

Town of Farmington

1000 County Road 8
Farmington, New York 14425

ZONING BOARD OF APPEALS

Established July 15, 1957

Monday, March 19, 2018, 7:00 p.m.

MINUTES—APPROVED

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

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

Staff Present:
James Janulis, MRB Group, D.P.C.
James Morse, Town of Farmington Code Enforcement Officer

Applicants Present:
Kip Finley, P.E., Director of Development, Indus Hospitality Group, 950 Panorama Trail South, Rochester, N.Y. 14625
Matt Tomlinson, CPESC, Marathon Engineering, 39 Cascade Drive, Rochester, N.Y. 14614

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, 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 FEBRUARY 26, 2018

■ A motion was made by MR. MARSHALL seconded by MR. YOURCH, that the minutes of the February 26, 2018, meeting be approved.

Motion carried by voice vote.

3. LEGAL NOTICE

Mr. DeLucia attested that the following Legal Notice was published in the Canandaigua *Daily Messenger* newspaper (the Town’s official newspaper) on Sunday, March 11, 2018, 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 the Town of Farmington Zoning Board of Appeals regularly scheduled meeting has been rescheduled to Monday, March 19, 2018, commencing at 7:00 p.m. in the Main Meeting Room in the Farmington Town Hall, 1000 County Road 8, Farmington, New York 14425, to consider applications ZB #0701-17 through ZB #0708-17, Indus Hospitality Group, 950 Panorama Trail S., Rochester, N.Y. 14625.

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

Tim DeLucia, Chairperson
Zoning Board of Appeals
Town of Farmington

4. CONTINUED BOARD BUSINESS

Mr. DeLucia concurrently resumed the Public Hearings on ZB #0701-17 through ZB #0708-17 which were opened on November 27, 2017, and continued on January 8, 2018, and February 26, 2018, as follows:

ZB #0701-17	Indus Hospitality Group 950 Panorama Trail S. Rochester, N.Y. 14625	Area Variance
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The applicant is requesting an Area Variance to Article V, Chapter 165–37–11 to the Town of Farmington Codes. The applicant wishes 140 parking spaces (a minimum of 191

spaces are required). The property is located at proposed Lot #2, 1301 NYS Route 332 and zoned General Business District.

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

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

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

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

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

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

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

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

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

The applicant is requesting an Area Variance to Article IV, Chapter 165–35A to the Town of Farmington Codes. The applicant wishes a variance for lot width of 15 feet (a

minimum of 150 is required). The property is located at proposed Lot #3, 1301 NYS Route 332 and zoned General Business District.

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

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

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

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

Chronology of the Indus Hospitality Group applications:

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

November 27, 2017 The ZBA requests, in the PNRL, that the Planning Board consider declaring its intent to be designated as the Lead Agency for making the SEQR determination following the completion of the 30-day public review period.

November 27, 2018 The Farmington Conservation Board issues the following comments on the Area Variance applications: 1) Fire truck radius would be tight for the Taco Bell building; 2) there is very little green space and landscaping; and 3) there are drainage concerns, i.e., where will the water runoff go?

December 6, 2017 The Planning Board Public Hearings are opened on the Two-Lot Preliminary Subdivision and two Special Use Permit applications; discussion opened on Preliminary Site

- Plan application; Planning Board Public Hearings and discussion continued to January 3, 2018
- December 6, 2017** The Planning Board declares its intent to be designated as the Lead Agency for making the SEQR determination following the 30-day public review period.
- December 18, 2017** The ZBA reschedules the continuation date of the ZBA Area Variance Public Hearings from January 15, 2018 (which is Martin Luther King Jr. Day, a legal holiday) to January 8, 2018. The ZBA directs that a new Legal Notice be published in the Town's Official Newspaper and posted on the Town's website of the change in date for the January meeting.
- December 18, 2017** The ZBA takes action to indicate that it has no objection to the Planning Board designating itself as the Lead Agency for making the SEQR determination regarding the Indus Hospitality Group applications. The ZBA directs Town staff to give written notice to the SEQR Involved and Interested Agencies of the ZBA having no objection.
- January 3, 2018** The Planning Board designates itself as the Lead Agency for making the SEQR determination of significance; the Planning Board finds that four potentially moderate to large environmental impacts may occur; the Planning Board completes Parts 2 and 3 of the Short Environmental Assessment Form with an Attachment requesting additional information from the applicant; Public Hearings on the Planning Board applications continued to February 7, 2017 (rescheduled to February 14, 2018, due to inclement weather on February 7th).
- January 8, 2018** Zoning Board of Appeals continues the Public Hearings on the Area Variance applications to February 26, 2018.
- February 14, 2018** Planning Board continues the Public Hearings and discussion on the applications to February 21, 2018.
- February 14, 2018** Planning Board continues the Public Hearings and discussions on the applications to March 7, 2018.
- March 7, 2018** Planning Board State Environmental Quality Review (SEQR) determination for all ZBA and PB applications:

- Full Environmental Assessment Form Part 2:
Accepted
- SEQR Determination of Non-Significance:
Approved
- Full Environmental Assessment Form Part 3:
Accepted
- All Planning Board applications continued to April
18, 2018.

Mr. Tomlinson and Mr. Finley presented these applications.

Mr. Tomlinson displayed the plan and noted that Mr. Finley had discussed with the board at a previous meeting the parking arrangements for the KFC Restaurant, Taco Bell and Microtel Hotel areas of the site.

Mr. Tomlinson said that he has had discussions with the Planning Board and the Town Engineer regarding stormwater management and the associated easement(s) which will be required. He reported that the applicant has received a letter from the neighboring property owner in which the neighboring owner agreed to provide the required easement(s) for stormwater management and for access to the outlet control structure. Mr. Tomlinson noted that these discussions did not affect the Area Variance applications.

Mr. Tomlinson explained that following discussions with the Planning Board and the Town Engineer the applicant proposes to land bank 18 of the proposed 140 parking spaces. He said that the land area for the 18 land-banked parking spaces would be graded, prepared for paving, and would have the lighting fixtures installed. He explained that this area would be paved if the applicant determined after approximately six to 12 months of operation that the additional parking spaces were needed.

Mr. Morse said that this project has been discussed at a number of previous Project Review Committee and Planning Board meetings and that Mr. Finley and Mr. Tomlinson have provided information when requested.

Mr. Janulis reported that representatives of MRB Group have been in contact with Mr. Tomlinson regarding the off-site stormwater management arrangements. He said that an updated Stormwater Pollution Prevention Plan (SWPPP) is needed and that there are no concerns at this time regarding the proposed outlet control structure.

Mr. Finley and Mr. Tomlinson asked for clarification regarding the interpretation of Draft Condition #6 on ZB #0701-17 (the Area Variance for parking), which reads: “There shall be no further land banking of parking spaces provided upon both these two sites.” They asked about the meaning of “no further land banking of parking spaces” and whether the

18 land-banked parking spaces which they have proposed are affected by this draft condition.

Mr. Tomlinson said that this Area Variance application requests a reduction from 191 parking spaces as required by the Town Code to 140 spaces as proposed by the applicant, and that the 140 parking spaces would be a combination of 122 paved parking spaces and 18 land-banked parking spaces. He said that he and Mr. Finley would like to be sure that the Area Variance language is consistent with this proposal.

Mr. DeLucia suggested that Draft Condition #3 be deleted from the Area Variance resolution. He explained that this application concerns an Area Variance from the 191-parking-spaces requirement in the Town Code to 140 parking spaces. He said that the applicant and the Planning Board would have the opportunity to discuss the Site Plan and to determine the mix of paved and land-banked parking spaces at the time that the Site Plan is considered.

It was the consensus of the members of the board to accept Mr. DeLucia's suggestion to delete Draft Condition #3 from the resolution for ZB #0701-17.

Mr. Yourch asked if the area proposed for land-banked parking would be the location for snow storage. Mr. Finley said that the land-banked parking area would be graded as a lawn area and could be used for snow storage. Mr. Tomlinson said that if the land-banked area was needed for parking, this would not take away from the snow storage location and that snow would be pushed farther back on the site.

Mr. DeLucia asked if there were any further comments or questions on these applications. There were no further comments or questions from board members or Town staff. No residents were in attendance.

Mr. DeLucia then closed the Public Hearings on ZB #0701-17 through ZB #0708-17.

5. BOARD BUSINESS—DELIBERATIONS AND DECISIONS

Mr. DeLucia explained that the draft resolutions for ZB #0701-17 through ZB #0708-17 were provided to board members, Town staff and the applicant in advance of the meeting; and that the draft resolutions were posted upon the Town website. He requested that a motion be offered to waive the reading of portions of the resolutions and that he would read aloud the Determination of the Zoning Board of Appeals on each resolution.

■ A motion was made by MR. YOURCH, seconded by MR. MARSHALL, that the reading of portions of resolutions ZB #0701-17 through ZB #0708-18 be waived and that the chairperson read aloud the Determination of the Zoning Board of Appeals on each resolution.

Motion carried by voice vote. The reading of portions of the resolutions was waived.

ZB #0701-17 Indus Hospitality Group Area Variance

Mr. DeLucia then read aloud the Determination of the Zoning Board of Appeals from the following complete resolution:

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

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

File: ZB #0701-17
Zoning District: GB General Business and
MTOD
Published Legal Notice on: Nov. 19, 2017
County Planning Action on: 11/08/2017
County Referral #: 212.1-2017
Public Hearing held on: November 27,
2017; January 8, 2018; February 26, 2018;
and March 19, 2018

Property Location: 1301 NYS State Route 332

Applicable Section of Town Code: Chapter 165, Article V, Section 37 A (11)

Requirement for Which Variance is Requested: The applicant wishes to provide a total of 140 parking spaces for a proposed Taco Bell Restaurant (to be located on Lot #2) and a proposed 60-room Microtel Hotel (to be located on Lot #3) of the drawing entitled “1301 Route 332 Lot Combination Subdivision Filed Map #32716.” The Town Code requires a minimum of 191 parking spaces for these two proposed land uses. The property is located at 1301 NYS Route 332 and is zoned GB General Business District and MTOD Major Thoroughfare Overlay District.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of all Actions involved with the proposed construction of a Taco Bell Fast Food Restaurant and a Microtel Hotel along with related site improvements, has on Wednesday, March 7, 2018, made a conditioned Determination of Non-Significance.

County Planning Referral Recommendation: The County Planning Board recommends approval with comments.

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 X No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the character of the neighborhood is predominantly highway oriented commercial types of land use similar to that being proposed by the Taco Bell Fast Food Restaurant (hereinafter referred to as Restaurant) and the proposed Microtel Hotel (hereinafter referred to as Hotel). The Board further finds that allowing an additional fast food restaurant will be similar in character to other fast food restaurants located upon adjacent sites in this area. The Board further finds that allowing an additional Hotel will be similar in character to other hotels/motels located upon adjacent sites in the area. The Board further finds that the proposed reduction in the number of parking spaces required for the proposed Restaurant and Hotel will result in the reduction of the amount of impervious site coverage. The Board further finds, based upon input from the Town Engineers, that there is an existing storm water problem located in the northern portion of the Taco Bell Lot site that is due in large part to the lack of storm water control facilities missing from the adjacent America's Best Value Inn, the Park Place Restaurant and the Econo Lodge Motel. The Board further finds that the Town Engineers, MRB Group D.P.C., has as a result of their review of the proposed site development plans found a solution to the storm water component of the Taco Bell site which will also help correct the existing drainage issues created in part by the above referenced adjacent properties. The Board further finds that said solution involves an easement to be obtained by the applicant from the landowner of property to the east of the proposed Taco Bell site. The Board further finds that the applicant intends to establish easements to be placed upon the subdivision plat map that will be filed in the Ontario County Clerk's Office, involving all three properties (e.g., KFC, Taco Bell and Microtel), allowing for the sharing of parking spaces amongst all three uses. Based upon these findings, the Board concludes that the granting of relief to reduce the amount of impervious surface that would otherwise be required by Code upon the Taco Bell site will not produce an undesirable change in the character of the neighborhood, on the contrary, the Board finds the proposed relief will have a positive effect upon the character of the neighborhood; and, therefore, will not be a detriment to nearby properties.

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

Reasons: The Board finds that providing the number of on-site parking spaces required by Town Code would result in excessive site coverage and would further result in the need for a separate Area Variance to meet the open space requirements in this zoning district. The Board further finds that providing the required number of on-site parking spaces for both the Taco Bell and Microtel sites would adversely affect storm water design requirements. The Board further finds that the applicant has made a good faith effort, with adjacent property owners, to address the storm water issues and has provided a solution that is acceptable to the Town Engineers, MRB Group, D.P.C. provided that there is a reduction in the number of otherwise required parking spaces. The Board further finds that the number of parking spaces being proposed for these two sites (140) would, when combined with shared parking amongst all three sites enable adequate on-site parking based upon parking requirements provided by the applicant.

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

Reasons: The applicant is proposing a total of 140 parking spaces. The Town Code requires a total of 191 parking spaces for these two types of use. The variance being requested is for a reduction of 27% from what is otherwise required by Town Code. The Zoning Board of Appeals has consistently found that a variance of 50% or more from what is required by the 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 Town of Farmington Planning Board, the designated lead agency for the coordinated review of this action has, on March 7, 2018 made a Determination of Non-Significance.

5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the Area Variance. Yes No

Reasons: The Board finds that the alleged difficulty is a self-created hardship in that the applicant is not able to meet the requirements of parking contained in the Town Code for these two types of land use.

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 the detriment to the community and the neighborhood and therefore, the requested area variance is hereby granted with the following conditions:

1. This area variance is subject to the Town Planning Board granting Preliminary Subdivision Plat Approval and Preliminary Site Plan Approval for all three sites (e.g., KFC, Taco Bell and Microtel). Failure to obtain these approvals shall make this area variance null and void.
2. There shall be no less than 140 on-site parking spaces provided upon both the proposed Taco Bell and Microtel Sites.
3. There shall be easements filed in the Ontario County Clerk's Office on all three sites (e.g., KFC, Taco Bell and Microtel) allowing for shared on-site parking prior to the issuance of any Building Permits on these sites.
4. If a Final Site Plan application by the Town Planning Board results in the need for any additional Area Variance(s) for on-site parking, then this area variance shall be made null and void and the applicant will need to submit a new application for the required number of on-site parking spaces.

- 5. All striping for the proposed parking spaces shall be subject to the striping requirements set forth in the Town Code.
- 6. All snow removal shall be provided for upon all three sites and stock piled in accordance with approved site plan drawings. When in the finding of the Town Code Enforcement Officer or Fire Marshall that stockpiled snow needs to be removed from the site, the applicant shall comply with said directive or will be found to be in violation of these conditions of approval.
- 7. The number of required handicapped accessible parking spaces shall be provided and may not be shared amongst the three separate uses.

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 the Town of Farmington Planning Board.

■ 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 #0702-17 Indus Hospitality Group Area Variance

Mr. DeLucia then read aloud the Determination of the Zoning Board of Appeals from the following complete resolution:

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

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

File: ZB #0702-17
Zoning District: GB General Business and
MTOD
Published Legal Notice on: Nov. 19, 2017

County Planning Action on: 11/08/2017
County Referral #: 212.1-2017
Public Hearing held on: November 27, 2017; January 8, 2018; February 26, 2018; and March 19, 2018

Property Location: Lot #2, 1301 NYS State Route 332

Applicable Section of Town Code: Chapter 165, Article IV, Section 35 A, Schedule I

Requirement for Which Variance is Requested: The applicant wishes a variance for a side setback of 22 feet for a proposed Taco Bell Restaurant to be constructed upon Lot #2 of the drawing entitled “1301 Route 332 Lot Combination Subdivision Filed Map #32716.” The Town Code requires a minimum side yard setback of 30 feet. The property is located at 1301 NYS Route 332 and is zoned GB General Business District and MTOD Major Thoroughfare Overlay District.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of all Actions involved with the proposed construction of a Taco Bell Fast Food Restaurant and a Microtel Hotel along with related site improvements, has on Wednesday, March 7, 2018, made a conditioned Determination of Non-Significance.

County Planning Referral Recommendation: The County Planning Board recommends approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.
 Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the character of the neighborhood is predominantly highway oriented types of commercial land use. The Board further finds that there are other fast food type restaurants with drive-through service located within the neighborhood, one of which is immediately adjacent to the west of the proposed Taco Bell site. The Board further finds that with adequate screening between the proposed drive-through for the Taco Bell site and the adjacent on-site parking and travel lane for Dunkin Donuts that the proposed area variance will not become a detriment to nearby properties.

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

Reasons: The Board finds that while the Taco Bell site could be redesigned to avoid the need for the requested Area Variance, amending the drawing would adversely affect the

number of on-site parking spaces, drive aisles and access to the site. The Board also finds that such redesign would not likely result in a feasible alternative that would satisfy the storm water facility design for the property.

3. Whether the requested variance is substantial. Yes No

Reasons: The applicant is seeking a side yard setback of 22 feet. The Town Code requires a side yard setback of 30 feet. The variance being requested is a variance of 21.25% of what is otherwise required by Town Code. The Board has consistently found that a variance greater than 50% of 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. Yes No

Reasons: The Town Planning Board, the designated Lead Agency for this Action, has made a determination of non-significance at their meeting on Wednesday, March 7, 2018.

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 proposed design of this site has resulted in the need for the requested area variance and, therefore, 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 outweigh the detriment to the community or neighborhood and grants the requested area variance with the following conditions:

1. There shall be a four-foot-high visual barrier installed, either natural or manmade, along the west property line between the Taco Bell Restaurant and Dunkin Donuts Restaurant. Said barrier is to commence at the front of the Taco Bell structure and extend north to the rear property line. This barrier shall be so designed as to prevent automobile head lights from either site trespassing onto adjacent property, causing glare to motorists on both properties and minimize the drifting of snow from the Dunkin’ Donuts onto the Taco Bell site.
2. All site lighting associated with the drive-through window service for the Taco Bell Restaurant shall comply with Town Code requirements.

- 3. The area variance is subject to the Town Planning Board granting Final Site Plan approval for the proposed Taco Bell Restaurant with Drive-Through Service. Failure to obtain said site plan approval shall render this area variance null and void.

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 the Town Planning Board.

■ A motion was made by MS. PURDY, 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.

ZB #0703-17 Indus Hospitality Group Area Variance

Mr. DeLucia then read aloud the Determination of the Zoning Board of Appeals from the following complete resolution:

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

<p>APPLICANT: Indus Hospitality Group 950 Panorama Trail S. Rochester, N.Y. 14625</p>	<p>File: ZB #0703-17 Zoning District: GB General Business and MTOD Published Legal Notice on: Nov. 19, 2017 County Planning Action on: 11/8/2017 County Referral #: 2012.1-2017 Public Hearing held on: November 27, 2017; January 8, 2018; February 26, 2018; and March 19, 2018</p>
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Property Location: Lot #2, 1301 NYS State Route 332

Applicable Section of Town Code: Chapter 165, Article IV, Section 35 A, Schedule I

Requirement for Which Variance is Requested: The applicant wishes a variance for lot width of 15 feet for a proposed Taco Bell Restaurant to be constructed upon Lot #2 of the drawing entitled “1301 Route 332 Lot Combination Subdivision Filed Map #32716.” The minimum lot width, in the Town Code for this zoning district, is 150 feet. The property is located at 1301 NYS Route 332 and is zoned GB General Business and MTOD Major Thoroughfare Overlay District.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of all Actions involved with the proposed construction of a Taco Bell Fast Food Restaurant and a Microtel Hotel along with related site improvements, has on Wednesday, March 7, 2018, made a conditioned Determination of Non-Significance.

County Planning Referral Recommendation: The County Planning Board recommends approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the character of the neighborhood is highway oriented commercial land use and, in this instance, two such land uses that share a common driveway entrance/exit to State Route 332. The Board further finds that the applicant is proposing the continuation of this pattern of land use, by adding a third land use with a shared point of access, thereby avoiding an additional curb cut onto and along the heavily traveled State Route 332. The Board further finds that based upon the accepted Traffic Impact Study prepared by SRF Associates, accepted by Erdman and Anthony Associates and MRB Group, D.P.C., the Town’s Engineering Firm, that the additional shared access point will not result in a failing level of service at this location. The Board based upon these finds concludes that there will not be an undesirable change produced in the character of the neighborhood or will there be a detriment to nearby properties resulting from the granting of the requested area variance.

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

Reasons: The Board finds that the applicant does not have direct access to State Route 332 and the only alternative would be to subdivide the KFC site, thereby creating a non-conforming lot for KFC and also introducing the need for driveway spacing area variances as specified in the Town’s Major Thoroughfare Overlay District (MTOD) Regulations. The Board finds that minimizing access points to the heavily traveled State Route 332, especially in this portion of said highway, is of primary concern.

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

Reasons: The Board finds that the Town Code requires a minimum lot width of 150 feet. The applicant is proposing a lot width of 15 feet, the minimum lot width permitted under Section 280-a of New York State Town Law. The application involves a variance request of 90% from what is required for this zoning district. The Board has consistently found that granting an Area Variance which is in excess of 50% of what is otherwise required 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 finds that the Town Planning Board, the designated Lead Agency for this Action, has made a determination of non-significance at their meeting on Wednesday, March 7, 2018.

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 existing site layout has resulted in the need for the requested area variance and, therefore, 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:

 X That the benefit to the applicant DOES outweigh the detriment to the community or neighborhood and grants the requested area variance with the following conditions:

1. The applicant is to obtain Final Subdivision Plat Approval and Final Site Plan Approval from the Town Planning Board for the proposed Taco Bell Restaurant site. Failure to obtain said approvals shall make this requested area variance null and void.
2. A cross access easement, to permit in perpetuity the use of this fifteen-foot-strip as part of the shared private access to State Route 332 for the Dunkin’ Donuts site, the KFC site, the Taco Bell site and the Microtel site, is to be filed in the Ontario County Clerk’s Office prior to the issuance of any Building Permit for development of the Taco Bell site.
3. This fifteen-foot-wide strip of land is to be maintained in good condition as part of the shared access to all four sites located along this portion of State Route 332.

Failure to keep said shared access in good condition shall constitute a violation of these conditions of approval for the requested area variance.

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 the Town Planning Board.

■ A motion was made by MR. MARSHALL, 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 #0704-17 Indus Hospitality Group Area Variance

Mr. DeLucia then read aloud the Determination of the Zoning Board of Appeals from the following complete resolution.

Following the board’s deliberations on this resolution, it was the consensus of the board to revise Draft Condition #2 regarding the outdoor seating area. The resolution as published below includes this revision:

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

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

File: ZB #0704-17
Zoning District: GB General Business and
MTOD
Published Legal Notice on: Nov. 19, 2018
County Planning Action on: 11/08/2017
County Referral #: 212.1-2017
Public Hearing held on: November 27,
2017; January 8, 2018; February 26, 2018;
and March 19, 2018

Property Location: Lot #2, 1301 NYS State Route 332

Applicable Section of Town Code: Chapter 165, Article IV, Section 35A, Schedule I

Requirement for Which Variance is Requested: The applicant wishes a variance for a front setback of 20 feet from a proposed access road for a proposed Taco Bell Restaurant to be constructed upon Lot #2 of the drawing entitled “1301 Route 332 Lot Combination Subdivision Filed Map #32716.” The Town Code requires the front setback in this zoning district to be 75 feet. The property is located at 1301 NYS Route 332 and is zoned GB General Business and MTOD Major Thoroughfare Overlay District.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of all Actions involved with the proposed construction of a Taco Bell Fast Food Restaurant and a Microtel Hotel along with related site improvements, has on Wednesday, March 7, 2018, made a conditioned Determination of Non-Significance.

County Planning Referral Recommendation: The County Planning Board recommends approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.
 Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the character of this neighborhood is predominantly highway oriented commercial land uses. The Board further finds that the proposed front setback for the Taco Bell Restaurant has been designed to avoid locating the structure in the northern portion of the site, an area where there is existing natural drainage patterns from adjacent sites to the north; and to permit the building to be more visible to traffic, moving in both directions, from along the heavily traveled State Route 332. The Board further finds that the front setback of the proposed restaurant is designed to accommodate drive-through window service on the site, whose access also avoids the natural drainage area mentioned above. The Board further finds that placing the building closer to the private drive than what is otherwise required by Town Code will create a traffic calming effect upon motorists thereby resulting in slower speeds for passing traffic. Based upon these findings the Board determines that there will not be an undesirable change in the character of the neighborhood or will there likely be a detriment to nearby properties resulting from the granting of the requested front setback variance.

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

Reasons: The Board finds that a redesign of the site would likely result in the need for alternative solutions for storm water control which would not be feasible given the existing property boundary lines and natural site constraints.

3. Whether the requested variance is substantial. Yes No

Reasons: The Town Code requires a front setback in the GB General Business District of 75 feet. The applicant is proposing a front setback of 20 feet. The requested area variance seeks relief of 73.4% of what is otherwise required by Town Code. The Board has consistently found granting a variance in excess of 50% of what is otherwise required 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. Yes No

Reasons: The Board finds that the Town Planning Board, the designated lead agency for this Action, has made a determination of non-significance at their meeting on Wednesday, March 7, 2018.

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 existing site layout has resulted in the need for the requested area variance and, therefore, 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 outweigh the detriment to the community or neighborhood and grants the requested area variance with the following conditions:

1. The applicant is to obtain Final Subdivision Plat Approval and Final Site Plan Approval from the Town Planning Board for the proposed Taco Bell Restaurant site. Failure to obtain said approvals shall make this requested area variance null and void.
2. The front yard/outdoor seating portion of the site is to be redesigned to incorporate safety and landscaping elements to protect patrons from vehicular traffic in a manner to be determined by the Planning Board.

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.

■ 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 #0705-17 Indus Hospitality Group Area Variance

Mr. DeLucia then read aloud the Determination of the Zoning Board of Appeals from the following complete resolution:

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

APPLICANT: Indus Hospitality Group 950 Panorama Trail S. Rochester, N.Y. 14625	File: ZB #0705-17 Zoning District: GB General Business and MTOD Published Legal Notice on: Nov. 19, 2017 County Planning Action on: 11/08/2017 County Referral #: 212.1-2017 Public Hearing held on: November 27, 2017; January 8, 2018; February 26, 2018; and March 19, 2018
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Property Location: Lot #2, 1301 NYS State Route 332

Applicable Section of New York State Town Law: New York State Town Law 280a

Requirement for Which Variance is Requested: The applicant wishes to create a parcel without direct access to a mapped street. The property is located at proposed Lot #2, 1301 NYS Route 332 and zoned General Business District and MTOD Major Thoroughfare Overlay District. The applicant proposes the construction of a Taco Bell Fast Food Restaurant with drive-through window and related site improvements for proposed Lot #2.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of all Actions involved with the proposed construction of a Taco Bell Fast Food Restaurant and a Microtel Hotel along with related site improvements, has on Wednesday, March 7, 2018, made a conditioned Determination of Non-Significance.

County Planning Referral Recommendation: The County Planning Board recommends approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.
 Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds the character of the neighborhood to be primarily a mixture of highway oriented commercial uses fronting along State Route 332. The Board further finds that along this portion of heavily traveled highway there are a number of sites having multiple uses with shared access (e.g., Aldi’s, Burger King, Farmington Plaza, Dunkin’ Donuts, KFC, Sugar Creek Plaza, etc.). The Board further finds that the purpose of the MTOD regulations is to restrict the placement of individual points of access to this heavily traveled major highway. The Board finds that granting the requested area variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties.

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

Reasons: The Board finds that the applicant does not have direct access to State Route 332 and the only alternative would be to subdivide the KFC site, thereby creating a non-conforming lot for KFC and also introducing the need for driveway spacing area variances as specified in the Town’s Major Thoroughfare Overlay District (MTOD) Regulations. The Board finds that minimizing access points to the heavily traveled State Route 332, especially in this portion of said highway, is of primary concern.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the Town Code requires a minimum lot width of 150 feet. The applicant is proposing a lot width of 15 feet, the minimum lot width permitted under Section 280-a of New York State Town Law. The application involves a variance request of 90% from what is required for this zoning district. The Board has consistently found that granting an area variance which is in excess of 50% of what is otherwise required 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 finds that the Town Planning Board, the designated Lead Agency for this Action, has made a determination of non-significance at their meeting on Wednesday, March 7, 2018.

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 existing site layout has resulted in the need for the requested area variance and, therefore, 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:

 X That the benefit to the applicant DOES outweigh the detriment to the community or the neighborhood; and, therefore, the requested area variance is granted with the following conditions:

1. The applicant is to obtain Final Subdivision Plat Approval and Final Site Plan Approval from the Town Planning Board for the proposed Taco Bell Restaurant site. Failure to obtain said approvals shall make this requested area variance null and void.
2. A cross access easement, to permit in perpetuity the use of this fifteen-foot-wide-strip as part of the shared private access to State Route 332 for the Dunkin' Donuts site, the KFC site, the Taco Bell site and the Microtel site, is to be filed in the Ontario County Clerk's Office prior to the issuance of any Building Permit for development of the Taco Bell site.
3. This fifteen-foot-wide strip of land is to be maintained in good condition as part of the shared access to all four sites located along this portion of State Route 332. Failure to keep said shared access in good condition shall constitute a violation of these conditions of approval for the requested area variance.

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 the Town Planning Board.

■ 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 #0706-17 Indus Hospitality Group Area Variance

Mr. DeLucia then read aloud the Determination of the Zoning Board of Appeals from the following complete resolution:

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

APPLICANT: Indus Hospitality Group 950 Panorama Trail S. Rochester, N.Y. 14625	File: ZB #0706-17 Zoning District: GB General Business and MTOD Published Legal Notice on: Nov. 19, 2018 County Planning Action on: 11/08/2017 County Referral #: 212.1-2017 Public Hearing held on: November 27, 2017; January 8, 2018; February 26, 2018; and March 19, 2018
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Property Location: Lot #3, 1301 NYS State Route 332

Applicable Section of Town Code: Chapter 165, Article IV, Section 35A, Schedule I

Requirement for Which Variance is Requested: The applicant wishes a variance for a lot width of 15 feet for the construction of a proposed Microtel Hotel to be placed upon a parcel of land, Lot #3 of the drawing entitled “1301 Route 332 Lot Combination Subdivision Filed Map #32716.” The Town Code requires a minimum lot width of 150 feet. The property is located at 1301 NYS Route 332 and is zoned GB General Business and MTOD Major Thoroughfare Overlay District.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of all Actions involved with the proposed construction of a Taco Bell Fast Food Restaurant and a Micro-

tel Hotel along with related site improvements, has on Wednesday, March 7, 2018, made a conditioned Determination of Non-Significance.

County Planning Referral Recommendation: The County Planning Board recommends approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.
 Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds the character of the neighborhood to be primarily a mixture of highway oriented commercial uses fronting along State Route 332. The Board further finds that along this portion of heavily traveled highway there are a number of sites having multiple uses with shared access (e.g., Aldi’s, Burger King, Farmington Plaza, Dunkin’ Donuts, KFC, Sugar Creek Plaza, etc.). The Board further finds that the purpose of the MTOD regulations is to restrict the placement of individual points of access to this heavily traveled major highway. The Board finds that granting the requested Area Variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties.

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

Reasons: The Board finds that the applicant does not have direct access to State Route 332 and the only alternative would be to subdivide the KFC site, thereby creating a non-conforming lot for KFC and also introducing the need for driveway spacing area variances as specified in the Town’s Major Thoroughfare Overlay District (MTOD) Regulations. The Board finds that minimizing access points to the heavily traveled State Route 332, especially in this portion of said highway, is of primary concern.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the Town Code requires a minimum lot width of 150 feet. The applicant is proposing a lot width of 15 feet, the minimum lot width permitted under Section 280-a of New York State Town Law. The application involves a variance request of 90% from what is required for this zoning district. The Board has consistently found that granting an Area Variance which is in excess of 50% of what is otherwise required 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 finds that the Town Planning Board, the designated lead agency for this Action, has made a determination of non-significance at their meeting on Wednesday, March 7, 2018.

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 existing site layout has resulted in the need for the requested area variance and, therefore, 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 outweigh the detriment to the community or the neighborhood; and, therefore, grants the requested area variance with the following conditions:

1. The applicant is to obtain Final Subdivision Plat Approval and Final Site Plan Approval from the Town Planning Board for the proposed Taco Bell Restaurant site. Failure to obtain said approvals shall make this requested area variance null and void.
2. A cross access easement, to permit in perpetuity the use of this fifteen-foot-wide strip as part of the shared private access to State Route 332 for the Dunkin' Donuts site, the KFC site, the Taco Bell site and the Microtel site, is to be filed in the Ontario County Clerk's Office prior to the issuance of any Building Permit for development of the Taco Bell site.
3. This fifteen-foot-wide strip of land is to be maintained in good condition as part of the shared access to all four sites located along this portion of State Route 332. Failure to keep said shared access in good condition shall constitute a violation of these conditions of approval for the requested area variance.

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 Town Planning Board.

■ 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 #0707-17 Indus Hospitality Group Area Variance

Mr. DeLucia then read aloud the Determination of the Zoning Board of Appeals from the following complete resolution:

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

APPLICANT: Indus Hospitality Group 950 Panorama Trail S. Rochester, N.Y. 14625	File: ZB #0707-17 Zoning District: GB General Business and MTOD Published Legal Notice on: Nov. 19, 2017 County Planning Action on: 11/08/2017 County Referral #: 212.1-2017 Public Hearing held on: November 27, 2017; January 8, 2018; February 26, 2018; and March 19, 2018
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Property Location: Lot #3, 1301 NYS State Route 332

Applicable Section of Town Code: Chapter 165, Article IV, Section 35A, Schedule I

Requirement for Which Variance is Requested: The applicant wishes a variance for a front setback of 30 feet for the construction of a proposed Microtel Hotel to be placed upon a parcel of land, Lot #3 of the drawing entitled “1301 Route 332 Lot Combination Subdivision Map #32716.” The Town Code requires a minimum front setback of 50 feet. The property is located at 1301 NYS Route 332 and is zoned GB General Business and MTOD Major Thoroughfare Overlay District.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of all Actions involved with the proposed construction of a Taco Bell Fast Food Restaurant and a Microtel Hotel along with related site improvements, has on Wednesday, March 7, 2018, made a conditioned Determination of Non-Significance.

County Planning Referral Recommendation: The County Planning Board recommends approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.
 Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds that the character of this neighborhood is predominantly highway oriented commercial land uses fronting along the major state highway, State Route 332. The Board further finds that the proposed front setback for the proposed Microtel hotel has been designed on proposed Lot #3 to avoid having the majority of the site’s proposed parking located within the front portion of the site which would be visible to passing motorists along State Route 332. The Board further finds that the front setback of the proposed hotel is designed to accommodate a proposed bio-retention storm water facility located on both proposed Lots #2 and #3. The Board further finds that placing the building closer to the east property line would not allow adequate on-site traffic movements, including turning radii required for the large fire apparatus. Finally, the Board finds that the proposed front setback for the proposed hotel will provide the maximum separation between the hotel and the adjacent dog kennel facility, thereby maximizing to the extent practical separation between these two land uses. The Board, based upon these finding determines that there will not be an undesirable change in the character of the neighborhood or will there likely be a detriment to nearby properties resulting from the granting of the requested front setback variance.

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

Reasons: The Board finds that given the existing site constraints relocating the proposed hotel further to the east on Lot #3 would not be a feasible alternative to the requested variance. The Board further finds that relocating the building’s proposed front setback would likely place the hotel closer to the adjacent dog kennels and would have the potential of becoming a detriment to that existing land use. Based upon these findings the Board concludes that there is no feasible alternative to the requested front setback area variance.

3. Whether the requested variance is substantial. Yes No

Reasons: The applicant is requesting a front setback of 30 feet. The Town Code requires a minimum front setback of 50 feet. The Board finds that the variance being requested involves a variance of 40% from what is otherwise required by Town Code. The Board has consistently found that a variance of 50% or more of what is required by 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. Yes No

Reasons: The Board finds that the Town Planning Board, the designated lead agency for this Action, has made a determination of non-significance at their meeting on Wednesday, March 7, 2018.

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 existing site layout has resulted in the need for the requested area variance and, therefore, 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 outweigh the detriment to the community or adjacent properties; and, therefore, grants the requested area variance with the following conditions:

1. The applicant is to obtain Final Subdivision Plat Approval and Final Site Plan Approval from the Town Planning Board for the proposed Taco Bell Restaurant site. Failure to obtain said approvals shall make this requested area variance null and void.
2. The front yard portion of the site, that area between proposed Lots #2 and #3 is to be more heavily landscaped than what is being proposed, to provide an improved visual screen between the back of the KFC restaurant and the front of the Microtel Hotel.

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 Town 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.

ZB #0708-17 Indus Hospitality Group Area Variance

Mr. DeLucia then read aloud the Determination of the Zoning Board of Appeals from the following complete resolution:

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

APPLICANT: Indus Hospitality Group 950 Panorama Trail S. Rochester, N.Y. 14625	File: ZB #0708-17 Zoning District: GB General Business and MTOD Published Legal Notice on: Nov. 19, 2017 County Planning Action on: 11/08/2017 County Referral #: 212.1-2017 Public Hearing held on: November 27, 2017; January 8, 2018; February 26, 2018; and March 19, 2018
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Property Location: Lot #3, 1301 NYS State Route 332

Applicable Section of New York State Town Law: New York State Town Law 280-a

Requirement for Which Variance is Requested: The applicant wishes to obtain a building permit for a proposed Microtel Hotel to be placed upon a parcel of land, Lot #3 of the drawing entitled “1301 Route 332 Lot Combination Subdivision Filed Map #32716,” without direct access to a public street. The property is located at 1301 NYS Route 332 and is zoned GB General Business and MTOD Major Thoroughfare Overlay District.

State Environmental Quality Review Determination: The Town of Farmington Planning Board, the designated Lead Agency for the coordinated review of all Actions involved with the proposed construction of a Taco Bell Fast Food Restaurant and a Microtel Hotel along with related site improvements, has on Wednesday, March 7, 2018, made a conditioned Determination of Non-Significance.

County Planning Referral Recommendation: The County Planning Board recommends approval with comments.

FACTORS CONSIDERED AND BOARD FINDINGS

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

Yes No

Reasons: The Zoning Board of Appeals (hereinafter referred to as Board) finds the character of the neighborhood to be primarily a mixture of highway oriented commercial uses fronting along State Route 332. The Board further finds that along this portion of heavily traveled highway there are a number of sites having multiple uses with shared access (e.g., Aldi’s, Burger King, Farmington Plaza, Dunkin’ Donuts, KFC, Sugar Creek Plaza, etc.). The Board further finds that the purpose of the MTOD regulations is to restrict the placement of individual points of access to this heavily traveled major highway. The Board finds that granting the requested area variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties.

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

Reasons: The Board finds that the applicant does not have direct access to State Route 332 and the only alternative would be to subdivide the KFC site, thereby creating a non-conforming lot for KFC and also introducing the need for driveway spacing area variances as specified in the Town’s Major Thoroughfare Overlay District (MTOD) Regulations. The Board finds that minimizing access points to the heavily traveled State Route 332, especially in this portion of said highway, is of primary concern.

3. Whether the requested variance is substantial. Yes No

Reasons: The Board finds that the Town Code requires a minimum lot width of 150 feet. The applicant is proposing a lot width of 15 feet, the minimum lot width permitted under Section 280-a of New York State Town Law. The application involves a variance request of 90% from what is required for this zoning district. The Board has consistently found that granting an Area Variance which is in excess of 50% of what is otherwise required 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 finds that the Town Planning Board, the designated lead agency for this Action, has made a determination of non-significance at their meeting on Wednesday, March 7, 2018.

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 existing site layout has resulted in the need for the requested area variance and, therefore, 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:

X That the benefit to the applicant DOES outweigh the detriment to the community or the neighborhood; and, therefore, the requested area variance is granted with the following conditions:

1. The applicant is to obtain Final Subdivision Plat Approval and Final Site Plan Approval from the Town Planning Board for the proposed Microtel hotel site. Failure to obtain said approvals shall make this requested area variance null and void.
2. A cross access easement, to permit in perpetuity the use of this fifteen-foot-wide strip as part of the shared private access to State Route 332 for the Dunkin’ Donuts site, the KFC site, the Taco Bell site and the Microtel site, is to be filed in the Ontario County Clerk’s Office prior to the issuance of any Building Permit for development of the Taco Bell site.
3. This fifteen-foot-wide strip of land is to be maintained in good condition as part of the shared access to all four sites located along this portion of State Route 332. Failure to keep said shared access in good condition shall constitute a violation of these conditions of approval for the requested area variance.

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 the Town Planning Board.

■ 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.

6. **CODE ENFORCEMENT OFFICER**

Mr. Morse reported that there may be two Pre-Construction Meetings to be held during the next Project Review Committee meeting on April 6, 2018.

He also reported that plans are moving forward on the Hathaway's Corners project proposed for the southwest corner of State Route 332 and County Road 41; and on the Farmington Pointe development, 1600 Rochester Road, which has been proposed by Robert Laviano, owner of the Farmington Country Plaza Inc.

Mr. DeLucia asked about the Zoning Board of Appeals agenda for the meeting scheduled on April 23, 2018. Mr. Morse will advise if any applications for this meeting have been received.

Mr. Yourch asked about snow removal and snow storage at the proposed Taco Bell Restaurant site on State Route 332, which was discussed this evening. Mr. Morse said that the applicant would be required to comply with the Town Code and that the applications for the Taco Bell Restaurant and the Microtel Hotel have a long list of challenges to be met. He explained that the actions this evening by the Zoning Board of Appeals are only the first of a number of concerns regarding these applications.

7. **2018 RULES OF PROCEDURE**

Mr. DeLucia noted the distribution of the draft 2018 Rules of Procedure by the clerk to board members and Town staff for consideration of adoption this evening. He asked if there were any additional amendments, questions or comments. There were no additional amendments, questions or comments from the board or Town staff.

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

TOWN OF FARMINGTON ZONING BOARD OF APPEALS RESOLUTION 2018 RULES OF PROCEDURE

ADOPTED—March 19, 2018

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has given consideration to the need to adopt Rules of Procedure for conducting the business of the Board during the calendar year 2018; and

WHEREAS, the Board has determined that such Rules of Procedure are in the best interests of the Town; and

WHEREAS, the Board determines the action to adopt Rules of Procedure is a Type II Action, under Part 617.5 (c) (20) of the State Environmental Quality Review (SEQR)

Regulations, in that it involves routine agency administration, not including new programs or major re-ordering of priorities that may affect the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby adopt the following Rules of Procedure:

1. Order of Business

At each Board Meeting, the following order of business shall be:

- a. Call to Order, Pledge of Allegiance and Introduction of Board Members and Town Staff.
- b. Information about Emergency Exits and Evacuation Procedures.
- c. Reference to Sign-in Sheet and request that everyone in attendance sign in.
- d. Review and approval of previous Zoning Board Meeting Minutes.
- e. References to Legal Notices—their availability at the meeting and attesting to the date(s) of publication.
- f. The Chair shall open each Public Hearing or matter being considered by the Board.
- g. The Chair shall recognize the applicant and ask for testimony concerning the matter that is before the Zoning Board of Appeals.
- h. All Public Hearings will be conducted and, upon resolution of the Board, each Public Hearing will either be closed or continued. If continued, the Public Hearing will be continued to a specific date and time. If no specific date and time is decided upon, a new public notice shall be required. If closed, the Board shall have up to 62 days from the date of closing the Public Hearing to take action upon said application.
- i. The order of the meeting agenda will be first to conduct any continued Public Hearing(s) before hearing any new applications.
- j. If there are no continued Public Hearings, then the Board shall follow the order shown upon the public meeting agenda sheet.
- k. Should an applicant (or a designated agent) not be present when his or her application is called, then the application shall be moved to the end of the Public Hearing(s).

- l. Should an applicant (or a designated agent) not appear before the Board on the night of the public meeting, then the Board shall table the application and continue the Public Hearing to the next scheduled meeting of the Board. In addition, the Board shall direct the Code Enforcement Officer to provide written notification to the applicant of the date and time for the Board's next public meeting and request his/her attendance.
- m. A Public Hearing upon an application may be continued by the Board for a longer period of time based upon an applicant's written request setting forth the reasons for such an extended time period.
- n. Failure by the applicant to appear before the Board at the next scheduled Public Hearing and/or meeting may result in the Board taking action to deny without prejudice the requested application. In such an event, the applicant shall make a new application and pay a new fee for said application.
- o. Only the Town Board may waive an application fee. Any document(s) submitted, either by an applicant, his or her agent, or any person present at the convened Public Hearing, after the opening of the Public Hearing, may result in a tabling of the application and an automatic continuation of the Public Hearing to the next scheduled public meeting. This will enable both the Board members and the general public an opportunity to review the newly submitted material.
- p. Following the close of (or the continuation of) a Public Hearing listed upon the public meeting agenda, the Board will then continue on to the next application listed upon the meeting agenda before making their findings and determination(s).
- q. All persons desiring to speak at a Public Hearing (or a public meeting) may be allowed to speak either during a Public Hearing, or during the public comment time listed upon the public meeting agenda. In no event may a person direct any question to an applicant, or any town Staff member. All matters to be discussed by the public shall be directed to the Chair of the Zoning Board of Appeals. The Chair is the only one who may recognize someone in attendance at the meeting.
- r. Once a Public Hearing has been closed, there shall be no discussion between the members of the Board, an applicant or a member of the public who is in attendance. Any point of concern identified during a Public Hearing that may require clarification will be directed by the Chair to Staff to obtain the information from the applicant. Staff will be directed to provide said information in writing to the Board either at, or prior to, the next public meeting.
- s. The Board will follow the guidelines set forth in the attached model forms for making its findings and determinations upon use variances, area variances, temporary use permits and/or interpretations.

- t. Following the Board's decisions upon the applications under consideration, the Board will then enter into public comment time. Public comment time is an open forum for discussion of any matter pertaining to the Board that is not listed upon the Board's meeting agenda. Persons wishing to speak on a particular subject are encouraged to submit a written request to the Chair of the Board one week prior to the Board Meeting. All written requests will be addressed first by the Board. In the event a question is raised from the floor, the Chair of the Board reserves the right to have Staff review the matter and make a written report to the Board and to the public prior to the next Board meeting.
- u. Following the public comment forum, the Zoning Board will address Other Board Matters that have been brought to their attention by either Board Members or Town Staff.
- v. Following Other Board Matters, the Board will hear reports from the Director of Planning and Development and/or the Code Enforcement Officer.
- w. Following the completion of all of the items listed upon the Board's Meeting Agenda, the Board will give notice of the next tentative meeting date of the Board subject to receipt of application(s). If there are no new applications to be heard, the Chair shall notify the Development Office that the next tentative meeting will be canceled. Notices to this effect shall be published in the Town's Official Newspaper, posted on the Bulletin Board at the Town Hall and posted on the Town Website.
- x. Following the above, the Chair of the Board will then entertain a motion to adjourn the meeting.

2. Official Decision Forms to be Used by the Zoning Board of Appeals

The Board does hereby adopt and make part of these rules of procedure the attached forms as the Official Forms for Making Findings and Decisions upon Use Variances, Area Variances and Temporary Use Permits. Copies of these documents may be obtained from the Town Development Office or viewed on-line at the Town of Farmington's website www.townoffarmingtonny.com. At the time of adoption of these Rules of Procedure, there is no Guideline or Official Form for the Board to use to hear an appeal to an interpretation made by the Code Enforcement Officer.

3. Agendas and Legal Notices

Copies of all Legal Notices shall be available in the Town Development Office and the Town Clerk's Office not later than five (5) business days prior to the day of the scheduled meeting. In addition, a copy of the legal notice(s) for each meeting shall be posted on the Official Bulletin Board located at the Town Hall and on the Town's Official website www.townoffarmington-ny.com. Draft meeting agendas will be received by Board Members and the Clerk of the Board along with the packets of information, on or before the

Friday prior to the Board Meeting. Copies of the meeting agenda, draft resolutions and legal notices shall be available in the meeting room by 6:45 p.m. on the day of the scheduled meeting.

4. Public Hearings

All Public Hearings shall commence with the Chair reading the application under consideration by the Board. Then the Chair will call upon the applicant (or his/her agent) to make a formal presentation to the Board. As a matter of policy, the Board will not take action until the applicant or agent has attended the Public Hearing and made a presentation to the Board. If the applicant is not the owner of the property for which the application is made, the applicant must have the owner certify in writing that there are no objections to the application being made on his/her behalf.

Next, Town Staff will be given the opportunity to discuss the application. The Code Enforcement Officer will report whether or not the applicant has duly posted the subject property and whether or not said public notice sign has been returned by the applicant. Town Staff will also identify whether or not a County Planning Referral has been received. The Staff shall identify the County Referral Number, the Class of Action as determined by the County and their recommendation. This information shall also be placed upon the Official Decision Form referenced above herein. The Board shall identify the Type of Action under review, as first defined in the State Environmental Quality Review (SEQR) Regulations.

Once this information has been entered into the Public Hearing record, the Board Chair will open the meeting to the public. After first providing their names and addresses for the record, all persons speaking shall address the Chair. The Chair may, in turn, redirect the question or concern to another person. In no event, shall the public have the right to demand an answer to a specific question from a member of the Board or Town Staff. The Chair may limit the time each person can speak on a pending application. Once the Chair has determined that everyone has had an opportunity for input, the Chair may recognize a person wishing to speak again on the application.

In the event a petition or other written documentation is submitted as evidence, the material shall be given to the Board's Chair. Upon review by the Chair, the Clerk of the Board shall be instructed to make copies thereof and to distribute them to all Board Members, Town Staff and the Applicant, within three business days of the date of the Public Hearing. When this occurs, the Board shall continue the Public Hearing to the next regularly scheduled Board meeting, or establish a time, date and location for the continuation of the Public Hearing. Such action will afford anyone present an opportunity to see new information previously not within the public files. Any application for which a Public Hearing is continued requires the applicant to continue to post the Public Notification Sign on the subject property until such time as the Public Hearing has been closed.

All Public Hearings will either be closed or, when appropriate, adjourned until the next Board Meeting. The Board reserves the right to schedule an additional (or special) public

meeting to hear comments at a continued Public Hearing. All public meetings shall be held in accordance with the timeline established in the various sections of the New York State Town Law.

After Town Staff and the public have commented on the application, the Board members shall have the opportunity to discuss the application. The Chair shall recognize each member present and request any comment on the pending application.

5. Motions, When in Order

When a question is under debate/discussion, no motion shall be received except a motion to amend the question, to put the question to a vote, to adjourn it to a day certain, to lay it on the table, to commit to Staff or legal counsel, or a motion to adjourn the Board.

6. Resolutions, Draft Copies

When draft resolutions have been prepared by Town Staff for the Board to review and consider at their public meeting and, when copies of said draft resolutions have first been provided to the Board members, then such documents shall also be made available electronically to the applicant when possible and provided they have submitted an e-mail address as part of the application process. In addition, upon request thereof, draft resolutions shall be made available to the public pursuant to Article Six, Section 103 of the Public Officers law, to the extent determined practicable as determined by the Board prior to the meeting during which the record will be discussed. In addition, every effort shall be made to post such records upon the Town website www.townoffarmingtonny.com. All draft resolutions shall be shadow marked with the word “Draft” across each page of the resolution.

7. Voting

The members of the Board shall be eligible to vote upon the Board meeting minutes only when they were present for the meeting. When a Board member was not in attendance at the Public Hearing, it should be noted in the record that the member has read the Public Hearing record and feels that he/she is prepared to make an informed decision upon the application.

The members of the Board shall, at the outset of any application, give public notice of their financial or other private interests in any project that is pending before the Board. Where such disclosure is made, the Board Member shall comply with Article 18 or any amendments thereto of the General Municipal Law, Relating to Conflicts of Interest as well as the Code of Ethics of the Town of Farmington, contained in Chapter 17 of the Farmington Town Code. In all matters voted upon by the Board, there must be a majority of the entire membership of the Board voting the same way in order for an action to be approved or modified. Failure of the Board to reach a majority vote on an application results in the application being automatically denied. All Board Members must record their action by a voice vote taken upon any resolution and duly recorded in the Minutes.

8. Votes, When Recorded

The ayes and nays upon a question shall be taken and entered into the minutes of the public record. All votes taken shall be taken by roll call vote of the entire Board membership. Board Members may abstain from voting. When a Board Member exercises this right, it is not necessary for the Board Member to state their reason(s) for abstaining unless there is disclosure of a conflict of interest associated with any application.

The Board may waive the requirement to read into the public record the standard resolutions for all Type 2 Actions under SEQR. When so approved, the Board must still take action to accept a Type 2 Determination of Significance upon such a resolution by a voice vote.

9. County Planning Recommendations and Board Voting Requirements

In the instance where there is an Ontario County Planning Referral made under the provisions of Section 239 of the New York State General Municipal Law and the County Planning Board recommends modification or denial of an application, the Board, in order to override the County's recommendation, must have a majority plus one vote of the entire membership of the Board (or 4 of the 5 board members voting the same way). Said action must be based upon a separate resolution setting forth the reasons for the Board's intent to override the Ontario County Planning recommendation. All Board Members must record their action by a roll call vote taken upon such matters.

Failure by the Board to override the County's recommendation and approve the application by a majority plus one vote of the entire board results in a denial of the application. In the event the Board does override the County's recommendation, the Board shall by separate resolution set forth its reasons for overriding the County and must file a copy of said resolution with the County within the time frame prescribed in the General Municipal Law.

For any application referred to Ontario County Planning, a certified copy of the final action taken shall be filed by the Clerk of the Board within thirty (30) days after final action is taken.

10. Privilege of the Floor

Any person, upon request made during Public Comment Time on the meeting agenda, may address the Board upon a matter of public concern. The time allotted for addressing the Board shall be limited by the Chair depending upon specific circumstances. In no instance shall the Privilege of the Floor be used to make additional comments on an application pending before the Board.

11. Public Notification

Public notice shall be given in the manner prescribed by New York State Town Law and the posting requirements set forth in the Farmington Town Code. In addition, public notice shall be given by posting the notice upon the Town's website www.townoffarmingtonny.com at least five (5) business days prior to said meeting.

When an application has been continued by the Board, the posting of the Public Notification Sign shall continue to be displayed upon the subject site.

All applications that are to appear before the Board shall require the posting of the Public Notification Sign on the subject site. Failure to post the Public Notification Sign shall result in the Board taking action to continue its deliberation until the next public meeting date of the Board so as to provide public notification of a pending application.

12. Decision Notification

Within five (5) business days of the Board's decision having been made upon an application, the Clerk of the Board shall file a certified copy of said decision with the Town Clerk and provide copies thereof to the applicant and the Town Development Office.

13. Draft Meeting Minutes

The Board Members shall be mailed electronically draft meeting minutes within ten (10) business days of the date of the subject meeting.

14. Corrections to Draft Meeting Minutes

The Board Members shall, whenever possible, notify the Clerk of the Board of all corrections to the Meeting Minutes prior to the date of the next Board meeting. Any suggested corrections will be sent to all Board members at the same as notification to the Board Clerk.

15. Approved Meeting Minutes

The Board, after having reviewed the Draft Meeting Minutes, will (as part of the public meeting record) take action to accept the Minutes either with or without corrections. Once the Minutes have been accepted, the Clerk of the Board shall file certified copies with the Town Clerk's Office and the Development Office within five (5) business days.

16. Recordings of Board Meetings

Recordings of the proceedings of the Board meetings shall be maintained by the Clerk of the Board for a period of four (4) months after the transcription and approval of the Minutes and proceedings by the Board. When requested by the Chair of the Board, said tapes shall be maintained by the Clerk of the Board of a period of time specified by said Chair. Currently, this period is one year.

17. Duties and Responsibilities

The duties and responsibilities of the Board are set forth in the New York State Town Law and the Farmington Town Code. In addition to these responsibilities, all Board Members will attempt to visit each site prior to the Public Hearing. All Board Members shall also be familiar with the provisions of the Town Code pertaining to the application. All Board Members shall follow the criteria listed in New York State Town Law when acting upon an application. Whenever relief is granted by the Board, it shall be the minimum relief deemed necessary.

18. Acting Chair

The Board shall appoint an Acting Chair in the event the Board Chair will be absent at a meeting. For 2018, any duly sworn board member may substitute for Board Chair.

19. Training

Board Members shall attend annual training per requirements established by the Farmington Town Board. Currently, the training requirements are as follows:

1. Pursuant to the provisions of New York State Town Law, Sections 267 and 271, all Planning Board and Zoning Board of Appeals members, as well as any alternate members and the Town's representative on the Ontario County Planning Board, shall be required to complete at least:
 - a. Twelve (12) hours of suitable training during the first full calendar year of their term of office; or
 - b. Nine (9) hours of suitable training during the remaining nine months, of the first full calendar year, of their term of office; or
 - c. Six (6) hours of suitable training during the remaining six months, of the first full calendar year, of their term of office; or
 - d. Four (4) hours of suitable training during the remaining three months, of the first full calendar year, of their term of office; and then
 - e. Eight (8) hours of suitable training, each year, for the remaining term of office.
2. The authority to determine suitable training is hereby established by the Town Board and shall consist of training seminars, conferences or courses sponsored by the Ontario County Planning Department, the Monroe County Planning Department, the New York State Department of State, the New York Planning Federation, the Genesee/Finger Lakes Regional Planning Council, the New York State Department of Environmental Conservation, the New York State Department of

Health, the New York State Association of Towns, the New York State Department of Transportation, the U.S. Army Corps of Engineers, or any other group or organization, first approved by the Town Board.

3. The training requirement may be satisfied by educational activities substantially devoted to planning, zoning, or other land use issues, such as 1) attending conferences, seminars or workshops; 2) participating in on-line training or tutorials; 3) attending fully accredited New York State colleges; 4) reading journal articles or books; or 5) any other educational activities considered acceptable by the Town Board. Training may be offered by a municipality, regional or county planning office or commission, county, regional or state planning federation, state agency, statewide municipal association, college or university or other similar entity.
4. A record of annual completion of training shall be maintained by the Chairpersons of the Town Planning Board and the Town Zoning Board of Appeals and copies of all Certificates of Attendance shall be provided to the Town Board (send to the Confidential Secretary to the Supervisor, who will provide copies in Town Board Correspondence) and Town Clerk, on or before December 31st of each calendar year. Eligibility for reappointment to these Boards shall be conditioned upon completion of the minimum number of hours for training prior to the end of each calendar year.
5. After the first full year of appointment, suitable training in excess of eight (8) hours per calendar year may be accumulated and carried over into the succeeding calendar year, with the maximum of four (4) hours being credited in the succeeding calendar year for the purpose of satisfying these training requirements. In no event shall excess training be accumulated and carried over into any additional year of the member's remaining term of office.
6. Suitable training for the Town's representative on the Ontario County Planning Board shall be the minimum established by the County and shall be in addition to the eight (8) hours of annual training mandated for Town Planning Board and Town Zoning Board of Appeals members specified above herein.
7. Suitable training, up to a maximum total of twelve (12) hours, for the person that is identified by the Town Board who is to be appointed to serve either on the Town Planning Board, or the Town Zoning Board of Appeals, may be accumulated during a maximum period of up to twelve (12) months prior to appointment, on either Board, by the Town Board. In the event said person receives less than the maximum of twelve (12) hours, then the total number of hours of suitable training received during the twelve (12) month period prior to appointment may be combined with additional suitable training received during the first year of appointment, up to a maximum of twelve (12) hours, to satisfy the first full calendar year's requirement for training.

8. The respective Chairpersons of the Planning Board and Zoning Board of Appeals shall not exceed the budgeted contractual lines in their respective budgets in paying for the training (when required) without the expressed approval of the Town Board with a budget amendment approved by the Town Board.

20. Annual Summary Report

The Chair of the Zoning Board of Appeals shall provide to the Town Board an annual summary report describing the ZBA's conformance to training requirements, significant matters under review during the prior calendar year, key personnel changes, and plans for the coming year. This report shall be submitted to the Town Supervisor not later than first Town Board meeting following the first ZBA meeting of the following year.

21. Amendments

These Rules of Procedure may be amended from time to time by the Board upon resolution to amend.

22. Filing of Rules of Procedure

All adopted Rules of Procedure shall be filed with the Town Clerk's Office and the Town Development Office, posted on the Town website and made available for public inspection upon demand.

23. Effective Date

All adopted Rules of Procedure shall become effective upon their filing in the Office of the Farmington Town Clerk.

24. Distribution

Certified copies of the Board Rules of Procedure shall be filed by the Clerk of the Board with the members of the Zoning Board of Appeals, the Town Clerk, the Town Board, the Town Attorney, the Town Code Enforcement Officers, the Town Development Office Administrator and the Town Director of Planning and Development. An electronic copy shall be provided to all the ZBA members.

25. Conflict with New York State Town Law or Farmington Town Code

If any of these Rules of Procedure conflict with New York State Town Law, or any section of the Farmington Town Code, the text of said Law or Code shall take precedence and that (those) portion(s) of these Rules of Procedure shall be amended accordingly. In any event, only the portion(s) found to be in conflict shall be amended with the remainder of the rules retaining their effectiveness.

26. New Information Received

In the event an applicant submits new information pertaining to a matter under consideration by the Board, and provided the Board has not closed the Public Hearing record, said Board may consider such new information provided the public has been provided the opportunity to review and comment upon the new information. However, once the Board has closed the Public Hearing, no new information may be received or considered by the Board when rendering its decision.

27. Rehearing/Reconsideration of Actions

The Board may not reconsider or recall a decision made upon an application. A new application may be considered by the Board as the result of a majority plus one vote of the Board and based upon the findings set forth in Chapter 165, Section 97.C of the Farmington Town Code.

BE IT FINALLY RESOLVED that the Board does hereby direct the Clerk of the Board to file certified copies of these Rules of Procedure along with the above referenced attachments hereto with all persons listed in #24 above as well as to cause the placement of these Rules of Procedure with the attachments on the Town’s Official Website.

Timothy DeLucia	Aye
Cyril Opett	Aye
Nancy Purdy	Aye
James Russell	Aye
Thomas Yourch	Aye

Motion carried.

8. PUBLIC COMMENTS

None.

9. NEXT MEETING DATE

The next regular meeting of the Zoning Board of Appeals will be held on Monday, April 23, 2018, in the Farmington Town Hall, 1000 County Road 8, commencing at 7:00 p.m.

10. ADJOURNMENT

■ A motion was made by NAME, seconded by NAME, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 8:00 p.m.

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

Respectfully submitted,

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