Penfield Zoning Board of Appeals  
Meeting Minutes

As the Zoning Board met at 6:00 PM local time Monday, May 19, 2014 in the Auditorium conference room to discuss, in a meeting open to the public, tabled matters and other business that was before it.

I. CALL TO ORDER:

PRESENT: Daniel DeLaus  
Joseph Grussenmeyer  
Carole Mulcahy  
Mike Belgiorno  
Andris Silins

ABSENT:

ALSO PRESENT: Harold Morehouse, Building and Zoning Administrator  
Katherine Kolich-Munson, Secretary

II. APPROVAL OF MINUTES: Approval of minutes for April 24, 2014 

Vote: Moved by: Belgiorno  Seconded by: Mulcahy 
DeLaus: Aye Belgiorno: Aye Grussenmeyer: Aye 
Mulcahy: Aye Silins: Aye 

Motion was carried

III. PUBLIC MEETING:

1. James Houchin, 12 Beechbrook Lane, Rochester, New York 14625 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of an enclosed porch with less setback at 12 Beechbrook Lane. The property is owned by James and Lorraine Houchin and zoned R-1-20. SBL #108.12-1-76. Application # 14Z-0027.

Mr. & Mrs. Houchin of 12 Beechbrook Lane:

- Mr. & Mrs. Houchin would like to enclose their current porch into a sun porch with windows, 3 season. It would be the same footprint and the same size. They would also like to move awning to patio area.
- The reasoning for the change is due to an overwhelming amount of mosquitoes and bees in the area. The Houchin’s are unable to utilize the area due to pests.
BOARD COMMENTS:

- Board member Grussenmeyer asked the applicant if it would be the same footprint, same size. Also, if moving the awning to patio is there a need to extend roof to be able to attach the awning and will you be changing materials. The Houchins response: It will be the same footprint and same size. The awning will be used over a small patio area and they will be attaching it to the roof. All the materials being used to enclose the porch will match the rest of their home.

PUBLIC COMMENTS:
N/A

2. Phil Palermo, 213 Torrey Pines Drive, Rochester, New York 14612 requests an area variance from Article III-3-37-A of the Code to allow a single family residence with less setback than required at 31 Sanfilippo Circle. The property is owned by Arlene and Phil Palermo and zoned R-1-20. SBL #108.12-1-82. Application #14Z-0028.

Mr. Phil Palermo of 213 Torrey Pines Drive:

- Mr. Palermo is requesting a 2 ½ inch variance (.51%)

BOARD COMMENTS:

- Board member Mulcahy asked how long the applicant has live at this resident. What room does it affect and is there a practical way to fix this issue. Applicant response: Mr. Palermo’s daughter currently resides at the address and has lived there for 3 years. Asking for the variance is the best option because of the measuring not being properly done at the time the house was built, has caused this variance to be needed.

PUBLIC COMMENTS:
N/A

Randall Peacock, R.A., 339 East Avenue, Rochester, New York 14604 on behalf of Tata Litchfield requests an Area Variance from Article III-3-37-A of the Code to allow the construction of an addition with less setback at 863 Penfield Road. The property is owned by Tara Litchfield and zoned R-1-20. SBL #123.18-3-42. Application #14Z-0019.

Randy Peacock on behalf of Tata Litchfield:

- Mr. Litchfield has been a resident of 213 Torrey Pines Drive since 2010 and the home was built in 1816. The home sits 27.7 feet in the right of way and they would like to add a third bedroom.

BOARD COMMENTS:
• Board member Andris asked if there would be need for removal of the pavement and the height if the addition.
• Board member Mulcahy asked applicant if they would be removing the two car garage.

PUBLIC COMMENTS:
N/A

3. Kimberly Mura and Jason Park, 869 Whalen Road, Penfield, New York 14526 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage with less setback at 869 Whalen Road. The property is owned by Kimberly Mura and Jason Park and zoned R-1-20. SBL# 124.14-1-17. Application #14Z-0021.

Kimberly Mura and Jason Park of 869 Whalen Road:
• The applicants would like to build garage with less setback. The need is for elder family to be able to park safely and keep visitor(s) cars off the road so that it does not cause congestion on the street.

BOARD COMMENTS:
• Board member Silins asked if the driveway will be along Nevele Creek and approximately how many trees will need to be removed. Also, what about the flooding? Applicant response: There will be a total of 8 trees removed.
• Board member Grussenmeyer suggested that the applicant may have to go to the Town Board for some sort of approval.

PUBLIC COMMENTS:
N/A

4. John O’Dell, 1617 Scribner Road, Penfield, New York 14526 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage addition with less setback at 1617 Scribner Road. The property is owned by John O’Dell and zoned R-1-20. SBL # 109.13-1-19. Application #14Z-0023.

John O’Dell of 1617 Scribner Road:
• The home is on a corner lot and located on the North side. Mr. O’Dell is requesting a variance for existing garage to expand to allow for proper storage of tools, mover, etc.

BOARD COMMENTS:
• Board member Mulcahy asked how old the home is and how long have they owned the home. Applicant response: The home was built in the 1950’s and they have owned the home for three years.
• Board member Mulcahy asked what the dimensions of addition will be. Applicant response: 14ft W X 21.6 H 
• Board member Mulcahy asked if the materials that will be used will also match the current ones on the home and if the garage will be used for basic use. Applicant response: All materials will be matched and the expansion is going to help them be able to fit there lawn mower and other supplies needed.

PUBLIC COMMENTS:
N/A

5. Sal Ciaramitaro, 52 Devonshire Drive, Penfield, New York 14526 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage addition with less setback at 52 Devonshire Drive. The property is owned by Julia and Sal Ciaramitaro and zoned R-1-15. SBL # 139.06-2-19. Application #14Z-0024.

Sal Ciaramitaro of 52 Devonshire Drive:

• Mr. Ciaramitaro has owned the home for 8 years and was built sometime back in the 1950’s. He is requesting a 4 ft. variance to convert a portion of his garage to a family space (for the front only). Extension will face Devonshire side. The one car garage will remain the same size and he will be repaving the new area of driveway.

BOARD COMMENTS:

• Chairman DeLaus asked about the entrance to the garage if they are just moving it out and will there be any drainage issues. Applicant response: They are just moving the garage out 3 ft.

PUBLIC COMMENTS:
N/A

6. Jake Cooper, AIA, 301 Idlewood Blvd, Baldwinsville, New York 13027 on behalf of Manish Sanon, DDS requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-B and Article VII-7-13-C of the Code to allow greater building mounted signage and more than one (1) building mounted sign at 2214 Penfield Road. The Property is owned by M Squared Development LLC and zoned BN-R. SBL # 140.01-1-7.4. Application #14Z-0022.

Dr. Sanon of 2214 Penfield Road:
• Dr. Sanon would like to put signage on Penfield Road and would like on the North and South side.

BOARD COMMENTS:

• Board member Grussenmeyer asked if patients would be coming in from Penfield Road or would most use the North entrance and if so, how would they know to use the back entrance. Applicant response: Yes, most people would be using the North entrance and Dr. Sanon was unsure how patients would know to use the back, but once patients are familiar, that will be known.
• Board member Belgiorno asked about the tree on the North where the sign will be hanging. Also was questioned if the signage for the front of the building is for business?? Dr. Sanon explained how the building was set up and his reasoning for the signage (The Planning Board had guided Dr. Sanon and he said perhaps he was not fully understanding what actually needed to be done)
• Board member Belgiorno asked if there were going to be any free standing signs. Dr. Sanon said he was working with Urgent Care to work something out.
• Board member Belgiorno explained to Dr. Sanon that he could have a free standing sign and one on the building and then there would be no need for a variance request. Dr. Sanon was unsure of what was needed and didn’t think he was allowed the free standing sign.
• Board member Grussenmeyer asked what the size of the signs will be and if they will be illuminated all day long. Dr. Sanon said they will only be lite during normal business hours.

PUBLIC COMMENTS:
N/A


Carmine Torchia and John Fitzpatrick presented:

• Mr. Torchia is requesting permission for his client to have 17 foot addition that fits between existing spaces for an indoor range. The construction of the material is block and will have a flat roof.

BOARD COMMENTS:

• Board member Grussenmeyer is the addition intended to increase membership. Also, will this indoor range help with less noise? Applicant response: The enclosed range is not intended to increase membership, it is to provide another option for members to come indoors, which provides less noise on the outdoor range. The material being used is concrete block filled
solid with a liner between that. It does not affect or change the range. Mr. Wayne informed the board and audience that it was an approximate reduction of decibels.

- Chairman DeLaus asked if applicant had the percentage of noise level being reduced with the indoor range. Applicant response: Not exact, but at least 19%.
- Chairman DeLaus asked if the indoor range will eliminate noise. Applicant response: It will lessen the noise outside because it gives the members the option to come indoors.
- Board member Mulcahy asked how many members the range current has. Applicant response: 2200
- Board member Mulcahy also asked about how many times per month of usage with the numbers of members. Applicant response: It varies
- Board member Belgiorno asked what the average number of members were that used the range all the time and what was the original date the building was built. Applicant response: Maybe 10. The original building was built in 1943 and then in 1949 the West side was built. The pistol range was built between 1971 and 1973.

PUBLIC COMMENTS:

- N/A

8. James Boglioli, Esq-Delta Sonic Carwash Systems, Inc., 570 Delaware Avenue, Buffalo, New York 14202 requests a modification to an existing Pre-Existing Non-Conforming Use under Article IV-4-15 of the Code to allow the installation of an overhead door and a Special Permit for Signage under Article VII-7-12-B and VII-7-13-C to allow a larger freestanding sign and a modification to the building mounted signage at 1660 Penfield Road. The property is owned by Delta Sonic Carwash Systems, Inc. and zoned LB. SBL # 138.08-1-26.1. Application #14Z-0025.

Mathew Oates

- Mr. Oates is proposing to replace the canopy to something flat and more modern. On the South elevation there would be new brick and decorative on top. North side will be 10 feet wide with overhead door. The improvements are to improve operations as well as a more up to date look. The new signage is less and smaller and with the new decorative look, it will blend and match building and make more appealing. Mr. Oates said that modifications will not cause any more distraction.
- Mr. Oates indicated that the restriction of hours on construction will definitely be utilized and set in place.

BOARD COMMENTS:

- Board member DeLaus asked what exactly would be coming off and why the initial change. Applicant response: We are replacing signage and updating look. It will be the same location and less footage. The change will make it more operational and more appealing.
- Board member Mulcahy asked where the Super Kiss sign be placed and where will they be located. Applicant response: The existing sign is internal and they will be on the rear where
the existing signs are. The oil change and ground detailing are all that we are proposing to change.

- Board member Grussenmeyer suggested that maybe they use a free standing tower.
- Board member Mulcahy asked how long the lights are on for.
- Chairman DeLaus questioned Mr. Morehouse in regards to the hours of construction and asked if they will apply to this project. Mr. Morehouse said they will.
- Board member Mulcahy asked the resident, Jim, if the noise level can be heard. Resident responded yes with what sounds like beeping cars but louder and it’s late at night.

PUBLIC COMMENTS:

- Joan Fleckenstein, Winterset Drive is concerned with the spot lights facing her house. She feels it does not need to have new signs it needs to be toned down. Resident said lights are on all night long.
- Jim, current resident near car wash. He explained that last year there was a concrete demo happening and they were working on a Sunday and at night and never stopped till 11:00. It is too much noise.

9. Ed Martin, P.E.-Land Tech Surveying & Planning, P.L.L.C, 3708 St Paul Blvd, Rochester, New York 14617 on behalf of Lawrence Giangreco, DDS requests Area Variances from Article III-3-78-B, Article III-3-78-C, Article IV-4-2-B and Article IV-4-11 of the Code to allow the construction of a dental office and appurtenant parking facilities with more lot coverage, less setback, less buffer and smaller parking spaces at 1285 & 1289 Creek Street. The property is owned by Creek Street LLC and zoned GB. SBL #'s 093.15-1-50 & 093.15-1-55. Application #14Z-0026.

Ed Martin on behalf of Lawrence Giangreco:

- Mr. Martin identified the 5 variances and indicated that both properties are below 65%. North of the property is Tim Hortons and there have been discussions of adding cross access to both properties.
- The variance for parking that is being asked for is for 9 X 18 instead of the 9 X 20.

BOARD COMMENTS:

- Board member Grussenmeyer mentioned that there were 6 variances on the map specs, but only 5 discussed.
- Board member Grussenmeyer asked what the other building is going to be. Applicant response: Not sure at this point, maybe down the road it may be a rental or Dr. may want to sale.
- Board member Grussenmeyer asked if the Dr. did want to sale, which part would be for sale. Applicant response: It would be the South parcel.
- Board member Grussenmeyer showed applicant, if you take the darkening area away, it would take away from the parking. Applicant response: Yes, those parking spaces may go away and parking will just in be in the rear.
Chairman DeLaus responded, and if they don’t disappear?

PUBLIC COMMENTS
N/A

TABLED APPLICATIONS:

1. Randy Bebout-T.Y. Lin International Engineering, Architecture & Land Surveying, P.C., 255 East Avenue, Rochester, New York 14604 on behalf of Mitch Ide-Dick Ide Honda requests an expansion of an existing Conditional Use Permit under Article III-3-77_a and Article X-10-4 of the Code to allow an addition to the existing building and a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-B and Article VII-7-13-C of the Code to allow greater building mounted signage and more than one (1) building mounted signs at 875 Panorama Trail S. The property is owned by Richard Ide and zoned GB. SBL #138.12-1-7.1. Application #14Z-0018.

   This application is CONTINUED TABLED

   Vote: Moved by: Belgiorno Seconded by: Grussenmeyer
   Chairman DeLaus: Aye Grussenmeyer: Aye Mulcahy: Aye
   Belgiorno: Aye Silins: Aye

2. Mabel Chu-Hunt Real Estate ERA, 3300 Monroe Avenue, Rochester, New York 14618 on behalf of Fu Zi Cui requests a Conditional Use Permit under Article III-3-72-E and Article X-10-4 of the Code to allow a Health Spa and Massage business at 1694 Penfield Road. The property is owned by D&L Realty Inc. and zoned LB. SBL #139.05-1-53. Application # 14Z-0006.

   This application is DENIED

There being no further business to come before the Board, this meeting was adjourned at 9:45 PM, Thursday, May 19, 2014.
James Houchin, 12 Beechbrook Lane, Rochester, New York 14625 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of an enclosed porch with less setback at 12 Beechbrook Lane. The property is owned by James and Lorraine Houchin and zoned R-1-20. SBL #108.12-1-76. Application # 14Z-0027.

AREA VARIANCE TO ALLOW THE CONSTRUCTION OF AN ENCLOSED PORCH WITH LESS SETBACK AT 12 BEECHBROOK LANE.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-37-A of the Code to allow the construction of an enclosed porch with less setback at 12 Beechbrook Lane; 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 May 19, 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 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 AYE
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) feet from the required thirty (30) foot rear setback resulting in a setback of seventeen (17) feet from the rear property line to allow the construction of a 17 foot by 24 foot enclosed porch at 12 Beechbrook Lane 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 Compliance from the Building and Zoning Office.

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 enclosed porches are a
common feature of many of the residences in the vicinity of the subject property and are a popular to allow greater use of the outdoors with protection from the elements.

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 presented to the Board an approval resolution allowing the construction of a wood deck with less setback than required by the Code. They propose to utilize the existing wood deck and construct an enclosed 3-season room for protection from mosquitoes, bugs and the inclement weather.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is minimal. A small portion of the proposed structure is in violation of the required rear setback totaling approximately one hundred fifty (150) square feet.

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 has represented to the Board that proposed amenity will not adversely impact the physical or environmental conditions in the neighborhood as the wood deck in existing on the property.

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 use of the approved wood deck is unreliable due to high number of biting insects around the property. The past year they had used the deck once and would like to enjoy greater use of the rear yard area.

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 April 29, 2014 by the Building and Zoning Office.


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

4. Building drawings dated prepared by Carini Engineering and Design stamped received April 29, 2014 by the Building and Zoning Office.

5. An instrument survey dated January 2, 2010 prepared by Edward Freeman; L.S. stamped received April 29, 2014 by the Building and Zoning Office.

6. A Zoning Board of Appeals resolution dated May 20, 2010 stamped received April 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 application for area variance for less setback:  
Joseph Grussenmeyer
Seconded:  
Carole Mulcahy

Vote of the Board

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<th>Name</th>
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<td>Daniel DeLaus</td>
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<td>Carole Mulcahy</td>
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<td>Andris Silins</td>
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The motion to approve the application was carried.
Phil Palermo, 213 Torrey Pines Drive, Rochester, New York 14612 requests an area variance from Article III-3-37-A of the Code to allow a single family residence with less setback than required at 31 Sanfilippo Circle. The property is owned by Arlene and Phil Palermo and zoned R-1-20. SBL #108.12-1-82. Application #14Z-0028.

AREA VARIANCE TO ALLOW A SINGLE FAMILY RESIDENCE WITH LESS SETBACK AT 31 SANFILIPPO CIRCLE.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-37-A of the Code to allow a single family residence with less setback than required at 31 Sanfilippo Circle; 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 May 19, 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 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 AYE
Carole Mulcahy AYE
Andris Silins AYE

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of .2 foot from the required thirty five (35) foot front setback to allow a single family residence at 31 Sanfilippo Circle.

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 slight change in the required setback will not create an undesirable change in the character of the neighborhood. The subject residence is of similar size as most of the residences in the neighborhood.

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 represented to the Board that to comply with the required thirty five (35) foot setback would require them to remove the existing
siding from the structure and expose the structure to exposure to the elements, which over time would cause structural damage and or deterioration.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is minimal. A small portion of the structure is in violation of the required thirty five (35) foot setback requirement, and the 0.2 foot variance is minimal.

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 has represented to the Board that this slight change to the required thirty five (35) foot setback would not have an adverse effect in the neighborhood.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant explained that an error was made during construction which resulted in the setback violation. The property was surveyed and house pad staked but unfortunately the stakes must have been moved from the original locations.

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 April 14, 2014 by the Building and Zoning Office.

2. A letter of intent dated April 14, 2014 stamped received April 14, 2014 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 14, 2014 stamped received April 29, 2014 by the Building and Zoning Office.

5. A Zoning Board of Appeals resolution dated January 20, 2005 stamped received April 14, 2014 by the Building and Zoning Office.

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

Moved to approve the application for area variance for less setback: Carole Mulcahy
Seconded: Andris Silins

Vote of the Board

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

The motion to approve the application was carried.
Kimberly Mura and Jason Park, 869 Whalen Road, Penfield, New York 14526 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage with less setback at 869 Whalen Road. The property is owned by Kimberly Mura and Jason Park and zoned R-1-20. SBL# 124.14-1-17. Application #14Z-0021.

AREA VARIANCE TO ALLOW THE CONSTRUCTION OF A GARAGE WITH LESS SETBACK AT 869 WHALEN ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage with less setback at 869 Whalen 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 May 19, 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 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: Joseph Grussenmeyer

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of thirty five (35) feet from the required fifty (50) foot side setback resulting in a setback of fifteen (15) feet from the right of way of Nevele Creek to allow the construction of a 20 foot by 24 foot garage at 869 Whalen Road, 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 Residential Code of New York State.

3. The applicant shall be required to obtain a Certificate of Compliance from the Building and Zoning Office.

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

5. The applicant shall be required to obtain a highway access permit from the Town of Penfield Department of Public Works and pay the appropriate fee.

6. The applicant shall be required to comply with the requirements of the Director of Public Works and 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 there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that the subject property does not have any garage facilities as a previous resident had converted the garage into living space. This is the only residence in the area that does not have a garage. The addition of the proposed garage would be in keeping with the standards in the neighborhood.

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 converting the old garage space back to a garage would not be feasible due to the need for the living space the area provides the family.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is substantial. The applicant has represented to the Board that although the request variance is substantial access or egress from the subject property from Nevele Creek would be safer than the current driveway from Whalen Road. Additionally, the right of way of Nevele Creek is wider than the standard road width which will provide additional distance to the existing road gutter.

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 was concerned with an existing drainage problem along Nevele Creek. The applicant has been advised that any work to extend a driveway to Nevele Creek would require a permit from the DPW office and that all work would need to comply with any requirements of the Director of Public Works and the Town Engineer.

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 the family has a need for a garage.
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 April 9, 2014 by the Building and Zoning Office.

2. A letter of intent dated April 8, 2014 stamped received April 9, 2014 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 9, 2014 stamped received April 9, 2014 by the Building and Zoning Office.

4. An instrument survey stamped received April 9, 2014 by the Building and Zoning Office.

5. Photographs of the subject property and properties from the surrounding area.

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

Moved to approve the application for area variance for less setback: Andris Silins
Seconded: Joseph Grussenmeyer

Vote of the Board

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<tr>
<th>Name</th>
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<tr>
<td>Daniel DeLaus</td>
<td>AYE</td>
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<td>Michael Belgiorno</td>
<td>NAY</td>
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<td>Joseph Grussenmeyer</td>
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<td>Carole Mulcahy</td>
<td>NAY</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.
John O’Dell, 1617 Scribner Road, Penfield, New York 14526 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage addition with less setback at 1617 Scribner Road. The property is owned by John O’Dell and zoned R-1-20. SBL # 109.13-1-19. Application #14Z-0023

AREA VARIANCE TO ALLOW A THE CONSTRUCTION OF A GARAGE ADDITION WITH LESS SETBACK AT 1617 SCRIBNER ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage addition with less setback at 1617 Scribner 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 May 19, 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 AYE
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 setback from Dundas Drive resulting in a setback of thirty six (36) feet to allow the construction of a 14 foot by 21.5 foot garage addition at 1617 Scribner Road, 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 Residential Code of New York State.

3. The applicant shall be required to obtain a Certificate of Compliance from the Building and Zoning Office.

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. 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 subject property has only
a one-car garage and the proposed garage addition would be in keeping with the other
neighborhood residences that have two-car garages

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
any alternative location for the proposed garage addition would also require the need for
variances.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is not substantial due to the fact
that he would still have thirty six (36) feet to the right of way of Dundas Drive and then an
additional fifteen (15) feet to the gutter of Dundas Drive.

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 has determined that the proposed area variance would not create an impact on the
environmental conditions in the neighborhood. The applicant has represented to the Board that
the area along side of the existing garage to Dundas Drive does not have any existing drainage
problems and this proposed addition would not change this condition.

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 the family has a need for an additional garage space.

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 April 7, 2014 by the Building and
   Zoning Office.

2. A letter of intent dated April 1, 2014 stamped received April 7, 2014 by the Building and
   Zoning Office.
3. A Short Environmental Assessment Form dated April 1, 2014 stamped received April 7, 2014 by the Building and Zoning Office.


5. Photographs of the subject property provided by the applicant.

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

Moved to approve the application for area variance for less setback:  
Carole Mulcahy
Seconded: Andris Silins

Vote of the Board

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

The motion to approve the application was carried.
Sal Ciaramitaro, 52 Devonshire Drive, Penfield, New York 14526 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage addition with less setback at 52 Devonshire Drive. The property is owned by Julia and Sal Ciaramitaro and zoned R-1-15. SBL # 139.06-2-19. Application #14Z-0024

AREA VARIANCE TO ALLOW A THE CONSTRUCTION OF A GARAGE ADDITION WITH LESS SETBACK AT 52 DEVONSHIRE DRIVE.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage addition with less setback at 52 Devonshire 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 May 19, 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 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:           Daniel DeLaus
Seconded:        Joseph Grussenmeyer

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of four (4) feet from the required fifty (50) foot front setback resulting in a setback of forty six (46) feet from the front property line to allow the construction of a garage addition at 52 Devonshire Drive, 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 Residential Code of New York State.

3. The applicant shall be required to obtain a Certificate of Compliance from the Building and Zoning Office.

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. 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 proposed addition would maintain the look and feel of the Cape Cod style of the home and would blend in with the surrounding homes.

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 the existing garage would be converted to living space. Additionally, the applicant had looked at an alternative addition proposal that would have extended to the rear of the residence but that alternative would have impacted the rear yard which included mature maple trees 60 feet in height.

3. Whether the requested area variance is substantial.

The applicant has represented to the Board that the requested area variance is not substantial. The needed variance is due to a unique positioning of the existing residence on a bend in Devonshire Drive. The unique bend in the road reduced the setback from the existing residence from 60 feet to 52 feet at the proposed location of the garage addition.

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 has determined that the proposed area variance would not create an impact on the environmental conditions in the neighborhood. The applicant has represented to the Board that the proposed addition would not create any changes to the existing drainage conditions on the side of the property.

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 the family has a need for an additional garage space and living space.

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 April 11, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated April 11, 2014 stamped received April 11, 2014 by the Building and Zoning Office.

4. An instrument survey dated December 5, 2005 prepared by Edwin Summerhays; L.S. stamped received April 11, 2014 by the Building and Zoning Office.

5. A site Plan prepared by the applicant stamped received April 11, 2005 by the Building and Zoning Office.

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

Moved to approve the application for area variance for less setback: Daniel DeLaus
Seconded: Andris Silins

Vote of the Board

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

The motion to approve the application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW GREATER BUILDING MOUNTED SIGNAGE AND MORE THAN ONE (1) BUILDING MOUNTED SIGN

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-B and Article VII-7-13-C of the Code to allow greater building mounted signage and more than one (1) building mounted sign at 2214 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 May 19, 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 AYE
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 greater building mounted signage and more than one (1) building mounted sign at 2214 Penfield 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. 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 signage was not in harmony with the standards for permitted signs. The applicant was proposing two (2) signs with a larger cumulative total of one hundred ten (110) feet of signage.

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

The Board determined that the proposed signs are not compatible and are detrimental to neighborhood properties. The proposed signage if approved would have provided signage on two (2) faces (north and south) of the subject 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 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 signage were intended to be place on the exterior facades of the subject building
and would not interfere with any adjacent 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 location of the proposed signs does not in any way
interfere with the lawful and aesthetic enjoyment of the public highway or neighborhood
properties. The proposed signage were intended to be place on the exterior facades of the
subject building and would not interfere with any adjacent properties.

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 applicant had other opportunities for additional signage on
the south side (Penfield Road) of the subject property. The property (Pebble Creek
Subdivision) developer had received approval from this Board on April 24, 2008 to allow
an Informational Sign closer to the Penfield Road. This approved sign would allow
signage for the Pebble Creek Subdivision.
Additionally, the applicant has the ability to install one (1) freestanding sign not to
exceed 20 square feet per face, 20 feet from the property line on the Penfield Road side of
the subject property.

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

1. A Special Permit for Signage application form dated March 3, 2014 by the Building
   and Zoning Office.


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

4. Drawings of the proposed signage provided by the applicant.
5. Elevation drawings prepared by Vitalsigns Sign & Graphic dated November 27, 2013.


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

Moved to approve the Board’s motion to deny the application to allow greater building mounted signage and more than one (1) building mounted sign at 2214 Penfield Road:
Moved: Michael Belgiorno
Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion to deny the application was carried.
Carmine Torchia, P.E.-Torchia Structural Engineering & Design, P.C., 625 Panorama Trail, Rochester, New York 14625 on behalf of The Genesee Conservation League, Inc. requests an expansion to a Pre-Existing Non-Conforming Use under Article IV-4-15 of the Code to allow the construction of an addition at 1570 Old Penfield Road. The property is owned by The Genesee Conservation League, Inc. and zoned R-1-20. SBL # 123.20-2-1.1. Application #14Z-0020

REQUEST TO EXPAND PRE-EXISTING NON-CONFORMING USE AT 1570 OLD PENFIELD ROAD

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an expansion to a Pre-Existing Non-Conforming Use under Article IV-4-15 of the Code to allow the construction of an addition at 1570 Old 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 May 19, 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. 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: Joseph Grussenmeyer

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application to allow the construction of a 30 foot by 86 foot addition to the existing Genesee Conservation League facility at 1570 Old Penfield Road, 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 Code of New York State.

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

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

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

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

The Board considered the following factors in the decision to allow the expansion of the pre-existing non-conforming facility and use known as The Genesee Conservation League:
1. The applicant has represented to the Board that the existing use has been located at the subject property for approximately 65 years.

2. The applicant has represented to the Board that the proposed addition would not increase the current membership which totals approximately 2200 members.

3. The proposed addition will not require the addition of any new parking facilities.

4. The proposed addition would be located approximately 200 feet from the property line along Irondequoit Creek, 345 feet from the southeast property line, 360 feet from the northwest property line and 1200 feet to the rear property line.

5. The proposed addition will provide additional indoor facilities for the membership to practice potentially reducing the need for the outdoor ranges.

6. The proposed addition would be constructed of similar materials as the existing structure and fill-in an area between existing wings of the facility and reduce the exterior wall linear footage by approximately 115 feet.

7. The proposed addition would be constructed with sound attenuating materials.

8. The anticipated reduction in sound outside the existing and proposed facility would be approximately 19 decibels.

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

1. An Expansion to a Pre-Existing Non-Conforming Use application form stamped received March 28, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated March 28, 2014 stamped received April 11, 2014 by the Building and Zoning Office.


5. A site plan prepared by the Carmine Torchia; P.E. dated February 15, 2014 stamped received April 11, 2005 by the Building and Zoning Office.
6. A memo from the Planning Board dated May 16, 2014

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

Moved to approve the application for to allow an expansion to a pre-existing non-conforming use: 
Seconded: 

Vote of the Board

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

The motion to approve the application was carried.
James Boglioli, Esq-Delta Sonic Carwash Systems, Inc., 570 Delaware Avenue, Buffalo, New York 14202 requests a modification to an existing Pre-Existing Non-Conforming Use under Article IV-4-15 of the Code to allow the installation of an overhead door and a Special Permit for Signage under Article VII-7-12-B and VII-7-13-C to allow a larger freestanding sign and a modification to the building mounted signage at 1660 Penfield Road. The property is owned by Delta Sonic Carwash Systems, Inc. and zoned LB. SBL # 138.08-1-26.1. Application #14Z-0025.

REQUEST MODIFY AN EXISTING PRE-EXISTING NON-CONFORMING USE AT 1660 PENFIELD ROAD

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a modification to an existing Pre-Existing Non-Conforming Use under Article IV-4-15 of the Code to allow the installation of an overhead door at 1660 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 May 19, 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. 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:       Joseph Grussenmeyer

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application to allow the installation of an overhead door at 1660 Penfield Road, 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 Code of New York State.

3. The applicant shall be required to obtain a Certificate of Compliance from the Building and Zoning Office.

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

The Board considered the following factors in the decision to allow the expansion of the pre-existing non-conforming facility and use known as Delta Sonic Car Wash Systems:
1. The applicant has represented to the Board that the existing use was granted approval by this Board on April 16, 2008 to allow an expansion of the uses at the subject property to include a detail shop/oil lube operation, convenience store, relocation of gas dispensing islands.

2. The applicant has represented to the Board that the proposed overhead door would be located on the rear of the existing facility.

3. The applicant has represented to the Board that no site changes would be required with the proposed overhead door.

4. The applicant has represented to the Board that the need for the overhead door is to allow customer’s vehicle intended to receive service at the interior of the facility to access a portion of the building’s interior without interrupting ongoing service of other vehicles. The current practice would require vehicle scheduled for service to cross an existing service space to access an adjacent service space. This new overhead door would allow safer access into the adjacent space.

5. The applicant has represented to the Board that they do not expect any appreciable increase business due to the use of the proposed overhead door.

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

1. An Expansion to a Pre-Existing Non-Conforming Use application form stamped received April 14, 2014 by the Building and Zoning Office.

2. A letter of intent dated April 9, 2014 stamped received April 14, 2014 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 9, 2014 stamped received April 14, 2014 by the Building and Zoning Office.

4. A site plan dated October 30, 2013 prepared by Benderson Development Company stamped received April 14, 2014 by the Building and Zoning Office.


6. Testimony provided by the applicant and interested parties at the public hearing.
Moved to approve the application for to allow an expansion to a pre-existing non-conforming use:  
Daniel DeLaus  
Seconded:  
Michael Belgiorno  

Vote of the Board  

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

The motion to approve the application was carried.
REQUEST TO MODIFY THE EXISTING BUILDING MOUNTED SIGNAGE AT 1660 PENFIELD ROAD

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby APPROVES the application for a Special Permit for Signage to the modification of the existing sign package at 1660 Penfield Road, subject to the following conditions:

1. The applicant shall be permitted to install one (1) 34 inch by 182 inch “Oil Change” sign and one (1) 32 inch by 159 inch “Detail” sign.

2. The applicant shall be required to remove the existing “Detail Shop” and “Sonic Lube” signs.

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

4. 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.

5. 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 modification will result in a reduction of 52.5 square feet in total building mounted signage.

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 services provided at the subject location.
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 proposed modification to the existing building mounted signage will produce a reduction in the total building mounted signage for the property and provide for a more streamline appearing for the business.

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

1. An Expansion to a Pre-Existing Non-Conforming Use application form stamped received April 14, 2014 by the Building and Zoning Office.

2. A letter of intent dated April 9, 2014 stamped received April 14, 2014 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 9, 2014 stamped received April 14, 2014 by the Building and Zoning Office.

4. A site plan dated October 30, 2013 prepared by Benderson Development Company stamped received April 14, 2014 by the Building and Zoning Office.

5. Sign drawings prepared by Benderson Development Company dated October 13, 2013 stamped received April 14, 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: Daniel DeLaus
Seconded: Michael Belgiorno

Vote of the Board

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

The motion to approve the application was carried.
REQUEST MODIFY THE EXISTING FREESTANDING SIGN AT 1660 PENFIELD ROAD

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby TABLES the application for a Special Permit for Signage to modify the existing freestanding sign at 1660 Penfield Road, subject to the following conditions:

1. The applicant shall provide a revised freestanding sign drawing reducing the total square footage of the proposed freestanding sign.

Moved to approve the Board’s motion to table the application to modify the existing freestanding sign:
Moved: Daniel DeLaus
Seconded: Michael Belgiorno

Vote of the Board

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

The motion to approve the application was carried.
Ed Martin, P.E.-Land Tech Surveying & Planning, P.L.L.C, 3708 St Paul Blvd, Rochester, New York 14617 on behalf of Lawrence Giangreco, DDS requests Area Variances from Article III-3-78-B, Article III-3-78-C, Article IV-4-2-B and Article IV-4-11 of the Code to allow the construction of a dental office and appurtenant parking facilities with more lot coverage, less setback, less buffer and smaller parking spaces at 1285 & 1289 Creek Street. The property is owned by Creek Street LLC and zoned GB. SBL #’s 093.15-1-50 & 093.15-1-55. Application #14Z-0026

AREA VARIANCE TO ALLOW MORE LOT COVERAGE, LESS SETBACK, LESS BUFFER AND SMALLER PARKING SPACES AT 1285 AND 1289 CREEK STREET.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-78-B, Article III-3-78-C, Article IV-4-2-B and Article IV-4-11 of the Code to allow the construction of a dental office at 1285 Creek Street; 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 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 AYE
Carole Mulcahy AYE
Andris Silins AYE

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 6.1 percent from the allowed 65 percent lot coverage resulting in lot coverage of 71.1 percent to allow the construction of a dental office and appurtenant parking facilities at 1285 Creek Street, subject to the following conditions:

1. This requested Area Variance shall be permitted to be increased to accommodate additional driveway access to the adjacent property to the north (Tim Horton’s) as many be required by the Planning Board.

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

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

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

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

6. 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 there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that the neighborhood is already well developed, including dense commercial operations to the north and west of the subject property.

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 full compliance with the Code is would require significant reductions in building and parking facilities which would create a development out of character for the neighborhood.

3. Whether the requested area variance is substantial.

The Board has determined that the requested Area Variance is not substantial. The applicant has proposed a development plan that proposes the bulk of the parking on the subject property which is furthest from the adjacent residential property therefore reducing the potential impacts for the residences.

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 has proposed a drainage plan which will reduce the flow of the surface drainage from the subject property.

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 the unique characteristics of the subject property severely limit a Code compliant development. This proposed development mitigates potential impacts in manners consistent with Code compliant development and provides community benefits not necessarily achieved with a Code compliant development.
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 April 11, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated April 10, 2014 stamped received April 11, 2014 by the Building and Zoning Office.


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

Moved to approve the application for area variance for greater lot coverage:  

Joseph Grussenmeyer  
Seconded: Carole Mulcahy  

Vote of the Board  

Daniel DeLaus  AYE  
Michael Belgioiorno  AYE  
Joseph Grussenmeyer  AYE  
Carole Mulcahy  AYE  
Andris Silins  AYE  

The motion to approve the application was carried.
NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of thirty three (33) feet from the required eighty (80) foot front setback, an area variance of 16.7 feet from the required twenty (20) foot setback from the north property line and an area variance of six (6) feet from the required twenty (20) foot setback from the south property line resulting in setback of forty seven (47) feet from the front property line, 4.7 feet from the north property line and fourteen (14) feet from the south property line to allow the construction of a dental office at 1285 Creek Street, 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.

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 existing building to the south, which has been used as an office since 1990, has a setback similar the front setback that is the subject of this proposal.

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
full compliance with the Code is would require significant reduction in the building size which would create a development out of character for the neighborhood.

3. Whether the requested area variance is substantial.

The Board has determined that the requested Area Variance is substantial. The applicant has represented to the Board that strict compliance with the requirements of the Code would restrict or eliminate the ability to develop the subject property given the zoning classification of the property.

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 has proposed a drainage plan which will reduce the flow of the surface drainage from the subject property.

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 the unique characteristics of the subject property severely limit a Code compliant development. This proposed development mitigates potential impacts in manners consistent with Code compliant development and provides community benefits not necessarily achieved with a Code compliant development.

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 April 11, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated April 10, 2014 stamped received April 11, 2014 by the Building and Zoning Office.


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

Moved to approve the application for area variance for less setback:

    Joseph Grussenmeyer

    Seconded: Carole Mulcahy

Vote of the Board

Daniel DeLaus      AYE
Michael Belgirno   AYE
Joseph Grussenmeyer AYE
Carole Mulcahy     AYE
Andris Silins      AYE

The motion to approve the application was carried.
NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of two (2) feet from the required parking space length of twenty (20) feet resulting in parking stall lengths of eighteen (18) feet at 1285 Creek Street, 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 site plan approval from the Planning Board.

3. 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 there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that other existing commercial use properties in the general vicinity of the subject property have parking stalls of the size proposed by this application.

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 be achieved by some other method feasible for the applicant to pursue. The applicant has represented to the Board that compliance with the required parking stall length could have been achieved but would have resulted in a larger lot coverage variance due to the increased pavement surface.

3. Whether the requested area variance is substantial.

   The Board has determined that the requested Area Variance is not substantial. The applicant has represented that many parking standards allow for the eighteen (18) foot parking stall length and the two (2) foot difference would not be noticed on most vehicles parking for the proposed business.
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 has represented that the relief requested for the parking stall length did allow a reduction in lot coverage which allow a corresponding reduction in surface water runoff.

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 the unique characteristics of the subject property severely limit a Code compliant development. This proposed development mitigates potential impacts in manners consistent with Code compliant development and provides community benefits not necessarily achieved with a Code compliant development.

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 April 11, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated April 10, 2014 stamped received April 11, 2014 by the Building and Zoning Office.


6. Testimony provided by the applicant and interested parties at the public hearing.
Moved to approve the application for area variance to allow smaller parking stalls:

Joseph Grussenmeyer

Seconded:

Carole Mulcahy

Vote of the Board

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

The motion to approve the application was carried.
NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of thirty (30) feet from the required eighty (80) foot front setback, an area variance of 3.8 feet from the required twenty (20) foot setback from the south property line and an area variance of nine (9) feet from the required twenty (20) foot setback from the north property line resulting in setback of fifty (50) feet from the front property line, 16.2 feet from the south property line and eleven (11) feet from the north property line to allow an existing building at 1289 Creek Street, subject to the following conditions:

1. The applicant shall be required to obtain site plan approval from the Planning Board and comply with all requirement thereof.

2. The applicant shall be required to comply with all 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 there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that the building located on the subject property was constructed in 1982 prior to the current standards required by the Code.

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 that the building the subject of this variance request is existing and to relocate the structure to an alternative location would be expensive and disrupts the parking planned at the rear of the subject property.

3. Whether the requested area variance is substantial.

The Board has determined that the requested Area Variance is substantial. The applicant has represented to the Board that the requested variances are substantial but the building has been established on the subject parcel for more than 30 years.

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 has represented to the Board that the existing structure has adequate drainage around the structure that does not impact the adjacent properties.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was not self-created. The applicant has represented to the Board that the requested variances were not created by the current development proposal that is currently under review by the Zoning Board of Appeals or Planning Board.

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 April 11, 2014 by the Building and Zoning Office.
3. A Short Environmental Assessment Form dated April 10, 2014 stamped received April 11, 2014 by the Building and Zoning Office.
6. Testimony provided by the applicant and interested parties at the public hearing.
Moved to approve the application for area variance to allow less setback:  

*Joseph Grussenmeyer*

Seconded:  

*Carole Mulcahy*

Vote of the Board

- Daniel DeLaus  
  - AYE
- Michael Belgjorno  
  - AYE
- Joseph Grussenmeyer  
  - AYE
- Carole Mulcahy  
  - AYE
- Andris Silins  
  - AYE

The motion to approve the application was carried.
NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of two (2) feet from the required parking space length of twenty (20) feet resulting in parking stall lengths of eighteen (18) feet at 1289 Creek Street, 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 site plan approval from the Planning Board.

3. 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 there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that other existing commercial use properties in the general vicinity of the subject property have parking stalls of the size proposed by this application.

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 be achieved by some other method feasible for the applicant to pursue. The applicant has represented to the Board that compliance with the required parking stall length could have been achieved but would have resulted in a larger lot coverage variance due to the increased pavement surface.

3. Whether the requested area variance is substantial.

   The Board has determined that the requested Area Variance is not substantial. The applicant has represented that many parking standards allow for the eighteen (18) foot parking stall length and the two (2) foot difference would not be noticed on most vehicles parking for the proposed business.
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 has represented that the relief requested for the parking stall length did allow a reduction in lot coverage which allow a corresponding reduction in surface water runoff.

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 the unique characteristics of the subject property severely limit a Code compliant development. This proposed development mitigates potential impacts in manners consistent with Code compliant development and provides community benefits not necessarily achieved with a Code compliant development.

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 April 11, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated April 10, 2014 stamped received April 11, 2014 by the Building and Zoning Office.


6. Testimony provided by the applicant and interested parties at the public hearing.
Moved to approve the application for area variance to allow smaller parking stalls:  

**Joseph Grussenmeyer**

Seconded:  

**Carole Mulcahy**

Vote of the Board

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<tr>
<th>Name</th>
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<td>Daniel DeLaus</td>
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<td>Michael Belgiorno</td>
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<td>Joseph Grussenmeyer</td>
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<td>Carole Mulcahy</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.
NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of seventy two (72) feet from the required one hundred (100) foot buffer resulting in a buffer of twenty eight (28) feet to the south property line to allow and expansion of parking facilities at 1289 Creek Street, 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 site plan approval from the Planning Board.

3. 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 there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that this proposed expansion of the parking facility on the subject property has a detailed landscape plan that will be under review by the Planning Board, Town Engineer and Landscape Consultant and this landscape plan will provide screening from the parking facility.

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 full compliance with the Code is would require significant reductions in building and parking facilities which would create a development out of character for the neighborhood.

3. Whether the requested area variance is substantial.

The Board has determined that the requested Area Variance is substantial. The applicant has represented to the Board that the proposed landscape plan will provide a visual buffer to the parking facility that will be comparable to the required one hundred (100) foot buffer.
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 has proposed a drainage plan which will reduce the flow of the surface drainage from the subject property.

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 the unique characteristics of the subject property severely limit a Code compliant development. This proposed development mitigates potential impacts in manners consistent with Code compliant development and provides community benefits not necessarily achieved with a Code compliant development.

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 April 11, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated April 10, 2014 stamped received April 11, 2014 by the Building and Zoning Office.


6. Testimony provided by the applicant and interested parties at the public hearing.
Moved to approve the application for area variance for greater lot coverage: 

Joseph Grussenmeyer

Seconded: Carole Mulcahy

Vote of the Board

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

The motion to approve the application was carried.
PENFIELD ZONING BOARD OF APPEALS  
May 19, 2014

Mabel Chu-Hunt Real Estate ERA, 3300 Monroe Avenue, Rochester, New York 14618 on behalf of Fu Zi Cui requests a Conditional Use Permit under Article III-3-72-E and Article X-10-4 of the Code to allow a Health Spa and Massage business at 1694 Penfield Road. The property is owned by D&L Realty Inc. and zoned LB. SBL #139.05-1-53. Application # 14Z-0006

CONDITIONAL USE PERMIT TO ALLOW A HEALTH SPA AND MASSAGE BUSINESS AT 1694 PENFIELD ROAD

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Article III-3-72-E and Article X-10-4 of the Code to allow a Health Spa and Massage business at 1694 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 April 21, 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. 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: Michael Belgiorno

Vote of the Board

Daniel DeLaus  AYE
Michael Belgiorno  AYE
Joseph Grussenmeyer  AYE
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 Conditional Use Permit to allow Health Spa and Massage business at 1694 Penfield Road.

The Board bases its decision on its findings that:

1. The applicant failed to provide the requested filed DBA for the business proposed to operate at the subject location.

2. The applicant failed to provide the required licenses for the masseuses performing the services at the proposed business.

Motion to deny the application for a Conditional Use Permit to allow a Health Spa and Massage business at 1694 Penfield Road.
Moved: Carole Mulcahy
Seconded: Daniel DeLaus

Vote of the Board

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

The motion to approve the application was carried.