in the ditch. Mr. Mack said that he sees 400 cars drive by in a couple of hours at nighttime—and that he is not joking—bicyclers, people jogging. He said that more traffic will not be good.

Mr. DeLucia asked if there were any further comments from board members, Town staff, the public or the applicant.

There were no further comments or questions from those in attendance.

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

**8. BOARD BUSINESS—DELIBERATIONS AND DECISIONS**

<b>ZB #0902-18</b>	<b>Delaware River Solar</b>	<b>Area Variance</b>
<b>ZB #0903-18</b>	<b>Delaware River Solar</b>	<b>Area Variance</b>
<b>ZB #0904-18</b>	<b>Delaware River Solar</b>	<b>Area Variance</b>
<b>ZB #0905-18</b>	<b>Delaware River Solar</b>	<b>Area Variance</b>

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the reading of the following resolution be waived and that the resolution be approved as submitted by the Town staff:



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

**Files:**                   **ZB #0902-18 Area Variance**  
                              **ZB #0903-18 Area Variance**  
                              **ZB #0904-18 Area Variance**  
                              **ZB #0905-18 Area Variance**

**APPLICANT:**           **Delaware River Solar LLC, c/o Peter Dolgos, 33 Irving Place,**  
                              **New York, NY 10003, on behalf of Roger and Carol Smith,**  
                              **4790 Fox Road, Palmyra, N.Y. 14522, owners of property at**  
                              **466 Yellow Mills Road**

**ACTION:**               **Area Variances—Continuation of Public Hearings**

**WHEREAS**, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has received applications for four area variances (Files ZB #0902-18, ZB #0903-18, ZB #0904-18 and ZB #0905-18) to enable the proposed subdivision of land that is required for the operation of a proposed solar farm, with a proposed total of three solar panel arrays, one array to be located upon each of the three proposed lots, comprising a total of approximately 37.5 acres of land, a part of Tax Map #010.000-01-037.131, which contains a total of 135.4 acres of land; and

**WHEREAS**, the subdivision of land is a prerequisite for the applicant to comply with the New York State Energy Research and Development Authority (NYSERDA) restrictions for the maximum level of energy being generated by an operating solar energy farm on a parcel of land; and

**WHEREAS**, the actions to grant a total of four area variances—two front setback and two rear setback variances—are part of the procedural requirements for the construction and operation of the proposed solar power farm on the above referenced three proposed parcels of land; and

**WHEREAS**, on September 24, 2018, the Board classified these actions as being Type I Actions under the requirements of Article 8 of the New York State Environmental Conservation Law; and

**WHEREAS**, the Board, after having classified these actions as Type I Actions, directed that a coordinated review be conducted with Involved and Interested Agencies; and

**WHEREAS**, the Board on Monday, September 24, 2018, declared its intent not to be designated the Lead Agency for these Actions; and

**WHEREAS**, Board, on Monday, September 24, 2018, opened the Public Hearings upon these Actions and received testimony from the public; and

**WHEREAS**, the Planning Board, on Wednesday, November 7, 2018, did by resolution, designate itself the Lead Agency for making the determination of significance upon the Action; and

**WHEREAS**, the Planning Board in their resolution dated July 17, 2019, moved to table any further discussion upon the requested Actions; and has continued the SEQR deliberations upon the requested Area Variances, Special Use Permit, Preliminary Subdivision Plat and Preliminary Site Plan approvals to August 7, 2019; and

**WHEREAS**, in accordance with the procedures established by the State Environmental Quality Review Act (SEQRA), the Board may not make a decision upon any part of the proposed Action until the Lead Agency has made a determination of significance.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board does hereby move to continue the Public Hearing upon these requested Area Variances to their August 26, 2019, meeting.

**BE IT FINALLY RESOLVED THAT** the Board does hereby direct a copy of this resolution be provided to the Town Planning Board, the Applicant, the landowners and one copy placed in the Town Project File on this Application.

Jill Attardi	Aye
Timothy DeLucia	Aye
Jeremy Marshall	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

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**■** A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the State Environmental Quality Review (SEQR) resolutions for the following applications be blocked for concurrent action, that the readings be waived, and the SEQR resolutions be approved as submitted by Town staff:

ZB #0701-19	SEQR resolution for Ontario Mall Antiques
ZB #0702-19	SEQR resolution for Pond’s Edge Venue (Michael Best)
ZB #0703-19	SEQR resolution for Lyons National Bank

Jill Attardi	Aye
Timothy DeLucia	Aye
Jeremy Marshall	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

**ZB #0702-19                      Lyons National Bank                      Area Variances (2)**

The following State Environmental Quality Review (SEQR) resolution was approved by concurrent action of the Zoning Board of Appeals (*see* Page 17, above):

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

**ZB #0703-19**

**APPLICANT:                      Lyons National Bank, 399 Exchange Street, Geneva, N.Y.  
14456**

**ACTION:                              Area Variances (2) to:**

**Chapter 165, Article IV, Section 34 (G) (3) for a branch bank addition to the original Hathaway Farmhouse located at the northwest corner of State Route 332 and County Road 41 by adding a new building containing a total of 4,339 square feet that is proposed to be set back 44 feet from the State Route 332 right-of-way line (the Town Code requires a minimum front yard setback of 100 feet from State Route 332); and to**

**Chapter 165, Article X, Schedule I, Lot Area, Bulk and Coverage Requirement for a branch bank addition to the original Hathaway Farmhouse by adding a new building containing a total of 4,339 square feet that is proposed to be set back 55 feet from the right of way line with County Road 41 (the Town Code requires a minimum front yard setback of 75 feet from the highway right-of-way line). The property is located at 1423 Hathaway Drive and is zoned both GB General Business and MTOD Major Thoroughfare Overlay District.**

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

**WHEREAS**, the Board finds the Action is identified in Section 617.5 (c) (16) and (18) as being a Type II Action in that it involves the granting of Area Variances, individual setback and lot line variances and adjustments; and reuse of a residential and commercial structure where the residential or commercial use is a permitted use under the Town Zoning Law. Type II Actions have been determined, under the SEQR Regulations, not to

have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

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

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

**BE IT FINALLY 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.

Mr. DeLucia then read aloud the conditions of approval from the following complete resolution:

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

**APPLICANT:** Lyons National Bank  
399 Exchange Street  
Geneva, N.Y. 14456

**File:** ZB #0703-19  
**Zoning Districts:** GB General Business and  
MTOD Major Thoroughfare Overlay  
District  
**Published Legal Notice on:** July 14, 2019  
**County Planning Action on:** July 10, 2019  
**County Referral #:** 147-2019  
**Public Hearing held on:** July 22, 2019

**Property Location:** 1423 Hathaway Drive, Farmington, N.Y. 14425

**Applicable Sections of Town Code:** Chapter 165, Article IV, Section 34 (G) (3) *and* Chapter 165, Article X, Schedule I, Lot Area, Bulk and Coverage Requirement.

**Requirement for Which Variances are Requested:** The applicant wishes to construct a branch bank addition to the original Hathaway Farmhouse, located at the northwest corner of the intersection of New York State Route 332 and County Road #41, by adding a new building containing a total of 4,339 square feet that is proposed to be set back forty-four (44) feet from the right-of-way line with New York State Route 332. The Town Code requires a minimum front yard setback of one hundred (100) feet from New York State Route 332; and to

Construct a branch bank addition to the original Hathaway Farmhouse by adding a new building containing a total of 4,339 square feet that is proposed to be set back fifty-five (55) feet from the right-of-way line with Ontario County Road #41. The Town Code re-

quires a minimum front yard setback of seventy-five (75) feet from the highway right-of-way line.

**State Environmental Quality Review Determination:** The granting of Area Variances to enable the construction of the proposed branch bank is classified as a Type II Action under Part 617.5 (c) (16) and (18) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

**County Planning Referral Recommendation:** The Ontario County Planning Board (hereinafter referred to as County Board) has reviewed Referral #147-2019, at their July 10, 2019, meeting. The County Board did not make a recommendation upon this referral and, instead, sent back the following comment made by the County Review Committee (CRC) . . . “The driveway entrance from Hathaway Drive provides only approximately 100 feet of corner clearance. A minimum corner clearance of 125 feet is desired.”

**FACTORS CONSIDERED AND BOARD FINDINGS**

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.  
\_\_\_ Yes    **X** No

**Reasons:** The Board finds that the character of this neighborhood consists of a number of permitted (GB) General Business types of land use located between New York State Route 332 and Hathaway Drive. The Board further finds that this site has been used for both residential and commercial land use in the recent past. The Board further finds that this site is difficult to develop for the permitted and special permitted land uses contained in the GB General Business District. The Board further finds that the applicant intends to preserve the existing historic farmhouse on the site, to integrate said farmhouse into a new branch bank office and has designed the branch bank office in such a manner as to promote the historical character of the farm buildings that have existed upon the site for well over the past 50 years. Therefore, based upon these findings, the Board determines that the granting of the requested Area Variances for the proposed development of the branch bank building and related site improvements will not change the character of the neighborhood or will it be a detriment to nearby properties.

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

**Reasons:** The Board finds that the setbacks from both State Route 332 and from County Road 41 pose major restrictions to a site that is zoned for more intensive land use than single-family residential. The Board finds that adhering to these setbacks would not allow the proposed development of the site for the branch bank, or for the majority of the other permitted and special permitted uses in the GB General Business Zoning District. There-

fore, based upon these findings, the Board determines that the granting of the requested Area Variances for the proposed development of the branch bank building and related site improvements cannot be achieved by a feasible alternative to the requested Area Variances.

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

**Reasons:** The Board finds that the requested front setback variance from State Route 332 right-of-way involves a variance of fifty-six percent (56%); and the front setback variance of County Road 41 right-of-way involves a variance of thirty-four percent (34%) from what is otherwise required by the GB General Business District and the MTOD Major Thoroughfare Overlay District. The Board has consistently determined that a requested Area Variance in excess of fifty percent (50%) of what is otherwise required by the zoning district(s) is a substantial variance.

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

**Reasons:** The Board has given consideration to the criteria for determining significance, as set forth in Section 617.5 of the SEQOR Regulations. The Board finds that the proposed Action is classified as a Type II Action under Section 617.5 (c) of the New York State Environmental Conservation Law (ECL), Article 8. The Board finds that Type II Actions have been determined not to have a significant adverse impact upon the environment and has thereby satisfied the procedural requirements of the ECL.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the Area Variance.     Yes     No

**Reasons:** The Board finds that there is an alleged difficulty involved with developing this site for a proposed branch bank, while preserving the original foundation and structure of the historic Hathaway House, under the existing zoning district regulations. The Board also finds that this difficulty is a self-created hardship known to be created by the front setbacks for the two adjacent highways and the existing historic structure's location on the site. The Board further finds that there could be a number of other GB General Business type uses that could be proposed upon this site, all of which would necessitate the granting of one or more area variances and all of which would likely be self-created given the restrictions imposed by the setbacks from along these two highways, especially the one hundred foot (100 ft.) minimum setback from along State Route 332. The Board finally finds that based upon the applicant's commitment to preserve the historic structure, the Hathaway House, and to continue the long standing farmstead character of the site, that the benefit to the community that could be realized by protecting and preserving the existing structure far outweighs any known detriment to the community associated with

an alleged difficulty. Based upon these findings, the Board determines that the alleged difficulty is, however, self-created.

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

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

That the benefit to the applicant outweighs any known detriment to the neighborhood or community and, therefore, grants approval of the requested Area Variances with the following conditions:

1. The requested Area Variances are hereby granted based upon and granted only for the Preliminary and Final Site Plan drawings prepared for the proposed Lyons National Bank building addition to the historic Hathaway House located upon the site at the northwest corner of State Route 332 and County Road 41.
2. These area variances shall be made null and void should the proposed branch bank building and site improvements not be approved by the Planning Board as part of Preliminary and Final Site Plan Applications.
3. These conditions of approval and this application file number are to be placed upon the Preliminary and Final Site Plan drawings being prepared for the Planning Board's pending reviews and approvals.

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

**BE IT FURTHER RESOLVED** that the Board, in making this Decision, finds that it is granting the minimum relief necessary, as is required by New York State Town Law and the Town of Farmington Town Code, to enable the proposed development of the branch bank under consideration by the Town Planning Board.

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

Mr. DeLucia asked Mr. Kime if he understood the resolution and agreed with the conditions. Mr. Kime said that he understood the resolution and agreed with the conditions.

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

Jill Attardi                      Aye  
Timothy DeLucia                Aye



Jeremy Marshall	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

**ZB #0701-19                      Ontario Mall Antiques                      Temporary Use Permit  
c/o Matthew Guche**

The following State Environmental Quality Review (SEQR) resolution was approved by concurrent action of the Zoning Board of Appeals (*see* Page 17) earlier in this meeting:

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

**ZB #0701-19**

**APPLICANT:                      Matthew Gucci, on behalf of the Ontario Mall Antiques  
1740 New York State Route 332, Farmington, N.Y. 14425**

**ACTION:                              Temporary Use Permit to operate a farmers market, two days  
a week, commencing in the Spring and continuing through the  
Summer and Fall Calendar each year, on a portion of the  
property at the above referenced address.**

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

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

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

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

Jill Attardi	Aye
Timothy DeLucia	Aye
Jeremy Marshall	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

Mr. DeLucia then read aloud the conditions of approval from the following complete resolution:

**TOWN OF FARMINGTON  
ZONING BOARD OF APPEALS  
TEMPORARY USE PERMIT FINDINGS AND DECISION**

<b>APPLICANT:</b> Matthew Gucci 1740 State Route 332 Farmington, N.Y. 14425	<b>File:</b> ZB #0701-19 <b>Zoning District:</b> GB General Business <b>Published Legal Notice on:</b> July 14, 2019 <b>County Planning Action on:</b> July 10, 2019 <b>County Referral #:</b> 134-2019 <b>Public Hearing held on:</b> July 22, 2019
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**Property Location:** 1740 New York State Route 332, Farmington, N.Y. 14425

**Applicable Section of Town Code:** Chapter 165, Article VII, Section 91

**Requirement for Which Variance is Requested:** The applicant wishes to have a farmers market operation, each Saturday and Sunday in the Spring, Summer and Fall Calendar Seasons, to be located upon a portion of the Ontario Mall Antiques Site, 1740 New York State Route 332.

**State Environmental Quality Review Determination:** A Temporary Use Permit to provide a food service trailer is classified as a Type II Action under Part 617.5 (15) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

**County Planning Referral Recommendation:** The Ontario County Planning Board has reviewed this Temporary Use Permit application at their July 10, 2019, meeting and recommended local determination (County File 134-2019).

In accordance with the provisions contained in Chapter 165, Section 91 of the Farmington Town Code, this application for a two- (2-) year Temporary Use Permit and 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, based upon testimony given tonight in the Public Hearing record, that the purpose of the proposed Temporary Use Permit is to allow for the seasonal operation of a farmers market, commencing in the Spring and continuing through the Summer and Fall Calendar Seasons each year of operation. The Board further finds that the applicant has granted permission from the property owner, to use a portion of the plaza site for a single tent to be displayed on Saturdays and Sundays and then removed from the site. The Board further finds that there is adequate on-site parking and trash control, and that public restroom facilities are to be provided by the Applicant. The Board further finds that a temporary sandwich board type sign is to be placed along the Route 332 frontage only on the days of operation. The Board further understands that there will be no permanent structure placed on the property as part of this Temporary Use Permit. The Board further understands that the applicant will be responsible for not allowing any vehicles to temporarily park along the Route 332 shoulder in front of the farmers market. The Board further understands that at the close of each Sunday's operation the tent is to be removed from the site; all litter is to be picked-up and deposited in approved on-site containers; this portion of the site will be kept clean at all times; and there shall be no litter on the property resulting from the operation.

The Board further finds that the applicant is the party responsible to administer the farm market operation and the control of the site during the two-year period specified above herein. Any change in this understanding shall be brought to the attention of the Town Code Enforcement Officer for follow-up action as may be deemed appropriate. 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 which in this instance will terminate on December 21, 2021. Prior to that date, the applicant will need to inform the Town of any intentions to continue to operate the seasonal farm market at this location. The Town, in turn, will then need to consider acting upon a renewal of the Temporary Use Permit for a specified period of time up to five (5) years commencing on March 21, 2022, and ending on December 21, 2026.

The Board further finds that site plan approval from the Town Planning Board is to be required for this Temporary Use Permit.

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

**Proof:** The Zoning Board of Appeals finds that the character of the neighborhood is commercial with large volumes of passing motorists. The Board further finds that the ap-

plicant intends to maintain the appearance of the farm market within this southeastern portion of the Ontario Mall Antique Site. The Board further finds that the farm market operator has an agreement with the Property Owner to operate the farm market outside the right-of-way of New York State Route 332; and to have customers use only the designated on-site parking spaces to be shown on an approved Site Plan. The Board further understands that separate on-site parking area has been agreed-to by the property owner and shown on the yet to be approved final site plan by the Planning Board.

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 Zoning Board of Appeals 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 rules and regulations for creating a Special Use Permit for this type of land use within the developing area of the community. Such action, it is felt, should promote and sustain the viability of the commercial land use operations within the community and county.

Based upon the above findings, the Zoning Board of Appeals 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 Zoning Board of Appeals 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 two (2) years that is to commence upon the applicant receiving Final Site Plan Approval from the Town Planning Board; and will automatically terminate on December 21, 2021.
2. The farmers market shall only operate on Saturdays and Sundays during the above specified period; and during the hours of operation of the Antique Mall. If the Antique Mall is closed, then there shall be no farm market operation permitted on the site.

3. The Temporary Use Permit shall continue during the 2021 season, again on Saturdays and Sundays during the period specified above herein.
4. The Temporary Use Permit is not transferrable to another party.
5. The Temporary Use Permit does enable the applicant to hire employees directly related to farm market operations.
6. The site is to be kept free of all debris and litter in a manner acceptable to the property owner and the Town.
7. 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.
8. The Temporary Use Permit is hereby granted to the applicant for the sole purpose of operating a single farm market Stand within the established portion of the Ontario Mall Antique Site located at the at 1740 New York State Route 332.
9. One double sided directional sandwich board sign is to be located along the west side of the right-of-way boundary for New York State Route 332, adjacent to and in front of the farm market operation shall be permitted. Said sign is to be removed from along the shoulder of the State highway at the end of each farm market day of operation.
10. At the end of the seasonal operation, all evidence of the farmers market operation is to be removed from the site.

The Temporary Use Permit is hereby issued to the applicant and is not transferable to a second party.

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.

Mr. DeLucia asked Mr. Guche if he understood the resolution and agreed with the conditions. Mr. Guche said that he understood the resolution and agreed with the conditions.

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

Jill Attardi	Aye
Timothy DeLucia	Aye
Jeremy Marshall	Aye
Nancy Purdy	Aye



**ZONING BOARD OF APPEALS  
TEMPORARY USE PERMIT FINDINGS AND DECISION**

<p><b>APPLICANT:</b> Pond's Edge Venue c/o Michael Best 6165 Brownsville Road Farmington, N.Y. 14425</p>	<p><b>File:</b> ZB #0702-19 <b>Zoning District:</b> RR-80 Rural Residential <b>Published Legal Notice on:</b> July 14, 2019 <b>County Planning Action on:</b> July 10, 2019 <b>County Referral #:</b> 132.1-2019 <b>Public Hearing held on:</b> July 22, 2019</p>
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**Property Location:** 6165 Brownsville Road, Farmington, N.Y. 14425

**Applicable Section of Town Code:** Chapter 165, Article VII, Section 91

**Requirement for Which Variance is Requested:** The applicant wishes to operate an outdoor special events venue for wedding ceremonies; and small events such as corporate events, bridal showers and baby showers; having a seasonal operation beginning March 1 and ending on November 1.

**State Environmental Quality Review Determination:** A Temporary Use Permit is requested to allow for a location(s) on the site, for conducting wedding ceremonies, corporate events, bridal showers and baby showers, is classified as a Type II Action under Part 617.5 (15) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

**County Planning Referral Recommendation:** The Ontario County Planning Board has previously reviewed the original application for a Temporary Use Permit (Referral #132.1-2019) recommending comments only for the Board's consideration.

In accordance with the provisions contained in Chapter 165, Section 91 of the Farmington Town Code, this application for conducting wedding ceremonies, corporate events, bridal showers and baby showers, between March first and November first each year during the two- (2-) year maximum life of 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 in-



volved in or connected with the proposed use and the size and location of the site in relation to adjacent sites and uses.

**Proof:** The Board finds that the property already has an existing Special Use Permit to allow a Major Home Occupation, a Commercial Outdoor Photography Sessions, on the property granted by the Town of Farmington Planning Board, on June 21, 2017. The Board further finds that there have been no complaints from the public regarding this major home occupation. The Board further finds that adding the requested uses described above herein will be in harmony with the existing major home occupation. The Board further finds that the five-acre site provides sufficient space for the proposed Temporary Uses to be conducted in coordination with the existing Major Home Occupation Uses and will, therefore, not: create an undesirable change in the character of the neighborhood; nor will it be a detriment to nearby properties provided that there be additional conditions of approval established that are intended to minimize any adverse impact upon the neighborhood.

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

**Proof:** The Board finds that the addition of wedding ceremonies, corporate events, bridal showers and baby showers will need to be coordinated with other types of land use currently permitted on the site as part of the Special Use Permit conditions for the Major Home Occupation. The Board further finds that the Temporary Use Permit types of use also have the potential of being scheduled on the same day as the Major Home Occupation types of land uses and, therefore, there the frequency of all events and the maximum number of attendees allowed to be on the site, at any one time, will need to be established. The Board further finds that the maximum number of persons to be allowed on the site, at any one time, shall be based upon the ability of the site to accommodate the separate events in separate on-site facilities, including rest room facilities; and upon the ability of the site to accommodate adequate on-site parking of vehicles that is to be located upon a dust-free surface screened from adjacent properties, in accordance with the provisions of §165-37 of the Town Code.

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

**Proof:** The Board finds that there is a potential that persons may be walking on the site between the event facility location and the on-site parking location that may become subject to safety issues associated with a non-durable surface being provided. The Board further finds that there is a need for site lighting to accommodate those Temporary Use Permit events that are proposed to occur during the dusk hours (or an hour beyond dusk) as proposed and to allow the safe movement of patrons between the event locations and the on-site parking area(s) on the site. The Board further finds that having the amount of land that may have to be disturbed by providing for these amenities may be subject to

compliance with the Town's MS4 Stormwater Regulations set forth in §138 of the Town Code. The Board further finds that dusk hours do not extend to 10:00 p.m. during any of the calendar months identified in the application and, therefore, find that it is not in the best interest of the general welfare to allow these events to end at 10:00 p.m. on Fridays through Sundays. The Board further finds that one public restroom facility is not likely to be adequate for events hosting upwards of 200 persons or more at any one time.

Based upon the above findings, the Zoning Board of Appeals 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.

1. There shall be a maximum of 200 persons on the site at any one time engaged in any of the Special Use Permit (Major Home Occupation) activities, or the Temporary Use Permit activities. The limitation does not apply to services being provided for food, restrooms, or catering services.
2. No event shall be scheduled to end later than thirty (30) minutes past the establish sun set for any given day.
3. No event shall begin on the property before 8:00 a.m. weekdays, or 9:00 a.m. on Saturday or Sunday.
4. No event shall be scheduled on a Federally designated holiday.
5. There shall be separate on-site facilities provided for each event scheduled on the property, except for on-site parking which may be shared.
6. All of the above referenced sections of the Town Code are to be complied with prior to the issuance of a Temporary Use Permit.
7. No Temporary Use Permit shall be issued until Final Site Plan Approval has been granted by the Planning Board. Said Site Plan Approval shall take into account the current Major Home Occupation types of use and related site conditions.
8. There shall be site lighting, associated with the proposed Temporary Use Permits that adequately illuminates the travel pattern between the event facility and the on-site parking lot. Said lighting plan to provide fixtures and illumination patterns that identify that no site lighting is to extend beyond the property boundary line onto adjacent properties, or creates a glare onto the adjacent public highway.

- 9. There shall be a dust free surface for all on-site travel lanes, parking areas and event facilities.
- 10. There shall be adequate landscaping around the on-site parking area to adequately buffer this area of the site from adjacent properties.
- 11. There shall be no loud noise used with any of the proposed events, such as fireworks or music, that would extend the noise level beyond the property boundary line.
- 12. The Temporary Use Permit shall be in effect for a period of two years ending on November 1, 2021.
- 13. The Temporary Use Permit is not transferrable to another property owner.
- 14. Any commercial speech signage shall be subject to sign site plan approval by the Planning Board.
- 15. There shall be no off-site parking of vehicles along Bowerman Road used in conjunction with the requested Temporary Use Permit.

**NOW, THEREFORE, BE IT RESOLVED** that the Board in making this Determination has satisfied the procedural requirements in the Town of Farmington Town Code.

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

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.

Mr. DeLucia asked Mr. Best if he understood the resolution and agreed with the conditions. Mr. Best said that he understood the resolution and agreed with the conditions.

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

Jill Attardi	Aye
Timothy DeLucia	No
Jeremy Marshall	No
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried 3–2.

**9. PUBLIC COMMENTS—OPEN FORUM DISCUSSION**

There were no additional public comments or questions this evening.

**10. DIRECTOR OF DEVELOPMENT UPDATE**

Mr. Brand reported that the main segment of the Auburn Trail officially opened with a ribbon-cutting ceremony on July 13, 2019. He said that the contractor is now working on a secondary segment that will link the main segment to Canandaigua–Farmington Town Line Road. He said that the contractor is committed to the completion of this segment by August 2, 2019.

Ms. Purdy asked about the length of the trail. Mr. Brand said that the total length of this extension to the Auburn Trail will be approximately three miles. He also said that concrete sidewalks will link portions of the Auburn Meadows Subdivision to the trail segment that runs adjacent to the subdivision. These sidewalks were a condition of subdivision approval required by the Planning Board.

Mr. Brand said that the Town has received a number of compliments about the trail from residents and that about 30 people were walking and biking on the trail on the morning of the ribbon-cutting ceremony. He said that he looks forward to the approval and design of the next segment from Canandaigua–Farmington Town Line Road through the Town of Canandaigua to Outhouse Park, eventually connecting with the Ontario Pathways Trail in the City of Canandaigua.

Regarding the proposed Delaware River Solar project, Mr. Brand said that the Planning Board requested and received a geotechnical study on the Smith Farm at the corner of Yellow Mills Road and Fox Road. The study of the site's soils was made to determine the depth of bedrock and groundwater conditions. Mr. Brand said that this study would usually have been made as part of the site plan approval process but that the Planning Board requested this study at the State Environmental Quality Review (SEQR) stage to address concerns of residents.

**11. CODE ENFORCEMENT OFFICER/ZONING OFFICER UPDATE**

Mr. Delpriore said that the Planning Board may act on the SEQR declaration on the Delaware River Solar project at its next meeting on August 7, 2019. If so, and if the declaration is "Negative," then the four Area Variance applications would be on the agenda for consideration by the Zoning Board of Appeals on August 26, 2019. Mr. Delpriore said that there also may be another application on the agenda that evening.

**12. NEXT MEETING DATE**

The next regular meeting of the Zoning Board of Appeals will be held on Monday, August 26, 2019, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

**13. ADJOURNMENT**

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

Motion carried by voice vote.

The meeting was adjourned at 8:15 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