

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, June 22, 2020, 7:00 p.m.

MINUTES—APPROVED

The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Farmington Zoning Board of Appeals. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions. An audio recording of the meeting is made in accordance with the Zoning Board of Appeals adopted Rules of Procedure. The audio recording is retained for four months.

The Zoning Board of Appeals meeting this evening was held in compliance with New York State Governor Andrew M. Cuomo’s Executive Order No. 202.1: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency, dated March 12, 2020, subsection as follows:

Suspension of law allowing the attendance of meetings telephonically or other similar service:

Article 7 of the Public Officers Law, to the extent necessary to permit an public body to meet and take such actions authorized by the law without permitting in public in-person access to meetings and authorizing such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

The meeting was conducted via telephone conference audio format.

The Public Notice of the format of the meeting, the agenda, the draft resolutions, the dial-in telephone number and the conference call identification number were posted upon the Town website and upon the Town Hall entrance doors on Thursday, June 18, 2020.

This meeting was conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 24, 2020, with the following revisions per the above reference to the Governor’s Executive Order:

- All applications will be introduced by the Zoning of Appeals Chairperson.

- The Zoning Board of Appeals Chairperson will ask for comments from the Town staff.
- The Zoning Board of Appeals Chairperson will ask for comments from the Planning Board.
- The applicant(s) will provide responses where needed at the direction of the Zoning Board of Appeals Chairperson.
- The Zoning Board of Appeals members will vote upon the application(s).
- Public comments will be received by the Zoning Board of Appeals Chairperson only during the Public Comment agenda item.
- The meeting will be recorded and later fully transcribed by the Clerk of the Board.

Board Members Present: Jeremy Marshall, *Chairperson*
via Telephone Conference: Jill Attardi
 Aaron Sweeney
 Thomas Yourch
 One vacant position

Staff Present via Telephone Conference:
 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

Others Present via Telephone Conference:
 Several unidentified listeners

1. MEETING OPENING

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

Mr. Marshall said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 23, 2020, as amended above.

2. APPROVAL OF MINUTES OF APRIL 27, 2020

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

Motion carried by voice vote.

3. PUBLIC NOTICE

The Zoning Board of Appeals meeting that was to have been held on Monday, May 18, 2020, was cancelled. The cancellation public notice was posted on the calendar on the Town website and was published in the Canandaigua *Daily Messenger* newspaper on May 13, 2020.

The board is still following the New York State Governor’s Executive Orders and does not have the ability to have in-person Public Hearings at this time. Given that, the board must begin preparation for resuming in-person Public Hearings. The setting of dates for four continued Public Hearings is on the board’s agenda this evening.

4. ADMINISTRATIVE ACTIONS

■ A motion was made by MR. YOURCH , seconded by MR. SWEENEY, that the readings of the following four resolutions be waived.

Motion carried by voice vote. The readings of the following four resolution were waived.

**A. ZB #0201-20 Joyce Pimm Temporary Use Permit
501 Hook Road
Farmington, N.Y. 14425**

The Public Hearing on this application was opened on February 24, 2020, and continued to March 23, 2020. The meeting on March 23, 2020, was cancelled due to the coronavirus (COVID-19) pandemic.

On April 27, 2020, the Zoning Board continued the Public Hearing to an unspecified date and time to coincide with a revised Executive Order from the New York State Governor regarding the return to public assembly and the return to the provisions in the original State Open Meetings Law.

■ A motion was made by MR. SWEENEY, seconded by MS. ATTARDI, that the following resolution be approved as submitted by the Town staff:

TOWN OF FARMINGTON ZONING BOARD OF APPEALS RESOLUTION

**JOYCE PIMM, 501 HOOK ROAD
RECALL RESOLUTION DATED APRIL 27, 2020, FOR CONTINUING THE PUBLIC HEARING ON A TEMPORARY USE PERMIT; TO CONTINUE THE PUBLIC HEARING TO JULY 27, 2020; AND PROVIDING FOR PUBLIC NOTICE THEREOF**

ZB #0201-20

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

ACTION: Temporary Use Permit to keep chickens on the property that are being used as emotional support animals for residents of the property

WHEREAS, the Zoning Board of Appeals (hereinafter referred to as Board) had previously made publicly known, as evidenced in the approved meeting minutes of the April 27, 2020, Board meeting, that the Public Hearing upon the proposed Temporary Use Permit application referenced above (and hereinafter referred to as Action) was to have been continued to an unspecified future date; and

WHEREAS, since the April 27, 2020, board meeting, the Town Attorney, in consultation with the NYS Committee on Open Government, has advised that there remains uncertainty in the Executive Orders issued by the Governor's Office relative to the procedures required for conducting public hearings during the current coronavirus (COVID-19) Pandemic; and

WHEREAS, the Board further understands that the State Governor has issued Executive Orders No. 202.27 and No. 202.28, dated June 8, 2020; and

WHEREAS, there have not been issued by the Governor's Office any Executive Orders that specify how the temporarily amended provisions of the State's Open Meetings Law apply to other provisions in the various sections of New York State Town Law; and

WHEREAS, the Town's Attorney has issued caution for the various town boards conducting Public Hearings during the Pandemic Period, without more information being provided from the State of New York, when such Public Hearings are not necessary to the essential functions of the Town or to further an essential service.

NOW, THEREFORE, BE IT RESOLVED that the Board, based upon the lack of information contained in these two most recent Executive Orders, will not be conducting any Public Hearings until after July 6, 2020, pending a subsequent directive made by Executive Order No. 202.

BE IT FURTHER RESOLVED that the Board does hereby move to recall the above referenced April 27, 2020, Zoning Board of Appeals resolution.

BE IT FURTHER RESOLVED that the Board does hereby move to continue the Public Hearing upon the above referenced Action to Monday, July 27, 2020, to coincide with a revised Executive Order from the Governor's Office regarding the return to public assembly and the return to the provisions contained in the original State Open Meetings Law.

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

ACTION: Area Variance to erect a 39½-square-foot freestanding commercial speech sign with 11½ square feet of it being electronic changeable copy commercial speech with moving/motion messages

WHEREAS, the Zoning Board of Appeals (hereinafter referred to as Board) had previously made publicly known, as evidenced in the approved meeting minutes of the April 27, 2020, Board meeting, that the Public Hearing upon the proposed Area Variance application referenced above (and hereinafter referred to as Action) was to have been continued to an unspecified future date; and

WHEREAS, since the April 27, 2020, board meeting, the Town Attorney, in consultation with the NYS Committee on Open Government, has advised that there remains uncertainty in the Executive Orders issued by the Governor's Office relative to the procedures required for conducting public hearings during the current coronavirus (COVID-19) Pandemic; and

WHEREAS, the Board further understands that the State Governor has issued Executive Orders No. 202.27 and No. 202.28, dated June 8, 2020; and

WHEREAS, the Planning Board will not be conducting any Public Hearings until after July 6, 2020, pending a subsequent directive made by Executive Order No. 202; and

WHEREAS, there has not been issued by the Governor's Office any Executive Orders that specify how the temporarily amended provisions of the State's Open Meetings Law apply to other provisions in the various sections of New York State Town Law; and

WHEREAS, the Town's Attorney has issued caution for the various town boards conducting Public Hearings during the Pandemic Period, without more information being provided from the State of New York, when such Public Hearings are not necessary to the essential functions of the Town or to further an essential service.

NOW, THEREFORE, BE IT RESOLVED that the Board, based upon the lack of information contained in these two most recent Executive Orders, will not be conducting any Public Hearings until after July 6, 2020, pending a subsequent directive made by Executive Order No. 202.

BE IT FURTHER RESOLVED that the Board does hereby move to recall the above referenced April 27, 2020, Zoning Board of Appeals resolution.

BE IT FURTHER RESOLVED that the Board does hereby move to continue the Public Hearing upon the above referenced Action to Monday, July 27, 2020, to coincide with a revised Executive Order from the Governor’s Office regarding the return to public assembly and the return to the provisions contained in the original State Open Meetings Law.

BE IT FURTHER RESOLVED that the Clerk of the Board is hereby directed to provide a Legal Notice for this continued Public Hearing which is to be published in the Town’s Official Newspaper, posted upon the Bulletin Board in the Town Hall and posted upon the Town’s Official Website www.townoffarmington-ny.com, all in accordance with the provisions contained in New York State Town Law, Article 16.

BE IT FINALLY FURTHER RESOLVED that the Board does hereby instruct the Clerk of the Board to provide by U.S. Mailing, a certified copy of this resolution to the applicant.

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

Motion carried.

C.	ZB #0302-20	Mark DiMartino, D.D.S. 1375 Hathaway Drive Farmington, N.Y. 14425	Area Variance
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The Public Hearing on this application was opened on February 24, 2020, and continued to March 23, 2020. The meeting on March 23, 2020, was cancelled due to the coronavirus (COVID-19) pandemic.

On April 27, 2020, the Zoning Board continued the Public Hearing to an unspecified date and time to coincide with a revised Executive Order from the New York State Governor regarding the return to public assembly and the return to the provisions in the original State Open Meetings Law.

■ A motion was made by MS. ATTARDI, seconded by MR. SWEENEY, that the following resolution be approved as submitted by the Town staff:

**TOWN OF FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
MARK DIMARTINO, D.D.S., 1375 HATHAWAY DRIVE**

RECALL RESOLUTION DATED APRIL 27, 2020, FOR CONTINUING THE PUBLIC

HEARING ON AN AREA VARIANCE; TO CONTINUE THE PUBLIC HEARING TO JULY 27, 2020; AND PROVIDING FOR PUBLIC NOTICE THEREOF

ZB #0302-20

APPLICANT: Mark DiMartino, D.D.S., 1375 Hathaway Drive,
Farmington, N.Y. 14425

ACTION: Area Variance to erect an additional 72-square-foot building-mounted sign on the south side façade of the building.

WHEREAS, the Zoning Board of Appeals (hereinafter referred to as Board) had previously made publicly known, as evidenced in the approved meeting minutes of the April 27, 2020, Board meeting, that the Public Hearing upon the proposed Area Variance application referenced above (and hereinafter referred to as Action) was to have been continued to an unspecified future date; and

WHEREAS, since the April 27, 2020, board meeting, the Town Attorney, in consultation with the NYS Committee on Open Government, has advised that there remains uncertainty in the Executive Orders issued by the Governor's Office relative to the procedures required for conducting public hearings during the current coronavirus (COVID-19) Pandemic; and

WHEREAS, the Board further understands that the State Governor has issued Executive Orders No. 202.27 and No. 202.28, dated June 8, 2020; and

WHEREAS, the Planning Board will not be conducting any Public Hearings until after July 6, 2020, pending a subsequent directive made by Executive Order No. 202; and

WHEREAS, there has not been issued by the Governor's Office any Executive Orders that specify how the temporarily amended provisions of the State's Open Meetings Law apply to other provisions in the various sections of New York State Town Law; and

WHEREAS, the Town's Attorney has issued caution for the various town boards conducting Public Hearings during the Pandemic Period, without more information being provided from the State of New York, when such Public Hearings are not necessary to the essential functions of the Town or to further an essential service.

NOW, THEREFORE, BE IT RESOLVED that the Board, based upon the lack of information contained in these two most recent Executive Orders, will not be conducting any Public Hearings until after July 6, 2020, pending a subsequent directive made by Executive Order No. 202.

BE IT RESOLVED that the Board does hereby move to recall the above referenced April 27, 2020, Zoning Board of Appeals resolution.

BE IT FURTHER RESOLVED that the Board does hereby move to continue the Public Hearing upon the above referenced Action to Monday, July 27, 2020, to coincide with a revised Executive Order from the Governor’s Office regarding the return to public assembly and the return to the provisions contained in the original State Open Meetings Law.

BE IT FURTHER RESOLVED that the Clerk of the Board is hereby directed to provide a Legal Notice for this continued Public Hearing which is to be published in the Town’s Official Newspaper, posted upon the Bulletin Board in the Town Hall and posted upon the Town’s Official Website www.townoffarmington-ny.com, all in accordance with the provisions contained in New York State Town Law, Article 16.

BE IT FINALLY FURTHER RESOLVED that the Board does hereby instruct the Clerk of the Board to provide by U.S. Mailing, a certified copy of this resolution to the applicant.

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

Motion carried.

D.	ZB #0303-20	Mark DiMartino, D.D.S. 1375 Hathaway Drive Farmington, N.Y. 14425	Area Variance
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On April 27, 2020, the Zoning Board continued the Public Hearing to an unspecified date and time to coincide with a revised Executive Order from the New York State Governor regarding the return to public assembly and the return to the provisions in the original State Open Meetings Law.

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

**TOWN OF FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
 MARK DIMARTINO, D.D.S., 1375 HATHAWAY DRIVE
 RECALL RESOLUTION DATED APRIL 27, 2020, FOR CONTINUING THE PUBLIC
 HEARING ON AN AREA VARIANCE; TO CONTINUE THE PUBLIC HEARING TO
 JULY 27, 2020; AND PROVIDING FOR PUBLIC NOTICE THEREOF**

ZB #0303-20

**APPLICANT: Mark DiMartino, D.D.S., 1375 Hathaway Drive,
 Farmington, N.Y. 14425**

**ACTION: Area Variance to erect an additional 72-square-foot
 building-mounted sign on the south side façade of the
 building.**

WHEREAS, the Zoning Board of Appeals (hereinafter referred to as Board) had previously made publicly known, as evidenced in the approved meeting minutes of the April 27, 2020, Board meeting, that the Public Hearing upon the proposed Area Variance application referenced above (and hereinafter referred to as Action) was to have been continued to an unspecified future date; and

WHEREAS, since the April 27, 2020, board meeting, the Town Attorney, in consultation with the NYS Committee on Open Government, has advised that there remains uncertainty in the Executive Orders issued by the Governor's Office relative to the procedures required for conducting public hearings during the current coronavirus (COVID-19) Pandemic; and

WHEREAS, the Board further understands that the State Governor has issued Executive Orders No. 202.27 and No. 202.28, dated June 8, 2020; and

WHEREAS, the Planning Board will not be conducting any Public Hearings until after July 6, 2020, pending a subsequent directive made by Executive Order No. 202; and

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BE IT FINALLY FURTHER RESOLVED that the Board does hereby instruct the Clerk of the Board to provide by U.S. Mailing, a certified copy of this resolution to the applicant.

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

Motion carried.

5. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

Mr. Marshall asked if anyone participating in the telephone meeting wished to speak to the board or to make comments. There were no requests.

6. DIRECTOR OF DEVELOPMENT UPDATE

Mr. Brand discussed the following topics:

- The Project Review Committee received two new applications at the June meeting.

The first is the LeFrois project, currently known as GLN Farmington Realty Property, which is proposed for a parcel of land on the south side of State Route 96, east of the Farmington Market Center (Tops plaza), and west of the State Route 332/State Route 96 intersection. The applicant proposes 32,750 square feet of general business use in three (3) one-story buildings fronting along the south side of State Route 96, and seven (7) one-story buildings (placeholders only at this time, depending upon the needs of tenants) with approximately 183,000 square feet of office/flex space. The concept plan provides 36 percent open space (excluding the stormwater management area) and 41 percent open space (including the stormwater management area—11.1 acres of the 27.18-acre site). The actual layout of the site will be based upon tenant demand. Final site plans will be submitted to the Planning Board for each building as tenants are acquired. Mr. Brand said that the applicant is expected to submit an application to the Zoning Board of Appeals for an Area Variance for the front setback along State Route 96 to comply with the State Route 96 Corridor Street Scape initiative.

The second new project is the Union Crossing Development (Blackwood Industrial Park Distribution Center) of two (2) distribution center/warehouses each approximately 208,000 square feet in size on 33.6 acres in the Blackwood Industrial Park Subdivision at the northeast corner of County Road 41 and County Road 8. Mr. Brand said that approximately 100 loading docks may be proposed and that no variance applications to the Zoning Board of Appeals are anticipated at this time.

(See Farmington Project Review Committee minutes, June 5, 2020, for details on these two new projects.)

- The New York State Department of Transportation (NYSDOT) will make the final walk-through inspection of the Auburn Trail on June 30, 2020. This will close out the Auburn Trail construction project. A flashing pedestrian warning signal has been proposed at the Auburn Trail crossing of County Road 41. This is awaiting acceptance by the NYSDOT. If approved, the cost of this signal will deplete the Federal funding that was provided for the Auburn Trail project.
- Mr. Brand and Code Enforcement Officer Dan Delpriore are working on amendments to the Town Code. These will be presented to the Town Codes Committee this fall for review.
- Mr. Brand extended appreciation to Mr. Delpriore for his recent efforts to prepare a detailed analysis of the COVID-19 pandemic requirements for the opening of the Farmington summer recreation program while concurrently working with businesses and organizations in the Town on safe operations techniques. Mr. Brand said that Farmington will be one of the few municipalities in the area to offer a summer recreation program this year, albeit reduced in the number of participants to maintain compliance with the State's social-distancing guidelines.

- Members of the Zoning Board of Appeals were reminded that their Association of Towns Legal Education Training Books are available in the Town Hall mailroom for those who have not yet picked up their copies. Completion of this training is worth two (2) hours of training toward board members' annual training requirements.

7. ZONING OFFICER UPDATE

Mr. Weidenborner reported that a complaint has been received regarding the general lack of maintenance at the Hook Road property for which a Temporary Use Permit remains under consideration by the Zoning Board of Appeals (ZB #0201-20). He said that he will provide further information to the board prior to the consideration of this application at the meeting to be held on July 27, 2020.

8. BOARD MEMBERS' COMMENTS

Ms. Attardi asked if the board workshop sessions that had been proposed prior to the COVID-19 pandemic will be held when the board resumes in-person meetings. Mr. Marshall said yes.

Mr. Marshall said that the vacancy upon the Zoning Board of Appeals has not yet been filled by the Town Board and that he has received inquiries from several residents who may be interested in serving. He advised that anyone interested in the position should submit a letter of interest to Supervisor Ingalsbe.

Mr. Sweeney asked about the involvement of the New York State Department of Transportation (NYSDOT) in the flashing pedestrian warning light that has been proposed on County Road 41 at the crossing of the Auburn Trail. Mr. Brand said that the Trail received funding from the Federal Highway Administration and that expenditures must be approved by the NYSDOT.

9. TRAINING OPPORTUNITIES

General Code e-Code

Daily drop-in lunchtime training Q&A sessions plus webinars in several categories.

Information:

<https://www.generalcode.com/training/>

New York Planning Federation

Wednesday, June 24, 2020

Webinar from 12:15 p.m. to 1:30 p.m.

Understanding and Applying the State Environmental Quality Review Act

Speaker: Donald Young, Esq.

Information: bsamel@nypf.org

Future Training Opportunities Online:

Ontario County Planning Department website now lists upcoming training:
<https://www.co.ontario.ny.us/192/Training>

10. NEXT WORKSHOP SESSION AND MEETING DATE

The next regular meeting of the Zoning Board of Appeals may be held (if needed) on Monday, July 27, 2020, at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8 (or via remote audio conference, format to be determined). A workshop session may be scheduled one hour prior to the meeting.

11. ADJOURNMENT

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

Motion carried by voice vote.

The meeting was adjourned at 7:20 p.m.

Respectfully submitted,

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