

*Town of Farmington*

1000 County Road 8  
Farmington, New York 14425

**ZONING BOARD OF APPEALS**

*Established July 15, 1957*

**Monday, July 27, 2020, 7:00 p.m.**

**MINUTES—APPROVED**

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

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

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

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

The meeting was conducted at the Farmington Town Hall and via telephone/video conference format for those not wishing to attend in person. During the meeting, the agenda and each draft resolution were posted upon the video screen for the public, the applicants and the board members who were participating in the meeting via telephone/video format.

The Public Notice of the format of the meeting, the agenda, the draft resolutions, the dial-in telephone number and the conference call identification number were posted upon the Town website and upon the Town Hall entrance doors on July 23, 2020.

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

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

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

**Staff Present:**  
 John Weidenborner, Town of Farmington Zoning Officer

**Staff Present via Telephone Conference:**  
 Ronald L. Brand, Town of Farmington Director of Development and Planning  
 Dan Delpriore, Town of Farmington Code Enforcement Officer

**Applicant Present:**  
 Scott Benson, Cobblestone Arts Center, 1622 State Router 332, Farmington, N.Y. 14425

**Applicants Present via Telephone Conference:**  
 Mark DiMartino, D.D.S., 1375 Hathaway Drive, Farmington, N.Y. 14425  
 Joyce Pimm, 501 Hook Road, Farmington, N.Y. 14425

**Residents Present:**  
 Christopher McWilliams, 489 Hook Road, Farmington, N.Y. 14425  
 Rusty Stetzel, 495 Hook Road, Farmington, N.Y. 14425

**Others Present via Telephone Conference:**

Other(s) [unidentified]

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**1. MEETING OPENING**

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

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

**2. APPROVAL OF MINUTES OF JUNE 22, 2020**

■ A motion was made by MR. YOURCH, seconded by MS. ATTARDI, that the minutes of the June 22, 2020, meeting be approved.

Motion carried by voice vote.

**3. LEGAL NOTICE**

The following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper on Sunday, July 19, 2020:

**LEGAL NOTICE**

**NOTICE IS HEREBY GIVEN** that Public Hearings will be held by and before the Zoning Board of Appeals of the Town of Farmington on the 27th day of July 2020 commencing at 7:00 p.m., Eastern Daylight Saving Time, at the Farmington Town Hall, 1000 County Road #8 in the Town of Farmington, Ontario County, New York 14425 to consider the following applications:

**ZB #0201-20: JOYCE PIMM, 501 HOOK ROAD, FARMINGTON, N.Y. 14425:** Request a Temporary Use Permit in accordance with Chapter 165, Article VII, Section 91 of the Farmington Town Code. The applicant wishes to keep chickens on her nonfarm residential premise that is less than five acres in size. The Town Code requires all nonfarm animals to be kept on a premise having five acres or more in size. The property is located at 501 Hook Road and is zoned RR-80 Rural Residential.

**ZB #0202-20: COBBLESTONE ARTS CENTER, 1622 STATE ROUTE 332, FARMINGTON, N.Y. 14425:** Request an Area Variance in accordance with Chapter 165, Article V, Section 45 of the Farmington Town Code. The applicant wishes to erect an eleven and one-half (11.5) square-foot freestanding commercial speech sign with moving/motion message signage. The Town Code prohibits signs with messages that move or

simulate motion. The property is located at 1622 State Route 332 and is zoned GB General Business.

**ZB #0302-20: DR. MARK DIMARTINO DDS, 1375 HATHAWAY DRIVE, FARMINGTON, N.Y. 14425:** Request an Area Variance in accordance with Chapter 165, Article V, Section 43B.1(a) of the Farmington Town Code. The applicant wishes to erect an additional seventy-two (72) square-foot building mounted sign on the south side façade of the building. The Town Code allows no more than one building mounted identification sign. The property is located at 1375 Hathaway Drive and is zoned GB General Business.

**ZB #0303-20: DR. MARK DIMARTINO DDS, 1375 HATHAWAY DRIVE, FARMINGTON, N.Y. 14425:** Request an Area Variance in accordance with Chapter 165, Article V, Section 43B.1(a) of the Farmington Town Code. The applicant wishes to erect an additional seventy-two (72) square-foot building mounted sign on the north side façade of the building. The Town Code allows no more than one building mounted identification sign. The property is located at 1375 Hathaway Drive and is zoned GB General Business.

**THESE PUBLIC HEARINGS WILL BE HELD IN COMPLIANCE** with the latest Executive Order issued by the Governor of the State of New York

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

Jeremy Marshall, Chairperson  
Zoning Board of Appeals

#### 4. CONTINUED PUBLIC HEARINGS

<b>ZB #0201-20</b>	<b>Joyce Pimm</b> <b>501 Hook Road</b> <b>Farmington, N.Y. 14425</b>	<b>Temporary Use Permit</b>
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The applicant is requesting a Temporary Use Permit in accordance with Chapter 165, Article V, Section 55 of the Farmington Town Code. The applicant wishes to keep chickens on her nonfarm residential premise that is less than five acres in size. The Town Code requires all nonfarm animals to be kept on a premise greater than five acres. The property is located at 501 Hook Road and is zoned RR-80 Rural Residential.

Mr. Marshall reconvened the Public Hearing on this application that was opened on February 24, 2020, and continued to March 23, 2020. The meeting on March 23, 2020, was cancelled due to the coronavirus (COVID-19) pandemic. On June 22, 2020, the Public Hearing on this application was continued to this evening's meeting.

Ms. Pimm participated in the meeting via telephone conference.

Mr. Marshall asked if anyone wished to speak for or against this application, or to ask questions.

Mr. Stetzel (495 Hook Road) asked how many chickens were requested when the application was first submitted. Ms. Pimm said that she had six chickens when she first applied [for the Temporary Use Permit].

Mr. Stetzel asked for whom the chickens are pets. Ms. Pimm said that the chickens are pets for the children of her daughter.

Mr. Stetzel asked who made the determination that the children require emotional support animals. Ms. Pimm said that the determinations were made by several counselors and a doctor.

*Clerk's note: Prior to the opening of the Public Hearing on February 24, 2020, Ms. Pimm submitted letters to the Town and to the Zoning Board of Appeals from the following counselors regarding behavior and emotional concerns with Ms. Pimm's grandchildren. They recommended the keeping of therapeutic intervention/emotional support animals for the grandchildren on the property:*

Jeffrey Young, LCSW-R (Victor Counseling Practice, 6539 Anthony Drive, Suite A, Victor, N.Y. 14564)

Diane Hahn, Psy. D., Licensed Clinical Psychologist (3180 West Street, Suite #8, Canandaigua, N.Y. 14424)

Susan M. Sweep, NPP, Child Adolescent and Adult Psychiatry (100 Allens Creek Road, Rochester, N.Y. 14618)

Mr. Stetzel asked if the Town had these letters back in March. Mr. Weidenborner said that the letters were filed with the original application (*see* minutes of the Zoning Board of Appeals, February 24, 2020, pp. 3–4).

Mr. Stetzel asked when Ms. Pimm received approval to build a larger cage for the chickens. Mr. Weidenborner said that no approvals have been given by the Town.

Mr. Stetzel said that the cage size has changed since March. He said that they have now put up a bigger cage. He asked if they have done this without approval. Mr. Weidenborner again said that no approvals have been given by the Town.

Mr. Stetzel asked about the smell of the chickens. Mr. Weidenborner said that no odor was detected when he and Mr. Brand conducted a recent site inspection. Mr. Weidenborner said that they observed that the pen area was larger than originally observed but that no approvals from the Town had been given.

Mr. Stetzel asked if a piece of fencing that is leaning up against a tree has been approved by the Town. Mr. Weidenborner said that this is a small section of fence that does not require Town approval.

Mr. Stetzel said that his complaint is that they (Mr. Weidenborner and Mr. Brand) did not smell the odor from the chickens. He said that when the wind comes out of the south, he cannot sit outdoors in his yard. Mr. Stetzel said that he knew that this was going to happen, especially when the weather got warm. He said that he could have sworn that when they first got these chickens they had four, and now he has noticed six.

Mr. McWilliams (489 Hook Road) said that he lives two houses down from Ms. Pimm. Mr. McWilliams said that the cackling of the chickens is extremely loud, that he asked his family if they (the Pimm residence) had roosters again down there, and they listened and realized that the noise was coming from chickens and that the noise is extremely annoying.

Mr. McWilliams said that he has no question about the sounds coming from the chickens. He said that one of his complaints is that there is no sound barrier and that he hears the noise [from the chickens] at different times of the day, i.e., earlier in the day and later in the day. Mr. McWilliams said that he cannot imagine what Rusty (Mr. Stetzel) must have to hear, and he (Mr. Stetzel) is right next door.

In addition to the smell issue, which he said is wind-dependent, Mr. McWilliams said that the audible part is consistent no matter what time of the day it is. He said that he finds this [the noise] very annoying and that he assumes that this is one of the reasons for the laws and codes for the distance of barn animals.

Mr. McWilliams said that that dogs, cats, horses and rabbits seem to show affection, but that he does not know how a chicken can show affection. He said that every time he sees someone going after a chicken, the chicken runs. He said that he has never seen a chicken run [to a person] and that he does not understand in his mind how they [chickens] can provide emotional support. He said that all chickens care about is eating. He said that he believes that cats, dogs and other animals are much more sufficient to these types of things and that he does not understand how a doctor can say how these chickens are emotional support.

Mr. Marshall said that an emotional support animal is one for whom a doctor deems beneficial to a patient. He said that he understands what Mr. McWilliams is saying, and that chickens have run from him, too, when he farmed. Mr. Marshall said that this is not for him to decide, but that this is for a doctor to decide.

Mr. McWilliams said that from a behavioral standpoint one cannot train a chicken to love you or to come to you. He said that he has never seen it and has never heard of it. Mr. McWilliams said that this argument does not make sense and he sees this as a legal loophole. He said that the sound issue is annoying and that there has to be an answer for that.

Mr. Stetzel said that the noise at 5:30 in the morning is very annoying and that the noise is louder now than it has been in the past.

Mr. Brand said that he did not hear excessive noise when he made the site visit to the property.

Mr. Stetzel said that the noise is not a consistent thing. He said that the chickens can be heard very early in the morning and later in the day. He said that it is hard to time this, but that the noise could be heard [if it was recorded with a tape recorder].

Ms. Pimm said that the chickens only make noise when they lay eggs. She said that they do not run away from them, that they like to be held, that they are very therapeutic and that the doctor agrees with this.

Mr. Marshall asked if there were any further comments or questions on this application evening. There were no further comments or questions.

Mr. Marshall then closed the Public Hearing on this application.

**ZB #0202-20                      Cobblestone Arts Center                      Area Variance**  
**1622 State Route 332**  
**Farmington, N.Y. 14425**

The applicant is requesting an Area Variance in accordance with Chapter 165, Article V, Section 45 of the Farmington Town Code. The applicant wishes to erect an eleven-and-a-half (11.5) square-foot freestanding commercial speech sign with moving/motion signage. The Town Code prohibits signs which move or simulate motion. The property is located at 1622 State Route 332 and is zoned GB General Business.

Mr. Marshall reconvened the Public Hearing on this application that was opened on February 24, 2020, and continued to March 23, 2020. The meeting on March 23, 2020, was cancelled due to the coronavirus (COVID-19) pandemic. On June 22, 2020, the Public Hearing on this application was continued to this evening's meeting.

Mr. Benson (Cobblestone Arts Center) presented this application.

He said that the sign will be used to notify the public of events in the facility's theater. Mr. Benson said that the sign only be illuminated approximately one week prior to an event. He said that it will not be a continuously-running sign day after day 24/7, and that the size of 11½ square feet includes both sides.

Mr. Benson said that the sign will be installed directly under the existing sign with a 24-inch finished height above the ground.

Mr. Marshall asked if anyone wish to speak for or against this application, or to ask

questions.

There were no further comments or questions.

Mr. Marshall then closed the Public Hearing on this application.

**5. NEW PUBLIC HEARINGS**

<b>ZB #0302-20</b>	<b>Mark DiMartino, D.D.S. 1375 Hathaway Drive Farmington, N.Y. 14425</b>	<b>Area Variance</b>
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The applicant is requesting an Area Variance in accordance with Chapter 165, Article V, Section 43 B.1 (a) of the Farmington Town Code. The applicant wishes to erect an additional seventy-two (72) square-foot building mounted sign on the south side façade of the building. The Town Code allows no more than one building mounted identification sign. The property is located at 1375 Hathaway Drive and is zoned GB General Business.

The Public Hearing on this application was initially scheduled for Monday, March 23, 2020. The meeting on March 23, 2020, was cancelled due to the coronavirus (COVID-19) pandemic.

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

On June 22, 2020, the Public Hearing on this application was continued to this evening’s meeting.

Mr. Marshall opened the Public Hearing on this application.

Dr. Martino was present on the telephone conference call.

Mr. Marshall asked if anyone wished to speak for or against this application, or to ask questions.

There were no comments or questions.

Mr. Marshall then closed the Public Hearing on this application.

<b>ZB #0303-20</b>	<b>Mark DiMartino, D.D.S. 1375 Hathaway Drive Farmington, N.Y. 14425</b>	<b>Area Variance</b>
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The applicant is requesting an Area Variance in accordance with Chapter 165, Article V, Section 43 B.1 (a) of the Farmington Town Code. The applicant wishes to erect an additional seventy-two (72) square-foot building mounted sign on the north side façade of the building. The Town Code allows no more than one building mounted identification sign. The property is located at 1375 Hathaway Drive and is zoned GB General Business.

The Public Hearing on this application was initially scheduled for Monday, March 23, 2020. The meeting on March 23, 2020, was cancelled due to the coronavirus (COVID-19) pandemic.

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

On June 22, 2020, the Public Hearing on this application was continued to this evening's meeting.

Mr. Marshall opened the Public Hearing on this application.

Dr. Martino was present on the telephone conference call.

Mr. Marshall asked if anyone wished to speak for or against this application, or to ask questions.

There were no comments or questions.

Mr. Marshall then closed the Public Hearing on this application.

## **6. BOARD BUSINESS—DELIBERATIONS AND DECISIONS**

■ A motion was made by MR. SWEENEY, seconded by MR. YOURCH, that the readings of the following State Environmental Quality Review (SEQR) resolutions be waived and that these resolutions be approved as submitted by the Town staff:

### **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.

**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.

**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.

**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.

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

Motion to approve the above four published resolutions carried.

**ZB #0201-20                      Joyce Pimm                      Temporary Use Permit**

■ A motion was made by MR. SWEENEY, seconded by MR. YOURCH, that the reading of the following complete resolution be waived, that the chairperson read aloud the conditions of approval, and that the complete resolution be approved as submitted by the Town staff:

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

<b>APPLICANT:</b> Joyce Pimm 501 Hook Road Farmington, NY 14425	<b>File:</b> ZB #0201-20 <b>Zoning District:</b> RR-80 Rural Residential <b>Published Legal Notice on:</b> February 16, 2020; and July 19, 2020 <b>County Planning Action on:</b> N/A <b>County Referral #:</b> N/A <b>Public Hearing held:</b> February 24, 2020, and July 27, 2020
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**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 re-

quires 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 overcrowded 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.

**X** 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 withing 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.

Ms. Attardi noted that Condition #5 requires that the chickens “. . . shall be housed in a structure to be approved by both the Zoning Officer and the Town Code Enforcement Officer.”

She asked about Condition #6 and Condition #7 regarding the how the cages will be cleaned and the disposition of the waste materials. Ms. Pimm said that currently the bedding is replaced weekly and that waste materials are bagged and removed from the property weekly by Waste Management.

Ms. Attardi suggested that this may have to be done every few days instead of weekly if there is a continued period of hot weather. Ms. Pimm said that yes, she can do that.

Ms. Attardi asked about Condition #9 regarding landscaping. She asked if the Town would require that pine trees be planted. Ms. Pimm said that right now there are bushes between the yards. She said that she will look to the Town to let her know on other plantings that may be necessary.

Mr. Weidenborner said that the Condition #10 requires that Ms. Pimm receive site plan approval from the Town Planning Board. He said that the Planning Board is expected to discuss the details of the landscaping that will be required for this application.

Ms. Attardi asked how the Town would handle possible noise complaints. Mr. Weidenborner said that the Building Department would follow an established procedure for the investigation of complaints and the issuing of violation notices if required. Mr. Marshall said that the resolution before the board this evening is for a Temporary Use Permit



which can be reviewed at any time if numerous complaints are received and if violations are issued.

Mr. Brand referred to the text of Condition #6 which states, “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.”

Mr. Brand requested clarification of Condition #1 regarding the number of chickens to be kept on the property. He noted that the condition provides for up to four chickens and that he has heard that Ms. Pimm now has six chickens.

Ms. Pimm said that she has six chickens now and has always had six chickens.

Mr. Marshall said that the letters from the counselors and the doctor describe Ms. Pimm’s four grandchildren who require service animals. He said that the Zoning Board of Appeals, as is required under the provisions of New York State Town Law, must grant only the minimum relief, which in this application would be for four chickens.

Ms. Pimm said that she wanted to keep six chickens because her grandchildren take care of them, that they love them and that they know their names.

Mr. Marshall said that four grandchildren are under care by the counselors. He again said that the Zoning Board of Appeals must grant only the minimum relief.

Ms. Pimm said that she did not know how the chickens would be taken away and how her grandchildren would react. She said that she may have to provide additional documentation to the Town and to the Zoning Board of Appeals. She said that you just cannot take two chickens away without affecting everybody, especially [one of her grandchildren] who would have a very hard time with it.

Ms. Pimm said that the chickens are like a member of the family, and that when you lose a family member, you grieve. She said that there is no need to have everybody grieving. She asked, “what’s two more chickens?”

Mr. Stetzel then approached the board and the audio feed microphone, and said that it is a life, ma’am. He said that he lost his wife a month-and-a-half ago because of stress from these chickens (Terri Lyn Stetzel, June 1, 2020, at the age of 59). He said that he cannot put up with this anymore. He said that this is ridiculous and left the meeting.

Mr. Marshall confirmed that the condition in the resolution calls for four chickens, that this would be the minimum relief and that this is upon which the board will vote.

Mr. Marshall then read aloud each of the conditions of approval individually. Following each condition, he asked Ms. Pimm if she understood the condition and agreed with it. Ms. Pimm said yes, that she understood and agreed with each condition as Mr. Marshall read each condition individually.

There was no further discussion of the motion.

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

Motion carried.

**ZB #0202-20                      Cobblestone Arts Center                      Area Variance**

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

**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 on to 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 char-

acter 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.

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

Motion carried.

■ A motion was made by MR. YOURCH, seconded by MS. ATTARDI, that the reading of the following complete resolution be waived, that the chairperson read aloud the conditions of approval, and that the complete resolution be approved as submitted by the Town staff:

**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 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 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.

Following the reading of the conditions of approval, Mr. Marshall asked Mr. Benson if he understood the conditions and if he agreed with them. Mr. Benson said that he understood the conditions and agreed with them.

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

Motion carried.

**ZB #0302-20                      Mark DiMartino, D.D.S.                      Area Variance**

■ A motion was made by MS. ATTARDI, seconded by MR. YOURCH, that the reading of the following resolution be waived and that the resolution be approved as submitted by the Town staff:

**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.

X 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.     X 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.     X 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.

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

Motion carried.

**ZB #0303-20                      Mark DiMartino, D.D.S.                      Area Variance**

■ A motion was made by MS. ATTARDI, seconded by MR. YOURCH, that the reading of the following resolution be waived and that the resolution be approved as submitted by the Town staff:

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

<b>APPLICANT:</b> Mark DiMartino 1375 Hathaway Dr Farmington, N.Y. 14425	<b>File:</b> ZB #0303-20 <b>Zoning District:</b> GB General Business <b>Published Legal Notice on:</b> July 19, 2020 <b>County Planning Action on:</b> March 11, 2020 <b>County Referral #:</b> 33-2020 <b>Public Hearing held on:</b> July 27, 2020
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**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.  
X 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.      X 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.      X 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 vari-

ance 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.

Jill Attardi

Aye

Jeremy Marshall	Aye
Aaron Sweeney	Aye
Thomas Yourch	Aye
One vacant position	—

Motion carried

## 7. PUBLIC COMMENTS—OPEN FORUM DISCUSSION

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

## 8. DIRECTOR OF DEVELOPMENT UPDATE

Mr. Brand said that he will prepare a list of study questions for Ms. Attardi and Mr. Yourch to enable them to complete the Association of Towns training session for board members. He will also prepare an alternate set of questions for Mr. Marshall and Mr. Sweeney to avoid duplication. Mr. Brand said that he will look into the availability of other courses for board members to achieve the minimum number of annual training credits. If there are no options, Mr. Brand will prepare a training course for those who need to reach their minimum training hours for 2020.

## 9. ZONING OFFICER UPDATE

Mr. Weidenborner said that four applications are expected to be on the agenda for the Zoning Board of Appeals meeting on August 24, 2020.

## 10. BOARD MEMBERS' COMMENTS

Mr. Marshall said that three residents have contacted him to express an interest in the vacant position on the Zoning Board of Appeals. He said that he has advised each resident to submit a letter of interest to Supervisor Peter Ingalsbe.

## 11. TRAINING OPPORTUNITIES

### General Code e-Code

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

Information:

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

**Future Training Opportunities Online:**

Ontario County Planning Department website now lists upcoming training:

<https://www.co.ontario.ny.us/192/Training>

**12. NEXT WORKSHOP SESSION AND MEETING DATE**

The next regular meeting of the Zoning Board of Appeals will be held on Monday, August 24, 2020, at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8 (or via remote audio conference, format to be determined). A workshop session may be scheduled one hour prior to the meeting.

**13. ADJOURNMENT**

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

Motion carried by voice vote.

The meeting was adjourned at 7:48 p.m.

Respectfully submitted,

L.S.

\_\_\_\_\_  
John M. Robortella  
Clerk of the Zoning Board of Appeals