

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, January 8, 2018, 7:00 p.m.

MINUTES—APPROVED

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

Board Members Present: Timothy DeLucia, *Chairperson*
Nancy Purdy
Thomas Yourch

Board Members Excused: Jeremy Marshall
Cyril Opett

Staff Present:
James Morse, Town of Farmington Code Enforcement Officer

Applicants Present:
Kip Finley, P.E., Director of Development, Indus Hospitality Group, 950 Panorama Trail South, Rochester, N.Y. 14625

Residents Present:
Edward Hemminger, 5900 King Hill Drive, Farmington, N.Y. 14425
Olivia Vetter, 759 Turk Hill Road, Fairport, N.Y. 14450 (and companion who did not sign in)

Town Board Appointments to the Zoning Board of Appeals
At the Organizational Meeting on January 3, 2018, the Farmington Town Board reappointed Timothy DeLucia to serve as Chairperson of the Zoning Board of Appeals for a one-year term to expire on December 31, 2018. The Town Board also reappointed Nancy Purdy to serve on the Zoning Board of Appeals for a five-year term to expire on December 31, 2022.

Mr. DeLucia and Ms. Purdy took their places upon the Zoning Board of Appeals.

1. MEETING OPENING

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

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

2. APPROVAL OF MINUTES OF DECEMBER 18, 2017

■ A motion was made by MR. YOURCH, seconded by MS. PURDY, that the minutes of the December 18, 2017, meeting be approved.

Motion carried by voice vote.

3. LEGAL NOTICE

Mr. DeLucia attested that the following Legal Notice was published in the *Canandaigua Daily Messenger* newspaper (the Town's official newspaper) on Sunday, December 31, 2017, that it was posted upon the Town of Farmington website (www.townofarmington-ny.com), and that it was posted upon the Town Clerk's bulletin board in the foyer of the Town Hall:

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that Public Hearings opened by the Town of Farmington Zoning Board of Appeals on the 27th day of November 2017 and continued to the 15th day of January 2018 have been rescheduled to Monday, January 8, 2018, commencing at 700 p.m. in the Main Meeting Room in the Farmington Town Hall, 1000 County Road 8, Farmington, New York 14425, to consider applications ZB #0701-17 through ZB #0708-17, Indus Hospitality Group, 950 Panorama Trail S., Rochester, N.Y. 14625.

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

Tim DeLucia, Chairperson
Zoning Board of Appeals
Town of Farmington

4. CONTINUED BOARD BUSINESS

Mr. DeLucia concurrently resumed the Public Hearings on ZB #0701-17 through ZB #0708-17 which were opened on November 27, 2017, as follows:

ZB #0701-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article V, Chapter 165–37–11 to the Town of Farmington Codes. The applicant wishes 140 parking spaces (a minimum of 191 spaces are required). The property is located at proposed Lot #2, 1301 NYS Route 332 and zoned General Business District.

ZB #0702-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article IV, Chapter 165–35A to the Town of Farmington Codes. The applicant wishes a variance for a side setback of 22 (a minimum of 30 feet is required). The property is located at proposed Lot #2, 1301 NYS Route 332 and zoned General Business District.

ZB #0703-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article V, Chapter 165–35 to the Town of Farmington Codes. The applicant wishes a variance for lot width of 15 feet (a minimum of 150 is required). The property is located at proposed Lot #2, 1301 NYS Route 332 and zoned General Business District.

ZB #0704-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article IV, Chapter 165–35A to the Town of Farmington Codes. The applicant wishes a variance for a front setback of 20 feet (a minimum of 50 feet is required). The property is located at Lot #2, 1301 NYS Route 332 and zoned General Business District.

ZB #0705-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to New York State Town Law 280a. The applicant wishes to create a parcel without direct access to a mapped street. The property is located at proposed Lot #2, 1301 NYS Route 332 and zoned General Business District.

ZB #0706-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article IV, Chapter 165–35A to the Town of Farmington Codes. The applicant wishes a variance for lot width of 15 feet (a minimum of 150 is required). The property is located at proposed Lot #3, 1301 NYS Route 332 and zoned General Business District.

ZB #0707-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to Article IV, Chapter 165–35A to the Town of Farmington Codes. The applicant wishes a variance for a front setback of 30 feet (a minimum of 50 is required). The property is located at proposed Lot #3, NYS Route 332 and zoned General Business District.

ZB #0708-17 Indus Hospitality Group Area Variance
950 Panorama Trail S.
Rochester, N.Y. 14625

The applicant is requesting an Area Variance to New York State Town Law 280a. The applicant wishes to create a parcel without direct access to a mapped street. The property is located at proposed Lot #3, 1301 NYS Route 332 and zoned General Business District.

Chronology of the Indus Hospitality Group applications:

November 27, 2017 ZBA Public Hearings opened, Area Variance applications presented to the ZBA; SEQR 30-day public review period established by ZBA (November 28, 2017 to December 29, 2017); Project Notification Review Letters (PNRL) and information packets sent to Involved and Interested Agencies along with a request for a Lead Agency to be established; Public Hearings originally continued to January 15, 2018 (*see below for amended continuation date*)

- November 27, 2017** The ZBA requests, in the PNRL, that the Planning Board consider declaring its intent to be designated as the Lead Agency for making the SEQR determination following the completion of the 30-day public review period.
- November 27, 2018** The Farmington Conservation Board issues the following comments on the Area Variance applications: 1) Fire truck radius would be tight for the Taco Bell building; 2) there is very little green space and landscaping; and 3) there are drainage concerns, i.e., where will the water runoff go?
- December 6, 2017** The Planning Board Public Hearings are opened on the Two-Lot Preliminary Subdivision and two Special Use Permit applications; discussion opened on Preliminary Site Plan application; Planning Board Public Hearings and discussion continued to January 3, 2018
- December 6, 2017** The Planning Board declares its intent to be designated as the Lead Agency for making the SEQR determination following the 30-day public review period.
- December 18, 2017** The ZBA reschedules the continuation date of the ZBA Area Variance Public Hearings from January 15, 2018 (which is Martin Luther King Jr. Day, a legal holiday) to January 8, 2018. The ZBA directs that a new Legal Notice be published in the Town's Official Newspaper and posted on the Town's website of the change in date for the January meeting.
- December 18, 2017** The ZBA takes action to indicate that it has no objection to the Planning Board designating itself as the Lead Agency for making the SEQR determination regarding the Indus Hospitality Group applications. The ZBA directs Town staff to give written notice to the SEQR Involved and Interested Agencies of the ZBA having no objection.
- January 3, 2018** The Planning Board designates itself as the Lead Agency for making the SEQR determination of significance; the Planning Board finds that four potentially moderate to large environmental impacts may occur; the Planning Board completes Parts 2 and 3 of the Short Environmental Assessment Form with an Attachment requesting additional information from the applicant; Public Hearings on the Planning Board applications continued to February 7, 2017.

Mr. Finley presented these applications.

He said that he would like to discuss the Area Variance applications this evening and to determine if the members of the Zoning Board of Appeals (ZBA) have questions or require additional information.

Mr. Finley then distributed a letter in which he presented the rationale for the ZB #0701-17 Area Variance application to permit 140 parking spaces when 191 parking spaces are required by the Town Code, as follows:

Dear Zoning Board Members and Town Officials:

With respect to the requested Variance to allow 140 spaces where the Town Code specifies a minimum of 191 spaces, Indus Hospitality Group offers the following information to support our project:

Microtel—8 Indus Locations:

Wyndham requires 1.1x number of guest rooms and that has always worked fine for us. Proposed $1.1 \times 60 = 66$ for the proposed Farmington Location

Taco Bell—4 Indus Locations:

Bath—28 seats and 25 spaces (0.89)
 Penn Yan—42 seats and 27 spaces (0.64)
 Victor—48 seats and 40 spaces (0.83)
 Dansville—42 seats and 29 spaces (0.69)
 Proposed 0.78 (avg.) $\times 42$ seats = 33 for the Farmington Location

KFC—2 Indus Locations:

Canandaigua—55 seats and 34 spaces (0.61)
 Farmington—59 seats and 40 spaces (0.67)
 Proposed 0.64 (avg.) $\times 55$ seats = 38 for the Modified Farmington Location

The proposed parking spaces above total 137. This is the minimum number of spaces needed to properly function under an assumption that all three businesses are operating at full capacity/occupancy at the same time.

However, in reality, hotel parking demand is a fraction of its total throughout the day from 9 a.m. to 3 p.m. and ramps up gradually to the full amount by 11 p.m. if the hotel is fully occupied. And in general, hotels typically function at about 60% to 70%. This leaves the majority of parking spaces on the campus available for Taco Bell and KFC patrons for lunch and dinner, and well into the evening.

Indus requests consideration of the Variance because the number of spaces required by the Town Code unnecessarily over-builds the property and increases potential for adverse drainage impacts. In summary, even the 137

spaces are more than needed to operate the businesses properly. But, they do provide a buffer for snow storage in the winter months.

Sincerely,
Kip Finley, P.E.
Vice President of Development

Mr. Yurch asked about the calculation of the number of parking spaces by Mr. Finley as compared to the calculation required by the Town Code. Mr. Finley said that he would like to avoid having more pavement than there needs to be.

Mr. Finley discussed the rationale for the subdivision application which is pending before the Planning Board. He said that the Town staff suggested that a subdivision would allow each parcel to have an individual water service connection, which is preferred by the Town. He also noted that separate parcels provide an advantage if one or more of the parcels were to be sold in the future.

However, Mr. Finley said that the subdivision of the land creates the need for setback variances for the Taco Bell Restaurant and the Microtel Hotel. He displayed the site plan which showed the flag lots on which the restaurant and the hotel would be located. He discussed the proposed side setback of 22 feet (when a minimum of 30 feet is required) for the Taco Bell Restaurant on proposed Lot #2 (ZB #0702-17) and the proposed front setback of 30 feet (when a minimum of 150 feet is required) for the Microtel Hotel on proposed Lot #3 (ZB #0706-17).

Mr. Finley also noted that the subdivision creates a situation where both proposed lots do not have direct access to a mapped street (ZB #0705-17 for proposed Lot #2 and ZB #0708-17 for proposed Lot #3). He explained that access to these lots would be via a 15-foot-wide access driveway and a shared easement. He said that this would be operationally similar to a single-parcel project.

Mr. Finley reviewed the location of the Taco Bell restaurant on the lot. Mr. DeLucia asked about relocating the structure on the lot and repositioning some of the parking spaces around it. Mr. Finley said that he did not wish to have the structure or the parking areas encroach upon the stormwater management facility and the drainage flow.

Mr. Finley said that the stormwater management basin, which would be located in the north portion of the property, is larger than it needs to be (for his property) because it will accept some drainage from State Route 332, State Route 96, the adjacent Dunkin' Donuts, and the surrounding area. He said that he is trying to take care of drainage problems which preceded his project.

Mr. Yurch asked if the site plan as presented depicts 191 parking spaces as required by Town Code. Mr. Finley said that the site plan as presented depicts 140 parking spaces.

Mr. Yurch asked if Mr. Finley had an alternate plan if the Area Variance for fewer parking spaces than permitted by the Town Code was not approved. Mr. Finley said that he does not have an alternate plan, that he would not be able to include the hotel if the parking variance was not approved, and that he would then have to rethink the entire project. He said that he purchased the KFC Restaurant from the previous owner about seven years ago, recently renovated it, and then purchased the rest of the property when the previous owner offered a good price. He said that he prefers to construct the restaurant and the hotel as a complete project.

Mr. DeLucia noted the Farmington Conservation Board's comments on fire equipment turning radii, landscaping and drainage. Mr. Morse said that these issues would be discussed during the Planning Board's consideration of the Site Plan application. Mr. Finley said that drainage is his primary topic with his engineering firm and with the Town engineer. He said that he would like to make the drainage work for the entire area and to deal with water quality from his property and as much additional runoff as possible from the surrounding parcels.

Mr. Finley said that he would like to make sure that all of the questions from ZBA members have been answered. He asked if there are any troubling issues or concerns which are excessive in nature. Mr. DeLucia said that the ZBA will require the results of the State Environmental Quality Review (SEQR) prior to deliberating on the Area Variance applications.

Mr. DeLucia asked if anyone in attendance wished to comment or ask questions on the applications. There were no comments or questions from those in attendance.

Mr. DeLucia then read aloud the following resolution:

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

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| ZB #0701-17 | Area Variance to Chapter 165, Article V, Section 37 A (11) |
| ZB #0702-17 | Area Variance to Chapter 165, Article IV, Section 35 A, Schedule I |
| ZB #0703-17 | Area Variance to Chapter 165, Article IV, Section 35 A, Schedule I |
| ZB #0704-17 | Area Variance to Chapter 165, Article IV, Section 35 A, Schedule I |
| ZB #0705-17 | Area Variance to New York State Town Law, Section 280-a |
| ZB #0706-17 | Area Variance to Chapter 165, Article IV, Section 35 A, Schedule I |

ZB #0707-17 **Area Variance to Chapter 165, Article IV, Section 35 A, Schedule I**

ZB #0708-17 **Area Variance to New York State Town Law, Section 280-a**

APPLICANT: **Indus Hospitality Group, 950 Panorama Trail S., Rochester, N.Y. 14625**

ACTION: **Area Variances to Chapter 165, to permit site plan approval, subdivision plat approval and the issuance of special use permits by the Town Planning Board for a proposed Taco Bell Restaurant (to be located on proposed Lot #2) and a proposed 60-room Microtel (to be located on proposed Lot #3) of the drawing entitled “1301 Route 332 Lot Combination Subdivision Filed Map #32716;” all of which are currently located upon property at 1301 New York State Route 332**

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as Board) has opened Public Hearings upon the above referenced Area Variance applications (hereinafter referred to as Actions) on November 27, 2017 which are part of the Town’s approval process for the development of the above referenced Taco Bell Restaurant and Microtel Hotel Projects; and

WHEREAS, the Board determined the above referenced Actions to be classified as Unlisted Actions under the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Board established a 30-day public review and comment period and a coordinated review with the identified involved/interested agencies; and

WHEREAS, both the public review period and the coordinated review period upon the proposed Actions began on Tuesday, November 28, 2017, and ended at noon on Friday, December 29, 2017; and

WHEREAS, the Board received a response from the Town Planning Board (hereinafter referred to as Planning Board) following that Board’s December 6, 2017, meeting, that they desired to be the designated Lead Agency for making the determination of significance upon the above referenced actions and further intended to make such declaration at the January 3, 2018 meeting; and

WHEREAS, the Board, at their December 18, 2017, meeting adopted a resolution agreeing with the Planning Board’s declared intent to be designated the Lead Agency; and

WHEREAS, the Planning Board, at their January 3, 2018, meeting did establish themselves as the Lead Agency, completed the Parts 2 and 3 of the Short Environmental Assessment Form (EAF) and has further determined that supplemental information is re-

quired to identify how the applicant intends to mitigate the identified potentially significant impacts on the Part 2 Short EAF; and

WHEREAS, the Board may not take action upon the above identified area variances until such time as the lead agency has made a determination of significance under the SEQR Regulations; and

WHEREAS, the Planning Board has not, at this time, made the required determination of significance under the SEQR Regulations.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby table any further consideration upon the requested Area Variances and continues the Public Hearings thereon to Monday, February 26, 2018, at 7:00 p.m.

■ A motion was made MS. PURDY, seconded by MR. YOURCH, that the preceding resolution be approved.

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

Motion carried.

5. CODE ENFORCEMENT OFFICER

Mr. Morse reported that the Town Code Advisory Committee will meet on Monday, January 29, 2018, to continue its review of the Town Code. He said that the committee may be able to complete the review of the Town Code at this meeting and, if so, would then begin to draft updates to the code at subsequent meetings.

Mr. Morse noted that several more applications for solar energy installations are expected.

He also reported that the Indus Hospitality Group Area Variance applications may be the only items on the agenda for the next ZBA meeting on February 26, 2018.

6. PUBLIC COMMENTS

Mr. Hemminger, who serves as chairperson of the Farmington Planning Board, noted that the Planning Board’s annual organizational meeting would be held on the Planning Board’s next regular meeting night, Wednesday, January 17, 2018. He invited members of the Zoning Board of Appeals to attend.

7. NEXT MEETING DATE

The next regular meeting of the Zoning Board of Appeals will be held on Monday, February 26, 2018, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

8. ADJOURNMENT

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

Motion carried by voice vote.

The meeting was adjourned at 7:40 p.m.

Following the meeting, the clerk locked the front entrance doors to the Town Hall.

Respectfully submitted,

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