

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS
Tuesday, May 30, 2017, 7:00 p.m.

MINUTES—APPROVED

The following minutes are written as a summary of the main points that were made and the actions taken at the Town of Farmington Zoning Board of Appeals meeting.

Board Members Present: Timothy DeLucia, *Chairperson*
Jeremy Marshall
Cyril Opett
Nancy Purdy
Thomas Yourch

Staff Present:
Don Giroux, Town of Farmington Highway Superintendent
Jamie Kincaid, Town of Farmington Code Enforcement Officer

Applicants Present:
Lorene Benson, Executive Director, Cobblestone Arts Center, 1622 State Route 332,
Farmington, N.Y. 14425
Michael Best, 6165 Brownsville Road, Farmington, N.Y. 14425
Robert Nersinger, Lamar Outdoor Advertising, 55 Rockwood Street, Rochester, N.Y. 14610
Michael Greene, Lamar Outdoor Advertising, 55 Rockwood Street, Rochester, N.Y. 14610
Jim Newton, Lamar Outdoor Advertising, 55 Rockwood Street, Rochester, N.Y. 14610
Barbara Flora, Cobblestone Arts Center, 1622 State Route 332, Farmington, NY 14425

Residents Present:
Juliet Wrench
Emily Marshall
Jennifer Williamson

1. MEETING OPENING

The meeting was called to order at 7:00 p.m. After the Pledge of Allegiance was recited, Mr. DeLucia introduced the Zoning Board of Appeals members and staff, explained the emergency evacuation procedures, and noted that copies of the evening’s agenda were available at the door.

Mr. DeLucia said that the meeting would be conducted according to the Rules of Procedure approved by the Zoning Board of Appeals on February 29, 2017.

Mr. DeLucia announced the resignation of James Russell from the Zoning Board of Appeals (ZBA) and welcomed Jeremy Marshall to the board. Mr. Marshall was appointed to the ZBA by the Town Board on May 23, 2017, for a term from May 23, 2017, to December 31, 2019.

Mr. DeLucia also announced that Nancy Purdy has been appointed Acting Chairperson of the ZBA.

2. **APPROVAL OF MINUTES OF APRIL 18, 2017**

■ A motion was made by Cyril Opett, seconded by Thomas Yourch, that the minutes of the April 18, 2017, meeting be approved with Jeremy Marshall abstaining.

Motion carried by voice vote.

3. **LEGAL NOTICE**

Mr. DeLucia attested that the following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper (the Town's official newspaper) on Sunday, May 21, 2017, that it was posted upon the Town of Farmington website (www.townofarmington-ny.com), and that it was posted upon the Town Clerk's bulletin board in the foyer of the Town Hall:

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by and before the Zoning Board of Appeals of the Town of Farmington at 1023 Hook Road, Farmington, N.Y., on the 30th day of May, 2017 commencing at 7:00 p.m. to consider the following application:

ZB #0501-17: MICHAEL BEST, 6165 BROWNSVILLE ROAD, FARMINGTON, N.Y. 14425: Request an Area Variance to Article VI, Chapter 165-72 B. 6. to the Town of Farmington Codes. The applicant wishes an Area Variance to conduct a portion of the Major Home Occupation outside the primary residence or building. The property is located at 6165 Brownsville Road and zoned RR-80 District.

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

Tim DeLucia, Chairperson
Zoning Board of Appeals, Town of Farmington

4. CONTINUED BUSINESS (CONTINUED PUBLIC HEARINGS)

ZB #0401-17 Lamar Outdoor Advertising Area Variance
55 Rockwood Street
Rochester, N.Y. 14610

The applicant is requesting an area variance to Article V, Chapter 165-43 B (c) of the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot free-standing commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center, which is located at 1622 State Route 332. The Town Code allows a maximum size for a freestanding commercial speech sign to have 64 square feet in area. The property is zoned GB General Business District.

ZB 0402-17 Lamar Outdoor Advertising Area Variance
55 Rockwood Street
Rochester, N.Y. 14610

The applicant is requesting an area variance to Article V, Chapter 165-45 A (2) of the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot free-standing commercial speech sign with moving/motion signage to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center, which is located at 1622 State Route 332. The Town Code prohibits moving/motion signage. The property is zoned GB General Business District.

ZB 0403-17 Lamar Outdoor Advertising Area Variance
55 Rockwood Street
Rochester, N.Y. 14610

The applicant is requesting an area variance to Article V, Chapter 165-41 of the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot freestanding commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center, which is located at 1622 State Route 332. The Town Code restricts changeable-copy commercial speech signs to a maximum of 20 square feet in area. The property is zoned GB General Business District.

ZB 0404-17 Lamar Outdoor Advertising Area Variance
55 Rockwood Street
Rochester, N.Y. 14610

The applicant is requesting an area variance to Article V, Chapter 165-45 A (3) of the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot free-standing commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center, which is located at 1622 State Route 332. The variance request is to allow for the advertising for businesses that are not lo-

cated on the premises. The Town Code restricts pertinent commercial speech advertising for only a bona fide business that is conducted in or on the premises. The property is zoned GB General Business District.

ZB 0408-17**Lamar Outdoor Advertising****Area Variance**

The applicant is requesting an area variance to Article V, Chapter 165-43 B (2) (a) of the Town of Farmington Codes. The applicant wishes to erect a 225.75-square-foot, 23 feet high freestanding commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center, which is located at 1622 State Route 332. The Town Code restricts all ground signs to a height of not more than 15 feet above ground. The property is zoned GB General Business District.

Mr. DeLucia recused himself from participating in the discussions and deliberations on the applications submitted by Lamar Outdoor Advertising (ZB #0401-17, ZB #0402-17, ZB #0403-17, ZB #0404-17 and ZB #0408-18) citing an indirect relationship with the Cobblestone Arts Center, on whose behalf the applications have been submitted.

Mr. DeLucia then left the meeting room. Nancy Purdy assumed the duties of chairperson.

Nancy Purdy concurrently reconvened the Public Hearings on these applications that had been continued from the meeting on April 18, 2017.

Mr. Newton, General Manager of Lamar Advertising, presented these applications. Ms. Benson, Mr. Netsinger, Mr. Greene also attended.

Mr. Newton explains that they are present to obtain a variance for a digital billboard. He then gave a slide show presentation about Lamar Advertising and on how digital billboards work. Lamar Advertising has been around since 1902 and has been featured on Forbes List of the Top 100 of America's Most Trustworthy Companies. Billboards are their strength and main focus of the company. About 85% of the Outdoor Advertising is local business and bumps up to about 90% in a more rural market. They are here tonight to ask for a billboard to be placed at 1622 New York State Route 332 located in the General Business District. He explains that Lamar Advertising is regulated by the New York State Department of Transportation (NYSDOT) and have to meet criteria based on size and spacing of the billboards. Prior to applying for the variance, they received preliminary approval from NYSDOT and if the variance is approved by the Town of Farmington Zoning Board of Appeals they will then seek final approval from NYSDOT. The billboard will be located on the west side of State Route 332 heading south. The billboard will be twelve feet in high/low ground, the top of the billboard will be twenty-three feet, the face of the billboard will be eleven feet, and the width of the billboard will be twenty one feet six inches. The billboard is placed on a single pole about thirty inches in circumference. The digital billboard will not flash, scroll, no sound, and is not animated. The digital billboard change in intervals of eight seconds is an instantaneous transition. Mr. Newton states that based on Department of Transportation studies as well as third

party studies the rate of accidents do not increase with digital billboards. One of the studies references that a vehicle is more likely to get hit by a deer than have an accident caused by a digital billboard. The billboards are regulated so when its daylight the lights are brighter compared to night time when the lights are dimmer. The brightness is at about 75% during the day and about 7% at night. Lamar Advertising works with the Town of Gates and offers the Town 8 weeks of free advertising with one week intervals and will offer the same to the Town of Farmington if approved. Mr. Newton states that if these variances are approved they will remove their billboard that is located further north. He then explains that application ZB 0401-17 is to allow a commercial speech sign that is 225.75 square feet which is the standard size in the industry. They also take in to consideration zoning, speed of the road and setback when deciding on the size of the billboard. Application ZB 0402-17 is to allow a moving/motion commercial speech sign which, Mr. Newton explains, they do not feel there is any moving or motion on the sign because the change is instantaneous. There will be no moving, scrolling or flashing on the billboard. Application ZB 0403-17 restricts changeable-copy commercial speech signs to a maximum of 20 square feet. The applicant feels that with a setback of forty feet the sign will be unreadable and for safety reasons the sign needs to be big enough to see so motorist passing by spend less time looking at it. Application ZB 0404-17 is restricting pertinent commercial speech advertising for only business conducted in or on the premise. Mr. Newton explains that the billboard will have commercial speech on the sign but part of the advertising will be for the Cobblestone Arts Center, public service messages for the town, and for law enforcement such as Amber Alerts. Application ZB 0408-17 is required because they are requesting that the billboard be placed twenty-three feet about ground with Town Code restricting anything above fifteen feet above ground. They can put the billboard at the restricted fifteen feet height but they feel that is a safety issue at that height and would like to put the billboard in at twenty-three feet above ground.

Lorene Benson explains to the Board that Cobblestone Arts Center has done advertising with Lamar in the past and how impressed she is with how community minded this company is. Ms. Benson explains that she is the grant writer for Cobblestone Arts Center to obtain funding to continue the programs that they offer for the eighty-five students they have currently. Allowing the billboard to be placed at 1622 State Route 332 would be an advantage to them financially. The Cobblestone Arts Center would receive about \$16,000 a year for the two poles for the billboard being put into her property. The billboard will be located on the furthest south end of her property where no future development is planned. She explains to the board that if the variances are denied it will be a financial hardship on the center. She adds that she has approached other local business owners and has received signatures from them in support of the billboard. A copy of the list was not given to the board.

Ms. Purdy then asks how many messages would be placed on the sign at any given time. Mr. Newton says the maximum amount of messages on the billboard is six and with a transition time of eight seconds.

Ms. Purdy then asks who will be advertising on the billboard. Mr. Newton responds that they sell the advertising space.

Ms. Purdy then asks Ms. Benson how many people go to the Cobblestone Arts Center from out of the area. Ms. Benson explains that they currently have eighty-five students from five counties that are bused to the center and then back home.

Ms. Purdy then asks Mr. Newton to provide the board with information regarding other towns that they work with that they could contact as a reference. Mr. Newton says they work with the Town of Gates, the City of Rochester, and NYSDOT for safety records.

Ms. Purdy then asks for any other questions from the board pertaining to this application.

Mr. Marshall asks Mr. Newton how long they have worked with the Town of Gates. Mr. Newton says since 2009.

Mr. Marshall then asks Mr. Newton about the safety studies that he referred to earlier in his presentation saying that the changing billboards do not correlate to an increase in accidents and asks where he received that safety study from. Mr. Newton says that he can e-mail the board a copy of the report for their review.

There were no further comments or questions from Town staff or members of the board.

Ms. Purdy then closed the public hearing.

Ms. Purdy then excused herself for a brief recess and then reconvened the meeting after four minutes.

Ms. Purdy then excused herself again for a brief recess and then reconvened the meeting after two minutes.

5. DELIBERATIONS AND DECISIONS

Nancy Purdy then read aloud the following resolution:

TOWN OF FARMINGTON ZONING BOARD OF APPEALS RESOLUTION

ZB #0401-17

ZB #0402-17

ZB #0403-17

ZB #0404-17

ZB #0408-17

APPLICANT: Lamar Outdoor Advertising, Attention: Bob Nersinger, 55 Rockwood Street, Rochester, N.Y. 14610

ACTIONS: Area Variances for sign installations south of the Cobblestone Performing Arts Center, 1622 State Route 332, Farmington, N.Y. 14425

ZB #0401-17

Area variance to Chapter 165, Article V, Section 43.B. (c) to erect a 225.75 square foot freestanding commercial speech sign.

ZB #0402-17

Area variance to Chapter 165, Article V, Section 45. A. (2) to erect a 225.75 square foot freestanding commercial speech sign with moving/motion messages.

ZB #0403-17

Area variance to Chapter 165, Article V, Section 41 to erect a 225.75 square foot freestanding commercial speech sign that would be larger than the 20 square feet in area allowed by Town Code.

ZB #0404-17

Area variance to Chapter 165, Article V, Section 45. A. (3) to erect a 225.75 square foot freestanding commercial speech sign that would advertise for businesses that are not located on the premises.

ZB #0408-17

Area variance to Chapter 165, Article V, Section 43. B. (2) (a) to erect a 225.72 square foot freestanding commercial speech sign that would be 23 feet high when 15 feet in height is allowed by Town Code.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has conducted a combined public hearing, at tonight’s meeting, upon the above referenced Actions; and

WHEREAS, the Board has received testimony and information for its consideration as the Board deliberates upon the requested area variances; and

WHEREAS, the Board has determined by separate resolutions that the granting of the requested Area Variances are classified as Type II Actions, under the provisions of Part 617 of Article 8 of the New York State Department of Environmental Conservation Law; and

WHEREAS, the Board has reviewed the Ontario County Planning Board’s Referral #47-2017 (hereinafter referred to as County’s Recommendation) which has been provided in compliance with the provisions of Sections 239-l and –m of the New York State General Municipal Law; and

WHEREAS, the Board understands that it may not act contrary to the County’s Recommendation without first setting forth a Board Resolution that finds justification for overriding the County’s Recommendation; and

WHEREAS, the Board, in order to make decisions upon the requested area variances that would be contrary to the County’s Recommendation of denial, must first adopt the above referenced Board Resolution by a majority plus one vote of the entire membership.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby close the public hearing upon these requested area variances to allow time for Board members to review all of the documentation related to these five requested area variances and to publicly continue deliberations and decisions upon the requested area variances at the Tuesday, June 20, 2017 meeting.

■ A motion was made by Jeremy Marshall, seconded by Nancy Purdy, that the preceding resolution be approved.

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

Motion carried.

Mr. DeLucia then returned to the meeting room and resumed his duties as chairperson of the board.

6. NEW PUBLIC HEARING

ZB #0501-17	Michael Best	Area Variance
	6165 Brownsville Road	
	Farmington, N.Y. 14425	

The applicant is requesting an Area Variance to Article VI, Chapter 165-72 B. 6. of the Town of Farmington Codes. The applicant wishes to conduct a portion of a Major Home Occupation outside of the principal dwelling unit or accessory structure located on the subject property. The Town Code requires a Major Home Occupation be carried on within an existing or proposed building on the premises. A Major Home Occupation located within the principal dwelling unit may not exceed 25% of the total gross floor

area, or 500 square feet of the principal dwelling unit. A Major Home Occupation may only be located within an Accessory Structure that is smaller in size than the principal dwelling and may not exceed 50% of the total gross floor area of the principal dwelling. The property is located at 6165 Brownsville Road and is zoned RR-80 Rural Residential District.

Mr. DeLucia declared the Public Hearing open.

Mr. Best presented this application.

He explains that he has been working on his property for about four years adding the landscaping, stonework and what people like to call the “castle.” He adds that he has had plenty of interest from different photographers that would like to take photographs on his property. He says he likes creating things and would like to allow people to share in that through their photographs. There will be no parties, no alcohol, no music just photography.

Mr. DeLucia then asks if anyone else would like to speak on the above application.

Hearing no response, he then asks for questions or comments from the board members.

Mr. Opett asked how many photographers Mr. Best anticipated to allow on his property at one time. Mr. Best says that he will be scheduling them into time spots.

Mr. Best adds that he was told by the Town that he is only allowed to have three parking spots on the property so he does not anticipate more than three at one time. He explains that he has not done any advertising yet for the venue pertaining to photography. He anticipates that it will be used for wedding photos, senior pictures and prom photos etc. All photographs will be taken outside only and mostly on the weekends.

Mr. Kincaid, Code Enforcement Officer, adds that in his opinion he’s not sure that they can enforce the three-parking-space minimum because all of the photography will take place outdoors.

Mr. Best feels that three parking places will be enough however his driveway alone can hold three cars wide and three cars deep.

Mr. Kincaid adds that at this time the board is still waiting on county feedback pertaining to his application.

Mr. DeLucia explains to Mr. Best that he understands his application and it appears that the only technical issue is pertaining to the parking and the board will pursue that and make a judgment on that.

Mr. DeLucia then asks for any further questions or comments for the applicant.

Hearing no response, he then closes the public hearing.

7. DELIBERATIONS AND DECISIONS

Mr. DeLucia then read aloud the following resolution:

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS RESOLUTION—SEQR DETERMINATION**

ZB #0501-17

APPLICANT: Michael Best, 6165 Brownsville Road,
Farmington, New York 14425

ACTION: Area variance to Chapter 165, Article VI, Section 72.B. 6. to
conduct a Major Home Occupation on his property which would
be outside of the principal dwelling unit or an accessory structure.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to
as Board) has received the above referenced Action; and

WHEREAS, the Board has reviewed the Type II Actions List contained in Part 617.5 of
Article 8 of the New York State Environmental Conservation Law (hereinafter referred to
as SEQR Regulations); and

WHEREAS, the Board, prior to making a decision upon the above referenced Action, is
obligated to first determine the classification of the Action.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby find that the
proposed Action involves a minor temporary use of land having negligible or no
permanent impact upon the environment as is defined in Part 617.5 (c) (15) of the SEQR
Regulations.

BE IT FINALLY RESOLVED in accordance with the SEQR Regulations this Action is
not subject to further review having been determined not to have a significant impact
upon the environment.

■ A motion was made by Cyril Opett, seconded by Thomas Yourch, that the preceding
resolution be approved.

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

Motion carried.

Mr. DeLucia then read aloud the following resolution:

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

ZB #0501-17

APPLICANT: Michael Best, 6165 Brownsville Road,
Farmington, New York 14425

ACTION: Area variance to Chapter 165, Article VI, Section 72.B. 6. to
conduct a Major Home Occupation on his property which would
be outside of the principal dwelling unit or an accessory structure.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to
as Board) has conducted a Public Hearing, at tonight’s meeting, upon the above refer-
enced Action; and

WHEREAS, the Board has received testimony and information for its consideration as
the Board deliberates upon the requested area variance; and

WHEREAS, the Board has determined by separate resolution that the granting of the
requested area variance is classified as being a Type II Actions, under the provisions of
Part 617 of Article 8 of the New York State Department of Environmental Conservation
Law; and

WHEREAS, the Board is aware that the Ontario County Planning Board has not taken
action upon this application which is required in compliance with the provisions of
Sections 239-l and -m of the New York State General Municipal Law; and

WHEREAS, the Board understands that it may not act upon this application until the
County’s Referral Recommendation has been received.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby continue the
deliberations upon this application to Tuesday, June 20, 2017, to enable the Ontario
County Planning Board’s referral and recommendation to be acted upon by said County
Board and to be received by the Board and entered into the public record upon this
application.

■ A motion was made by Jeremy Marshall, seconded by Thomas Yourch, that the pre-
ceding resolution be approved.

Timothy DeLucia Aye
Jeremy Marshall Aye

Cyril Opett	Aye
Nancy Purdy	Aye
Thomas Yourch	Aye

Motion carried.

8. PUBLIC COMMENTS—OPEN FORUM

None

9. OTHER BOARD MATTERS

2017 Association of Towns training packet distributed to all the members.

10. CODE ENFORCEMENT OFFICER REPORT

None.

11. NEXT MEETING DATE

The next regular meeting of the Zoning Board of Appeals will be held at 1023 Hook Road, Farmington, N.Y. 14425, on Tuesday, June 20, 2017, at 7:00 p.m.

12. ADJOURNMENT

A motion was made by Cyril Opett, seconded by Thomas Yourch, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 8:04 p.m.

Following the meeting, Town Highway Superintendent Don Giroux secured the building.

Respectfully submitted,

_____ L.S.
 Sarah L. Mitchell
 Acting Clerk of the Zoning Board of Appeals