

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS
Tuesday, June 20, 2017, 7:00 p.m.

MINUTES—APPROVED

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

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

Town Official Present:
Farmington Supervisor Peter Ingalsbe

Staff Present:
Ronald L. Brand, Town of Farmington Director of Development and Planning
James Morse, Town of Farmington Code Enforcement Officer

Applicants Present:
Lorene Benson, Executive Director, Cobblestone Arts Center, 1622 State Route 332,
Farmington, N.Y. 14425
Scott M. Benson, Cobblestone Arts Center, 1622 State Route 332, Farmington, N.Y. 14425
Michael Best, 6165 Brownsville Road, Farmington, N.Y. 14425
Donald Johnson, 355 Hook Road, Farmington, N.Y. 14425
Charles Laplant, 4909 State Route 96, Shortsville, N.Y. 14548
Brian Mattiaccio, D.D.S., 1393 Hathaway Drive, Farmington, N.Y. 14425
Robert Nersinger, Lamar Outdoor Advertising, 55 Rockwood Street, Rochester, N.Y. 14610
Michael Greene, Lamar Outdoor Advertising, 55 Rockwood Street, Rochester, N.Y. 14610
Jim Newton, Lamar Outdoor Advertising, 55 Rockwood Street, Rochester, N.Y. 14610
Juliet Wrench, 6165 Brownsville Road, Farmington, N.Y. 14425

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 MAY 30, 2017

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the minutes of the May 30, 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 Tuesday, June 13, 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 will be held by and before the Zoning Board of Appeals of the Town of Farmington at 1023 Hook Road, Farmington, N.Y., on the 20th day of June, 2017 commencing at 7:00 p.m. to consider the following applications:

ZB #0601-17: CHARLES LAPLANT, 4909 ROUTE 96, SHORTSVILLE, N.Y. 14548: Request an Area Variance to Article IV, Chapter 165-18C to the Town of Farmington Codes. The applicant wishes to create a parcel with two accessory structures on a vacant parcel. The property is located at 4909 NYS Route 96 and zoned A-80 District.

ZB #0602-17: LAMAR OUTDOOR ADVERTISING, 55 ROCKWOOD STREET, ROCHESTER, N.Y. 14610: Request an Area Variance to Article V, Chapter 165-45 (12) to the Town of Farmington Codes. The applicant wishes to erect a commercial off-premises advertising sign. The property is located on the west side of NYS Route 332 south of Cobblestone Arts Center and zoned General Business District.

ZB #0603-17: BRIAN MATTIACIO, 1393 HATHAWAY DRIVE, FARMINGTON, N.Y. 14425: Request an Area Variance to Article V, Chapter 165-B (1) (c) to the Town of Farmington Codes. The applicant wishes to erect a second ground sign (one ground sign is allowed). The property is located at 1393 Hathaway Drive and zoned General Business District.

ZB #0604-17: DONALD JOHNSON, 355 HOOK ROAD, FARMINGTON, N.Y. 14425. Request a temporary use permit according to the Town of Farmington Codes, Article VII, Section 165-91 to permit a food service trailer. The property is located at 5930 County road 41 and zoned General Business District.

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

Tim DeLucia, Chairperson
Zoning Board of Appeals
Town of Farmington

4. PUBLIC HEARINGS

ZB #0601-17	Charles Laplant 4909 State Route 96 Shortsville, N.Y. 14548	Area Variance
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The applicant is requesting an Area Variance to Chapter 165, Article IV, Section 18C of the Farmington Town Code. The applicant wishes to create a new lot having two accessory structures. The Town Code limits accessory structures to one per lot in this zoning district. The property is located at 4909 State Route 96 and is zoned A-80 Agricultural District.

Mr. DeLucia declared the Public Hearing open.

Mr. Laplant presented this application.

He explained that he has been a resident of the Town for 44 years and intends to subdivide his property to create two additional lots (Lot B and Lot C) and construct a new, smaller home on Lot B in order to downsize his living space and remain in his own home in Farmington.

He presented a map of the property which depicted the proposed location of his new home on Lot B and the septic, water and sewer utility locations.

Mr. Laplant said that he has a prospective buyer for his existing home and property (Lot A). He expressed his appreciation to the members of the board to help him expedite the approval process to avoid losing the sale to the prospective buyer.

Mr. Yurch asked about the setbacks of the proposed new home on Lot B. Mr. Morse explained that the Mr. Laplant plans to construct the new dwelling behind an existing garage on Lot B. Mr. Morse said that a 60-foot front setback is required and that Mr. Laplant would be required to apply for an Area Variance from the Zoning Board of Appeals (ZBA) for the location of the new home if it is to be located behind the garage.

Mr. Laplant confirmed that the new home would be constructed behind the existing garage. He described the proposed location on a map that he had.

Mr. Morse said that the proposed Lot B meets the frontage requirement for either a conventional or a raised-bed onsite wastewater treatment system.

Mr. Brand reported that the Town staff met earlier today to review the various options that are available to Mr. Laplant. He reported that the Town Attorney was contacted, as well. Mr. Brand explained that the staff concluded that its recommendation would be that Mr. Laplant amend his proposed subdivision plat to change Lot B from an Unbuildable Lot to a Buildable Lot with a principal structure (his new home). Mr. Brand said that the two existing structures on Lot B would then become Accessory Structures to the principal structure, for which he could make an application to the ZBA for an Area Variance to allow the two Accessory Structures following the issuance of a Building Permit for the new home on Lot B. Mr. Laplant would also require an Area Variance if the new dwelling—a principal structure—on Lot B is to be located behind the garage.

Mr. Brand advised Mr. Laplant to contact Greg Trost, the assistant resident engineer at the Canandaigua office of the New York State Department of Transportation (DOT) regarding the DOT's review and approval of Mr. Laplant's proposed driveway access from State Route 96 into Lot C.

Mr. Laplant explained that Lot C has more than 600 feet of frontage along State Route 96 and that it is the intent of his son to move back to Farmington following his retirement as a deputy with the Monroe County Sheriff's Office and ultimately build a home on Lot C.

There were no further comments or questions on this application from members of the ZBA or Town staff.

Mr. DeLucia asked if anyone in attendance wishes to speak for or against the application or had questions or comments. There were no further questions or comments from those in attendance.

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

ZB #0603-17

**Brian Mattiaccio
1393 Hathaway Drive
Farmington, N.Y. 14425**

Area Variance

The applicant is requesting an Area Variance to Chapter 165, Article V, Section 43 B (a) (c) of the Farmington Town Code. The applicant wishes to erect a second two-sided ground sign business-identification sign on the premises near the entrance along Hathaway Drive. The Town Code limits two-sided ground commercial speech signage to one building-mounted business-identification sign and one two-sided ground business-identification sign on the premises. The property already has one two-sided ground busi-

ness-identification sign that is located at the corner of State Route 332 and Perez Drive. The property is located at 1393 Hathaway Drive and is zoned GB General Business.

Mr. DeLucia declared the Public Hearing open.

Dr. Mattiaccio presented this application.

He explained that he received approval in 2014 for construction of his dental office and a freestanding lighted sign at the corner of Perez Drive and State Route 332. He noted that patients driving northbound on State Route 332 must turn left (east) onto County Road 41 and then turn right (north) onto Hathaway Drive in order to reach his office. As a result, the one freestanding sign on State Route 332 is not visible to Hathaway Drive northbound traffic. Dr. Mattiaccio also explained that there is no signage on the front of his building for his dental office that is visible from Hathaway Drive and that he often sees patients as early as 6:00 a.m. and as late as 6:00 p.m. when darkness makes it difficult for patients to identify his building. He said that patients having found it difficult to identify his office from the other office buildings along Hathaway Drive.

Dr. Mattiaccio presented renderings of the proposed sign which would be about 4 feet in height and about 3.5 feet in width. He said that the sign would not be lighted, that it would be located for visibility from Hathaway Drive, and that it would be designed in the style of his existing sign.

Members of the ZBA and Mr. Morse had no comments or questions on this application.

Mr. Brand questioned the Ontario County Planning Board's (OCPB) recommendation of denial of the application. He said that he fails to understand its objection because Dr. Mattiaccio's proposed sign would not affect the major State Route 332 corridor and would not be visible from State Route 332.

Because of the OCPB recommendation of denial, Mr. Brand explained that the ZBA would be required to approve the Area Variance with a super majority vote of the board, i.e., a majority + 1 or a total of 4 votes in favor. He also explained that the ZBA would be required to state its rationale for overriding the OCPB recommendation of denial.

There were no further comments or questions on this application from members of the ZBA or Town staff.

Mr. DeLucia asked if anyone in attendance wishes to speak for or against the application or had questions or comments. There were no further questions or comments from those in attendance.

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

ZB #0604-17**Donald Johnson
355 Hook Road
Farmington, N.Y. 14425****Temporary Use Permit**

The applicant is requesting a Temporary Use Permit in accordance with the provisions of Chapter 165, Article VII, Section 91 of the Farmington Town Code. The applicant wishes to provide a food service trailer on property located at 5930 County Road 41. The property is zoned GB General Business.

Mr. DeLucia declared the Public Hearing open.

Mr. Johnson presented this application.

He explained that would like to operate a food trailer under the Papa Jack's name on the Country Max Store property at 5930 County Road 41.

Mr. Opett noted that a similar application had been received from another resident last year, at the intersection of State Route 96 and State Route 332, and that the Town had received no complaints about that operation. He expressed his support for Mr. Johnson's application.

Mr. Morse said that he has reviewed the Ontario County Planning Board's comments and the draft resolutions that have been prepared for the ZBA's consideration this evening, and that each of his concerns have been addressed.

Mr. Brand asked about a storage display shed on the west side of the Country Max Store property. Mr. Johnson said that his food trailer would be about 30 feet away from that structure and that the storage display shed may remain on the site in its present location.

Mr. Brand reminded Mr. Johnson that the Temporary Use Permit would be valid for a two-year period and that a number of conditions of approval have been included in the draft resolution to be considered by the ZBA this evening.

Mr. Brand asked Mr. Johnson to discuss the propane gas tanks that would be used in the food trailer's operation and how they would be secured and made tamper-proof. Mr. Johnson said that he would be using two 100-pound propane tanks and that he could construct a fenced area with a gate, lock and skirting for their security, and to conceal them from visibility. He also noted that he would require water service to the trailer.

Mr. Johnson said that he could mount the tanks directly to the trailer.

Mr. Morse explained that a section of the New York State building code deals with these types of tanks. He said that Mr. Johnson should plan to meet with him and with the Town Fire Marshal regarding their use and storage on the site.

Mr. Brand noted that the draft resolution that has been prepared for ZBA consideration this evening includes a condition of approval that no petroleum tanks are to be stored on the property when the food trailer is not open for business.

There were no further comments or questions on this application from members of the ZBA or Town staff.

Mr. DeLucia asked if anyone in attendance wishes to speak for or against the application or had questions or comments. There were no further questions or comments from those in attendance.

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

Mr. DeLucia then recused himself from participating in the discussion on the next application (ZB #0602-17—Lamar Outdoor Advertising Area Variance) and the deliberations on the other Lamar Outdoor Advertising Area Variance applications which are on the agenda this evening (ZB #0401-17, ZB #0402-17, ZB #0403-17, ZB #0404-17 and ZB #0408-17). He cited an indirect personal relationship with the Cobblestone Arts Center, on whose behalf the applications have been submitted.

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

ZB #0602-17	Lamar Outdoor Advertising 55 Rockwood Street Rochester, N.Y. 14610	Area Variance
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The applicant is requesting an Area Variance to Chapter 165, Article V, Section 45 A (12) of the Farmington Town Code. The applicant wishes to erect an off-premises commercial speech sign within 660 feet of the right-of-way, or which is intended to be viewed from along State Route 332. The Town Code restricts the placement of off-premises commercial speech signs to a minimum setback of 660 feet from the highway right-of-way. The property is located on the west side of State Route 332 south of Cobblestone Arts Center and is zoned GB General Business.

Ms. Purdy declared the Public Hearing open.

Mr. Newton, general manager of Lamar Outdoor Advertising, presented this application. Mr. Nersinger and Mr. Greene also attended from Lamar Outdoor Advertising. Ms. Benson and Mr. Benson attended from the Cobblestone Arts Center.

Mr. Newton explained that this Area Variance application seeks to allow installation of a digital advertising sign on Cobblestone Arts Center property at 1622 State Route 332 at a distance of 12 feet from the New York State right-of-way and about 45 feet from the road, when the Town Code requires that a sign must be 660 feet from the right-of-way.

He said that the 660-foot distance is not consistent with the locations of other billboard-type signs in the Town. He noted that the distances of other signs from the road have changed through the years when roadbeds were shifted and properties may have been acquired by the State through eminent domain for improvements on State Route 332 and other roads.

Mr. Newton said that this variance application, and the other five variance applications that have been submitted, would provide an additional advertising opportunity for businesses and would provide opportunities for community and Town organizations to place public-service messages to increase awareness by the public.

Ms. Benson said that decision by the Cobblestone Arts Center to lease a portion of their property to Lamar Outdoor Advertising involves the financial concerns of the organization. She said that the lease agreement would provide the Arts Center with revenue of about \$16,000 per year, which would be helpful for the organization which is continually seeking funding for its programs. She noted that the digital sign would be good for the business community's advertising programs, as well.

Mr. Morse explained that an administrative review of this application was received late this afternoon from the Ontario County Planning Board.

There were no further comments or questions on this application from members of the ZBA or Town staff.

Ms. Purdy asked if anyone in attendance wishes to speak for or against the application or had questions or comments. There were no further questions or comments from those in attendance.

Ms. Purdy then closed the Public Hearing on this application.

5. BOARD BUSINESS—DELIBERATIONS AND DECISIONS

ZB #0401-17

Lamar Outdoor Advertising

Area Variance

The Public Hearing on this application was opened on April 18, 2017. It was continued to May 30, 2017, at which meeting testimony and information was received. The Public Hearing on this application was closed on May 30, 2017.

■ A motion was made by MR. YOURCH, seconded by MR. OPETT, that the reading of the SEQR resolution on this application be waived.

Motion carried by voice vote. The reading of the SEQR resolution on this application was waived.

■ A motion was made by MR. YOURCH, seconded by MR. MARSHALL, that the following resolution be approved:

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

ZB #0401-17

**APPLICANT: Lamar Outdoor Advertising, 55 Rockwood Street,
Rochester, N.Y. 14610**

**ACTION: Area Variance, to erect a 225.75-square-foot freestanding
commercial speech sign on property located at 1622 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) (7) as construction of an accessory non-residential structure involving less than 4,000 square feet in area; and

WHEREAS, the Action involves the granting of a single area variance for erecting a non-conforming sign which is larger in total sign area than allowed by Town Code.

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.

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

Motion carried.

Ms. Purdy then asked the clerk to read aloud the following resolution:

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

APPLICANT: **Lamar Outdoor Advertising**
55 Rockwood Street
Rochester, N.Y. 14610

File: ZB #0401-17
Zoning District: GB General Business
Published Legal Notice on: April 9, 2017
County Planning Action: April 12, 2017
County Referral #: 47.1-2017
Public Hearing held on: April 18, 2017 and May 30, 2017

Property Location: West side of State Route 332, south of the Cobblestone Performing Arts Center.

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

Requirement for Which Variance is Requested: The applicant wishes to erect a 225.75-square-foot freestanding commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center which is located at 1622 State Route 332. The Town Code allows a maximum size for a freestanding commercial speech sign to have 64 square feet in area.

State Environmental Quality Review Determination: The granting of a single Area Variance to erect a 225.75-square-foot freestanding commercial speech sign is classified as a Type II Action under Part 617.5 (c) 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: A recommendation of denial has been made by the Ontario County Planning Board, Referral #47.1-2017, under the provisions of Sections 239-l and -m of the New York State General Municipal Law.

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 Board finds that the proposed pole mounted commercial speech sign does not meet the sign standards and criteria contained in Chapter 165, Sections 41, 43 and 45, of the Town Code and that granting this requested Area Variance would produce an undesirable change in the character of the neighborhood and would likely be a detriment to nearby properties including the Auburn Trail.

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 could construct a pole mounted commercial speech sign that would comply with the Town’s Sign Regulations contained in Chapter 165 of the Town Code. The Board also finds that there is no known sight constraint(s) for passing motorists to the proposed location for the requested 225.75-square-foot pole mounted commercial speech sign which might otherwise be considered by the Board in its findings upon these criteria.

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

Reasons: The Board finds that the requested 225.75-square-foot sign is a 352% increase in the maximum size sign allowed by the Town’s Sign Regulations contained in Chapter 165 of the Town Code. The Board has consistently found that an area variance larger than 50% of what is otherwise required by Town Code is 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. **X Yes** ___ No

Reasons: The Board finds that although the State Environmental Quality Review (SEQR) Regulations classifies the granting of a single area variance as being a Type II Action, the Board finds that the proposed 225.75-square-foot pole mounted commercial speech sign would indeed have a visual adverse impact upon the environmental conditions along the Route 332 Corridor.

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 a self-created hardship by the applicant.

**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 **DOES NOT** outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to erect a 225.75-square-foot freestanding commercial speech sign to be located on the west side of State Route 332, south of the Cobblestone Performing Arts Center 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 and to the Ontario County Planning Board.

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

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

Motion carried.

Clerk’s Note: At this point in the meeting, Lorene and Scott Benson of the Cobblestone Arts Center, along with the three representatives from Lamar Outdoor Advertising, left the meeting and did not return.

ZB 0402-17 Lamar Outdoor Advertising Area Variance

The Public Hearing on this application was opened on April 18, 2017. It was continued to May 30, 2017, at which meeting testimony and information was received. The Public Hearing on this application was closed on May 30, 2017.

■ A motion was made by MR. YOURCH, seconded by MR. MARSHALL, that the reading of the SEQR resolution on this application be waived.

Motion carried by voice vote. The reading of the SEQR resolution on this application was waived.

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the following resolution be approved:

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

ZB #0402-17

**APPLICANT: Lamar Outdoor Advertising, 55 Rockwood Street,
Rochester, N.Y. 14610**

ACTION: Area Variance, to erect a 225.75-square-foot freestanding commercial speech sign with moving/motion signage on property located at 1622 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) (7) as construction of an accessory non-residential structure involving less than 4,000 square feet in area; and

WHEREAS, the Action involves the granting of a single area variance for erecting a non-conforming commercial speech sign which would have moving/motion messages that is not allowed by Town Code.

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.

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

Motion carried.

Ms. Purdy then asked the clerk to read aloud the following resolution:

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

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

File: ZB #0402-17
Zoning District: GB General Business
Published Legal Notice on: April 9, 2017
County Planning Action: April 12, 2017
County Referral #: 47.1-2017

Public Hearing held on: April 18, 2017 and May 30, 2017

Property Location: West side of State Route 332, south of the Cobblestone Performing Arts Center

Applicable Section of Town Code: Chapter 165, Article V, Section 45 A. (2)

Requirement for Which Variance is Requested: The applicant wishes to erect a 225.75-square-foot freestanding commercial speech sign with moving/motion signage to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center which is located at 1622 State Route 332. The Town Code prohibits moving/motion signage.

State Environmental Quality Review Determination: The granting of an Area Variance to erect a 225.75-square-foot freestanding commercial speech sign with moving/motion signage is classified as a Type II Action under Part 617.5 (c) 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: A recommendation of denial has been made by the Ontario County Planning Board, Referral #47.1-2017, under the provisions of Sections 239-l and -m of the New York State General Municipal Law.

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 Board finds that a 225.75-square-foot freestanding commercial speech sign with moving/motion signage to be located along the west side of State Route 332 is an attention getting device which would distract the attention of passing motorists along the heavily traveled state highway. Despite the applicant’s contention that such signage does not contribute adversely to highway safety, the Board finds that the purpose for such advertising sign is to attract the motorist’s attention from along the highway, otherwise there would be no need for advertising to persons walking along the sidewalk or using the adjacent Auburn Trail.

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 there is no feasible alternative to the requested variance.

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

Reasons: The Board finds that granting the requested area variance for the proposed moving sign as defined in the Town Code would involve granting a variance of 100% greater than what is allowed. The Board has consistently found that an area variance larger than 50% of what is otherwise required by Town Code is 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. **X Yes** ___ No

Reasons: The Board finds that although the State Environmental Quality Review (SEQR) Regulations classifies the granting of a single area variance as being a Type II Action, the Board finds that the proposed 225.75-square-foot pole mounted commercial speech sign with changing messages would indeed have a visual adverse impact upon the environmental conditions along the Route 332 Corridor.

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 applicant’s alleged difficulty 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 **DOES NOT** outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to erect a 225.75-square-foot freestanding commercial speech sign with moving/motion signage to be located on the west side of State Route 332, south of the Cobblestone Performing Arts Center 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 and to the Ontario County Planning Board.

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

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

Motion carried.

ZB #0403-17 Lamar Outdoor Advertising Area Variance

The Public Hearing on this application was opened on April 18, 2017. It was continued to May 30, 2017, at which meeting testimony and information was received. The Public Hearing on this application was closed on May 30, 2017.

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the reading of the SEQR resolutions on applications ZB #0403-17, ZB #0404-17, ZB #0408-17 and ZB #0602-17 be waived.

Motion carried by voice vote. The reading of the SEQR resolutions on applications ZB #0403-17, ZB #0404-17, ZB #0408-17 and ZB #0602-17 were waived.

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the following resolution be approved:

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

ZB #0403-17

**APPLICANT: Lamar Outdoor Advertising, 55 Rockwood Street,
Rochester, N.Y. 14610**

**ACTION: Area Variance, to erect a 225.75-square-foot freestanding
commercial speech sign with changeable copy commercial
speech on property located at 1622 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) (7) as construction of an accessory non-residential structure involving less than 4,000 square feet in area; and

WHEREAS, the Action involves the granting of a single area variance for erecting a non-conforming commercial speech sign with changeable copy messages that would be larger in size than allowed by Town Code.

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.

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

Motion carried.

Ms. Purdy then asked the clerk to read aloud the following resolution:

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

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

File: ZB #0403-17
Zoning District: GB General Business
Published Legal Notice on: April 9, 2017
County Planning Action: April 12, 2017
County Referral #: 47.1-2017
Public Hearing held on: April 18, 2017 and May 30, 2017

Property Location: West side of State Route 332, south of the Cobblestone Performing Arts Center

Applicable Section of Town Code: Chapter 165, Article V, Section 41.A. (2)

Requirement for Which Variance is Requested: The applicant wishes to erect a 225.75-square-foot freestanding commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center which is located at 1622 State Route 332. The Town Code restricts changeable-copy commercial speech signs to a maximum of 20 square feet in area.

State Environmental Quality Review Determination: The granting of an Area Variance to erect a 225.75-square-foot freestanding commercial speech sign with changeable copy is classified as a Type II Action under Part 617.5 (c) 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: A recommendation of denial has been made by the Ontario County Planning Board, Referral #47.1-2017, under the provisions of Sections 239-l and -m of the New York State General Municipal Law.

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

Reason: The Board finds that granting an area variance to enable the construction of a 225.75-square-foot freestanding commercial speech changeable-copy sign to be located along the west side of State Route 332, instead of a changeable-copy sign having a maximum of 20 square feet in area would produce an undesirable change in the character of the neighborhood and would likely 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. **X Yes** ___ No

Reason: The Board finds the applicant can always obtain a Sign Permit for a changeable-copy sign that contains 20 square feet in area, or less.

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

Reasons: The Board finds the applicant is requesting an area variance to permit a changeable-copy sign that is 225.75 square feet in area, which is 206% larger than what is allowed by Town Code. The Board has consistently found that an area variance that is greater than 50% of what is allowed by Town Code is a substantial area variance.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. **X Yes** ___ No

Reasons: The Board finds the applicant's over-sized changeable-copy sign would have a visual impact upon motorists using State Route 332. The Board finds that State Route 332 is a major highway corridor which is identified by Ontario County as a major gateway into the County and to the Finger Lakes Region. The Board finds that such a large changeable-copy sign, as well as other pre-existing non-conforming billboard signs that

exist along this major gateway, detract from the physical environmental conditions in this corridor.

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

Reason: The Board finds that the alleged difficulty, for which the requested area variance is made, 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 **DOES NOT** outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to erect a 225.75-square-foot freestanding commercial speech sign with changeable copy to be located on the west side of State Route 332, south of the Cobblestone Performing Arts Center 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 and to the Ontario County Planning Board.

■ A motion was made by MR. OPETT, seconded by MR. MARSHALL, that the preceding resolution be approved.

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

Motion carried.

ZB 0404-17 Lamar Outdoor Advertising Area Variance

The Public Hearing on this application was opened on April 18, 2017. It was continued to May 30, 2017, at which meeting testimony and information was received. The Public Hearing on this application was closed on May 30, 2017.

The reading of the SEQR resolution on this application was waived (*see* ZB #0403-17, above).

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the following resolution be approved:

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

ZB #0404-17

**APPLICANT: Lamar Outdoor Advertising, 55 Rockwood Street,
Rochester, N.Y. 14610**

**ACTION: Area Variance, to erect a 225.75-square-foot freestanding
commercial speech sign with signage not pertinent to the
property on which it is located at 1622 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) (7) as construction of an accessory non-residential structure involving less than 4,000 square feet in area; and

WHEREAS, the Action involves the granting of a single area variance for erecting a non-conforming sign which would have messages that are not pertinent to the property on which the proposed sign is to be located.

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.

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

Motion carried.

Ms. Purdy then asked the clerk to read aloud the following resolution:

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

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

File: ZB #0404-17
Zoning District: GB General Business
Published Legal Notice on: April 9, 2017
County Planning Action: April 12, 2017
County Referral #: 47.1-2017
Public Hearing held on: April 18, 2017 and May 30, 2017

Property Location: West side of State Route 332, south of the Cobblestone Performing Arts Center

Applicable Section of Town Code: Chapter 165, Article V, Section 45 A. (3)

Requirement for Which Variance is Requested: The applicant wishes to erect a 225.75-square-foot freestanding commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center which is located at 1622 State Route 332. The variance request is to allow for the advertising of businesses that are not located on the premises. The Town Code restricts pertinent commercial speech advertising for only a bona fide business that is conducted in or on the premises.

State Environmental Quality Review Determination: The granting of an Area Variance to erect a 225.75-square-foot freestanding commercial speech sign to allow for the advertising of businesses that are not located on the premises is classified as a Type II Action under Part 617.5 (c) 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: A recommendation of denial has been made by the Ontario County Planning Board, Referral #47.1-2017, under the provisions of Sections 239-l and -m of the New York State General Municipal Law.

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 Board finds that pertinent advertising in this Town is restricted to signs advertising a bona fide business that is conducted upon the premises. The Board finds that in this application, the commercial speech sign will be advertising services that do not exist upon the premises. The Board finds that by granting the requested area variance that it would be contributing to not honoring this long standing legislative principal. The Board finds that its duties and obligations is not to change legislative principals but to enforce them and to grant the minimum relief only where it is found justifiable. The Board, in this instance, does not find advertising for businesses and services that are not located upon the property, but in many instances not even in the Town, would produce an undesirable change in the character of the neighborhood and would be detrimental to nearby properties along this major highway corridor. The Board also finds that State Route 332 is defined by the State of New York (Sections 52, 86 and 88 of 17 NYCRR Part 150) as being a Primary Highway. The Board finds that the State has an agreement with the Federal Government to enforce the Highway Beautification Act of 1965 as amended. The Board further finds that the State is required to maintain records for outdoor advertising signs on control roads such as State Route 332. The State classifies signs as on-premises or off-premises. On-premises signs must be located within close proximity to the activity they advertise. Once a sign is determined by the State to be on-premises it is no longer regulated by Federal or State highway sign laws. Off-premises signs visible from a control road must be registered with the New York State Department of Transportation (NYSDOT). In order for a new sign to be registered with NYSDOT it must meet certain criteria including zoning, spacing, size and lighting requirements or restrictions. The Board, based upon its interpretation of the Federal and State highway sign laws, finds that this proposed commercial speech sign is indeed an off-premises sign which would not be allowed even with Town approval of the requested area variance.

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 the applicant could provide pertinent advertising for the Cobblestone Performing Arts Center that is located upon the property and which would be an allowed use of commercial speech signage.

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

Reasons: The Board finds that granting the requested area variance to allow a commercial speech sign to be erected which intends to advertise businesses and services that are not limited to the subject property to be requesting an area variance of 100%. The Board has consistently found that an area variance of 50% or more than what is allowed by Code to be a substantial area variance.

4. Whether the proposed variance will have an adverse effect or impact upon the physical environmental conditions in the neighborhood or district. **X** Yes ___ No

Reason: The Board finds that allowing a commercial speech advertising sign for businesses and services that are not found on the subject property and the potential for many

that are not located within the Town to have an adverse visual impact upon the physical environmental conditions in the neighborhood.

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 of restricting advertising of a bona fide business conducted in or on the premises 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 **DOES NOT** outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to erect a 225.75-square-foot freestanding commercial speech sign to be located on the west side of State Route 332, south of the Cobblestone Performing Arts Center, to allow for the advertising for businesses that are not located on the premises 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 and to the Ontario County Planning Board.

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

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

Motion carried.

ZB 0408-17 Lamar Outdoor Advertising Area Variance

The Public Hearing on this application was opened on April 18, 2017. It was continued to May 30, 2017, at which meeting testimony and information was received. The Public Hearing on this application was closed on May 30, 2017.

The reading of the SEQR resolution on this application was waived (*see* ZB #0403-17, above).

■ A motion was made by MR. MARSHALL, seconded by YOURCH, that the following resolution be approved:

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

ZB #0408-17

**APPLICANT: Lamar Outdoor Advertising, 55 Rockwood Street,
Rochester, N.Y. 14610**

ACTION: Area Variance, to erect a 225.75 square foot, 23-foot-high, free-standing commercial speech sign on property which it is located at 1622 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) (7) as construction of an accessory non-residential structure involving less than 4,000 square feet in area; and

WHEREAS, the Action involves the granting of a single area variance for erecting a non-conforming sign which would have a height greater than permitted by the Town Code.

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.

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

Motion carried.

Ms. Purdy then asked the clerk to read aloud the following resolution:

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

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

File: ZB #0408-17
Zoning District: GB General Business
Published Legal Notice on: April 9, 2017
County Planning Action: April 12, 2017
County Referral #: 47.1-2017
Public Hearing held on: April 18, 2017 and May 30, 2017

Property Location: West side of State Route 332, south of the Cobblestone Performing Arts Center

Applicable Section of Town Code: Chapter 165, Article V, Section 43 B (2) (a)

Requirement for Which Variance is Requested: The applicant wishes to erect a 225.75-square-foot 23 feet high freestanding commercial speech sign to be located along the west side of State Route 332, south of the Cobblestone Performing Arts Center which is located at 1622 State Route 332. The Town Code restricts all ground signs to a height of not more than 15 feet above ground.

State Environmental Quality Review Determination: The granting of an Area Variance to erect a 225.75-square-foot 23 feet high freestanding commercial speech sign is classified as a Type II Action under Part 617.5 (c) 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: A recommendation of denial has been made by the Ontario County Planning Board, Referral #47.1-2017, under the provisions of Sections 239-l and -m of the New York State General Municipal Law.

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 Board finds that there are no sight restrictions, either to passing motorists or the walking public, to the location of the proposed sign that might otherwise help to justify granting the requested area variance. The Board finds that granting the requested area variance without such proper justification could produce an undesirable change in the character of the neighborhood and would likely 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. **X Yes** ___ No

Reasons: The Board finds that the applicant could reduce the height of the proposed commercial speech sign to comply with the height restrictions contained in the Town Code.

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

Reasons: The Board finds that the requested area variance for allowing the commercial speech sign to be 8 feet taller than the 15 feet allowed by Code involves granting an area variance of 53%. The Board has consistently found that an area variance request of more than 50% above what the Code requires 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. **X Yes** ___ No

Reasons: The Board finds that the height restriction in the Town Code, combined with the setback requirement allows for signage that has been determined by the Town Board not to have an adverse effect or impact upon the physical environmental conditions in the Town. The Board further finds that to grant an area variance to allow this property to have a higher (taller) sign than what others are required to have would have an adverse effect upon the physical environmental conditions.

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 no reason why the applicant could not propose a free-standing commercial speech sign that would comply with Town Code requirements. The Board finds that the alleged difficulty 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 **DOES NOT** outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the re-

quested Area Variance to erect a 225.75-square-foot 23 feet high freestanding commercial speech sign to be located on the west side of State Route 332, south of the Cobblestone Performing Arts Center 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 and to the Ontario County Planning Board.

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

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

Motion carried.

ZB #0602-17 Lamar Outdoor Advertising Area Variance

The reading of the SEQR resolution on this application was waived (*see* ZB #0403-17, above).

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the following resolution be approved:

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

ZB #0602-17

**APPLICANT: Lamar Outdoor Advertising, 55 Rockwood Street,
Rochester, N.Y. 14610**

**ACTION: Area Variance to erect an off-premises commercial speech sign
within 660 feet of the right-of way, or which is intended to be
viewed from along 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) (7) as construction of an accessory non-residential structure involving less than 4,000 square feet in area; and

WHEREAS, the Action involves the granting of a single Area Variance for erecting an off-premises commercial speech sign within 660 feet of the right-of-way, or which is intended to be viewed from along State Route 332 when the Town Code Chapter 165, Article V, Section 45 A. (12) restricts the placement of off-premises commercial speech signs to a minimum setback of 660 feet from the highway right-of-way.

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.

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

Motion carried.

Ms. Purdy then asked the clerk to read aloud the following resolution:

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

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

File: ZB #0602-17
Zoning District: GB General Business
Published Legal Notice on: June 13, 2017
County Planning Action: July 12, 2017
County Referral #: 107-2017
Public Hearing held on: June 20, 2017

Property Location: West side of State Route 332, south of Cobblestone Performing Arts Center

Applicable Section of Town Code: Chapter 165, Article V, Section 45 A. (12)

Requirement for Which Variance is Requested: The applicant wishes to erect an off-premises commercial speech sign within 660 feet of the right-of-way, or which is intended to be viewed from along State Route 332. The Town Code restricts placement of off-premises commercial speech signs to a minimum setback of 660 feet from the highway right-of-way.

State Environmental Quality Review Determination: The granting of an Area Variance to erect an off-premises commercial speech sign within 660 feet of the right-of-way, or which is intended to be viewed from along State Route 332 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 (OCPB) Referral #107-2017, was acted upon as an Administrative Referral using the administrative review process (Resolution 540-2006) adopted by the OCPB. The recommendation will appear in the July 12, 2017 OCPB Meeting Minutes.

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 Board finds that State Route 332 is defined by the State of New York, Department of Transportation (Sections 52, 86 and 88 of 17 NYCRR Part 150) as being a Primary Highway. The Board finds that the State has an agreement with the Federal Government to enforce the Highway Beautification Act of 1965 as amended. The Board further finds that the State is required to maintain records for outdoor advertising signs on control roads such as State Route 332. The State classifies signs as on-premises or off-premises. On-premises signs must be located within close proximity to the activity they advertise. Once a sign is determined by the State to be on-premises it is no longer regulated by Federal or State highway sign laws. Off-premises signs visible from a control road must be registered with the New York State Department of Transportation (NYSDOT). In order for a new sign to be registered with NYSDOT it must meet certain criteria including zoning, spacing, size and lighting requirements or restrictions. The Board, based upon its interpretation of the Federal and State highway sign laws, finds that this proposed commercial speech sign is indeed an off-premises sign which would not be allowed by the NYSDOT even with Town approval of the requested area variance.

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 could have instead proposed a free-standing commercial speech pole sign sized to Town Code specifications and located in close proximity to the driveway entrance from State Route 332 to the property, which in the State’s interpretation would not be considered an off-premises commercial speech sign.

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

Reasons: The Board finds that the proposed setback for the 225.75-square-foot digital commercial speech sign is 15 feet from the highway right-of-way. The Board further finds that the proposed commercial speech sign is to advertise off-premises uses and services. The Board further finds that the Town Code requires such off-premises commercial speech sign to have a minimum set back of 660 feet from the right-of-way of State Route 332. The Board finds that the requested set back would involve granting an area variance of 440% from what is required by Town Code. The Board has consistently found that an area variance that is 50% or greater than what is required by Town Code to be 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. **X Yes** ___ No

Reasons: The Board finds that the setback restrictions in the Town Code, for off-premises commercial speech signage, has been determined by the Town Board not to have an adverse visual effect or impact upon the physical environmental conditions in the Town. The Board also finds that its continued support for the Federal and State Highway Beautification Act is in the best interests of the Town. The Board further finds that to grant an area variance to allow this property to have a commercial speech off-premises sign to be set back 15 feet from the highway right-of-way would have an adverse effect upon the physical environmental conditions in the neighborhood or district.

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 and that consideration to this finding is relevant to the decision of the board of appeals.

**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 **DOES NOT** outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to erect an off-premises commercial speech sign within 660 feet of the right-of-way, or which is intended to be viewed from along State Route 332, to be

located on the west side of State Route 332, south of the Cobblestone Performing Arts Center 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 and to the Ontario County Planning Board.

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

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

Motion carried.

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

ZB #0501-17 Michael Best Area Variance

The Public Hearing on this application was opened on May 30, 2017, at which meeting testimony and information was received. The Public Hearing on this application was closed on May 30, 2017.

The SEQR Determination that this application will not have a significant impact upon the environment was made by the Zoning Board of Appeals on May 30, 2017 (*see* minutes of May 30, 2017).

Mr. DeLucia then read aloud the following resolution:

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

APPLICANT: Michael Best	File: ZB #0501-17
6165 Brownsville Road	Zoning District: RR-80 Rural Residential
Farmington, N.Y. 14425	Published Legal Notice on: May 21, 2017

County Planning Action on: June 14, 2017
County Referral #: 88-2017

Public Hearing held on: May 30, 2017 and
June 21, 2017

Property Location: 6165 Brownsville Road, Farmington, N.Y. 14425

Applicable Section of Town Code: Chapter 165, Article VI, Section 72 B. 6.

Requirement for Which Variance is Requested: The applicant wishes to conduct a portion of a Major Home Occupation outside of the principal dwelling unit or accessory structure located on the subject property. The Town Code requires a Major Home Occupation be carried on within an existing or proposed building on the premises. A Major Home Occupation located within the principal dwelling unit may not exceed 25% of the total gross floor area, or 500 square feet of the principal dwelling unit. A Major Home Occupation may only be located within an accessory structure that is smaller in size than the principal dwelling and may not exceed 50% of the total gross floor area of the principal dwelling.

State Environmental Quality Review Determination: The granting of an Area Variance to conduct a Major Home Occupation on outside of the principal dwelling unit or accessory structure is classified as a Type II Action under Part 617.5 (c) (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 Environmental Conservation Law, Article 8.

County Planning Referral Recommendation: The County Planning Board Referral, #88-2017, is a Class 1 with comments. No specific County recommendation is made.

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 Board finds that outdoor photo sessions on the property will not create an undesirable change in the character of the neighborhood or will it be a detriment to nearby properties. The Board finds that the taking of photographs upon the outdoor portion of this property will not be apparent or detrimental 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 there is no feasible alternative to the requested area variance to permit outdoor photo sessions on his property.

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

Reasons: The Board finds that the requested area variance involves granting a variance of 100 % to allow a Major Home Occupation to operate outside either a Principal Structure or an Accessory Structure on the premises. The Board has consistently found that granting an area variance in excess of 50% of what is required by Town Code 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 **X 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 applicant desires to conduct a portion of a Major Home Occupation that was not envisioned when the text for Major Home Occupations was written and adopted. The Board, therefore, finds that the proposed outdoor use of the property for a Major Home Occupation 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 **DOES** outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to conduct a portion of a Major Home Occupation outside of the principal dwelling unit or accessory structure is **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. No Certificate of Compliance shall be issued until a Special Use Permit and Final Site Plan Approval for a Major Home Occupation has been granted by the Planning Board.

- 2. There shall be no outdoor use of lighting, associated with the photo session(s), that extends beyond the property boundary line onto adjacent properties, or creates a glare onto the adjacent public highway.
- 3. There shall be no loud noise used with any of the photo sessions that extends beyond the property boundary line.
- 4. Any commercial speech signage shall be subject to sign site plan approval by the Planning Board.
- 5. There shall be no off-site parking of vehicles used in conjunction with the commercial photography being requested.

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 and to the Ontario County Planning Board.

Mr. DeLucia asked Mr. Best if he agreed with the conditions of approval. Mr. Best indicated that he agreed with the conditions of approval.

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

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

Motion carried.

ZB #0601-17 Charles Laplant Area Variance

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the reading of the SEQR resolution on this application be waived.

Motion carried by voice vote. The reading of the SEQR resolution on this application was waived.

■ A motion was made by MR. OPETT, seconded by MR. YOURCH, that the following resolution be approved:

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

ZB #0601-17

APPLICANT: Charles Laplant, 4909 State Route 96, Shortsville, N.Y. 14548

ACTION: Area Variance to create a new lot, proposed Lot B of the Charles D. LaPlant Subdivision, a vacant lot with two accessory structures, located west of property at 4909 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 has reviewed the Type I and Type II lists contained in Part 617.5 of the SEQR Regulations and finds the Action is a Type II Action involving the granting of a single Area Variance to create a new lot having two accessory structures.

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.

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

Motion carried.

Mr. DeLucia then read aloud the following resolution:

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

APPLICANT: Charles Laplant **File: ZB #0601-17**

4909 State Route 96
Shortsville, N.Y. 14548

Zoning District: A-80 Agricultural District
Published Legal Notice on: June 13, 2017
County Planning Action on: June 14, 2017
County Referral #: 93.1-2017
Public Hearing held on: June 20, 2017

Property Location: 4909 State Route 96, Shortsville, N.Y. 14548

Applicable Section of Town Code: Chapter 165, Article IV, Section 18 C.

Requirement for Which Variance is Requested: The applicant wishes to create a new lot, Lot B of the Charles E. LaPlant Subdivision. Lot B is currently a proposed Unbuildable Lot, having two structures that are not accessory to any Principal Structure. The Town Code limits accessory structures to one per lot in this zoning district. The Town Code also requires Accessory Structures to be subordinate to a Principal Structure located upon an approved Lot.

State Environmental Quality Review Determination: The granting of an Area Variance to create a new lot having two accessory structures is classified as a Type II Action under Part 617.5 (c) 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: Ontario County Planning Board referral number 93.1-2017, dated June 14, 2017 is a Class 1 and has been returned to the Zoning Board of Appeals without a formal recommendation and with comments only.

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 Board finds that the applicant is requesting a variance to permit two accessory structures to remain on a proposed lot that is to be created as an Unbuildable Lot, a part of a pending subdivision of land. The Board further finds that the Town Code restricts accessory structures to one per Lot. The Town Code also defines an Accessory Structure as being customarily incidental and subordinate to and serves a Principal Building located on the same Lot. The Board also finds that the two structures are not Accessory Structures to any Principal Structure on the proposed Unbuildable Lot B. The Board finds that granting the requested area variance would be allowing structures to be placed upon a lot not having a Principal Structure that could likely set a precedent for other lots in the neighborhood, thereby adversely affecting the character of the neighborhood and could become a detriment to nearby properties where there are Principal Structures.

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 is intending to subdivide Lot B in such a manner as to include two structures that were originally Accessory Structures and part of the overall parcel of land. The Board further finds that the applicant intends to build a house, a Principal Structure, upon proposed Lot B. The Board further finds that the definition of an Accessory Structure requires that there be a Principal Structure located upon a Lot. The Board further finds that a feasible alternative can be achieved by the applicant by having the proposed Subdivision Plat for an Unbuildable Lot B changed to a Buildable Lot B. The Board further finds that this alternative is required by the Town Code as a prerequisite to the issuance of a Building Permit for the construction of a Principal Dwelling on proposed Lot B, as the applicant has stated as his intentions. The Board further finds that a Building Permit may not be issued until there is a street address established for the Lot, which may only be done with having an approved site plan for the dwelling thereby making Lot B a Buildable Lot.

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

Reasons: The Board finds that the requested area variance involves granting a variance of 100% to allow a second accessory structure to be located upon Lot B. The Board has consistently found that granting an area variance in excess of 50% of what is required by Town Code 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 **X 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 applicant has had the benefit of the two accessory structures on his property for a number of years and that his subdivision design reflects a self-created hardship, which in this instance, is found to be relevant to the decision of the board of appeals.

**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 **DOES** outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to create a new vacant lot, Lot B, having two accessory structures, located west of Lot A, at 4909 State Route 96, is **APPROVED WITH THE FOLLOWING MODIFICATIONS:**

1. Lot B, of the proposed Charles LaPlant Preliminary Subdivision Plat, is to be re-designed as a Buildable Lot.
2. A Final Subdivision Plat is to be approved by the Planning Board and filed in the Office of the Ontario County Clerk.
3. Any area variance, that may result for either of the two structures that will ultimately be located upon Lot B, are to be applied for prior to the issuance of a Building Permit for a Principal Structure for Lot B.
4. Once the above conditions are satisfied, the area variance for a Buildable Lot B, is then made in effect.

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, to the Town Planning Board, and to the Ontario County Planning Board.

Mr. DeLucia reviewed the conditions of approval with Mr. Laplant. Mr. Laplant asked about the existing structure that would be located in front of the proposed new home on Lot B. Mr. Morse and Mr. Brand explained that a variance would be required from the ZBA to place the home in back of the existing structure.

Mr. Brand further explained that following the completion of Conditions 1, 2 and 3 and receipt of a building permit, Mr. Laplant could then apply to the ZBA for a variance for the second Accessory Structure on the property. Mr. Brand noted that the variance would be contingent upon the location of the new home on Lot B.

Mr. Laplant asked about time limits and about expediting the approval process. He said that he is concerned that he could lose the prospective buyer for his current home on Lot A. Mr. Brand said that Mr. Laplant is receiving the best possible advice this evening and that he sees nothing this evening from preventing the approval of Mr. Laplant's subdivision.

Mr. Laplant asked how he should answer the prospective buyer in the speed of the process. Mr. Brand said that the Town would be able to act depending upon how quickly Mr. Laplant’s engineer can submit a Site Plan for review. Mr. Brand said that the Site Plan should indicate the locations of the water supply, the proposed septic system and the driveway entrance from State Route 96. Mr. Laplant said that a New York State-installed culvert from State Route 96 into Lot B already exists.

Mr. Marshall suggested that the Mr. Laplant arrange to meet with Mr. Brand and Mr. Morse to discuss the technical details of the subdivision.

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

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

Motion carried.

ZB #0603-17 Brian Mattiaccio Area Variance

■ A motion was made by MR. OPETT, seconded by MS. PURDY, that the reading of the SEQR resolution on this application be waived.

Motion carried by voice vote. The reading of the SEQR resolution on this application was waived.

■ A motion was made by MR. MARSHALL, seconded by MR. YOURCH, that the following resolution be approved:

**FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
SEQR RESOLUTION—TYPE II ACTION
ZB #0603-17**

**APPLICANT: Brian Mattiaccio, D.D.S., 1393 Hathaway Drive,
Farmington, N.Y. 14425**

**ACTION: Area Variance to erect a second two-sided ground business-
identification sign on the premises.**

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) (7) as construction of an accessory non-residential structure involving less than 4,000 square feet in area; and

WHEREAS, the Action involves the granting of a single Area Variance for erecting a second two-sided ground business-identification sign on the premises, to be viewed from along Hathaway Drive, when the Town Code Chapter 165, Article V, Section 43 B. (a) (c) limits two-sided ground commercial speech signage to one building mounted business-identification sign and one two-sided ground business-identification sign the premises.

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.

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

Motion carried.

Mr. DeLucia then read aloud the following resolution:

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

APPLICANT: Brian Mattiaccio, D.D.S.
1393 Hathaway Drive
Farmington, N.Y. 14425

File: ZB #0603-17
Zoning District: GB General Business
Published Legal Notice on: June 13, 2017
County Planning Action on: June 14, 2017
County Referral #: 92.1-2017
Public Hearing held on: June 20, 2017

Property Location: 1393 Hathaway Drive, Farmington, N.Y. 14425

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

Requirement for Which Variance is Requested: The applicant wishes to erect a second two-sided ground business-identification sign on the premises. The Town Code limits two-sided ground commercial speech signage to one building-mounted business-identification sign and one two-sided ground business-identification sign on the premises. The property already has one two-sided ground business-identification sign.

State Environmental Quality Review Determination: The granting of an Area Variance to erect a second two-sided ground business-identification sign is classified as a Type II Action under Part 617.5 (c) 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: A recommendation of denial has been made by the Ontario County Planning Board, Referral #92.1-2017, under the provisions of Sections 239-1 and –m of the New York State General Municipal Law.

DETERMINATION OF THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals, after reviewing the Ontario County Planning Board Referral #92.1-2017 finds:

1. There is no intercommunity or county-wide consideration associated with the proposed area variance that has been found to be incompatible with various land uses within the neighborhood.
2. The proposed sign is only visible from along Hathaway Drive, a Town Road and will not have an adverse impact on existing state highways.
3. The proposed sign will not have an adverse impact upon the protection of community character; on the contrary, the proposed sign complies with the Town's adopted Site Design Guidelines for the Major Thoroughfare Overlay District.
4. The Board finds that, in this instance, a second ground-mounted commercial speech sign is warranted on this corner lot.

NOW, THEREFORE, BE IT RESOLVED that the Board in making this Determination has satisfied the procedural requirements under New York State General Municipal 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 and to the Ontario County Planning Board.

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

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

Motion carried.

Mr. DeLucia then read aloud the following resolution:

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

APPLICANT: Brian Mattiaccio, D.D.S. 1393 Hathaway Drive Farmington, N.Y. 14425	File: ZB #0603-17 Zoning District: GB General Business Published Legal Notice on: June 13, 2017 County Planning Action on: June 14, 2017 County Referral #: 92.1-2017 Public Hearing held on: June 20, 2017
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Property Location: 1393 Hathaway Drive, Farmington, N.Y. 14425

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

Requirement for Which Variance is Requested: The applicant wishes to erect a second two-sided ground business-identification sign on the premises. The Town Code limits two-sided ground commercial speech signage to one building-mounted business-identification sign and one two-sided ground business-identification sign on the premises. The property already has one two-sided ground business-identification sign.

State Environmental Quality Review Determination: The granting of an Area Variance to erect a second two-sided ground business-identification sign is classified as a Type II Action under Part 617.5 (c) 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: A recommendation of denial has been made by the Ontario County Planning Board, Referral #92.1-2017, under the provisions of Sections 239-l and -m of the New York State General Municipal Law.

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 Board finds that the proposed area variance to allow the construction of a second ground mounted commercial speech sign upon this site and along the east side of Hathaway Drive will not produce an undesirable change in the character of the neighborhood or will it be a detriment to nearby properties. The proposed sign is found to be well designed and compliments the other ground mounted commercial speech sign that is visible from along State Route 332. The Board further finds that the proposed second ground mounted commercial speech sign will be visible only to motorists along Hathaway Drive and will identify the adjacent driveway to the Dentist's Office.

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 can attach a building mounted commercial speech sign. The Board further finds that the proposed ground mounted sign is also a feasible alternative to a building mounted sign.

3. Whether the requested variance is substantial. **Yes** No

Reasons: The Board finds that the requested area variance involves granting a variance of 100% to allow a second ground mounted commercial speech sign to be located upon the premises. The Board has consistently found that granting an area variance in excess of 50% of what is required by Town Code 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 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 place a commercial speech sign upon the building and not need the requested area variance. However, the Board finds that in doing so, such signage would detract from the architectural quality of the building. The

Board further finds that the proposed ground mounted commercial speech 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 **DOES** outweigh any potential detriment to the health, safety and welfare of the Neighborhood or Community and, therefore, the requested Area Variance to erect a second two-sided ground business-identification sign on the premises is **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. The ground mounted commercial speech sign is to comply with the Town’s lighting standards contained in Chapter 165 of the Town Code.
2. The ground mounted commercial speech sign is to first obtain sign site plan approval from the Town Planning Board before any Building Permit is issued to allow the construction of said sign.

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 and to the Ontario County Planning Board.

Mr. DeLucia asked Dr. Mattiaccio if he agreed with the conditions of approval. Dr. Mattiaccio indicated that he agreed with the conditions of approval.

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

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

Motion carried.

ZB #0604-17 Donald Johnson Temporary Use Permit

■ A motion was made by MR. YOURCH, seconded by MS. PURDY, that the reading of the SEQR resolution on this application be waived.

Motion carried by voice vote. The reading of the SEQR resolution on this application was waived.

■ A motion was made by MR. OPETT, seconded by MS. PURDY, that the following resolution be approved:

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

ZB #0604-17

APPLICANT: Donald Johnson, 355 Hook Road, Farmington, N.Y. 14425

ACTION: Temporary Use Permit to operate a food cart within the west portion of the Country Max Store, located at the southwest corner of the intersection of County Road 41 and Beaver Creek Road

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has determined the above referenced Action to be a Type II Action under Section 617.5 (c) (1), (3) and (7) of the State Environmental Quality Review (SEQR) Regulations; and,

WHEREAS, the Action involves the temporary use of land, located within the west portion of the Country Max Store, located at the southwest corner of County Road 41 and Beaver Creek Road; and

WHEREAS, 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.

- Timothy DeLucia Aye
 - Jeremy Marshall Aye
 - Cyril Opett Aye
 - Nancy Purdy Aye
 - Thomas Yourch Aye
- Motion carried.

Mr. DeLucia then read aloud the following resolution:

**TOWN OF FARMINGTON
TEMPORARY USE PERMIT FINDINGS AND DECISION**

APPLICANT: Donald Johnson
355 Hook Road
Farmington, NY 14424

File: ZB #0604-17
Zoning District: GB Gen. Business
Notice published: June 13, 2017
County Meeting: June 14, 2017
Hearing Held: June 20, 2017

Property Location: Northwest corner of the intersection of County Road 41 and Beaver Creek Road, at the west end of the parking lot for the Farmington Country Max Store (Tax Map #29.00-2-23.211)

Use For Which Permit Is Requested: Applicant desires to operate a food service trailer on this portion of the above referenced property.

State Environmental Quality Review Determination: The above referenced application has been determined to be a Type II Action in accordance with the provisions contained in Part 617.5 (c) (1), (3) and (7), New York Codes, Rules and Regulations and Article 8 of the New York State Environmental Conservation Law.

County Planning Referral Number and Recommendation: #93.1-2017. Class 1 with comments that relate to a Site Plan Application (County Referral #93-2017).

In accordance with the provisions contained in Chapter 165, Section 91 of the Farmington Town Code, this application for a Temporary Use Permit 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 38 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 Zoning Board of Appeals (hereinafter referred to as Board) finds, based upon testimony given tonight in the public hearing record, that the purpose of the proposed Temporary Use Permit is to allow the use of a food trailer to be located upon only the existing overflow parking area for the Farmington Country Max Store. This overflow parking area is located at the west end of the Country Max Property. The food trailer will remain on the site each day commencing on July 1, 2017, through November 30, 2017 and then again commencing on April 1, 2018 through November 30, 2018. The hours of operation are to be 6:30 a.m. until 2:30 p.m., Monday through Friday. The food trailer shall operate during the months of April through November. The food trailer will not provide curb service to any vehicle along either side of County Road 41. The food trailer

will be kept clean at all times and there shall be no litter on the property resulting from the operation. There shall be a food receptacle located in close proximity to the food trailer and no food may be left over night in the receptacle. The food trailer operation shall not offer alcoholic beverages.

The Board further finds that the applicant has not identified any employees to operate the food service at this location. The Board further finds that the applicant intends to have only one commercial speech sign located on the property other than on the side of the food trailer. The Board further finds that the applicant will not be storing petroleum products on the site overnight. The Board further determines that the applicant is aware of the limitations contained in the Town Code for the granting and renewal of a Temporary Use Permit.

The Board further finds that there shall be no Building Permits issued for the proposed food trailer operation that is associated with this proposed Temporary Use Permit without first obtaining Site Plan Approval from the Town Planning Board.

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

Proof: The Zoning Board of Appeals finds that the character of the neighborhood is commercial with large volumes of passing motorists. The Board further finds that the applicant intends to maintain the appearance of the food trailer and this western portion of the Country Max Site. The Board further finds that the applicant has an agreement with the Country Max Property Owner to operate the food trailer outside the County Road 41 right-of-way and to have customers use only the eleven (11) over flow parking spaces.

The Board, based upon these findings, concludes that the proposed temporary use will not tend to depreciate the value of adjacent properties. On the contrary, the Board finds that said temporary use will provide an opportunity to enhance the agricultural sector of the Town and County.

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

Proof: The Zoning Board of Appeals finds that the proposed use with the findings identified above herein will not create a hazard to health, safety or general welfare of the community. The Board further finds that granting the Temporary Use Permit with conditions will enable the Town to evaluate the temporary operations associated with the proposed Temporary Use Permit, thereby allowing the Town opportunity to establish rules and regulations for creating a Special Use Permit for this type of land use within the developing area of the community. Such action, it is felt, should promote and sustain the viability of the commercial land use operations within the community and county.

Based upon the above findings, the Zoning Board of Appeals hereby makes the following decision:

- The request for the Temporary Use Permit is hereby granted.
- The request for the Temporary Use Permit is hereby granted with the following conditions set forth below.
- The request for the Temporary Use Permit is hereby denied.

The Zoning Board of Appeals hereby grants approval of the requested Temporary Use Permit with the following conditions:

1. The Temporary Use Permit is hereby granted for a period of two (2) years that is to commence on Wednesday, June 21, 2017, and will automatically terminate on June 20, 2019, unless renewed by the applicant prior to said date.
2. All New York State Health Department Permits are to be displayed on the food trailer and a copy thereof filed with this project file in the Town Building Department.
3. No petroleum tanks are to be stored on the property when the food trailer is not open for business.
4. The Temporary Use Permit is not transferrable to another party.
5. The Temporary Use Permit does enable the applicant to hire employees directly related to food cart operations.
6. All over flow parking spaces to be used in conjunction with the food trailer operation are to be dust free surface and parking spaces are to be double striped.
7. The Temporary Use Permit is hereby granted with the understanding that the applicant will need to obtain Site Plan Approval from the Town Planning Board.
8. The Temporary Use Permit is hereby granted with the condition that the findings contained above herein by the Zoning Board of Appeals are hereby made conditions of approval for the proposed Temporary Use Permit.
9. The Temporary Use Permit is hereby granted to the applicant for the sole purpose of operating a seasonal food trailer within the established west portion of the Farmington Country Max Site located at the northwest corner of County Road 41 and Beaver Creek Road.
10. One directional sandwich board sign to be located along the northern right-of-way boundary for County Road 41, between the western driveway entrance to the Country Max Store and the Adjacent gasoline/convenience store shall be permitted. Said sign is to be removed from along the shoulder of the County highway at the end of each day of operation and stored inside the food trailer.

- 11. At the end of the seasonal operation, December 1st of each year, the food trailer is to be removed from the site.

The Temporary Use Permit is hereby issued to Donald Johnson and is not transferable to a second party.

Upon the expiration of the requested Temporary Use Permit, the temporary use shall immediately cease and all equipment, supplies and materials relating to this permit shall be removed from the site and the site shall be returned to a condition acceptable to the Town Code Enforcement Official.

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

Mr. Marshall asked about the propane tanks that would be used in the operation of food trailer. He noted that the resolution calls for the removal of the tanks from the site when the food trailer is not in operation. Mr. Johnson said that he would be using two 100-pound propane tanks. He suggested that he could build a metal cage with a grate to store them on the site.

Mr. Brand asked Mr. Johnson if he has discussed the propane tanks with the owner of the Country Max Store, and if the store owner has concerns about volatile materials being stored on the property without supervision when the food trailer is not in operation. Mr. Johnson said that he could build an enclosure for the propane tanks for a metal door for security and protection.

Mr. Morse said that the construction of an enclosure would be considered an addition to the Temporary Use Permit and would be subject to the provisions of the Town Code regarding such structures.

■ **Consensus:** Following discussion, it was the consensus of the Zoning Board of Appeals that Condition #3—concerning the removal of petroleum tanks from the property when the food trailer is not open for business—should remain in the approval resolution.

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

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

Motion carried.

6. PUBLIC COMMENTS—OPEN FORUM

Supervisor Ingalsbe said that board members should plan to come into the Town Hall after July 4th to receive their key fobs for access for the Town Hall. He also noted that an additional security system would be installed in the Town Hall. He then provided an update on the progress of the renovations.

7. OTHER BOARD MATTERS

The 2017 Association of Towns training packet was distributed to all board members at the meeting on May 30, 2017. Mr. Brand asked that board members continue their review of the materials. He said that an in-house training session would be scheduled for board members on a convenient meeting night with a lighter agenda.

8. CODE ENFORCEMENT OFFICER REPORT

Mr. Morse reported that an application for final site plan approval has been received for the DiFelice Industrial Complex on the southwest corner of Collett Road and Hook Road.

He also noted that applications are being received for new projects and that he expects a busy summer.

9. NEXT MEETING DATE

To avoid having Zoning Board of Appeals and Planning Board meetings scheduled in the same week, Mr. Brand suggested that the next meeting of the Zoning Board of Appeals be scheduled for Wednesday, July 26, 2017. There were no objections from board members or Town staff.

The next regular meeting of the Zoning Board of Appeals will be held at 1023 Hook Road, Farmington, N.Y. 14425, on **Wednesday, July 26, 2017, at 7:00 p.m.**

10. ADJOURNMENT

■ A motion was made by MR. OPETT, seconded by MR. MARSHALL, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 9:05 p.m.

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

Respectfully submitted,

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