

TOWN OF FARMINGTON ZONING BOARD OF APPEALS
FILE #ZB 0203-19
RESOLUTION OVER-RIDING COUNTY PLANNING REFERRAL #30-2019
RECOMMENDATION OF DENIAL FOR THE ONTARIO MALL ANTIQUES CHANGEABLE-COPY SIGN – 1740 STATE ROUTE 332.

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has reviewed the public hearing record on the above referenced application for an area variance to replace a manual Changeable-Copy freestanding commercial speech sign with an electronic Changeable-Copy freestanding commercial speech sign, of the same size, to identify “The Ontario Mall Antiques,” on property located at 1740 State Route 332; and

WHEREAS, the Board has also reviewed the Ontario County Planning Board Referral #30-2019 (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. 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; (2) Protection of Community character along these corridors is an issue of countywide importance. The Board agrees with this finding which serves in part as the basis for this over-ride. The Board finds that the community character is enhanced with modern, up-to-date signage that adequately identifies the sites and services being offered; (3) Local legislators have standards for signage that allows for business identification sufficient to safely direct customers onto the specified site. The Board finds in this instance that the proposed area variance will enable the applicant the opportunity to over-come a practical difficulty preventing improved signage which in turn will enable our residents and tourists to be safely directed onto the specified site; (4) It is the position of the County Planning Board that the proposed signage is excessive. The Board, having reviewed the record on this application finds that the proposed signage involves a variance of ten percent (10%) and has determined by the Board in this request such a variance is deemed not to be excessive; and (5) Excessive signage has a negative impact on community character. The Board finds that in addition to this request not being excessive, the sign will have a positive impact upon the character of this commercial corridor of the community. The Board, based upon these findings, concludes the referral fails to provide any pertinent inter-community or county-wide zoning considerations as required under the provisions of the New York State General Municipal Law; and

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

NOW, THEREFORE, BE IT DETERMINED BY the Board that it is in the best interests of the community and the traveling public to grant the requested area variance so as to enhance the identification of this regional facility located upon the subject property along the heavily traveled State Route 332.

BE IT FURTHER RESOLVED that the Board does hereby take action to override the County Planning Board's Administrative Review Referral (30-2019) Recommendation of Denial on ZB File # 0203-19 for the following reasons:

1. The freestanding commercial speech sign has been determined by the Board to provide enhanced announcement 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.
2. The Board finds that the replacement of the freestanding commercial speech sign for "Ontario Antiques Mal," does not compromise the line of sight for motorists to any adjacent freestanding commercial speech sign.
3. The Board finds that such sign is not excessive, it is indeed a replacement in-kind and that its' design and message will not unnecessarily detract the attention of motorists traveling along the highway; and, therefore, feels that the granting of 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 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 the New York State General Municipal Law.

The above resolution was offered by _____ and seconded by _____
_____ at a meeting of the Town of Farmington Zoning Board of Appeals held on Monday, February 25, 2019. After discussion, the following roll call vote was taken and recorded in the minutes of the Board:

Thomas Yourch	-
Jeremy Marshall	-
Nancy Purdy	-
Cyril Opett	-
Timothy DiLucia	-

I, John 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, February 25, 2019.

John Robortella, Clerk of the Board

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

ZB #0203-19

APPLICANT: **Matthew Guche, Ontario Mall Antiques, 1740 State Route 332,
Farmington, N.Y. 14425**

ACTION: **Area Variance to Chapter 165, Article V, Section 41 A 2 and 6, to
erect a changeable copy commercial speech sign at 1740 State Route
332.**

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

WHEREAS, the Board finds the Action is identified in Section 617.5 (c) (2), (9) and (18) as being a Type II Action in that it involves: (2) replacement of a structure, in kind, on the same site; (9) construction of an accessory structure (a commercial speech sign) involving less than 4,000 square feet in area; and (18) reuse of a commercial structure (the commercial speech sign) where the commercial use (Antique Mall) is a permitted use under existing zoning law.

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, February 25, 2019. Following discussion, the following roll call vote was recorded:

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

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 February 25, 2019, meeting.

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

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

APPLICANT: **Matthew Guche** File: **ZB #0203-19**
Ontario Mall Antiques Zoning District: **General Business District**
1740 State Route 332 Published Legal Notice on: **February 17, 2019**
Farmington, N.Y. 14425 County Planning Action on: **February 13, 2019**
County Referral #: **30-2019**
Public Hearing held on: **February 25, 2019**

Property Location: **1740 State Route 332, Farmington, N.Y. 14425**

Applicable Section of Town Code: **Chapter 165, Article V, Chapter 165-41 A 2 and 6**

Requirement for Which Variance is Requested: **The applicant wishes to replace a freestanding commercial speech sign, that has a manual changeable copy message identified as a Copy-Change Sign, with a freestanding commercial speech Copy-Change Sign that would have an electronic Copy-Changeable Sign message and which would be larger in sign area than allowed by the Town Code.**

State Environmental Quality Review Determination: **The granting of an Area Variance to replace an existing sign is in this instance classified as a Type II Action under Part 617.5 (c) (2), (9) and (18) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Act not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under the provisions of article 8 of the New York State Environmental Conservation Law.**

County Planning Referral Recommendation: **This Action was reviewed by the Ontario County Planning Board, at their meeting on February 13, 2019; and was assigned Referral No. 30-2019. The Board determined this request to be a Class AR2 (Administrative Review) which resulted in a recommendation of 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 recently converted their changeable copy type message signs from manual to electronic copy commercial speech signs. The Board further finds that these other sites provide fast food, gasoline/convenient type facilities and self-storage warehouse services. The Board further finds that the existing freestanding commercial speech sign has a manual form of messaging which the applicant is requesting be replaced with an electronic form of messaging. The Board further finds that the existing sign is defined as a Copy-Change Sign as defined in Chapter 165, Article II, Section 10 of the Town Code. The Board further finds that the proposed sign is defined as a Copy-Change Sign. The Board further finds that the proposed sign is also defined as an Illuminated Sign. The Board also finds that the proposed sign is not a Representational Sign as defined in the above referenced section of the Town Code. 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 a manual Copy-Change Sign to be replaced with an electronic Copy-Change 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 X No

Reasons: The Board finds that the applicant's intent is to replace an outdated freestanding commercial speech sign that has an existing manual Copy-Sign Change, which is becoming in a state of deterioration, in order for said sign to continue to function as a site identification sign having improved visibility to motorists, both local residents and tourists, along the heavily traveled New York State Route 332. The Board further finds that the proposed sign will be more aesthetically pleasing than the existing sign thereby convening to passing motorists an active antique mall operation. The Board further finds that the proposed sign will also be easier to maintain than would a new manual sign and will not be as susceptible to deterioration caused by the elements of nature. The Board further finds that replacing the existing manual Copy-Change Sign with similar materials will eventually start deteriorating over time in a manner that could be avoided by installing a more permanent sign having material such as that associated with the proposed electronic Copy-Change Sign.

The Board, based upon these findings, determines that the proposed area variance to allow a manual Copy-Change Sign to be replaced with an electronic Copy-Change Sign can not be achieve by a feasible alternative to the requested sign.

3. Whether the requested variance is substantial. ___ Yes X No

Reasons: The Board finds that the proposed replacement sign will be 71.1 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 further finds that the requested sign area variance involves a variance to allow an increase of ten percent (10%) above what is the maximum size allowed in the Town Code. The Board has consistently found that a variance less than

fifty percent (50%) of what is otherwise required by the Town Code is not a substantial variance.

The Board, based upon these findings, determines that the proposed area variance to allow a Change-Copy Sign having a total sign area of 71.1 square feet is not 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 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 applicant could replace the existing sign with a sign that would conform to the requirements of the Town Code and that there is no known alleged difficulty associated with the sign replacement which would not be self-created.

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

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

That the benefit to the applicant outweighs any known detriment(s) to the neighborhood, or community and, therefore, the requested area variance is approved with the following conditions:

- 1. The applicant is to obtain Final Sign Site Plan approval from the Town Planning Board which is to be based in part by the conditions set forth herein; and**
- 2. The proposed electronic Copy-Change Sign lighting intensity is to comply with the Town Lighting Standards contained in Chapter 165 of the Town Code; and**
- 3. The proposed electronic Copy-Change Sign is to operate on a timer and is to remain off during dark night time periods when the Mall is closed; and**
- 4. The proposed electronic Copy-Change Sign is not to have any animated, flashing or moving parts such as messages being scrolled across the sign face; and**

5. The applicant is to also install the Public Safety Signage for this site 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; and
6. The applicant is to prepare a landscaping plan around the base of the proposed sign to be accepted by the Town Planning Board; and
7. The applicant is to seal coat the existing parking lot this year, not later than May 31, 2019 and re-stripe the parking spaces to conform to the double-line striping requirements set forth in Chapter 165 of the Town Code.

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 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, February 25, 2019. Following discussion, the following roll call vote was recorded:

Timothy DeLucia	Vote
Jeremy Marshall	Vote
Cyril Opett	Vote
Nancy Purdy	Vote
Thomas Yourch	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 February 25, 2019, 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 #0201-19

APPLICANT: **Create A Scape Enterprise LLC, 6162 State Route 96,
Farmington, N.Y. 14425**

ACTION: **Area Variance to Chapter 165, Article V, Section 43 B (1) (c) to erect
a 20-foot-high two-sided ground business identification sign at 6162
State Route 96.**

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

WHEREAS, the Board finds the Action is identified in Section 617.5 (c) (2), (9) and (18) as being a Type II Action in that it involves: (2) replacement of a structure, in kind, on the same site; (9) construction of an accessory structure (a commercial speech sign) involving less than 4,000 square feet in area; and (18) reuse of a commercial structure (the commercial speech sign) where the commercial use (Landscaping Service) is a permitted use under existing zoning law.

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, February 25, 2019. Following discussion, the following roll call vote was recorded:

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

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 February 25, 2019, meeting.

John M. Robortella, Clerk of the Board

L. S.

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

APPLICANT: **Create A Scape** File: **ZB #0201-19**
Enterprise LLC Zoning District: **General Business District**
6162 State Route 96 Published Legal Notice on: **February 17, 2019**
Farmington, N.Y. 14425 County Planning Action on: **February 13, 2019**
County Referral #: **24-2019**
Public Hearing held on: **February 25, 2019**

Property Location: **6162 State Route 96, Farmington, N.Y. 14425**

Applicable Section of Town Code: **Chapter 165, Article V, Chapter 165-43 B (1) (c)**

Requirement for Which Variance is Requested: **The applicant wishes to erect a 20-foot-foot-high two-sided ground business identification sign. The Town Code requires a maximum height of 15 feet.**

State Environmental Quality Review Determination: **The granting of an Area Variance is classified as a Type II Action under Part 617.5 (c) (7) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.**

County Planning Referral Recommendation: **The Ontario County Planning Board, on February 13, 2019, Referral No. 24-2019, recommends Denial of the requested area variance citing County Policy AR-7.**

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.

X Yes ____ No

Reasons: **The Zoning Board of Appeals (hereinafter referred to as Board) finds that the posted speed limit along this two lane portion of State Route 96 is 45 miles per hour. The Board also finds that this section of State Route 96 is heavily traveled, however, it is not near the average daily traffic count for State Route 332. The Board also finds that the building at 6162 State Route 96 is set back further away from the travel lanes along Route**

96 than the two adjacent buildings; and that the motorist's view to the structure is hidden. The Board also finds that the applicant is seeking a variance to the allowed height for a commercial speech sign to enable a 20 foot high sign instead of a 15 foot high sign, measured from ground level. The Board also finds that the proposed sign is set back 20 feet from the right-of-way of State Route 96. The Board also finds that the set back is similar to other commercial speech signs on adjacent properties.

The Board finds that it has, in other requests for an area variance for commercial speech signs located along the more heavily traveled highways in the Town, allowed for different heights where there is a visual buffer to the property from along the highway. The Board also finds, however, that it has not granted an area variance to increase the heights of signs along this portion of State Route 96.

The Board further finds that the stated intent for this area along State Route 96 has been, since 2011, identified in the adopted Comprehensive Plan as the Main Street area of the Town. An area where the posted speed limit (45 miles per hour) is conducive to buildings being located closer to the right-of-way than 100 feet. The Board further finds that allowing a 20 foot high commercial speech sign is not in keeping with the documented goal and objective for this area of the community.

The Board based upon these findings determines that an undesirable change will likely be produced in the character of the neighborhood and would likely be a detriment to nearby properties by the granting of the Area Variance.

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 applicant has failed to prove that an alternative sign fifteen feet in height would not provide adequate time for the traveling motorists to view the proposed commercial speech sign and safely exit the highway.

3. Whether the requested variance is substantial. ☐ Yes ☒ No

Reasons: The applicant is seeking a variance that would allow the sign to be 20 feet tall above ground level. The Board finds this to be an increase in sign height of thirty-three percent (33%) than what is allowed by Code. The Board has consistently found that a variance less than fifty percent (50%) of what is otherwise required by the Town Code is not a substantial variance. The Board, based upon these findings, determines that the proposed area variance to allow a new commercial speech sign having a total sign height of 20 feet above ground level is not 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 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. X Yes ___ No

Reasons: The Board finds that the alleged difficulty is self-created in that the applicant has failed to adequately identify why a sign having a height in compliance with the Town Code would not provide proper identification of the site and building to motorists traveling along this portion of State Route 96.

**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 allow a twenty foot tall 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 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, February 25, 2019. Following discussion, the following roll call vote was recorded:

Timothy DeLucia	Vote
Jeremy Marshall	Vote
Cyril Opett	Vote
Nancy Purdy	Vote
Thomas Yourch	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 February 25, 2019, Meeting.

John M. Robortella
Clerk of the Zoning Board of Appeals

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

ZB #0202-19

**APPLICANT: Create A Scape Enterprise LLC, 6162 State Route 96,
Farmington, N.Y. 14425**

**ACTION: Area Variance to Chapter 165, Article V, Section 43 B (1) (c) to erect
a two-sided ground business identification sign of 300 square feet at
6162 State Route 96.**

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

WHEREAS, the Board finds the Action is identified in Section 617.5 (c) (2), (9) and (18) as being a Type II Action in that it involves: (2) replacement of a structure, in kind, on the same site; (9) construction of an accessory structure (a commercial speech sign) involving less than 4,000 square feet in area; and (18) reuse of a commercial structure (the commercial speech sign) where the commercial use (Antique Mall) is a permitted use under existing zoning law.

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, February 25, 2019. Following discussion, the following roll call vote was recorded:

Nancy Purdy	Vote
Thomas Yourch	Vote

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 February 25, 2019, meeting.

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

State Environmental Quality Review Determination: The granting of an Area Variance is classified as a Type II Action under Part 617.5 (c) (2), (9) and (18) as being a Type II Action in that it involves: (2) replacement of a structure, in kind, on the same site; (9) construction of an accessory structure (a commercial speech sign) involving less than 4,000 square feet in area; and (18) reuse of a commercial structure (the commercial speech sign) where the commercial use (Antique Mall) is a permitted use under existing zoning law of the State Environmental Quality Review (SEQR) Regulations. Type II Actions have been determined, under the SEQR Regulations, not to have a substantial adverse impact upon the environment or are otherwise precluded from further environmental review under Environmental Conservation Law, Article 8.

County Planning Referral Recommendation: **The Ontario County Planning Board, on February 13, 2019, Referral No. 24-2019, recommends Denial of the requested area variance citing County Policy AR-7.**

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.

X Yes ___ No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that granting the requested area variance would enable the construction of a freestanding commercial speech sign that would be larger in area than any other allowed sign located along this corridor. The Board finds that such action would produce an undesirable change in the character of the neighborhood and is viewed as being a detriment to nearby properties. The Board further finds that this portion of State Route 96 is identified as the Main Street area for the community. An area where new development is being encouraged to be located in closer proximity to the highway thereby creating a sense of community. The Board further finds that a freestanding commercial speech sign of the size proposed would be more appropriately located along a higher speed (55 mph) four lane highway than along a two lane highway where the posted speed limit is 45 miles per hour. The Board also finds that while there is a greater set back involved with the building located on this site than other adjacent properties, the size of the requested sign is felt to be too large and not justified.

Based upon these findings, the Board determines that an undesirable change will likely be produced in the character of the neighborhood and that granting the requested relief would likely be a detriment to nearby properties.

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

Reasons: The Board finds that the applicant has failed to prove that an alternative sign of 64 square feet in sign area would not provide adequate visibility for the traveling motorists to view the proposed commercial speech sign and safely exit the highway.

3. Whether the requested variance is substantial. X Yes ___ No

Reasons: The applicant is seeking a variance that would allow a commercial speech freestanding sign to have a total of 300 square feet in area. The Board finds this to be an increase in sign area of four hundred sixty-nine percent (469%) above what is allowed by Code. The Board has consistently found that a variance greater than fifty percent (50%) of what is otherwise required by the Town Code is a substantial variance. The Board, based upon these findings, determines that the proposed area variance to allow a new commercial

speech sign having a total sign height of 20 feet above ground level is not 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 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 in that the applicant has failed to adequately identify why a sign having a total area that is 469% larger than what is allowed by Town Code would provide proper identification of the site and building to motorists traveling along this portion of State Route 96.

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 allow a 300 square foot 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 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, February 25, 2019. Following discussion, the following roll call vote was recorded:

Timothy DeLucia	Vote
Jeremy Marshall	Vote
Cyril Opett	Vote
Nancy Purdy	Vote
Thomas Yourch	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 February 25, 2019, Meeting.

John M. Robortella
Clerk of the Zoning Board of Appeals