

**TOWN OF FARMINGTON
ZONING BOARD OF APPEALS MEETING MINUTES**

Approved MINUTES

The following minutes are a written summary of the main points that were made and the actions taken at the Town of Farmington Zoning Board of Appeals meeting held on July 18, 2016.

Zoning Board of Appeals Members

Ann Vu	Chair	Present
Timothy DeLucia		Present
Cyril Opett		Excused
Nancy Purdy		Present
James Russell		Present

Town Staff Members

Also Present

Patrick Coggi	Finger Lakes Food Cart
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Open Meeting

Ann Vu called the meeting to order at 7:00 pm. She explained the emergency evacuation procedures and that they would follow the adopted Zoning Board of Appeals rules of procedures for all public meetings.

Approval of Minutes

Tim DeLucia made a motion to accept the June 27, 2016 meeting minutes and Nancy Purdy seconded the motion. A voice vote was taken and the motion was passed with three (3) Ayes with Ann Vu abstaining.

BOARD BUSINESS:

Ann Vu stated that the Legal Notice was published in the town's official newspaper the Daily Messenger for tonight's Public Hearing. She also attests to the posting of the agenda on the Town's website and on the Bulletin Board located at the Town Hall. Copies of the legal notice and tonight's agenda are on the sign-in table.

NEW BUSINESS:

ZB 0701-16

JOHN MALVASO

TEMPOARY USE PERMIT

Request to renew a temporary use permit as provided for within Chapter 165, Article VII, Section 91 of the Town of Farmington Codes. The applicant wishes to continue to operate a food cart on property located at 6081 New York State Route 96, the Farmington Commons Plaza. The property is zoned GB General Business District.

Ann Vu declares the public hearing open.

Patrick Coggi is present to speak on behalf of the above application. He explains that the food cart has not been open a lot this year due to limited food storage space. He is looking to purchase a food storage location over the winter so the cart can be open on a more regular basis next summer. Currently he is there on a semi-regular basis and is looking to be open again beginning in August focusing on the FedEx opening.

Ann Vu then asks for questions or comments from the board.

Hearing no response she then closes the Public Hearing.

Area Variance and Findings

ZB 0701-16

John Malvaso

SEQR Resolution - Type II Action

File: ZB # 0701-16

Action: Renewal of a Temporary Use Permit to operate a food cart within the south west area of the intersection of State Routes 96 & 332.

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

WHEREAS, the Action involves the renewal of a temporary use of land, located within the south west corner of the intersection of State Routes 96 & 332, outside the rights of way of said highways and in front of the Farmington Plaza; and

WHEREAS, Type II Actions are not subject to further review under Part 617.

NOW, THEREFORE, BE IT RESOLVED THAT the Board in making this Classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the Town file upon this Action.

The above Resolution was offered by Ann Vu and seconded by Jim Russell at a regularly scheduled Zoning Board of Appeals Meeting held on Monday, July 18, 2016. Following discussion, a roll call vote was recorded:

Timothy DeLucia	--	Aye
Jim Russell	--	Aye
Nancy Purdy	--	Aye
Cyril Opett	--	Absent
Ann Vu	--	Aye

Town of Farmington Temporary Use Permit Findings & Decision

Applicant:	John Malvaso	Application # ZB – 0701-16
	Finger Lakes Food Cart	Zoning District: GB Gen. Business
	3316 County Road 16	Notice published: 7/10/16
	Canandaigua, NY 14424	County Meeting: N.A.
		Hearing Held: 7/18/16

Property Location: Southwest corner of the intersection of State Routes 96 & 332, in front of the Farmington Plaza (Tax Map #029.00-1-19.110).

Use for which Permit is requested: Applicant desires to operate a food cart within the recently completed Gateway Entrance Area.

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

County Planning Referral Number and Recommendation: Original Referral # 75.1-2014. Class 1 with comments that relate to a Site Plan Application (County Referral #75-2014). Renewal is an Exempt Action.

In accordance with the provisions contained in Chapter 165, Section 91 of the Farmington Town Code, this application for a Temporary Use Permit is based upon the following Findings by Zoning Board of Appeals:

Test: No Temporary Use Permit will be granted without a clear understanding of the nature of the permit, the time period covered by the permit and a detailed listing of the conditions of approval. The following findings must be made by the Zoning Board of Appeals on any Temporary Use Permit:

- (1) The temporary use will be in harmony with the general purposes and intent of Chapter 165, Section 38 of the Farmington Town Code, taking into**

account the location and size of the proposed use, the nature and intensity of the operation involved in or connected with the proposed use and the size and location of the site in relation to adjacent sites and uses.

Proof: The Zoning Board of Appeals (hereinafter referred to as Board) finds, based upon testimony given tonight in the public hearing record, that the Temporary Use Permit will continue to use the existing Gateway Entrance Area, located outside of the State's right-of-way at the intersection of State Routes 96 & 332, for the continued operation of a Food Cart. The Food Cart will be removed from the site each day at the close of business. The hours of operation are to be 6:00 a.m., or sunrise, whichever allows more daylight to sunset during the months of May through October until 7:00 p.m. or sunset whichever is sooner, Sunday through Saturday. The Food Cart shall operate during the months of May through October. The Food Cart will not provide curb service to any vehicle along either State Routes 96 or 332. The Food Cart will be kept clean at all times and there shall be no litter resulting from the operation. The Food Cart shall not offer alcoholic beverages.

The Board further finds that the applicant shall continue to have the option to hire up to four (4) employees. The Board further finds that the applicant intends to have only one sandwich board type commercial speech sign located on the property near the Route 96 entrance point. The Board further finds that the applicant will not be storing petroleum products on the site. The Board further determines that the applicant is aware of the limitations contained in the Town Code for the granting and renewal of a Temporary Use Permit.

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

Proof: The Zoning Board of Appeals finds that the character of the neighborhood is commercial with large volumes of passing motorists. The Board further finds that the applicant intends to maintain the Gateway Entrance Area and feels the Food Cart will attract customers to enjoy the benefits of the recently completed area. The Board further finds that the applicant has an agreement with the adjacent G&A Development & Construction Corporation, to operate the Food Cart within the State right-of-way and to have customers use the plaza parking spaces. The Board further finds that the applicant intends to maintain the Food Cart operation within the Gateway Entrance Area and **that it** will not become a competitor to other established restaurant or fast food operations located within the plaza.

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

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

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

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

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

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

- 1. The Temporary Use Permit is hereby granted for a period of five (5) years that is to commence on Tuesday, July 19, 2016 and will automatically terminate on July 18, 2021.**
- 2. The Temporary Use Permit is not transferrable to another party.**
- 3. The Temporary Use Permit does enable the applicant to hire employees directly related to food cart operations only up to a total of four (4).**
- 4. The Temporary Use Permit is hereby granted with the understanding that the applicant will not need to obtain Site Plan Approval from the Town Planning Board since there are no Building Permits involved with this Temporary Use Permit.**
- 5. The Temporary Use Permit is hereby granted with the condition that the findings contained above herein by the Zoning Board of Appeals are hereby made conditions of approval for the proposed Temporary Use Permit.**
- 6. The Temporary Use Permit is hereby granted to the applicant for the sole purpose of operating a Food Cart outside the established Gateway Entrance Area located within the State right-of-way of the intersection of State Routes 96 & 332 and in continued agreement with the adjacent property owners to use**

- a portion of the plaza parking lot for customer parking of vehicles.
7. One directional sandwich board sign to be located along the Route 96 entrance to the plaza which shall be removed at the end of each day of operation.

The Temporary Use Permit is hereby issued to John Malvaso doing business as Finger Lakes Food Cart and is not transferable to a second party.

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

The above Resolution was offered by Jim Russell and seconded by Ann Vu at a regularly scheduled meeting of the Zoning Board of Appeals held on Monday, July 18, 2016. Following discussion, the following roll call vote was recorded:

Timothy DeLucia	Aye
Jim Russell	Aye
Nancy Purdy	Aye
Cyril Opett	Absent
Ann Vu	Aye

The applicant agrees to all the above conditions.

Public Comments – open forum

None

Other Board Matters:

Nancy Purdy makes a motion to accept an amendment to the Rules of Procedure to allow the Chair of the Board to approve minutes if there is no subsequent meeting to facilitate approval within forty (40) days of the previous meeting the motion was seconded by James Russell. A voice vote was taken and the motion was passed with four (4) Ayes.

A copy of the amendment has been placed on file in the Town Clerk's Office.

Next Meeting:

The next Zoning Board of Appeals meeting will be held on August 22, 2016. A motion was made to adjourn the meeting at 7:15pm and was passed with a voice vote of four (4) Ayes.

Minutes were respectfully submitted by Sarah Mitchell, Clerk of the Board.

