TOWN OF PENFIELD
3100 Atlantic Avenue, Penfield, NY 14526-9798

TOWN BOARD WORK SESSION AGENDA
Wednesday, December 11, 2019 7:00 PM
Supervisor R. Anthony LaFountain, presiding

I. Call to Order
II. Approval of Minutes – November 13, 2019
III. Monthly Reports - November
IV. Public Hearings - None
V. Guests
   a. Marisa Zwick, (Katie Rigg) - Student Presentation about Community Choice Aggregation
   b. Rudy Neufeld - Potential Use and Improvement of Town Owned Land - Autumn Oak Circle
VI. Action Items
   a. Parker Hill Drive - Sidewalk Waiver Request - Valentine
   b. Variance Request for Driveway Width at 1549 Empire Boulevard - Valentine
   c. Request for a Conditional Use Permit to Allow a Seasonal Tent in the Outdoor Area at K2 Brewery Located at 1221 Empire Blvd - Costello
   d. Conditional Use Permit and Site Plan Approval for Apartment Building at 1384 Empire Blvd. - Costello
VII. Informational Items
    a. (NONE)
VIII. Held Items
      a. Jomanda Way, Expanding No Shooting Petition - LaFountain
      b. Sign Ordinance Updates/Proposed Ordinance Revision - Costello/LaFountain
      c. Community Choice Aggregation, Penfield CCA Resident's Committee - LaFountain
      d. Hold Harmless Agreement, 74 Bentbrook Circle - Valentine
IX. Old Business – (NONE)
X. New Business
XI. Executive Session
XII. Next Meeting: January 8, 2020
XIII. 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.
I. Call to Order

Present:
Supervisor LaFountain
Councilwoman Kohl
Councilwoman Metzler
Councilman Moore
Councilman Quinn

Also Present:
Jim Costello
Lisa Grosser
Mark Valentine

II. Approval of Minutes – 11/13/19
CW Metzler moved for the approval of the Minutes of November 13, 2019, CM Quinn seconded the motion.

III. Monthly Reports – All reports for November have been received.

IV. Public Hearing – None

V. Guests

a. Marisa Zwick, (Katie Rigg) – Student Presentation about Community Choice Aggregation
Supervisor LaFountain introduced students from Penfield High School’s Environmental Club.

Several students spoke to the Board commending the Town’s efforts to go green and reduce our carbon footprint. There is concern with climate change and the students urged the Board to take action. A Petition was presented to the Board supporting Community Choice Aggregation in Penfield.

Supervisor LaFountain reviewed that the Energy and Environmental Advisory Committee has been vetting out and working on draft legislation. We have met with groups and are currently reviewing Good Energy as a potential administrator. The Towns of Brighton, Pittsford, Irondequoit and the Village of Pittsford have selected administrators. The EEAC will present their findings to the Town Board in the first quarter of 2020.

b. Rudy Neufeld – Potential Use and Improvement of Town Owned Land – Autumn Oak Circle
Mark Valentine introduced Rudy Neufeld who has an option to purchase the former Christmas Tree Farm on Jackson Road. This application has not yet been submitted to the Planning Board. Valentine explained that there is an existing stormwater facility
for Autumn Oak Circle located on Town owned property. When planning drainage retention for this new development, he asked if it makes sense to combine the stormwater retention areas and do some improvements to the existing facility. Neufeld would have to be given permission to access the existing pond on Town owned property. A concept plan was submitted to the Board for its review and is a sketch design only.

Councilwoman Metzler asked if this has been done anywhere in the past.

Valentine said there is a regional retention pond on Plank Road which serves both Crowne Pointe and Windham Woods. This was combined to solve existing drainage issues in the area.

Councilwoman Kohl asked if PRC had reviewed this request.

Valentine said yes and it is supportive of the consolidation. The Town owns and is responsible for maintaining the pond. Neighbors use the property for recreation. Neufeld would be responsible to clean up the existing pond and bring it up to current standards.

Metzler asked, if this is not allowed, the retention pond would have to be placed on Neufeld’s property and would take some of his proposed lots. It is not the role of the Town to take on stormwater to allow more units to be developed.

Valentine said PRC has reviewed a conventional layout with the pond on Neufeld’s property. If the pond is relocated to combine with the existing pond, more green space or larger lots would be available. The goal is not to gain more lots for the developer. Combining two (2) ponds into one would benefit the Town because it would be less to own and maintain. There has been a long standing issue with water ponding on the west side of Jackson Road. If a deeper storm sewer is installed on Neufeld’s property the neighbors on the west side can connect under the road and improve their drainage also.

Supervisor LaFountain asked how long has there been a drainage issue in the area?

Valentine said for as long as he can remember. The water has no place to go, there is no discharge point.

Metzler asked if this existing drainage issue has been discussed with the Watershed Management Committee?

Valentine said yes, there has been existing infrastructure issues that have been persistent in this area.

Councilman Quinn asked about the drainage to the east.
Valentine said to his knowledge, the only time there has been water in the pond was after the 1991 Ice Storm. The pond needs to be dredged and cleaned.

Quinn asked if conventional zoning is 21 units?

Valentine said it is half acre zoning and the parcel is 13 +/- acres.

Rudy Neufeld said the current owners the Dumais’ want to add some of this parcel to their current residence, so the actual size isn’t confirmed yet.

Metzler stated that this request is premature, and it is not appropriate for the Board to act. Metzler moved to deny the request, Councilwoman Kohl seconded. All present voted “Aye.” After the application has been finalized and presented to the Planning Board, the applicant can come back to the Town Board.

Councilman Moore agreed, we need to see the complete proposal for Neufeld’s property first.

Valentine said more design will come and added the sketch on the concept plan shows the proposed size of the pond based on the number of units.

LaFountain stated the Town has 160 retention facilities. Our goal is to reduce that number or bring an existing pond into compliance. LaFountain encourages the applicant to present his concept plan to the Planning Board. After the Planning Board has vetted out the application, Neufeld can come back to the Town Board for review.

Metzler asked that this also be brought before the Watershed Management Committee.

Valentine said he would schedule that for February, the committee’s next meeting.

Moore asked what type of homes Neufeld is proposing.

Neufeld said they would be large, upscale homes in the range of $375,000 to $500,000. Similar to the Legacy Circle development, he would preserve large trees on the site. Neufeld added he wants to have the best proposal for this property.

VI. ACTION ITEMS

a. Parker Hill Drive – Sidewalk Waiver Request – Valentine
Mark Valentine explained this is the former Camp Haccamo property. The Board has already approved grade and fill permits and tree clearing. Valentine submitted a site plan to the Board for its review showing proposed sidewalks. They are proposing installation of sidewalks along Panorama Trail and internally on
one (1) side. Sidewalks will also connect to the Thermo Fisher property. The current sidewalk policy for commercial property states that the applicant must contribute 50% of the total costs. The cost to install all sidewalks would be $240,000, and the cost for the proposed sidewalks is $121,000 which is more than 50%.

Supervisor LaFountain asked if PRC has reviewed the request.

Valentine said both PRC and the Planning Board are supportive of granting the waiver. There will also be a pedestrian connection to the mobile home park.

Councilwoman Kohl asked if that will be a dirt path?

Valentine said it is currently a dirt path, and as the sidewalks are added to the top of the hill, the path will be improved.

Councilman Quinn asked if the infrastructure has been completed.

Valentine said the road and utilities are in. The applicant is working with the Planning Board on the individual lots.

Councilman Quinn asked which side of the road will the buildings be on?

Valentine said both sides, but there will be more on the south side where the sidewalks are proposed.

Quinn asked about square footage and number of employees at full capacity.

Valentine said 350,000 +/- square feet is proposed. The first building is 40,000 sq. ft. and the second one is 15,000 sq. ft. There are currently two (2) applications before the Planning Board.

Quinn asked if we have any similar office parks in Town.

Valentine said Spring Pines Office Park and North Forest Office Park.

LaFountain asked about the connection to the Mobile Home Park.

Valentine said the easements are in place and that guarantees it will move forward. The detail of the path still needs to be determined, it may be a mulch or stone dust path. The length of the path will be a couple hundred feet.

LaFountain asked that a condition of the approval include that an appropriate walkway must be completed.
Councilman Quinn moved to grant the waiver, subject to the conditions discussed tonight, Councilwoman Kohl seconded and all present voted "Aye." A letter will be sent to the applicant confirming this decision.

b. Variance Request for Driveway Width – 1549 Empire Blvd. – Valentine
Mark Valentine introduced Thomas Gangemi who is working with the Planning Board to open a Dyslexia Center in a residential property located on Empire Blvd., south of Plank Road. Gangemi is upgrading the building and adding parking. He will be upgrading the entrance to meet NYS DOT standards which require a 24 ft. width for a commercial driveway. This is a residential area and a 20 ft. width would fit better on the parcel. The connection at the road would be 24 ft. and the driveway would taper to 20 ft. Both PRC and Planning Board are supportive of issuing a variance from the Town Design Criteria.

Supervisor LaFountain confirmed that the driveway is on the west/south side of the property.

Valentine said yes, and it is a shared driveway with a residence behind it. The neighbor in the rear of the property has easement rights over the driveway.

LaFountain asked what the zoning is next to the property.

Valentine said it is zoned Multi Residential to the north.

Jim Costello stated if the applicant closed off the existing driveway and used the east/north side of the property, a variance would be required from the Zoning Board of Appeals because it abuts Multi Residential zoning district and a buffer would be required.

Valentine added this parcel is located just outside of the LaSalle’s Landing District.

Councilwoman Metzler asked if the neighbor has been advised of the driveway change.

Thomas Gangemi said yes.

Valentine stated the property has 15 parking spaces and the driveway will not be used for parking.

Councilwoman Kohl moved to approve the variance, Councilwoman Metzler seconded and all present voted “Aye.” A letter confirming this decision will be sent to the applicant.
c. Request for a Conditional Use Permit to Allow a Seasonal Tent in the Outdoor Area at K2 Brewery Located 1221 Empire Blvd. – Costello

Jim Costello reviewed that the applicant requested seasonal tents at the October 23, 2019 Work Session. A Special Permit was issued November 18, 2019 for three (3) weeks. The Public Hearing was held December 4, 2019 requesting the tents be put up for a four (4) month period annually. The Fire Marshal was present during the installation and performed inspections. There have been no neighbor concerns.

Councilwoman Kohl added the tent was well done. They have also done a good job with traffic control.

Costello said they will keep the access points from the tent clear as well. They will also continue with the music as approved, three (3) days per week no later than 10:00 PM. The fire pits are covered and there will be no cooking in the tent.

Supervisor LaFountain stated the heaters will be located outside of the tent, and an elephant trunk will be used to supply the heat to the tent. The Fire Marshal has also inspected the heating system. LaFountain continued to say the applicant is working with a real estate agent to secure additional parking.

Costello said they are looking at additional parking options in the area, and have no agreement as of yet. Costello added they have added no parking signage along Wilbur Tract Road, and a chain will be added to prevent parking near the pump station.

LaFountain stated bollards have been ordered and will be installed shortly so there is no impact to the pump station.

Costello added Lori Kennedy has been vigilant in preventing illegal parking.

Councilman Quinn suggested a condition regarding parking be added to the approval.

Costello said the tent must be closed at 10:00 PM, any modification would have to come back to the Town Board for approval.

Quinn asked if this will be an annual tent.

Costello said yes, the Fire Marshal must be present each time the tent is erected. Costello added Conditional Use Permits are not transferrable.

LaFountain asked that the applicant come back to the first Work Session in April to debrief the Board and review any issues.
Councilwoman Kohl moved to approve the seasonal tents with the conditions discussed, Councilman Moore seconded and all present voted "Aye." A Resolution will be submitted at the December 18, 2019 Legislative Session.

d. Conditional Use Permit and Site Plan Approval for Apartment Building at 1384 Empire Blvd. - Costello

Jim Costello introduced Anthony, Mario and Danny Daniele and Jess Sudol. Costello stated that Town Staff has continuously reviewed the application and plans. There have been three (3) or four (4) PRC memos and the applicants/engineer have responded to all of the concerns. All technical issues have been addressed and the application meets engineering and code requirements. Outstanding issues include: there is a 238 ft. gap in the sidewalk on the west side of the Mario’s building, there is no sidewalk easement and a DEC permit would be required. Traffic safety on Empire Blvd. has been a concern. The middle turn lane could be extended to Wilbur Tract Road and the Daniele’s are interested in contributing to that effort.

Mark Valentine stated the NYSDEC reviewed water treatment and all technical concerns have been addressed.

Costello said December 6, the Daniele’s submitted a letter addressing the balance of PRC’s concerns.

Anthony Daniele stated a presentation has been prepared showing the changes in the area since they originally purchased the property.

Danny Daniele reviewed that the original proposal and the Town Board’s comments that it encroached the wetlands and would be an issue with NYS DEC, there were emergency access issues, trees along Empire Blvd. would be removed, questions regarding the trail and less waterfront access and covered garages in the rear of the property along with the overall size of the project. The updated proposal has reduced the size by 12 units, 8,500 sq. ft. and 16 fewer bedrooms. The outdoor covered parking facing the back side has been eliminated. The trees will remain on Empire Blvd., there is improved emergency access and the reduction of the building size eliminates the encroachment to the DEC wetlands. Public access will be improved by allowing public access trails and a viewing deck. Daniele continued to say they believe the turning lane on Empire Blvd. should be extended to the west.

The complex will be called Bellagio Waterfront living. The apartments will be higher end than Waters Edge, and will have access to the pool area. The rent for the apartments will be slightly higher than current market rate.
Anthony Daniele stated the parcel is five (5) acres and even with a larger building there is still a view and access to the bay. Daniele would like to establish an Empire Boulevard Safety Enhancement Fund and initiate a $50,000 bond or letter of credit. He would encourage other developers to contribute to the fund.

Supervisor LaFountain asked how many parking spaces will there be underground.

Anthony Daniele said 98 spaces.

LaFountain said the outside covered parking was a concern, and has been eliminated. Visitors can park around the building. He asked if all of PRC’s concerns have been addressed.

Valentine said the Daniele’s submitted responses in a December 6, 2019 memo. All concerns have been addressed over the course of several meetings and correspondence back and forth. This updated plan addresses all technical issues and PRC’s concerns.

LaFountain stated the suggestion to start a fund for Empire Blvd. improvements is positive. Town staff meets with the NYS DOT on a regular basis, we would like to see the turning lane continued. Creating this fund is a good way to get that done. The NYS DOT is against installing a traffic light at that location, or any location along Empire Blvd. LaFountain added the Town will take a look at the study and see who may contribute to the fund and determine if $50,000 is an equitable amount. LaFountain said we have moved in the right direction by reducing the square footage of the building, reducing the number of units, moving away from outside covered parking, reducing the impact to the wetland and connecting walk ways with this revised plan shows that the applicants were listening to the Board. We will need to flush out the actual dollar amount going toward improvement of the roadway. LaFountain stated he will look with favor of approving this request, we need to work through the details and conditions of approval.

Councilwoman Kohl said there was a concern regarding the environmental impact and the visibility of the bay. This is one of the best properties to view the bay from and she is pleased that it is open to the public. It is positive to save the trees along Empire Blvd. and promoting improvements to Empire Blvd. Creating an improvement fund should get the State’s attention. This will be good for the Town and the developers. Kohl stated she is in support of the project.

Councilman Moore asked if the increased water levels of the lake are of any concern.

Jess Sudol said no, the lowest point of this project is 258 feet and at the highest the lake was at 249 feet.
Moore asked if there would be any need for retaining walls in the future.

Sudol said no, this is not a flood prone property.

Moore stated that it is important to note Empire Boulevard is controlled by NYS DOT, not the Town of Penfield.

LaFountain stated the Town Of Penfield received a grant for improvements to the two (2) pump stations on Empire Blvd. as part of the REDI program. LaFountain continued to say the initial designs are completed and funds have been awarded to the Town for the improvements. As part of this rehabilitation, the NYS DOT has determined that 2,300 feet of Empire Blvd. should be raised 8 or 9 inches. The State has identified a watermark and we will see this going forward.

Metzler stated the Daniele’s had a vision and the improvements and development to the property has opened it up to the community as well.

Councilwoman Kohl moved to approve the issuance of the Conditional Use Permit with conditions noted, Councilwoman Metzler seconded. Vote of four (4) “Ayes” and one “Nay.”

Supervisor LaFountain directed Costello to prepare a Resolution for the Board’s review including the conditions discussed tonight. The resolution will be submitted at the next Legislative Session on December 18, 2019.

LaFountain added we will still need to flush out the funds, he is willing to move forward with the project but the numbers will need to be worked out. This will be similar to the LUAMP project at NYS RTE 250 and 441. LaFountain asked staff to review shared costs and bring that component back to the Board for review.

Costello suggested we contact the contractors who completed the turning lane, and have them provide an estimated cost to extend it. That number can then be used and divided among developers to establish the improvement fund. Costello added plans need to be updated and easements obtained, there is a lot of work to be done.

VII. INFORMATIONAL ITEMS

a. None

VIII. HELD ITEMS

a. Jomanda Way, Expanding No Shooting Petition – LaFountain
b. Sign Ordinance Updates/Proposed Ordinance Revision – Costello/LaFountain
c. Community Choice Aggregation, Penfield CCA Resident’s Committee – LaFountain
d. Hold Harmless Agreement, 74 Bentbrook Circle – Valentine
IX. **Old Business** - None

X. **New Business** - None

XI. **Executive Session** - Real Estate, Litigation and Human Resource Matters - None

XII. **Next Meeting** - January 8, 2020

XIII. **Adjournment** - Supervisor LaFountain adjourned the regular Work Session at 8:49 PM.

Lisa Grosser, RMC
Deputy Town Clerk