Town Board Work Session Agenda
January 23, 2013
7:00 PM

I. Call to Order

II. Approval of Minutes January 9, 2013

III. Monthly Reports - None

IV. Public Hearing – 7:30 PM
   - Public Hearing #1: To consider a Conditional Use Permit to Allow a Yogurt Shop at 2105 Five Mile Line Road – SBL #139.06-1-31 – David and Jennifer Vacchetto – “Yotini”
   - Public Hearing #2: To consider a Conditional Use Permit and Preliminary and Final Resubdivision and Site Plan Approval to Allow a 6,500 +/- square foot restaurant at 2164 Fairport Nine Mile Point Road – SBL #140.01-2-70.11 – The Patriot Companies – “Jeremiah’s Restaurant”

V. Guests – 7:00 PM Tom Amore – Update discussion regarding restaurant at 1830 Penfield Road

VI. ACTION ITEMS

   Law and Finance
   1. Request for an Easement Abandonment at the Villas of East Hampton – Valentine
   2. Abbington Section 2 and 3 - Set Public Hearing Date - Valentine
   3. Ashlyn Rise Request for 90 Day Extension – Costello
   4. Sign Package for 1833 Penfield Road - Costello

   Public Works - None

   Public Safety - None

   Community Services - None

VII. INFORMATIONAL ITEMS

   Law and Finance - None

   Public Works - None

   Public Safety - None

   Community Services - None

VIII. HELD ITEMS

   1. Pond Ownership – Staff

IX. Old Business - None

X. New Business - None

XI. Executive Session – Real Estate, Litigation and Human Resource Matters

XII. Adjournment
A Public Hearing was held before the Penfield Town Board on Wednesday, January 23, 2013 at 7:30 PM at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York.

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

Also Present:  
Lisa Grosser  Deputy Town Clerk  
Richard Horwitz  Town Attorney  
Jim Costello  Dir. of Developmental Services  

Supervisor LaFountain called the meeting to order.

Public Hearing #1  To Consider a Conditional Use Permit to Allow a Yogurt Shop at 2105 Five Mile Line Road – SBL # 139.06-1-31 – David and Jennifer Vacchetto “Yotini”  
(See Resolution #13T-047)

The Deputy Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on January 10, 2013 and was posted on the Town Clerk Bulletin Board and Website. 55 postcards were mailed and six (6) Homeowners Associations were notified.

Supervisor LaFountain confirmed with Town Attorney Horwitz that this Public Hearing is properly before the Board.

Jennifer and David Vacchetto, 6 Coralburst Crescent reviewed that they are interested in opening a self serve frozen yogurt store in the old red barn behind Dunkin Donuts. It is a community setting close to the high school. Mr. Robert Lindsay has designed the reconstruction and the Historic Preservation Board has approved the exterior changes. Hours of operation will be 11:00 AM to 8:00 PM, possibly later in the summer. The dumpster will be shared on site. There will be 9 to 10 part time employees and three (3) full time employees.

Councilman Quinn asked how many employees will be on site at one time?

Jennifer said four (4) to five (5) at the busiest time.

Councilwoman Kohl asked about parking.

Jennifer said they have 17 parking spots which should be adequate. They anticipate foot traffic from the high school and people that work in the area. The busiest time should be evenings and weekends. They have permission to use parking at Canandaigua National Bank.

Kohl asked where are your parking spaces located?

Robert Lindsay, RS Construction, owns the property and said his partner owns the house at 805 Liberty Street. There are six (6) parking spots on Liberty Street, to be used in the evening hours. We will be adding 22 parking spots on that site. There is additional public parking across the street. They have permission to use the Canandaigua National Bank parking in the evenings. This totals 40 parking spots.

Councilwoman Metzler asked if there would be signs for parking directing customers to the different parking locations.

Lindsay said, yes we can do that.
Quinn asked where will the new parking be added?

Lindsay said there are six (6) spots in front of the garage on Liberty Street, three (3) and one (1) in front of the yellow house. 22 total additional parking spots.

Quinn asked if there will be access to Canandaigua National Bank parking?

Lindsay said yes. We also have been given permission to use Mark’s Pizzeria as a cut through. We have an agreement with them because we allowed them to access our storm sewer.

Kohl asked where customers access the property; from Five Mile Line Road or Liberty Street?

Lindsay said Liberty Street would be the main entrance and access to parking.

Councilwoman Metzler asked where does the main entrance of Yotini face?

Lindsay said it faces Five Mile Line Road.

LaFountain asked about future expansion.

Lindsay said they want to add 950 sq. ft. on each unit attached to the barn. There will be adequate parking for the additional square footage. Right now we have interest from a hair salon. They want to have little Mom and Pop stores. This property has been dormant for many years. They are trying to bring it back to life. We have a proven track record. This project will have a positive impact on the neighborhood. The egress will not impact Five Mile Line Road.

Quinn asked how will the exterior grounds be used for patrons?

Lindsay said there will be a deck with a picnic table on it. The deck will be fenced in, and egress to the patio so it can be maintained, monitored and secured.

Jennifer added that there will be some interior seating and benches by the door.

Quinn asked about exterior lighting.

Lindsay said the parking lot will be lit, a detailed map will be submitted when needed. We will use goosenecks on the exterior of the building and they will be aesthetically matching.

Quinn asked if PRC had any concerns with the ingress/egress?

Jim Costello said no, but there may be a concern with using Mark’s Pizzeria as a cut through.

Lindsay said he doesn’t want customers to drive through. We want to maintain traffic with our entry way.

Costello said he is also concerned about parking on Liberty Street. The Town may have to look into adding no parking signs on Liberty Street.

Metzler asked about deliveries.

Jennifer said deliveries would be received by a small box truck and would be every other day.
Lindsay said there is no room in the parking lot to receive deliveries with a semi truck. All deliveries would be by van or box truck.

Quinn stated the delivery trucks must be able to access the site, park, and turn to leave.

Metzler asked about pedestrian traffic. Have you considered how you will accommodate bicycles?

Lindsay said there is a driveway to the garage. The patio area will have some greenspace, we could add a bike rack there.

LaFountain asked about signage.

Jennifer said it would be tasteful on wood, black and white.

Lindsay said the sign would be located above the front entry, a small billboard lit with goosenecks.

Metzler inquired if Jennifer is still working on the logo?

Jennifer stated they are still working on that. She will stay in touch with Costello regarding details.

Metzler advised that the Historic Preservation Board will also have to approve signage.

Costello asked what would the time frame be for the expansion?

Lindsay said it would be at a later date. He does not want to delay opening the yogurt shop.

LaFountain asked if they have a target opening date for the yogurt shop? Will you be open year round?

Jennifer said they would like to be open year round and hope to open in June.

Costello said when he gets the design and layout package he will share it with Town staff.

LaFountain said the Board will discuss this at the next Work Session on February 13, 2013. If any additional information is needed from the applicants we will contact you.

Public Participation - None

Hearing closed.

Public Hearing #2 To Consider a Conditional Use Permit and Preliminary and Final Resubdivision and Site Plan Approval to Allow a 6,500 +/- square foot Restaurant at 2164 Fairport Nine Mile Point Road – SBL #140.01-2-70.11 – The Patriot Companies – “Jeremiah’s Restaurant” (See Resolution #13T-048)

The Deputy Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on January 10, 2012 and was posted on the Town Clerk Bulletin Board and Website. 33 postcards were mailed and six (6) Homeowners Associations were notified.

Supervisor LaFountain confirmed with Town Attorney Horwitz that this Public Hearing is properly before the Board.
Jeff Reddish, owner of Jeremiah’s, Eric Shaaf, Marathon Engineering and Clint Batista, Smith & Associates are present for the Public Hearing.

Mr. Reddish began by reviewing that Jeremiah’s Restaurant was founded in 1978 and this would be the third location. They will have between 30 to 40 employees.

Eric Shaaf reviewed the application is for 1.395 acre parcel in the Doodlebugs Plaza. There is not direct access, but there will be permanent easements in place for ingress/egress. The parcel was originally approved in July 2006 as part of an Incentive Zoning Project. There is minimal overlap of hours with Doodlebugs and the restaurant’s peak hours. Parking will be constructed and shared with Doodlebugs. The building will be sprinklered, aesthetically pleasing, landscaped with an outdoor patio and trees. There will be outdoor dining, lighting from shoebox fixtures and one (1) building mounted light. Drainage will meet the New York State Stormwater design criteria from the original approval. This project will not be subject to the 2010 stormwater design criteria. Water service is available across NYS RTE 250 that will need to be connected. A hydrant is no longer required.

Shaaf continued to say the number of parking spaces the Town requires is overstated. The average is more than double any other Town. They don’t want to have excess parking. Town code requires 314 spaces. He reviewed his calculations and feels a more practical calculation is 141 required parking spaces. They are proposing 145 spaces. 95 spaces will be constructed; there are 12 spaces below the project at the lot to the South, and 38 existing parking spots at Doodlebugs. When additional parcels are developed, we would have Cross Access Easements and Shared Parking Agreements with those properties.

Shaaf continued to say the Sewer Department suggested two (2) 1,000 gallon grease interceptors. The applicant is familiar with his establishments and would comply with Monroe County Design Specifications. It is better to have a smaller tank emptied more frequently, than have a large tank. The Planning Department has concerns regarding the potential impact of noise, the smoker and hours of operation. The surrounding area is commercial and the residential neighbors are east of the property at a distance of 500 to 850 feet. What is being requested is an allowed use under the current zoning. Jeremiah’s will be a good neighbor and will sponsor a number of local Youth Sports Teams.

Shaaf continued to say the use of the patio will be customer driven. It will not be used year round. Shaaf said we strongly reject the suggestion that the patio or the smoker could be subject to a special review that could modify or rescind our approvals. The outdoor seating area will be poured concrete and will have a low fence so as not to block the view. They may have outdoor acoustical music. This is not intended for concerts.

Supervisor LaFountain asked if the new calculation for the number of required parking spaces included an allowance for the outdoor dining area?

Shaaf said no, the parking estimation includes the bar and dining area only.

LaFountain asked what is the estimated number for outdoor seating?

Clint Batista said it would be approximately 60 patrons. It is our thought that this would be existing occupants from the interior moving outside.
Councilman Quinn asked if they had received a maximum occupancy number from the Fire Marshal?

Shaaf said he would have to get that number to the Board.

Shaaf went on to review the site drainage and the requirement for additional catch basins. The current design is for the stormwater to go to existing catch basins near Doodlebugs. They will be adding additional catch basins. This project will not be creating additional run off. The run off will be captured before it reaches the Doodlebugs site. The water treatment will be done off site. He said there should be no cost penalty to impose current regulations for green infrastructure. The rationale for the L shaped lot is that was the parcel that was available. The lot has access to an existing water main for service.

LaFountain asked what the diameter of the water service would be?

Shaaf said an 8" main and 6" to the building. The original proposal had a hydrant on the east side which is no longer required. There are two (2) additional hydrants within 300 feet of the property. The Fire Marshal still needs to give his approval for this.

Shaaf spoke regarding erosion control: a temporary siltation pond with an engineered output has been suggested. He believes temporary sedimentation basins are sufficient. He will discuss this with Town Engineer, Geoff Benway and will reach a mutual agreement.

Shaaf spoke regarding landscaping: Mr. Zaretsky had made some suggestions, and we have our own designer, Heinrich Fisher. Some of Zaretsky suggestions are too expensive and personal preference. We will be taking the suggestions of our designer.

Quinn asked if the applicant owns any additional land outside the project area?

Reddish said no, just the 1.40 acres that has been discussed.

Quinn asked if more parking was needed, where would it be found?

Shaaf said there would be additional shared parking from other tenants when additional development occurs.

Quinn asked if the proposed parking is in line with the other Jeremiah’s locations?

Reddish said yes, it far exceeds the other locations parking availability.

Quinn asked if this development would prohibit future cross access agreements for development to the South?

Costello said there is a significant change in grade from this property and the property to the east.

Councilwoman Metzler asked if it possible to have front access for future development?

Costello said yes, and every user on that site would have shared access and parking.

LaFountain asked about LUAMP and Incentive Zoning.

Shaaf said the fees will be discussed with the seller and handled through a financial transaction.
LaFountain said there are two (2) components both LUAMP and Incentive Zoning which are part of the deal for the property. I want to make sure you are aware of the fees referenced in the 2006 Town Board Resolution.

Reddish confirmed he is aware of the fees and is working on that with the seller.

LaFountain continued to say we have received two (2) letters: Shawn O’Donnell from Doodlebugs wants to make sure 46 parking spots are allowed for Doodlebugs. LaFountain confirmed Shaaf mentioned he has 38/39 spots dedicated for Doodlebugs. The second item addressed is drainage, which Shaaf has discussed. Catch basins will be added. Lastly, he requested that a Property Maintenance Agreement be put in place. Mr. Shaaf has indicated tonight that this is also his interest as well.

LaFountain said a second letter was received from Mr. Surette, who is a neighbor to the east. He is concerned there is a sufficient landscaped barrier enhancement and he has met with Jim Costello, Director of Developmental Services. There currently is a gap, he would like this enhanced. He is also concerned about music and wants to make sure there is no impact to his neighborhood. He also wants to be sure the lighting is not directed toward the residential properties. He also stated that the 2:00 AM closing indicates that this is more of a bar than a restaurant.

Reddish stated that the 2:00 AM closing is consistent with the other restaurants we own. We haven’t had any problems with either of our locations in the past.

Public Participation

Mark Chester, Fairport stated his child attends Doodlebugs. He is not fooled that this is a restaurant, it is a tavern. Their website shows they have 30 beers on tap. I have issues with the hours of operation, Doodlebugs closes between 6:30 PM to 7:00 PM. Traffic will be shared and this is a huge concern. He understands catch basins will be added for the additional run off. He is concerned about smokers out front, profanity, cigarette butts and noise. Can something be done with a berm?

Mike Devito, 3 Lanaray Park, Fairport his son attends Doodlebugs and he is concerned regarding the common driveway. He is concerned about picking up his son and having the bar customers using the parking. The restaurant should have its own driveway and no shared parking.

Sarah Wendl, Penfield has two (2) children who attend Doodlebugs. The peak hours for us to pick up our children are the same as the peak dinner hours. The main entrance runs straight down a hill to Doodlebugs entrance. She is concerned about drunk driving. She is also concerned that it is a bar. The Doodlebugs playground has a clear view of the bar, patio and parking. She is concerned about the language, cigarettes and trash. Jeremiah’s is not a family friendly restaurant and does not belong next to a day care. She asked about the NYS law requiring a 200 foot distance from a school to where liquor is sold.

LaFountain said this is not considered a school and that law does not apply.

Wendl said that Doodlebugs does have a Kindergarten program and School Aged program, and that should be taken into consideration.

Mark Chester stated that there are teachers and aides in each classroom. The Teachers must have a degree in teaching and have a Masters or working toward their Masters Degree.
Reddish said Jeremiah’s is not a bar, it is a full service restaurant. Our sales are 65% food; that does not represent a bar. We have made an effort to make it a family friendly destination. Our expansion in Gates is a family friendly restaurant. Many people remember when it was a bar. We do not have fights and have an impeccable record. I wish people didn’t smoke, but I have no control over that. He is sure Doodlebug’s has employees that smoke.

Metzler asked if Jeremiah’s has a children’s menu? If you are sponsoring sports teams like Penfield Little League; would they have their banquets at Jeremiah’s? She suggested Jeremiah’s have special offers/events for Doodlebugs families to be a good neighbor.

Reddish said he would look into that. He is looking to start construction in April and have an opening in September, 2013.

Costello stated as a Condition of Approval all new commercial development must have a Property Maintenance Agreement.

Hearing closed at 9:00 PM.

Lisa Grosser,  
Deputy Town Clerk
I. Call to Order

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

Also Present:
Jim Costello
Lisa Grosser

II. Approval of Minutes – 1/9/13
CM Quinn moved for the approval of the Minutes of January 9, 2013, CW Metzler seconded the motion.

III. Monthly Reports – Supervisor LaFountain stated that all monthly reports are in except for Building/Zoning and PCTV.

IV. Public Hearing – Minutes to follow

#1 – For a Conditional Use Permit to Allow a Yogurt Shop at 2105 Five Mile Line Road – SBL #139.06-1-31 – David and Jennifer Vacchetto – “Yotini”

#2 – For a Conditional Use Permit and Preliminary and Final Resubdivision and Site Plan Approval to Allow a 6,500 +/- square foot Restaurant at 2164 Fairport Nine Mile Point Road – SBL #140.01-2-70.11 – The Patriot Companies – “Jeremiah’s Restaurant”

V. Guests – 7:00 PM Tom Amore – Update discussion regarding restaurant at 1830 Penfield Road.

Jim Costello introduced Tom Amore and reviewed that after our last meeting he has been working on obtaining additional parking. Costello said he had spoken with Mark Crane, who is not interested in a parking agreement at this time. He does not want to open the gateway from his parking area to 1830 Penfield Road. The CDS facility requires a number of parking spaces and if the gateway is opened he would loose control of those spaces.

Supervisor LaFountain inquired when the lease would be up with CDS?

Costello said they are negotiating a new lease now.
Tom Amore said he has spoken with the Fire Commissioner, Rob Barrese and he has offered 50 parking spaces at the Fire House. Eight (8) spaces must remain available for the fire fighters. He is sending an e-mail confirming this agreement to Costello.

Councilman Quinn inquired if the parking to be utilized is behind the Fire Department, would you then be using the entrance from Penfield Road as ingress/egress?

Amore confirmed yes.

Costello said the 26 public parking spaces on Five Mile Line Road are gated and no one is allowed to go through the gate except the Fire Department. The property near the gazebo area can be used for the general public. This must be accessed from Penfield Road.

Councilwoman Metzler asked about the valet parking.

Costello asked if you pick up a restaurant customer in front of the building heading west, how will you turn the car around to park east of the restaurant at the Fire Hall?

Amore said the Fire House parking is not for valet, but general parking.

Costello said he feels that the parking is so remote, people may not want to use it.

LaFountain asked Amore where would the valet parking be done?

Amore said he would utilize the 13 on street parking spaces and the public parking on Five Mile Line Road. He suggested using the Fire House driveway as a location to drop the cars for the valet.

Quinn stated he is concerned about having valet access at the Fire Hall. Did the Commissioner understand that cars would be using that as an exit?

Metzler asked if the Fire Company approved using their space for valet parking?

Amore confirmed yes.

LaFountain stated this should all be confirmed in the letter from Mr. Barrese.

Quinn asked how many employees would there be?

Amore listed off family members which total 6 to 8 employees.

Quinn asked where would you have your employees park?
Amore said as far away from the building as we could.

LaFountain asked if the 6 – 8 employees would include the valet?

Amore said yes. He has also offered to maintain and plow the Fire House parking area. Mr. Barrese told him that wouldn’t be necessary and Amore would not have to pay for the area to be maintained.

Quinn asked what the hours of operation would be?

Amore stated Monday, Tuesday and Wednesday from 11:00 AM to 9:00 PM. Thursday, Friday and Saturday from 11:00 AM to 12:00 AM and closed on Sunday.

Quinn asked Amore what type of restaurant he has planned?

Amore said an old fashioned Italian Family Restaurant.

Councilman Moore asked how many patrons could be seated?

Amore said 30 in the dining area, and 15 in the bar, this totals 45 to 50 patrons.

Quinn asked how would he be accepting deliveries?

Amore said he would only require one (1) delivery for start up and then he would be purchasing his own supplies.

Costello asked how would he be receiving beer deliveries?

Amore said a box truck or small truck that will fit in the lane in front of the restaurant.

Costello suggested that there should be no deliveries between 7:00 AM and 9:00 AM or 4:00 PM to 6:00 PM. He suggested receiving deliveries before lunch 9:00 AM to 11:00 AM.

Amore stated he would like 3:00 PM delivery after lunch.

Quinn asked how he will be handling rubbish removal?

Costello said he has a copy of a January 10, 2013 letter from United Disposal which contracts a two (2) yard trash container with wheels to be emptied two (2) to three (3) times per week, or on an as needed basis. Costello asked where would the dumpster be placed so as not to interfere with your neighbors?

Amore said there is room in the back for their cars and the dumpster. He can roll the dumpster wherever it needs to be.

Quinn asked if Amore would be making any changes to the exterior of the building?
Amore said he would not be doing anything until he can purchase the property.

LaFountain said he is concerned with the number of potential customers and the limited parking. People will want to park close and some may not want to utilize the valet. He is concerned about the safety of the patrons as they get in and out of their cars on Penfield Road.

Metzler stated she remains unconvinced that a restaurant should occupy this space. She will not support valet parking at the Fire Company.

Quinn said he shares CW Metzler’s concerns, but if the Fire Department is willing to offer that parking area, he will defer to them. He is very concerned about valet parking on the street front.

Amore said we will eliminate the valet parking and just advertise parking is available at the Fire Hall.

Costello said he feels valet parking at the Fire Hall is better than general parking, because you have one (1) person controlling the traffic. He does not like it because the valet will have to pull out on Penfield Road, and turn the car around to head east to park at the Fire Hall. This will create a potentially unsafe situation for the valet.

LaFountain said he is concerned there will be too many moving cars in the parking lot of the Fire Hall.

Metzler said these issues need to be resolved at the Public Hearing.

Costello said he is concerned all the parking is remote from the building and people won’t walk the distance to get to the front door. We are here tonight to determine if we should have a Public Hearing.

Councilwoman Kohl said we should have a Public Hearing and hear from the Fire Department and the neighbors.

LaFountain said the Board needs the input from the Fire Company. We should go through the Public Hearing process. Mr. Amore needs to understand that this is not a promise that the Board will approve the project. The Board is sensitive to having a successful business. I am concerned about the limited parking and the safety of patrons on Penfield Road. I think there will be limited traffic to your business.

Meeting adjourned at 7:30 PM for Public Hearing

Meeting reconvened at 9:00 PM to continue Work Session.
VI. ACTION ITEMS

Law and Finance
1. Request for an Easement Abandonment at the Villas of East Hampton - Valentine
Jim Costello showed the Board a map of the Villas of East Hampton. Buildings had to be shifted from the original plan to have access. There is an easement between two (2) buildings which is no longer required and they would like to abandon it.

The Board agreed and a Resolution will be prepared for the next Legislative Session on February 6, 2013.

2. Abbington Section 2 and 3 - Set Public Hearing Date - Valentine
Jim Costello said the Board is not required to hold a Public Hearing. PRC recommends that we hold the Public Hearing because he has added a haul road adjacent to Bill Vendel’s property. His intent is to minimize impacts to his new neighbors. He was not given approval to do this and if he wants to use it, he must be granted approval.

The Board agreed and a Resolution will be prepared for the next Legislative Session on February 6, 2013.

3. Ashlyn Rise Request for 90 Day Extension - Costello
Jim Costello said the map was not filed in time and PRC recommends approving the extension.

The Board agreed and a letter will be given granting the 90 day extension.

4. Sign Package for 1833 Penfield Road - Costello
Jim Costello showed the Board a sign package that had been submitted by the applicants. They are asking for two (2) signs on the front of the building with one (1) for State Farm Insurance and one (1) for the Jewelry Store. The signs will have gooseneck lighting. In addition they are requesting two (2) red canopies that will also have the business name, and telephone number.

Supervisor LaFountain asked where else has this been done?

Costello said it has not been done before.

LaFountain said we need to be consistent in this area. The awning is a second sign. He suggests they use the window for additional signage if necessary.

Costello said they will also have a sign on the back of the building for State Farm Insurance only.
Costello will advise the applicant that multiple signs as proposed on the front of the building are not consistent with the Town Code and will not be allowed.

Public Works - None

Public Safety - None

Community Services - None

VII. INFORMATIONAL ITEMS

Law and Finance - None

Public Works - None

Public Safety - None

Community Services - None

VIII. HELD ITEMS

1. Pond Ownership - Staff

IX. Old Business - None

X. New Business - None

XI. Executive Session - Real Estate, Litigation and Human Resource Matters - No Session tonight

XII. Adjournment - Supervisor LaFountain adjourned the Work Session at 9:14 PM.