

**TOWN OF FARMINGTON  
ZONING BOARD OF APPEALS MEETING MINUTES**

**Approved MINUTES**

The following minutes are a written summary of the main points that were made and the actions taken at the Town of Farmington Zoning Board of Appeals meeting held on March 16, 2015.

**Zoning Board of Appeals Members**

Ann Vu	Chair	Excused
Wesley Pettee		Present
Cyril Opett		Present
Tim DeLucia		Present

**Town Staff Members**

Floyd Kofahl	Code Enforcement Officer
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**Also Present**

Karl Essler	Bond, Schoeneck, & King
Carl Hewing	Parrone Engineering
Tom Horton	Ultrafab
Adrian Bellis	Gannett Rd Farmington

**Open Meeting**

Wesley Pettee called the meeting to order at 7:00 pm. He explained the emergency evacuation procedures and rules of procedures of the meeting.

**Approval of Minutes**

Timothy DeLucia made a motion to accept the February 23, 2015 meeting minutes and Cyril Opett seconded the motion. A voice vote was taken and the motion was passed with three (3) Ayes.

**BOARD BUSINESS:**

Wesley Pettee stated that the Legal Notices were published in the town's official newspaper the Daily Messenger on Monday, March 9, 2015 for tonight's Public Hearings. Copies of the legal notices and tonight's agenda are on the sign-in table. He asked everyone in attendance to please sign-in.

**NEW BUSINESS:**

**ZB 0301-15                      JDC Property Group                      Area Variance**

Applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 61 of the Farmington Town Code. The Applicant desires to erect a 9 foot high security fence surrounding the side and rear portions of the site; and a 17 foot high security gate to be erected in the front yard portion of the site. The Town Code allows a fence in the front yard to be a maximum of four (4) feet in height and a maximum height of eight (8) feet in height in the side and rear yards of a lot. The property is located on the north side of Collett Road, approximately 600 feet west of Hook Road and is zoned GI General Industrial District.

**ZB 0302-15                      JDC Property Group                      Area Variance**

Applicant is requesting an area variance to the provisions of Chapter 165, Article V, Chapter 165 -37 of the Farmington Town Code. The Applicant request a reduction in the number of on-site parking spaces required for the proposed development of the site. The Applicant is proposing a total 693 spaces where the Town Code requires a total of 751 spaces. The property is located on the north side of Collett Road, approximately 600 feet west of Hook Road and is zoned GI General Industrial District.

**ZB 0303-15                      JDC Property Group                      Area Variance**

Applicant is requesting an area variance to the provisions of Chapter 165, Article V, Section 64. of the Farmington Town Code. The Applicant desires to erect site light poles at a height of forty-five (45) feet. The Town Code allows site light poles to be a maximum height of thirty (30) feet. The property is located at on the north side of Collett Road, approximately 600 feet west of Hook Road and is zoned GI General Industrial District.

Wesley Pettee declares the three Public Hearings open.

Karl Essler, Bond Schoeneck & King, and Carl Hewing, Parrone Engineering, are both present to speak on behalf of the above three applications. Karl Essler explains that the applicant has proposed the building of a distribution center for FedEx and it will be located on Collett Road not far from Hook Road. He explains that there are three area variances that they are there to discuss. The first variance pertains to an eight foot fence plus one foot for barbed wire around three sides of the site and a higher gate on the fourth side. The second variance pertains to a reduction in parking. He explains that the proposed distribution center is a unique facility that does not employ hundreds and hundreds of employees and because of that they will not need the number of parking spaces that are required by Town Code for the General Industrial District. He adds that the applicant is only requesting a reduction of 65 spaces to total 686 parking spaces. The third variance pertains to an increase in the pole height for lighting. Originally the applicant had requested a substantial number of forty five foot light poles. After

reviewing the plans the applicant is now only requesting two forty five foot light poles with the remainder of light poles being code compliant.

Carl Hewing starts by explaining that the site is approximately twenty seven acres and is currently three parcels with two different ownerships. The developer, JDC Property Group, plans to purchase the three parcels under one ownership. The proposed distribution center will be located about 600 feet west of Collett Road on the north side. He adds that some of the surrounding properties are similar truck related businesses as well as propane company and a storage facility. The proposed distribution center will be 225,000 square feet primarily dedicated to the distribution side of the business with only approximately 3,000 square feet of office space. Located on the south side of the building will be the delivery van parking and on the west and north sides of the building will be the loading dock areas for varies sizes of tractor trailers. In the middle of the parking lot on the north side of the building will be parking for two different size trailers. Located between the parking areas will be space for lighting, security and storm water management. Storm water management facilities will be located on the south side of the building. Mr. Hewing also explains that along with the development of the site another one of the tasks will be to reconstruct about 600 feet of Collett Road by dropping it by seven feet in elevation. He explains that there is currently a pretty significant site distance issue on that road.

Karl Essler then explains that the applicant wishes to construct a fence that will be eight feet in height with an additional one foot for barbed wire which is typical for FedEx. He explains that the proposed distribution center is a very unique facility and different for this area. He adds that the proposed distribution center is not a manufacturing building and it will not have tons of employees but will consist of a lot of truck traffic and a lot of valuable items coming through this site. From FedEx's standpoint security is a major concern and that is why they are requesting the variance on fence height. He adds that FedEx is not the only business in the area that would have an increase in fence height. Mr. Essler also explains that they have included a lot of landscaping in front of the fence to help buffer and screen the fence as much as possible to help minimize seeing the fence. He explains that without the fence variance they do not feel they can accomplish the security request that FedEx feels they need to have. He explains that they do not feel their request for a variance is substantial because they only need to increase the height of the fence by one foot on three sides of the building. The front of the building will need to have a height variance to get them up to seventeen feet for the gate. Mr. Essler then distributes pictures of the proposed gate to the Board Members and they are on file in the Town Clerk's Office. The gate is a power sliding gate with a track on the top however the fence will still remain at the proposed height. The fence will be a very standard fence that will not cause any environmental harm.

Mr. Essler then discusses the reduction in parking spaces. He explains that they are requesting a reduction in parking from 751 spaces to 686 spaces. FedEx has requested a maximum number of 686 parking spaces based on what they would need during their peak season of Christmas. If the variance is not approved, he explains, they will be just putting down more pavement, pavement that they don't need. They would like to reduce

the amount of impermeable space. Mr. Essler assures the Board that the number of parking spaces that are requested are the most that the distribution center will ever need and if they needed more parking FedEx would have asked for it. They feel that the variance requested is not a substantial request and will have a positive impact on the environment due to the increase of impermeable space.

Carl Hewing then discusses the applicant's request for a variance on the height of two light poles. He explains that the original plan showed numerous forty five foot light poles located on the proposed site. After submitting the original plan they did more research and decided that the proposed distribution center will only require two forty five foot poles in the rear portion of the lot. Mr. Hewing then showed various lighting plans to the Board members explaining how they reduced the number of forty five foot poles to only two poles. Mr. Essler adds that they do not feel that the two poles will have any undesirable change to the neighborhood. He adds that the request for the two forty five foot high light poles will help to increase the safety and security of the lot and feels that their request is not substantial.

Floyd Kofahl adds that all of the light fixtures meet the dark sky requirements.

Wesley Pettee then asks for questions or comments from the public. Hearing no response he then asks for comments or questions from the Board.

Timothy DeLucia comments that the way our resolutions read that there are conditions and those conditions allow for the final site plan approval from the Town Planning Board and that addresses all the changes that were discussed and is in compliance with what the Zoning Board of Appeals needs.

Wesley Pettee then asks if there is an updated lighting plan that will highlight the two forty five foot light poles requested.

Mr. Hewing explains that they reduced the height of most of the light poles back to thirty feet but added additional thirty foot light poles to allow them to obtain the coverage needed.

Mr. Pettee questions the intensity of the lighting in the area of the forty five foot light poles.

Mr. Hewing explains that it is above one foot candle but does not exceed two.

Mr. Pettee then expresses concerns about the lighting being seen by the new subdivision on the corner of Hook and Collett Roads.

Mr. Essler explains that the forty five foot light poles will not cast light over the building.

Mr. Pettee then asks what the finished elevation of the parking lot surface is compared to the residential neighborhood.

Mr. Essler says it will still slope down across Collett Road.

Mr. Kofahl adds that the hill is not being reduced enough there will still be a knoll there. He adds that he initially had concerns with the variance for the light poles. He was concerned with glare lighting for passing motorists. He adds that with the reduction and only having the two forty five foot poles in the rear portion of the lot he no longer has any issues. He explains that all the lighting fixtures meet code and now everything has been resolved with the reduction in the number of forty five foot poles requested.

Mr. Kofahl adds that as far as the fence variance goes the propane facility across the street was granted a fence variance because of the frontage on Denny Drive and also the mini storage facility and the lumberyard all received variances for fences. They were all consistent variances for the same reasons that were brought forth by this applicant. This has been an issue in our code for Commercial Districts for a longtime. It is a use that Ron and he have on the list to change when the Town Board allows them to address those issues. He adds that the code allows for an eight foot fence all around and only four foot fence in the front, which isn't very logical. He explains that they are proposing to change the code with eight foot all around but the fact of the matter here is that FedEx is requiring an eight foot fence with one foot of wire on the top. He explains that the gate is a non-concern and the structural elements are not a concern. He explains that there is no issue with the parking especially with Leonard's Express right next door. The State Code actually only requires 548 parking spots for this type of use. The parking code is also something they are looking to revise in the Town Code. Mr. Kofahl adds that with the lighting change he has no issue with these applications.

Mr. Pettee then asks Mr. Kofahl where the Planning Board stood on their review and with SEQR.

Mr. Kofahl explains that the Planning Board has not done a review. They have put out SEQR on this and will be doing SEQR at the March 18, 2015 Planning Board Meeting. They have had discussions about the project. He explains that the Planning Board likes the project and are looking at the overall impact of the site work and how that impacts SEQR not the fencing and the lighting. They are aware of the Town Code for parking and the Planning Board has been in agreement and support of the variance to address State Code verses Town Code.

Mr. Essler asks if the Planning Board is going to be lead agency and will be doing a coordinated review.

Mr. Kofahl says that is correct. They have done a coordinated SEQR Review and they have gotten comments back from virtually all the interested parties and most of the involved parties. He states that MRB had worked very closely with the applicant on the drainage concerns and the impact on that as well as the erosion concern.

Wesley Pettee then asks if he anticipates that the Planning Board will issue a determination of non-significance on Wednesday night.

Mr. Kofahl says that's his expectation.

Mr. Pettee says he is not here to object to the project or to stand in the way. He explains that he questioned the Board Members about SEQR. He explains that at the last Zoning Board of Appeals meeting the Board provided their consent to the Planning Board to be lead agency. He explains that his understanding is that the Planning Board being lead agency that they would make their determination of significance at some point and the Zoning Board would not be allowed to act on the variances until the Planning Board made their determination of significance.

Mr. Essler adds that he believes that the Zoning Board of Appeals has the authority to condition their approval of granting a negative declaration by the Planning Board.

Mr. Pettee adds that the staff has provided the Board an opinion that the Board can make their own determination of significance on variances. Mr. Pettee explains that is not what he is used to and would like to express his reservation with going forward that way. However he is willing to move things forward because he feels that the variances that they are seeking are not substantial. He then asks how the other Board members would like to proceed. He explains that the Board can use the Resolutions as prepared by Ron Brand or the Zoning Board can condition the variances upon the Planning Board's negative declaration.

Cyril Opett expresses that he would like to move forward as things have been prepared.

Mr. Pettee explains that his understanding of SEQR is that when you have a coordinated review the lead agency determines significance or non-significance.

Mr. Kofahl adds that as the applicant has stated that it is fully within the power of the Zoning Board of Appeals to add that one condition to all three resolutions and will save confusion with potential interpretations down the line having two SEQR determinations.

Mr. Pettee explains that he does like the suggested approach and if staff is comfortable with the change he would like to move forward.

Mr. DeLucia asks if that would create four conditions for the variances.

Mr. Pettee says yes.

Mr. DeLucia says that makes sense to him.

Wesley Pettee then asks for any further questions or comments from the Board, staff or the public for the applicant.

With no response Wesley Pettee makes a motion to close the public hearing and it is seconded by Timothy DeLucia. A voice vote was taken and the motion was passed with three (3) Ayes.

**Area Variance and Findings                      ZB 0301-15                      JDC Property Group**

After discussion of the factors to be considered the Board felt that there would not be an undesirable change of the neighborhood or detriment to nearby properties, that the benefit sought cannot be achieved by a feasible alternative, that the requested variance is not substantial, the affected variance would not have an impact upon physical or environmental conditions in the neighborhood, and the alleged difficulty was self-created.

After discussing the variance, the Board took formal action to accept the Area Variance Findings and made a Decision to approve with the following conditions:

1. The Planning Board issues a negative declaration of environmental significance with regards to the State Environmental Quality Review Act.
2. The applicant is required to obtain Final Site Plan Approval from the Town Planning Board which provides for the requested site security fence and security gates around the secure portion of the proposed site.
3. The Final Site Plan drawing is to contain a note identifying all of the variances that have been approved by the Zoning Board of Appeals, to include the File Numbers and date of approvals.
4. Any change in the Final Site Plan which affects the two height variances approved by this application will require a separate application to the Zoning Board of Appeals.

The applicant agrees to all the above conditions.

Timothy DeLucia then made a motion to approve the application and was seconded by Cyril Opett. The following roll call vote was recorded:

Tim DeLucia	Aye
Wesley Pettee	Aye
Cyril Opett	Aye
Ann Vu	Excused

**Area Variance and Findings                      ZB 0302-15                      JDC Property Group**

After discussion of the factors to be considered the Board felt that there would not be an undesirable change of the neighborhood or detriment to nearby properties, that the benefit

sought cannot be achieved by a feasible alternative, that the requested variance is not substantial, the affected variance would not have an impact upon physical or environmental conditions in the neighborhood, and the alleged difficulty was self-created.

After discussing the variance, the Board took formal action to accept the Area Variance Findings and made a Decision to approve with the following conditions:

1. The Planning Board issues a negative declaration of environmental significance with regards to the State Environmental Quality Review Act.
2. The applicant is required to obtain Final Site Plan Approval from the Town Planning Board which provides for the requested 686 on-site parking spaces.
3. The Final Site Plan drawing is to contain a note identifying all of the variances that have been approved by the Zoning Board of Appeals, to include the File Numbers and date of approvals.
4. Any change in the Final Site Plan which further reduces the total number of on-site parking spaces approved by this application will require a separate application to the Zoning Board of Appeals.

The applicant agrees to all the above conditions.

Timothy DeLucia then made a motion to approve the application and was seconded by Cyril Opett. The following roll call vote was recorded:

Tim DeLucia	Aye
Wesley Pettee	Aye
Cyril Opett	Aye
Ann Vu	Excused

**Area Variance and Findings                      ZB 0303-15                      JDC Property Group**

After discussion of the factors to be considered the Board felt that there would not be an undesirable change of the neighborhood or detriment to nearby properties, that the benefit sought cannot be achieved by a feasible alternative, that the requested variance is not substantial, the affected variance would not have an impact upon physical or environmental conditions in the neighborhood, and the alleged difficulty was self-created.

After discussing the variance, the Board took formal action to accept the Area Variance Findings and made a Decision to approve with the following conditions:

1. The Planning Board issues a negative declaration of environmental significance with regards to the State Environmental Quality Review Act.

2. The applicant is required to obtain Final Site Plan Approval from the Town Planning Board which provides for the requested height of the site’s lighting fixtures.
3. The Final Site Plan drawing is to contain a note identifying all of the variances that have been approved by the Zoning Board of Appeals, to include the File Numbers and date of approvals.
4. Any change in the Final Site Plan which affects the height variance approved by this application will require a separate application to the Zoning Board of Appeals.

The applicant agrees to all the above conditions.

Timothy DeLucia then made a motion to approve the application and was seconded by Cyril Opett. The following roll call vote was recorded:

Tim DeLucia	Aye
Wesley Pettee	Aye
Cyril Opett	Aye
Ann Vu	Excused

**Public Comments – open forum**

None

**Other Board Matters:**

None

**Code Enforcement Update:**

Burger King is moving forward. A used car lot has submitted an application to go in where Denny’s used to be on State Route 332. The Town Board approved rezoning for Simmons Rockwell across from the Race Track, they also approved incentive zoning for Monarch Manor at the corner of Townline and New Michigan Roads, and they approved incentive zoning for Redfield Grove on Commercial Drive off of Route 96. The first footer has been put in for the model home at Hickory Rise. TCS site work has started.

**Next Meeting:**

The next Zoning Board of Appeals meeting will be held on March 23, 2014. A motion was made to adjourn the meeting at 8:20 pm and was passed with a voice vote of three (3) Ayes.

Minutes were respectfully submitted by Sarah Mitchell, Clerk of the Board.