TOWN BOARD LEGISLATIVE AGENDA
Wednesday, May 1, 2019, 7:00 PM
Supervisor R. Anthony LaFountain, presiding

I. Call to Order - Pledge of Allegiance - Roll Call

II. Public Hearing #1 - To Consider a Conditional Use Permit and Preliminary and Final Site Plan to Allow a Restaurant with Outdoor Dining and Outdoor Music at 1300 Empire Blvd
   Public Hearing #2 - To Consider a Conditional Use Permit to allow a CBD Shop at 2118 Five Mile Line Road
   Public Hearing #3 - To Consider a Conditional Use Permit to Allow a CBD Shop at 2150 Fairport Nine Mile Point Road

III. Communications and Announcements

IV. Public Participation

V. Additions and Deletions to Agenda

VI. Approval of Minutes - April 3, 2019

VII. Petitions

VIII. Resolutions by Function

**Law and Finance**
19T-118 Appointment of Robert Coniber to the Board of Assessment Review
19T-119 Appointment of Temporary Members to the Board of Assessment Review

**Public Works**
19T-120 Acceptance of Ownership and Maintenance Responsibility for Sanitary Sewer Forcemain Improvements within the New York State Right of Way of NYS Route 250 in Conjunction with the Penfield Square Project

**Public Safety - None**
19T-

**Community Services - None**
19T-121 Authorization for Supervisor to Sign Recreation Contracts

IX. Old Business
X. New Business
XI. Public Participation
XII. Executive Session
XIII. Next Meeting: May 15, 2019
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 1303. Questions regarding video coverage contact Penfield TV at (585) 340-8661.*
The Regular meeting of the Penfield Town Board was held on Wednesday, May 1, 2019 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

Also Present: Amy Steklof   Town Clerk
Richard Horwitz   Town Attorney
Jim Costello    Director of Developmental Services

Absent: Robert Quinn   Councilman

Supervisor LaFountain called the meeting to order – Pledge of Allegiance

Public Hearing #1 – To Consider a Conditional Use Permit and Preliminary and Final Site Plan to Allow a Restaurant with Outdoor Dining and Outdoor Music at 1300 Empire Blvd.

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on April 11, 2019 and was posted on the Town Website and Town Clerk Bulletin Board. 5 postcards were mailed. Town Attorney Horwitz confirmed that this Hearing is in order.

Mark D’Santis and Michele Russo, the current owners of 1350 Empire Blvd., are looking to open a restaurant at 1300 Empire Blvd. Mr. D’Santis stated they would like the restaurant to stay open until 10:00 PM or 11:00 PM on weekdays, and 11:00 PM or 12:00 AM on weekends and would like to provide light entertainment to their patrons on Fridays and Saturdays. They would like to paint the exterior a light blue color and add more lighting. They are in the process of cleaning up the property and patching the roof.

Supervisor LaFountain inquired about the hours of operation.

Mr. D’Santis stated they would like to open the restaurant each day around 11:00 AM or Noon.

Councilwoman Metzler stated that this is the former Top of the Bay Restaurant.

Supervisor LaFountain asked how many people are they planning to employ.

Mr. D’Santis said he would like to hire 15-20 employees.

Supervisor LaFountain inquired about seating capacity.

Mr. D’Santis stated there is seating for 45 in the front dining room and 28 in the back dining room. There is more seating on the back patio.

Councilwoman Metzler inquired about changes to the interior of the building.

Mr. D’Santis stated there will be some repairs made and they plan to freshen up the paint. They would like to provide some light entertainment on the back patio.

Supervisor LaFountain stated the Town Board is concerned about amplified noise and potential impact to the surrounding neighborhoods.

Mr. D’Santis stated music would only go until 10:00 PM or 11:00 PM and does not plan to start providing entertainment for a while.

Councilwoman Metzler asked if they had chosen a name for the establishment.
(Public Hearing #1 – Continued)

Mr. D’Santis said it will be called South Bay Bar and Grill.

Councilwoman Kohl inquired about televisions at the establishment.

Mr. D’Santis stated that they possibly will have a couple of televisions, but mainly food oriented, not as much alcohol related. He went on to say that he understands that K2 and Murphy’s Law received outside entertainment permits from the Town.

Supervisor LaFountain stated establishments typically need to be open for a year before being considered for outside entertainment.

Councilwoman Metzler suggested they go into the surrounding neighborhoods and test the sound.

Mr. D’Santis stated the anticipated opening date is July 1st, 2019.

Councilwoman Kohl inquired about signage.

Mr. D’Santis stated they had not produced the signs yet, but the signs will be similar to the signs already at the marina and would have a nautical theme. The parking lot is not totally paved.

Supervisor LaFountain verified that they have been at the location next door for a total of five (5) years.

Public Participation

Bob Reid, 275 Parkview Drive, stated he and his neighbors are concerned about noise and inquired about amplification.

Mr. D’Santis stated the noise will be subtle and will be pointing towards the bay and not the neighborhoods.

Councilman Moore stated when the Town Board revisits the application, if there are violations as per the resolution, the permit will be revoked.

Jim Costello, Director of Developmental Services stated the Town just needs the sign package to review and the exterior paint colors proposed for the site.

Hearing closed.

Public Hearing #2 - To Consider a Conditional Use Permit to Allow a CBD Shop at 2118 Five Mile Line Road

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on April 11, 2019 and was posted on the Town Website and Town Clerk Bulletin Board. 25 postcards were mailed. Town Attorney Horwitz confirmed that this Hearing is in order.

Bill Sedor, 36 Helmsford Way, gave an overview of his application. He talked about the history of the product and its medicinal value. He believes in the product and would like to sell CBD products. He already is a wholesaler of the product and wishes to expand locally.

Supervisor LaFountain inquired about the number of employees.

Mr. Sedor stated he would have no more than two (2) employees.

Supervisor LaFountain asked, based on research and visiting other stores, how many customers does he believe will visit the store per day.

Mr. Sedor stated he believes no more than two (2) people will be in the store at a time.

Supervisor LaFountain asked what type of products will he have.
Mr. Sedor stated they plan on selling creams, oils, gummies, coffee, tea and other similar products. He also stated there is an online presence and wholesale will be done off site.

Councilwoman Metzler asked if Mr. Sedor plans to carry any products not already sold at Wegmans or Walgreens.

Mr. Sedor stated he has only seen some creams and solutions being sold and that he plans to start with those as well. He plans to also sell coffee and tea.

Councilwoman Metzler asked Mr. Sedor what level of THC are in the products.

Mr. Sedor stated 0.3%.

Supervisor LaFountain asked if Mr. Sedor has a safety data sheet for his products.

Mr. Sedor stated he will provide safety sheets by request. He concluded by saying that he believes this would be a welcome element in the community and would be a great help locally.

Public Participation - None

Hearing closed.

Public Hearing #3 To Consider a Conditional Use Permit to Allow a CBD Shop at 2150 Fairport Nine Mile Point Road

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on April 11, 2019 and was posted on the Town Website and Town Clerk Bulletin Board. 11 postcards were mailed. Town Attorney Horwitz confirmed that this Hearing is in order.

Jodi Tunison, 2300 W. Ridge Road, gave an overview of her business stating she had opened a store in 2018 in Greece in response to her Mother’s cancer diagnosis. The CBD products helped her mother be more comfortable and helped her with pain. She is hoping to expand and open a second location in Penfield. The proposed hours of operation are Monday through Friday, from 10:00 AM to 7:00 PM, Saturday from 11:00 AM to 7:00 PM, and closed every Sunday and major holidays. She plans to not have more than three (3) employees. She plans to carry oils, bath balms, bath salts, salves, a pet line and many other items. She stated that she has over 140 items for sale in her current store.

Supervisor LaFountain asked what is the square footage of the current location in Greece.

Ms. Tunison said the store is 1,100 sq. ft. Her store in Penfield will be 1,200 sq. ft.

Councilwoman Metzler asked Ms. Tunison the same questions she had asked Mr. Sedor. She also asked who regulates the labeling of the products, and what assurances can she give to her customers.

Ms. Tunison stated that no one is regulating the labeling at this time, but the FDA is working on it. There is, however, 3rd party testing and Strong labs have done testing. At 0.3% the product is not strong enough to impair a customer even when taken in large quantities.

Councilman Moore asked if any other CBD products are carried in any retail stores other than Wegmans.

Ms. Tunison stated that CVS and Walgreens recently released that they will be carrying topicals.
Jim Costello stated he has received correspondence from neighbors that have been added to the file.

Ms. Tunison concluded that she loves her job. She respects the concerns of the residents, but assured them that she has no intention of selling THC’s “marijuana” side of the product and will be following stringent guidelines.

Public Participation - None

Hearing closed.

Communications and Announcements

1. Please call 811 before you dig anywhere in your yard. 811 coordinates with local utility companies to locate all underground lines on your property. To schedule an appointment call 811 or go to www.digsafelynewyork.com/homeowners.

2. May 17 and 18 is the Town’s annual Spring Drop-off event at the Department of Public Works Facility off Jackson Road for disposal of household items. Friday’s hours are scheduled from 7:30 AM to 5:00 PM and Saturday will be from 9:00 AM to 3:00 PM. For more information please visit the Town’s website at www.penfield.org.

3. The Town of Penfield will dedicate its Public Works facility rain garden in memory of Richard H. “Dick” Vendel on Thursday, May 16, 2019 at 1:00 PM at 1607 Jackson Road. The community is welcome to join the Vendel family and Town Officials at the dedication ceremony.

4. The fifth annual Terry Rothfuss “Good Neighbor Day” will be held on Saturday, May 11, 2019 from 8:00 AM to 12:00 PM. Please contact Sabrina Renner at 340-8651 for more information and if you plan to volunteer some of your time. Volunteers are asked to meet at the Rothfuss Farm, 1865 Salt Road.

5. A free guided hike sponsored by the Penfield Trails Committee will be held within Harris Whalen Park on Saturday, May 11, 2019 beginning at 9:00 AM. For more information and to pre-register, participants are asked to call the Recreation Department at 340-8655, option 6.

6. Councilwoman Kohl’s next Community Chat will be held on Tuesday, May 21, 2019 from 5:30 PM to 7:00 PM at the Penfield Library, 1985 Baird Road.

Public Participation

See attachment received via website submission at end of Minutes.

Additions and Deletions to Agenda - None

Approval of Minutes

Councilwoman Kohl moved to approve the Minutes of April 3, 2019, Councilwoman Metzler seconded and all voted “Aye.”

Petitions - None
Penfield Town Board, May 1, 2019

Resolutions by Function

Law and Finance

#19T-118 Appointment of Robert Coniber to the Board of Assessment Review by Moore

WHEREAS, Robert Coniber, 40 Willowpond Way, Penfield, New York, has served on the Board of Assessment Review for the last five (5) years as a Temporary Member, and

WHEREAS, Robert Coniber has provided great expertise to the Board of Assessment Review, and

WHEREAS, Robert Coniber has expressed his interest in serving on the Board of Assessment Review,

NOW, THEREFORE, BE IT RESOLVED THAT, the Town Board of the Town of Penfield appoint Robert Coniber to a five (5) year term on the Board of Assessment Review of the Town of Penfield, such term to expire on September 30, 2023.

Moved: Moore
Seconded: Kohl

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

Adopted

#19T-119 Appointment of Temporary Members to the Board of Assessment Review by Moore

WHEREAS, Article 5, Section 523-a of the New York State Real Property Tax Law allows the legislative body of any local government, in any year deemed necessary, to appoint temporary members to the Board of Assessment Review to serve as administrative hearing panel members as provided,

NOW, BE IT THEREFORE RESOLVED, that the Town Board of Penfield appoints the following Penfield residents to serve a one (1) year term as temporary members of the Board of Assessment Review as provided in Section 523-a of the New York State Real Property Tax Law. The term shall commence on September 30, 2018, and shall end on September 30, 2019.

Craig Schubmehl, 2042 Five Mile Line Road, Penfield, NY, 14526
Paul Sugnet, 68 Foxbourne Rd, Penfield, NY 14526

Moved: Moore
Seconded: Metzler

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

Adopted
Penfield Town Board, May 1, 2019

Public Works

#19T-120 Acceptance of Ownership and Maintenance Responsibility for Sanitary Sewer Forcemain Improvements within the New York State Right of Way of NYS Route 250 in Conjunction with the Penfield Square Project by Metzler

WHEREAS, the developers of the Penfield Square development project will require the installation of a regional pump station on its property and subsequent forcemain of which portions will be located within the NYS Route 250 right-of-way; and

WHEREAS, on January 10, 2019, the Planning Board, acting as lead agency pursuant to SEQRA, classified the proposed action as a Type I action, adopted the Full EAF Part 2 and 3, and issued a Negative Declaration annexed to this resolution. Accordingly, the submission of a Draft Environmental Impact Statement will not be required; and

WHEREAS, the New York State Department of Transportation policy requires that the forcemain located within its right-of-way be perpetually maintained by the Town of Penfield in order for the Town to obtain the necessary permit from that agency to commence the installation of said sanitary sewer forcemain system;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Penfield hereby accepts maintenance responsibility of the sanitary sewer forcemain system and the regional pump station as per plans labeled “Offsite Sanitary Sewer Plan” dated December 8, 2018, by BME Associates in conjunction with the proposed project, more particularly shown on a map and plan attached hereto and made a part of this resolution.

Moved: Metzler
Seconded: Moore

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

Adopted

Public Safety - None

Community Services

#19T-121 Authorization for Supervisor to Sign Recreation Contacts by Kohl

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign the following Recreation Contracts:

Snapology of Pittsford, 203 Brittany Lane, Pittsford, NY 14534, instructor for youth summer Snapology programs, 6/4/19 - 8/27/19, for a fee of total program revenue less $10 per enrolled participant. Vouchers to be submitted 7/3, 7/17, 8/7, and 9/4.

Bravo Creative Arts, 12 George St., Fairport, NY 14450, instructor for youth drama programs, 6/25/19 - 12/31/19, for a fee of 70% of total program revenue. Vouchers to be submitted at the conclusion of each program.

AMP Fitness, 1794 Penfield Rd., Penfield, NY 14526, instructor for adult and youth fitness programs, 6/19/19 - 12/31/19, for a fee of 70% of total program revenue. Vouchers to be submitted at the conclusion of each program.
(Resolution #19T-121 – Continued)

Nancy Marrer, 199 Gebhardt Rd., Penfield, NY 14526, instructor for adult and youth fairy garden programs, 5/9/19 - 12/31/19, for a fee of 70% of program revenues. Vouchers to be submitted at the conclusion of each program.

Moved: Kohl  
Seconded: Metzler  

| Vote   | Kohl | Aye | Metzler | Aye | LaFountain | Aye | Moore | Aye | Quinn | Absent |

Adopted

Old Business - None  
New Business - None  
Public Participation - None  

Executive Session - Supervisor LaFountain stated upon adjournment the Town Board will conduct a short Executive Session on a legal matter.

Next Meeting - May 15, 2019  
Adjournment

Supervisor LaFountain moved to adjourn the meeting at 8:05 PM.

Amy Steklof, RMC/CMC  
Town Clerk
Public Participation 5/1/2019

Via Website Submission

NAME: Catherine Fuller
ADDRESS: 10 legacy circle
COMMENT: I very much enjoy walking my dogs on the paths at the town hall park. There is a great deal of trash along the border and hedgerows. This is the ideal time to get that cleaned up. If town workers are too busy it would be an excellent project for community groups. Thank you in advance for addressing this, Catherine Fuller

Facebook

Mert Gurcan

I was wondering if Penfield could make a mountain Biking place? In Monroe County, there is really no decent place to go riding mountain bikes. If Penfield could make a biking place with ramps and nice trails that would be great. Me and other people around the area would love having a place like that. The closest place we have to mountain bike is Tryon Park which is not really a good place to bike. Is there is anything that I would need to do to make this happen, let me know?