Penfield Zoning Board of Appeals
Meeting Minutes

The Zoning Board meeting at 6:30 PM local time Thursday, March 20, 2104, 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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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 hearings. For more detailed information, the reader should ask to listen to the recorded tape of the March 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.

Appearances by Robert Osterhoudt, P.E. – Bohler Engineering
John Mason with Hospitality Syracuse, Inc.

Presenter’s statements: Larger facility will need extra signage; Re-Image the building with signage. Taco Bell currently has 4 signs at this site and would like to repeat what is there; will be under the square footage allowed. Application is straight forward – took pictures of some surrounding business with similar signage: AAA, RiteAid, Metro Mattress, Zoom Tan, Hess, Bank of America and Monroe Muffler. The new image will square everything off – windows, tower, etc. The arch in front of the building is narrower and higher. Colors are very similar – and background will be gone from bell.

Board deliberations: Visual impact is not changing /same elements to approve.

Special conditions required by the Board:

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*Motion to: A=Approve, D=Deny, T=Table, O=Other

**Vote: A=Approve, D=Deny, NP=Not Present, AB=Abstain
2. Kirk Wright-Sign & Lighting Services, LLC, 530 Rt. 104, Ontario, New York 14519 on behalf of Vision Dodge Chrysler Jeep Ram requests Special Permit for Signage under Article VII-7-3 from Article VII-7-13-C of the Code to allow additional building mounted signage at 920 Panorama Trail South. The property is owned by 920 Panorama Trail South LLC and zoned GB. SBL #139.09-1-60.21. Application #14Z-0014.

Appearances by: Kirk Wright, Sign & Lighting Services, LLC
Mike, General Manager

Presenter’s statements: Received approval in May 2013 for existing signage; would like to make signs larger; Logos were approved also in May. Additional change, right side of building is for services; there will be 2 bays for service and 2 signs: SERVICE and EXPRESS SERVICE. The Express Service sign area would be for oil changes only. The signs would have LED illumination and would be on a timer to light from dusk to dawn. These signs would make this area less confusing and traffic flow would be controlled more efficiently. Looking for a slight increase in size – existing signs do not look big enough: it’s esthetics. Signs will be installed approximately 4 weeks after approval.

Board deliberations: Entitled to more square footage; it is allowed. Motioned to approve and seconded – all members approved with conditions.

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3. Daniel Blamowski-Tim Hortons Café & Bake Shop, 4455 Transit Road, Williamsville, New York 14221 requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-C of the Code to allow more than one (1) building mounted sign for Tim Hortons Café & Bake Shop at 2230 Penfield Road. The property is owned by LEM Associates and zoned LB. SBL # 140.01-1-8.1. Application #14Z-0015.

Appearances by: Daniel Blamowski – Tim Hortons Café & Bake Shop

Presenter’s statements: Additional wall signage – East of Route 250 and on the West side of the building. Peak is in the morning hours and want to attract west bound traffic. Blocked/Visibility – we have existing signage on the East side and would like to put another sign on the West side to identify “Tim Hortons” from the West; a new wall sign next to our drive-up window would help boost our customer base. We had a very slow start and projections were much higher than actual sales; along with the tough winter which kept our sales lower than expected. The building is completely visible from the East side – help is needed on the West.

Board deliberations: Motion made to approve 2nd sign to identify Time by Andris Silins and seconded by Dan DeLaus.

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4. Zachary Cope-St Pauly Textile, Inc., 1067 Gateway Drive, Farmington, New York 14425 requests an Area Variance and a Special Permit for Outside Storage and Display from Article IV-4-24 of the Code to allow a clothing collection receptacle at 35 & 39 Gebhardt Road. The property is owned by St Joseph’s Catholic Church & School and zoned R-1-15. SBL # 124.18-1-83.1. Application #14Z-0016.

Appearances by: Ben DeGeorge, Owner of St Pauly Textile, Inc. along with his Father and 2 brothers.

Presenter’s statements: All sheds in Penfield sponsored by Habitat for Humanity – Property line is 75’ away from where shed is being placed and it should be 150’ – the clothing collected is sent to the Red Cross, etc. Habitat for Humanity receives funding for the amount of clothing dropped off at the shed. Located away from the school and the church. The wood shed is 8’ X 12’, beige with brown trim and has a metal shoot for clothing. No lighting on shed and there is a buffer of trees and shrubs, between the shed and surrounding neighbors. Drop off is 24/7 and the monitoring of the shed is done by 65 volunteers from Habitat for Humanity who collect the clothing and maintain the outside of the shed, to keep it neat and clean in appearance. The height is 6” tall. There are residential sheds in the neighborhood which you can see the back of. As far as marketing of the shed, there is one sandwich sign placed out front during regular business hours. If the shed is moved to the back of the property Ben said that his company would plant shrubs, etc. for a buffer in that area.

Board deliberations: Carole motioned to approve shed on St Joseph’s Church/School property, seconded by Dan DeLaus. Shed must be monitored everyday as stated. A buffer will be needed to screen 50% of the shed. No extra lighting allowed and pick up is once a week. All board members present voted to allow.

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5. Paul Colucci-The DiMarco Group, 1950 Brighton-Henrietta Town Line Road, Rochester, New York 14623 requests Area Variances from Article III-3-78-B, Article IV-4-11, Article IV-4-11-F to allow more lot coverage, smaller parking spaces and less parking spaces than required by Code and a Special Permit for Outside Storage and Display under Article IV-4-24 to allow outside storage and display at 1900, 1902, 1970, 1994-C and 1994-B Empire Blvd. The property is owned by The DiMarco Group and zoned GB. SBL #’s 093.02-1-23.11, 093.02-1-23.4, 093.02-1-13, 093.02-1-24.997 and 093.02-1-25.1. Application #14Z-0017.

Appearances by: Paul Colucci, The DiMarco Group
Mark Patrowski, Professional Engineer
Ashley Champion, Attorney - Nixon Peabody

Presenter’s statements: Applying for Area Variances and Special Permit. Town Board adopted CP-400 for rezoning of project; Planning Board adopted CP-02 Plan; State Environmental Quality Review. Site Plan submitted. Open space ratio will be 33.5%, compared to 27.0% recently. Guided by Town Board to seek variances. Economic Development goals were met. Outdoor display for Walmart would be used from April thru September for merchandise; flowers, mowers, flower racks, gas grills and more, bringing attention to the customer to purchase. This would be in area outside of normal travel route of patrons and trucks (North end parcel of Wal-Mart); Point of sale would be inside – then pick up merchandise outside, with the exception of peak season (Memorial Day and Labor Day) – there would be a point of sale set up outside. Southside of Walmart would be used for outside storage, was originally a driving lane. Presently parking meets code in NE area: it is used for overflow parking or employee parking, but mostly this parking area is never used. Bulk of lot is to code and other areas are smaller than code.

Concerns regarding the Outside Display: Mark Patrowski – would be a larger area for landscaping products, larger bagged goods, garden supplies, etc.; would be locked up at night. Mark continued that the safety of customers/patrons is #1 concern: the display area would be off to the side...delivery trucks come in from the Empire Blvd and proceed to the rear of the store. Point of sales will be convenient for all our customers. The berm 8’ tall will be from NW corner to along the rear to SE corner of parcel which will be sight/visual help. Variances are needed to get/achieve what is needed.

Comments from the Audience: Jennifer Lytle, Attorney - Phillips Lytle LLP representing Sovran Acquisition Limited Partnership, d/b/a Uncle Bob’s Self Storage. Opposed to all variances – would cause more traffic, addition parking and would affect the neighborhood and community, specifically businesses on Sovran Drive. Sovran Drive is managed as a private road,
approximately 24 feet wide. Client would prefer 0% increase in traffic flow. Project is too large. There is no permission for DiMarco to use easements. (Two easements: 35’ and 24’)
Requesting denial to all variances and permits.

Statement: Ashley Champion, Attorney – Nixon Peabody: These Variances are needed to insure adequate mitigation related to noise, sound, traffic, etc. Reduction of parking spaces and green area does not impact traffic to and from site. It is not an issue to worry about.

Board deliberations: Dan DeLaus motioned to approve: thorough review process. Circulate a motion of approval. Peter Weishaar added to circulate draft resolution; Seqra findings – statement modified by Town Board and Planning Board and Peter Weishaar. Work session. Seconded by Carole Mulcahy.

Special Permit:

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Board Deliberations:

Dan DeLaus: Bed and Breakfast – is not the customary home use. The only issue “Conditional Use Permit for the B & B. Applicant abides by provisions; nothing legally procedurally before us; hard evidence
Peter Wishaar: Compliant /Prior Home Occupation
Andris Silins: Motioned to allow B&B. We should allow it. No proof or evidence of increased traffic or crime.
Mike Belgiorno: Feeling is about the same. Zoning Ordinance drafted allowing someone other than the owner to reside at address.
Carole Mulcahy: Disagrees. Bed & Breakfast located on dead end street: Transient would have to go by every house; Neighbors would not know if these folks were strangers or not; Cars coming and going; Petitions received from neighbors and surrounding properties; Conditional Use: it is detrimental to the neighborhood; road is not a 2 lane road; No noise but who knows? Lighting – light where parking. One letter in favor but from someone who does not live in the neighborhood. Health Department needs to approve serving of food. Empire State is against it. To me it’s a rented room, anyone who has an extra room can rent it out? No proof of tax return or filing. Breakfast is a serve yourself- it would not be made for you.
Dan DeLaus: Focus: Present uses – traffic – noise; factually insufficient, traffic has increased. Documentation – turning in from Creek Street has been a problem. Customers can park in her driveway. No street lights on street. Compatibility: absolutely B&Bs are permitted. She has not met burden. No lighting. B&Bs are usually in touristy areas or on main highways. This particular B&B is not; it is not compatible. Will not have an adverse effect.
Mike: One more car on the street.
Andris: Is this a one way street? Or 2 lane road? It is a narrower 2 lane highway. It is tough to say no to. It is not a new road.
Dan: Legislatively we must be able to make a decision.
Carole Mulcahy motioned to deny; Dan Delaus seconded it; Mulcahy and DeLaus voted to Deny and Belgiorno and Andris voted to Approve.
Next meeting confirmed for: **Monday: April 21, 2014**

Minutes from February 20, 2014: Approved by ZBA

Peter Weishaar: Review Resolutions
    No Building Permit Captures ALL Issues

Zoning Board Applications: Should be complete
    Received by deadline “PLEASE NOTE: You Will Not Be Allowed
to Submit.. If paperwork is late: It might not be read before Public Hearing

Harold Noted: Never closed to information being submitted; can be accepted up to/during the meeting.
PENFIELD ZONING BOARD OF APPEALS
March 20, 2014

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 logos 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.

SPECIAL PERMIT FOR SIGNAGE TO ALLOW LOGOS LARGER THAN ALLOWED AND MORE THAN ONE (1) BUILDING MOUNTED SIGN FOR THE TACO BELL RESTAURANT AT 2157 FAIRPORT NINE MILE POINT ROAD

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-7-11-E and Article VII-7-13-C of the Code to allow logos larger than allowed and more than one (1) building mounted sign for the Taco Bell restaurant at 2157 Fairport Nine Mile Point 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 March 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: Michael Belgiorno
Seconded: Daniel DeLaus

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 logos larger than allowed and more than one (1) building mounted sign for the Taco Bell restaurant at 2157 Fairport Nine Mile Point Road, subject to the following conditions:

1. The applicant shall be permitted to install two (2) 54.75-inch by 58.5-inch signs depicting a “Bell” and two (2) 12-inch by 146-inch “Taco Bell” signs on the east and west facades of the existing building.

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

3. The applicant shall be required to comply with the requirements of the Building Code of New York State, the Property Maintenance Code of New York State and Article IV-4-24 of the Town Code.

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

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 Applicant has represented to the Board that the modifications proposed to the existing signage for Taco Bell is similar to the signage approved by this Board on April 13, 1992, containing the same elements.

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

The Board determined that the proposed modification to the signage approved by the April 13, 1992 resolution would complement the modifications proposed to the building facades, which include changes to the roof height and new E.I.F.S details for the building.

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 modification proposed for the existing signage would not create a hazard to the general public. The applicant has represented to the Board that the proposed signage would be securely mounted to the building façade in compliance with the applicable building codes.

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 modification proposed for the existing signage would not affect the traveling public along the highway. The building is setback approximately 80 feet from the right of way of Fairport Nine Mile Point Road.

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 signage is necessary to enhance the business identification. The applicant has represented to the Board that the proposed signage is necessary to the business because the existing building is setback 100 feet from the road and the business has no freestanding sign.

The Board’s decision was based upon the following information:
1. A Special Permit for Signage application form stamped received December 13, 2013 by the Building and Zoning Office.


3. A Monroe County Development Referral Form stamped received January 2, 2014.

4. A Short Environmental Assessment Form dated December 12, 2013 stamped received December 13, 2013 by the Building and Zoning Office.


6. A site plan prepared by Costich Engineering dated October 2013 stamped received January 29, 2014 by the Building and Zoning Office.

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


Moved to approve the Board’s motion to approve the application to modify the existing sign package:

Moved: Michael Belgiorno
Seconded: Daniel DeLaus

Vote of the Board

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

The motion to approve the application was carried.
Kirk Wright-Sign & Lighting Services, LLC, 530 Rt. 104, Ontario, New York 14519 on behalf of Vision Dodge Chrysler Jeep Ram requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-C of the Code to allow additional building mounted signage at 920 Panorama Trail South. The property is owned by 920 Panorama Trail South LLC and zoned GB. SBL #139.09-1-60.21. Application #14Z-0014.

SPECIAL PERMIT FOR SIGNAGE TO ALLOW ADDITIONAL BUILDING MOUNTED SIGNAGE AT 920 PANORAMA TRAIL SOUTH

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-7-11-E and Article VII-7-13-C of the Code to allow additional building mounted signage at 920 Panorama Trail South; 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 March 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: 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 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 additional building mounted signage at 920 Panorama Trail South, subject to the following conditions:

1. The applicant shall be permitted to install one (1) 28.25 inch by 12 foot “Chrysler” sign, one (1) 15 inch by 12 foot “Dodge” sign, one (1) 41 inch by 102 inch “Jeep” sign, one (1) 38 inch by 12 foot “Ram” sign, one (1) 30 inch by 130 inch “Vision” sign and one (1) 35.25 inch by 253 inch “Service/Mopar/Express Lane” sign.

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

3. The applicant shall be required to comply with the requirements of the Building Code of New York State, the Property Maintenance Code of New York State and Article IV-4-24 of the Town Code.

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

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 applicant has represented to the Board that the amount of signage proposed by this application will be less than the total square footage allowed by the Code.

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

The Board determined that the proposed signs are compatible and not detrimental to neighborhood properties. The proposed building mounted signs are to be installed on an existing building located in a commercially zoned district that has a variety of dealership franchises.

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 proposed building mounted signs will be constructed in accordance with the requirements of the Building Code of New York State.

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 signs do not interfere with the lawful and aesthetic enjoyment of the public highway. The proposed signage will be mounted on the façade of the existing building and will not impact the lawful 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 Applicant has represented to the Board that the additional sign square footage was a small increase from the signage approved by this Board on May 16, 2013. The reason for the change in the signage is to appropriately size the signs in the façade space along the frontage of the building. The applicant for the approval granted on May 13, 2013 did not consider appropriate scaling of the sign and building façade.

The Board’s decision was based upon the following information:
1. A Special Permit for Signage application form stamped received February 13, 2014 by the Building and Zoning Office.


3. A Monroe County Development Referral Form.

4. A Short Environmental Assessment Form dated February 13, 2014 stamped received February 13, 2014 by the Building and Zoning Office.


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


Moved to approve the Board's motion to approve the application to modify the existing sign package:

Moved: Carole Mulcahy
Seconded: Michael Belgiorno

Vote of the Board

<table>
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<tr>
<th>Name</th>
<th>Vote</th>
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<tr>
<td>Daniel DeLaus</td>
<td>AYE</td>
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<td>Michael Belgiorno</td>
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<td>Joseph Grussenmeyer</td>
<td>ABENT</td>
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<td>Carole Mulcahy</td>
<td>AYE</td>
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<tr>
<td>Andris Silins</td>
<td>AYE</td>
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The motion to approve the application was carried.
PENFIELD ZONING BOARD OF APPEALS
March 20, 2014

Daniel Blamowski-Tim Hortons Café & Bake Shop, 4455 Transit Road, Williamsville, New York 14221 requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-C of the Code to allow more than one (1) building mounted sign for Tim Hortons Café & Bake Shop at 2230 Penfield Road. The property is owned by LEM Associates and zoned LB. SBL # 140.01-1-8.1. Application #14Z-0015.

SPECIAL PERMIT FOR SIGNAGE TO ALLOW MORE THAN ONE (1) BUILDING MOUNTED SIGN FOR TIM HORTONS CAFÉ & BAKE SHOP AT 2230 PENFIELD ROAD

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 more than one (1) building mounted sign for Tim Hortons Café & Bake Shop at 2230 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 March 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: 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 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 second building mounted sign for Tim Hortons Café & Bake Shop at 2230 Penfield Road, subject to the following conditions:

1. The applicant shall be permitted to install one (1) 36 inch by 67.5 inch sign on the west façade of the existing building above the drive thru pick up window.

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

3. The applicant shall be required to comply with the requirements of the Building Code of New York State, the Property Maintenance Code of New York State and Article IV-4-24 of the Town Code.

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

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 applicant has represented to the Board that the amount of signage proposed by this application will be less than the total square footage allowed by the Code.

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

The Board determined that the proposed signs are compatible and not detrimental to neighborhood properties. The proposed building mounted signs are to be installed on an existing building located in a commercially zoned district that has a variety of businesses. The west side of the building faces an existing doctor’s office and small grocery store.

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 proposed building mounted signs will be constructed in accordance with the requirements of the Building Code of New York State.

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 signs do not interfere with the lawful and aesthetic enjoyment of the public highway. The proposed signage will be mounted on the façade of the existing building and will not impact the lawful 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 Applicant has represented to the Board that the additional sign square footage was a small increase to the current signage placed on the front façade of the building. Both signs total approximately 38 square feet of signage and the total square footage allowed for the building is 62 square feet. The applicant has also represented to the Board that the proposed building mounted sign for the west façade of the building would provide additional visibility to the east bound traffic on Penfield Road.

The Board’s decision was based upon the following information:
1. A Special Permit for Signage application form stamped received February 26, 2014 by the Building and Zoning Office.


3. A Monroe County Development Referral Form.

4. A Short Environmental Assessment Form dated February 212, 2014 stamped received February 26, 2014 by the Building and Zoning Office.

5. A site plan prepared by Fischer Associates dated January 2013 stamped received February 26, 2014 by the Building and Zoning Office.


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

8. A sign drawings prepared by Custom Sign Center, Inc. dated February 13, 2014 stamped received February 13, 2014 by the Building and Zoning Office.

Moved to approve the Board’s motion to approve the application to allow two (2) building mounted signs:

Moved: 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 deny the application was carried.
Zachary Cope-St Pauly Textile, Inc., 1067 Gateway Drive, Farmington, New York 14425 requests an Area Variance and a Special Permit for Outside Storage and Display from Article IV-4-24 of the Code to allow a clothing collection receptacle at 35 & 39 Gebhardt Road. The property is owned by St Joseph’s Catholic Church & School and zoned R-1-15. SBL # 124.18-1-83.1. Application #14Z-0016.

SPECIAL PERMIT FOR OUTSIDE STORAGE AND DISPLAY TO ALLOW A CLOTHING RECEPTACLE AT 35 & 39 GEBHARDT ROAD

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 35 & 39 Gebhardt 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 March 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: Carole Mulcahy
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 a clothing collection receptacle at 35 & 39 Gebhardt Road. The property is owned by St Joseph’s Catholic Church & School, 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. The applicant shall comply with the requirements of the Building and Zoning Administrator and Fire Marshal.

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

4. The applicant shall be required to provide a screening plan to provide adequate screening on the southwest/west side of the proposed clothing collection shed. The plan shall be subject to the approval of the landscape architect.

5. The applicant shall be permitted to place the clothing collection shed seventy (70) feet from the west property line.

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 has represented to the Board that the property owner (St Joseph’s Church and School) intends to sponsor this clothing collection shed to support a local chapter for Habitat for Humanity and to help get clothing to people who are in need.

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 placement of the collection shed would be seventy (70) feet from the west property line and would provide additional landscaping to act as screening to the residential properties to the west.

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 proposed location of the collection shed is in the corner of the existing parking facility which should cause little interference to the internal traffic flows.

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

The applicant has represented to the Board that additional landscape screening would be placed along the west side of the collection shed to buffer the existing residences to the west property line.

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

1. A Special Permit for Outside Storage and Display application form stamped received February 10, 2014 by the Building and Zoning Office.


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 35 & 39 Gebhardt Road

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

The motion to approve the application was carried.

CONDITIONAL USE PERMIT TO ALLOW A BED AND BREAKFAST FACILITY AT 472 HARROGATE DRIVE

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Article III-3-36-J and Article X-10-4 of the Code to allow a Bed and Breakfast Facility at 472 Harrogate Drive; 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 November 21, 2013, 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 approve to classify this application as an unlisted action and no further environmental review will be required.

Moved: Carole Mulcahy
Seconded: Daniel DeLaus
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 Conditional Use Permit to allow a Bed and Breakfast Facility at 472 Harrogate Drive.

Motion to deny the application for a Conditional Use Permit to allow a Bed and Breakfast Facility at 472 Harrogate Drive

Moved: Carole Mulcahy
Seconded: Daniel DeLaus

The motion to deny the application did not obtain the necessary three (3) affirmative votes as required by New York State Town Law Article 16 Section 267 therefore the application is Deemed Denied.