The Planning Board held a meeting at 6:30 PM local time Thursday, May 12, 2016 in the Town Hall Auditorium to discuss, in a meeting open to the public, tabled matters and other business that was before it. The board then held a public hearing meeting at 7:00 PM to hear new applications.

I. CALL TO ORDER:

PRESENT: Allyn Hetzke Jr.  
Jim Burton  
Bob Kanauer  
Terry Tydings

ABSENT: Bill Bastian

ALSO PRESENT: Zachary Nersinger, Town Planner  
Michael O’Connor, Assistant Engineer  
Douglas Sangster, Planning/Environmental Technician  
Pete Weishaar, Planning Board Attorney  
Alison Sublett, Board Secretary

II. APPROVAL OF MINUTES:

The board voted and APPROVED the draft meeting minutes for April 28, 2016.

Vote: Moved by: Kanauer Seconded by: Tydings
Chairperson: Hetzke - Aye Bastian - Absent Burton - Aye Kanauer - Aye
Tydings - Aye

Motion was carried.

Chairman Hetzke recognized and welcomed the Boy Scouts Troup #122 members that were in attendance for the meeting.

III. PUBLIC HEARING:

1. Edwin A. Summerhays, L.S., 2509 Browncroft Boulevard, Suite 209, Rochester, NY 14625, requests under Chapter 250 XI-11.2 of the Code of the Town of Penfield for final subdivision approval to subdivide the current 2 +/- acre parcel located at 1426 Jackson Road, Penfield, NY 14526, and create two (2) new 1 +/- acre parcels. The property is now or formerly owned by Maha Atma Kaur Oesterly and Charles Oesterly, and is zoned RR-1. Application #16P-006. SBL #110.01-01-1-3.4.

Edwin A. Summerhays, L.S. presented the proposed project to the board. Also present were Maha Atma Kaur Oesterly, 1426 Jackson Road, Penfield NY 14526 and Brett Porter, 230 Culver Parkway, Rochester NY 14609.
• Mr. Summerhays explained the current parcel was previously two properties that were combined in 1988 and this application would restore it to its former state.
• Mr. Summerhays reviewed the Monroe County DRC comments for this application.
• Mr. Summerhays explained the accessory structure currently locations on the proposed new lot was a Japanese-style gazebo. He described the gazebo as an integral element to the Japanese garden and pond featured on the property. The area around the gazebo was heavily landscaped and moving the structure would damage the garden. Mr. Summerhays submitted photographs of the structure and garden to the board. The structure was not easily visible from the road and he felt leaving it in its current location would not be detrimental.

Board Comments:
• Board member Tydings stated that while visiting the site he had met the owners of 1434 Jackson Road, Tom and Liz Chrzansowski, and they had no concerns regarding the application. Mr. Tydings asked if the properties would share a driveway. Mr. Summerhays was not sure what the applicant and buyer had planned but with Jackson Road being a County owned road he expected a separate curb cut would be required.
• Maha Atma Kaur Oesterly addressed the board regarding the application. Mrs. Oesterly had met with the town planning department prior to submitting the application and inquired about the driveways. She explained the existing landscaping made it more feasible to locate the new drive closer to the proposed property line, which would mirror the driveway for the property being developed across the street at 1445 Jackson Road.
• Board member Tydings asked if the pond would remain on the new lot. Mrs. Oesterly answered yes. Mr. Tydings explained he had visited the property in the past for wedding photos. Mrs. Oesterly confirmed that weddings have been hosted on the property as well as Rochester Philharmonic Orchestra benefit concerts. She added the garden was well known in the County as it was one of the largest Japanese gardens in the area and the gazebo was part of the original design of the garden. Brett Porter installed the bamboo detail to the gazebo and is the prospective buyer for the new lot.
• Chairman Hetzke asked if a house was proposed for the new lot. Brett Porter addressed the board regarding some of the questions. He explained he had spoken with Tom and Liz Chrzansowski at 1434 Jackson Road and stated that the driveway originally was intended to be used as a shared access to the lot before it was merged in 1988. The proposed new lot has a large clearing in the center where he would propose to build a house. Mr. Porter indicated for the board the proposed location of a house as well as existing berms and landscaping on the property. He explained he would like to disturb as little as possible of the existing berms and landscaping.
• Chairman Hetzke asked if Mr. Porter planned to maintain the pond and landscaping. Mr. Porter answered he desired to restore the garden to its previous condition and make improvements to the best of his ability.

Public Comments:
• Jean Oswald, 1420 Jackson Road, spoke in favor of the application. She and her partner, Linda Shriever, were in support of the subdivision.
Following the public hearing the board discussed the following:

- Mr. Nersinger clarified for the board the Town's Zoning Ordinance states that accessory structures such as gazebos were not allowed to exist on a property without the a primary structure, which in this case would be a residence. Mr. Nersinger further explained The Town has customarily requested a Letter of Credit under similar circumstances to ensure compliance to the Code within a set time limit.

- Mr. O'Connor explained to the board a previous subdivision where an existing barn was located within a newly created parcel. That applicant submitted a Letter of Credit and was given one year to relocate the barn to the parcel containing the residence in order to meet the required code. That applicant complied and the Letter of Credit was released. He suggested in regards to this application a Letter of Credit be submitted by the applicant and the board would give the applicant a set time frame to submit a site plan for a primary structure or The Town would use the funds to relocate the accessory structure to bring it into compliance.

- Board member Burton asked when the buyer planned to construct a residence on the proposed lot. Mr. Summerhays responded that Mr. Porter had planned to build a house in approximately two to three (2-3) years. Mr. Nersinger suggested a one-year time limit and the Letter of Credit could be renewed if necessary by the board.

- The board was in favor of Mr. Nersinger's suggestion and added that as a condition to the draft approval resolution.

- The board has no further comments.

The board voted and APPROVED the Part II Short EAF.

Vote: Moved by: Tydings Seconded by: Kanauer
Chairperson: Hetzke - Aye Bastian - Absent Burton - Aye Kanauer - Aye
  Tydings - Aye

Motion was carried.

The board voted and APPROVED the draft approval resolution as amended with conditions.

Vote: Moved by: Tydings Seconded by: Kanauer
Chairperson: Hetzke - Aye Bastian - Absent Burton - Aye Kanauer - Aye
  Tydings - Aye

Motion was carried.

IV. TABLED APPLICATION:

1. Passero Associates, 242 West Main Street, Suite 100, Rochester NY 14614 /Midlakes Management, LLC, requests under Chapter 250 Articles VI-6.1, XI-12.2 and XII-12.2 of the Code of the Town of Penfield for Preliminary and Final Site Plan, Subdivision, and EPOD
Permit approval under Town Law 278 for the construction of 33 townhomes with associated site improvements on 32.67 +/- acres. The parcels are located at 1185 Empire Boulevard, 1211 Empire Boulevard, and 41 Woodhaven Drive. The properties are now or formerly owned by Howitt-Bayview, LLC and are zoned LLD and R-1-20. Application #16P-0004. SBL #108.05-2-8.5, 108.05-2-8.33, and 108.10-1-1.111.

- Mr. Nersinger informed the board that the applicant is continuing work on the items requested by the board and staff from previous tabling resolutions. The Penfield Fire District Chief submitted a letter to the board regarding the emergency access easement. A copy of that letter was sent to the applicant so they can respond the Chief’s concerns.

The board voted and CONTINUED TABLED the application.

Vote: Moved by: Burton Seconded by: Kanauer

Chairperson: Hetzke - Aye Bastian - Absent
Tydings - Aye Burton - Aye Kanauer - Aye

Motion was carried.

V. MISCELLANEOUS ITEMS:

1. 2060 Fairport Nine Mile Point Road, Platinum Office Complex site plan modification.

- Mr. Nersinger explain to the board that the owner was requesting a site plan modification on the rear portion of the building that was most recently approved and constructed. The owner was requesting to add a concrete pad and remove a parking space to allow access for delivery vehicles. The door was being widened and sidewalk already exists to allow for access. This modification would allow a smooth transition for delivery vehicle parking and off-loading. The existing parking figures at that time exceeded the Town Code’s requirement so removing one space would not create a problem.

- Board member Kanauer expressed concerns regarding the placement of the bollards around the transformer and suggested the applicant confirm the appropriate clearance with the electric utility prior to installation.

The board voted and APPROVED the site plan modification.

Vote: Moved by: Kanauer Seconded by: Tydings

Chairperson: Hetzke - Aye Bastian - Absent
Tydings - Aye Burton - Aye Kanauer - Aye

Motion was carried.

2. 1645 Penfield Road, Burger King, exterior modification request.

- Mr. Nersinger informed the board that the Burger King on Penfield Road requested approval for exterior renovations. They proposed to remove the current shingled roof
awning around the building and renovate it with the latest corporate materials to include elevation changes, stucco treatments, brushed metal finishes, new canopies and signage. The applicant did not submit a color rendering, however details on proposed colors and materials were included in the proposed building plan. Most of the proposed colors were earth-tone in nature.

- Board member Burton requested that a colored rendering be submitted for the Board’s review at a future meeting. The board requested colored renderings and plans for rooftop mechanics and systems along with a comment from the building department.
- Board member Tydings recalled the exhaust venting on the roof was a concern in the past. Mr. Nersinger explained he would pass on these concerns to the building department.
- Board member Kanauer inquired if the board would be able to require a modification to the drive-thru queueing for the site. The parking lot lacks directional indicators for cars stacked in the drive-thru isle. Board member Tydings expressed concerns that this request may require structural changes to the site. Board member Burton suggested restriping the parking lot for an improved queueing line. Mr. Nersinger agreed to address this concern with Town staff to see if it could be addressed by the board at this time.
- Mr. Burton requested Mr. Nersinger also inquire if a site plan modification to a building façade be adequate cause to request other site plan changes on the part of the board. Mr. Nersinger agreed to address this concern with Town staff.

3. 2074 Five Mile Line Road, Charles Finney School Press Box project.
- Mr. Nersinger clarified for the board a correction to the previously discussed Charles Finney School application. The property in question is in the Four Corners District, which is under the jurisdiction of the Town Board. Therefore, the application will be reviewed by the Town Board at future meeting.

4. 1381 Sweets Corners Road, Oak & Apple Cidery update.
- Mr. Nersinger updated the board regarding this adjourned application. On May 11, 2016 the Town Board met in a work session meeting to discuss the proposed cidery use on the property as it relates to the conservation easement with purchased development rights. A letter was submitted by the applicant’s attorney in advance of the Town Board’s meeting that provided a written analysis of the proposed use and how they believe it complies with the intentions of the easement and NYS Agriculture and Markets Law. A copy of the letter has been provided for the Planning Board’s reference and is available on the Town’s website for the public. The Town’s attorneys were in attendance to provide their summary of findings on the matter. The Town Board tabled the discussion to the May 25th work session meeting.

There being no further business to come before the Board, this meeting was adjourned at 7:24 PM.

These minutes were adopted by the Planning Board on May 26, 2016.