TOWN BOARD LEGISLATIVE AGENDA

Wednesday, April 5, 2017, 7:00 PM

Supervisor R. Anthony LaFountain, presiding

I. Call to Order - Pledge of Allegiance - Roll Call
II. Public Hearing #1 - To Consider the Proposed Agreement for the Consolidation of Sanitary Sewer District #12, (the Empire Blvd District) and the Town Wide Consolidated Sanitary Sewer District, and Determining the Lead Agency for the SEQR Action

Public Hearing #2 - To Consider Adopting Proposed Local Law No. 2 of 2017 which would provide for No Real Property Tax Exemption pursuant to NY Real Property Law Section 487 for Solar, Wind Energy and Farm Waste Energy Systems

Public Hearing #3 - To Review Cable Television Franchise Renewal between the Town and Charter Communications (aka Spectrum Cable) and to Identify Recommendations for Future Town Cable Related Community Needs

III. Communications and Announcements
IV. Public Participation
V. Additions and Deletions to Agenda
VI. Approval of Minutes – March 1, 2017
VII. Petitions
VIII. Resolutions by Function

Law and Finance

17T-087 Authorization to Attend NYALGRO School

17T-088 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Fence within a Storm Sewer Easement at 24 Miyah Drive

17T-089 Granting a Conditional Use Permit and Preliminary and Final Subdivision and Site Plan Approval to Allow a 2,500 Square Foot Dental Office at 2105 Five Mile Line Road

17T-090 Granting a Conditional Use Permit to Allow a Micro-brewery and Restaurant with Outdoor Dining at 1221 Empire Blvd.

17T-091 Setting a Public Hearing to Consider a Conditional Use Permit and Preliminary and Final Site Plan Approval to Allow a 2,034 Square Foot Dental Office at 1739 Penfield Road

17T-092 Setting a Public Hearing to Consider a Conditional Use Permit to Allow a Valet/Shuttle Parking Lot at 1387 Empire Blvd

17T-094 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Portion of a Loading Dock Within a Sanitary Sewer Easement at 1900 Empire Blvd

17T-095 Amending Town Board Resolution 17T-079 Appointment of Stephen Ferrara to the Board of Assessment Review

17T-096 Appointment of Robert Salvage to the Board of Assessment Review

Public Works - None

Public Safety

17T-097 Approval to Attend the 2017 Monroe County Fire Marshals and Inspectors Association (MCFMIA) Annual Educational Conference

Community Services - None

IX. Old Business
X. New Business
XI. Public Participation
XII. Executive Session
XIII. Next Meeting: (April 19, 2017)
XIV. Adjournment

This meeting will be video recorded and broadcast live via the town’s website www.penfield.org and the Town’s Government Access Cable channel 12, digital 5.12. Question regarding video coverage contact Penfield TV at (585) 340-8661.
The Regular meeting of the Penfield Town Board was held on Wednesday, April 5, 2017 at 7:00 PM at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York.

Present: R. Anthony LaFountain  Supervisor  
Linda Kohl  Councilwoman  
Paula Metzler  Councilwoman  
Andrew Moore  Councilman  
Robert Quinn  Councilman  

Also Present:  
Amy Steklof  Town Clerk  
Richard Horwitz  Town Attorney  
Barbara Chirdo  Town Comptroller  
Dave Renner  Cable TV Coordinator  
Eric Tate  Deputy Director of Public Works  
Mark Valentine  Town Engineer

Supervisor LaFountain called the meeting to order – The Pledge of Allegiance was led by members of the Penfield Ecumenical Food Shelf.

Supervisor LaFountain introduced Kathy Cummins, Founder and President of the Penfield Ecumenical Food Shelf and Laurie Kalkman, Volunteer Coordinator at the Food Shelf.

Ms. Cummins stated that the Food Shelf is celebrating its 20th Anniversary and thanked all of the volunteers that have supported the Food Shelf since the doors opened in 1997. The Penfield Ecumenical Food Shelf provides emergency food assistance to Penfield residents.

Ms. Kalkman shared words of praise for the Food Shelf from some of the Food Shelf clients. Many stated that the Food Shelf has made a life-saving difference for them. For more information please visit www.penfieldecumenicalfoodshelf.org. You can also find the Penfield Ecumenical Food Shelf on Facebook, Instagram and Twitter.

Supervisor LaFountain asked what future plans does the Food Shelf have?

Ms. Cummins stated they will continue to provide holiday dinner, distributions to an average of 150 families at Easter, Thanksgiving and Christmas. At this time they need ham donations to help reach their goal for Easter.

Ms. Kalkman stated they are working on a new initiative that would provide food during the summer to families that have children who normally receive free breakfasts and lunches at school. 15% of Penfield students qualify for free breakfast and lunch at school.

Councilwoman Kohl asked whether community groups could help with this initiative.

Ms. Cummins said they should know what the initiative will entail soon and then decisions will be made.

Councilwoman Metzler encouraged everyone to go to Facebook and “like” the Penfield Ecumenical Food Shelf and share the postings. To reach the Penfield Ecumenical Food Shelf, please call 234-0799 or email www.penfieldfoodshelf@gmail.com.

Public Hearing #1 To Consider the Proposed Agreement for the Consolidation of Sanitary Sewer District #12 (the Empire Blvd. District) and the Town Wide Consolidated Sanitary Sewer District, and Determining the Lead Agency for the SEQR Action

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on March 23, 2017 and was posted on the Town Website and Town Clerk Bulletin Board. 30 postcards were mailed. Town Attorney Horwitz confirmed that this Hearing is in order.
Supervisor LaFountain stated that a number of years ago the Town Board, at that time, pulled all of the sewer districts together to make them one (1) Consolidated District within the Town. District #12 on Empire Boulevard was held out as a separate district due to its heavy commercial presence. However, that corridor now has a lot more residents living there and so the Town Board feels it is time to pull District #12 into the Town Wide Consolidated Sanitary Sewer District. There were no comments heard or received by residents.

Public Participation - None

Hearing closed.

Public Hearing #2 To Consider Adopting Proposed Local Law No. 2 of 2017 which would provide for No Real Property Tax Exemption pursuant to NY Real Property Law Section 487 for Solar, Wind Energy and Farm Waste Energy Systems

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on March 23, 2017 and was posted on the Town Website and Town Clerk Bulletin Board. No postcards were mailed. Town Attorney Horwitz confirmed that this Hearing is in order.

Supervisor LaFountain said this is a State program that says any solar, wind, power systems, farm waste energy systems and anything similar under Section 487 of the State Law that provides for a 15 year exemption. It is structured as an opt out not an opt in. Therefore, the proposed Local Law will state that the Town would opt out of this program at this time. Supervisor LaFountain went on to say that currently there are no systems in place in the Town of Penfield nor has the Town received any applications at this time. There were no comments heard or received by residents.

Public Participation - None

Hearing closed.

Public Hearing #3 To Review Cable Television Franchise Renewal between the Town and Charter Communications (aka Spectrum Cable) and to Identify Recommendations for Future Town Cable Related Community Needs

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on March 23, 2017 and was posted on the Town Website and Town Clerk Bulletin Board. No postcards were mailed. Town Attorney Horwitz confirmed that this Hearing is in order.

Supervisor LaFountain read the following statement: “This Hearing is held pursuant to Section 626 of the Federal Cable Act, which sets forth the process for franchise renewal. Our current franchise agreement with Time Warner is expired and we have begun the process of negotiating a new franchise agreement Charter Communications, which purchased Time Warner in 2016. This Public Hearing is an important part of franchise negotiations, in which the Town seeks public comment on the cable operator’s past performance and our community’s future cable related community needs. Franchise renewal is the best opportunity for municipalities to assert their rights with respect to their cable operator and to obtain important benefits in return for granting the cable operator the right to use its public rights-of-way. These benefits include, but are not limited to, the following: 1. Strong and enforceable customer service standards; 2. A state-of-the art cable system; 3. Protections of the public rights-of-way; 4. Franchise fees for the cable operator’s use of the public rights-of-way and improved franchise fee accountability; 5. Reporting requirements on the cable operator; 6. Legal protections for the Town; and 7. Better mechanisms to
enforce the franchise agreement. These are just some of the potential benefits available through franchise renewal. Citizens may address these items or any other cable-related items that are important to them.”

Supervisor LaFountain stated that the Town Board will hold this Public Hearing open until Friday, April 28, 2017 at 5:00 PM to give residents the opportunity to provide input. Residents may go on the Town’s website under quick links (Cable TV Franchise) to provide input as an option.

Councilwoman Metzler stated that this Public Hearing is timely in that there has been a change in ownership of Time Warner Cable to Spectrum Cable. There have been some concerns from residents in reference to the quality of their service.

Councilman Moore thanked Supervisor LaFountain for keeping this Hearing open to allow residents the opportunity to voice any comments regarding this matter. He went on to say that it is important for public feedback and leaving this Hearing open allows for that opportunity. There were no comments heard or received by residents.

Public Participation - None

Hearing closed.

Communications and Announcements

1. The next Passport Night will be held in the Town Hall Auditorium tomorrow evening, Thursday, April 6, 2017 from 5:30 PM to 7:30 PM. For more information, please contact, Amy M. Steklof at 340-8629 or go to the Town’s website at www.penfield.org or the Monroe County website at www.monroecounty.gov/clerk-passports.

2. Dr. Gary Lehman visited the Town Hall last week and told Town Clerk Amy Steklof about a Penfield resident who helped him clean up his yard after the windstorm, but would not accept a donation. Dr. Lehman decided to then pay it forward and make a generous donation to the Penfield Ecumenical Food Shelf which he gave Town Clerk Steklof to give to the Food Shelf. Town Clerk Steklof thanked the Lehmans on behalf of the Penfield Ecumenical Food Shelf and thanked all those who have performed acts of kindness during the stormy month of March and beyond.

3. Opening Day for Penfield Little League will be Saturday, April 29, 2017 at 9:00 AM. For more information about Penfield Little League, please visit www.penfieldlittleleague.com.

4. On Sunday, April 23, 2017 at 2:30 PM, Local History Room Volunteer Diane Dayton Riley and Penfield Town Historian, Kathy Kanauer will share insights into the western most part of Town. This program is a collaboration of the Penfield Public Library and the Local History Room Staff and will be held at Penfield Community Center. For more information please visit www.penfieldlibrary.org or call 340-8720.

5. The Town offices will be closed on Friday, April 14, 2017 in observance of Good Friday.

6. The Penfield Trails Committee will sponsor a free guided hike at Channing H. Philbrick Park on Saturday, April 8, 2017 from 10:00 AM to Noon. Participants are asked to pre-register by calling Penfield Recreation at 340-8655, option 6.

7. Monroe County Sheriff’s office and Councilman Moore had planned to host an Operation Safe Child ID Card Clinic on Saturday, April 22, 2017 at the Penfield Town Hall from 10:00 AM to 1:00 PM. That event will be rescheduled for a date to be determined.
8. The Penfield Players Spring Melodrama returns with “Red Velvet Cake War” opening on Friday, April 28, 2017 at the Penfield Community Center, 1985 Baird Road. For more information and for future events please go to the Penfield Players website at [www.penfieldplayers.org](http://www.penfieldplayers.org).

9. Councilwoman Kohl’s next Community Chat will be held Tuesday, April 18, 2017 from 5:30 PM to 7:00 PM at the Penfield Library, 1985 Baird Road.

Public Participation - None

Additions and Deletions to Agenda

Councilman Moore moved to add Resolution #17T-098 and Resolution #17T-099 to the agenda, Councilwoman Kohl seconded.

Approval of Minutes

Councilwoman Kohl moved to approve the Minutes of March 1, 2017 Councilman Quinn seconded and all voted “Aye.”

Petitions- None

Resolutions by Function

Law and Finance

#17T-087 Authorization to Attend NYALGRO School by Moore

WHEREAS, the New York State Association of Local Government Records Officers (NYALGRO) is a non-profit organization that provides a network to all who are responsible for records upkeep and information management for local governments; and

WHEREAS, NYALGRO is dedicated to increasing awareness of the need for sound management of local Government records and provides valuable classes which include the opportunity to exchange information and problems and their solutions unique to each Town; and

WHEREAS, Town Clerk, Amy Steklof, RMC/CMC as the Town’s Record Management Officer, will have the opportunity to expand knowledge and network with members of the Association.

NOW, THEREFORE, BE IT RESOLVED, that Town Clerk, Amy M. Steklof, RMC/CMC is hereby authorized to attend the 2017 New York Association of Local Government Records Officers School, to be held from June 4-7, 2017 for a cost not to exceed $417.00. This cost will be allocated from the 2017 Town Clerk conference budget line.

Moved: Moore
Seconded: Kohl

<table>
<thead>
<tr>
<th>Vote</th>
<th>Kohl</th>
<th>Aye</th>
<th>LaFountain</th>
<th>Aye</th>
</tr>
</thead>
<tbody>
<tr>
<td>Metzler</td>
<td>Aye</td>
<td></td>
<td>Moore</td>
<td>Aye</td>
</tr>
<tr>
<td>Quinn</td>
<td>Aye</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Adopted
Penfield Town Board, April 5, 2017

#17T-088 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Fence within a Storm Sewer Easement at 24 Miyah Drive by Moore

BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Supervisor to sign a License and Hold Harmless Agreement with Jamie Leibowitz and Karen Reza, owner of property of 24 Miyah Drive, to permit a portion of a fence to encroach into a Storm Sewer Easement to the Town of Penfield located at 24 Miyah Drive as shown on the attached Site Plan, and in a form and substance acceptable to the Town Attorney.

Moved: Moore
Seconded: Quinn

Vote: Kohl Aye LaFountain Aye
Metzler Aye Moore Aye
Quinn Aye

Adopted

#17T-089 Granting a Conditional Use Permit and Preliminary and Final Subdivision and Site Plan Approval to Allow a 2,500 Square Foot Dental Office at 2105 Five Mile Line Road by Moore

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Conditional Use Permit pursuant to Chapter 250-5.10-D (5), 250-5.11-2-A and 250-5.12-2 of the Code to allow a Conditional Use Permit and Preliminary and Final Subdivision and Site Plan approval to allow a 2,500 square foot dental office at 2105 Five Mile Line Road, located in the Four Corners (FC) zoning district; and

WHEREAS, the Town Board of the said Town of Penfield held a Public Hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on March 1, 2017, at 7:00 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Conditional Use Permit and Preliminary and Final Subdivision and Site Plan approval to allow a 2,500 square foot dental office at 2105 Five Mile Line Road, located in the Four Corners (FC) zoning district and the Public Hearing was closed and decision was reserved;

WHEREAS, the Penfield Town Board acting as "lead agency" within the meaning of the State Environmental Quality Review Act (SEQRA) and did designate itself as "lead agency" pursuant to SEQRA and determined that the subject action is an Unlisted action that will not have a significant effect on the environment;

NOW, THEREFORE BE IT RESOLVED, that the applicant’s request for the issuance of a Conditional Use Permit and Preliminary and Final Site Plan Approval pursuant to Chapter 250-5.10-D (5), 250-5.11-2-A and 250-5.12-2 of the Code to allow to allow a Conditional Use Permit and Preliminary and Final Subdivision and Site Plan approval to allow a 2,500 square foot dental office at 2105 Five Mile Line Road is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a CONDITIONAL USE PERMIT from the Town Clerk and pay the appropriate fee. Said CONDITIONAL USE PERMIT is non-transferable. Any subsequent owner or operator shall be required to apply for and obtain a CONDITIONAL USE PERMIT from the Town Board to operate a business at this location.

2. The applicant shall construct the proposed structure and install all landscaping as portrayed to the Town Board at its March 22, 2017 work session.

3. The applicant shall comply with any/all conditions placed on the project by the Historic Preservation Board.

5. All site work is to be in compliance with the standards of the Penfield Zoning Ordinance.

6. Compliance with the comments concerning this application from the Development Review Committee as contained in Monroe County Department of Planning’s Referral #PN17-4ZS, dated February 17, 2017, except as otherwise provided herein.

7. The applicant shall comply with all applicable recommendations in the Town’s Project Review Committee’s comments dated March 22, 2017.

8. Compliance with the Town of Penfield’s Sidewalk Policy. Specifically, the applicant shall install a new sidewalk along the property frontage on Liberty Street.

9. The applicant shall provide the Town of Penfield with a copy of all applicable permits. This shall also include copies of highway work permits and applications for the Monroe County Department of Transportation.

10. Compliance with the Town’s Highway Frontage Policy which limits the number of curb cuts onto major roads in the Town; specifically the sole access to this property shall be from the existing driveway on Liberty Street.

11. The applicant shall submit an access and parking agreement for the existing site and the proposed subdivided site to ensure that all tenants have the right of shared access and parking on the site. Said agreement shall be submitted prior to the Town Supervisor signing the subdivision plat/site plan. In addition, the applicant and his staff shall be permitted to park their vehicles on a daily basis, during business hours, at the public parking lot located on the east side of Five Mile Line Road, east of Liberty Street.

12. The applicant shall submit a Property Maintenance Agreement in recordable form, subject to review and approval of the Town Attorney, and accompanied by appropriate filing fees. The Agreement shall specifically address maintenance and care of lawn, landscaping, drainage facilities, as well as driveway and parking areas. Obtaining the signature of the Town Engineer shall indicate compliance with this requirement.

13. The applicant will be responsible for compliance for submitting a sign package for the site to be approved by the Town Board and Historic Preservation Board. The applicant will be responsible for any costs associated with modification to the existing freestanding sign on the site which identifies the Bangz! Salon and Spa. In addition, the applicant shall submit a recordable agreement permitting Bangz! Salon and Spa to continue to have a freestanding sign on the site so long as the business remains in operation.

14. The applicant shall work with his refuse hauler to ensure that refuse pickup at this location is only undertaken between the hours of 7:00 AM and 5:00 PM. In addition, the applicant shall attempt to have his refuse picked up at the same time as Mark’s Pizzeria is picked up as well.
15. Any and all costs related to the relocation of utilities necessitated by this project shall be borne by the individual and/or the utility company requesting the relocation. All new utilities serving this project shall be installed underground and shall be approved by the Town Engineer.

16. The applicant shall obtain the signature of the Town Engineer on the final site plan which shall indicate compliance with this requirement.

17. Furnishing the Town with a Letter of Credit, in an amount to be approved by the Town Engineer. Said Letter of Credit shall insure that all public improvements and such other items as may be deemed necessary are constructed in accordance with the approved plan and the standards and specifications of the Town of Penfield.

18. The applicant shall obtain a demolition permit from the Penfield Building Department, prior to any demolition work on the site.

19. The approved subdivision plat must be properly filed in the Monroe County Clerk’s Office prior to the issuance of a building permit.

20. Construction is to begin within one (1) year from the date of this resolution.

21. THIS RESOLUTION OF APPROVAL WITH CONDITIONS SHALL BE PRINTED IN ITS ENTIRETY AND CONTAINED ON AT LEAST ONE (1) SHEET WITHIN THE SITE PLAN SET.

The Board bases its finding and decision to APPROVE this application on the following:

1. Site Plan Approval Standards in Article IX: Factors for Consideration
   a. Adequacy and arrangement of pedestrian traffic access and circulation, vehicular traffic, parking, walkway structures, control of intersections with vehicular traffic, pedestrian convenience, and appropriate provisions for handicapped persons. The site is being developed on a 0.53 +/- acre lot. In order to manage traffic to and from the site, the site will share parking and cross access to ensure that all uses are adequately served. The site will have 25 parking spaces, with two (2) identified for handicap use. The site is also in close proximity to a public parking lot immediately across Five Mile Line Road to accommodate the uses on the site. The site is also accessible via sidewalks along Five Mile Line Road. A new sidewalk will be constructed to connect the property to Liberty Street as well.

   b. Location, arrangement, size, architectural feature and design of buildings, lighting and signs. As much as possible, consideration should be given to noise sources, privacy and outdoor waste disposal locations. This small lot is being developed based on the current zoning, which requires approval for setback variances to minimize the impact to the adjacent properties. Noise will be limited as the building is being designed for use as a professional office, which is
allowable within the zoning district. A dumpster will be enclosed and the applicant proposes to coordinate refuse pickup at the same time as Mark’s Pizzeria’s is picked up to minimize noise impacts to area neighbors. Approval of the proposed signage for the site is subject to the review of the Town Board.

c. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between these and adjoining properties. Site plans should also show existing stands of trees on site. Landscaping is being used along street frontages to soften the transition between the development and the roadway as well as provide a pedestrian area along sidewalks.

d. In the case of an apartment house or multiple dwelling, the adequacy of usable open space for playgrounds and informal recreation. Not applicable

e. Adequacy of storm water, sanitary waste disposal, and public water facilities. The site will use the existing utility infrastructure for water, sewer, electric and natural gas. New connections will be provided from the new building to the existing infrastructure. All connections will be installed in accordance with the NYS Building Code and Town standards. Storm water retention and treatment will be handled on-site. A bio-retention area will be installed on site and discharged to the existing drainage system in Liberty Street.

f. Protection of adjacent properties and the general public against noises, glare, and unsightliness, or other objectionable features. The use of the facility as professional office setting will fit into the surrounding neighborhood. The structure was designed to be aesthetically pleasing with the use of earth tone and neutral siding choices. Noise and light from the site will be limited.

g. The effect of the proposed development on environmentally sensitive areas such as but not limited to: wetlands, floodplains, woodlands, steep slopes and watercourses. There are no environmentally sensitive areas on the parcel.

h. Compliance with this Ordinance, Master Plan, Design and Construction Specifications, SEQRA, IBP, LWRP and any others. The development is compatible with the current zoning and the Town’s Comprehensive Plan.

i. Provisions for adequate drainage away from walls or structures. The development is provided with subsurface drainage for all downspouts. Drainage is connected to an on-site storm water system designed to manage storm water runoff.

j. Maintenance agreements, easements and other required legal documentation shall be approved by the Town Attorney. Easements will be provided to the Town for cross-access, shared parking and sidewalks.

k. The impact of the proposed use on adjacent land uses. The development is consistent with local zoning as a permitted use and is consistent with surrounding development.
Penfield Town Board, April 5, 2017

(Resolution #17T-089 – Continued)

Moved: Moore
Seconded: Metzler

Vote: Kohl Aye LaFountain Aye
       Metzler Aye Moore Aye
       Quinn Aye

Adopted

#17T-090 Granting a Conditional Use Permit to Allow a Micro-brewery and Restaurant with Outdoor Dining at 1221 Empire Blvd.
by Moore

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Conditional Use Permit pursuant to Chapter 250-5.9(1)e of the Code to allow a micro-brewery and restaurant with outdoor dining and entertainment at 1221 Empire Blvd., located in the LaSalle’s Landing Development (LLD) zoning district; and

WHEREAS, the Town Board of the said Town of Penfield held a Public Hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on March 1, 2017, at 7:00 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Conditional Use Permit to allow a micro-brewery and restaurant with outdoor dining and entertainment at 1221 Empire Blvd., and the Public Hearing was closed and decision was reserved; and

WHEREAS, the Penfield Town Board acting as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and did designate itself as “lead agency” pursuant to SEQRA and determined that the issuance of a Conditional Use Permit to allow the proposed micro-brewery and restaurant with outdoor dining is an Unlisted action that will not have a significant effect on the environment;

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the applicants’ request for a CONDITIONAL USE PERMIT to allow a microbrewery and restaurant with accessory outdoor dining at 1221 Empire Blvd. is hereby GRANTED subject to the following conditions:

1. The applicants shall obtain a CONDITIONAL USE PERMIT from the Town Clerk and pay the appropriate fee. The CONDITIONAL USE PERMIT is non-transferable. Any subsequent owner or operator shall be required to obtain a CONDITIONAL USE PERMIT from the Town Board to operate any business at this location.

2. The applicants shall be permitted to utilize the first floor of the building for brewing and serving the public food and drink. The restaurant area shall have an occupancy of no more than 99 persons at any time. More than 99 persons will necessitate the need for a sprinkler system and additional parking facilities. The second floor may be utilized for office and storage area and an apartment for their parents to reside.

3. The proposed outdoor dining area will be fenced with fence materials to be determined by the applicants. The applicants shall be permitted to place no more than ten (10) picnic tables in the outdoor dining area.

4. The applicants shall obtain a liquor license from the New York State Liquor Authority and comply with any/all requirements and conditions imposed by that agency.
5. The applicants shall be permitted to have indoor entertainment, but shall only be permitted to have piped music in the deck area. No live entertainment shall be permitted to the exterior of the restaurant without approval by the Town Board. The Town Board will consider a request for live acoustic music only one (1) year from the date of this resolution provided the applicants maintain compliance with the requirements of the Penfield Zoning Ordinance during this period.

6. The applicants propose to operate between the hours of 2:00 PM to 10:00 PM on Wednesdays and Thursdays and with hours between 2:00 PM to 12:00 PM on Fridays, and from Noon to Midnight on Saturday and Noon to 6:00 PM on Sunday. The business will be closed to the public on Mondays and Tuesdays.

7. The applicants shall comply with the overall occupancy requirements that have been established by the Penfield Fire Marshal in accordance with the New York State Building Code.

8. The applicants shall ensure that this operation does not create adverse impacts to area residents relating to noise or traffic congestion or parking issues. Specifically, that no parking for this business shall take place within Wilbur Tract Road at any time. The applicants will be responsible for developing additional off-site parking or provide valet parking to ensure that unauthorized parking does not take place off the subject premises at any time. The applicants may also be responsible for the placement of NO PARKING signs along Wilbur Tract Road in the event parking on that private drive occurs.

9. The applicants propose to periodically bring food trucks to the site for special events. The applicants will be required to meet with the Director of Developmental Services prior to those events to ensure that adequate on-site parking is maintained for patrons throughout the events.

10. The applicants shall submit a sign package for the site for the Board’s review and approval prior to the installation of any signage to identify this business.

11. All dumpsters shall be enclosed and properly maintained at all times. The applicant’s refuse removal company shall pick up refuse from the site only between the hours of 7:00 AM and 5:00 PM.

12. This operation shall comply with all Federal, State, County and Town Codes.

13. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Conditional Use Permit pursuant to the requirements of the Zoning Ordinance.

The Board bases its decision on its findings that:

1. The applicants propose to purchase the 9,600 square foot two (2) story building at 1221 Empire Blvd. for the purpose of utilizing 2,400 square feet on the first floor as a brewing area and the remaining 2,400 square feet as a dining and bar area. On the second floor, 2,400 square feet will be used as an apartment for the applicants’ parents who will live and work on site and the remaining space will be used as office space and storage area.
(Resolution #17T-090 – Continued)

2. The applicants propose a 99 seat restaurant and bar to serve the general public. Any proposed increase in occupancy will require approval from the Town Board and the installation of a fire sprinkler system. The applicants are not proposing preparation of any fried food on the premises, but will be required to comply with the requirements of the Monroe County Health Department and the Fire Marshal regarding food preparation on site.

3. The restaurant will be served by 51 parking spaces. The applicants believe that they will have adequate parking to accommodate their business as proposed. The Board has requested that they seek additional parking in close proximity to the site as it will not permit parking along Wilbur Tract Road, as it is privately owned and could present a safety and emergency access issue to the residents living on Wilbur Tract Road. In addition, the applicants propose to occasionally bring food trucks to the site and park them in their parking lot, necessitating the need for additional parking. The use of food trucks or other activities that would use the parking lot may not be conducted until the applicants can ensure that there is adequate parking to accommodate such events.

4. The applicants have requested live entertainment to the exterior of the restaurant but none is permitted without review and approval by this Board until after a one (1) year review period of the business. The applicant may have live music within the restaurant, but in no case shall sound levels associated with music or entertainment of any type be audible from beyond the applicants’ property line.

5. The applicants shall be responsible for the maintenance of the proposed enclosed dumpster area, including odor control to ensure that this business does not become a detriment to the neighborhood.

6. The Board has reviewed this application as it relates to Chapter 250. –13.4 - Article XIII of the Penfield Town Code, Conditional Use Permits. The Board finds that the standards contained within Article XIII have been met and satisfied to allow the issuance of a Conditional Use Permit.

The Board bases its findings to APPROVE this application on the following:

1. An application form received by the Development Services Department on January 23, 2017.


3. An Environmental Assessment Form received by the Development Services Department on January 23, 2017.


5. A site plan and subdivision plat received by the Development Services Department on January 23, 2017.

6. Proposed floor plans for the structure received by the Development Services Department dated March 6, 2017.

7. An aerial photograph identifying the proposed outdoor dining area received by the Development Services Department dated March 6, 2017.


Moved: Moore
Seconded: Kohl

Vote: Kohl Aye  LaFountain Aye
       Metzler Aye  Moore Aye
       Quinn Aye

Adopted

#17T-091 Setting a Public Hearing to Consider a Conditional Use Permit and Preliminary and Final Site Plan Approval to Allow a 2,034 Square Foot Dental Office at 1739 Penfield Road by Moore

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Conditional Use Permit pursuant to Chapter 250-5.10-D (5) and 250-5.12-2 of the Code to consider a Conditional Use Permit and Preliminary and Final Site Plan Approval to allow a 2,034 square foot dental office at 1739 Penfield Road, located in the Four Corners (FC) zoning district;

NOW, THEREFORE, BE IT RESOLVED, that the Penfield Town Board is best suited to act as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and thus does hereby designate itself as “lead agency” pursuant to SEQRA; and be it further

RESOLVED, that the subject application is determined to be an Unlisted action pursuant to the State Environmental Quality Review Act (SEQRA); and be it further

RESOLVED, that the Town Board of the said Town of Penfield shall hold a Public Hearing at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on May 3, 2017, at 7:00 PM on said date, to consider the said application and to hear all persons interested on the question of the issuance of a Conditional Use Permit and Preliminary and Final Site Plan approval to allow a 2,034 square foot dental office at 1739 Penfield Road, in the Four Corners (FC) zoning district; and be it further

RESOLVED, that a copy of this Resolution, certified by the Town Clerk, shall be published at least once in the official newspaper of the Town, the first publication thereof to be not less than ten (10) nor more than twenty (20) days before the date set for said Hearing as aforesaid. A copy of this Resolution shall be posted on the official signboard of the Town as prescribed by Law.

Moved: Moore
Seconded: Quinn

Vote: Kohl Aye  LaFountain Aye
       Metzler Aye  Moore Aye
       Quinn Aye

Adopted
#17T-092  Setting a Public Hearing to Consider a Conditional Use Permit to Allow a Valet/Shuttle Parking Lot at 1387 Empire Blvd.

By Moore

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Conditional Use Permit pursuant to Chapter 250-5.9-B-3(g) of the Code to allow a valet/shuttle parking lot at 1387 Empire Blvd. to provide overflow parking for Murphy's Law operating at 1400 Empire Blvd., located in the LaSalle's Landing Development (LLD) zoning district; and

WHEREAS, the Penfield Town Board is best suited to act as "lead agency" within the meaning of the State Environmental Quality Review Act (SEQRA) and thus does hereby designate itself as "lead agency" pursuant to SEQRA; and

WHEREAS, the subject application is determined to be an Unlisted Action pursuant to Section 617.4 of the State Environmental Quality Review Act (SEQRA);

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the said Town of Penfield shall hold a Public Hearing at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on May 3, 2017, at 7:00 PM on said date, to consider said application and to hear all persons interested on the question of the issuance of a Conditional Use Permit pursuant to Chapter 250-5.9-B-3(g) of the Code to allow an overflow valet/shuttle parking lot at 1387 Empire Blvd. to provide overflow parking for Murphy's Law operating at 1400 Empire Blvd., located in the LaSalle's Landing Development (LLD) zoning district; and

RESOLVED, that a copy of this Resolution, certified by the Town Clerk, shall be published at least once in the official newspaper of the Town, the first publication thereof to be not less than ten (10) nor more than twenty (20) days before the date set for said Hearing as aforesaid. A copy of this Resolution shall be posted on the official signboard of the Town as prescribed by Law.

Moved: Moore  
Seconded: Metzler

Vote:  
Kohl  Aye  LaFountain  Aye  
Metzler  Aye  Moore  Aye  
Quinn  Aye

Adopted

#17T-093  Making a Determination of Completeness of and Setting a Public Hearing for the Draft Generic Environmental Impact Statement for the Creation of a New Mixed Use Zoning District and Rezoning 360 +/- Acres Currently Zoned Rural Residential 1, Rural Agricultural 2 and Limited Business, to Mixed Use, and Accepting the Mixed Use Development Manual by Moore

WHEREAS, the Penfield Town Board, by Resolution No. 13T-054 of 2013 appointed a Mixed Use Committee to develop recommendations for a mixed use zoning district and supporting documentation as proposed in its Unified Planning Work Program (UPWP) grant application offered by the Genesee Transportation Council; and

WHEREAS, the creation of the proposed mixed use zoning district and supporting documentation to said district were recommendations of the 2010 Comprehensive Plan; and

WHEREAS, the Town Board held a Public Hearing on May 4, 2016 to allow the public to comment on the proposed amendments to the official zoning ordinance and official map, including the creation of a new mixed use zoning district and the acceptance of the Mixed Use Development Manual; and

Moved: Moore  
Seconded: Metzler

Vote:  
Kohl  Aye  LaFountain  Aye  
Metzler  Aye  Moore  Aye  
Quinn  Aye

Adopted
WHEREAS, the action of the creation of the mixed use zoning district, the adoption of amendments to the zoning ordinance and zoning map to support the mixed use district and the acceptance of the Mixed Use Manual will create anticipated growth and land use changes and recommends additional regulations and guidelines to properly manage said growth and land use changes within the Mixed Use District; and

WHEREAS, the Penfield Town of Penfield conducted a coordinated review and provided the Genesee Transportation Council as the only other involved agency the opportunity to accept lead agency status for this action; and

WHEREAS, the Genesee Transportation Council declined lead agency status, so therefore, the Town Board declared itself as lead agency for the above referenced action and classified said action as a Type I action pursuant to the State Environmental Quality Review Act (SEQRA) on July 20, 2016, by resolution 16T-164; and

WHEREAS, the Penfield Town Board, as lead agency, determined that the proposed action may have a significant impact on the environment, if adopted, and therefore, prepared a Positive Declaration of Significance, and subsequently prepared a Draft Scoping Outline for the creation of a Draft Generic Environmental Impact Statement (DGEIS) to address issues identified in the Scoping process as set forth in Sections 617.8 and 617.10 of the State Environmental Quality Review Act; and

WHEREAS, the Town Board has determined that the Draft Generic Environmental Impact Statement (DGEIS) is complete for public comment; and

NOW, THEREFORE BE IT RESOLVED, that the Penfield Town Board shall hold a Public Hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on May 3, 2017 at 7:00 PM on said date, to consider said Draft Generic Environmental Impact Statement and impacts relating to the creation of the Mixed Use Zoning District, the rezoning of 360 +/- acres of land and the adoption of the Mixed Use Manual and to hear all persons interested in the subject thereof and concerning the same, and for such other action on the part of the Town Board as may be required by Law; and

BE IT FURTHER RESOLVED, that the Draft Generic Environmental Impact Statement (DGEIS) be made available on the Town website, at the Planning Department, at the Penfield Library and at the Town Clerk’s office. Comments on the DGEIS will be accepted by the Planning Department until 5:00 PM on May 26, 2017. Comments may be submitted via mail, hand delivery, fax and email and at the Public Hearing.

Moved: Moore
Seconded: Kohl

<table>
<thead>
<tr>
<th>Vote</th>
<th>Kohl</th>
<th>Aye</th>
<th>LaFountain</th>
<th>Aye</th>
<th>Metzler</th>
<th>Aye</th>
<th>Moore</th>
<th>Aye</th>
<th>Quinn</th>
<th>Aye</th>
</tr>
</thead>
</table>

Adopted

#17T-094 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Portion of a Loading Dock Within a Sanitary Sewer Easement at 1900 Empire Blvd.

By Moore

BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Supervisor to sign a License and Hold Harmless Agreement with DiMarco BayTowne Associates, owner of property of 1900 Empire Boulevard, to permit a portion of a loading dock to encroach into a sanitary sewer easement to the Town of Penfield located at 1900 Empire Boulevard as shown on the attached site plan, and in a form and substance acceptable to the Town Attorney.
(Resolution #17T-094 – Continued)

Moved: Moore
Seconded: Quinn

Moved: Moore
Seconded: Metzler

Moved: Moore
Seconded: Kohl

Penfield Town Board, April 5, 2017

#17T-095 Amending Town Board Resolution #17T-079 Appointment of Stephen Ferrara to the Board of Assessment Review by Moore

WHEREAS, Stephen Ferrara, 12 Panorama Trail, Rochester, NY 14625 has expressed his interest in serving on the Board of Assessment Review, and

NOW, THEREFORE, BE IT RESOLVED THAT, the Town Board of the Town of Penfield appoints Stephen Ferrara to a five (5) year term on the Board of Assessment Review of the Town of Penfield, such term to expire on September 30, 2022.

Moved: Moore
Seconded: Metzler

#17T-096 Appointment of Robert Salvage to the Board of Assessment Review by Moore

WHEREAS, Robert Salvage, 37 Tree Brook Drive, Rochester, NY 14625 has expressed his interest in serving on the Board of Assessment Review, and

NOW, THEREFORE, BE IT RESOLVED THAT, the Town Board of the Town of Penfield appoints Robert Salvage to a five (5) year term on the Board of Assessment Review of the Town of Penfield, such term to expire on September 30, 2021.

Moved: Moore
Seconded: Kohl

#17T-097 Approval to Attend the 2017 Monroe County Fire Marshals and Inspectors Association (MCFMIA) Annual Educational Conference by Quinn

WHEREAS, the Monroe County Fire Marshals and Inspectors Association (MCFMIA) is holding its 2017 Annual Educational Conference for Code Enforcement Officers at the West Webster Fire District, Station #1, Webster, New York on May 16, 17, and 18 2017; and

WHEREAS, this program will be certified by the New York State Department of State Office of Fire Prevention and Control as meeting 24 of 24 hours of in-service training requirements for code enforcement officials;
NOW, THEREFORE, BE IT RESOLVED that, Jeffrey David, Assistant Fire Marshal, and Phil D’Alessandro, Code Compliance Inspector, are to attend the Annual Educational Conference May 16, 17, and 18, 2017 at the West Webster Fire District, Station #1, Webster, New York. There will be no lodging or mileage reimbursement. Registration fees of $150.00 each, total of $300, shall be allocated from departmental conference budget line.

Moved: Quinn
Seconded: Metzler

Vote: Kohl Aye LaFountain Aye
      Metzler Aye Moore Aye
      Quinn Aye

Adopted

Community Services - None

Old Business - None

New Business

#17T-098 Approval of the Proposed Agreement for the Consolidation of Sanitary Sewer District #12, (The Empire Boulevard District) and the Town Wide Consolidated Sanitary Sewer District by Moore

WHEREAS, the Penfield Town Board by Resolution #157 duly adopted on June 21, 1995, approved the consolidation of certain sanitary sewer districts and their extensions and established the Penfield Consolidated Sanitary Sewer District, which was effective on the 31st day of December 1995; and

WHEREAS, “Sanitary Sewer District #12” was never consolidated into the “Penfield Consolidated Sanitary Sewer District”; and

WHEREAS, the Town of Penfield is the governing body for the “Penfield Consolidated Sanitary Sewer District” as well as “Sanitary Sewer District # 12; and

WHEREAS, the Town Board, acting jointly as the Commissioners of both districts, has determined the consolidation of both districts will eliminate additional expenses in administrative oversight of multiple sewer districts and there will be no additional cost to the Town as a result of consolidation and has endorsed a proposed joint consolidation agreement for both of the aforementioned sanitary sewer districts; and

WHEREAS, the Penfield Town Board designated itself as “lead agency” pursuant to SEQRA by Resolution 17T-073 on March 1, 2017, and classified the action as an Unlisted Action;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Penfield acting jointly on behalf of the Penfield Consolidated Sanitary Sewer District and Penfield Sanitary Sewer District #12 (The Empire Boulevard District) determines that this action will not have a significant impact on the environment; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Penfield acting jointly on behalf of the Penfield Consolidated Sanitary Sewer District and the Penfield Sanitary Sewer District #12 (The Empire Boulevard District) hereby approves the Final Joint Consolidation Agreement for both of the aforementioned Sanitary Sewer Districts and hereby establishes the Consolidated Entity to be known as the Town of Penfield’s Consolidated Sanitary Sewer District, effective April 5, 2017.
(Resolution #17T-098 – Continued)

Moved: Moore  
Seconded: Kohl  

Vote: Kohl Aye  
       Metzler Aye  
       Quinn Aye  

LaFountain Aye  
       Moore Aye  

Adopted

#17T-099 Authorization to Appoint Hearing Officer to Conduct New York  
Civil Service Law Section 75 Proceeding by Moore  

WHEREAS, Town Supervisor R. Anthony LaFountain has commenced a  
proceeding and requested a hearing pursuant to Section 75 of the New  
York State Civil Service Law regarding an employee on April 4, 2017; and  

WHEREAS, Section 75(2) of the New York State Civil Service Law requires  
that a hearing upon New York State Civil Service Law Section 75 charges  
shall be held by the officer or body having the power to remove the  
person against whom such charges are preferred, or by a deputy or other  
person designated by such officer or body in writing for that purpose; and  

WHEREAS, in case a deputy or other person is so designated, he/she  
shall, for the purpose of such hearing, be vested with all the powers of  
such officer or body and shall make a record of such hearing which  
shall, with his/her recommendations, be referred to such officer or body  
for review and decision; and  

WHEREAS, Town Supervisor R. Anthony LaFountain has recommended the  
appointment of David W. Lippitt as the designated hearing officer.  

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of  
Penfield hereby appoints David W. Lippitt as the Hearing Officer  
pursuant to Section 75 of the New York State Civil Service Law, with  
respect to the charges brought by Town Supervisor LaFountain on April 4,  
2017, and authorizes the Hearing Officer to hear evidence, make a  
transcript of the proceedings, and to issue a written report of his  
findings and recommendations to the Town Board.  

Moved: Moore  
Seconded: Quinn  

Vote: Kohl Aye  
       Metzler Aye  
       Quinn Aye  

LaFountain Aye  
       Moore Aye  

Adopted

Public Participation – None  

Executive Session – None  

Next Meeting – April 19, 2017  

PCTV ran a video that showed the Department of Public Works March  
windstorm “clean-up” initiative.  

Adjournment  

Supervisor LaFountain moved to adjourn the meeting at 7:58 PM.  

Amy Steklof, RMC/CMC  
Town Clerk