Penfield Zoning Board of Appeals
Minutes

The Zoning Board meeting at 6:30 PM local time Thursday, October 23, 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:

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<td>Joseph Grussenmeyer</td>
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<td>Andris Silins</td>
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<td>Peter Weishaar, Legal Counsel</td>
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<td>Joseph Platania, Legal Counsel</td>
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<td>Harold Morehouse, Building and Zoning Administrator</td>
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<td>Alison Sublett, Secretary to the Board</td>
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<td>Endre Suveges, Building/ Code Compliance Inspector</td>
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Work Session:
Michael Belgiorno calls to order at 6:35 p.m.
Zoning Board members review applications and address questions.
Vote to approve July 17, 2014 Minutes and September 15, 2014 Minutes. Dan DeLaus arrives at 6:45 p.m.
Dan DeLaus motions to recess 6:48 p.m.
Regarding Minutes from Zoning Board Meeting on July 17, 2014 meeting

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Regarding Minutes from Zoning Board Meeting on September 15, 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 October 23, 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


Appearances by: Kenneth Altfather, 31 Millford Crossing, Penfield, NY 14526

Presenter’s statements

Ken:
- Moved into the home in April of this year
- Home has two-car garage.
- Looking to add some additional storage for deck furniture, etc.
- Building out the rear of the garage is cost-prohibitive due to issues tying in to the existing roofline.
- Like to expand to the side.
- Neighborhood has deed restriction of no outside detached sheds.
- Neighborhood has many houses with this sort of proposed expansion on the side of the garage.
- Believe doing this investment, which is considerably more than a detached shed maintains the character of the neighborhood and aesthetic nature of the house.
- Asking for a small variance against the setback. Have roughly 16 1/2 feet from current property line to the side of the garage.
• Would like add 8 foot addition to side of the garage for storage. That would require a two-and-a-half footage easement over the setback limit.

Board questions:
Andris: Can you describe what the exterior will look like? Will it match the house?
Ken: We intend to match the siding to the siding on the house. The roofline will tie in to the side of the garage and shingled with architectural shingles.
Andris: Have you spoken with your neighbor in terms of how they feel about the addition going up and being close to their house?
Ken: We have, just the other day we discussed with him what we were doing and there wasn’t any concern on his part.
Andris: And you said it’s a place to primarily store things you would normally leave outside if you didn’t have a place to store them inside?
Ken: Yes, that’s right. Winter storage and a work bench, tools, that kind of thing
Mike: Would you explain the difference between going out the back as opposed to going off the side?
Ken: Our house is deeper than our garage so to extend the garage meant tying into a roofline that’s over our family room. The way that roofline comes together with the roofline of the garage which is actually quite tall, the roof on the garage is quite a steep pitch, and trying to tie-in those rooflines created an interesting dynamic that added considerably to the cost of doing that addition.
Mike: And on the side you just have a little roof coming off the side?
Ken: Yeah, just a peak roof that ties right into the side of the garage. So it just ties in with the existing roof.
Mike: What’s going to happen with the window on the side of the garage?
Ken: I was just going to move that laterally out to the outer surface.
Mike: The extension’s actually going slightly beyond the window?
Ken: On the front side? Yes, just front of the window; yes. The garage is I think 22 feet long. This extension would be sixteen feet long starting from the back and coming forward. So you have eight feet still of the front of the garage remaining there. And we also have landscaping already existing there, a tall conifer.
Mike: And all that is staying there?
Ken: Yes.
Joe: It’s usually referred to as a bump-out, correct?
Ken: That’s right.
Joe: It’s common, isn’t it? The house next door has one?
Ken: Exactly right, yes.
Joe: So it’s not unique to your neighborhood, most of the houses in the area have the bump-outs.
Ken: It’s very true to the architecture that already exists in the neighborhood.
Special conditions required by the Board: None

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2. Eduard Chernavin, 1696 Qualtrough Road, Rochester, NY 14625, requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a porch with less setback at 1696 Qualtrough Road. The property is owned by Eduard and Olga Chernavin and zoned R-1-20. SBL #108.20-2-46. Application #14Z-0059.

Appearances by: Eduard & Olga Chernavin, 1696 Qualtrough Road, Rochester, NY 14625
Cindy Stottle, 1686 Qualtrough Road, Rochester, NY 14625

Presenter’s statements:
Eduard:
- Want to make the front porch bigger.
- Porch was deteriorating.
- In winter the concrete would get icy.
- Screen door requires people to step back a step, old porch left no room to step back.
- Ice made it hazardous to step back to open screen door and enter, especially with two kids.
- I want to extend it four feet past where the old one was.
- Make it wooden with PVC railings and a walkway out to the driveway.
- That way when my wife pulls up [the drive] she can get out with the kids and avoid the snow by using the [new walkway] to get to the house.

Board questions:
Mike: You started with an eight by eight slab or porch of concrete?
Eduard: It was a step and I believe it was four feet from the house. Then it was two feet going to the driveway right up along the house.
Mike: So the depth of it going from the front door to the edge was how wide?
Eduard: The old [porch] was I believe eight feet from the house out.
Mike: And I think at the side it ended right at the front door.
Eduard: Yes, it ended right at the door so you couldn’t step left to the side to open the screen door to get into the house.
Mike: Now you want to extend this new porch two more feet to the left, so there’s some clearance for the door to open?
Eduard: Yes, and four feet out from the old one.
Mike: And there is a deck or porch there now so you started?
Eduard: Yes, I did.
Mike: And that’s the porch that you want us to approve?
Eduard: Yes.
Mike: Can you describe to me the way it’s attached, are there footers?
Eduard: Yes, there’s two footers on the outside and two footers against the house. The footers are forty-eight inches deep and I believe twelve inches wide. And they’re attached on top and the porch is also attached to the house with a two by ten.
Mike: How about on the end furthest from the house?
Eduard: There are two by eights running from the house out, I got a double two by ten running inside of the four by fours and another two by ten on the outside of it.
Mike: Attached to the ground?
Eduard: It’s sitting on top of the concrete. Well it’s attached with the metal four by four construction posts they have for it.
Mike: How did you determine the depth that you wanted to build it?
Eduard: I want to make a sidewalk from the porch to the [driveway] as far as possible to allow my wife to walk up. I live on a busy street and I wanted to make it wide enough for my daughter to ride her small bike on the front porch.
Mike: But don’t you have some room there between where the wooden steps are and where your concrete slab ends? Couldn’t you move it say two – three feet towards the house?
Eduard: But I wanted to make the sidewalk a lot bigger going out to the driveway. So what I want to do where the old concrete was is make a flower bed like my neighbor across the street.
Mike: But it is possible to make a sidewalk straight across?
Eduard: Yes.
Mike: Is it also possible to shorten the depth? What would you have to do to do that?
Eduard: Tear the whole thing apart.
Mike: The whole thing or just the end?
Eduard: No, the whole thing.
Mike: Why?
Eduard: Because the floor joists run all the way from the house all the way out to the outside of the porch. I would have to tear everything apart and cut them down and I’m going to have to pour new footers for it and redo everything.
Mike: How much would you estimate that would cost you to have to do?
Eduard: Probably close to five – six hundred dollars.
Olga: We also had a problem with the other step deteriorating and water was getting into our basement and into our house. We also had ants getting into our house because the concrete was getting worn. And then the sidewalk that was currently in existence that was connected to the old slab of concrete that we had was right next to the room that’s attached to the garage and the window’s right there. So we also had problems with bugs and water getting in there. So by moving it out we could build the buffer zone and avoid those problems. Because the walls start to crumble on the inside and things like that that we’re having issues with that we’re trying to fix.
Mike: Why didn’t you remove all the concrete then? You left a portion of the original concrete.
Eduard: The lower step, yes.
Mike: Isn’t that going to cause the same problems?
Eduard: No, what I’m going to do is along the house chip away and I’m going to put aluminum flashing along it and seal along the bottom so that way there’s no water getting into the house. When I put the flower bed in.
Mike: So you haven’t done it yet but you’re going to?
Eduard: Yes.
Mike: So you have posts there now, what color is the final project going to be?
Eduard: The wood is going to be just a natural wood finish and the posts and the vinyl railings are going to be white.
Mike: You’re going to cover the wooden posts with white?
Eduard: Yes, everything’s going to be all PVC railings and post covers.
Mike: And you’re leaving the natural wood, just sealing it?
Eduard: Just sealing it, yes.
Mike: And you have what, three steps there going up?
Eduard: Yes.
Mike: That’s all in place as is?
Eduard: Yes. When I do the sidewalk I’m going to remove them and put the concrete underneath also.
Mike: Are there any other houses in the neighborhood that have similar porches a similar distance away?
Eduard: Not as big, not as far away from the house. But there are porches that do come out eight feet away from the house.
Olga: We also had neighbors that come up to us and say that they like the look the they wish they could do something similar on their own property as well because it is more accessible and it does look nice it adds to the appeal of the house.
Joe: You talked about putting railings on it and your children riding their bikes on it. You’re not just putting a railing on it, you’re going to put spindles?
Eduard: I’m buying the whole kit, well I already have it. It’s a kit with top and bottom railings and spindles.
Cindy: I live about four houses down and I went over to their house last night. The porch is really nice construction and it is so comfortable to be standing on the porch and not be squishing around like the steps that are at my house. It is to me a tremendous improvement.
Mike: Do you like the look of it visually?
Cindy: Yes I do, I do like it.
Joe: I just want to mention and put in the record that the applicant gave us nine signatures and references that say they like the look of the porch including [Cindy Stottle], that like what they’re going to do.
Special conditions required by the Board:

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Kenneth Altfather, 31 Millford Crossing, Penfield, NY 14526 requests an Area Variance from Article III-37-A of the Code to allow the construction of a garage addition with less setback at 31 Millford Crossing. The property is owned by Kenneth & Lorellei Altfather and zoned R-1-20. SBL #109.04-4-80. Application #14Z-0047.

AREA VARIANCE TO ALLOW THE CONSTRUCTION OF A GARAGE ADDITION WITH LESS SETBACK.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-37-A of the Code to allow the construction of a garage addition with less setback at 31 Millford Crossing; 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 October 23, 2014 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

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

Moved: Andris Silins
Seconded: Joseph Grussenmeyer

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer AYE
Carole Mulcahy ABSENT
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 required ten (10) foot side setback resulting in a setback of seven (7) feet from the north property line to allow the construction of an 8 foot by 16 foot garage addition at 31 Millford Crossing, 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 comply with the Residential Code of New York State and the Property Maintenance Code of New York State.

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 garage bump out is a common amenity in the neighborhood and they would not be changing the character of 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 they had explored constructing the addition on the rear of the garage but the complexity of the various roof lines would have added significantly to the cost of the project.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is not substantial given that the added storage area would allow for increased storage that would be normally stored outside.

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 swale between the neighboring property and the subject property is well drained and would not be impacted by this proposal.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has a need for additional storage and work space within the existing 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 September 10, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated September 2, 2014 stamped received September 10, 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. Building plans of the proposed addition prepared by JRM Contracting Co dated August 18, 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: **Michael Belgiorno**
Seconded: **Andris Silins**

Vote of the Board

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The motion to approve the application was carried.
Eduard Chernavin, 1696 Qualtrough Road, Rochester, NY 14625 requests an Area Variance from Article III-3-37-A of the Code to allow the construction of a porch with less setback at 1696 Qualtrough Road. The property is owned by Eduard and Olga Chernavin and zoned R-1-20. SBL #108.20-2-46. Application #14Z-0059.

AREA VARIANCE TO ALLOW THE CONSTRUCTION OF A PORCH WITH LESS SETBACK AT 1696 QUALTROUGH ROAD.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-37-A of the Code to allow the construction of a porch with less setback at 1696 Qualtrough 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 October 23, 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: Michael Belgiorno
Seconded: Joseph Grussenmeyer

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of nine (9) feet from the required fifty (50) foot setback resulting in a setback of forty one (41) feet from the front property line to allow the construction of a 10 foot by 12 foot porch at 1696 Qualtrough Road, subject to the following conditions:

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

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

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

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

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

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the area variance.
The Board determined that there will not be an undesirable change produced in the character of the neighborhood. The applicant has represented to the Board that the proposed porch would be replacing a smaller existing porch that had fallen into disrepair and did not meet the needs of the family as an entranceway to the residence. Additionally, a neighboring resident spoke at the hearing supporting the variance and the welcoming appearance the proposed structure would provide.

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

The Board determined that the benefit sought by the applicant could not be achieved by some other method feasible for the applicant to pursue. The applicant has represented to the Board that the existing porch extends eight feet from the residence which does not comply with the current requirements of the code and the additional extension would allow space to place porch chairs for sitting.

3. Whether the requested area variance is substantial.

The applicant has represented that the requested area variance is not substantial. The applicant has represented to the Board that the additional area (40 square feet) is not a significant amount of square footage but would provide the needed area for chairs to be placed on the porch.

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

The Board determined that the proposed variance would not have an adverse effect or impact on physical or environmental conditions in the neighborhood or district. The applicant has represented to the Board that the proposed porch would allow him greater flexibility in correcting existing drainage problems with the home by allowing the drainage along the front of the residence to be redirected away from the house.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant desires to provide a porch to allow safe access into the residence with accommodations for seating.

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 September 19, 2014 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated September 19, 2014 stamped received September 19, 2014 by the Building and Zoning Office.


5. Photographs of the subject property provided by the applicant stamped received September 19, 2014 by the Building and Zoning Office.

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

Moved to approve the application for area variance for less setback:  
   Michael Belgiorno
   Joseph Grussenmeyer

Seconded:

Vote of the Board

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

The motion to approve the application was carried.