PLANNING BOARD MEETING MINUTES

SEPTEMBER 08, 2016
The Planning Board held a meeting at 6:30 PM local time Thursday, September 8, 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.
Bill Bastian
Jim Burton
Bob Kanauer
Terry Tydings

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 August 11, 2016.

Vote: Moved by: Bastian Seconded by: Kanauer
Tydings - Aye

Motion was carried.

III. PUBLIC HEARING APPLICATIONS:

1. Bohler Engineering, MA, 17 Computer Drive West, Albany, NY, 12205, on behalf of Brinker International, requests an informal discussion before the board with plans for a new restaurant on a total of 1.05 +/- acres located at 1960 Empire Boulevard and 1968 Empire Boulevard. The properties are now or formerly owned by 1968 Empire Associates LLC and zoned GB. Application #16P-0012, SBL #093.02-1-15 and 093.02-1-14.

Josh O'Connor, Bohler Engineering, presented the application to the board. Also present were Chris Butler of Brinker International and Paul Colucci of DiMarco Group.
• Mr. O'Connor explained the existing properties at the corner of Brandt Point Drive and Empire Boulevard each had commercial a building that were proposed to be demolished.
One was a previously occupied diner and the second is an operating Pizza Hut that is being relocated to tenant space in Baytowne Plaza.

- One of the curb cuts on Empire Boulevard was proposed to be removed and another would be modified for ingress only. Cross access and shared parking opportunities are available at Baytowne Plaza, adjacent to the site.
- Responses to PRC comments and a modified site plan have been submitted.
- The Chill’s building was proposed to be 4,500 square feet with 79 parking stalls.
- A freestanding sign was proposed along Empire Boulevard next to the existing Valvoline.
- Baytowne Plaza retained ownership of a strip of land along Brandt Point Drive to the corner of Empire Boulevard. Therefore the properties have frontage with access from Empire Boulevard.
- The existing site had a non-conforming green space of approximately 75% impervious surface. The current application would increase that impervious surface and the applicant did anticipate an application to the Zoning Board of Appeals.
- The applicant stated that the signage for the restaurant was in the process of being designed. It may require a variance from the Zoning Board of Appeals.
- The 79 parking stalls was considered adequate for most operational times but a shared parking agreement would be established with Baytowne Plaza for overflow parking. Mr. O’Connor stated that the immediate neighbor was a medical office and he did not anticipate conflicting peak hours that would create a parking issue.

**Board Comments:**

- Board member Burton asked what percentage of sales was carry-out orders. Mr. Butler explained approximately 20% to 25% of the business was typically carry-out orders. He expected this number to increase as this service was growing in their business model.
- Board member Burton asked what the occupant load of the dining area was. Mr. Butler did not know the number but clarified that there was no fixed seating or indoor waiting area. He added that the requested information could be provided for the board.
- Chairman Hetzke asked if there would be dedicated parking for carry-out customers. Mr. O’Connor confirmed that carry-out reserved parking was proposed on the south-facing entrance, adjacent to proposed ADA compliant parking.
- Chairman Hetzke asked if the cross access easement was planned to be reciprocal. Mr. O’Connor confirmed that it would and the agreements were proposed to be attached to the deeds for that parcel.
- Chairman Hetzke asked how many signs were proposed. Mr. O’Connor stated that a freestanding marquee sign, a building mounted sign facing Empire Boulevard, a “To Go” sign on the south facing entrance, a logo on the rear, and, potentially, a sign facing Brandt Point Drive are proposed. The signage package had not been finalized at that time.
- Chairman Hetzke asked what percentage of impervious surface proposed. Mr. O’Connor stated it would be approximately 83% but that was a preliminary number. Existing buffers would be maintained along the exterior perimeter of the joined properties, but was unable to maintain the required buffer for the dumpster area. The existing green space between the two lots would be lost as this was the proposed location of the building.
- Chairman Hetzke asked if there was a way to increase the amount of proposed green space. Mr. O’Connor explained the applicant could reduce the number of parking spaces but this
would compromise functionality. He explained scaling the building down would not make much of an improvement as the bulk of the green space was displaced by parking needs.

- Board member Tydings asked if the submitted elevations demonstrated the industry standards for Chili’s restaurants. Mr. O’Connor confirmed they were typical.

- Board member Tydings asked if there were similarly finished Chili’s in the area. Mr. Butler explained the other Chili’s restaurants in the local area were older and franchisees so they did not meet the current corporate standards; however, the submitted renderings were prototypical but with modifications to complement Baytowne Plaza.

- Board member Kanauer asked for an explanation of the exterior lighting plan. Mr. O’Connor explained the plan was to closely match the lights in Baytowne Plaza with limited lighting added to the Brandt Point facing side of the building.

- Board member Kanauer asked what the hours of operation would be. Mr. O’Connor stated the restaurant would be open 11:00 AM to 10:00 PM for lunch and dinner.

- Board member Bastian pointed out the submitted site plan showed the building size as 5,300 square feet in size. Mr. O’Connor clarified that was a typo on the plan, the building was proposed to be 4,500 square feet.

- Board member Burton asked when a shared parking agreement plan would be available for review. Mr. O’Connor stated that agreement could be provided when the preliminary final application was submitted.

- Mr. Colucci explained to the board the status of the parcels in the application. Pizza Hut will continue to operate on the current site while a new tenant space is remodeled for them in Baytowne Plaza to be occupied this fall. Once Pizza Hut is relocated the existing building would be demolished. The owner hoped to get subdivision approval so they could provide Chili’s with a cleared single lot for construction. Underground retention of stormwater would be proposed if green space requirements proved insufficient per the town requirements for stormwater management.

Following a discussion at the public meeting and subsequent discussion in a work session, the Penfield Planning Board offered the following comments:

- Provide a complete set of engineered site plans per the requirements of the Town for a preliminary/final site plan application.

- Provide a lighting and photometrics plan with cut sheets of the proposed fixtures. It was stated at the public meeting that the proposed lighting will be similar to those recently installed at Baytowne Plaza as part of its expansion project.

- The Board was supportive of the proposed architectural concept rendering. The applicant shall provide color samples and building materials, with four sided colored building elevations and updated 3D renderings of the proposed architecture.

- Provide details and visuals for the proposed signage. Review Chapter 250, Article X: Signs, found in the Code of the Town of Penfield, to determine if an application will need to be submitted for the Zoning Board of Appeals.

- Provide occupancy load figures for the restaurant.

- Specify the number of staff anticipated to be working at the site.

- Specify hours of operation for the restaurant.

The board directed staff to send the sketch plan response letter.
2. J. Lincoln Swedrock P.E., BME Associates, 10 Lift Bridge Lane East, Fairport, NY 14450, on behalf of Oak & Apple LLC, requests under Chapter 250 Article XII-12.2 of the Code of the Town Penfield for Preliminary and Final Site Plan approval for the construction of a 2,674 +/- square foot farm cider mill with associated site improvements on a total of 26.97 +/- acres located at 1381 Sweets Corners Road, to be known as Oak and Apple Cidery. The property is now or formerly owned by Oak and Apple, LLC and zoned RA-2. Application #16P-0003, SBL # 125.01-1-10.4.

Mr. James Bonsignore, Esq. of Woods Oviatt Gillman LLP presented the application to the board. Also present were Mr. Christian Krapf, Oak & Apple LLC, and Mr. J. Lincoln Swedrock, P.E., BME Associates.

- Mr. Bonsignore, following the receipt of comments submitted by Attorney O’Toole in advance of the meeting, provided an initial response to the comments suggesting that the proposed use would require a use variance or a Type 1 Action under SEQR. Mr. Bonsignore stated that those assertions were incorrect, noting that Attorney O’Toole was not present for the lengthy legal review of the permissibility of the proposed use that was conducted by the Town Board, which was examined by the Town Board, the Town’s general counsel, the Planning Board’s counsel, existing staff, and former staff who had participated in drafting the conservation easement affecting the parcel. The result of the efforts concluded that the proposed use is a permitted customary agricultural operation in the zoning district. Mr. Bonsignore, following his review of Attorney O’Toole’s letter, concluded that the statements were incorrect.

- Mr. Bonsignore stated the application was for a farm cidery. The bulk of the use on the property was to be the growth and cultivation of apples. The use includes a 2,674 +/- square foot building where cider is to be produced with a portion of that, approximately 520 +/- square feet, intended for a cidery tasting room for patrons to sample the products produced on site.

- Mr. Bonsignore stated the applicant and his representatives were aware of the fact that many residents were concerned about the proposed project, which has been designed to minimize the impact of the proposed site plan from the perspective of the physical scale on site, location of the building, disturbance of any potentially environmentally sensitive areas, shielding to neighbors, ensuring that the architecture is in conformance with the nature of the surrounding community.

- Mr. Bonsignore explained that although the proposed use was permissible under New York State Ag & Markets Law, there were other constraints imposed in the conservation easement (the “Easement”) for a similar winery use. He that his client is willing to constrain certain aspects of the proposal including the site plan and the development of the site in order to minimize impacts and achieve his clients’ goals of opening a cidery.
• Mr. Bonsignore restated that the proposed site of the cidery building is approximately 2,600 square feet, which will contain the tasting room. He added, under the terms of the conservation easement a winery up to 10,000 square feet could have been proposed. Based on this the main building is about 60% less in scale than what could have been proposed and constructed under the conservation easement.

• Mr. Bonsignore addressed concerns about the parking. The original calculations showed over 40 parking spaces, which was based on the 10,000 square foot figure. The proposed parking meets the 5.4 spaces per 1,000 square feet constrictions imposed by the conservation easement. The site plan show 13 parking spaces to be installed upon construction with the remaining spaces to be land banked. This limit in available parking should also limit increases to existing traffic and is expected to no adverse impacts to the surrounding community.

• Mr. Bonsignore stated that the hours of operation are proposed to be limited to three (3) days per week, with a business hours ceasing at 7:00 PM on Thursdays and Fridays and at 8:00 PM on Saturdays. The applicant may request peak-season hours on Sunday afternoons. In comparison to similar operations in agricultural districts surrounded by residential homes, such as Casa Larga, no retail shop or banquet facilities are proposed for this property.

• Everything associated with this site has been designed to have a minimal impact and to be in keeping with agricultural area that surrounds it.

Mr. Swedrock presented the engineering details of the application to the Board as follows:

• The property is 26.97 +/- acres, as shown on the aerial overlay map that was displayed.

• The proposal is for a 2,674 +/- square foot cidery

• The property is located at 1381 Sweets Corners Road, at the intersection with Dublin Road.

• The property is zoned agricultural and is in the County agricultural district.

• Access to the site is proposed with a new driveway off of Dublin Road. Sight distances have been verified and they have worked with the PRC to locate the access point.

• The farm access drive had been relocated from the originally proposed location at the southern limit of the property to the north off of Sweets Corners Road.

• The proposal included tying into public water and sewer services. As part of the plan the applicant would extend the Town sewer service down Dublin Road and tie into that extension.

• As stated by Mr. Bonsignore, parking is proposed with 13 space and additional land banked parking.

• The site will be serviced by public water and sewer. Public water is available along Dublin Road. A public sewer is proposed to be extended along Dublin Road with a private lateral to service the site.

• A 1,500 square foot barn is proposed for storage to support the agricultural use and operations of the cidery.

• 530 dwarf apple trees are proposed to be planted for the operations of the cidery.

• The landscaping plan included trees planted along the entrance drive. Lighting is proposed with building mounted lights and some up-lights under the trees along the entrance drive.
• Included in the submission was the farmstead area plan, which was requested by the Town Board during its review process, used to develop the site plan and determine the locations of the building, entrance drive, and the parking. The mapped [steep slopes] EPODs, topography, and the watercourse EPOD were used to develop a site plan and minimized disturbances. The 150 foot setback is also shown on the plan per the conservation easement and it was maintain on the site plan.

• The existing environmental features of the site were used to choose soil sample locations for the apple trees.

• All comments from the sketch plan hearing were addressed in the proposed plans that were submitted with the Preliminary/Final application.

• Written responses to the sketch plan and PRC comments were provided.

Board Comments:

• Board member Burton asked for the calculated value of the area of disturbance for the project. Mr. Swedrock answered the total area of disturbance area is 4.42 +/- acres.

• Board member Burton asked Mr. Swedrock to explain how the farmstead area was delineated. Mr. Swedrock explained that the 150 foot setback was delineated first and then the EPODs areas for steep slopes and the watercourse were taken into consideration to create a five (5) acre delineated area. Also taken into consideration was the best locations for the orchards.

• Board member Burton asked if the applicant was under the impression that five (5) acres was required. Mr. Swedrock stated that the easement made reference to a five (5) acre delineated area. Board member Burton replied that the area delineated was necessary to the development as the farmstead area was intended to be reserved for permanent improvements to the property. Mr. Swedrock believed the full five (5) acres was not needed at that time but felt it was delineated based on what was allowed in the conservation easement. The 4.42 acres of disturbance was calculated for disturbances for utilities, which would have to be serviced from outside the property, and the driveway.

• Board member Burton asked if the disturbance of the area for the two building structures was considered in that calculation of 4.42 acres. Mr. Swedrock answered the disturbances for the structures was included in that calculation.

• Board member Burton asked if the lighting plan was prepared to be dark-sky compliant. Mr. Swedrock was uncertain but willing to review the submitted plan and make changes if the lighting was not compliant to the Town’s standards. Mr. Burton stated that due to the elevation of the site the lighting plan should be dark sky compliant.

• Board member Bastian asked if a site distance analysis was conducted for the proposed location of the farm access road on Sweets Corners Road. Mr. Swedrock stated it had been reviewed the location was “a little tight” so it may be relocated. The proposed location was restricted by the existing grading of Sweets Corners Road. Board member Bastian expressed concerns with the proposed location for slow moving farm equipment vehicles attempting to enter and exit the site from Sweets Corners Road due to the changes in elevation of the roadway. Mr. Swedrock recalled a comment from previous reviews where the farm access road was located at the southern limits of the property and there was concern for placing it adjacent to the residential home next door.

• Chairman Hetzke requested the applicant provide lighting cut sheets and details for the proposed lighting. Mr. Swedrock agreed to this.
Board member Kanauer asked if light fixtures with dimming features could be considered for times when the business is not in operation to lessen the impact of the lighting in the area. Mr. Swedrock replied this was being considered due to the limited proposed hours and the lights could be off when the business is closed.

Board member Kanauer asked for details about the use of the gated entrance. Since the area was fenced and gated, as shown on the elevation drawings, would the gate be closed during non-business hours or would it be left open for times when people are at the site. Mr. Krapf explained his intention was to have the gate open when the business was open to the public. He also mentioned an alternative plan for the farm access road was to tie it in to the main access drive near the entrance and it have branch out from the main drive.

Chairman Hezke asked if a large print of the building renderings was able to use for the discussion. Mr. Swedrock replied that only the smaller copies of the rendering was provided to the board. A larger version could be provided at a later time.

Mr. Bonsignore added to responses regarding the delineated five (5) acre farmstead area shown on the plan as it relates to the easement. He explained the conservation easement stated the farmstead area was to be not be on property having less than five (5) acres, thus the proposal plans to limit the farmstead area to less than five (5) acres to lessen the impact from disturbance and locate the structure based on topography.

Board member Burton clarified for the audience that the size of the site far exceeds the minimum requirement needed for the proposed use. Therefore the farmstead area on the plan gives the appearance that it is larger than it needs to be in order to properly locate the farm structures. Mr. Bonsignore replied that board member Burton’s description was correct. No other construction is proposed to take place outside the identified farmstead area on the entire 26 +/- acre parcel.

Board member Burton asked about the clothes closets and bathroom, with bathtub, shown on the second-floor plan. Mr. Bonsignore explained the property will be used for farming activities where workers would get dirty and muddy while working in the fields. The second floor offered extra space that was available for workers to use as a changing area and small dining area that would have otherwise been “dead space.” The owner plans to spend a lot of time on site and required an area to shower, change, sit down and have meals before having to attend to the tasting room. The area was not intended to be a residence, or use the space for overnight stays; it was solely designed to have a place to change out of work clothes and take breaks as needed.

Board member Burton asked why a full-residential kitchen with amenities is needed. Mr. Krapf explained the height of the building was designed for future growth of the cider tanks in a vertically manner, rather than horizontally. The office area is over the pressing area where the additional height was not needed. While designing the layout of the building, Mr. Krapf instructed his architect to incorporate a place to shower per OSHA law and pesticides laws. He also requested a kitchen area. Mr. Krapf did not discuss with his architect the extent to which of the office area would be designed and admitted the design was excessive for the proposed use.

Board member Burton asked Mr. Krapf to explain the purpose of the proposed deck connected to the cidery. Mr. Krapf replied it was a space intended for people to come and use to sample flights of cider. Mr. Burton asked if the samples would be served inside and customers could take them outside. Mr. Krapf stated he had not considered this aspect of the service yet.
Board member Burton asked what size containers would be used to give people samples of the product. Mr. Krapf explained it would be a small sampling glass and believed they held two (2) ounces. Samples would be served in a flight with three (3) to four (4) of those glasses.

Board member Burton asked many types of the product would be available for tasting. Mr. Krapf planned to offer a dry, semi-dry, sweet and experimental types of the cider, including seasonal types. There could be as high as seven (7) or as few as four (4) types of cider available.

Board member Burton asked if Mr. Krapf planned to prohibit the amount of product being consumed by each customer. Mr. Krapf explained the flights and samples would be sold as well as bottled cider to be taken off-site.

Board member Burton asked for clarification if the sealed bottles sold to customers would not be consume on-site. Mr. Krapf replied that bottles are originally used to pasture the cider after it is made, so behind the bar counter all products will be in a bottle to start out and will individually be poured into flights. Customers would not buy the bottle, only the flight.

Board member Burton asked if any sort of a mechanism would be in place to limit the amount of alcohol being consumed on the property so people do not excessively consume the product by purchasing several bottles to become intoxicated. Mr. Bonsignore explained the business was not intended to be a bar or restaurant so customers could not repeatedly purchase and consume bottled product on-site. For the proposed operation, samples would be served in sample-size glasses that would be in a flight of six (6) to eight (8) ounces of product per flight, similar to the equivalent of a typical pint glass. Mr. Bonsignore stated it is not the intent to allow customers to consume multiple drinks like you would see in a bar setting. Mr. Bonsignore stated the alcohol content of the product could be at most seven (7) to seven and a half (7.5) percent. Mr. Bonsignore stated the business would be legally constrained by the farm cidery license, that is different from a bar license, for the provision of alcoholic beverages. The operation would be limited to serving samples under the laws of the farm cidery license.

Chairman Hetzke asked what the differences were between a farm cidery license and bar license. Mr. Bonsignore used the example of Jeremiah's Tavern [having a bar license], which can alcohol openly up to the maximum hours permitted by law. This [farm cidery license] is a limited license where the quantities are limited and served in sample size portions where it may or may not be allowed to have taps, and is distinguished by the service itself. Mr. Bonsignore stated he would provide more information regarding the distinction between the two licenses since it is a major concern of the community.

Chairman Hetzke asked what would be allowable under the license being sought. Mr. Krapf explained he had applied for a farm cidery license that allowed him to ferment and sell his cider on the premises for tasting purposes. He stated the law allowed a customer to have either a flight (blend) of ciders or a glass of (a specific) cider. Mr. Bonsignore pointed out a bar license allows for the sale of various types of alcohol, such as liquor, different beers, and mixed drinks for consumption. The farm cidery license is limited to only what Mr. Krapf produces. The license also limited the quantity and scale of how much product he is allowed to serve.

Mr. Bonsignore elaborated that Monroe County offers courses where trained staff will teach licensees who serve alcohol to recognize the signs of intoxication that the applicant
was planning to attend for the operation of his tasting room to help address the public’s concerns of excessive consumption on site. Mr. Krapf confirmed for the board that it was his intention to be trained in the practices of how to recognize and how to serve through the program offered by the Sheriff’s department.

- Board member Burton asked what type of food service is proposed. Mr. Bonsignore explained there was no full-scale food service proposed, at most pretzels, crackers, artisan cheeses, cured meats, or other small items to pair with the cider. No bar snacks, like a bowl of peanuts, or paninis and sandwiches. Just simple artisan samplings to pair with the cider. Mr. Krapf added, salts and spice go well with cider and that is what they are trying to show.

- Board member Burton asked if food vendor trucks were intended on the property. Mr. Krapf answered no he does not intend to.

- Board member Burton also asked if music would be piped (played) outside the building. Mr. Krapf answered no he does not intend to.

- Board member Burton also asked if any live music was intended inside or outside. Mr. Krapf answered no he does not intend to.

- Chairman Hetzke asked how many deliveries were anticipated on a weekly basis of any sort. Mr. Krapf explained that the proposed number of planted apple trees would supply 51% of about 2,000 gallons, at full peak 4,000 gallons, of cider. Therefore he anticipates one (1) delivery per year, or he could transport enough apples on his 18 foot trailer after two (2) trips to provide the remaining 49% of his target production level.

- Chairman Hetzke asked for clarification that two (2) trips annually by Mr. Krapf’s with his trailer to and from the supplier or one (1) delivery from the supplier to the site would meet his needs. Mr. Krapf confirmed the Chairman’s summary was correct and that the deliveries would occur during harvest season.

- Chairman Hetzke asked if other types of deliveries were anticipated. Mr. Krapf explained in the beginning there would not be enough volume to go to distribution and he anticipated selling most of his product on-site or self-distributing to select stores or restaurants as allowed under the farm cidery license.

- Chairman Hetzke asked if the distribution would be handled with a private vehicle. Mr. Krapf said he would likely be using one of his vehicles for the business, such as a pickup truck. Mr. Krapf did not believe anything larger than a box-car truck would be able to access the site and could not predict his long-term future needs for deliveries.

- Board member Burton asked if the applicant would be willing to limit the days and times of the commercial truck deliveries under a property maintenance agreement. Mr. Krapf replied he would agree to that.

- Board member Kanauer asked if a dumpster was on site and if not what the plan for disposal was. Mr. Krapf explained regular waste disposal would likely require a small dumpster. Apple bits from the grinding process would go to a local composter who has expressed interest. The composter agreed to remove the apple by-product from the site. Board member Kanauer replied if a dumpster was needed it would have to be shown on the site plan.

Public Comments:
- Bridgette O’Toole, the Zoghlin Group PLLC, 300 State Street, Suite 502, Rochester, NY 14614, representing Christopher and Lisa Mazur of 1985 Dublin Road, stated for the
record that she has submitted public comment in the form of a letter, which was sent via email along with a hard copy, and will be reviewing the highlights of the letter for the board, listed concerns regarding the application. Attorney O’Toole discussed the items as follows:

- Regarding the farm cidery license, although there is a restriction on the amount of alcohol poured per pour, there isn’t a restriction on the number of drinks you can pour per patron.

- Town designated Environmental Protection Overlay Districts were on the property, two (2) steep slope EPODs and a watercourse EPOD. Stated that on none of the submitted site plans were the EPODs and all of the proposed improvements shown on one sheet, including the utilities. Exhibit B of the public comment document shows the EPODs on the farmstead area plan. When compared to the utility plan, Exhibit A, not all of the proposed improvements appear on the farmstead plan, and some of the utilities appear to go through the steep slope zone. More information is needed.

- The proposed irrigation pond may be in the watercourse EPOD, it was difficult to confirm as the farmstead site plan showed the EPOD areas but not the utilities or proposed pond.

- Attorney O’Toole stated the applicant would be required to apply for EPOD permits in order to build in the EPOD areas.

- Attorney O’Toole reviewed the farmstead area plan as it relates to proposed utilities and the apparent disturbances to the EPODs.

- The proposed apple trees appear to encroach on the steep slope EPOD.

- Attorney O’Toole stated that she believed that proposed application should be classified as a Type 1 Action under SEQR. She added that Type 1 Actions are for proposals that may have adverse environmental impacts and may require the preparation of an Environmental Impact Statement (EIS).

- Attorney O’Toole, in her review of triggers for a Type 1 Actions, claimed this project requires a use variance as the property was zoned RA-2, a single family residential district, and a tasting room and storefront were not permitted in residentially zoned districts. She noted that what is permitted in the district is single family home and customary agricultural uses.

- Attorney O’Toole stated the definition for a customary agricultural use is defined as “the use of a parcel of land of five (5) acres or more for gain in the raising of agricultural products, livestock, poultry, and dairy products. It includes the necessary farm structures and roadside stands within the prescribed limitations and the storage of necessary equipment.” She stated that this does not include a tasting room or a storefront and although this may have been mentioned in the conservation easement it does not change the zoning code. Further, on page 11 of the conservation easement, it reads “the construction and building improvements shall be permitted as provided in the Town’s applicable zoning district consistent with the Ag & Markets Law.” Therefore, she summarized that the applicant must comply with the zoning; and to comply with zoning they have to apply for a use variance; and a use variance triggers a Type 1 Action.

- Attorney O’Toole stated that the applicant’s proposal may disturb more than ten (10) acres as depicted on Exhibit C of her submission, which is the grading and erosion control plan. The area that is shown as the 4.42 acres is delineated and it is does not
include the orchards and the irrigation pond. When added together, the disturbed area may be more than ten (10) acres. More information is needed.

- Attorney O'Toole stated the property was located in an Ag & Markets district, Exhibit D, and the proposed 4.42 acres of disturbance is greater than the 25% threshold, approximately 2.25 acres, triggering the Type 1 standard.
- Attorney O'Toole stated that because it is believed that the proposal is a Type 1 Action the applicant must submit a Full Environmental Assessment Form. The applicant has only submitted a Short Form. She stated the lead agency should make a positive declaration of environmental significance.

- Georgena Terry, 3 Center Court Lane, expressed concerns regarding the proposed project.
  - Stated the state of New York and the DEC considers community character as an environmental asset.
  - Believed the proposed action was not consistent with community character.
  - Compared the proposed project to Wickham Farms, where apples are grown and picked on Sweets Corners Road and commercial activities take place on Route 250, and promotes family oriented activities. In contrast, Oak & Apple proposes to grow apples for the production, tasting, and sale of hard cider.
  - Ms. Terry expressed concerns for the area if Oak & Apple were to disturb the current balance of commercial and residential uses. She described the proposed project as potentially being “Trojan Horse” for the expansion of commercial development east of Route 250 that could have an impact on community character.
  - Ms. Terry referenced the Town’s comprehensive plan in regards to defining community character, which made mention of East Penfield remaining predominantly rural in nature.
  - Ms. Terry referenced a DEC statement as follows: “community character is frequently an important aspect of a community that it wishes to maintain.” She also quoted Supreme Court justice George Sutherland (1926) who said, “Every community has the right determine its own character and the nature of development within.” Ms. Terry felt the residents of the community should have the authority to decide what was appropriate for their community.

- Susan Foor, 1740 Salt Road, expressed concerns about the proposed project.
  - Stated concerns regarding how the development rights were believed to be purchased using a state grant for stormwater drainage abatement by the town and whether the proposal violated the terms of that grant.
  - Concerned about the proposed pond and possible drainage changes to the area and neighboring agriculture.
  - Wanted the soil to be tested for harmful deposits of heavy metals that may have been used in the past that could pose a risk to workers and visitors if the soil is disturbed. She added that the applicant has already disturbed some area of the land.
  - Concerned the proposed sewer extension may not have the adequate capacity for the proposed use and the volumes of waste water that will be generated.
  - Desired to have a condition included in any form of an approval resolution that would require the apple millings to be removed from the site so that no odors could be emitted to the neighborhood.
  - Requested the board to enforce that pesticides be applied by State’s licensed applicators.
- Desired all lights to be turned off after posted closing hours, and on only when the business is open to the public.
- Concerned about noise as a source of pollution and therefore a condition should be added that sounds be limited to the borders of the property to protect the neighbors.
- Expressed concerns for the fence being installed which was altering the migration of local wildlife towards neighboring properties. Wildlife included deer, wild turkey, foxes, and at times an eagle.
- Discussed community character with respect to the area east of Route 250 that currently has little to no places where a passerby could purchase as much as a bottle of water for example. The proposal is a change to the character and sets a precedent.
- Stated she desired addition environmental impact assessment under the Type 1 Action.

- David Williams, 2017 Dublin Road, spoke in opposition to the proposed project and was concerned the about future uses and expansion of the cidery and that it may set a precedence for uses of neighboring properties in the area. He was concerned about the increase in motorist as he stated the hill limited sight distance and speeding vehicles was a problem in the area.
- Ken Williams, 1710 Harris Road, spoke in opposition to application. He expressed concerns about intoxicated drivers and desired a “nuisance calls” clause be placed on the property. He explained speeding was a problem in the neighborhood, citing 23 reported accidents in the past 4 years. Also, the hills created site distance issues that may be a problem for tour buses and delivery trucks. He expressed dislike for the fence installed on the property.
- Jim Dugan, 1711 Harris Road, spoke in opposition to the application and felt the board should deny the application because it is not the right location for the use.
- Craig Rebmann, 1720 Dublin Road, spoke in opposition to the proposed project. He explained he purchased his property because it reminded him of the rural area where he grew up and felt the cidery was not in keeping with the rural character of the area and was concerned about excessive noise and intoxicated drivers. He noted that the area had several families with small children. He opposed the fence that was installed. He expressed concerns for his property values being affected by the proposed project.
- Matthew Kellman, 56 Edenfield Road, expressed concerns about the application. He explained he enjoyed having a farm as a neighbor (Wickham) but expressed the production of alcohol was not a fit for the neighborhood.
- Deborah Ellison, 1956 Dublin Road, read a statement on behalf of Pat Sutton regarding the importance of people and neighborhoods.
- Lisa Mazur, 1985 Dublin Road, spoke in opposition to the application. Ms. Mazur expressed concerns about the consumption of alcohol other than flights for tastings and in larger quantities. Ms. Mazur explained she had attempted to seek out information about the tasting room operations from the owners through their Facebook page but was still seeking a definitive answer about how customers would be able to purchase the product. Ms. Mazur stated the proposed hours did not match other wineries and cideries in the area and that other locations close tasting rooms by 5:00 PM, whereas Oak & Apple is proposing 7:00 or 8:00 PM. She expressed concerns regarding the parking, citing language from conservation easement, and believed the number of parking spaces should be based on the size of the tasting room only. She was also concerned with intoxicated drivers leaving the cidery, the potential for tour buses and limousines with large groups of
people travelling to the area, and potential negative impacts to the character of neighborhood and property values.

- Sheryl DiMuro, 1877 Dublin Road, read a letter on behalf of Jennifer Sutton who resided on Whalen Road and expressed concerns for neighbors and pedestrians regarding increased traffic, delivery vehicles, construction vehicles and potentially overloaded sewer system.

- Michael Gorman, 1741 Harris Road, read a statement on behalf of an unnamed resident from a similar location. The letter expressed concerns that the project may violate the conservation easement, have negative changes to the character of the community, decrease property values, increase the number of intoxicated drivers and endanger the safety of pedestrians.

- Jim O’Brien, 1913 Dublin Road, expressed concerns regarding the application as it related to the safety of pedestrians noting the increase in the number of younger families that have moved to the area. He stated speeding vehicles was a problem on Dublin Road and he did not support the proposed project.

- Kevin Gorman, 1741 Harris Road, expressed concerns regarding the proposed project. He stated there were several bikers in the area on evenings and weekends. Mr. Gorman added that the surrounding roads have “blind hills” making it difficult to see cars and he had concerned for intoxicated drivers on those roads. Mr. Gorman read a letter on behalf of Diane Luke that listed concerns for negative impacts to quiet character of the area and opposition to the any businesses and commercial property in the conservation easement.

- Aimée Rinere, 58 Edenfield Road, spoke in opposition to the application and was concerned about future expansion of the proposed cidery.

- Marisa Cady, 1728 Dublin Road, read a letter on behalf of Mary Rothfuss of 1891 Salt Road that listed concerns regarding the proposed project as it related to traffic impacts, changing the character of the area with potential urban uses, and potential growth the proposed cidery in the future. Ms. Cady then read an excerpt from Town of Penfield website for the Open Space Plan and the statement of purpose.

- Ryan Stage, 1400 Whalen Road, spoke in support of the application. Mr. Stage felt the proposed cidery was small and tasteful, resembling a rural farm with a countryside building. He suggested traffic calming measures be taken to slow down drivers. Mr. Sage stated that public sewers was benefit to the neighbors.

- Kevin Gallagher, 1973 Dublin Road, spoke in opposition to the application. Mr. Gallagher expressed dissatisfaction regarding the manner in which the application was handled by the applicant’s agents and Town staff. He claimed there was misinformation about the project and made reference to the applicant’s former proposal in the South Bristol. He believed the production and sale of hard cider was not an appropriate farming activity. He questioned the description of the square footage of the buildings. He felt the project should be described as a bar. He claimed the location of the buildings on the property was not chosen based on the easement and the EPODs but rather because of the view, and the proposed orchard locations were just landscaping. He claimed the applicant and the town have not addressed the restrictions in the easement. He claimed the development rights were extinguished. He claimed the farm area could only be used to grow fruits and crops. He made reference to the Town Board’s work session discussion on July 27 and claimed that Oak & Apple have no right to build a cidery on the property. Mr. Gallagher asked the board if there was representation present on behalf of the grantee referenced in the
easement. Mr. Gallagher had concerns of a conflict interest regarding the interpretation of the easement.

- Board member Burton replied that the board has no control over the easement and cannot address anything about the easement. Board member Burton stated that it is not in the purview of the board and can only address what the board has been charged with; and that is a site plan review. Questions about the easement or how it is being interpreted can only be brought before the Town Board.

Mr. Gallagher recalled his request to the Town Board to retain separate representation to review the easement.

- Chairman Hetzke reminded Mr. Gallagher that any questions about interpretation of the conservation easement can only be reviewed by the Town Board. The Planning Board is charged with site plan review only.

Mr. Gallagher continued with statements about his interaction with the Town Board. Chairman Hetzke asked if Mr. Gallagher would be speaking about site plan related issues. Mr. Gallagher replied yes.

Mr. Gallagher reviewed questions he submitted to the Town Board referencing the language in the easement.

- Chairman Hetzke request Mr. Gallagher to focus his comments to site plan issues that can be addressed by the Planning Board as several of his comments have been about the easement, which are for the Town Board only.

Mr. Gallagher continued and referenced additional questions he had presented to the Town Board regarding the references to a winery in the easement. He stated his opinion that the proposal does not meet the conservation easement. He claimed that the applicant has withheld information and has acted with misconduct and corruption.

- Chairman Hetzke stated to Mr. Gallagher that his comments and accusations are insulting and wrong. The Chairman, in his 19 years of experience serving the Town, stated that town staff, applicants, town attorneys and consultants function at a very high level of professionalism and the accusations are preposterous. He asked the Mr. Gallagher concluded his comments.

Mr. Gallagher claimed the wording in the easement about the grantor’s right to create a farmstead for a winery have not been addressed and have been ignored by the Town of Penfield. He stated he was committed to protecting the easement.

- Jim Allis, 1485 Sweets Corners Road, expressed concerns regarding the proposed project in relation to how it would affect property values and the impact from surrounding land uses and conditions. He stated that Wickham Farms apple picking created traffic issues when customers park along the roadside of Sweets Corners Road and Dublin Road. He was concerned with potential for noise disturbances from customers at the hilltop. He was opposed to the project.

- Patrick Dugan, 3400 Atlantic Avenue, expressed concerns regarding the application in regards to potential traffic and parking issues. Mr. Dugan showed photos to the board of parallel parked cars along Sweets Corners Road. He explained the tractor depicted was loaded with visitors transported from the east atop the hill in the road in the first photo and subsequently approaching the photographer in the next two photos. He pointed out the road was narrow and did not have paved shoulders and adding more visiting traffic to the area was a safety concern. He displayed a poster he made citing an Oak & Apple social media page.
• Ken Williams, 1710 Harris Road, recalled a recent automobile accident near Harris Road and Atlantic Avenue to the Board about drunk drivers.
• Larry Grossman, 1787 Fairport Nine Mile Point Road, addressed the board and commended the board for its work. He showed support for the application but suggested that the proposal still needed to be refined in order to be done correctly. He was pleased with the current agricultural uses in the area and supported the installation of the fence as it was properly installed and in keeping with the way agricultural is done, because formerly the lands were foul with bad grape crops before being replanted by Wickham Farms. Mr. Grossman felt this could be a great project for the area is done right. He suggested the applicants respond to the concerns and revised the designs for the cider mill.
• Steve Davis, 1414 Whalen Road, had concerns about the proposed tasting room and potential intoxication of customers. Mr. Davis stated he supported the application without the tasting room as he supported entrepreneurship and liked the proposed cidery building.
• Richard Johnson, 1945 Dublin Road, spoke in opposition to the application. He chose his home because of the rural nature of the area and requested the board members work closely with the other governing town boards during the review process. He expressed concerns for future uses of the property and the "Trojan Horse" of unwanted expansion.
• Bill Wickham, Wickham Farms, spoke in support of the application. He and his wife owned Wickham Farms and several parcels immediately adjacent to the applicant at 1303, 1315, and 1350 Sweets Corners Road. Mr. Wickham recalled the [Eastside] YMCA project that was originally proposed twelve (12) years ago that had similar public opposition but has proven to be a welcomed addition to the community. With references to the "Trojan Horse" he referenced the years in the past, around the 1950s, when local farmers probably thought residential development would be detrimental to the character of the community and agricultural nature. Since then, he still believed Penfield was still a significant agricultural community. He stated residential development plays a large role in the traffic that can be observed today. Mr. Wickham discussed the evolution and growth of agriculture in the state of New York and that one of the strongest sectors of agriculture that is experiencing this growth is brewery, wineries, ciders, and distilleries. Mr. Wickham stated he read the easement carefully and felt the proposed agricultural use was in harmony with the conservation easement. He did not have any significant concerns regarding the site plan as the applicant had made many concessions from previous comments. He stated that he has rented a portion of the lands at 1381 Sweets Corners Road so that he may grow crops there and the installation of a deer fence was necessary to do protect a farmer’s investment.
• Francis P. Gallagher, 1973 Dublin Road, spoke in opposition to the application. He believed the project violated the conservation easement and accused the Board of not doing their homework. He expressed concerns for future growth of the cidery.
• Andrew Vorndran, 1616 Plank Road, spoke in favor of the application. He explained he was a lieutenant in the Northeast Fire District and responded to scenes of accidents regularly of various types and causes. He stated automobile accidents occurred regularly with or without drinking involved. He supported the application and stated the proposed project would benefit the area and believed it would be difficult to predict how the project would affect property values without a professional study.
• Christopher Mazur, 1985 Dublin Road, sponsor of the Protect Dublin Hill Facebook page, spoke in opposition to the application. He stated the YMCA does not serve alcohol and
should not be compared to this application. He expressed concerns for traffic and safety regarding the project.

- Catherine Dugan, 1711 Harris Road, spoke in opposition to the application and stated the proposed project should be located in a commercial area.
- Michael Zimmerman, 15 Helmsford Way, expressed concerns regarding the EPODs and whether the board would review the proposed improvements in those areas. He was concerned with future changes and expansion of the proposed project and requested the Board place conditions to limit the uses on the property.

**Applicant Responses:**

- James Bonsignore thanked the Board and explained the applicant would likely make changes based on the information gathered at that time and looked forward to comments from the Board.

The board voted and TABLED the application pending the review and/or submission of the following items:

- Public comments received in the form of oral testimony presented during the public hearing and written letters submitted prior to the meeting for the Board's review and consideration.
- Revised site plans to include a lighting plan utilizing dark sky compliant lighting fixtures. Cut sheets of the fixtures shall be provided for the Board. Fixtures should include a programmable dimmer control.
- Revised site plans to relocate the farm access road off of Sweets Corners Road due to the Board's concerns of site distances for vehicular traffic.
- Revised architectural plans noting any changes to the layout of the second floor of the cidery structure.

Written statement from the applicant specifying the statutory and/or regulatory provisions under which the applicant has applied for and/or intends to apply for a license to operate from the New York State Liquor Authority, including a discussion regarding the differences between New York State licenses for a farm cidery license and a bar license per the statement of the owner during the public hearing presentation.

- Details for the owner's anticipated delivery schedule, including, but not limited to, frequency of deliveries and vehicle type(s).

**Vote:**

- Moved by: Burton
- Seconded by: Bastian

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

Motion was carried.

3. Marathon Engineering, 39 Cascade Drive, Rochester, NY, 14614, on behalf of Hometown Antiques & Properties, requests under Chapter 250 Article XII-12.2 of the Code of the Town of Penfield for Preliminary and Final Site Plan approval for a parking lot expansion with associated site improvements on the 0.41 +/- acres located at 2221 Penfield Road. The
property is now or formerly owned by Hometown Antiques & Properties and zoned BN-R. Application #16P-0011, SBL #140.01-2-10.

Mr. Lucas Bushen, Marathon Engineering, presented the application to the board. Also present were Steve Cerrone of Hometown Antiques & Properties and Dr. Lawrence Torpey
- The project proposed to add five (5) parking spaces to the rear of the property to be used exclusively for employee parking only.
- The medical practice was growing and there is need for an increase in parking on the property.
- Neighboring properties on either side were both zoned BN-R, and 2223 Penfield Road was also owned by the applicant. Behind the property was a residential neighborhood.
- The PRC memo was received and they are working to address those comments.
- One of the PRC comments recommended selling a portion of the abutting property at 2223 Penfield Road to 2221 Penfield Road to expand the east border line but the owner, Mr. Cerrone, maintained he does not intent to sell either property exclusive of the other.
- Mr. Bushen explained the planting of street trees, as suggested by PRC, would not have a positive impact as the site improvements are proposed to occur entirely in the rear of the property. He further explained street trees would create issues for underground utilities in that state owned right of way along Penfield Road.
- The applicant desired to use landscaping to buffer the rear of the property rather than a fence and proposed to add a berm and relocate existing landscaping.
- Mr. Bushen explained the encroachment of headlights would be minimal as the doctor’s office operated during weekday hours.
- An application was being made to the Zoning Board of Appeals for the October 20, 2016 public hearing to request a variance to the 50 foot required buffering.

Board Comments:
- Board member Tydings asked if the variance for buffering was the only variance needed. Mr. Bushen confirmed only the one variance was necessary to the proposed project.
- Board member Tydings asked if the applicant was willing to work with the town landscaping consultant’s recommendations for the rear buffering. Mr. Bushen replied they would be willing to do so and a revised site plan would be submitted for the Board’s review.
- Board member Tydings asked for clarification if the proposed site improvements were only for the rear parking area. Mr. Bushen replied that the construction of the rear parking lot serviced by the driveway around the building was the purpose of the proposal.
- Chairman Hetzke asked for an explanation of the reason of the proposed parking expansion given that the existing building appeared to be relatively small in size. Dr. Torpey explained his practice had grown in the last two (2) years and had approximately 750 patients. He was seeing about fourteen (14) to nineteen (19) patients per day with both scheduled and open appointments for patients with acute concerns that are addressed often the same day. This can result in double or triple booking of patients, or at times 4 patients per hour. Dr. Torpey stated that currently there were seven (7) parking spaces available. He used the garage for his vehicle and the handicapped parking space was in front of the garage. Five (5) additional employees worked in the office, two of them have to double park in the area west leaving 3 available spots for patients. He explained that
by moving the employ parking to the rear of the property would open up more parking spaces to patients. Dr. Torpey stated the building was small, there were three exam rooms, a waiting room, and the administrative space was located in the former kitchen. He stated regular visits from the postal carrier, delivery trucks, as well as occasional ambulance calls, which involves multiple vehicles for the response call, and this can further create parking issues. Dr. Torpey stated there were occasions where the lawn was used for parking. Dr. Torpey also stated he had expanded to Saturday morning hours for appointments. Given the daily operations of the medical practices, routinely all the of the parking is used on site.

- Board member Kanauer asked what the hours of operation were. Dr. Torpey stated the hours were 8:00 AM to 4:30 PM for scheduled appointments, the last patient typically left at 5:15 PM.

- Board member Kanauer expressed concern for residences behind the property and how they may be impacted by employees’ vehicles and operating hours. Dr. Torpey replied that the morning hours may be the only time the residents could be impacted by the headlights from vehicles as employees drive in. When exiting the parking lot the headlights would be facing away from the residents to the south.

- Chairman Hetzke asked if there was lighting proposed for the project. Mr. Bushen stated there was no lighting proposed.

- Mr. Bushen added there was a 125 foot distance from the neighboring house to the proposed parking lot so he believed that the landscape buffering proposed combined with the angle at which vehicles would be travelling would eliminate the possibility of headlight disruption to residents.

- Board member Bastian asked if there was a walkway planned for employees parking in the proposed lot. Mr. Bushen stated there was an entrance on the rear of the building. Mr. Bastian asked if there would be a sidewalk to that entrance as one was not shown. Mr. Bushen stated it was not currently shown on the plans but it could be added.

- Board member Burton recalled stormwater drainage concerns from previous discussion before the board that may impact the neighboring property. He asked for clarification of the green colored area shown on the plan that was displayed by the applicant. Mr. Cerrone, owner or 2221 and 2233 Penfield Road, explained the drainage from the roof is buried underground and discharges to two outlets surrounded by rocks on the neighboring property at 2233 Penfield Road as required by the Planning Board’s previous approval. Mr. Cerrone stated the buried drainage pipe from the rear southeast corner of the roof would be extended further to the neighboring property as the proposed driveway would cover the existing outlet.

- Board member Burton asked if there was buffering proposed to the east of the access drive. Mr. Bushen replied the green colored area on the plan was the restoration area and will be grassed. Mr. Cerrone confirmed that no new buffering would be planted in this area for the property to the east, but they would replant the existing plantings from the front of the property to the rear in the buffer area.

The board voted and TABLED the application pending the review and/or submission of the following items:

- Revised site plans to include the following details:
a. Sidewalk connection to the building’s rear entrance from the proposed parking area.
b. Address snow storage and/or removal for the proposed parking area.
c. Add an electrical conduit under the parking area to the rear of the property for a future light fixture if it becomes a desired feature at a later time in the future.
d. Appropriate signage to designate employee parking.
e. A buffer for the adjacent residential properties located to the south in the form of a landscaped berm. The number of plantings to be installed should include at a minimum replacement for those that are proposed to be removed as part of the parking expansion area. The proposed landscaping details will be provided to the Board’s Landscape Consultant for their review and consideration upon receipt of the revised site plans.
f. A rain garden or similar stormwater management area shall be added to the site plan to collect the stormwater that is currently discharging to the neighboring property at 2233 Penfield Road via underground pipes from roof leaders. The stormwater management area will also help offset the greenspace that is proposed to be removed to allow for the proposed access driveway on the east side of the building. The new stormwater management area shall be located within the limits of the existing 20 foot drainage easement that was previously granted from 2233 Penfield Road.

- Applicant’s responses to the PRC’s memo dated August 25, 2016 and this tabling resolution.
- The Board is aware the applicant will require a formal review by the Penfield Zoning Board of Appeals for an area variance for less setback to the required 50 foot buffer area between residentially zoned properties and the BN-R District.

Vote: Moved by: Tydings Seconded by: Bastian

Tydings - Aye

Motion was carried.

IV. TABLED APPLICATIONS:

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 staff had spoken with the applicant’s engineer and they informed the staff that they were continuing work on the responses to comments. They were reviewing with the applicant the cost of the road improvements and sidewalk installation, which was cause for the delay. The applicant requested the board table the application for this meeting as they were continuing to move forward and hope to submit items for the board’s review in the near future.

The board voted and CONTINUED TABLED the application pending the review and/or submission of the following items:

• Current plans in file show a rear elevation only of the proposed triplex townhomes and a set of elevation drawings from a similar development in the town of Chili. The Board requires a submission of a complete set of building elevations and colored renderings for this specific site location with accurate details. Samples of the proposed building materials shall be provided as well. The board has directed staff to resubmit the building elevations and associated materials to the Town’s Architecture Consultant for his review upon submission.

• Submission of the geotechnical report for the Engineering Department’s review of soil conditions.

• Submission of the latest wetland and floodplains delineations for the site.

• Specification for the board if any ground monument sing would be considered near the entrance or beginning point of the residential subdivision.

• Provide clarification for the intended use of the lands shown on the plans that are assumed to be donated to the Monroe county Parks. This was previously stated during the sketch plan application in 2013.

Vote: Moved by: Burton Seconded by: Kanauer

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

Motion was carried.

2. McMahon-Larue Associates, P.C., 822 Holt Road, Webster, NY, 14580, on behalf of Plank Road Development, requests under Chapter 250, Articles VI-6.1, XI-11.2, XII-12.2 of the Code of the Town of Penfield for Final Site Plan, Subdivision, and EPOD Permit approval under Town Law §278 to construct 18 single family homes with associated site improvements on 31.37 +/- acres located at 899 Plank Road and 1377 Shoerck Road to be known as Crowne Pointe Section 2B. The properties are now or formerly owned by Plank Road Development, LLC and are zoned R-1-20. Application #16P-0010, SBL # 094.18-1-6.211 and 094.19-1-1.11

• Mr. Nersinger informed the board that revised plans and responses to comments were submitted, and a draft approval resolution was submitted by staff for the board’s review. The applicant wished to remove a guardrail along Plank Road from the site plan and was working with the County DOT to resolve this issue. In 2004 the MCDOT Comments
requested the applicant remove the guardrail once the ditch was piped and filled. The county was currently reviewing this comment and will respond to town staff and the applicant. The applicant preferred to regrade the ditch rather than pipe it in order to remove the guardrail.

- Board member Bastian asked if the approval resolution could be conditioned that the applicant and Monroe County DOT reach an agreement regarding the piping of the ditch and requirement for the guardrail.

The Board voted and APPROVED the application with conditions

Vote: Moved by: Bastian Seconded by: Kanauer
Tydings - Aye

Motion was carried.

III. MISCELLANEOUS:

1. Penfield Place Extension Request, 1700 Penfield Road

- Mr. Nersinger explained that the applicant requested an extension to the Board’s previous site plan approval. The applicant was still awaiting approval from the New York State Department of Health for the additional beds to this facility, thus delaying construction. The applicant hoped to commence construction in spring of 2017.
- Board member Burton recommended an approval extension of 180 days as the applicant was not likely to obtain the approval from the state within 90 days.
- Board member Kanauer asked when the current approval was due to expire. Staff informed the approval was due to expire in the following week.
- Mr. Nersinger explained the approval extensions were typically approved for 90 day intervals; however, there have been cases in the past when the board granted one (1) year approval extensions.
- Mr. Weishaar informed the board that the length of the approval extension was at their discretion.

The Board voted and APPROVED a 180 day extension for the plat map.

Vote: Moved by: Tydings Seconded by: Bastian
Tydings - Aye

Motion was carried.

2. Silverwood Subdivision Section 6A Plat Map
• Mr. Nersinger explained to the board that the developer for the Silverwood Subdivision requested approval for the phasing of section 6 into 6A and 6B on the final plat map for the purposes of developing the sections moderately.

The Board voted and APPROVED for the Planning Board chair sign the plat map.

Vote: Moved by: Tydings Seconded by: Bastian
Tydings - Aye

Motion was carried.

3. 1192 Shoecraft Road, scheduling the Verizon Cell Tower Balloon Fly
• Mr. Nersinger reviewed for the board the applicant’s proposed available dates for balloon fly at 1192 Shoecraft Road for the proposed cell tower
• The board discussed the possible dates and agreed to schedule the balloon fly for the morning of September 17, 2016. Staff was instructed to inform the applicant of the date.
• The application will be heard on October 13, 2016 in a public hearing.

There being no further business to come before the Board, this meeting was adjourned at 11:16 PM.

These minutes were adopted by the Planning Board on November 10, 2016.