Penfield Zoning Board of Appeals
Meeting Minutes

The Zoning Board meeting at 6:30 PM local time Thursday, June 19, 2014, in the Auditorium Conference Room to discuss, in a meeting open to the public, tabled matters and other business that may be before it.

I. CALL TO THE ORDER: Mike Belgiorno

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Work Session 6:30 PM – 7:00 PM

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.
Appearances by: Mitch Ide

Presenter’s Statements: Still no records have surfaced to prove work was permitted. No changes have been made since the 2002 renovation.

Harold: No records exist with the town.

Mike: There are seven signs with over-large logos and no evidence of approval.

Dan: Suggests have Mitch re-apply for all existing signs and new signs.

Harold: Will accept application to be heard at July ZB Hearing.

Mike: Move to table and have applicant apply for all signage but not addition, which was already approved.
Carol seconds the motion and all voted in favor.

2. 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.

Appearance by:

Presenter’s Statements:

Dan motions to table until next ZBA meeting on July 17, 2014
Andris seconds the motion and all voted in favor.

II. PUBLIC HEARING:

The Chairperson briefly explained the procedures that the Zoning Board would follow during the public hearing, also guidelines to applicants and those members of the audience wishing to speak at the public hearing.
The Chairperson further went on to inform the audience that the Board may deliberate on the applications following the hearing and/or at a future work session. Those applicants and interested persons who wished to stay for the remaining portion of the meeting to listen to any deliberation on each matter are then welcome to do so.

The Clerk was directed to read the agenda.

NOTE: The following is meant to outline the major topics for discussion during the Zoning Board public hearings. For more detailed information, the reader should ask to listen to the recorded tape of the June 19, 2014 Zoning Board of Appeals public hearing, which is available at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York 14526 during regular business hours.

1. Tyler & Julie McMahon, 31 Havenshire Road, Rochester, New York 14625 requests an Area Variance from Article III-3-35-D-2 of the Coe to allow the construction of a shed with less setback at 31 Havenshire Road. The property is owned by Tyler & Julie McMahon and zoned R-1-20. SBL #108.11-2-18. Application #14Z-0029.

Appearances by: Tyler McMahon of 31 Havenshire Road

Presenter’s statements: Desires to position shed in corner of backyard in position that will be angled to face house and corner be approximately 16% into setback area. Desires to preserve majority of backyard as play area for his children. Children are aged one, two and six. Mr. McMahon claims his neighbors are in support of this proposal. Shed will be 12’x16’x12’high and be constructed of wood and be used to store lawn equipment. Shed will be painted and trimmed to match house.

Board deliberations:
Carol: Yard is very large and swimming pool and children’s toys are on opposite side of yard from proposed shed site. Does not believe this side of yard is utilized by children. Shed would be more attractive for neighbors when positioned in line with other sheds on neighboring lots.

Joe: Lot shape is odd. If placed in tandem with neighbors sheds this shed would be facing fence, away from owner’s home.

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**Vote: A=Approve, D=Deny, NP=Not Present, AB=Abstain
2. Joshua Silver-The Murray Law Firm, PLLC, 10 Maxwell Drive, Clifton Park, New York 12065 on behalf of RG&E requests an Area Variance from Article XI-11-7-6 of the Code to allow an extension to an existing utility communication tower at 1270 Plank Road. The property is owned by Rochester Gas & Electric Corp and zoned RA-2. SBL #095.03-1-33. Application #14Z-0030

Appearances by: Josh Silver of The Murray Law Firm, PLLC, 10 Maxwell Drive, Clifton Park, New York 12065

Presenter’s statements: Addition to 180 ft. structure that is very minor and will take one day to install. Propose to install a microwave antenna, 6 ft. diameter dish to make total height 195 ft. with lightning whip. Lightening whip will bring total height to 199 feet, which is just under the requirement for lighting. Structures 200 feet and over require lighting according to FAA regulations. Purpose for addition is to enable Smartgrid Technology that enables RG&E to read Smart Meters and detect power outages at the Network NYSEG Service Centers. Tower will be within the fall zone on the property and construction will be sturdier than old tower to avoid problems. [Presented photos to illustrate appearance of addition as well as existing structures.] The old tower will be removed and dying trees will be replaced per request of Planning Board.

Board deliberations:
Pete: Should the lighting whip be considered part of the structure? Whip goes past the variance request height of 195 ft.
Joe: Let’s say the whip doesn’t count, it won’t change the vote.
Harold: The array is significant, the whippet is not noticeable.
Dan: Let’s include the height of the whip in the variance request.

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3. Joseph Dubolino, 262 Imperial Circle, Rochester, New York 14617 requests a Conditional Use Permit under Article III-3-72 and Article X-10-4 of the Code to allow a coffee shop/café at 1183 Bay Road. The property is owned by The Cleveland Mary Group LLC and zoned LB. SBL #093.11-1-44. Application #14Z-0032.

Appearances by:  Joseph Dubolino of 262 Imperial Circle, Rochester, New York 14617

Presenter’s statements: He and spouse propose to open a Coffee Shop/Café. Neighboring laundry mat business aided in collecting 200 signatures in support of proposed business. No other businesses of this type exist in the immediate area. Neighboring barber shop, laundry mat, and YMCA will help provide clientele for this business. Menu will include healthy options to encourage clientele from YMCA. Owners have experience in running restaurants.

Board deliberations:

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Appearances by: Applicant withdrew application
5. Phillip William-PW Fitness Inc., 2200 Penfield Road, Penfield, New York 14526 requests a Conditional Use Permit under Article III-3-77 and Article X-10-4 of the Code to allow a fitness center at 2200 Penfield Road. The property is owned by Penn Fair Plaza LLC and zoned GB. SBL #140.01-1-3.1. Application #14Z-0034.

Appearances by: Phillip William of PW Fitness Inc., 2200 Penfield Road, Penfield NY 14526
Monica Gorlick of 54 South Village Trail, Fairport NY 14450

Presenter statements

**Phillip William:** Has been operating the business since he became the new owner. Does plan to change hours of operation to 24 hours to offer service not currently available by competitors in the area. Plans to update interior décor and offer new services and increase clientele. Planning to increase staff (mainly cleaning staff) as needed.

**Monica Gorlick:** Objects to businesses operation 24 hours.

Board deliberations:

Special conditions required by the Board:

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6. Robert Wolfe, R. A.-Wolfe Architecture, 3 North Main Street, Honeoye Falls, New York 14472 on behalf of Eyesite requests Area Variances from Article III-3-68-C, Article IV-4-11 and Article IV-4-11-G to allow the construction of an office with less setback, smaller parking space and less parking spaces than required and a Special Permit for Signage under Article VII-7-3 from Article VII-7-11-E, Article VII-7-13-B and Article VII-7-13-C of the Code to allow sign graphic greater than 50 percent of a sign area, more building mounted signage than allowed and more than one (1) building mounted sign at 2142 Penfield Road. The property is owned by Lillian Detweiler and zoned BN-R. SBL #139.08-1-73.
Application #14Z-0035

Appearances by: Robert Wolf, R.A. of Wolfe Architecture, 3 North Main Street, Honeoye Falls, NY 14472
Justin Verrone O.D., Co-Owner of Eyesite
Monica and Dennis Gorlick of 54 South Village Trail, Fairport NY 14450

Presenter statements: Wolfe Architecture presented virtual tour using projector. Described interior of building with interior light plans. Stated they have conducted light studies but may have to make minor adjustments to original design. Smaller setback to street will make the building pedestrian friendly and allow increased space for parking in rear. Planning Board supported proposed setback requests.
Parking access in rear of building. Outlined a Monroe City parking study to support proposed 20 parking spaces for facility. Owners believe this is adequate for future parking needs. Claims neighboring Summit Credit Union will allow three of their spaces be used for Eyesite’s employee parking. Desires adequate signage to promote vehicles safety. Proposes extended hours of operation and smaller parking spaces to meet parking needs. Claims signs are necessary in rear to direct drivers to the building.
Side setback would bring structure closer to Summit Credit Union’s drive-through area. Claims Summit supports this closer setback.
Argues that proposed eye chart to be places on rear of building is not a sign but rather a mural that will bring interest to an otherwise blank exterior wall. Materials used for the eye chart are yet undecided.

Andris: Will signs be lit 24 hours?
Justin: Sign facing Penfield Road will be lit 24 hours, other signs will be dimmed.
Parking signs will be lit during operating hours. Eye Chart may be up light. Construction of signs will be white enamel with black background to match building. Largest sign will be 5’x5’.
Joe: Explain why eye chart is a mural, not sign.
Robert: It does not advertise a brand but it does indicate the type of business is present.
Joe: Why so many signs?
Justin: Customers get lost in current location at Harris Road. Signs are necessary to direct customers.
Joe: Established customers will know location. Rear door sign is excessive.
Justin: Requests leniency for rear building sign to avoid accidents.
Monica: Supports modern design, sees it as appealing and upscale. Perceives eye chart as mural, not sign. New building will improve Penfield and make it appealing to other businesses and residents.
Dennis: Likes proposed design, believes it will raise the standards for building designs in the area. Believes eye chart is mural and is an interesting detail worth consideration of the ZB.
Justin: Claims neighboring businesses support all variances.

Board deliberations:

Setback/smaller parking spaces/less parking

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**Special Permit for Signage**

Sign graphic greater than 50 percent of a sign area/more building mounted signage than allowed/more than one (1) building mounted sign

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<td>One building mount sign, two monuments</td>
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<td>ZB requests more info re. design &amp; material of eye chart and clarification as to whether it’s a sign vs. mural</td>
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*Motion to: A=Approve, D=Deny, T=Table, O=Other

**Vote: A=Approve, D=Deny, NP=Not Present, AB=Abstain
7. Curtis Sigler-Auto Zone, 123 South Front Street, Memphis Tennessee, 38103 requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-B, Article VII-7-13-B and Article VII-7-13-C of the Code to allow a larger freestanding sign, more building mounted signage than allowed and more than one (1) building mounted sign at 1635 Penfield Road. The property is owned by DDR Panorama Plaza LLC and zoned GB. SBL #138.08-1-2.3. Application #14Z-0036.

Appearances by: Brian Sittle, Nation Sign Manager, Auto Zone, 123 South Front Street, Memphis TN 38103

Presenter statements: Requesting for signs to total 194 sq. ft. Feels this is not excessive as the mounted sign limit is 189 sq. ft. Signs will not obstruct other properties and maximize visibility for the store. Signs will be lit from dusk to 9 p.m., lighting will not be harsh or bright. The proposed monument sign is smaller than the 20 sq. ft. limit, it is only 12 sq. ft.

Board deliberations: Current signs are within building codes. All signs will say Auto Zone, background not lit.
Mike: Signs on all sides unnecessary, two would be acceptable.
Carol: Orange design necessary?
Brian: Yes, trademark design. Would consider reducing height of from building mounted sign to 30” high to be within 189 sq. ft. parameters for size limits.
Dan: Board still need to take into account that four mounted signs surpasses the allowance, however will take into consideration.

Special conditions required by the Board:

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**Vote: A=Approve, D=Deny, NP=Not Present, AB=Abstain
8. Walter Baker-DSB Engineers & Associates, PC, 2394 Ridgeway Avenue, Rochester, New York 14626 on behalf of Piehler Vision Group requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-B, Article III-3-12-E, Article III-3-13-B and Article III-3-13-C of the Code to allow a larger freestanding sign with less setback, greater building mounted signage and more than one (1) building mounted sign at 770 Panorama Trail S. The property is owned by Vision Two LLC and zoned GB. SBL #138.08-1-47. Application #13Z-0037

Appearances by: John Gothear, DSB Engineers & Associates, PC, 2394 Ridgeway Avenue, Rochester, NY 14626

Michael Piehler, Piehler Vision Group, 770 Panorama Trail, Rochester, NY 14625

Presenter statements:
**John:** Corporate standard requires new larger signs since the facilities are undergoing renovations. Proposes to place free-standing sign 80’ from pavement, this will give a large right-of-way that poses no danger to traffic. Feels this meets the spirit of the law if not the letter of the law. The far setback of the building necessitates the free-standing sign.

**Michael:** Explained appearance of new logo to include leaping jaguar mounted to be bolted to top of portico. “Leaper” will be 7’4” length and approximately 3’ high. The new logo sign is smaller than what was previously approved.

**John:** Collectively the signs are more than what was approved, each individual sign not larger than what is allowed. The new proposed position of sign is 70 ft. farther into property from previously approved setback.

**Michael:** Foliage in area requires pylon to raise sign. Customers frequently mistake their building for the neighboring Buick dealership as they share a common driveway.

Board deliberations:
**Mike:** Illustrate difference in positioning of proposed free-standing sign to what was proposed a year ago at ZB meeting. Michael and John use site map and photos to indicate difference in original position of sign vs. current requested position.

**Dan:** Reads last resolution. Questioned what’s changed in the working of new proposal?

**Harold:** Last time there was not good delineation.

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<td>Grussenmeyer</td>
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<td>Approve free-standing sign located 75’ from what was originally proposed in September 2013.</td>
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**Vote: A=Approve, D=Deny, NP=Not Present, AB=Abstain
9. Paul Colucci-The DiMarco Group, 1950 Brighton-Henrietta Town Line Road, Rochester, New York 14623 on behalf of Salads Etc. requests a Conditional Use Permit under Article III-3-77-A and Article X-10-4 of the Code to allow a restaurant at 1900 Empire Blvd. The property is owned by Baytowne Associates and zoned GB. SBL #093.02-1-23.11. Application #14Z-0038.

Appearances by: Paul Colucci- The DiMarco Group, 1950 Brighton-Henrietta Town Line Road, Rochester, NY 14623

Presenter statements:
Salads Etc. would be the first proposed tenant in this new plaza. Briefly detailed operating hours and use of space. Space is 1200 sq. ft. 24-30 seats for customers. There will be 4-5 employees. Not compatible for outdoor dining. Only offer counter service, no table service.

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**Vote: A=Approve, D=Deny, NP=Not Present, AB=Abstain
10. Phil Coraggio on behalf of Vincent Vella, 1759 Empire Blvd, Webster, New York 14580 requests an Area Variance from Article III-3-78-B of the Code to allow a parking facility expansion with greater lot coverage and a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-B and Article VII-7-12-E of the Code to allow a larger freestanding sign with less setback at 1759 Empire Blvd. The property is owned by Vincent Vella and zoned GB. SBL #093.15-1-67. Application #14Z-0039.

Appearances by: Vincent Vella, 1759 Empire Blv., Webster, NY 14580
Bill Wilkinson of 10 Smith Rd., Webster, NY 14580

Presenter’s statements:
Vincent: Has been owner since 1998. Free-standing sign has not been remodeled since before his purchase of the property. Sign is in need of replacement due to weathering. Proposes to put in identical sign in current location that is same size as current sign and slightly lower to the ground but is willing to stay with current height if necessary. East side of building was paved a year ago. At the time he purchased the property there was a hole in the ground at this locations and he filled it with dirt and gravel for safety. After neighboring property on east of his became a restaurant he pave that surface and installed drainage and tidied area, put fence around garbage receptacle. Project is currently on hold, planning on landscaping around the area and dress it up. Thus the green space violation. Wants to keep paved blacktop area for overflow parking.

Bill W.: Displeased with lost privacy due to activity of restaurants in the area. Listed grievances such as cooking smells, loud vent fans and parking along Smith Street. Questioned legality of porch on residence above restaurant.

Board deliberations:
Joe: Owner wants to leave paved area as it is now? And the sign will be same as current sign?
Vincent: Yes, requesting variance to keep blacktop in current placement. Sign will be the same.
Mike: Do any drainage problems exist on the east side of the property in question.
Vincent: No, drainage was addressed when area was paved.
Carol: (re. Bill Wilkinson's grievances) Was the town notified of these complaints?
Bill: No, the town nor police were notified.
Harold: Town received complaint about loud vents approximately one and a half years ago and Andy Suveges addressed the issue, problem was resolved. Recommend Mr. Wilkinson notify local police about parking violations so a record can be made of parking issues. Recommend Mr. Wilkinson address Town of Penfield concerning grievances and violations.
Dan: Recommend Mr. Wilkinson notify Transportation/Highway Department regarding issues with customers parking along Smith Street.
Area Variance for lot coverage

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<td>Approve variance for lot coverage and sign be replaced in current location in green space at current height and size of existing sign.</td>
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**Vote: A=Approve, D=Deny, NP=Not Present, AB=Abstain
Tyler & Julie McMahon, 31 Havenshire Road, Rochester, New York 14625 requests an Area Variance from Article III-3-35-D-2 of the Code to allow the construction of a shed with less setback at 31 Havenshire Road. The property is owned by Tyler & Julie McMahon and zoned R-1-20. SBL #108.11-2-18. Application #14Z-0029.

AREA VARIANCE TO ALLOW THE CONSTRUCTION OF ASHED WITH LESS SETBACK AT 31 HAVENSHIRE DRIVE.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-D-2 of the Code to allow the construction of a shed with less setback at 31 Havenshire 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 June 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 five (5) feet from the required ten (10) foot rear setback resulting in a setback of five (5) from the south property line to allow the construction of a 12 foot by 16 foot shed at 31 Havenshire Drive, 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.
4. The applicant shall comply with the requirements of the Residential Code of New York State.

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

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the area variance.
The Board determined that there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that other properties in the general area have similar storage shed and the property directly adjacent to the subject property has an existing storage shed that is approximately twenty (20) feet from the location of this proposed storage shed.

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 setbacks could be met but the proposed storage shed would reduce the usable rear yard area which is undesirable to the family.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is minimal. A small portion (approximately thirty (30) square feet) of the proposed structure is in violation of the required rear setback.

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 storage shed will not adversely impact the physical or environmental conditions in the neighborhood and more specifically to the properties adjacent to the proposed storage shed.

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 alleged difficulty was self-created.

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 24, 2014 by the Building and Zoning Office.

2. A letter of intent dated April 24, 2014 stamped received April 24, 2014 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 24, 2014 stamped received April 24, 2014 by the Building and Zoning Office.

4. An instrument survey dated April 21, 2010 prepared by Alfred LaRue; L.S. stamped received April 24, 2014 by the Building and Zoning Office.

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

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

Vote of the Board

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<td>Joseph Grussenmeyer</td>
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<td>Carole Mulcahy</td>
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The motion to approve the application was carried.
Joshua Silver-The Murray Law Firm, PLLC, 10 Maxwell Drive, Clifton Park, New York 12065 on behalf of RG&E requests an Area Variance from Article XI-11-7-6 of the Code to allow an extension to an existing utility communication tower at 1270 Plank Road. The property is owned by Rochester Gas & Electric Corp and zoned RA-2. SBL #095.03-1-33. Application #14Z-0030.

AREA VARIANCE TO ALLOW THE AN EXTENSION TO AN EXISTING UTILITY COMMUNICATION TOWER AT 1270 PLANK ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article XI-11-7-6 of the Code to allow an extension to an existing utility communication tower at 1270 Plank 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 June 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: Carole Mulcahy

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 nine (9) feet from the allowed height of one hundred ninety (190) feet resulting in an overall tower height of one hundred ninety nine (199) feet to allow the extension of an existing utility communication tower at 1270 Plank Road, subject to the following conditions:

1. The applicant shall be required to comply with the requirements of the Building and Zoning Administrator and Fire Marshal.
2. The applicant shall be required to obtain a building permit from the Building and Zoning Office and pay the appropriate fee.
3. The applicant shall obtain a Certificate of Compliance from the Building and Zoning Office.
4. The applicant shall comply with the requirements of the Building Code of New York State.
5. The applicant shall comply with the requirements of the Planning Board.

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 is currently used by Rochester Gas & Electric as a regional maintenance facility and the property has an existing one hundred eighty five (180) foot lattice tower placed in the same location of the tower structure the extension is proposed to be constructed upon.

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 purpose of the proposed extension to the existing lattice tower is to monitor the health of the electrical delivery system and provided this information to a Rochester Gas & Electric service center in Sodus, New York. This area would be connected via microwave communication which needs a line of sight to achieve an acceptable communication link.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is minimal. The applicant has represented to the Board that the requested area variance is minimal as the lattice tower will be at an elevation of one hundred ninety five (195) feet, a microwave communication dish would be at an elevation of one hundred ninety eight (198) feet and a lightning rod will extend to an elevation of one hundred ninety nine (199) 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 the proposed extension to the existing lattice tower would not in any way have an impact on the physical environmental conditions in the area.

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 area variance could not have been foreseen at the time the maintenance facility was originally constructed. Changes in Federal Laws to allow better monitoring of the electrical grid, necessitated the need for the communication infrastructure to insure better reliability of the electrical distribution network.

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 May 1, 2014 by the Building and Zoning Office.

2. A letter of intent dated May 1, 2014 stamped received May 1, 2014 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated May 1, 2014 stamped received May 1, 2014 by the Building and Zoning Office.

4. A site plan dated May 1, 2014 prepared by John Stevens, P.E. stamped received May 1, 2014 by the Building and Zoning Office.

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

Moved to approve the application for area variance increase the allowed tower height:

Daniel DeLaus
Seconded: Joseph Grussenmeyer

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.
Joseph Dubolino, 262 Imperial Circle, Rochester, New York 14617 requests a Conditional Use Permit under Article III-3-72 and Article X-10-4 of the Code to allow a coffee shop/café at 1183 Bay Road. The property is owned by The Cleveland Mary Group LLC and zoned LB. SBL #093.11-1-44. Application #14Z-0032.

CONDITIONAL USE PERMIT TO ALLOW A COFFEE SHOP/CAFÉ AT 1183 BAY ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Article III-3-72 and Article X-10-4 of the Code to allow a coffee shop/café at 1183 Bay 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 June 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 approve to classify this application as an unlisted action and no further environmental review will be required.

Moved: Joseph Grussenmeyer
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 State Environmental Quality Review Act (SEQRA) determination was carried.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit to allow a coffee shop/café at 1183 Bay Road, subject to the following conditions:

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

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

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

4. The applicant shall comply with the requirements of the Building Code of New York State.

5. The applicant shall be required to comply with the Fire Code of New York State.

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

7. The applicant shall be permitted to conduct business between the hours of 6:00 AM to 11:00 PM Sunday through Saturday.
The Board bases its decision on its findings that:

1. The proposed use is similar to the other uses at the subject property and with the current uses at the shopping plaza.

2. As required by Article X-10-4 for issuance of a Conditional Use Permit, there is no detriment to the adjacent properties that will be produced by the approval of this application because:
   
   a. Means of ingress and egress.
   
   The applicant has represented to the Board that the subject property has an existing means of egress and ingress onto Bay Road. The applicant is not proposing any changes to the existing means of ingress and egress for the subject property.

   b. Adequacy of parking facilities.
   
   The applicant has represented to the Board that the parking facility is adequate to accommodate this proposed use and the existing tenants at the subject property. The existing tenants of the subject property have different peak use times that will allow sharing of the common parking spaces. Additionally, the applicant has represented to the Board that the property owner has indicated that additional property could be developed for additional parking if the need arises in the future.

   c. Potential impact to both present and future uses.
   
   The applicant has represented to the Board that the proposed use will not interfere with the present or future uses at the subject property or in the general vicinity of the property.

   d. Compatibility with the general area in which it is to be located.
   
   The proposed use is similar to other uses in the area and will complement the existing businesses in the area.

   e. Type and amount of signage.
   
   The applicant has represented to the Board that they will be complying with the requirements of the Sign Ordinance for the primary sign on the façade.

   f. Potential noise level.
   
   The applicant has represented that the proposed use will not create any nuisance to the adjacent neighbors or businesses in the area.

   g. Clear sight distance.
The applicant is not proposing any modifications to the existing egress locations onto Bay Road and the existing clear sight distance at these locations provides adequate clear sight distance for customers and patrons of the plaza.

h. Existing and proposed buffering.

The applicant has represented to the Board that the property is buffered by existing landscaping and additional buffering would not be needed from the businesses and residences adjacent to the subject property.

i. Proposed generation of noxious odors.

The applicant represented to the Board that the cooking equipment that will use at the proposed coffee shop/cafe will require the use of traditional hood ventilation equipment and will be installed and maintained to the standard of the Building Code of New York State.

j. Exterior lighting.

The applicant will not be adding any additional lighting to the subject property.

k. Proposed hours of operation.

The proposed hours of operation are 6:00 AM to 11:00 PM Sunday through Saturday.

3. Not detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or detrimental or injurious to the property and improvements in the neighborhood, or to the general welfare of the town.

The proposed use is consistent with the conditionally permitted uses for the zoning district.

Pursuant to Article X-10-4-B, this Conditional Use Permit shall become void one (1) year after this approval unless the permitted activity has commenced, or otherwise specified.

Pursuant to Article X-10-4-C, this Board may revoke any Conditional Use Permit for non-compliance of conditions set forth in this approval, after first holding a public hearing and giving notice of such hearing as provided in Article XIV-14-11.

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

1. A Conditional Use Permit application form stamped received May 15, 2014 by the Building and Zoning Office.
2. A Short Environmental Assessment Form dated May 15, 2014 stamped received May 15, 2014 by the Building and Zoning Office.

3. An email from the property owner granting the applicant permission to make application to this Board.


5. A site plan prepared by Passero Associates dated August 1983 stamped received May 15, 2014 by the Building and Zoning Office.

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

Motion to approve the application for a Conditional Use Permit to allow a coffee shop/café 1183 Bay Road

Moved: 

Joseph Grussenmeyer

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.
PENFIELD ZONING BOARD OF APPEALS

June 19, 2014

Phillip William-PW Fitness Inc., 2200 Penfield Road, Penfield, New York 14526 requests a Conditional Use Permit under Article III-3-77 and Article X-10-4 of the Code to allow a fitness center at 2200 Penfield Road. The property is owned by Penn Fair Plaza LLC and zoned GB. SBL #140.01-1-3.1. Application #14Z-0034.

CONDITIONAL USE PERMIT TO ALLOW A FITNESS CENTER AT 2200 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 and Article X-10-4 of the Code to allow a fitness center at 2200 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 June 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 approve to classify this application as an unlisted action and no further environmental review will be required.

Moved: Andris Silins
Seconded: Daniel DeLaus

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer 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 APPROVES the application for a Conditional Use Permit to allow a fitness center at 2200 Penfield Road, subject to the following conditions:

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

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

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

4. The applicant shall be required to comply with the Fire Code of New York State.

5. The applicant shall be permitted to conduct business between the hours of 6:00 AM to 11:00 PM Sunday through Saturday.

The Board bases its decision on its findings that:

1. The proposed use is similar to the other uses at the subject property and with the current uses at the shopping plaza.
2. As required by Article X-10-4 for issuance of a Conditional Use Permit, there is no detriment to the adjacent properties that will be produced by the approval of this application because:

a. Means of ingress and egress.

The applicant has represented to the Board that the subject property has existing means of egress and ingress onto Penfield Road and Fairport Nine Mile Point Road. The applicant is not proposing any changes to the existing means of ingress and egress for the subject property.

b. Adequacy of parking facilities.

The applicant has represented to the Board that the parking facility is adequate to accommodate this proposed use and the existing tenants at the subject property. The existing tenants of the subject property have different peak use times that will allow sharing of the common parking spaces.

c. Potential impact to both present and future uses.

The applicant has represented to the Board that the proposed use will not interfere with the present or future uses at the subject property or in the general vicinity of the property. Additionally, the applicant has represented to the Board that he has recently acquired the previous business (Lifetime Fitness) that had operated at the subject property for many years.

d. Compatibility with the general area in which it is to be located.

The proposed use is similar to other uses in the area and will complement the existing businesses in the area.

e. Type and amount of signage.

The applicant has represented to the Board that they will be complying with the requirements of the Sign Ordinance for the primary sign on the façade.

f. Potential noise level.

The applicant has represented that the proposed use will not create any nuisance to the adjacent neighbors or businesses in the area.

g. Clear sight distance.

The applicant is not proposing any modifications to the existing egress locations onto Penfield Road or Fairport Nine Mile Point Road and the existing clear sight distance at
these locations provides adequate clear sight distance for customers and patrons of the plaza.

h. Existing and proposed buffering.

The applicant has represented to the Board that the property is buffered by existing landscaping and additional buffering would not be needed from the businesses and residences adjacent to the subject property.

i. Proposed generation of noxious odors.

The applicant represented to the Board that the proposed use would not create any odors.

j. Exterior lighting.

The applicant will not be adding any additional lighting to the subject property.

k. Proposed hours of operation.

The proposed hours of operation are 6:00 AM to 11:00 PM Sunday through Saturday. Additionally, the applicant has represented to the Board that existing and potential clients have expressed an interest in fitness programs at nontraditional hours which have been explored for 24 hour operation. This zoning district does allow for 24 hour operation.

3. Not detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or detrimental or injurious to the property and improvements in the neighborhood, or to the general welfare of the town.

The proposed use is consistent with the conditionally permitted uses for the zoning district.

Pursuant to Article X-10-4-B, this Conditional Use Permit shall become void one (1) year after this approval unless the permitted activity has commenced, or otherwise specified.

Pursuant to Article X-10-4-C, this Board may revoke any Conditional Use Permit for non-compliance of conditions set forth in this approval, after first holding a public hearing and giving notice of such hearing as provided in Article XIV-14-11.

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

1. A Conditional Use Permit application form stamped received May 16, 2014 by the Building and Zoning Office.
2. A Short Environmental Assessment Form dated May 16, 2014 stamped received May 16, 2014 by the Building and Zoning Office.

3. An email from the property owner granting the applicant permission to make application to this Board.


5. A site plan prepared by Miller Anderson Architects dated May 1993 stamped received May 16, 2014 by the Building and Zoning Office.

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

Motion to approve the application for a Conditional Use Permit to allow a fitness center (PW Fitness) at 2200 Penfield Road.

Moved: Andris Silins  
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.
Robert Wolfe, R. A.-Wolfe Architecture, 3 North Main Street, Honeoye Falls, New York 14472 on behalf of Eyesite requests Area Variances from Article III-3-68-C, Article IV-4-11 and Article IV-4-11-G to allow the construction of an office with less setback, smaller parking space and less parking spaces than required and a Special Permit for Signage under Article VII-7-3 from Article VII-7-11-E, Article VII-7-13-B and Article VII-7-13-C of the Code to allow sign graphic greater than 50 percent of a sign area, more building mounted signage than allowed and more than one (1) building mounted sign at 2142 Penfield Road. The property is owned by Lillian Detweiler and zoned BN-R. SBL #139.08-1-73. Application #14Z-0035

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 June 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: Andris Silins
Seconded: Daniel DeLaus

Vote of the Board

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

AREA VARIANCE TO ALLOW THE CONSTRUCTION OF A DOCTOR’S OFFICE WITH LESS SETBACK AT 2142 PENFIELD ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-68-C of the Code to allow the construction of a doctor’s office with less setback at 2142 Penfield Road; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of ten (10) feet from the required fifty (50) foot front setback resulting in a setback of forty (40) feet from the right of way of Penfield Road, a setback of thirty five (35) feet from Penfield Road and a setback of fifteen (15) feet from the east property line to allow the construction of a 2 story doctor’s office and appurtenant front patio at 2142 Penfield Road, subject to the following conditions:

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

2. The applicant shall be required to comply with the requirements of the Planning Board.

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

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

5. The applicant shall obtain a Certificate of Occupancy from the Building and Zoning Office.
6. The applicant shall comply with the requirements of the Building Code of New York State.

7. The applicant shall be required to comply with the Fire Code of New York State.

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

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

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

The Board determined that no undesirable change would be produced in the character of the neighborhood by the granting of the requested area variances. The applicant had represented to the Board that the subject property is in a transitional period where existing residences are being replaced by newly constructed offices. The re-zoning approval resolution requires the redeveloped properties to provide an access road across the rear to join the adjacent properties both on the west side and east side of the subject properties. The required thirty (30) foot access road and supporting parking facilities on the north side of the subject property necessitates that the building be moved closer to the right of way of Penfield Road.

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 is constrained by the requirement to provide an access road and parking facilities at the rear of the subject property.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is minimal. A small portion of the front of the proposed 2 story office building impacts the required setback and the proposed front patio will allow for a pedestrian friendly atmosphere from the Penfield Road side of the subject 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 represented to the Board that the Town Engineer is reviewing plans for the subject property to ensure compliance with both State and local storm water management practices.

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 proposed plan is a result of accommodating the town’s desire to provide access and parking at the rear of the subject property.

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

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

1. An Area Variance application form stamped received May 16, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 16, 2014 stamped received May 16, 2014 by the Building and Zoning Office.


5. Testimony provided by the applicant and interested parties at the public hearing.
Moved to approve the application for area variance for less setback: Andris Silins
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to approve the application was carried.
AREA VARIANCE TO ALLOW THE CONSTRUCTION OF A DOCTOR’S OFFICE WITH SMALLER PARKING SPACES AT 2142 PENFIELD ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article IV-4-11 of the Code to allow the construction of a doctor's office with smaller parking spaces at 2142 Penfield Road; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of two (2) feet from the required (20) foot long parking spaces resulting in parking space lengths of eighteen (18) feet at 2142 Penfield Road, subject to the following conditions:

1. The applicant shall be required to comply with the requirements of the Building and Zoning Administrator and Fire Marshal.
2. The applicant shall be required to comply with the requirements of the Planning Board.
3. The applicant shall be required to comply with the requirements of the Town Engineer.
4. The applicant shall be required to obtain a building permit from the Building and Zoning Office and pay the appropriate fee.
5. The applicant shall obtain a Certificate of Occupancy from the Building and Zoning Office.
6. The applicant shall comply with the requirements of the Building Code of New York State.
7. The applicant shall be required to comply with the Fire Code of New York State.
8. The applicant shall be required to comply with the Property Maintenance Code of New York State.

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

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

The Board determined that no undesirable change would be produced in the character of the neighborhood by the granting of the requested area variance. The applicant has represented to the
Board that granting this variance will allow the applicant to provide a buffer with the adjacent properties at the side of the parking area.

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 if the parking spaces are left at twenty (20) feet, then the buffer is no longer possible which is not in the best interest of the adjacent property owners or the applicant.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is minimal. The applicant has represented that the request is relatively minor and eighteen (18) foot parking spaces are a common size in many areas.

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 proposed buffer creates a positive contribution to the site by reducing the amount of pavement and creating a green space buffer.

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 larger sized parking spaces create unnecessary adverse impacts which have no benefit to the applicant or adjacent property owners.

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 May 16, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 16, 2014 stamped received May 16, 2014 by the Building and Zoning Office.


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

Moved to approve the application for area variance for smaller parking spaces:  Andris Silins
Seconded:  Daniel DeLaus

Vote of the Board

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<td>Daniel DeLaus</td>
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<td>Andris Silins</td>
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The motion to approve the application was carried.
AREA VARIANCE TO ALLOW THE CONSTRUCTION OF A DOCTOR’S OFFICE WITH LESS PARKING SPACES AT 2142 PENFIELD ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article IV-4-11-G of the Code to allow the construction of a doctor’s office with less parking spaces at 2142 Penfield Road; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of six (6) parking spaces from the required twenty six (26) parking spaces resulting in twenty (20) parking spaces at 2142 Penfield Road, subject to the following conditions:

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

2. The applicant shall be required to comply with the requirements of the Planning Board.

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

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

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

6. The applicant shall comply with the requirements of the Building Code of New York State.

7. The applicant shall be required to comply with the Fire Code of New York State.

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

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

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

The Board determined that no undesirable change would be produced in the character of the neighborhood by the granting of the requested area variance. The applicant has represented to the Board that instead of a larger blacktop parking field that would go unused the site will instead be
able to feature landscaping and green space along Penfield Road, while hiding parking behind the building.

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 twenty (20) parking spaces proposed represents a safe design number that will accommodate parking for all employees and patients.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is minimal. The applicant has represented to the Board that other jurisdictions and design manuals would have provided a similar parking space requirement. Additionally, the applicant has secured permission from the adjacent commercial property (Summit Federal Credit Union) to the east to allow three (3) additional spaces for this applicants use.

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 proposed buffer creates a positive contribution to the site by reducing the amount of pavement and creating a green space buffer.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that to construct additional parking spaces that will not be used creates unnecessary adverse impacts which have not benefit to the applicant or the adjacent property owners.

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 May 16, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 16, 2014 stamped received May 16, 2014 by the Building and Zoning Office.


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

Moved to approve the application for area variance for less parking spaces:

Andris Silins
Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion to approve the application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW A MORE THAN ONE (1) BUILDING MOUNTED SIGN AT 2142 PENFIELD ROAD

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-13 of the Code to allow more than one (1) building mounted sign at 2142 Penfield Road; and

WHEREAS, the applicant has proposed two (2) signs depicted as “EYESITE” on the north and south facades of the proposed doctor’s office; and

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby DENIES the application for a Special Permit for Signage to allow a second building mounted sign (EYESITE) on the north façade of the proposed doctor’s office at 2142 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 sign and within the spirit of Article VII-7.

   The Board determined that the proposed north façade sign would not be in harmony with the standards for permitted signs. The current zoning ordinance only permits one (1) building mounted sign for the proposed doctor’s office. The applicant has represented to the Board that the more desirable of the two (2) proposed building mounted sign is the south façade sign which faces Penfield Road.

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

   The Board determined that the proposed sign is not compatible and is detrimental to neighborhood properties. The property located directly to the north of the subject property is a park owned by the town and the proposed north façade sign would provide little amenity to the proposed business.

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 sign would not create a hazard to the public in general or to any owner or occupant of neighboring properties. The applicant has represented to the Board that the subject building mounted signage proposed to be constructed would not create a hazard to the public in general or neighboring properties.

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

The Board determined that the sign does not interfere with the lawful and aesthetic enjoyment of the public highway. The applicant has represented to the Board that the building the proposed north facade sign would be affixed to the building and would not interfere with the lawful enjoyment of the public highway. The proposed north façade sign potentially impact park user’s aesthetic enjoyment of the open park setting.

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

The Board determined that the proposed signage is necessary to enhance the business identification. The applicant has represented to the Board that the proposed sign is the minimum number of signs required by the proposed businesses intending to operate at the subject property.

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

1. A Special Permit for Signage application form stamped received May 16, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 16, 2014 stamped received May 16, 2014 by the Building and Zoning Office.


5. A sign drawing prepared by the applicant dated April 1, 2014 stamped received April 24, 2014 by the Building and Zoning Office.
6. Testimony provided by the applicant and interested parties at the public hearing.

Moved to deny the application for area variance for additional signage:

Andris Silins
Seconded:    Joseph Grussenmeyer

Vote of the Board

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

The motion to deny the application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW A LARGER GRAPHIC SIGN ON THE NORTH FAÇADE OF THE PROPOSED OFFICE AT 2142 PENFIELD ROAD

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-11 and Article VII-7-13-C of the Code to allow a sign with greater graphic and more than one (1) building mounted sign at 2142 Penfield Road; and

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby TABLES the application for a Special Permit for Signage to allow a sign with greater graphic and more than one (1) building mounted sign at 2142 Penfield Road, subject to the following conditions:

1. The Board is directing the applicant to provide additional information regarding the applicant’s opinion that the requested building mounted sign should not be considered as a sign under the applicable codes under Article II and Article VII of the Town Code.

2. The Board is requesting additional input from the Planning Board or any determination that the proposed sign could be considered “Integral” as described under Article VII-7-24-B of the Code

Moved to table the application for Special Permit for Signage: Andris Silins
Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion to table the application was carried.
Curtis Sigler-Auto Zone, 123 South Front Street, Memphis Tennessee, 38103 requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-B, Article VII-7-13-B and Article VII-7-13-C of the Code to allow a larger freestanding sign, more building mounted signage than allowed and more than one (1) building mounted sign at 1635 Penfield Road. The property is owned by DDR Panorama Plaza LLC and zoned GB. SBL #138.08-1-2.3. Application #14Z-0036.

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 June 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 approve 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.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW MORE THAN ONE (1) BUILDING MOUNTED SIGNS AT 1635 PENFIELD ROAD

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-13-C of the Code to allow more than 1 building mounted sign for Auto Zone at 1635 Penfield Road; and

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Special Permit for Signage to allow a 32 inch by 361 inch “Auto Zone” sign with accelerator and a 30 inch by 181.25 inch “Auto Zone” sign at 1635 Penfield Road for the business (Auto Zone), subject to the following conditions:

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

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

3. The applicant shall comply with the requirements of the Building Code of New York State.

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

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

The Board determined that the proposed sign is in harmony with the standards for permitted signs. The applicant has represented to the Board that proposed signage is less than that would be allowed for one (1) building mounted sign at the subject location.

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 applicant has represented to the Board that the subject property is located within an existing plaza (Panorama Plaza) and a significant number of businesses are located at the rear of the proposed Auto Zone. Other businesses in the plaza have additional building mounted signs that have been approved by this Board.
3. The proposed signs do 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 applicant has represented to the Board that the existing plaza (Panorama Plaza) is services by seven (7) ingress locations and providing additional signage on the proposed building would allow better visibility for customers of the business and reduce confusion by the customers as to the location of the proposed business.

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

The Board determined that the sign does not interfere with the lawful and aesthetic enjoyment of the public highway. The applicant has represented to the Board that the proposed signage is offered in a tasteful manner and proportioned in a way that the facades on which they are affixed are within what is allowed by code for total allowable square footage.

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

The Board determined that the proposed signage is necessary to enhance the business identification. The applicant has represented to the Board that the additional signage will provide greater visibility to the customers who desire to patronize the proposed business.

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

1. A Special Permit application for Signage stamped received May 14, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 14, 2014 stamped received May 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 Board’s motion to approve the special permit for signage:  
Moved by: 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 application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW A LARGER FREESTANDING SIGN AT 1635 PENFIELD ROAD

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-12-B of the Code to allow a larger freestanding sign for Auto Zone at 1635 Penfield Road; and

Whereas, the applicant has represented to the Board that the need for the larger freestanding sign is no longer needed, it respectfully requested that this portion of the application to be withdrawn from this Board’s consideration; and

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby WITHDRAWS this portion of the application from consideration for Special Permit for Signage.
Walter Baker-DSB Engineers & Associates, PC, 2394 Ridgeway Avenue, Rochester, New York 14626 on behalf of Pielhler Vision Group requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-B, Article III-3-12-E, Article III-3-13-B and Article III-3-13-C of the Code to allow a larger freestanding sign with less setback, greater building mounted signage and more than one (1) building mounted sign at 770 Panorama Trail S. The property is owned by Vision Two LLC and zoned GB. SBL #138.08-1-47. Application #13Z-0037

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 June 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 approve 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.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW A LARGER FREESTANDING SIGN WITH LESS SETBACK AT 770 PANORAMA TRAIL S

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-B of the Code to allow a larger freestanding sign with less setback at 770 Panorama Trail S; and

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Special Permit for Signage to allow a 73 inch by 102 inch double faced freestanding sign fifteen (15) feet from the right of way of Panorama Trail S at 770 Panorama Trail S, subject to the following conditions:

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

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

3. The applicant shall comply with the requirements of the Building Code of New York State.

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

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

The Board determined that the proposed sign is in harmony with the standards for permitted signs. The applicant has represented to the Board that the freestanding sign would be located in the location of the previous automobile dealership’s freestanding sign.

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 applicant has represented to the Board that the proposed freestanding sign would not interfere with or be detrimental to other neighboring properties.

3. The proposed signs do 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 applicant has represented to the Board that the proposed freestanding sign is located in an area that would not be traveled by any of the owners or occupants of the neighborhood properties.

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

The Board determined that the sign does not interfere with the lawful and aesthetic enjoyment of the public highway. The applicant has represented to the Board that the proposed sign although fifteen (15) feet from the right of way of Panorama Trail S is seventy (70) feet further to the curb line of the physical road, totally eighty (85) feet from the road.

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

The Board determined that the proposed signage is necessary to enhance the business identification. The applicant has represented to the Board that because of the extreme width of the right of way of Panorama Trail S the proposed sign need to be closer to the right of way and larger then permitted to provide the smallest amount of business identification.

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

1. A Special Permit application for Signage stamped received May 16, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 16, 2014 stamped received May 16, 2014 by the Building and Zoning Office.


5. A site plan map prepared by D.S.B. Engineers & Architects dated May 14, 2014 stamped received May 16, 2014 by the Building and Zoning Office.

6. Testimony provided by the applicant and interested parties at the public hearing.
Moved to approve the Board’s motion to approve the special permit for signage to allow a freestanding sign:

Moved: Joseph Grussenmeyer
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to approve the application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW MORE THAN ONE (1) BUILDING MOUNTED SIGNS AT 770 PANORAMA TRAIL

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-C of the Code to allow a more building mounted signage at 770 Panorama Trail S; and

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Special Permit for Signage to allow a 12 inch by 151 inch sign for the dealership (Jaguar) and a 36 inch by 84 inch sign (Jaguar Leaper) at 770 Panorama Trail S, subject to the following conditions:

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

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

3. The applicant shall comply with the requirements of the Building Code of New York State.

4. This approval will be to amend the approval granted by this Board on September 17, 2013 which allowed a single sign depicting the Jaguar Leaper and the name of Jaguar sized at 48 inches by 112 inches. The applicant will have no further rights to the previously approval Jaguar signage without first receiving approval from this Board.

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

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

The Board determined that the proposed sign is in harmony with the standards for permitted signs. The applicant has represented to the Board that the proposed building mounted signage is smaller in area than the previously approved 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 applicant has represented to the Board that the surrounding properties adjacent to 770 Panorama Trail S are all commercial uses and have similar
building mounted signs on the buildings where multiple tenant operate from one structure.

3. The proposed signs do 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 applicant has represented to the Board that the subject building mounted signage proposed to be constructed would not create a hazard to the public in general or neighboring properties.

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

The Board determined that the sign does not interfere with the lawful and aesthetic enjoyment of the public highway. The applicant has represented to the Board that the building the proposed signs would be affixed is setback approximately one hundred fifty (150) feet from Panorama Trail S.

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

The Board determined that the proposed signage is necessary to enhance the business identification. The applicant has represented to the Board that the proposed signage is the minimum number of signs required by the manufacturer for the businesses operating at the subject property.

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

1. A Special Permit application for Signage stamped received May 16, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 16, 2014 stamped received May 16, 2014 by the Building and Zoning Office.

5. A site plan map prepared by D.S.B. Engineers & Architects dated May 14, 2014 stamped received May 16, 2014 by the Building and Zoning Office.

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

Moved to approve the Board’s motion to approve the Special Permit for Signage to allow more than one building mounted sign:
Moved:          Joseph Grussenmeyer
Seconded:       Carole Mulcahy

Vote of the Board

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

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

Paul Colucci-The DiMarco Group, 1950 Brighton-Henrietta Town Line Road, Rochester, New York 14623 on behalf of Salads Etc. requests a Conditional Use Permit under Article III-3-77-A and Article X-10-4 of the Code to allow a restaurant at 1900 Empire Blvd. The property is owned by Baytowne Associates and zoned GB. SBL #093.02-1-23.11. Application #14Z-0038.

CONDITIONAL USE PERMIT TO ALLOW A RESTAURANT (SALADS ETC) AT 1900 EMPIRE BLVD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Article III-3-77-A and Article X-10-4 of the Code to allow a restaurant (Salads Etc.) at 1900 Empire Blvd; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on June 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 approve to classify this application as an unlisted action and no further environmental review will be required.

Moved: 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 State Environmental Quality Review Act (SEQRA) determination was carried.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit to allow a restaurant (Salads Etc.) at 1900 Empire Blvd, subject to the following conditions:

1. The applicant shall obtain a Special Permit from the Town Clerk’s Office and pay the appropriate fee.
2. The applicant shall be required to obtain a building permit from the Building and Zoning Office and pay the appropriate fee.
3. The applicant shall comply with the requirements of the Building and Zoning Administrator and Fire Marshal.
4. The applicant shall comply with the requirements of the Building Code of New York State.
5. The applicant shall be required to comply with the Fire Code of New York State.
6. The applicant shall be required to comply with the Property Maintenance Code of New York State.
7. The applicant shall be permitted to conduct business between the hours of 6:00 AM to 11:00 PM Sunday through Saturday.
The Board bases its decision on its findings that:

1. The proposed use is similar to the other uses at the subject property and with the current uses at the shopping plaza.

2. As required by Article X-10-4 for issuance of a Conditional Use Permit, there is no detriment to the adjacent properties that will be produced by the approval of this application because:

   a. Means of ingress and egress.

   The applicant has represented to the Board that the subject property has an existing means of egress and ingress onto Empire Blvd and Creek Street. The applicant is not proposing any changes to the existing means of ingress and egress for the subject property due to the needs of this proposed business.

   b. Adequacy of parking facilities.

   The applicant has represented to the Board that the parking facility is adequate to accommodate this proposed use and the existing tenants at the subject property. The existing tenants of the subject property have different peak use times that will allow sharing of the common parking spaces.

   c. Potential impact to both present and future uses.

   The applicant has represented to the Board that the proposed use will not interfere with the present or future uses at the subject property or in the general vicinity of the property.

   d. Compatibility with the general area in which it is to be located.

   The proposed use is similar to other uses in the area and will complement the existing businesses in the area.

   e. Type and amount of signage.

   The applicant has represented to the Board that they will be complying with the requirements of the Sign Ordinance for the primary sign on the façade.

   f. Potential noise level.
The applicant has represented that the proposed use will not create any nuisance to the adjacent neighbors or businesses in the area.

g. Clear sight distance.

The applicant is not proposing any modifications to the existing egress locations onto Empire Blvd and Creek Street and the existing clear sight distance at these locations provides adequate clear sight distance for customers and patrons of the plaza.

h. Existing and proposed buffering.

The applicant has represented to the Board that the property is buffered by existing landscaping and additional buffering would not be needed from the businesses and residences adjacent to the subject property.

i. Proposed generation of noxious odors.

The applicant represented to the Board that the cooking equipment that will use at the proposed coffee shop/cafe will require the use of traditional hood ventilation equipment and will be installed and maintained to the standard of the Building Code of New York State.

j. Exterior lighting.

The applicant will not be adding any additional lighting to the subject property.

k. Proposed hours of operation.

The proposed hours of operation are 6:00 AM to 11:00 PM Sunday through Saturday.

3. Not detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or detrimental or injurious to the property and improvements in the neighborhood, or to the general welfare of the town.

The proposed use is consistent with the conditionally permitted uses for the zoning district.

Pursuant to Article X-10-4-B, this Conditional Use Permit shall become void one (1) year after this approval unless the permitted activity has commenced, or otherwise specified.
Pursuant to Article X-10-4-C, this Board may revoke any Conditional Use Permit for non-compliance of conditions set forth in this approval, after first holding a public hearing and giving notice of such hearing as provided in Article XIV-14-11.

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

1. A Conditional Use Permit application form stamped received May 18, 2014 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated May 18, 2014 stamped received May 18, 2014 by the Building and Zoning Office.

3. A letter of intent dated May 18, 2014 stamped received May 18, 2014 by the Building and Zoning Office.

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

Motion to approve the application for a Conditional Use Permit to allow a restaurant (Salads Etc.) at 1900 Empire Blvd.

Moved: 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.
Phil Coraggiuso on behalf of Vincent Vella, 1759 Empire Blvd, Webster, New York 14580 requests an Area Variance from Article III-3-78-B of the Code to allow a parking facility expansion with greater lot coverage and a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-B and Article VII-7-12-E of the Code to allow a larger freestanding sign with less setback at 1759 Empire Blvd. The property is owned by Vincent Vella and zoned GB. SBL #093.15-1-67. Application #14Z-0039.

**AREA VARIANCE TO ALLOW GREATER LOT COVERAGE AT 1759 EMPIRE BLVD.**

**WHEREAS**, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-78-B of the Code to allow a parking facility expansion with greater lot coverage at 1759 Empire Blvd; and

**WHEREAS**, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on June 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: 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 29.6 percent from the allowed 65 percent lot coverage resulting in a lot coverage of 94.6 percent at 1759 Empire Blvd, 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 comply with the requirements of the Property Maintenance Code of New York State.

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

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

The Board determined that there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that the area affected by the pavement improvements was, historically, an area that only had stone and was difficult to maintain. This pavement allowed them the ability to provide better maintenance of the area which is more aesthetically pleasing.
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 benefited by the pavement improvements where they have gained approximately four (4) parking spaces for the property. Without the approval to allow additional lot coverage the additional parking spaces could not be realized.

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 this property at the time of his purchase did not comply with the 65 percent lot coverage requirement. The addition of the pavement only changed the percentage by approximately 5 percent.

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 an additional catch basin was installed at the North West corner of the parcel and this storm water collection facility will prevent any storm water from leaving the property unmanaged.

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 alleged difficulty was self-created insomuch as they have increased the non-compliance by approximately 5 percent and not the full 29.6 percent reflected in this approval.

The Board is directed by statutory requirements to grant the minimum variance necessary.

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

1. An Area Variance application form stamped received May 13, 2014 by the Building and Zoning Office.

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


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

Moved to approve the application for area variance for greater lot coverage:
Moved: Joseph Grussenmeyer
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 A LARGER FREESTANDING SIGN WITH LESS SETBACK AT 1759 EMPIRE BLVD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-B and Article VII-7-12-E of the Code to allow a larger freestanding sign with less setback at 1759 Empire Blvd; and

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Special Permit for Signage to allow a 54 inch by 78 inch double faced freestanding sign one (1) foot from the right of way of Empire Blvd, subject to the following conditions:

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

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

3. The applicant shall comply with the requirements of the Building Code of New York State.

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

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

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

The Board determined that the proposed sign is in harmony with the standards for permitted signs. The applicant has represented to the Board that the sign which is subject of this request has been located in the location for a number of years. The existing sign is in disrepair and needs to be upgraded.

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 applicant has represented to the Board that the proposed freestanding sign is located in a similar distance off Empire Blvd as the adjacent commercial properties.
3. The proposed signs do 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 applicant has represented to the Board that the proposed freestanding sign would not create a hazard to the neighborhood properties.

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

The Board determined that the sign does not interfere with the lawful and aesthetic enjoyment of the public highway. The applicant has represented to the Board that the location of the proposed freestanding sign is more than 45 feet to the intersection of Smith Road and Empire Blvd. This location would not interfere with clear sight distance at the intersection.

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

The Board determined that the proposed signage is necessary to enhance the business identification. The applicant has represented to the Board that this property only has access onto Smith Road and the proposed freestanding sign was needed to adequately identify the property to the north bound traffic before the Smith Road and Empire Blvd intersection.

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

1. A Special Permit application for Signage stamped received May 13, 2014 by the Building and Zoning Office.


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

4. A sign drawings prepared by Midcity Signs stamped received May 13, 2014 by the Building and Zoning Office.

5. An instrument survey dated December 2, 2013 prepared by Edward Freeman; L.S. stamped received May 13, 2014 by the Building and Zoning Office.

6. Testimony provided by the applicant and interested parties at the public hearing.
Moved to approve the Board’s motion to approve the special permit for signage:

Moved:                Joseph Grussenmeyer
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.