

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

ZB #0201-20

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

ACTION: Temporary Use Permit in accordance with Town Code Chapter 165, Article VII, Section 91 to keep chickens on a nonfarm residential premise that is less than five acres in size.

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.

The above resolution was offered by NAME and seconded by NAME at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, July 27, 2020. Following discussion, the following roll call vote was recorded:

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

Motion result.

I, John M. Robortella, Clerk of the Board, do hereby attest to the accuracy of the above resolution being act upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the July 27, 2020, meeting.

_____ L. S.
John M. Robortella, Clerk of the Board

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

APPLICANTS: JOYCE PIMM
501 Hook Road
Farmington, NY 14425

File: ZB #0201-20
Zoning District: RR-80 Rural Residential
Published Legal Notice on: July 19, 2020
County Planning Action on: N/A
County Referral #: N/A
Public Hearing held: February 24, 2020 &
July 27, 2020

Property Location: 501 Hook Rd, Farmington, NY 14425

Applicable Sections of Town Code: Chapter 165, Article IV, Section 18. B. (1) and Chapter 165, Article V, Section 55.

Requirement for Which Variance is Requested: The applicant wishes to obtain a Temporary Use Permit, to keep chickens on her property that are being used as emotional support animals for residents of the property. The Town Code does not allow the keeping of poultry on residential property with less than five (5) acres. The town code also requires land devoted to the housing of poultry shall not be closer than 100 feet to all lot lines other than other front lot lines

State Environmental Quality Review Determination: A Temporary Use Permit is requested to allow for the continued housing of chickens that are being used as emotional support animals for the occupants of the residence. The Board, under separate resolution, has classified this application 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 the State Environmental Conservation Law, article 8.

County Planning Referral Recommendation: N/A Exempt Action by Ontario County Planning Board Bylaws.

In accordance with the criteria contained in Chapter 165, Article VII, Section 91 of the Farmington Town Code, this application is for a two (2) year maximum life of a 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 91 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 Board finds that the property is a residential lot, located in a predominantly low-density rural residential area of the Town, fronting along a Town highway and is not being farmed. The Board further finds the site has a total Lot Area of 0.6185 acres. The Board further finds that there is one adjacent horse farm operation occurring on a larger sized lot which contains a total of 35.283 acres of land.

The Board further finds that the Code requires applicants seeking approval to allow the proposed use, the keeping of animals, are to have a minimum lot size of five (5) acres of land regardless of the number or size of the animals. The Board further finds that the nature of the proposed use, 4 chickens used as emotional support animals, is generally consistent with the purposes and intent of the Rural Residential District. The Board further finds that the size of the parcel of land and the location of the structure housing the chickens on the property will not have an adverse effect upon the character of the neighborhood that cannot be controlled through the Temporary Use Permit process.

The Board further finds that the intent of Section 165-55 of the Town Code, entitled the Housing of Animals, is to control the open space needs for animals larger in size than chickens and which are housed upon parcels of land adequately sized to avoid over-crowded site conditions for the animals. The Board further finds that, in this instance where the only identified need is for emotional support animals for the residents of the property, there is not an indefinite period of time necessary which would otherwise result from the granting of an area variance. The Board further finds that the granting of an area variance would allow the applicant and future owners of this land to house a specific number of emotional support animals indefinitely; and that granting such an area variance would run with the land and not the landowner having special needs (emotional support).

The Board further finds that there is a need to amend this Section of the Town Code, to allow for smaller sized domestic animals, including chickens, to be housed on smaller sized residential lots than five (5) acres minimum in size. Determining what lot size would best meet the needs of a diversity of animal sizes is a part of the Town's on-going review of Chapter 165 of the Town Code. Therefore, the Board determines that it is in the best interests of the Town to monitor the use of this land over the next two year period and at the end of the period identify the special use permit criteria that needs to be established to regulate small sized animals on smaller sized lots throughout the municipality.

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

Proof: The Board finds this property is located in a predominantly rural residential area of the town. It is also been determined that with one exception this neighborhood does have other customary farm buildings which provide housing for larger sized animals than the ones involved with this application. The Board further finds that the subject chickens can be confined (fenced within) to the boundaries of the subject parcel; and, that chickens are not generators of large (or loud) noises unless there is a rooster present. In this instance no rooster is being requested. Therefore, the Board determines that the temporary use of the property for chickens as support animals for the residents of the property will not depreciate the value of adjacent properties.

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

Proof: The Board finds that the keeping of the requested limited number of chickens (a total of 4 chickens and no rooster) on the property will not create a hazard to health, safety or general welfare of the neighborhood, provided the animal waste is handled in an appropriate manner as contained in the conditions of approval below in this resolution.

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.

Conditions:

1. The Temporary Use allows for up to four (4) chickens at any one time on the property during the period identified below in Condition No. 10 below herein; and said chickens are allowed to remain on the property only for the purpose to address the identified emotional support needs of the residents of the property.
2. If at any time during the Temporary Use Permit period identified below herein the individuals requiring the emotional support animals no longer reside at this residence then this Temporary Use Permit shall be deemed void and all structures used in housing said chickens along with any other structures in support of the open space needs of the chickens on the property is to be removed within 30 days of the Code Enforcement Officer's determination.

3. No additional support chickens may be allowed on the property without first having medical documentation of need and an evaluation of the special open space needs of the animal(s) to be accommodated upon the property.
4. No Roosters may be kept on the property.
5. The Chickens shall be housed in a structure to be approved by both the Zoning Officer and the Town Code Enforcement Officer. At no time shall the chickens be allowed to “free range” or wonder around the property outside of the approved housing area, or wander onto adjacent properties.
6. At no time shall the chickens be kept in such a manner as to create a nuisance to or become an annoyance to surrounding property owners.
7. At no time shall there be open quantities of or containers of chicken manure or other odor- or dust-producing materials on the property that exceed the weekly pick-up of refuse for the property owner.
8. Per Town Code 165-91, E the Temporary Use permit shall be subject to site plan approval by the Planning Board. If Final Site Plan Approval is not obtained within 90 days of this Conditional Approval of the Temporary Use Permit, it shall be made null and void. At such time all chickens must be removed from the property.
9. There shall be adequate landscaping installed and maintained on the side and rear lot lines to adequately buffer the chicken coup and the open area associated with the chickens from the adjacent properties.
10. The Temporary Use Permit shall be in effect for a period of two (2) years commencing on the date of Final Site Plan Approval by the Town Planning Board, unless the need for the emotional support animals shall cease to exist. At the end of such period, the applicant may apply for continuation of said Temporary Use for an additional period of time up-to five (5) years.
11. The Temporary Use Permit is not transferrable to another property owner.

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 FURTHER RESOLVED that upon the expiration of the requested Temporary Use Permit, the temporary use shall immediately cease and all equipment, supplies and chickens relating to this permit shall be removed from the site and the site shall be returned to a condition acceptable to the Town Zoning Officer and the Town Code Enforcement Officer.

BE IT FINALLY RESOLVED that a copy of this resolution be provided to the Applicant, a copy provided to the Planning Board and a copy filed in the property file in the Town Development Office.

The above Resolution was offered by NAME and seconded by NAME at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, July 27, 2020. Following discussion, the following roll call vote was recorded:

Jill Attardi	Vote
Jeremy Marshall	Vote
Thomas Yourch	Vote
Aaron Sweeney	Vote

Motion result.

I, John M. Robortella, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the July 27, 2020, meeting.

_____ L.S.
John M. Robortella
Clerk of the Board

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

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

ZB #0202-20

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

**ACTION: Area Variance in accordance with Town Code Chapter 165, Article V,
Section 45 to erect an 11½-square-foot freestanding commercial
speech sign with moving/motion message signage.**

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.

The above resolution was offered by NAME and seconded by NAME at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, July 27, 2020. Following discussion, the following roll call vote was recorded:

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

Motion result.

I, John M. Robortella, Clerk of the Board, do hereby attest to the accuracy of the above resolution being act upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the July 27, 2020, meeting.

John M. Robortella, Clerk of the Board

L. S.

**TOWN OF FARMINGTON ZONING BOARD OF APPEALS
RESOLUTION OVERRIDING ONTARIO COUNTY PLANNING BOARD REFERRAL #23-2020
RECOMMENDATION OF DENIAL FOR THE COBBLESTONE ARTS CENTER
CHANGEABLE COPY SIGN, 1622 STATE ROUTE 332**

ZB #0202-20

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has reviewed the Public Hearing record upon the above referenced application for an Area Variance to add an 11½-square-foot electronic Changeable Copy commercial speech sign to the existing freestanding commercial speech sign, to identify the various events scheduled at the “Cobblestone Arts Center,” located at 1622 State Route 332; and

WHEREAS, the Board has also reviewed the Ontario County Planning Board Referral #23-2020 (hereinafter referred to as County Referral) that recommends denial of the requested area variance; and

WHEREAS, the Board has determined that the County’s recommendation is classified as an AR2 Administrative Review Class 2; and

WHEREAS, the County Referral finds: (1) The proposed sign is on land along a corridor identified by the County Planning Board as being a primary travel corridor for tourists visiting Ontario County; and

WHEREAS, the County Referral finds: (2) Protection of Community character along these corridors is an issue of countywide importance; and

WHEREAS, the County Referral finds: (3) Local legislators have standards for signage that allows for business identification sufficient to safely direct customers onto the specified site.; and

WHEREAS, the County Referral finds: (4) It is the position of the County Planning Board that the proposed signage is excessive; and

WHEREAS, the County Referral finds: (5) Excessive signage has a negative impact on community character; and

WHEREAS, the Board understands that to override the County’s recommendation of denial, it must be by at least a majority plus one vote of its entire membership.

NOW, THEREFORE, BE IT RESOLVED THAT: (1) the Board finds that tourists visiting Ontario County need commercial speech signage that adequately identifies a service to our tourists, and that the proposed commercial speech sign will provide this safety feature. The Board finds that the proposed freestanding commercial speech sign has been determined by the Board to provide announcements scheduled events at the facility to motorists traveling in both directions along the heavily traveled New York State Route 332, thereby providing improved stopping time and stopping distance for travelers seeking the services that are located upon the subject site.

BE IT FURTHER RESOLVED THAT: (2) the Board agrees with this finding which in this instance also serves in part as the basis for this override. The Board finds that the community character is enhanced with modern, up-to-date signage that adequately identifies the sites and services being offered along this primary travel corridor.

BE IT FURTHER RESOLVED THAT: (3) the Board finds in this instance the proposed Area Variance will enable the applicant the opportunity to overcome a practical difficulty that being the frequent changes to an otherwise manual Changeable Copy Sign that the Board finds will be improved with the proposed area variance for the frequent event signage which in turn will enable our residents and tourists to be safely directed onto the specified site.

BE IT FURTHER RESOLVED THAT: (4) the Board, having reviewed the record on this application, finds that the proposed signage meets the Town Code requirements involving sign size and setback location. The Board also finds that the addition of the LED commercial speech sign for identifying scheduled events at the “Cobblestone Arts Center,” does not compromise the line of sight for motorists to any adjacent freestanding commercial speech sign.

BE IT FURTHER RESOLVED THAT: (5) the Board finds that the proposed sign size is compliant with the Town Code requirement and, therefore, is not excessive signage. The Board further finds that the sign’s design and message will not unnecessarily detract the attention of motorists traveling along the highway; and, therefore, finds that granting this area variance will be consistent with the Board’s policy of maintaining the safety of the travelling public along this primary travel corridor identified by the County.

BE IT FURTHER RESOLVED THAT: (6) the Board also finds that in addition to this request not being excessive, the proposed sign will have a positive impact upon the character of this commercial corridor of the community by contributing to improved driver safety.

BE IT FURTHER RESOLVED THAT: The Board finds that it is in the best interests of the community and the traveling public to grant the requested Area Variance that will enhance the identification of this regional facility located upon the subject property along the primary traveled State Route 332.

BE IT FURTHER RESOLVED THAT The Board, based upon these findings, concludes the County Referral fails to provide any pertinent inter-community or countywide zoning considerations as required under the provisions of the New York State General Municipal Law, and, therefore, the Board does hereby take this action to override the County Planning Board’s Administrative Review Referral (23-2020) Recommendation of Denial for ZB File #0202-20.

BE IT FINALLY RESOLVED that the Board directs the Clerk of the Board to file a copy of this resolution, within 30 days from tonight, with the Ontario County Planning Board in the manner provided for by the provisions of Sections 239-l and 239-m of the New York State General Municipal Law.

The above resolution was offered by NAME and seconded by NAME at a meeting of the Town of Farmington Zoning Board of Appeals held on Monday, July 27, 2020. After discussion, the following roll call vote was taken and recorded in the minutes of the Board:

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

Motion result.

I, John M. Robortella, Clerk of the Board, do hereby attest to the accuracy of the above resolution and to it being acted upon at a meeting held on Monday, July 27, 2020.

John M. Robortella, Clerk of the Board

L.S.

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

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

File: ZB #0202-20
Zoning District: GB General Business
Published Legal Notice on: July 19, 2020
County Planning Action on: February 12, 2020
County Referral #: 23-2020
Public Hearing held on: February 24, 2020, and
July 27, 2020

Property Location: 1622 State Route 332, Farmington, New York 14425

Applicable Section of Town Code: Chapter 165, Article V, Section 45

Requirement for Which Variances are Requested: The applicant wishes to erect a 39 ½ square-foot freestanding commercial speech sign with 11½ square-foot of it being an electronic changeable copy commercial speech. This portion of the above describe sign is defined as a Moving Sign, a sign which moves or simulates motion. Moving Signs, except for time-and-temperature signs, are prohibited by Section 165, Article V, Section 45. A. of the Town Code.

State Environmental Quality Review Determination: The granting of an Area Variance to 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 the New York State Environmental Conservation Law, article 8.

County Planning Referral Recommendation: The Ontario County Planning Board (hereinafter referred to as County Board) has reviewed Referral #23-2020 at their meeting on February 12, 2020. The County Board’s final recommendation is denial.

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 No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds the character of this area is predominantly commercial sites fronting along both sides of New York State Route 332. The Board further finds that there are a number of sites located along the Route 332 Corridor that have electronic changeable copy commercial speech signs. The Board further finds that these other sites provide fast food, gasoline/convenient type facilities, an antique mall, religious services

and self-storage warehouse services. The Board further finds that the proposed sign will not have flashing lights, animated or moving parts such as messages being scrolled across the sign face.

The Board, based upon these findings, determines that the proposed area variance to allow an electronic Changeable Copy Commercial Speech Sign will not produce an undesirable change in the character of the neighborhood or will not become 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 No

Reasons: The Board finds that the proposed sign will be more aesthetically pleasing than the existing temporary sign the applicant is using. The board further finds that having the applicant purchase separate temporary signs for identifying all events would create an undue financial hardship and would likely not be as readily identifiable to on-coming motorists. The board further finds the proposed sign will continue to function as a site identification sign providing improved visibility to motorists, both local residents and tourists, along the heavily traveled New York State Route 332. The Board further finds that signage, such the proposed sign, that serves to alert motorists traveling along the high speed four lane highway of business locations contributes to the safe exiting of motorists from along the highway which, in turn, is a benefit to the public. The Board determines that while there may be feasible alternatives to the requested variance, such as numerous temporary promotional event signs, such alternatives would not be as beneficial to the traveling public and would not be feasible to the more permanent sign associated with the granting of the requested area variance.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the proposed size of the requested commercial speech sign will be 39½ square feet in total sign area. The Board further finds that the maximum size sign allowed by Town Code is 64 square feet in total sign area. The Board, therefore, finds that the requested sign size does not involve a variance to the sign size allowed in the Town Code. However, the Board further finds that the granting of the requested area variance to allow a Moving Sign involves the granting of an area variance of one hundred percent (100%) as Moving Signs are not permitted by the Town Code. The Board has consistently found that a requested area variance involving an increase is non-conformity of more than fifty percent (50%) 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 617.7 of the SEQRA 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 in the

ECL as not having 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 the applicant could maintain the existing sign that conforms to the requirements of the Town Code; and that alleged difficulty associated with the proposed sign is a self-created hardship.

**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(s) to the neighborhood, or community and, therefore, the requested area variance is approved with the following conditions:

1. The applicant is to continue following the Expansion Final Site Plan approval process and requirements for the sign that were granted by the Town Planning Board, on 05/07/2003, which is to be based in part by the conditions set forth below herein; and
2. The applicant is to follow the landscaping plan around the base of the sign that was approved as part of the Expansion Final Site Plan on 05/07/2003; and
3. The lighting intensity of the proposed electronic Changeable Copy Sign is to comply with the Town Lighting Standards contained in Chapter 165 of the Town Code; and
4. The proposed electronic Changeable Copy Sign is to operate on a timer and is to remain off during dark night-time periods when there are no pending events on the site; and
5. The proposed electronic Changeable Copy Sign is not to have any animated, flashing or moving parts such as messages being scrolled across the sign face; and
6. The applicant is to install the Public Safety Signage for this site, adjacent to the site's driveway entrance off from New York State Route 332 in accordance with the provisions contained in: Chapter 165, Article V, Section 41. A. (11) of the Town Code; and Appendix G-9.0, Public Safety Sign Detail, a part of the adopted Town of Farmington Site Design and Development Criteria.

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

BE IT FURTHER RESOLVED that the Board directs a copy of this Resolution be sent to the Ontario County Planning Board in accordance with the provisions set forth in Sections 239 –l and –m of the New York State General Municipal Law.

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.

The above resolution was offered by NAME and seconded by NAME at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, July 27, 2020. Following discussion, the following roll call vote was recorded:

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

Motion result.

I, John M. Robortella, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the July 27, 2020, Meeting.

John M. Robortella
Clerk of the Zoning Board of Appeals

L.S.

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

ZB #0302-20

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

**ACTION: Area Variance in accordance with Town Code Chapter 165, Article V,
Section 43B.1(a) to erect second, an additional, seventy-two (72)
square foot building mounted sign on the south side façade of the
building.**

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.

The above resolution was offered by NAME and seconded by NAME at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, July 27, 2020. Following discussion, the following roll call vote was recorded:

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

Motion result.

I, John M. Robortella, Clerk of the Board, do hereby attest to the accuracy of the above resolution being act upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the July 27, 2020, meeting.

John M. Robortella, Clerk of the Board

L. S.

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

APPLICANT: Mark DiMartino
1375 Hathaway Dr
Farmington, N.Y. 14425

File: ZB #0302-20
Zoning District: GB General Business
Published Legal Notice on: July 19, 2020
County Planning Action on: March 11, 2020
County Referral #: 33-2020
Public Hearing held on: July 27, 2020

Property Location: 1375 Hathaway Drive, Farmington, New York 14425

Applicable Section of Town Code: Chapter 165, Article V, Section 43

Requirement for Which Variances are Requested: The applicant wishes to erect a second, an additional, building mounted commercial speech sign to be placed upon the south side of the building located at the above referenced address. The second commercial speech sign will have a total sign area of 71.79 Square Feet. Town code states “No more than one identification sign shall be erected on a building. Said sign shall face a public way.” And this Section also states “The total square footage for a building-mounted identification sign shall be a maximum of 48 square feet; or, one square foot of area for each linear foot of building frontage, plus 0.25 square feet of sign area for each foot said sign is set back from the public right-of-way.”

State Environmental Quality Review Determination: The granting of an Area Variance to 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 the New York State Environmental Conservation Law, article 8.

County Planning Referral Recommendation: The Ontario County Planning Board (hereinafter referred to as County Board) has reviewed Referral #33-2020 at their meeting on March 11, 2020. The County Board’s final recommendation is denial.

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 No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds the neighboring properties are zoned GB (general business), IZ (incentive zoned residential) and PD (planned development). The majority of these properties are being used as residential. The Board further finds that the proposed additional sign would set an undesirable precedent for all other commercial

structures that border along New York State Route 332 highway with and without direct highway access.

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

Reasons: The Board finds that there are other feasible alternatives available to the applicant for advertising their business that do not require the granting of an area variance. The Board finds that, in this instance, the applicant can install a monument sign that would be allowed by town code and achieve the same desired effect of gaining visibility by motorists from along Hathaway Drive, as would otherwise be achieved by the granting of a second building mounted sign.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds the requested area variance to be a substantial variance request. The Board further finds that the Town Code uniformly restricts the number of commercial speech signs allowed upon a property. The Code allows one (1) building mounted commercial speech sign and one (1) freestanding commercial speech sign. The applicant is requesting a second additional building mounted sign to be placed on the south façade of the building. The Board further finds that the area variance being requested by the applicant is a variance involving a one hundred percent (100%) increase from what is otherwise allowed by Code. The Board has consistently found that an area variance in excess of fifty percent (50%) of what is allowed by Town Code to be a substantial variance request.

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 617.7 of the SEQR 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 the alleged difficulty is self-created due to the applicant's choice of seeking additional signage that is not allowed, instead of using signage that is allow by the Town Code that could achieve the same results.

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

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

The Board based upon its review of the record on this application finds that the benefit to the applicant does not outweigh the detriment to the community or neighborhood; and, therefore, the requested area variance to erect a second additional building mounted commercial speech sign is **DENIED**

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

BE IT FURTHER RESOLVED that the Board directs a copy of this Resolution be sent to the Ontario County Planning Board in accordance with the provisions set forth in Sections 239 –l and –m of the New York State General Municipal Law.

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.

The above resolution was offered by NAME and seconded by NAME at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, July 27, 2020. Following discussion, the following roll call vote was recorded:

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

Motion result.

I, John M. Robortella, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the July 27, 2020, Meeting.

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

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

ZB #0303-20

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

**ACTION: Area Variance in accordance with Town Code Chapter 165, Article V,
Section 43B.1(a) to erect third, an additional, seventy-two (72) square
foot building mounted sign on the north side façade of the building.**

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.

The above resolution was offered by NAME and seconded by NAME at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, July 27, 2020. Following discussion, the following roll call vote was recorded:

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

Motion result.

I, John M. Robortella, Clerk of the Board, do hereby attest to the accuracy of the above resolution being act upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the July 27, 2020, meeting.

John M. Robortella, Clerk of the Board

L. S.

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

APPLICANT: Mark DiMartino
1375 Hathaway Dr
Farmington, N.Y. 14425

File: ZB #0303-20
Zoning District: GB General Business
Published Legal Notice on: July 19, 2020
County Planning Action on: March 11, 2020
County Referral #: 33-2020
Public Hearing held on: July 27, 2020

Property Location: 1375 Hathaway Drive, Farmington, New York 14425

Applicable Section of Town Code: Chapter 165, Article V, Section 43

Requirement for Which Variances are Requested: The applicant wishes to erect a third, an additional, building mounted commercial speech sign to be placed upon the north side of the building located at the above referenced address. The third commercial speech sign will have a total sign area of 71.79 Square Feet. Town code states “No more than one identification sign shall be erected on a building. Said sign shall face a public way.” And this Section also states “The total square footage for a building-mounted identification sign shall be a maximum of 48 square feet; or, one square foot of area for each linear foot of building frontage, plus 0.25 square feet of sign area for each foot said sign is set back from the public right-of-way.”

State Environmental Quality Review Determination: The granting of an Area Variance to 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 the New York State Environmental Conservation Law, Article 8.

County Planning Referral Recommendation: The Ontario County Planning Board (hereinafter referred to as County Board) has reviewed Referral #33-2020 at their meeting on March 11, 2020. The County Board’s final recommendation is denial.

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 No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds the neighboring properties are zoned GB (general business), IZ (incentive zoned residential) and PD (planned development). The majority of these properties are being used as residential. The Board further finds that the proposed additional sign would set an undesirable precedent for all other commercial

structures that border along New York State Route 332 highway with and without direct highway access.

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

Reasons: The Board finds that there are other feasible alternatives available to the applicant for advertising their business that do not require the granting of an area variance. The Board finds that, in this instance, the applicant can install a monument sign that would be allowed by town code and achieve the same desired effect of gaining visibility by motorists from along Hathaway Drive, as would otherwise be achieved by the granting of a second building mounted sign.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds the requested area variance to be a substantial variance request. The Board further finds that the Town Code uniformly restricts the number of commercial speech signs allowed upon a property. The Code allows one (1) building mounted commercial speech sign and one (1) freestanding commercial speech sign. The applicant is requesting a second additional building mounted sign to be placed on the south façade of the building. The Board further finds that the area variance being requested by the applicant is a variance involving a one hundred percent (100%) increase from what is otherwise allowed by Code. The Board has consistently found that an area variance in excess of fifty percent (50%) of what is allowed by Town Code to be a substantial variance request.

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 617.7 of the SEQR 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 the alleged difficulty is self-created due to the applicant's choice of seeking additional signage that is not allowed, instead of using signage that is allow by the Town Code that could achieve the same results.

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

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

The Board based upon its review of the record on this application finds that the benefit to the applicant does not outweigh the detriment to the community or neighborhood; and, therefore, the requested area variance to erect a third additional building mounted commercial speech sign is **DENIED**

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

BE IT FURTHER RESOLVED that the Board directs a copy of this Resolution be sent to the Ontario County Planning Board in accordance with the provisions set forth in Sections 239 –l and –m of the New York State General Municipal Law.

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.

The above resolution was offered by NAME and seconded by NAME at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, July 27, 2020. Following discussion, the following roll call vote was recorded:

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

Motion result.

I, John M. Robortella, Clerk of the Board, do hereby attest to the accuracy of the above Resolution being acted upon and recorded in the minutes of the Farmington Zoning Board of Appeals for the July 27, 2020, Meeting.

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