Penfield Zoning Board of Appeals
Meeting Minutes

The Zoning Board meeting at 6:30 PM local time Thursday, August 21, 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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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 August 21, 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.

Public Hearing Applications:

1. Erik Harding, 1127 Five Mile Line Road, Webster, NY 14580 requests an Area Variance under Article III-3-48-C-2 and Article III-3-48-C-4 of the Code to allow an existing shed with less setback at 86 Beacon Hills Drive S. The property is owned by Robert and Jane Kasperski and zoned PD. SBL #109.09-2-12. Application #14Z-0048.

Appearances by:

Erik Harding, 86 Beacon Hills Drive S., Penfield, NY 14526

Presenter’s statements: Just purchased the property last Friday [August 15, 2014]. Anywhere we move the shed is not going to be compliant because of the pool. We just purchased the home and do not have a lot of money.

Board questions:

Joe: Is the shed on a concrete base?
Erik: I think the shed is on a concrete base, I don’t know for sure. Originally the shed was set in middle of the yard and the [previous] owner built the pool and moved the shed to its current location.
Joe: So no matter where you put the shed it will not meet the setback because of the pool? The pool takes up your whole backyard?
Erik: Yes.
Joe: Do you know how long [the shed] has been there?
Erik: No, but I believe the pool is ten years old.
Joe: What’s the condition of the shed?
Erik: It’s fairly new, the shingles are recently new so there’s nothing that has to be done to it, just regular maintenance.
Joe: Your yard is fenced in so it’s visible, but not quite a large visibility to the neighbors? Have you had any complaints?
Erik: Yes, it’s about a five-foot shed so it’s not that large shed. There have been no complaints that I know of.

Special conditions required by the Board: None

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*Motion to: A=Approve, D=Deny, T=Table, O=Other*
2. Tom & Christina Galambos, 134 Lazy Trail, Penfield, NY 14526 request an Area Variance from Article III-3-37-A of the Code to allow the construction of a shed with less setback at 134 Lazy Trail. The property is owned by Tom & Christina Galambos and zoned R-1-20. SBL #124.20-2-57. Application #14Z-0049.

Appearances by: Tom & Christina Galambos, 134 Lazy Trail, Penfield, NY 14526

Presenter’s statements: Christina: We have a slab with a chain link fence attached to our garage. We purchased a shaker-style shed that we would like to place on that and take the chain link down. There is a photograph of the current chain link fence and a picture of the shed [matches house] that we purchased.

Board questions:
Carole: How large is your property?
Tom: About half an acre.
Carole: Where is this shed going to be? Size and height?
Tom: It’s going to be on the north side of the building which is immediately adjacent to the garage. It’s a six foot by six foot, I don’t know the height, it’s a single-story shed.
Carole: Was there a shed there before?
Tom: No, there is a chain link fencing that was an enclosure for the previous owner’s dog. The reason we want to use that spot is because of the existing concrete pad, it’s in good shape. The pad is six foot by nine foot. We plan on storing yard supplies that we take out of the garage during the winter time to move our cars in. Lawnmower, wheelbarrow, yard tools.
Carole: Is there another place in the yard you can put the shed where you will meet the setback?
Christina: Our yard is quite wooded with a small area for the children that is not wooded. We would prefer to put it on the existing slab and not in the play area.
Carol: There is a door where you are going to put the shed, are you going to use that door to get into the shed or is it not going to be used?
Tom: That door is not functioning right now anyway. It won’t be used.
Carole: The fence will be removed?
Tom: Correct, it will be removed.
Carol: Are you going to have any electricity going out to the shed?
Tom: No
Carole: The variance you’re asking for is how much?
Christina: I believe its four feet.
Andris: Any objections from any of your neighbors?
Christina: Our immediate neighbor that abuts it as well does not have a problem with it.

[Board members together with homeowners consult survey map and determine the requested variance is in fact four feet]
Special conditions required by the Board: Chain link fence surrounding the concrete pad must be removed.

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3. Dr. Laurence Torpey, 8 Weston Ridge, Rochester, NY 14625 and Steve Cerrone, 2221 Penfield Road, Penfield, NY 14526 requests a Change of Use Permit and a Special Permit for Signage to allow a doctor’s office in a converted residence and a freestanding sign with less setback at 2221 Penfield Road. The property is owned by Hometown Antiques and Properties, LLC and zoned BN-R. SBL #140.01-2-10. Application #14Z-0046

Appearances by: Steve Cerrone, 2221 Penfield Road, Penfield, NY 14526
Dr. Laurence Torpey, M.D., 8 Weston Ridge, Rochester, NY 14625
Kevin Page, 26 Braunston Drive, Fairport, NY 14450

Presenter’s statements:
Steve: I can talk about the sign permit. Would like to put up a three foot by nine foot internally lit sign on a knee wall. [Presents photographs to illustrate sign]
Laurence: Our proposal is to operate a primary care/family practice:
- Three exam rooms
- Area connected to the kitchen is reception area
- Living room converted to waiting room
- Area very conducive to being a family practice
- Making a transition to Patient-Centered Medical Home
- Feedback positive from patients coming to visit
- Convenient location to several pharmacies nearby valuable to patients

Kevin: As far as signage goes is there going to any kind of large signage? As far as lighting goes is there going to be that shines across the street? I apologize, I just walked in. [Steve and Laurence show Kevin photographs of signs, Steve explains proposed location of freestanding sign] Concerned about vacant lot next door, don’t want anything big going up there.

Steve: I own that property as well.
Kevin: That’s perfect, we’re really excited it’s a doctor’s office and not a Wendy’s or something like that.

Board questions:
Andris: What is the reason for choosing this particular spot for the free-standing sign?
Steve: It is basically due to the way the parking lot is laid out. It’s a natural are for a sign of that nature to go. It’s in line with two other signs in the area.
Andris: Is that sign going to be illuminated dusk to dawn?
Steve: I don’t know, their hours of operation are of course nine to five but we would guess it would be lit dusk to dawn.
Andris: What would be your hours of operation?
Laurence: Right now they’re eight to five.
Andris: Do you plan on extending those hours at any time?
Laurence: It depends on patient requirements, at this time we are open eight to five.
Joe: How many days?
Laurence: Monday through Friday.
Andris: In terms of parking, you have an adequate amount of spaces?
Laurence: House still has a single-car garage. Staff is myself, my wife and one nurse. My wife and I will park in the garage and the nurse will use one of the seven parking spots available.
Andris: You’ve obtained all necessary licensing from the state to operate at that facility?
Laurence: Yes, that is correct.
Andris: Any additional lighting going to be added to the building?
Laurence: I do not believe any additional lighting was added to the building.

Special conditions required by the Board: None

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<td>Special Use Permit to allow a doctor’s office in former residence and a free-standing sign with less setback.</td>
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*Motion to: A=Approve, D=Deny, T=Table, O=Other
4. Joseph Giannini, 1697 Creek Street, Rochester, NY 14625 requests a Conditional Use Permit under Article III-3-72-E and Article X-10-4 of the Code to allow an office for veterinary care, pet food retail, dog daycare, dog training, dog boarding and self-service dog washing at 1995 Empire Boulevard. The property is owned by FICO Properties LLC and zoned LB. SBL #093.11-1-14. Application #14Z-0050.

Application Withdrawn
5. Monika Robertson-ABVI-Goodwill of Fingerlakes, 451 South Clinton Avenue, Rochester, NY 14620 requests a Special Permit for Outside Storage and Display under Article IV-4-24 of the Code to allow a Donation Shed at 2750 Atlantic Avenue. The property is owned by Rochester Christian Reformed Church and zoned R-1-20. SBL #124.01-1-1.2. Application #14Z-0051.

Appearance by: Monika Robertson, ABVI-Goodwill of Fingerlakes, 451 South Clinton Avenue, Rochester, NY 14620
Jeffrey Kuryla, 159 Henderson Drive, Penfield, NY 14526

Presenter’s statements:
**Jeff:** We’ve been approached by the Open Door Mission to put a Goodwill Donation Shed on the property. A-frame sign would be placed by the road on the church side of the sidewalk and we would like to put the donation shed in the in the back northwest of the property.

Board questions:
Carole: What are the dimensions of the shed?
Monika: The shed will be a ten by twelve [presents photographs of Goodwill donation shed].
Carole: How tall is it?
Monika: I would say it’s about ten feet tall.
Carole: Are these two doors that open up for people to put things in?
Monika: The two doors that say “Donate” will be the access point for donors will put their product in that they want to donate. The shed doors with the smiling “G” will be padlocked so that when our delivery truck comes we can open it and retrieve the products.
Carole: Where are your receipts for the people? I don’t see them [in the photographs]
Monika: We’ll mount one of those little plastic things that will have the receipts in them. There will also be signage listing what we will and will not accept.
Carole: The church won’t have anything to do with this at all, right? You’re just letting them park their shed there?
Jeff: That’s correct.
Carole: When will the pick-ups be?
Monika: We schedule weekly pick-ups. We have about forty pick-ups in the area. We also have a 1-800 number so the church can call for a special pick-up. Aware that there are seasonal increases in donations.
Jeff: We’ll maintain the area around the shed as far as snow plow and clean-up.
Carole: Could you explain the relation between ABVI and the Open Door Mission?
Monika: Open Door Mission and ABVI Goodwill are working collaboratively together because we are both not-for-profit organizations. We both serve different markets but at the same time some of our individuals might be able to use both organizations. If someone needs work enforcement since Open Door Mission is a smaller organization we can always take them into a Goodwill store and enhance their job skills.
Carole: What about that twenty-four cents a pound?
Monika: We pay Open Door Mission twenty-four cents a pound from the donations.
Carole: Is there going to be any additional lighting around the shed?
Monika: Not at this time.
Carol: Explain sign.
Monika: We would love to have the shed as close to the road as possible, but if the shed is going to place in the rear of the property it would be appropriate in the daytime when someone is on staff at the church can place the a-frame sign by the road.
Carole: The church has agreed to do that?
Jeff: We’ll make sure that happens. It’s a heavily used parking lot and the Bay Trail fields behind it it’s a convenient location to park and watch your kids and make a donation at the same time.
Carol: Is this a genuine hardship if we didn’t allow this?
Monika: The church isn’t benefitting from this, two non-profit organizations are benefitting from this. We’re both helping members of the community to be self-sustaining individuals.
Carole: Obviously you think the donations will be substantial enough?
Monika: Absolutely.
Dan: How to you ascertain where a donation shed is needed?
Monika: It’s a collaboration with the community.
Andris: How come you didn’t decide to put [donation shed] closer to the trees, away from the parking spots?
Jeff: Plowing first of all, and access to the parking lot. In that back corner it will be most visible.
Special conditions required by the Board: None

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6. 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 at 1910 Empire Boulevard. The property is owned by Hess Corporation and zoned GB. SBL #093.02-1-21. Application #14Z-0052.

Appearances by: Thomas Shammon, Manager, Hess #32278, 1910 Empire Boulevard, Webster, NY 14580

Presenter’s statements:
- Not actually a change of ownership for now.
- Hess Corp decided to divest retail part of their business last year. Decided to have all the stores under the same name.
- Nothing about the store will change right now. Hours of operation stay the same, no changes will be made whatsoever

Board questions:
Dan: We just had one of these come in last month. Okay so no changes in operation, just Hess to another Hess subsidiary?
Thomas: They have been bought by Speedway but nothing will change until I guess the agreement is Speedway has three years to use the Hess name until they can rebrand everything. So in the future they will rename everything.
Special conditions required by the Board: None

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7. Walter Baker-D.S.B. Engineers & Architects, PC 2394 Ridgeway Avenue, Rochester, NY 14626 on behalf of Empire Storage & Gated Parking requests a modification of a Pre-Existing Non-Conforming Use and Structure to allow the replacement of an existing maintenance building at 1387 Empire Boulevard. The property is owned by 1385 Empire Boulevard and zoned R-1-20. SBL #108.10-1-2.11. Application #14Z-0053.

Appearances by: Walter Baker-D.S.B. Engineers & Architects, PC 2394 Ridgeway Avenue, Rochester NY 14626
Nick Meli, 1387 Empire Boulevard, Rochester, NY 14609

Presenter’s statements:
Walt:
- [Outlines request] Posts map (included in submitted application) on whiteboard to illustrate site. Site is shielded by trees from Empire Boulevard and surrounding community.
- Running operation for over thirty years.
- [Presents photographs of existing structure]
- Structure is irregular in shape, a little over twenty-six hundred square feet.
- The proposed building would be forty-eight by forty-eight square, so it would be twenty-three square feet. So it would be a little bit smaller than the existing structure.
- The existing structure has been on the property since 1920.
- As you can see in the photographs it’s getting more expensive to repair it than it is to replace it. So that’s what we would like to do.

Board Questions:
Dan: In your opinion will it improve the overall quality of the property?
Walt: Yes, sir.
Dan: Other than the demolition of the current building and the construction of the new one are there going to be any changes to the lighting or anything?
Walt: Just the security light over the garage doors. And there will naturally lighting inside. There will be three overhead doors to the outside and windows to let natural light in.
Dan: The building use will be the same as the current building?
Walt: Correct, they use it for the maintenance and property management for the facility itself. They would like to park the snowplow in the building.
Dan: So you don’t anticipate any increase in traffic or use on the property?
Walt: No, no additional employees. The surface remains the same, the run-off won’t change.
Dan: So replacing an existing building that needs to be replaced with a new one.
Walt: That’s exactly it.
Joe: Are you going to use the same base, the current base is concrete?
Nick: The foundation of that building is a tree, a deck sits on top of it. It’s just rotted away and you have to parade around it, it’s just a mess. We need a facility to put our machines in for the wintertime. It’s difficult to get the machines started in the winter [when stored outside]. All the tools and maintenance tools for the yard have to inside there. We’re going to fence the
backside of it so it’s going to basically hide a lot of the commercial area from the warehouses and so forth that are going up in the area and be an improvement to the property, at least we hope so.

**Joe:** I guess my question is you’re not going to build it on the tree again, you’re going to dig up the tree, right?

**Nick:** We’re going to try!

**Joe:** I know there has been some environmental problems, you’re not going to be doing a ton of excavation?

**Nick:** No, just enough for the foundation, the footings and the slab naturally.

Special conditions required by the Board: None

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

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*Motion to: A=Approve, D=Deny, T=Table, O=Other*
8. Michael Cavalcanti-Cloverland Development Company, LLC, 1213 Clover Street, Rochester, NY 14610 requests Area Variances from the approved plat map dated March 9, 2012 to allow less setback and lot width on Lots 208, 209, 210, 211, 212 and 213 of the Ashlyn Rise Subdivision at 85-B Fellows Road. The property is owned by Cloverland Development Company, LLC and zoned RR-1. SBL #140.01-1-65.1. Application #14Z-0054.

Application Withdrawn
Tabled Applications:

1. 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.

Appearances by: None

Board deliberations:
Dan: New submission is nicer but has a lot of words.
Joe: Why do we have [second option, newly submitted]? Why do we have to approve this? Is it legal?
Harold: The second choice is compliant.
Dan: So they need nothing from us on the second [option]?
Harold: do not require board approval for the second one.
Dan: We prefer the second [compliant] option. If they want [first proposed submission] they’re going to have to wait a year and re-submit.

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*Motion to: A=Approve, D=Deny, T=Table, O=Other*
Erik Harding, 1127 Five Mile Line Road, Webster, NY 14580 requests an Area Variance under Article III-3-48-C-2 and Article III-3-48-C-4 of the Code to allow an existing shed with less setback at 86 Beacon Hills Drive S. The property is owned by Robert and Jane Kasperski and zoned PD. SBL #109.09-2-12. Application #14Z-0048

AREA VARIANCE TO ALLOW AN EXISTING SHED WITH LESS SETBACK AT 86 BEACON HILLS DR S.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variances from Article III-3-48-C-2 and Article III-3-48-C-4 of the Code to allow an existing shed with less setback at 86 Beacon Hills Dr. 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 August 21, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as 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 ABSENT
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 5.75 feet from the required ten (10) foot rear setback resulting in a setback of 4.25 feet and an area variance of four (4) feet from the required seven (7) foot side setback resulting in a setback of three (3) feet from the south property line to allow an existing 8 foot by 15 foot shed at 86 Beacon Hills Drive S, subject to the following conditions:

1. The applicant shall be required to comply with the Property Maintenance Code of New York State.
2. 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 that the previous owner of the property had placed the shed in the current location to accommodate the installation of an in-ground pool. The shed was relocated from the east side of the property which also did not comply with the provisions of the Code. This shed had been location on the subject property from 1989 and is similar to other sheds located in the community.
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 shed could not be located on another location and comply with the requirements of the Code. The rear yard of the property is largely occupied by the existing in-ground pool and appurtenant concrete patio.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance are substantial. Although the requested variances are substantial the zoning district the subject property is located does provide for reduced setback standards which does reduce the amount of required setback as compared to a standard residential zoning district. Additionally, the property is buffered to the adjacent properties by an existing fences and mature landscaping.

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

The Board determined that the proposed variance would not have an adverse effect or impact on physical or environmental conditions in the neighborhood or district. The applicant has represented that the subject property is very well drained and is not aware of any existing drainage impacts to the adjacent properties.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was not self-created. This applicant has just recently purchased the subject property (August 15, 2014) and was made aware of the non-conforming shed during the transaction process.

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 July 15, 2014 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated July 15, 2014 stamped received July 15, 2014 by the Building and Zoning Office.

4. An instrument survey stamped received July 15, 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: Carole Mulcahy

Vote of the Board

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

The motion to approve the application was carried.
PENFIELD ZONING BOARD OF APPEALS  
August 21, 2014

Tom & Christina Galambos, 134 Lazy Trail, Penfield, NY 14526 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a shed with less setback at 134 Lazy Trail. The property is owned by Tom & Christina Galambos and zoned R-1-20. SBL #124.20-2-57. Application # 14Z-0049

AREA VARIANCE TO ALLOW THE CONSTRUCTION OF A SHED WITH LESS SETBACK AT 134 LAZY TRAIL.

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 shed with less setback at 134 Lazy Trail; 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 August 21, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as 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: Joseph Grussenmeyer

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of four (4) feet from the required ten (10) foot side setback resulting in a setback of six (6) feet from the north property line to allow the construction of a 6 foot by 6 foot shed at 134 Lazy Trail, 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 obtain a Certificate of Compliance from the Building and Zoning Office.
3. The applicant shall be required to remove the existing fence previously used for a dog run.
4. The applicant shall be required to comply with the Residential Code of New York State and the Property Maintenance Code of New York State.
5. The applicant shall be required to comply with the requirements of the Building and Zoning Administrator.

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

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the area variance.
The Board determined that there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that the proposed shed would be constructed of similar materials and matches the existing residence.

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 subject property is heavily wooded with mature trees and landscaping and the cost to create a location on the subject property complying with the requirements of the Code would be cost prohibitive.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is not substantial. The applicant is proposing to utilize and existing concrete slab that was previously used as part of a dog run. The fence would be removed and the shed placed on the concrete slab. The total square foot area which would be in violation of the required side setback amounts to 24 square feet of shed area.

Additionally, the proposed location of the shed is buffered to the adjacent property by existing mature vegetation consisting of trees, shrubs and ground cover.

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 is not proposing to disturb the existing grading features in the area of the proposed shed except to remove the existing fence, which should have minimum short term impacts to the adjacent property and no long term impacts to the adjacent property.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant prefers to not disturb the existing trees and shrubs on the subject property and repurpose and existing concrete slab on the side of the existing 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 July 15, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated July 15, 2014 stamped received July 15, 2014 by the Building and Zoning Office.


5. Photographs of the subject property provided by the applicant stamped received July 15, 2014 by the Building and Zoning Office.

6. A photograph of the proposed shed provided by the applicant stamped received July 15, 2014 by the Building and Zoning Office.

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

Moved to approve the application for area variance for less setback: Carole Mulcahy
Seconded: Joseph Grussenmeyer

Vote of the Board

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

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

PENFIELD ZONING BOARD OF APPEALS
August 21, 2014

Walter Baker-D.S.B. Engineers & Architects, PC, 2394 Ridgeway Avenue, Rochester, NY 14626 on behalf of Empire Storage & Gated Parking requests a modification of a Pre-Existing Non-Conforming Use and Structure to allow the replacement of an existing maintenance building at 1387 Empire Blvd. The property is owned by 1385 Empire Blvd and zoned R-1-20. SBL #108.10-1-2.11. Application #14Z-0053.

ALLOW THE REPLACEMENT OF AN EXISTING MAINTENANCE BUILDING

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 replacement of an existing maintenance building at 1387 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 August 21, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

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

Moved: Daniel DeLaus  
Seconded: Joseph Grussenmeyer

Vote of the Board

Daniel DeLaus AYE  
Michael Belgiorno ABSENT  
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 48 foot by 48 foot detached maintenance building, 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, 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.

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

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

The Board considered the following factors in the decision to allow the expansion of the pre-existing non-conforming maintenance building for the use known as Empire Storage & Gated Parking:

1. The applicant has represented to the Board that the existing use has been located at the subject property for approximately 80 years.

2. The applicant has represented to the Board that the proposed maintenance building would be used for the owner’s facility and property maintenance equipment.

3. The proposed maintenance building will not require the addition of any new parking facilities.
4. The proposed maintenance building would be located approximately 500 feet from the west property line, 500 feet from the south property line, 500 feet from the north property line and 1500 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 similar to that of a pole barn and have three (3) overhead doors for larger equipment and one (1) man door.

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

1. An Expansion to a Pre-Existing Non-Conforming Use application form stamped received July 16, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated July 16, 2014 stamped received July 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 to allow the replacement of an existing maintenance building at 1387 Empire Blvd for the business known as Empire Storage & Gated Parking: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

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<td>Andris Silins</td>
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The motion to approve the application was carried.
TOWN OF PENFIELD
3100 Atlantic Avenue, Penfield, NY 14526-9798

PENFIELD ZONING BOARD OF APPEALS
August 21, 2014

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-7-3 from 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.

SPECIAL PERMIT FOR SIGNAGE TO ALLOW A LARGER FREESTANDING SIGN AT 1660 PENFIELD ROAD.

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-7-12-B of the Code to allow a larger freestanding sign was joined with an application requesting a modification to an existing Pre-Existing Non-Conforming Use under Article IV-4-15 of the Code and a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-C for a modification to the existing building mounted signage at 1660 Penfield Road; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on May 19, 2014 at 7:00 PM to consider the said 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 modification to an Pre-Existing Non-Conforming Use and a modification to existing building mounted signage, and TABLED the remaining portion of the combined application related to the freestanding signage; and

WHEREAS, the Zoning Board of Appeals had requested the applicant provide alternative freestanding sign options, which the Board has reviewed at the work session on August 21, 2014.
NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby DENIES the application for a Special Permit for Signage to allow a larger freestanding sign at 1660 Penfield Road.

The Board considered the following factors in consideration of the decision to deny the applicant a Special Permit for Signage to allow a larger freestanding sign:

1. The applicant has represented to the Board that the existing (compliant) 18 square foot double face freestanding sign would be replaced with a proposed (non-compliant) 25 square foot double faced freestanding sign.

2. This originally submitted sign proposal was not favored by the Board and the Board requested the applicant to provide an alternative proposal for review.

3. The applicant has provided the Board with two (2) alternative proposals: Option 1 being a 26 square foot (non-compliant) double face freestanding sign and Option 2 being a 19.6 square foot (compliant) double faced freestanding sign.

4. The Board has reviewed an application which has represented two (2) compliant freestanding signs and two (2) non-compliant freestanding signs.

5. The applicant has not demonstrated evidence to the Board that the larger freestanding signs were needed to represent the business conducted at the subject site.

6. The applicant has represented to the Board intent to refinish the existing freestanding sign to match the new finishes of the carwash.

7. The applicant has provided one (1) proposed (compliant) freestanding sign proposal which does complement the new finishing’s of the carwash and does comply with the requirements of the Code for freestanding signage.

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

1. A Special Permit for Signage application form stamped received April 9, 2014 by the Building and Zoning Office.

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

3. A Short Environmental Assessment Form dated April 9, 2014 stamped received April 9, 2014 by the Building and Zoning Office.
4. A site plan prepared by the applicant dated October 30, 2013 stamped received April 9, 2014 by the Building and Zoning Office.

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

6. Sign drawings prepared by the applicant.


Moved to approve the Board’s motion to deny the application to allow the Special Permit for Signage:
Moved: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to deny the application was carried.
PENFIELD ZONING BOARD OF APPEALS
August 21, 2014

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 at 1910 Empire Blvd. The property is owned by Hess Corporation and zoned GB. SBL #093.02-1-21. Application #14Z-0052.

CONDITIONAL USE PERMIT TO ALLOW AN OWNERSHIP TRANSFER OF AN EXISTING GASOLINE SERVICE STATION/CONVENIENCE STORE AT 1910 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 at 1910 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 August 21, 2014, at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

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

Moved: Daniel DeLaus
Seconded: Joseph Grussenmeyer

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno ABSENT
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 at 1910 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 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, the Property Maintenance Code of New York State and Article IV-4-28 of Chapter 29 of the Town.

4. 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 Empire Blvd. 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 is adequate to accommodate this existing use at the subject property.

c. Potential impact to both present and future uses.

The applicant has represented to the Board that the 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 signage at the property.

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 the existing clear sight distance at this location provides adequate clear sight distance for customers and patrons of the business.

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 adjacent to the subject property.

i. Proposed generation of noxious odors.

The applicant represented to the Board that the noxious odors would be produced at the subject property.

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 July 17, 2014 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated July 17, 2014 stamped received July 17, 2014 by the Building and Zoning Office.

3. A letter of intent dated July 17, 2014 stamped received July 17, 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 the ownership transfer of an existing gasoline service station/convenience store at 1910 Empire Blvd.

Moved:          Daniel DeLaus
Seconded:       Carole Mulcahy

Vote of the Board

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

The motion to approve the application was carried.
Dr. Laurence Torpey, 8 Weston Ridge, Rochester, NY 14625 and Steve Cerrone, 2221 Penfield Road, Penfield, NY 14526 requests a Change of Use Permit and a Special Permit for Signage to allow a doctor’s office in a converted residence and a freestanding sign with less setback at 2221 Penfield Road. The property is owned by Hometown Antiques and Properties, LLC and zoned BN-R. SBL #140.01-2-10. Application #14Z-0046.

CHANGE OF USE PERMIT TO ALLOW A DOCTOR’S OFFICE AT 2221 PENFIELD ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Article X-10-4 of the Code to a doctor’s office at 2221 Penfield Road 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 August 21, 2014, at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as an unlisted action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment 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: Joseph Grussenmeyer

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno ABSENT
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 Change of Use Permit to allow a doctor’s office at 2221 Penfield Road, subject to the following conditions:

1. The applicant shall obtain a building permit from the Building and Zoning office and pay the appropriate fee.

2. The applicant shall obtain a Certificate of Compliance from the Building and Zoning Office.

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

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

5. The applicant shall be permitted to conduct business from 8:00 AM to 6:00 PM daily.

The Board bases its decision on its findings that:

1. The proposed use is similar to the other uses in the area of the subject property.
2. As required by Article X-10-4 for issuance of a Change of 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 that was approved by the Planning Board on May 26, 2011. 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 is adequate to accommodate this proposed use 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 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 and provide a service to the residence of the community and the general area.

e. Type and amount of signage.

The applicant has represented to the Board that they will be requesting approval from this Board for approval of a freestanding sign that will be closer to the right of way of Penfield Road.

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 the existing clear sight distance at this location provides adequate clear sight distance for clients and staff of the medical practice.

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 medical practice and residences adjacent to the subject property.

i. Proposed generation of noxious odors.

The applicant represented to the Board that the medical practice would not create any noxious odors.

j. Exterior lighting.

The applicant will not be adding any additional lighting to the subject property other than to light a proposed freestanding sign. A residence to the rear of the subject property did raise a concern to the impact of the lighting of the proposed freestanding sign which was addressed by the applicant. The location of the proposed freestanding sign would be blocked by the existing structure and the adjacent resident’s concerns were addressed.

k. Proposed hours of operation.

The proposed hours of operation are from 8:00 AM to 6:00 PM daily.

4. 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 permitted and conditionally permitted uses for the zoning district.

Pursuant to Article X-10-4-B, this Change of 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 Change of 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 Change of Use Permit application form stamped received July 15, 2014 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated July 15, 2014 stamped received July 15, 2014 by the Building and Zoning Office.


5. A Planning Board approval resolution dated May 26, 2011.


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

Motion to approve the application for a Change of Use Permit to a doctor’s office at 2221 Penfield Road.

Moved: Andris Silins
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to approve the application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW A FREESTANDING SIGN WITH LESS SETBACK AT 2221 PENFIELD ROAD FOR DR TORPEY.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby APPROVES the application for a Special Permit for Signage to allow 4 foot by 5 foot double faced freestanding sign zero (0) feet from the right of way of Penfield Road, 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 that the proposed double faced freestanding sign complies with the size requirements of the Code for freestanding 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 resident of the rear adjacent property did comment at the public hearing of his concerns regarding lighting of the proposed signage. This concern was addressed by the applicant by demonstrating to the resident that the line of site to the proposed location of the freestanding sign would be blocked by the existing structure on the subject property.

3. The proposed sign does not; by reason of its location create a hazard of any nature to the public in general or to any owner or occupant of neighborhood properties.
The Board determined that the location of the proposed double faced freestanding sign would not create a hazard to the public in general or to any owner or occupant of neighboring properties. The proposed sign will be located approximately fifteen (15) feet from the pedestrian sidewalk adjacent to Penfield Road.

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 location of the proposed double faced freestanding sign will be approximately twenty five (25) feet from the paved surface of 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 applicant has represented to the Board that the business to benefit from the requested signage currently has on this proposed double faced freestanding sign proposed for the business to be located at the subject property.

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

1. A Special Permit for Signage of Use Permit application form stamped received July 15, 2014 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated July 15, 2014 stamped received July 15, 2014 by the Building and Zoning Office.


5. A Planning Board approval resolution dated May 26, 2011.


7. Testimony provided by the applicant and interested parties at the public hearing.
Motion to approve the application for a Special Permit for Signage to allow a double faced freestanding sign with less setback at 2221 Penfield Road.

Moved: Andris Silins
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to approve the application was carried.
Monika Robertson-ABVI-Goodwill of Fingerlakes, 451 South Clinton Avenue, Rochester, NY 14620 requests a Special Permit for Outside Storage and Display under Article IV -4-24 of the Code to allow a Donation Shed at 2750 Atlantic Avenue. The property is owned by Rochester Christian Reformed Church and zoned R-1-20. SBL # 124.01-1-1.2. Application #14Z-0051.

SPECIAL PERMIT FOR OUTSIDE STORAGE AND DISPLAY TO ALLOW A DONATION SHED AT 2750 ATLANTIC AVENUE

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Outside Storage and Display under Article IV-4-24 of the Code to allow a donation shed at 2750 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 August 21, 2014, at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

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

Moved: Carole Mulcahy  
Seconded: Daniel DeLaus

Vote of the Board

Daniel DeLaus AYE  
Michael Belgiorno ABSENT  
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 Outside Storage and Display to allow Donation Shed at 2750 Atlantic Avenue, subject to the following conditions:

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

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

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

4. The applicant shall be permitted to place the donation shed in the northwest corner of the existing parking lot.

The Board bases its decision on its findings that:

1. Such storage and display is an accessory use to the main business conducted or to be conducted on the premises.

The applicant has represented to the Board that the property owner (Rochester Christian Reformed Church) intends to sponsor this clothing collection shed to support as part of the churches mission to support ABVI Goodwill of Fingerlakes. Proceeds of the items donated at this donation shed will be used to fund programs and outreach education programs ABVI Goodwill of Finger Lakes partners with the Open Door Mission.
2. In a LB, FC, B-NR, or GB district, such storage and display is not within one hundred (100) feet of the line of a residential zoning district. In an LI district, such storage or display shall not occur within one hundred fifty (150) feet of the line of any residential zoning district.

The applicant has represented to the Board that the placement of the collection shed would be more than one (100) feet to the west and north property lines. The property adjacent to this proposed location for the donation shed is presently use by the Penfield Central School District for a middle school campus.

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

The Board determined that the proposed storage and display will not interfere with the safe use of such traffic. The proposed location of the donation shed is in the corner of the existing parking facility which should cause little interference to the internal traffic flows.

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

The applicant has represented to the Board that the area adjacent to the location of the proposed donation shed is part of the campus for a middle school of the Penfield Central School District.

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

1. A Special Permit for Outside Storage and Display application form stamped received July 18, 2014 by the Building and Zoning Office.

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

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

4. A site plan dated April 2004 prepared by Peter Vars, P.E.-BME Associates stamped received July 18, 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 Special Permit for Outside Storage and Display at 2750 Atlantic Avenue

Moved: Carole Mulcahy
Seconded: Andris Silins

Vote of the Board

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

The motion to approve the application was carried.