Penfield Zoning Board of Appeals
Meeting Minutes

The Zoning Board meeting at 6:30 PM local time Thursday, February 20, 2014, in the Auditorium Conference Room to discuss, in a meeting open to the public, tabled matters and other business that may be before it.

I. CALL TO THE ORDER:

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Work Session 6:30 PM – 7:00PM

I. Tabled applications:


Dan DeLaus: What is Request: Conditional Use Permit for a Bed & Breakfast at 472 Harrogate Drive? Issues 1-8: Have these been met? Facts in record to support Mr. Gordon’s Submission – Dan has not had time to review since paperwork came in late. What proof in record and what is necessary for Homeowner to be compatible with the area? Dan’s reading of the law – you need some real evidence that it is not acceptable. Bed & Breakfast does not fit or is it a law. Road/parking: Neighborhood’s rejection cannot deny it.

Mike Belgiorno: He has the same direction as Dan. It is (1) single bedroom not (5) bedrooms. If it is not in the code – there should be proof to allow or deny.

Dan DeLaus: We have had evidence – Strawberry Castle – but what do we need legally. Tell Counsel specifically what is wanted. Traffic would have greater impact. Yes and no: stranger in the neighborhood? Clear from case law it is OK. Standards are there.

Carole Mulcahy: Conditional permit, doesn’t mean it should be allowed. Has exactly the same feeling as Dan regarding this issue. Ask Counsel.

Dan: We are giving this serious consideration/Paperwork needs to be submitted by March 6th.

Peter Weishaar: What is the law? The law is: Court of Appeals fail on 1 condition, it can be denied. Is it appropriate in this condition? It can be in the district.

Dan motions to table, until next ZBA meeting on March 20th, 2014
Carole seconds the motion and all voted in favor.
II. **PUBLIC HEARING:**

The Chairperson briefly explained the procedures that the Zoning Board would follow during the public hearing, also guidelines to applicants and those members of the audience wishing to speak at the public hearing.

The Chairperson further went on to inform the audience that the Board may deliberate on the applications following the hearing and/or at a future work session. Those applicants and interested persons who wished to stay for the remaining portion of the meeting to listen to any deliberation on each matter are then welcome to do so.

The Clerk was directed to read the agenda.

NOTE: The following is meant to outline the major topics for discussion during the Zoning Board Public Hearing. For more detailed information, the reader should ask to listen to the recorded tape of the February 20, 2014 Zoning Board of Appeals public hearing, which is available at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York 14526 during regular business hours.
1. Robert Osterhoudt, P.E.-Bohler Engineering, 5 Computer Drive West, Albany, New York 12205 on behalf of Hospitality Syracuse, Inc. (Taco Bell), requests a Special Permit for signage under Article VII-7-3 from Article VII-7-11-E and Article VII-7-13-C of the Code to allow logo’s larger than allowed and more than one (1) building mounted sign for the Taco Bell restaurant at 2157 Fairport Nine Mile Point Road. The property is owned by Wegmans Enterprises Inc. and zoned GB. SBL #139.02-1-2.3/TACO. Application #14Z-0005.

Adjourned at the request of the applicant to the March calendar.

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**Vote: A=Approve, D=Deny, NP=Not Present, AB=Abstain
2. Bill Burda-The Home Depot, 750 Panorama Trail S, Rochester, New York 14625 requests a Special Permit for Outside Storage and Display under Article IV-4-24 of the Code to allow storage and display of seasonal products at 750 Panorama Trail. The property is owned by Home Depot USA Inc. and zoned GB. SBL # 138.08-1-41.1. Application #14Z-0008.

Appearances by:
Bill Burda, Operations Manager at Home Depot

Presenter’s statements:
Mr. Burda: displayed map of the Panorama Trail Home Depot Property; requesting a storage and display area which adds to the shopping experience of customers; the storage area would not be within 100 feet of residential zoning district and its location would not interfere with the safe use of any public highway. Also, it would not interfere with the quiet enjoyment of the adjacent property owners. The Special Permit has been requested other years and has been approved by the board previously.

Andris: asked if items stored would include fertilizers, etc.
Mr. Burda: replied that no fertilizers or any Hazmat materials would be stored outside.

Andris: has there been any safety issues or injuries?
Mr. Burda: responded that this area makes the experience safer and much easier for the elderly and all customers.

Dan: ask if this was a seasonal request.
Mr. Burda: replied yes that it would be seasonal from March 1st to July 31st depending on the weather.

Dan: made comment regarding Home Depot owned the property; they should own the road. Also, Dan asked about shopping carts in the rear of the building;

Mr. Burda: responded that whatever carts could be fixed were being repaired and the rest were discarded.

Dan: also asked Harold Morehouse about an issue with the road a while back; a Penski tractor trailer parked along Plaza Circle, it was a hazard. Harold said that Home Depot had formal negotiations with the Town of Penfield and Panorama Bowl at that time; Panorama was bought and made part of original plan per Attorney and Realtor of Home Depot.

Board deliberations: No Issue
Special conditions required by the Board:

Permit shall be valid for 5 years

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3. Andrew Spencer, RLA-BME Associates, 10 Lift Bridge Lane, Fairport, New York 14450 requests Area Variances from Article III-3-73-B, Article IV-4-2-A and Article IV-4-11 of the Code to allow a more lot coverage than permitted, less buffer than required and smaller parking spaces at 2000 Empire Blvd. The property is owned by Laureland, Inc. and zoned LB. SBL # 093.02-1-12.1. Application # 14Z-0009.

Withdrawn by the applicant

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4. Andrew Spencer, RLA-BME Associates, 10 Lift Bridge Lane, Fairport, New York 14450 on behalf of Joseph DiSalvo requests an Area Variance from Article III-3-73-C of the Code to allow an existing building with less setback at 2016 Empire Blvd. The property is owned by Joseph DiSalvo and zoned LB. SBL # 093.02-1-8. Application #14Z-0010.

Withdrawn by the applicant

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5. John Reichert, 39 Black Watch Trail, Fairport, New York 14450 requests an Area Variance from Article III-3-35-D-3 of the Code to allow a larger existing barn than permitted at 1205 Shoecraft Road. The property is owned by John Reichert and zoned RR-1. SBL # 094.01-1-43.1. Application #14Z-0011.

Appearances by:
John Reichert, Owner of Barn and Property, lives at 39 Black Watch Trail, Fairport, New York.
Scott Mechler of 1194 Shoecraft Road – Lives almost directly across the street from #1205.

Presenter’s statements:
Mr. Reichert: began by telling Harold Morehouse that he was right. Mr. Reichert would like to allow existing barn on 1 acre of the almost 20 acres that his family has owned since 1947; he would like to do something with the remaining 18.8 acres. This is a pre-Existing barn dating approximately 1920 per Harold Morehouse. Mr. Reichert found a map from 1858 which shows a home and members of the Shoecraft Family were living there.

Carole Mulcahy: asked if there was ever a driveway for the barn; John answered that there were cinders put down and overgrown grass has covered them.

Carole Mulcahy: continued about the age of the siding & roof and also the height of the barn; John stated that the roof and siding were installed in the mid to late 1980’s and he did not know the height of the roof. Carole asked what the barn was used for;

Mr. Reichert: replied that it is used to store his lawn mower, Pop-up camper, etc.

Carole Mulcahy: Do you meet setback requirements? John replied, that 82’ Front and 54’ Side would still meet setback requirements.

Carole Mulcahy: asked if John would consider more land with the barn.

Mr. Reichert: response was no, one acre is enough.

Mike Belgiorno: asked if allowed, questioned marketability? How would you see future of 1 acre?

Dan DeLaus: asked is John knew of any other barn/shed the same size as his in the area. And is there a house and barn built on 1 acre in the area?

Carole: If you sublet: Would you like to continue using? Would you consider re-building the barn somewhere else?

Mr. Reichert: responded that he could not build – it would be costly and limited to size.

Scott Mechler: a neighbor, stated that he wanted to have a horse with a barn but it was not allowed.
Board Deliberations:

**Carole Mulcahy:** Pre-Existing, Non-Conforming Structure without a home. Height makes a difference.

**Andris Silins:** Could he take tractor, pop-up camper, etc. and store them outside on vacant land? Yes, it could be stored on vacant land. Could leave more land, approximately 5 acres?

**H Morehouse:** Could change perimeters. Harold could not find a variance or subdivision map from 1984. John has been talking to the town on his own accord.

**Dan DeLaus:** Could we deny without prejudice? Dan would not oppose more acreage.

**Carole Mulcahy:** Motions to deny due to code; Find other place to store; Pre-existing, Non-Conforming; Needs 5 acres

**Dan DeLaus:** 2nds motion to deny

**Special conditions required by the Board:**

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6. Edwin Summerhays, L.S. 2509 Browncroft Blvd, Rochester, New York 14625 on behalf of You Jia requests Area Variance from Article III-3-68-B and Article III-3-68-C of the Code to allow the construction of an office with more lot coverage and less setback at 2100 Penfield Road. The property is owned by Anita & Bernard Marvin and zoned B-NR. SBL # 139.08-1-61. Application #14Z-0012.

Appearances by:

Ed Summerhays, L.S. 2509 Browncroft Blvd Rochester, NY 14625
You Jia, Dentist and Owner of the business at 2100 Penfield Road Penfield, NY 14526

Presenter’s statements:

Ed Summerhays client would like to expand beyond setbacks; West and East properties have less setback. It is not offensive to other buildings in the area. 67% lot coverage – Future businesses would be accessed by a private drive to the north of property. This private drive is to the north of this property, which Harold added that could be multiple years in the making. Edwin reports that this new access drive would get rid of the black top, access would be right in and out access to Harris – Whalen Park Road; eliminating Penfield Road. No site plan was submitted due to the cost to client.

Andris Silins: asked if project could be re-planned if no north road access.

Ed Summerhays: If no north road access, plan would be to keep separation from neighbors and safety of pedestrians’ priority. Parking matching code.

Mike Belgiorno: Would we be seeing more applications like this? Town will need to address the zoning of this area; more spaces in parking area; move building forward.

Ed Summerhays: Yes, there will be more applications like this and the same issues with setbacks. North roadway will be a plus for this/these projects.

Ed Summerhays: added that it will be a 1 story building.

Ms. You Jia: added that there will be (2) Dentists (2) Hygienists and (2) Receptionists on staff at the office.

Board deliberations:

Special conditions required by the Board:
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7. Chris Centola-Costich Engineering, 217 Lake Avenue, Rochester, New York 14608 on behalf of Qdoba Mexican Grill restaurant requests an Area Variance from Article IV-4-11 of the Code to allow the construction of a restaurant with less parking and a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-D & E and Article VII-7-13-C of the Code to allow more than one (1) freestanding sign with less setback and more than one (1) building mounted sign at 1867 Empire Blvd. The property is owned by Edward R Kellett Jr & Penfield-Kellett LLC and Zoned GB. SBL #093.11-1-35. Application #14Z-00013.

Appearances by:
Chris Centola – Costich Engineering
Matt Lester, Broker for Qdoba Mexican Grill

Presenter’s statements:

Chris Centola: stated there are 61 Seats in restaurant, not 44 seats as had been stated at prior meeting. 1.1 parking space per 2 seats in restaurant – this exceeds Monroe County which reads 1 parking spot per 2 seats. This is not a determent to the Town of Penfield. Signage: We would like Entrances more visible, and north entrance along Bay Road, due to the triangular shape of lot; it is still below the maximum feet allowed.

Dan DeLaus: Is there any rental parking in the area?
Matt Lester: had checked out parking in the area BOTH Wegmans and Ray Justice, both to the Northeast. Both were not interested. The business owner feels the parking spaces are adequate. Turnover is quick, people are in and out; like a buffet. Car entrances, Ingress and Egress property bought from Wegmans.

Regarding Signage:

Matt Lester: would like visibility from every direction (4 different signs). There are 2 fronts to the building; some buildings in the area have 2 fronts
Dan DeLaus: Asked about Mobil-what signage did Mobil have- Mobil had 2 large signs when their gas station was there.
Mike Belgiorno: Could you do the same with directional sign?
Matt Lester: Yes, but we wanted to ask for more, first. The Planning Board did approve the Parking. Parking is a challenge off of Bay and Empire: 2 lefts off of Empire Blvd “After the fact.”

Board deliberations:
Signage would help both buyer and seller.
Dan DeLaus: Entitled to 2 building signs without monument. If corner stays empty – that’s a dis-service to the Town of Penfield. Would like to see more detail on signs.
**Mike Belgiorno:** Building mounted signs outweigh free standing signs. Two Building signs and 1 monument sign with 5 year review.

Special conditions required by the Board:

Approved Signage:

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Approved Parking: Received Approval from Planning for the Parking

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**Vote: A=Approve, D=Deny, NP=Not Present, AB=Abstain
**Board Voted on “January 7th Draft of Minutes”**
Dan DeLaus: Vote on the January Minutes
Motioned to Approve by Dan DeLaus
Seconded by Andris Silins
Carole and Mike Approved
Draft of Minutes was **approved**.

**May 15th ZBA Meeting** will be **tentatively** changed to **May 19th, 2014**

**Applications on for March 20, 2014:**
Baytowne Plaza
Walmart Super Store: Issues – Lot coverage, parking, outside storage
Bread & Breakfast
Bill Burda-The Home Depot, 750 Panorama Trail S, Rochester, New York 14625 requests a Special Permit for Outside Storage and Display under Article IV-4-24 of the Code to allow storage and display of seasonal products at 750 Panorama Trail. The property is owned by Home Depot USA Inc. and zoned GB. SBL # 138.08-1-41.1. Application #14Z-0008.

SPECIAL PERMIT FOR OUTSIDE STORAGE AND DISPLAY AT 750 PANORAMA TRAIL S. (THE HOME DEPOT)

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Outside Storage and Display under Article IV-4-24 of the Code to allow an outside storage and display at 2175 Penfield Road; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on January 7, 2014, at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as an unlisted action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment and therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as an unlisted action and no further environmental review will be required.

Moved: Andris Silins
Seconded: Daniel DeLaus
Vote of the Board

Daniel DeLaus   AYE
Michael Belgiorno   AYE
Joseph Grussenmeyer   ABSENT
Carole Mulcahy   AYE
Andris Silins   AYE

The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Special Permit for Outside Storage and Display to allow the operator to display seasonal goods and products at 750 Panorama Trail S (The Home Depot), subject to the following conditions:

1. The applicant shall obtain a Special Permit from the Town Clerk’s Office and pay the appropriate fee.

2. This approval shall be granted for a period of five (5) years at which time the applicant shall be required to re-appear before this Board to request an extension of the uses the subject of this application.

3. The applicant shall comply with the requirements of the Building and Zoning Administrator and Fire Marshal.

4. The applicant shall comply with the requirements of the Fire Code of New York State and the Property Maintenance Code of New York State.

5. The applicant shall be required to ensure the entrances/exits from the building and the striped loading zone will not be obstructed by the placement of the seasonal products approved under this resolution.

6. The applicant has provided the Board with a map of the desired locations for storage and display of the approved seasonal products. Any changes proposed by the applicant to the approved locations shall be subject to review by this Board.

7. The applicant shall be responsible to properly maintain, at all times, the areas approved by this resolution, failure of which shall give rise to this Board exercising its rights under Town Code to revoke or modify this approval.

The Board bases its decision on its findings that:
1. Such storage and display is an accessory use to the main business conducted or to be conducted on the premises.

The applicant proposes to display and store merchandise that is sold by the business operating in the existing building. The merchandise that would be stored or displayed is merchandise that is customarily used for recreation or landscaping, designed for exterior use and are larger items or goods typically used outside by customers.

2. In a LB, FC, B-NR, or GB district, such storage and display is not within one hundred (100) feet of the line of a residential zoning district. In an LI district, such storage or display shall not occur within one hundred fifty (150) feet of the line of any residential zoning district.

The applicant has represented to the Board that the subject property is adjacent to other properties in a General Business zoning district and the closest residential zoned property is more than five hundred (500) feet from the subject property.

3. Such storage and display is not at such distance from any public highway as to interfere with the safe use of such traffic.

The Board determined that the proposed storage and display will not interfere with the safe use of such traffic. The applicant has represented to the Board that some of the goods will be displayed adjacent to the convenience store and will not interfere with traffic on Penfield Road, Fairport Nine Mile Point Road or the vehicular traffic patterns on the subject property.

4. Such storage and display does not unreasonably interfere with the quiet enjoyment of property by adjacent property owners.

The Board has restricted the applicant from storing or displaying any items outside of the locations shown and represented at the public hearing on February 20, 2014.

The Board’s decision was based upon the following information:

1. A Special Permit for Outside Storage and Display application form stamped received January 17, 2014 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated January 14, 2014 stamped received January 14, 2014 by the Building and Zoning Office.


5. A map of the property prepared by the applicant and represented at the public hearing.

6. Testimony provided by the applicant and interested parties at the public hearing.

Motion to approve the application for a Special Permit for Outside Storage and Display at 2175 Penfield Road

Moved: Andris Silins
Seconded: Daniel DeLaus

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer ABSENT
Carole Mulcahy AYE
Andris Silins AYE

The motion to approve the application was carried.
John Reichert, 39 Black Watch Trail, Fairport, New York 14450 requests an Area Variance from Article III-3-35-D-3 of the Code to allow a larger existing barn than permitted at 1205 Shoecraft Road. The property is owned by John Reichert and zoned RR-1. SBL # 094.01-1-43.1. Application #14Z-0011.

AREA VARIANCE TO ALLOW A LARGER EXISTING BARN THAN PERMITTED AT 1205 SHOECRAFT ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-35-D-3 to allow a larger existing barn than permitted at 1205 Shoecraft Road; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on February 20, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act has classified this proposal as a Type II action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment. Therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as a Type II action and no further environmental review will be required.
Moved: Carole Mulcahy
Seconded: Daniel DeLaus

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer ABSENT
Carole Mulcahy AYE
Andris Silins AYE

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby DENIES WITHOUT PREJUDICE the application for an area variance of three hundred fifty (350) square feet from the permitted two hundred fifty (250) square foot maximum size accessory building that would have resulted in a six hundred (600) square foot accessory building at 1205 Shoecraft Road.

The Board considered the following five (5) standards in applying the balancing test, which weighs the benefit to the applicant to the detriment to the health, safety and welfare of the neighborhood or community and bases its decision on the following findings as to each of the five (5) standards:

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the area variance.

The Board determined that an undesirable change would be produced in the character of the neighborhood by the granting of the requested area variance. The current 19 acre parcel without a permitted use had been created on or around 1985 when parcel A and parcel B were created as represented on the submitted map. At that time, the Code required a primary permitted use prior to an accessory use on any parcel under the Code. No evidence was found nor provided that the original subdivision creating parcel B sought a variance to allow the 20 ft. by 30 ft. barn on the subject property. Although, the current parcel B could be considered non-conforming the Board was concerned with increasing the degree of non-conformity of the parcel by reducing the size of the parcel from 19 acres to 1 acre.

2. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance.
The Board determined that the benefit sought by the applicant could not be achieved by some other method feasible other than the requested area variance. The applicant has represented to the Board that other properties have been approved with a similar sized barn structure on 1 acre parcels. A property had been granted approval for a substandard sized property with a larger barn structure but this property did have a primary permitted use (single family residence) which the property the subject of this application does not have the similar residence.

3. Whether the requested area variance is substantial.

The Board determined that the requested area variance is substantial. The applicant was requesting variances from structure square foot size, height and general use on a property without any primary use and the request in totality is greater than this Board could support in granting an approval to allow the existing barn on a small parcel.

4. Whether the proposed area variance will have an adverse effect or impact on physical or environmental conditions in the neighborhood or district.

The Board determined that the existing barn did not create an adverse impact on the physical or environmental conditions in the neighborhood.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has longer term interests to develop the remaining acres outside of the 1 acre parcel intended to be conveyed with the existing barn.

The Board is directed by statutory requirements to grant the minimum variance necessary. The approved setback shall not be modified at any time in the future without approval from the Board.

The Board’s decision was based upon the following information:

1. An Area Variance application form stamped received January 8, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated December 29, 2013 stamped received January 8, 2014 by the Building and Zoning Office.
4. A photograph of the existing barn provided by the applicant stamped received January 8, 2014 by the Building and Zoning Office.

5. A site plan provided by the applicant dated 1985 stamped received January 8, 2014 by the Building and Zoning Office.

6. Testimony provided by the applicant and interested parties at the public hearing.

Moved to deny the application for area variance: Carole Mulcahy
Seconded: Michael Belgiorno

Vote of the Board

Daniel DeLaus       AYE
Michael Belgiorno    AYE
Joseph Grussenmeyer ABENT
Carole Mulcahy      AYE
Andris Silins        AYE

The motion to deny the application was carried.
Edwin Summerhays, L.S. 2509 Brown croft Blvd, Rochester, New York 14625 on behalf of You Jia requests Area Variance from Article III-3-68-B and Article III-3-68-C of the Code to allow the construction of an office with more lot coverage and less setback at 2100 Penfield Road. The property is owned by Anita & Bernard Marvin and zoned B-NR. SBL # 139.08-1-61. Application #14Z-0012.

AREA VARIANCE TO ALLOW MORE LOT COVERAGE THAN ALLOWED AT 2100 PENFIELD ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-68 B to allow more lot coverage than allowed by Code at 2100 Penfield Road; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on February 20, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act has classified this proposal as a Type II action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment. Therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as a Type II action and no further environmental review will be required.
Moved:          Joseph Grussenmeyer  
Seconded:       Daniel DeLaus  

Vote of the Board  

Daniel DeLaus       AYE  
Michael Belgiorno    AYE  
Joseph Grussenmeyer  ABSENT  
Carole Mulcahy       AYE  
Andris Silins        AYE  

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of one (1) percent from the allowed sixty five (65) percent maximum lot coverage resulting in a lot coverage of sixty six (66) percent to allow the development of a one (1) story dental office with associated appurtenant parking at 2100 Penfield Road subject to the following conditions:

1. The applicant shall be required to comply with the requirements of the Building and Zoning Administrator and Fire Marshal.  

2. The applicant shall be required to obtain a building permit from the Building and Zoning Office and pay the appropriate fee.  

3. The applicant shall obtain a Certificate of Occupancy from the Building and Zoning Office.  

4. The applicant shall be required to obtain site plan approval from the Planning Board.  

5. The applicant shall be required to comply with the requirements of the Town Engineer.  

6. The applicant shall be required to comply with the requirements of the Property Maintenance Code of New York State.  

The Board considered the following five (5) standards in applying the balancing test, which weighs the benefit to the applicant to the detriment to the health, safety and welfare of the neighborhood or community and bases its decision on the following findings as to each of the five (5) standards:

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the area variance.
The Board determined that there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that the parcels in the vicinity of the subject property are in a transitional period from a residential to a non-retail business community as evidenced by the Town Board resolution dated December 21, 2011 re-zoning properties 2092-2124 Penfield Road. The present use of the properties adjacent to the subject property is that of residences but these properties are actively being marketed as commercial properties and would be expected to convert to non-retail commercial uses in the future.

2. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance.

The Board determined that the benefit sought by the applicant could not be achieved by some other method feasible for the applicant to pursue. The applicant has represented to the Board that effort was made to design the parking facilities differently but those alternate designs would have reduced the driving lanes on the property and these changes would have reduced traffic safety on the site.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is minimal. The final engineering for the properties will required the elimination of the existing driveway from Penfield Road and this feature, if eliminated at this time, would reduce the lot coverage to be within the maximum allowed square footage.

4. Whether the proposed area variance will have an adverse effect or impact on physical or environmental conditions in the neighborhood or district.

The Board determined that the proposed variance would not have an adverse effect or impact on physical or environmental conditions in the neighborhood or district. The applicant represented to the Board that the physical improvements required by the approvals will be properly engineered to not impact the adjacent properties with any storm water runoff.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant represented to the Board that the need for this area variance for lot coverage will be eliminated at the time the driveway access from Penfield Road is removed. Until the final design for the rear access drive to Harris Whalen Park Road is implemented the applicant will need the driveway access from Penfield Road.
The Board is directed by statutory requirements to grant the minimum variance necessary. The approved setback shall not be modified at any time in the future without approval from the Board.

The Board’s decision was based upon the following information:

1. An Area Variance application form stamped received January 20, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 20, 2014 stamped received January 20, 2014 by the Building and Zoning Office.


7. A site plan prepared by Edwin Summerhays, L.S. dated December 2013 and stamped received January 20, 2014 by the Building and Zoning Office.

8. Testimony provided by the applicant and interested parties at the public hearing.

Moved to approve the application for area variance for lot coverage: Andris Silins
Seconded: Michael Belgiorno

Vote of the Board

Daniel DeLaus  AYE
Michael Belgiorno  AYE
Joseph Grussenmeyer  ABENT
Carole Mulcahy  AYE
Andris Silins  AYE

The motion to approve the application was carried.
AREA VARIANCE TO ALLOW LESS SETBACK THAN ALLOWED AT 2100 PENFIELD ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-68 C to allow less setback than required by the Code at 2100 Penfield Road; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on February 20, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act has classified this proposal as a Type II action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment. Therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as a Type II action and no further environmental review will be required.

Moved: Andris Silins
Seconded: Daniel DeLaus

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer ABSENT
Carole Mulcahy AYE
Andris Silins AYE

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of fourteen (14) feet from the required fifty (50) foot front setback requirement resulting in a setback of thirty six (36) feet from the front property line and an area variance of three (3) feet from the required twenty (20) foot side setback resulting in a setback of seventeen (17) feet from the west property line to allow the construction of a one (1) story dental office at 2100 Penfield Road subject to the following conditions:
1. The applicant shall be required to comply with the requirements of the Building and Zoning Administrator and Fire Marshal.

2. The applicant shall be required to obtain a building permit from the Building and Zoning Office and pay the appropriate fee.

3. The applicant shall obtain a Certificate of Occupancy from the Building and Zoning Office.

4. The applicant shall be required to obtain site plan approval from the Planning Board.

5. The applicant shall be required to comply with the requirements of the Town Engineer.

6. The applicant shall be required to comply with the requirements of the Property Maintenance Code of New York State.

The Board considered the following five (5) standards in applying the balancing test, which weighs the benefit to the applicant to the detriment to the health, safety and welfare of the neighborhood or community and bases its decision on the following findings as to each of the five (5) standards:

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the area variance.

   The Board determined that an undesirable change will not be produced. The applicant has represented to the Board that the parcels in the vicinity of the subject property are in a transitional period from a residential to a non-retail business community as evidenced by the Town Board resolution dated December 21, 2011 re-zoning properties 2092-2124 Penfield Road. The properties which were the subject of the re-zoning approval in December 2011 will likely all need to be reviewed for reduced setback standards due to the requirement of the access drive at the rear of the properties. This feature pushes the developable area of the lot forward and encroaching into the front setback area of the properties.

2. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance.

   The Board determined that the benefit sought could not be achieved by some other feasible method. The applicant has represented to the Board that in order to meet safe design standards as well as accommodate the requirement for the future private road to the rear of the parcel, the proposed improvements extend beyond the standard setback envelope.
3. Whether the requested area variance is substantial.

The applicant has represented to the Board that overall the requested are variances are not substantial. The furthest most forward component of the proposed one (1) story office is for the entry canopy and the main structure to accommodate the office would be setback a distance of forty (40) feet from the front property line.

4. Whether the proposed area variance will have an adverse effect or impact on physical or environmental conditions in the neighborhood or district.

The applicant represented to the Board that the physical improvements required by the approvals will be properly engineered to not impact the adjacent properties with any storm water runoff.

5. Whether the alleged difficulty was self-created.

The applicant has represented to the Board that the requirement to construct an access drive along the rear of the subject property pushed the development window further forward than the typical design standard would have required for this property.

The Board is directed by statutory requirements to grant the minimum variance necessary. The approved setback shall not be modified at any time in the future without approval from the Board.

The Board’s decision was based upon the following information:

1. An Area Variance application form stamped received January 20, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 20, 2014 stamped received January 20, 2014 by the Building and Zoning Office.


7. A site plan prepared by Edwin Summerhays, L.S. dated December 2013 and stamped received January 20, 2014 by the Building and Zoning Office.

8. Testimony provided by the applicant and interested parties at the public hearing.

Moved to approve the application for area variance for lot coverage: Andris Silins
Seconded: Michael Belgiorno

Vote of the Board

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The motion to approve the application was carried.
TOWN OF PENFIELD
3100 Atlantic Avenue, Penfield, NY 14526-9798

PENFIELD ZONING BOARD OF APPEALS
February 20, 2014

Chris Centola-Costich Engineering, 217 Lake Avenue, Rochester, New York 14608 on behalf of Qdoba Mexican Grill restaurant requests an Area Variance from Article IV-4-11 of the Code to allow the construction of a restaurant with less parking and a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-D & E and Article VII-7-13-C of the Code to allow more than one (1) freestanding sign with less setback and more than one (1) building mounted sign at 1867 Empire Blvd. The property is owned by Edward R Kellett Jr & Penfield-Kellett LLC and Zoned GB. SBL #093.11-1-35. Application #14Z-00013.

AREA VARIANCE TO ALLOW A RESTAURANT (QDOBA MEXICAN GRILL) WITH LESS PARKING AT 1867 EMPIRE BLVD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article IV-4-11 to allow restaurant (Qdoba Mexican Grill) with less parking at 1867 Empire Blvd; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on February 20, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act has classified this proposal as an unlisted action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment and therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as an unlisted action and no further environmental review will be required.
Moved: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer ABSENT
Carole Mulcahy AYE
Andris Silins AYE

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of thirteen (13) parking spaces from the required forty (49) parking spaces resulting in thirty six (36) parking spaces for a restaurant (Qdoba Mexican Grill) at 1867 Empire Blvd, subject to the following conditions:

1. The applicant shall be required to obtain a Building Permit from the Building and Zoning Office and pay the appropriate fee.
2. The applicant shall be required to comply with the requirements of the Building and Zoning Administrator.
3. The applicant shall be required to comply with the requirements of the Property Maintenance Code of New York State and Article IV-4 28 of the Town Code.
4. The applicant shall be required to obtain site plan approval from the Planning Board.
5. The applicant shall be required to comply with the requirements of the Town Engineer.

The Board considered the following five (5) standards in applying the balancing test, which weighs the benefit to the applicant to the detriment to the health, safety and welfare of the neighborhood or community and bases its decision on the following findings as to each of the five (5) standards:

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the area variance.
The Board determined that an undesirable change would not be produced in the character of the neighborhood by the granting of the requested area variance for parking. The loss of the thirteen (13) parking spaces will not impact the operator’s ability to conduct a successful business on the subject property and this property has been derelict and unused for a number of years.

2. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance.

The Board determined that the benefit sought by the applicant could not be achieved by some other method feasible other than the requested area variance. The applicant has represented to the Board that efforts were that were unsuccessful to secure parking from adjacent property owners would had excess parking on the properties. These efforts would have provided the applicant with the necessary number of parking spaces to comply with the requirements of the Code.

3. Whether the requested area variance is substantial.

The Board determined that the requested area variance is not substantial. The applicant has represented to the Board that although the code would require forty nine (49) parking spaces the operator’s business model only requires the thirty (36) parking spaces represented on the site plan.

4. Whether the proposed area variance will have an adverse effect or impact on physical or environmental conditions in the neighborhood or district.

The Board determined that the requested area variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The applicant has represented to the Board that the granting of the requested area variances will allow the property to be redeveloped and eliminate any current adverse visual effects occurring on the property and will have no adverse environmental conditions in the neighborhood.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that to redevelop the property to the requirements of the applicant, the variances are necessary.

The Board is directed by statutory requirements to grant the minimum variance necessary. The approved setback shall not be modified at any time in the future without approval from the Board.
The Board’s decision was based upon the following information:

1. An Area Variance application form stamped received January 29, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 29, 2014 stamped received January 29, 2014 by the Building and Zoning Office.


5. Testimony provided by the applicant and interested parties at the public hearing.

Moved to approve the application for area variance: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

Daniel DeLaus: AYE
Michael Belgiorno: AYE
Joseph Grussenmeyer: ABENT
Carole Mulcahy: AYE
Andris Silins: AYE

The motion to approve the application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW TWO (2) FREESTANDING SIGNS FOR THE RESTAURANT (QDOBE MEXICAN GRILL) AT 1867 EMPIRE BLVD

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-D of the Code to allow two (2) freestanding signs for a restaurant (Qdoba Mexican Grill) at 1867 Empire Blvd; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on February 20, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as an unlisted action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment and therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as an unlisted action and no further environmental review will be required.

Moved: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer ABENT
Carole Mulcahy AYE
Andris Silins AYE

The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby DENIES the application for a Special Permit for Signage to allow two (2) freestanding signs for a restaurant (Qdoba Mexican Grill) at 1867 Empire Blvd.

The Board considered the following five (5) standards in applying the balancing test, which weighs the benefit to the applicant to the detriment to the health, safety and welfare of the neighborhood or community and bases its decision on the following findings as to each of the five (5) standards:
1. The proposed sign is in harmony with the standards for permitted signs and within the spirit of Article VII-7.

The Board determined that the proposed sign is not in harmony with the standards for permitted signs. The Board was not presented any evidence that a similar sized property (3/4 of an acre) has been approved any similar signage requests.

2. The proposed sign shall be compatible and not detrimental to neighborhood properties.

The Board determined that the proposed second freestanding sign would not be compatible to neighborhood properties. The subject property is located at the intersection of Empire Blvd and Bay Road. The proposed building is located within seven (7) feet of the right of way of Bay Road and the Board determined that the building mounted signage would be sufficient to represent the operator’s interest at the subject property.

3. The proposed sign does not; by reason of its location create a hazard of any nature to the public in general or to any owner or occupant of neighborhood properties.

The Board determined that the location of the proposed signs would not create a hazard to the public in general or to any owner or occupant of neighboring properties.

4. The proposed sign does not in any way interfere with the lawful and aesthetic enjoyment of the public highway or neighborhood properties.

The Board determined that the sign does not interfere with the lawful and aesthetic enjoyment of the public highway.

5. The proposed sign is necessary to enhance the business identification, because of the location of the business’ proximity to the front property line, the exterior appearance of the structure containing the business and the nature of the business.

The Board determined that the proposed freestanding signage is not necessary to enhance the business identification. The proposed business will be represented by an existing freestanding sign at the corner of Empire Blvd/Bay Road and also two (2) building mounted signs.

The Board’s decision was based upon the following information:

1. An Area Variance application form stamped received January 29, 2014 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated January 29, 2014 stamped received January 29, 2014 by the Building and Zoning Office.


5. Testimony provided by the applicant and interested parties at the public hearing.


Moved to approve the Board’s motion to deny the special permit for two freestanding signs:
Moved: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

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The motion to deny the application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW A FREESTANDING SIGN WITH LESS SETBACK FOR THE RESTAURANT (QDOBE MEXICAN GRILL) AT 1867 EMPIRE BLVD

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-E of the Code to allow a freestanding sign with less setback for a restaurant (Qdoba Mexican Grill) at 1867 Empire Blvd; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on February 20, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as an unlisted action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment and therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as an unlisted action and no further environmental review will be required.

Moved: Daniel DeLaus
Seconded: Carole Mulcahy

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<td>Andris Silins</td>
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The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby APPROVES the application for a Special Permit for Signage to allow a freestanding sign
to be located 16.7 ft. from the right of ways of Empire Blvd and Bay Road for a restaurant (Qdoba Mexican Grill) at 1867 Empire Blvd, subject to the following conditions:

1. The applicant shall be required to obtain a Sign Permit from the Building and Zoning Office and pay the appropriate fee.

2. The applicant shall be required to comply with the requirements of the Building and Zoning Administrator.

3. The applicant shall be required to comply with the Building Code of New York State.

4. The applicant shall be required to comply with the requirements of the Property Maintenance Code of New York State and Article IV-4 28 of the Town Code.

The Board considered the following five (5) standards in applying the balancing test, which weighs the benefit to the applicant to the detriment to the health, safety and welfare of the neighborhood or community and bases its decision on the following findings as to each of the five (5) standards:

1. The proposed sign is in harmony with the standards for permitted signs and within the spirit of Article VII-7.

The Board determined that the proposed sign is in harmony with the standards for permitted signs. The applicant has proposed to reuse the location of the existing freestanding sign previously used by Mobile on the Run. The applicant is proposing to reduce the sign size to a compliant twenty (20) sq. ft. sign.

2. The proposed sign shall be compatible and not detrimental to neighborhood properties.

The Board determined that the freestanding sign would be compatible to neighborhood properties. The sign is located at the intersections of Empire Blvd and Bay Road and is at the furthest distances from the neighboring properties.

3. The proposed sign does not; by reason of its location create a hazard of any nature to the public in general or to any owner or occupant of neighborhood properties.

The Board determined that the location of the proposed signs would not create a hazard to the public in general or to any owner or occupant of neighboring properties. The location of the freestanding sign is at a location the will afford travelers on Empire Blvd, Bay Road and Creek Street the best visibility of the sign.

4. The proposed sign does not in any way interfere with the lawful and aesthetic enjoyment of the public highway or neighborhood properties.

The Board determined that the sign does not interfere with the lawful and aesthetic enjoyment of the public highway. The freestanding sign will provide direction to travelers on the highway.
5. The proposed sign is necessary to enhance the business identification, because of the location of the business’ proximity to the front property line, the exterior appearance of the structure containing the business and the nature of the business.

The Board determined that the freestanding signage is necessary to enhance the business identification. The applicant has represented to the Board that the operator (Qdoba Mexican Grill) considers the requested signage to be critical to the businesses success at this site.

The Board’s decision was based upon the following information:

1. An Area Variance application form stamped received January 29, 2014 by the Building and Zoning Office.
3. A Short Environmental Assessment Form dated January 29, 2014 stamped received January 29, 2014 by the Building and Zoning Office.
5. Testimony provided by the applicant and interested parties at the public hearing.

Moved to approve the Board’s motion to grant the special permit to allow a freestanding sign with less setback:

Moved: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

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The motion to approve the application was carried
SPECIAL PERMIT FOR SIGNAGE TO ALLOW TWO BUILDING MOUNTED SIGNS FOR THE RESTAURANT (QDOBE MEXICAN GRILL) AT 1867 EMPIRE BLVD

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-C of the Code to allow a two (2) building mounted signs for a restaurant (Qdoba Mexican Grill) at 1867 Empire Blvd; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on February 20, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as an unlisted action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment and therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as an unlisted action and no further environmental review will be required.

Moved: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

Daniel DeLaus  AYE
Michael Belgiorno  AYE
Joseph Grussenmeyer  ABENT
Carole Mulcahy  AYE
Andris Silins  AYE

The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby APPROVES the application for a Special Permit for Signage to allow two (2) building mounted signs (sign 1 -4 ft 6 in by 11 ft. 9 in and sign 2 -2 ft. 4 in by 12 ft. 8 in) for a restaurant (Qdoba Mexican Grill) at 1867 Empire Blvd, subject to the following conditions:

1. The applicant shall be required to obtain a Sign Permit from the Building and Zoning Office and pay the appropriate fee.
2. The applicant shall be required to comply with the requirements of the Building and Zoning Administrator.

3. The applicant shall be required to comply with the Building Code of New York State.

4. The applicant shall be required to comply with the requirements of the Property Maintenance Code of New York State and Article IV-4 28 of the Town Code.

The Board considered the following five (5) standards in applying the balancing test, which weighs the benefit to the applicant to the detriment to the health, safety and welfare of the neighborhood or community and bases its decision on the following findings as to each of the five (5) standards:

1. The proposed sign is in harmony with the standards for permitted signs and within the spirit of Article VII-7.

The Board determined that the proposed building mounted signs are in harmony with the standards for permitted signs. The applicant has represented to the Board that the total signage requested for the two (2) building mounted signs (eighty eight (88) sq. ft.) is less than the signage allowed for one (1) sign (one hundred four (104) sq. ft.).

2. The proposed sign shall be compatible and not detrimental to neighborhood properties.

The Board determined that the two (2) building mounted signs would be compatible with neighborhood properties. The applicant has represented to the Board that the previous operator at the subject property had two (2) building mounted signs and signage on the gas pump canopy and this application reduces the total signage for the site.

3. The proposed sign does not; by reason of its location create a hazard of any nature to the public in general or to any owner or occupant of neighborhood properties.

The Board determined that the location of the building mounted signs would not create a hazard to the public in general or to any owner or occupant of neighboring properties. The building mounted signs will be affixed to the building and would not impact the neighboring properties.

4. The proposed sign does not in any way interfere with the lawful and aesthetic enjoyment of the public highway or neighborhood properties.

The Board determined that the sign does not interfere with the lawful and aesthetic enjoyment of the public highway. The proposed building mounted signs will provide direction to travelers on the highway.
5. The proposed sign is necessary to enhance the business identification, because of the location of the business’ proximity to the front property line, the exterior appearance of the structure containing the business and the nature of the business.

The Board determined that the freestanding signage is necessary to enhance the business identification. The applicant has represented to the Board that the operator (Qdoba Mexican Grill) considers the requested signage to be critical to the businesses success at this site.

The Board’s decision was based upon the following information:

1. An Area Variance application form stamped received January 29, 2014 by the Building and Zoning Office.
3. A Short Environmental Assessment Form dated January 29, 2014 stamped received January 29, 2014 by the Building and Zoning Office.
5. Testimony provided by the applicant and interested parties at the public hearing.

Moved to approve the Board’s motion to deny the special permit for two freestanding signs:
Moved: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer ABENT
Carole Mulcahy AYE
Andris Silins AYE

The motion to deny the application was carried