The Zoning Board meeting at 6:30 PM local time Thursday, July 17, 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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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.

Board deliberations:

Dan: Pass, matter is being addressed at public hearing.
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.

Board deliberations:

Dan: We still have nothing from Delta Sonic?
Harold: Nothing, no new information from the applicant.

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*Motion to: A=Approve, D=Deny, T=Table, O=Other
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 Wolfe, R.A. of Wolfe Architecture, 3 North Main Street, Honeoye Falls,
New York 14472

Presenter’s Statements: Explains sample material (wood board with stained and burned design).
Proposed Eye Chart would be designed using either method and sealed after stenciling and staining/burning. Mr. Wolfe further details proposed choices for design. Applicant has no preference between sample choices.

Board Deliberations:
Joe: Expresses concerns regarding concepts and laws, which are Town Board responsibility.
Zoning Board should consider this a sign, not a concept.
Dan: Harold, we have an excerpt from the code concerning Integral (Article VII-24-B), what is this concerning?
Harold: Article VII-24-B is regarding exemptions to the Sign Ordinance.
Dan: If we were to consider this Integral it would be allowed without any action?
Harold: Yes, however it would require some oversight from the Fire Marshall regarding the burning issue.
Robert: We could fabricate this in a shop so no on-site burning would be involved.
Dan: Did the Planning Board intend to invoke this section when they used the term “Integral” in their memo?
Harold: Yes.
Dan: I totally disagree with it [memo]. That exemption section is for commemorative tablet, monumental citations, etc.
Andris: Based on what we’ve there is not enough information to consider this design integral.
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*Motion to: A=Approve, D=Deny, T=Table, O=Other*
Regarding Minutes from Zoning Board Meeting on June 19, 2014.

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II. PUBLIC HEARING:

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

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

The Clerk was directed to read the agenda.

NOTE: The following is meant to outline the major topics for discussion during the Zoning Board public hearings. For more detailed information, the reader should ask to listen to the recorded tape of the July 17, 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. Adam Benfante, 22 Tuscany Lane, Webster, New York, 14580 requests an Area Variance from Article IV-4-1-D of the Code to allow an existing six (6) foot tall fence less than twenty (20) feet from the east property line at 22 Tuscany Lane. The property is owned by Adam Benfante and zoned RR-1. SBL # 094.02-2-25. Application #14Z-0040.

Appearances by: Adam Benfante, 22 Tuscany Lane, Webster, New York 14580.

Presenter’s statements:
Adam presented a paper with signatures from neighbors who approve the variance request on one side and a map showing their home in relation to the fence in question.

Adam:
- Early in May I called and left a couple of voicemails with Andy Suveges about putting up a fence on the east border of my property. After a few days I called again when I didn’t hear back and spoke with Tom, who then asked me to email him my survey map [included in submitted packet]. There was a miscommunication as where I wanted to place the fence and where he thought I was placing the fence.
- May 22, 2014 the fence went up, and within five weeks we were cited that the fence was in violation.
- Need privacy due to corner lot.
- Create a barrier for four-year-old son.
- Chose fence to match an existing fence already installed in neighboring lot [146 Tuscany Lane], white vinyl.
- Feels it is complimentary and design is pleasing, spoke to several neighbors who agree with his opinion.
- $2650.00 to dismantle and relocate to acceptable location according to the Code.
- Fence would not exist in its current location had I known it was not in compliance with the Code, attempted to follow all regulations and currently hold permits for a shed a deck and shed.
- I am a resident who follows the rules and attempted to my due diligence by contacting the Town prior to construction.
- Do not feel it is a substantial variance considering no driveways are along the property line and a storm water retention land is before the fence where no structures will be going on that parcel.
- The intersection where cars are supposed to stop has over 150 feet of line of sight.
- Utilities were marked and considered and avoided during construction.
- When speaking to Harold we did not infringe on the right-of-way as far as where it was placed.
- It will not have any adverse effect on the environment, nothing was removed, altered or excessively excavated to put the fence in. Vinyl construction is easy to maintain.
- Placed on high elevation so it will not cause a drainage issue and potentially reduce some snow drifts.
- The violation was self-created, due to miscommunication, did attempt to adhere to regulations.
- Town of Penfield does not have any regulations immediately available regarding fences that I could find on their website.
- Found nice brochure for building decks and had a three-point inspection when he installed his deck. There is no permit in place for fence so feels there is some room for misunderstanding.
Board deliberations:

Joe: You do understand you are looking for a variance for the height of the fence in that location?

Dan: No portion of the fence is in compliance?

Harold: No portion is in compliance.

Joe: Did you need to do the whole side of your property?

Adam: At the time when I asked the questions I was told I could go to my property line. I did not ask the right question nor receive the right answers. My reasoning was if I could afford it I want to do it.

Joe: As I pulled up to the T in the road unless you drive across the sidewalk you cannot see down the curve on the right-hand side of your property. If I stop short I could see inside your fence on that curve but then I almost have to stop again to see the rest of it. The line of sight for a car coming down the south side of the property. Your fence encompasses your whole backyard, which is my question: how do you justify that fence the side of your yard rather than just three or four panels not there?

Adam: At the time I was trying to for uniformity across the whole yard, not enclose the line of sight. Living on a corner lot you have very limited privacy, the way that our home is designed our dining room is enclosed with windows so you’re always on display whether it’s traffic or people walking their dogs or whatever. It was our feeling that if we were going to put a fence up we were going to get as much privacy out of it that we could. At the time I had taken into consideration the fence across the street [146 Tuscany Lane] and he had stopped [his fencing] where he did due to financial reasons, that fence had been there for over a year so I assumed it was in compliance as did he.

Joe: You were not trying to do anything illegal or immoral, it was simply a misunderstanding and we understand.

Dan: Let me interject there was no indication that anyone at the Town was doing anything to bother you or mislead you.

Joe: I spoke to one of your neighbors and he said a child was driving a bicycle and went around the corner and someone had to slam on their breaks, there was almost an accident. Do you know anything about that? [Adam does not] When I asked the neighbors “What do you think about the fences?” they all thought they were very nice but one of the neighbors talked about the line of vision from the corner. If you had remove two or three panels is there anywhere else on the property you could use those?

Adam: There is.

Dan: Is there any traffic control device at that intersection?

Adam: Working from home I noticed at best it’s a rolling stop, if there’s no sign people don’t realize they have to stop. My feeling is the fence has created more people to slow down and be cautious of the intersection. With the amount of kids around they should be stopping anyway.

Dan: How could this fence be moved at all to be in compliance with the Code?

Harold: South by four to five feet and west by nineteen feet.

Adam: Which would go in the middle of my side yard. Had I known that I never would have erected it in the first place?

Carol: What would you have done in place of the fence?
Adam: Privacy landscaping, which also requires setbacks. Our backyard is only forty feet deep and our side yard is much larger. The fence allows us to utilize the yard rather than be a showcase for the neighborhood.

Mike: What is the cost of removing a few panels of the fence?

Adam: twenty-two dollars per foot times sixteen feet.

Mike: If you removed a few sections at the corner would that be a detriment to your privacy?

Adam: No, it would be parallel to the driveway.

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*Motion to: A=Approve, D=Deny, T=Table, O=Other*
2. Silvestro Fantauzzo, 146 Tuscany Lane, Webster, New York 14580 requests an Area Variance from Article IV-4-1-D of the Code to allow an existing six (6) foot tall fence less than twenty (20) feet from the east property line at 146 Tuscany Lane. The property is owned by Silvestro Fantauzzo and Angela Pietropaolo and zoned RR-1. SBL # 094.02-2-52. Application #14Z-0045.

Appearances by: Silvestro Fantauzzo, 146 Tuscany Lane, Webster, New York 14580

Presenter’s statements:
- Second Adam’s [Benfante] statements.
- This is my first home, understand what people say “Never buy a corner lot”. Lights coming into the bedroom windows.
- First time having dinner in home all the neighbors walking by staring into their kitchen. Had to keep blinds closed for two months in home [before fence installed].
- Came to the town and spoke with someone here.
- Didn’t mean to beak rules, figured placement wasn’t obstructing road.
- Thought since a neighbor’s fence was on his property line it was okay to do the same, not aware of setback for corner lot. The contractor from Regency Fence Company didn’t say anything about it so figured it was okay.

Board questions:
Joe: Your 146 and [Adam Benfante] is 22, your fences are right across the street from each other. It’s the same corner we are referring to. Your fence is different in that yours blocks your house and your backyard but no your front side yard. You’ve never had any complaints?
Silvestro: It’s been up for over a year and this is the first time anyone has complaint about it [referring to Notice of Code Violation by Building Department].
Joes: What’s the difference between your fence and [Adam Benfante] back from the corner?
Silvestro: I’d say maybe two or three panels, maybe four.
Joe: The line of sight of your fence doesn’t bother anything.

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3. Rich Ide-Dick Ide Honda, 875 Panorama Trail S., Penfield, New York 14625 requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-B and Article VII-7-13-C of the Code to allow greater building mounted signage and more than one (1) building mounted signs at 875 Panorama Trail S. The property is owned by Richard Ide and zoned GB. SBL # 138.12-1-7.1. Application #14Z-0041.

Appearances by: Rich Ide, 875 Panorama Trail S., Penfield, New York 14625

Presenter’s statements:
- Several months ago we were requesting additional signage for a remodel and opened the door to the fact that the existing sign is not compliant.
- We didn’t have paperwork for the existing signs
- Despite the address we don’t have frontage on Panorama Trail
- We haven’t had any complaints about the dealership signage.
- Have stories about how people to this day do not know the location of the dealership.
- Not a residential are
- Signs are tasteful and represent the dealership well
- As far at the new signage it was suggested at a precious [Zoning Board] meeting that one sign over the three doors might be considered. Feel this is too large and not aesthetically appealing.
- It was also suggested that one sign over one door be placed and it would be assumed that all three doors serve the same purpose. Feel this would confuse people.
- A feature of the doors being individually signed would allow me to adjust the sign (turn them on and off accordingly) for service versus delivery.

Board questions:
Mike: Couldn’t you accomplish what you just described by opening and closing the doors?
Rich: I could but I wouldn’t want a door sitting open in the winter. We have extreme temperatures here even in the summer. The objective is to not have the doors open unless we’re letting someone in.
Mike: You have three overhead doors which are the only doors in the front of that building. You have a big service sign to the left and above them and now you’re saying you need three separate service reception signs above each door and that people aren’t going to know where to go. Aren’t you going to be directing them anyway?
Rich: We were hoping to direct them with the signs. We aren’t going to have a person outside if that’s what you mean.
Mike: If somebody comes there they’re going to go in the wrong door? Is that what you’re worried about? It seems to me that it’s overkill and visually polluting to have four service signs on the left side of that building. That’s just my opinion.
Rich: I can’t argue with opinions. I’ve seen Honda stores that have this done and I don’t think it’s not visually polluting at all, I think aesthetically pleasing and does make it clear. People like to be shown where to go. If we get any complaints about signage right now it’s that people don’t know where to go. It’s a busy area, we service over one hundred twenty cars a day and we plan on growing still. As far as the signage goes you really
won’t see those signs until you pull into the store, it’s not like you will see them from the road. Odds are once you’re there you’ll see them.

Mike: Sounds like your arguments contradict themselves. Basically what you’re saying is that the signs you have now are not working, you have five signs and it’s still not making a difference so then.

Rich: Well we’re talking about two issues, the Dick Ide Honda signs that we already have that we’re trying to get approval to keep those on the building, the second issue is the directional signage which we do not have anything like that right now.

Mike: Right but what you’re saying is that people aren’t finding the place and you have five signs already: a logo sign, Dick Ide, Honda on another on two sides of the building that face the road.

Joe: That service sign was actually on the building before, it was just on the side of the building. And service reception sign was on the building before, it was just on the side of the building. So all you’re technically doing is moving the service on the front to say “this side of the building is service” and the three smaller signs you’re going to use to light up to say “pull in here,” so they’re almost directional signs so you’re going to need three of them. So all you’re really adding is two-two by eight foot signs and two overhead doors. We’re not here to question whether you have three service doors, but my understanding is that you would like a service sign over each door. You’re going to use it as a directional sign, “pull into this bay because this one is full.”

Carol: Why can’t you just have one sign over the middle door say “Service” and two arrows right off of that to say that “service at these doors as well”?

Mike: If this is a directional sign then why does he need approval at all?

Harold: If you want to make an argument that these signs over the doors are directional signs then the [Zoning] Board can make that finding and [the signs] may not be required to comply with the provisions of the signage allotment (as far as square footage/area) or numbers of signs on that side of the building.

Joe: He [Rich Ide] is making that argument by saying if they’re lit up you go to that door, if they’re not lit up you don’t go to that door.

Harold: I don’t think it’s proper for the staff to make that argument when we initially review the application that that’s a directional sign.

Joe: So [Rich Ide] is making that argument and it’s the Board’s decision.

Harold: That’s correct. It’s the Boards decision as whether it’s a sign or a directional sign relative to size or numbers.

Andris: Do you expect to come back again if Honda makes you change these signs? It seems that people are always coming and saying that our manufacturers are requiring us to change our signs for bigger and better-

Rich: That’s why I hesitate to when you ask about potential changes, I know that Honda is strict on how they want the stores to look. I’ve seen several of these new stores and I haven’t seen one that didn’t get it this way. The reason I hesitate to answer and say that could work is that I don’t know if Honda would come back and say “no” so there are other alternatives but you know-

Joe: I guess what Andris is saying is that you’ve been forewarned, if you’re back her in two months-

Dan: Your application would be a lot weaker if the building were more exposed to the streets.
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*Motion to: A=Approve, D=Deny, T=Table, O=Other
4. Chris Gallina, 107 Angels Path, Webster, New York 14580 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage addition with less setback at 107 Angels Path. The property is owned by Chris and Jeni Gallina and zoned R-1-20. SBL # 094.03-2-69. Application #14Z-0042.

Appearances by: Chris Gallina, 107 Angel’s Path, Webster, New York 14580
Steve Nowak, 22 Triple Diamond Way, Webster, New York 14580

Presenter’s statements:
Chris Gallina: [Presents a letter to the Board from neighbor at 111 Angels Path giving support for requested Area Variance.

- Neighbor has no objections to addition.
- Wife is smashing the car door as she’s opening up and getting out the kids.
- Landscaping business trailer is stored in garage. Extra space would allow room for trailer and wife’s truck.
- Cannot park trailer outside as it would be an eyesore for neighbors.
- Cannot add on to the back of the garage I have a large maple and decorative stone and landscaping. To remove that would cost more money on top of it and wouldn’t serve the purpose I require.
- My two-car garage is really a one and a half car garage and we cannot fit her vehicle and my vehicle in there without one of us getting out with the kids and the bags and the car seats all those things without smashing things.
- My brother has already had to fix dings on her vehicle.
- I and my neighbor are the only two on my street with two-car garages.
- There’s a house around the corner that is the same build [floor plan] but with a three-car garage.
- Ninety percent of the homes in that track have three-car garages, so it would be aesthetically pleasing.

Steven Nowak:
- My property is in the back of Chris’s.
- When I had my house I did my due diligence. The reason I picked this neighborhood is that they’re decent sized lots with decent sized setbacks.
- I was the first one in this phase, reason I picked my lot is because how my lot is set up. [Shows aerial photograph, Dan calls Chris up to view photo]
- I picked this lot because my house isn’t directly behind another lot. I have a view so I’m not staring at the back of a person’s house.
- The garage is going to be a ten foot addition? How far are you from the boundary line, about four feet?

Chris:
- A hair under five feet.

Steven:
- I think a ten foot setback is [the Code]? It takes away from my due diligence, I worked with my builder. This is my morning room that we use most. It’s just taken away.
Board questions:
Dan: Harold, what he just talked about, storing the trailer on the side of the garage, is that permissible?
Harold: A trailer for personal use would be allowed to be stored there, a trailer for business would never be allowed. It is very specifically written in the code that equipment for a landscaping business would not be allowed on the property at any place.
Dan: How about if it’s combined, personal and business?
Harold: We would defer to the amount it’s being used for each.
Dan: You’re going to have to come in and speak to them [Building & Zoning Department] about that.
Joe: You are going to extend the asphalt so you can get in there, right?
Chris: That’s correct.
Joe: This person is directly next to you and he does not object.
Mike: You’re not going to extend the asphalt the whole width are you?
Chris: Correct, it will only extend to the entrance, not to the street.
Mike: So you’re not going to be impinging on the transformer, right?
Chris: Negative, I will not be doing that.
Andris: You’re looking to ten feet wide, there’s about a two-foot space between the doors, why not go eight feet or a little bit less, would that cause a problem?
Chris: I would like to do that but they can’t knock down the wall, that’s a supporting wall. I have to get an engineer in there, they have to put up a special beams and that costs a fortune and that’s not certain.
Mike: [To Steven] Would that be a significant taking away from you, this view past here?
Steven: Liked I said this is why I picked my house on this lot, the others are backed up, and I’m mostly in between.
Mike: Are these bushes, trees? [Indicating Steven’s submitted photograph]
Steven: Yes, these are some evergreen trees.
Mike: Eventually those will block you anyways.
Chris: Those are about twelve foot high pine trees right now.
Steven: But you can see this goes to the boundary line, this is ten feet, that’s ten feet, so I’ll always have the ten feet. Even so I will always get the light I want and I won’t be able to see the back of his house.
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*Motion to: A=Approve, D=Deny, T=Table, O=Other*
5. Jandianne Chamberlin-Gray/Robinson Attorneys at Law, 401 E. Jackson Street, Tampa, Florida 33601 requests a Conditional Use Permit under Article III-3-77-I and Article X-10-4 of the Code to allow an ownership transfer of an existing gasoline service station/convenience store/restaurant at 2180 Penfield Road. The property is owned by Hess Corporation and zoned GB. SBL # 140.01-1-4. Application #14Z-0043.

Appearance by: Kristen Peters, Manager of Hess Store #250 at 2180 Penfield Road, Penfield, New York 14526

Presenter’s statements:
- I was told I’m here more for a formality.

Board questions:
Carol: Because it’s a change of ownership we have to go through the Conditional Use. [Asks “Findings” questions to Kristen] The Planning Board resolution said you had to put ten additional trees around the modified storm water treatment.
Kristen: As far as I know everything was done when the new Burger King was put in.
Carol: And has your dumpster been enclosed?
Kristen: Yes.
Carol: Did you install the handicap ramps?
Kristen: We do have handicap ramps, we have one on the front sidewalk.
Carol: Have there been any drainage problems?
Kristen: No.
Carol: You do have a Burger King with a Drive-Thru?
Kristen: Yes
Carol: Do you have tables in there?
Kristen: We have four tables in there. Two tables have four chairs and two tables have two chairs.
Carol: Is this menu just like the regular Burger King?
Kristen: We have a full menu, yes.
Carol: The grease traps and ventilation have been approved?
Kristen: Everything is functioning beautifully.
Carol: The drive-through, is that open twenty four hours too?
Kristen: We are closing at ten o’clock Thursday, Friday and Saturday. We just started staying open until midnight.
Carol: What about indoors, are the hours the same for the Burger King?
Kristen: Yes.
Carol: You also have a Dunkin Donuts kiosk in there?
Kristen: No.
Carol: What do you have in there?
Kristen: We have a Good to Go Joe coffee program, serves just the doughnuts, coffee and cappuccino.
Carol: Do you serve anything else like salads or anything else in the convenience part?
Kristen: We do have a Good to Go case in the front that has salads, sandwiches, fresh fruit, provided by Fresh One, we get multiple deliveries every week.
Carol: And the rest is just normal convenient store things?
Kristen: Yes, cigarettes, beer, soda, lottery, everything else.
Carol: Outdoors I see two ice containers, do you have the approvals? I can’t see that those were ever approved.
Kristen: I have not but I know the Hess store was built, I don’t know how many years ago but it’s something I can inquire about.
Carol: I assume you want to keep both of them?
Kristen: Yes, we need both of them.
Carol: I have to say every time I go to get gas there the place is immaculate, will everything stay the same with the new ownership?
Kristen: I hope so.

Special conditions required by the Board: None

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<td>Approve request and keep two ice containers as outside storage and Burger King with drive-thru and “Good to Go” operation</td>
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6. David Staerr, 412 Bills Road, Macedon, New York 14502 requests an expansion of a Pre-Existing Non-Conforming Use under Article IV-4-15 of the Code to allow the construction of a garage addition at 3202 Atlantic Avenue. The property is owned by Outlet Rod & Gun Club and zoned RR-1. SBL # 110.03-1-27. Application #14Z-0044.

Appearances by: David Staerr, Director, Outlet Rod & Gun Club, 3202 Atlantic Avenue, Penfield, New York 14526

Presenter’s statements:
- Requesting 995 square foot addition onto existing garage strictly for storage.
- Store a tractor with a front-end loader and a brush hog and clay targets for recreational sport.
- Need to order [clay targets] in large volume because 1 Price, 2 The volume that we’re shooting and the availability of targets
- Expand the back so brush hog can be left attached and stored in shed
- The rest of the added space will be for clay targets on pallets five feet tall.

Board questions:
**Andris**: The addition will match the existing garage
**Dave**: The material will be the same, the roof line will be three or four feet lower than the existing roof line. The material will be corrugated sheet metal, same as existing.
**Andris**: Two additional bays?
**Dave**: It’s going to be two additional bays with a void in the middle, one bay on the backside to serve as a drive-through for the tractor we utilize to maintain the property.
**Andris**: From Atlantic Avenue it doesn’t look like you will be able to see the addition because of the trees you have there?
**Dave**: You probably will be able to see it. I drive by as a responsible party I concentrate and make sure I see it. If you’re not paying attention, because the set back is so far you’ll probably miss it. There’s a substantial stand of trees to the west of this addition that juts farther out substantially to the east in front of the building so if you’re east-bound on Atlantic you’ll probably never see it.

**Dan**: Is it fair to say that similar clubs have the volume of storage that you’re seeking here?
**Dave**: Actually most clubs are probably are probably more rural. We like to maintain and keep our club as nice looking as it is, we are proud of it and we mow regularly. We paved the entrance last year. Different clubs are different sizes so to say they buy as many-Walworth is a two trap field club, we are a four trap field club, two skeet fields. Our membership is five hundred fifty, other clubs may not have that many.

Special conditions required by the Board: None
**MEMBER** | **MOTION BY** | **MOTION TO** | **VOTE** | **COMMENTS/ OTHER**
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Belgiorno | | | |  
Grussenmeyer | 2nd | | | Approve as type 2 action  
Mulcahy | | | |  
Silins | A | | |  

**MEMBER** | **MOTION BY** | **MOTION TO** | **VOTE** | **COMMENTS/ OTHER**
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DeLaus | | | Aye |  
Belgiorno | | | Aye |  
Grussenmeyer | | | Aye |  
Mulcahy | 2nd | | Aye |  
Silins | A | | Aye | Approve addition request as specified. 

*Motion to: A=Approve, D=Deny, T=Table, O=Other*
PENFIELD ZONING BOARD OF APPEALS  
July 17, 2014

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

SPECIAL PERMIT FOR SIGNAGE TO ALLOW A LARGER GRAPHIC SIGN ON THE NORTH FACADE 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 building mounted sign at 2142; and

WHEREAS, this application is the only part of a multi-part application that has yet to be decided; 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 as part of the multi-part 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 at the June 19, 2014 meeting. 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.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby DENIES the application for a Special Permit for Signage to allow a 12 foot by 20.5 foot sign depicted as an “EYechart” to have been installed on the north façade of the proposed 2 story office building 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 signs and within the spirit of Article VII-7.

The Board has determined that the requested signage is not in harmony with the standards for permitted signs. The applicant has requested a sign depicted as an “EYechart” on the north façade of the proposed building that is two hundred forty six (246) square feet in size. The Code would permit up to one hundred thirty (130) square feet of signage for this sized proposed building.

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

The Board has determined that the proposed “EYechart” sign would not necessarily be detrimental to the neighborhood properties. The property that would be most impacted by this proposed sign if approved by the Board is a recreational park owned by the Town of Penfield.

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 proposed “EYechart” sign would not create a hazard to the public in general.

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 proposed “EYechart” sign would not interfere with the lawful and aesthetic enjoyment of the public highway. The proposed “EYechart” sign was to be installed on the north façade of the building which would not be visible to traffic along Penfield 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 “EYechart” sign was not necessary to enhance business identification. The proposed “EYechart” sign would not be visible to the general public other than those customers who would be at the property. Additionally, the applicant has argued that the proposed “EYechart” sign was a sign
exempted under Article IV-4-24-B as an Integral Sign. The Board reviewed this evidence and determined that the proposed “EYECART” sign did not comply with the intent of this provision of the Code as the proposed “EYECART” sign was not the name of the building, indicated the date of erection of the building, contained any citations, or was a commemorative tablet.

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 Special Permit for Signage: Andris Silins
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to deny the application was carried.
Adam Benfante, 22 Tuscany Lane, Webster, New York, 14580 requests an Area Variance from Article IV-4-1-D of the Code to allow an existing six (6) foot tall fence less than twenty (20) feet from the east and north property lines at 22 Tuscany Lane. The property is owned by Adam Benfante and zoned RR-1. SBL # 094.02-2-25. Application #14Z-0040.

AREA VARIANCE TO ALLOW AN EXISTING SIX (6) FOOT TALL LESS THAN TWENTY (20) FEET FROM THE EAST PROPERTY AT 22 TUSCANY LANE.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article IV-4-1-D of the Code to allow an existing six (6) foot tall fence less than twenty (20) feet from the east and north property lines at 22 Tuscany Lane; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on July 17, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as a Type II action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment. Therefore, the submission of a draft Environmental Impact Statement will not be required.
Motion to classify this application as a Type II action and no further environmental review will be required.

Moved: Joseph Grussenmeyer
Seconded: Andris Silins

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 three (3) feet from the allowed three (3) foot fence height resulting in a fence height of six (6) feet placed one (1) foot from the east property line (right of way of Tuscany Lane) at 22 Tuscany Lane, subject to the following conditions:

1. The applicant shall remove the first two (2) northern most panel sections to eliminate the fence encroachment into the twenty (20) foot area adjacent to the north property line. However, the Board will permit these sections to be placed perpendicular to the end of the existing fence on the west side of the existing fence.

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 style of fencing was similar to other existing fences in the area, including one directly across the street.

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 the subject property is a corner lot and to install the fence to the requirements of the Code would not provide the screening benefit desired by 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 to the Board that although the fence height is six (6) feet the upper one (1) foot is of a lattice design and does afford some degree of visibility through the fence as compared to a complete visual block.

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 location of the existing fence does not create any impacts to the drainage on or adjacent to the subject property.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that he communicated with staff from the department but a misunderstanding as to the proposed location of the fence created the need for the requested area variance.

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 June 23, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated June 23, 2014 stamped received June 23, 2014 by the Building and Zoning Office.

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

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

Moved to approve the application for area variance to allow a fence with a height of six (6) feet less than twenty (20) feet from the east property line: 

Joseph Grussenmeyer
Carole Mulcahy

Seconded:

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.
Silvestro Fantauzzo, 146 Tuscany Lane, Webster, New York 14580 requests an Area Variance from Article IV-4-1-D of the Code to allow an existing six (6) foot tall fence less than twenty (20) feet from the east property line at 146 Tuscany Lane. The property is owned by Silvestro Fantauzzo and Angela Pietropaolo and zoned RR-1. SBL #094.02-2-52. Application #14Z-0045.

AREA VARIANCE TO ALLOW AN EXISTING SIX (6) FOOT TALL LESS THAN TWENTY (20) FEET FROM THE EAST PROPERTY AT 146 TUSCANY LANE.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article IV-4-1-D of the Code to allow an existing six (6) foot tall fence less than twenty (20) feet from the east property line at 146 Tuscany Lane; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on July 17, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as a Type II action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment. Therefore, the submission of a draft Environmental Impact Statement will not be required.
Motion to classify this application as a Type II action and no further environmental review will be required.

Moved: Joseph Grussenmeyer
Seconded: Daniel DeLaus

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of three (3) feet from the allowed three (3) foot fence height resulting in a fence height of six (6) feet placed 5.9 feet from the east property line (right of way of Tuscany Lane) at 146 Tuscany Lane.

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 style of fencing was similar to other existing fences in the 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 the subject property is a corner lot and to install the fence to the requirements of the Code would not provide the screening benefit desired by 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 to the Board that although the fence height is six (6) feet the upper one (1) foot is of a lattice design and does afford some degree of visibility through the fence as compared to a complete visual block.

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 location of the existing fence does not create any impacts to the drainage on or adjacent to the subject property.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that he communicated with staff from the department but a misunderstanding as to the proposed location of the fence created the need for the requested area variance.

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 June 30, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated June 30, 2014 stamped received June 30, 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 to allow a fence with a height of six (6) feet less than twenty (20) feet from the east property line:  
Joseph Grussenmeyer  
Andris Silins  

Seconded:  

Vote of the Board  

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The motion to approve the application was carried.
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-C 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 sign at 875 Panorama Trail S. The property is owned by Richard Ide and zoned

SPECIAL PERMIT FOR SIGNAGE TO ALLOW GREATER BUILDING
MOUNTED SIGNAGE AND MORE THAN ONE (1) BUILDING MOUNTED
SIGN AT 875 PANORAMA TRAIL S.

WHEREAS, this application received by the Penfield Zoning Board of Appeals
requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-B
and Article VII-7-13-C of the Code to allow greater building mounted signage and more
than one (1) building mounted signs at 875 Panorama Trail S was joined with an
application for a conditional use permit under Article III-3-77-C and Article X-10-4 of
the Code to allow an addition to an existing building at 875 Panorama Trail S; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public
hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on April
21, 2014 at 7:00 PM to consider the said combined application and hear all persons in
favor of or opposed to the application; and

WHEREAS, the Board granted the portion of the combined application related to the
conditional use permit, and TABLED the remaining portion of the combined application
related to the signage; and

WHEREAS, the Zoning Board of Appeals has re-advertised the component of the listed
application related to signage and held a public hearing on July 17, 2014, and the
applicant has elected to withdraw the request for additional signage from the Zoning
Board of Appeals consideration.
NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby accepts
the applicant’s request to withdraw the request for additional signage without prejudice.

Moved to approve the Board’s motion to accept the applicant’s request to
withdraw the prior request for additional signage without prejudice.
Moved: Daniel DeLaus
Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion was carried by the Board.
Rich Ide-Dick Ide Honda, 875 Panorama Trail S, Penfield, New York 14625 requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-B and Article VII-7-13-C of the Code to allow greater building mounted signage and more than one (1) building mounted signs at 875 Panorama Trail S. The property is owned by Richard Ide and zoned GB. SBL #138.12-1-7.1. Application #14Z-0041.

SPECIAL PERMIT FOR SIGNAGE TO ALLOW GREATER BUILDING MOUNTED SIGNAGE AND MORE THAN ONE (1) BUILDING MOUNTED SIGN FOR DICK IDE HONDA AT 875 PANORAMA TRAIL S.

WHEREAS, an application was received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-B and Article VII-7-13-C of the Code to allow greater building mounted signage and more than one (1) building mounted signs at 875 Panorama Trail S; 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 July 17, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as an unlisted action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment and therefore, the submission of a draft Environmental Impact Statement will not be required.
Motion to classify this application as an unlisted action and no further environmental review will be required.

Moved: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer 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 Special Permit for Signage to allow two (2) 2.5’ x 22.5’ “HONDA” signs located on the east and north façade of the building, one (1) 8’ x 10’ “H” sign located on the east façade of the building, two (2) 2.5’ x 10.5’ “DICK IDE” signs located on the east and north facades of the building, one (1) 2.5’ x 9’ “SERVICE” sign located on the east façade of the building and three (3) 2’ x 8’ “SERVICE/RECEPTION” signs located on the east façade of the building over the service bay entrance/exit doors totaling 316.75 square feet of building mounted signage for Dick Ide Honda at 875 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 be required to comply with the requirements of the Building Code of New York State, the Property Maintenance Code of New York State and Article IV-4-24 of the Town Code.

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

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

The applicant has represented to the Board although the application requests a substantial number of building mounted signs the total square footage requested is 36.75 sq. ft. less than the currently permitted area allowed under the Code for the subject structure (i.e., the code would permit a total of two hundred seventy (270) sq. ft.).

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 signage the subject of this request has been on the existing building since 2001 with the exception of the signage requested over the service bay entrances. These existing signs have not created any nuisance to the neighboring properties.

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

The Board determined that the location of the proposed signs would not create a hazard to the public in general or to any owner or occupant of neighboring properties. The applicant has represented to the Board that due to the unique location of the subject none of the adjacent properties would be impacted by the requested signage.

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

The Board determined that the signs do not interfere with the lawful and aesthetic enjoyment of the public highway. The proposed signage will be mounted on the façade of the existing building and will not impact the lawful enjoyment of the public highway.

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

The applicant has represented to the Board that the business to benefit from the requested signage is not located directly off Panorama Trail S but Linden Park. Visibility of the business at Panorama Trail S is difficult and therefore the requested signage is considered to be imperative to the success of the business.
The Board’s decision was based upon the following information:

1. A Special Permit for Signage application form stamped received June 30, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated June 30, 2014 stamped received June 30, 2014 by the Building and Zoning Office.

4. A site plan prepared by TY Lin International dated March 14, 2014 stamped received June 30, 2014 by the Building and Zoning Office.

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

6. A sign drawings prepared by TY Lin International dated March 14, 2014 stamped received June 30, 2014 by the Building and Zoning Office.

Moved to approve the Board’s motion to approve the application to allow the Special Permit for Signage:

Moved: Daniel DeLaus
Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion to deny the application was carried.
Chris Gallina, 107 Angels Path, Webster, New York 14580 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage addition with less setback at 107 Angels Path. The property is owned by Chris and Jeni Gallina and zoned R-1-20. SBL # 094.03-2-69. Application # 14Z-0042.

AREA VARIANCE TO ALLOW A GARAGE ADDITION WITH LESS SETBACK AT 107 ANGELS PATH.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-37-A of the Code to allow the construction of a garage addition with less setback at 107 Angels Path; 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 July 17, 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: Michael Belgiorno

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 6.6 feet from the required ten (10) foot side setback resulting in a setback of 3.43 feet from the east property line to allow the construction of a 12 foot by 16 foot garage addition at 107 Angels Path, subject to the following conditions:

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

2. The applicant shall be required to comply with the Residential Code of New York State.

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

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

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

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the area variance.
The Board determined that there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that the subject residence is one of three residences in this neighborhood with a two-car garage and the addition of the garage addition would be typical of the residences in the neighborhood.

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

The Board determined that the benefit sought by the applicant could not be achieved by some other method feasible for the applicant to pursue. The applicant has represented to the Board that he has explored other options to construct the addition at the front or the rear of the existing garage. Both options would require substantial cost over the estimate to construct the addition on the side of the existing garage and any addition to the front of the garage would not be in compliance with the required setback from the road.

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 requested area variance is minimal and the distance to the residence on the adjacent parcel is still greater than 20 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 existing drainage conditions along the side property line would not be impacted by the proposed garage addition.

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 family has additional storage needs that cannot be achieved other than an addition to the garage.

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

The Board’s decision was based upon the following information:
1. An Area Variance application form stamped received June 13, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated June 13, 2014 stamped received June 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 less setback: Daniel DeLaus
Seconded: Andris Silins

Vote of the Board

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

The motion to approve the application was carried.
Jandianne Chamberlin-Gray/Robinson Attorneys at Law, 401 E Jackson Street, Tampa Florida, 33601 requests a Conditional Use Permit under Article III-3-77-I and Article X-10-4 of the Code to allow an ownership transfer of an existing gasoline service station/convenience store/restaurant at 2180 Penfield Road. The property is owned by Hess Corporation and zoned GB. SBL #140.01-1-4. Application #14Z-0043.

CONDITIONAL USE PERMIT TO ALLOW AN OWNERSHIP TRANSFER OF AN EXISTING GASOLINE SERVICE STATION/CONVENIENCE STORE/RESTAURANT 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-I and Article X-10-4 of the Code to allow an ownership transfer of an existing gasoline service station/convenience store/restaurant at 2180 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 July 17, 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: Carole Mulcahy  
Seconded: Daniel DeLaus

Vote of the Board

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

The motion to approve the 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 an ownership transfer of an existing gasoline service station/convenience store/restaurant at 2180 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 be required to comply with the Fire Code of New York State.

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

5. The applicant shall be permitted to conduct business 24 hours daily.

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 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 due to the needs of this business.

b. Adequacy of parking facilities.

The applicant has represented to the Board that the parking facility are adequate to accommodate this proposed use and the existing tenants at the subject property.

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 Penfield Road and 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 cooking equipment that is use at the coffee shop/cafe will require the use of traditional hood ventilation equipment and will be 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 24 hours daily.

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 June 11, 2014 by the Building and Zoning Office.

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


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

Motion to approve the application for a Conditional Use Permit to allow the ownership transfer of an existing gasoline service station/convenience store/restaurant at 2180 Penfield Road.

Moved: Carole Mulcahy
Seconded: Michael Belgiorno

Vote of the Board

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

The motion to approve the application was carried.
PENFIELD ZONING BOARD OF APPEALS
July 17, 2014

David Staerr, 412 Bills Road, Macedon, New York 14502 requests an expansion of a Pre-
Existing Non-Conforming Use under Article IV-4-15 of the Code to allow the construction of a
garage addition at 3202 Atlantic Avenue. The property is owned by Outlet Rod & Gun Club and
zoned RR-1. SBL #110.03-1-27. Application #14Z-0044.

REQUEST TO EXPAND A PRE-EXISTING NON-CONFORMING USE TO ALLOW
THE CONSTRUCTION OF A GARAGE ADDITION

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals
requesting an expansion to a Pre-Existing Non-Conforming Use under Article IV-4-15 of the
Code to allow the construction of a garage addition at 3202 Atlantic Avenue; 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 July 17, 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: Joseph Grussenmeyer

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application to allow the construction of a 31 foot by 32 foot garage addition at 3202 Atlantic Avenue, subject to the following conditions:

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

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

3. The applicant shall comply with the requirements of the Fire Code of New York State, The Property Maintenance Code of New York State and Article IV-4-28 of Chapter 29 of the Town Code.

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

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

The Board considered the following factors in the decision to allow the expansion of the pre-existing non-conforming garage for the use known as The Outlet Rod and Gun Club:

1. The applicant has represented to the Board that the existing use has been located at the subject property for approximately 65 years.

2. The applicant has represented to the Board that the proposed garage addition would not increase the current membership which totals approximately 400 members.
3. The proposed garage addition will not require the addition of any new parking facilities.

4. The proposed garage addition would be located approximately 370 feet from the west property line, 460 feet from the south property line, 1000 feet from the north property line and 600 feet to the east property line.

5. The proposed garage addition will provide additional storage for property maintenance equipment and space to inventory clay pigeons, some of which are presently stored outside.

6. The proposed addition would be constructed of similar materials as the existing garage.

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

1. An Expansion to a Pre-Existing Non-Conforming Use application form stamped received June 12, 2014 by the Building and Zoning Office.

2. A letter of intent dated June 12, 2014 stamped received June 12, 2014 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated June 12, 2014 stamped received June 12, 2014 by the Building and Zoning Office.

4. An instrument survey dated June 12, 2014 prepared by David Staerr; L.S. stamped received June 12, 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 to allow the expansion of the pre-existing non-conforming garage for the use known as The Outlet Rod and Gun Club:  **Michael Belgiorno**
Seconded:  **Carole Mulcahy**

Vote of the Board

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The motion to approve the application was carried.