TOWN OF PENFIELD
3100 Atlantic Avenue, Penfield, NY 14526-9798

ZONING BOARD OF APPEALS
MEETING MINUTES

FEBRUARY 19, 2015
Penfield Zoning Board of Appeals
Minutes

The Zoning Board meeting at 6:30 PM local time Thursday, February 19, 2015, 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>Harold Morehouse, Building and Zoning Administrator</td>
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<td>Alison Sublett, Secretary to the Board</td>
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Regarding Minutes from Zoning Board Meeting on January 6, 2015.

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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 January 6, 2015 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. Timothy Hens, P.E., 7319 Quinlan Road, Le Roy, NY 14482 on behalf of Dr. Rahul Renjen requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-11-J, Article VII-7-12-A, Article VII-7-12-D, Article VII-7-12-Article VII-7-12-G of the Code to allow a freestanding sign within the right of way of Penfield Road, allow freestanding signage on a property where the building has a setback of less than thirty five (35) feet, two (2) freestanding signs, a freestanding sign with less setback, an informational sign located along Harris Whalen Park Road and less than twenty (20) from Harris Whalen Park Road at 2124 Penfield Road. The property is owned by Gordon Griffin and zoned BN-R. SBL #139.08-1-67. Application #15Z-0005.

Appearances by: Timothy Hens, P.E., 7319 Quinlan Road, Le Roy, New York 14482

Presenter’s statements:

Tim: Requesting several variances regarding signage on the property.

- Small lot with limited setbacks. The nature of the lot and the width of the right-of-way on Penfield Road can create some problems for signage.
- Town has asked Dr. Renjen to provide or start and internal access drive along the rear of the property. That is really the only way to access the property as other lots develop that will be the only method of entering those properties (to avoid left-hand turns on Penfield Road).
- Signage is very important for Dr. Renjen, he is going to be new to the community and area. He doesn’t have any existing clients that he’s bringing from close by.
- Advertising is going to be a big part of his business.
- Very busy intersection.
- He would like to get his name/logo out and let people know there is actually an orthodontist there and he can start attracting clients.
- [The applicant] is proposing a freestanding sign that would be on the North-East corner of the property at the corner of Harris-Whalen Park Road and Penfield Road.
The width of the right-of-way on Penfield Road creates a situation where we are actually requesting to put the sign in the DOT right-of-way. We are cognizant that would require we obtain a Perm-33 DOT permit to allow that to happen.

We would also require a variance from [The Town] code to allow a sign within the public right-of-way.

Also the fact that we don’t meet setback requirements for both the sign and for being so close to the property line.

Additionally Dr. Renjen is asking relief from the code either in the form of a second freestanding sign which itself would be a variance or a consideration for an informational sign at the rear access driveway.

Currently the TF overlay only addresses the current driveways on Route 250 and Route 441. Since the driveway is actually coming off of Harris Whalen Park Road I think you would need to somehow consider that in your zoning ordinances in terms of allowing an informational sign on Harris Whalen Park Road rather than Route 441.

The internal access driveway does create some issues in terms of trying to direct your clients to your parking lot/business and that’s the reason why he would like to put the sign at that location.

The sign would be very similar to the one in front.

- Nothing fancy, we’re looking to meet your codes, it would be five foot by four foot - twenty square feet. A basic two-post sign with his logo on it.
- It would be splashed with some low-impact lighting not to leave the area of the sign.

Requesting consideration for a second freestanding sign or get a relief from the Code in terms of the informational sign to deal with the access on that rear driveway.

[Dr. Renjen] is willing in the future as the area develops to allow that sign to have multiple businesses on it. There will obviously be other tenants in the future down that road that will need to direct their traffic as well. And he is more than willing to allow that sign to be modified to show the other tenants as that happens.

Board questions:

Mike: Let’s start with the sign in front, so you basically [are proposing] a variance to allow it to be in the right-of-way?

Tim: Correct, that’s what we’re asking for.

Mike: Is that separate and distinct from the frontage?

Tim: I think there’s basically, if I’m not mistaken, three variances that I’m asking for: to be in the right-of-way, the fact that the building doesn’t have the required setback to have a freestanding sign, and then I believe there’s a setback for the actual sign itself from the property line.

Mike: From Harris Whalen or both?

Harold: Technically it’s a frontage setback. The standard relative to what we’re discussing is that [the applicant] has a building that was previously given a variance to be closer to the right-of-way – I think that’s twenty feet and you have to have a variance from a provision of the sign ordinance to have a freestanding sign where the building is [closer to the road]. Because the understanding is a building mounted sign would meet the requirements for a freestanding sign because the building is so close to the road.

Tim: And in this case we’re not really on top of the road. The right-of-way is so wide there that we’re actually sixty feet from the curb. But because the right-of-way is so wide...
we’re actually thirty feet from the right-of-way edge. The building sign’s going to be kind of hidden.

Harold: The Harris Whalen side doesn’t meet that requirement, the Penfield Road side, although you were given a variance for that, is still thirty/thirty-five feet off of that right-of-way.

Tim: Right. We’re actually at thirty-five feet exactly on that right-of-way line.

Mike: From Harris Whalen?

Harold: From Penfield Road. From Harris Whalen they’re twenty-

Tim: Twenty-two [feet away from right-of-way]. And the sign’s going to be on the corner so I guess those are both frontage because they’re both roads so that’s why we put in for that variance.

Mike: Explain to me again since the building is so far forward, why does [Dr. Renjen] feel the need to have a freestanding sign as well as the building mounted sign?

Tim: Because when you actually measure from the road curb to the front of the building it’s like sixty-five feet. Penfield Road’s right-of-way is in excess of a hundred feet. So from the actual property line to the front of the building it’s like thirty feet and it’s another thirty-five feet to the curb so we’re going to be substantially back. The building’s further back than it appears when you’re looking at the actual property. And with all the traffic at the intersection and the street light there and there’s going to be some landscaping trees and he Doctor’s worried that his sign’s going to get buried in the building a little bit. He was pretty adamant about having a freestanding sign to attract clients at that corner.

Mike: My understanding from reading The Code is that an informational sign requires an access road serving two or more properties, which clearly we don’t have at this point. In fact we don’t have an access road at all but when it’s completed it will serve that property with the idea that eventually it’s going to service other properties to the West.

Tim: Right, the Planning Board directed us toward having an internal access road because they are looking, obviously, as properties develop with tenants to have as many of those properties there use that access drive to access their parking lots. They don’t want people turning left off of Penfield Road to access those parking lots. They would be okay with people exiting those parking lots and turning right onto Penfield Road to continue west. And I understand why, it makes complete sense to get your traffic to a controlled intersection rather than having all those uncontrolled left turns.

Mike: The obvious question I had is why not go through with a directional sign which doesn’t require a variance? The primary purpose is to indicate where the business’s parking is where that access road is, so people know to turn left there. As opposed to another whole freestanding sign that’s similar to the one you have in the front.

Tim: When you refer to a directional sign you just mean like an arrow, like an “Enter”-

Mike: Like one that says “Parking Orthodontist”. That doesn’t require a variance. Right?

Harold: As long as it met the size criteria of two square feet or less, yes.

Mike: At this point that’s really what you need to do and it seems to me you can accomplish that without the variance. Have you explored this with the Doctor?

Tim: [Dr. Renjen] is really stuck on the signage. I know he sent a letter of support because he couldn’t be here tonight. He’s been very adamant about the signage just because he’s so new to the area and he doesn’t want people to be confused as to where to go and things like that.

Mike: Obviously if you had your choice between one freestanding sign and two from an advertising standpoint I’d go with two signs. But if the purpose is to locate where that
access road is seems to me couldn’t you accomplish the same thing with a directional sign?

Tim: Yeah, you probably could. I think he’s just thinking ahead as it develops you’re probably going to have other businesses that are going to want to put their signs there as well and he gets lost. We could come back obviously and ask for that second sign but-

Mike: That was my next question, assuming we allowed that second freestanding sign the way he’s proposing it, would he have a problem with us conditioning allowing that sign (on the fact there’s no informational sign and when there was an informational sign) his right to have that sign would end?

Tim: Are you saying as properties develop west?

Mike: Yes, you’re going to have to put an informational sign there, if the idea is this is serving as an informational sign (or will serve in the future) rather than give you the sign that’s half the size of an informational sign. You’re allowed forty square feet, for a freestanding sign you’re only allowed twenty square feet. Would he be opposed to a condition that says if and when that property to the West developed that an informational sign will substitute for this one?

Tim: No, he’s not opposed to that at all.

Dan: You answered quickly, which is fine, but that may involve (as we were talking before in our work session) whether there’s a sign that could be converted. That may involve some expense and it’s great that your client is willing to be flexible. I just want to make sure we don’t condition something and then find out it costs fifteen/twenty thousand dollars and make it so onerous that it can’t ever be done. Question I have about the sign in front, any issues or concerns about that sign obstructing any view of drivers/pedestrians where it’s proposed to be located?

Tim: No, we actually did look into that when we placed it where we did. Where we’re proposing to place it now is actually all brush and trees so there’s already an obstruction there and it’s actually far enough back that when you’re at the stop bar it doesn’t obstruct your view to the East or West. It’s set back far enough from the road right-of-way that it doesn’t cause an obstruction.

Dan: Is your client going to be the only doctor practicing at the location?

Tim: Yes.

Dan: [Dr. Renjen] was very candid about the purpose of the signs in the letter, we appreciate that as we don’t often hear such candor. But any other methods of advertising? Does he plan on engaging any other advertising when he starts up?

Tim: I can’t answer that.

Dan: Okay, it would seem to me that, and maybe I’m wrong, for a start-up orthodontist a big part of his or her business is going to be referrals I would think, no matter where the location. So I assume he’s going to make friends with a lot of dentists and try to get those referrals.

Mike: How are these signs going to be lit? Are they going to be internally lit, externally lit?

Tim: Externally lit, just floodlights. We’re going to have landscaping around both of the signs, we would bury some landscaping lighting in the garden and wash the signs.

Mike: What are the hours of illumination, do you know that?

Tim: I think he would probably do it from sunset to maybe ten or eleven o’clock at night. I don’t think it would be twenty-four hours a day.

Mike: Is he going to be operating until ten or eleven o’clock?

Tim: He informed me he sometimes has clients in later, nine o’clock at night.
Mike: Would he have a problem if we tied the lighting of the sign in the back to his hours of operation?
Tim: I don’t think so.

Special conditions required by the Board: Pending approvals from New York State DOT

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2. Aline Nguyen-Mathnasium of Penfield, 1802 Penfield Road, Penfield, New York 14526 requests a Conditional Use Permit under Article X-10-4 and Article III-3-115-1 of the Code to allow a commercial school at 2157 Penfield Road. The property is owned by Wegmans Food Markets Inc. and zoned GB (TF). SBL #139.02-1-2.3. Application #15Z-0009.

Appearances by: Aline Nguyen – Mathnasium of Penfield, 1802 Penfield Road, Penfield, New York 14526

Presenter’s statements:

Aline:
- Two and half years ago I opened the Mathnasium of Penfield in the plaza at the four corners behind the Dunkin Donuts.
- Feedback from parents is that it’s so hard to get into that plaza.
- Because of [The Code] I wasn’t allowed to put a big sign up so it’s hard for people to see.
- Opportunity came up to move into Wegmans Plaza between Joanne’s Fabrics and Speedy’s Cleaners.
- [New locations] is smaller than what I have now but the location is great, visibility is great and I hope to get a lot more foot traffic than what I’m getting today.
- There’s no changes to ingress/egress.
- Parking is existing.
- No impact to present and future uses.
- Very compatible with general area.
- No tutoring that I know of in the general area, it fits nicely in there.
- The signage has already been approved by [Building & Zoning Department] and meets the dimensional requirements of The Town Code.
- Noise level is going to be very low. Kids just come there after school to do their homework, get ready for tests so there’s no noise at all.
- Clear sight distance, as you know there are two traffic lights at the intersection so no change at all.
- Exterior lighting-whatever is there now, that’s what I have.
- Proposed hours are Monday through Thursday, three to eight p.m., Saturday nine to one, those are school year hours. Summer hours are Monday through Friday, one to six.
- Only change to that building is, because it’s a school/classroom kind of situation, I had to put three windows in the walls. We’ve painted, so it’s ready.

Board questions:

Andris: How many staff members besides yourself?
Aline: I have about eight to ten part-time instructors. On a typical day there’d be about three to four instructors not including me.

Andris: Is it normally one-on-one students or do you have a lot of students, do they get dropped off?
Aline: We have a main room that can hold about fifteen kids and then I have another room that is for private tutoring that can hold about five or six kids. So there’s no more than about twenty/twenty-five people there at one time.
Andris: And you’re not going to put anything outside the doors, there’s not going to be anything blocking the walkway or anything there?

Aline: No, I asked Wegmans, because as you know it’s owned by Wegmans, if every now and then I can put up an A-frame sign. As the school year passes we have different things like right now it’s SAT, in a few weeks it will be summer programs. But it’s not a daily thing, so I hope that’s okay.

Special conditions required by the Board: None

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3. Adam Frosino, P.E-McFarland Johnson, 2525 SR 332 Canandaigua, New York 14424 on behalf of Penfield Place LLC requests an expansion of a pre-existing non-conforming use under Article IV-4-15 of the Code to allow an expansion of an existing nursing home and an Area Variance under Article IV-4-2-A of the Code to allow a parking lot expansion with less buffer at 1700 Penfield Road. The property is owned by Penfield Place Properties LLC and zoned BN-R. SBL #139.05-1-51. Application # 15Z-0010

Appearances by:  Adam Frosino, P.E., - McFarland Johnson, 2525 SR 332 Canandaigua, New York 14424
Mary Williams, 137 Winterset Drive, Rochester, New York 14625

Presenter’s statements:
Adam:
- I’m here on behalf of Penfield Properties, LLC, they are a subsidiary of Hurlbut Care Communities, which has eleven locally-owned facilities.
- Currently twenty-four units in the nursing home with 48 beds, so that’s double-occupancy for each room. It is sixteen thousand eight hundred square feet, thirty-two parking spaces with two handicap spaces. The building is almost fifty years old.
- This project is to upgrade the facility by adding on and meeting more industry trends of single occupancy rooms.
- The addition would be the wing off the back side of the building [indicates on site map]. The result will be twenty-six new units with a total of sixty beds, that’s a twelve bed increase. Majority will be single-occupancy rooms as opposed to double-occupancy.
- Also included will be significant upgrades to the facility to include residents’ as well as staff amenities. For example nursing stations, training rooms, supply rooms, laundry facilities, a secondary dining room, and things of that nature to spruce up this facility that is nearly fifty years old and in need of major renovation.
- We have met with the Planning Board for a sketch plan review on December 11th as well as a preliminary final review on February 12th. The Planning Board is very supportive of the project. We are in the process right now of getting our final site plan approval.
- Requesting two variances: one is an expansion to a pre-existing non-conforming use that is due to the nursing home being within a Business Non-Retail district, which a nursing home is actually not an approved use. This occurred due to the 1981 restructuring of The Town Code. The building was obviously constructed in the mid 1960’s. So it’s actually grandfathered in but when it got recoded it was essentially non-conforming.
- All the adjacent uses are residential/multi-residential where nursing home are permitted uses. So this is the only use in the zoning map that is not permitted to have a nursing home facility. So it’s kind of a unique situation.
- Second variance request is for the fifty-foot residential buffer. That has to do with the expansion of the employee parking lot which is on the Northwest side of the property off to the back. Currently it’s a single row of parking, all cars pull in and face the adjacent neighbors. Proposed is two-sided parking by expanding off towards the property line. That would infringe on the fifty-foot buffer by about fifteen feet give or take in areas. So there’d be a thirty-five foot separation between the edges of the parking lot to the property line as opposed to the fifty foot.
There is a row of existing mature trees currently between the parking lot and building. There is also a row of existing mature trees between the parking lot and the adjacent properties. The goal is to put the parking between those trees and not have to remove any trees.
  - They’re very large, mature maple trees that are a critical aspect of the community and especially some of the residents.
  - Residents have bird feeders on these trees, these trees mean a lot to [the residents]
  - If we don’t get the variance requested, in order to meet the parking code we are going to have to remove all of these [trees near building] in order to expand the parking.

As mitigation we have a dense row of evergreens that will be planted at five and half feet high as a form of screening for the property.

The existing dumpster is currently not enclosed. Part of the project would be to have a formal, enclosed area around the dumpster with landscaping around the enclosure, making it look a lot nicer than it does today. That enclosure would match all the other enclosures for the new HVAC units around the building.

Mary:
  - The rear of my property backs up to the parking at the nursing home.
  - I and neighbors do not have an issue with the nursing home or the expansion of the nursing home, it’s the parking.
  - I’m assuming that this room right here is about forty five feet, so that’s the buffer that you’re looking at right now. By adding another row of parking you’re bringing it fifteen feet closer to our property line, encroaching on our property line.
  - I’m already looking at headlights. Yes there are evergreen trees there but like everything has a shelf life, these evergreen trees have seen better days. The bottoms of those evergreens are gone. So you’re looking directly at the cars. I can tell you the colors of the cars that are parked there right now and when they come and go.
  - I think the nursing home itself sits on property that’s six point five acres, the majority of that acreage is on the front or on the other side where it doesn’t encroach on residences.
  - Allow that parking to be put someplace where it’s not going to encroach on my property and also my neighbor’s property.
  - Majority of those parking spaces will actually be behind my neighbor’s home, she couldn’t be here tonight, she’s out of town but she’s not in favor of it.
  - Instead of looking at one row of parked cars we will now be looking at two rows.
  - Understand it’s probably cost-effective for the nursing home to put the parking where they want to but on the other hand it devalues my property.
  - When we bought our home over thirty years ago one of the reasons we bought it was because we were told that the land behind us was “forever wild”. Everybody says to me this is not even a term that they recognize anymore. In any case there is a lot of wildlife back there, just before I came here tonight there were six deer in that fifty foot buffer zone that they’re talking about.
  - I bought that property because I wasn’t looking at a backyard. At that time the evergreens were so thick I couldn’t see the parking lot.
  - I recognize that [the applicant] wants to add some landscaping and that’s fine but perhaps build a berm and make the landscaping a little bit more involved than just adding a few trees here or there.
• Or my real suggestion is spend a little bit more money and build the parking lot somewhere else on the property.
• I am obviously not in favor of having two rows of parking that I’m going to be looking at and my neighbors are going to be looking at and encroaching that much closer on my backyard. My backyard is like a park. People come into my backyard and they feel like they’re in their own private park, they say that all the time. This will take away from my private park.

Board Questions:
Mike: The proposed evergreens are going to sit along the nursing home side of the lot?
Adam: They will sit right behind the mature trees that are between the parking lot and the adjacent properties.
Mike: So they’re going to go on the neighbors’ side of the trees?
Adam: Correct. And those were added at the sketch plan by the Planning Board. It was the applicant’s intent to put them in but we made them dense and the planting height of those is going to be five and a half feet, screening headlights and things of that nature.

The Board requests presenter to indicate on architectural rendering the existing structure and the proposed addition.
Adam: One of the other requests from the Planning Board was if we could move any parking to the East side. There are nine parking spaces added to this area as well as the thirty-eight spaces [in employee parking area].
Mike: This double row of parking that you’re proposing, is this just going to have access the one way? Do you have to come in through the existing driveway and make a left-hand turn? Or are you going to be able to access it from either direction?
Adam: This is a two-way access drive and it is a twenty foot wide access drive so it is two-way.
Mike: The way it’s set up now when you’re driving into the parking area there’s spaces to the left, correct? You have to make a left-hand turn into the parking lot.
Adam: No, the lane will go right down the middle, there will be parking on the left and right. So another benefit to this as far as an impact to the neighbors would be the majority of the time the drivers will use the closest spots possible. So the spots where the headlights are not shooting at the neighbors will be used primarily. During the first shift when they have the maximum amount of the employees there the other spots will be utilized. That’ll be during daytime, won’t be during headlight usage.
Mike: So the row of existing parking lots would remain where they are?
Adam: No, that would essentially turn into the drive alley. So you will go straight into parking area and turn left or right to park. We’re adding about twenty feet of pavement width, a strip along there for parking, and fifteen feet of it will be in the buffer.
Mike: How is that lit now and how will it be lit?
Adam: Currently it is lit by some floodlights at the end of the building as well as floodlights along the end of the parking lot [Adam indicates on site map]. They are not what I would consider commercial lighting, they are more residential floodlights that you see on top of someone’s garage so they shoot out. The proposed lighting would be all dark-sky compliant, LED, solid-state lighting. Very modern lighting that will direct everything down and there’s zero spillage onto the neighbors’ properties as opposed to
what’s happening today. Should be a significant improvement to what’s there today. We’re proposing to replace the two fixtures that are there today as well as add a fixture to the addition. There will be two post-mounted, residential-style looking lights that are shooting down [in new proposed parking area], I have cut sheets of them if you like.

Mike: How high will they be?
Adam: Twelve feet. Typical commercial lighting is anywhere from twenty to thirty feet, so these are significantly lower.
Mike: What would the neighbors be able to see, if anything? Would they be able to tell there’s light there?
Adam: They would probably be able to see the lights during the winter months when there’s not the dense vegetation. During the winter months they won’t be glaring into their windows, they’ll just be able to see it off in the distance like all dark-sky compliant light fixtures these days. The LED technology is very directional, and all these fixtures are directional. We did go with the lower end of The Code, we have an average light intensity in the parking lot of point seven foot candles, which is quite low but it meets the spectrum of safety standards. Commercial plazas for retail are up in the two/three, and we’re at point seven.

Mike: What’s there now?
Adam: We do not know what’s there now, it’s not proper lighting when it comes down to it.
Mike: One of the things we have to look at when you’re talking about an expansion of a pre-existing non-conforming use is showing that it permits greater compliance with the Zoning Ordinance, could you address that briefly?
Dan: One of the justifications that we’ve looked at in the past is that the improvements that are going to be made are going to make the property more modern, more aesthetically pleasing, more efficient, and I think you would agree the plans you have here accomplish all of that. It seems to me that facilities like this are designed to be more residential than hospital-like.

Adam: Correct, from that aspect this would be more of a senior-living center instead of what it’s like today, more of a hospital-like setting.
Mike: Did I understand you to say that this is the only parcel that is zoned Business Non-Retail? That everything around it is residential?
Adam: It’s something else, it’s not just residential-
Harold: It’s multiple residence, there’s single family residence, there’s limited business. It was sort of created in its own little world down there. It didn’t make a lot of sense at the time as a nursing home is permitted in the surrounding parcels.
Mike: So they took an existing nursing home and zoned it out of compliance?
Harold: In effect that’s what happened.
Adam: And one good point that I think needs to be made also is that if we were in one of those surrounding zones the fifty foot buffer wouldn’t be applicable.
Andris: What other kind of improvements are happening with the existing building?
Adam: The existing building constantly gets maintained, it meets all Code. It recently got a new sprinkler system. It’s just going to get less densely populated is what’s going to happen. Some of the staff amenities are not going to be used for multiple purposes and be less cluttered. There’s no physical changes to the existing building.

Mary Williams presents arguments against parking lot expansion.
Mike: Isn’t there a stockade fence along the-
Mary: That’s my neighbor’s.
Mike: Okay so you’re beyond that?
Mary: We’re on the other side of the fence. So the majority of the parking that currently exists is actually behind her house. She couldn’t be here today, she wanted to send a letter and I don’t know if she sent a letter off to you or not.
Mike: That would block the direct headlights, right?
Mary: You would be surprised, it does and it does not. All the bedrooms are in the back. She looks right down on that parking lot. She has young children, they have a playground in the backyard where kids play. Again, you bring the cars in that much closer. The employees come out to their cars to smoke their cigarettes, you can smell that smoke. The kids hear the conversations of the people. I just don’t think it’s necessary to create two rows of parking in that area when you have so much other property that could also accommodate more parking. I know I’ve been told the employee entrance is there. Well when I was working I had to park in a company parking lot that was two blocks away from the employee entrance, big deal. If these people have to walk one hundred feet instead of forty feet to the employee entrance I don’t see where that’s a problem. They don’t want to encroach on the visitor parking. Well everybody has visitor parking and employee parking and I think it could be accommodated in such a way where it doesn’t affect our residences and also accommodate the people who work there and visit there.

Carole: What about the noise in the evening when you’re asleep or something? Are there cars slamming or radio?
Mary: Yes, obviously you hear the cars and people talking. And that’s natural and that’s my point: it’s already there, we don’t have to add another row of that. I don’t know how many parking spaces are there currently on that row?
Adam: Currently there are twenty spaces, there will be thirty-eight.
Mary: So you’re basically doubling it. Again, like I said this room is about forty/fifty-five feet, so we’re talking a buffer of fifty feet. I think a lot of the cars are actually closer. I don’t think the headlights that I’m looking at in my backyard are fifty feet from my property line, I think a lot of them are closer than that. And you’ll be moving them fifteen feet closer and possibly more in some cases, right?
Mike: Where’s your lot on that map, can you show us?
Mary: My lot is right here. Indicates on site map location of property. This is the lot with the fence. Yes there are evergreen trees that are here, they’ve seen better days. I don’t know how long they have been here, obviously a long time. I think there’s a better way to handle this other than moving that lane of parking closer to our property, creating a road down the middle and then having another lane of parking on the other side.

Andris: You mentioned a dirt berm and a fence, is that something you’d be in favor of?
Mary: I don’t care to have fence back there, if the far side of my yard is really very wooded. When we first moved into our house it looked like a wood that went on forever. Some of that brush has been removed The Town when they were building the retention pond. Which is another issue we have. We already have an issue with ground water at our house and I think by encroaching further with pavement we’ll have more ground water in the backyard. In the spring and summer there’s times when you can’t even mow back there. Obviously putting more pavement back there and putting it closer onto our property will create a further issue. If I was going to happy with anything it would be
a berm with landscaping on top of it. And also not just in this small area here [indicates on map] but also my neighbor’s property.

Carole: Do you have a two-story home?

Mary: Yes, and that’s another thing I wanted to talk about light before and I think the nursing home has turned off some of them, exterior lighting. Because that was an issue in the past where lights would shine into our windows. And all of the homes are two-story. And my neighbor from her bedroom and her children’s bedroom are looking down on a row of cars right now. They would then be looking down on two rows of cars. And I don’t care what direction they’re parked in, I didn’t buy a house to be looking at a parking lot. And I think once you have two rows of parking you’ve gone from having parking to have a parking lot.

Dan: First of all I do want to mention that we did receive a memo from the Planning Board. And [the applicant] did appear before the Planning Board one time, tow times?

Adam: We did a sketch plan December eleventh and we were there for preliminary final just last week, a week ago from today.

Dan: And the memo from the Planning Board to this Zoning Board indicates they are supportive of this application. I just want to state that for the record. I don’t know ma’am if you were able to go to that meeting or not but in any event-

Mary: I was at both Planning Board meetings and like I said we don’t have an issue with the nursing home itself. You did ask about noise and the one I forgot to mention is that dumpster. The dumpster is emptied between four and four-thirty every night. And yes it wakes everybody up every night. So that’s something that should be addressed.

Dan: A dumpster is emptied every morning?

Mary: At four and four-thirty in the morning.

Harold: That’s not uncommon for the commercial haulers to pick up that early. I think generally the Planning Board as part of their Property Maintenance Agreement and so forth tries to limit that time that they’re allowed to arrive at a lot later in the morning as the adjacent property owners are potentially sleeping.

Adam: A lot of these topics were touched at the Planning Meeting.

Dan: So you’ve heard [Mary’s] concerns the first time because you were at the Planning Board, where else did you look at to put the parking?

Adam: We put the parking on the East side and this is a fire lane that was required by the Fire Marshal and this is right next to an EPOD, this is a steep slope. This is the only area we have that avoids an environmental impact. [Applicant points to area where parking expansion proposed] Which is another one of the factors that we considered. The whole front of the property is significantly sloped, you have to go up to the property.

Mary: So is my backyard.

Adam: It’s no other room for parking that would meet ADA Codes.

Dan: So from an engineering standpoint and environmental standpoint you ruled out other locations for the expansion of the parking.

Adam: That is correct, we looked into other ones, we added a couple of parking spaces up her and infringe on some of the green space. Also there’s thirty-four employees, thirty-four to forty the first shift depending on whether there’s a doctor there that day or not. Coincidently there are thirty eighty [proposed] parking spots in the back. The back is reserved for employee parking where visitors would go and park in the front. So that’s
just how the nursing home operates, they don’t want any employees parking up front and then visitors can’t park. Some of the visitors are disabled.

Dan: I assume that your client would be willing to put in place rules that there wouldn’t be any loitering if you will. If going to your car and smoking a cigarette is causing concerns, and it obviously is, I would hope that your client would be willing to make rules against that. Have you had any conversations with the neighbors, with this woman or the woman who wasn’t able to make it in today about potential buffering in addition?

Adam: We’ve talked about it with the neighbors at the previous two Planning [Board] meetings in a more formal setting, not a private setting so to speak.

Dan: Okay, the thoughts you heard expressed here about the berm?

Adam: It was discussed pretty thoroughly with the Planning Board and when you look at grades it’s just doesn’t work in that back area. The Planning Board was concerned that when you start messing with the grading back there you’re going to destroy all the existing trees that we’re trying to save. We’re going to destroy the root system, which I agree with. You can’t start clearing stuff out and expect these large trees to stay alive. What was agreed upon was a very dense row of new evergreen trees to supplement the existing ones.

Dan: Sure, and she makes a good point about the existing trees dying and they do tend to die from the bottom up. I assume your client wouldn’t be opposed to a condition those should be replaced whenever they don’t serve the purpose as a buffer anymore.

Adam: I’m sure we can come to an agreement, they were the ones that actually wanted to go with a more landscaping buffer more than anything else. Because their residents want to look at that too, they don’t want to look at a fence.

Mary: I just want to add a comment to a couple of [Adam’s] comments, in regard to environmental issues you said you couldn’t bring the parking out this way because of environmental issues? Well how about bringing pavement which is moving towards our property?

Adam: This was also discussed at the Planning Board meeting.

Mary: And the Planning Board already discussed that there is a drainage issue.

Adam: Correct, and all of the additional impervious is being mitigated through DEC compliant practices. We’ve got rain gardens, tree-planting strips and all of the additional runoff that will be going into the courtyard is being directed down through a drainage system out and down to Penfield Road.

Mary: But that’s the other side of the building.

Dan: So how about the additional asphalt from the added parking? Where’s the water going to go when it hits that?

Adam: Currently sheet flows in this direction. Indicates on site map. The pond is back in this area and there is landscape filter strips that meet DEC storm-water management manual criteria to mitigate that area.

Mike: Is it being directed away from the neighbors?

Adam: It currently is today. It flows kind of in this direction. [Points to location on map between parking and neighbor’s lots]. And meanders along this direction, there’s a stream that comes through this area. And then the pond is kind of right here that was built by The Town. So all the water eventually makes its way to that pond and then out the stream that was newly installed by The Town.
Mike: So would this be graded in that direction?
Adam: Correct, there’s going to be no grading change other than adding the parking lot. The parking lot area if it wasn’t grass it could be pavement and it could be parked on today. It’s a lawn area that is the size and slope that the pavement’s going to be. There’s going to be very minimal impact to grading in that area. That’s why it’s an ideal spot because there’s going to be very little environmental impact.

Dan: Well, other than the neighbors.
Mary: Actually the water doesn’t flow in that direction, the pond/holding pond was actually built because of the hill. On Five Mile Line Road when there was housing development put over by where the bus depot is, the school buses.
Harold: Shadow Vale.
Mary: That was supposed to be addressed at the time with regard to environmental aspects and drainage. Ever since that housing development went in all the water comes down the hill and that creek, which is a tributary to Irondequoit Creek after heavy rainstorms was flooding and going over the road and down the road and flooding neighbors’ basements further down Winterset Road. So that holding pond has really nothing to do with water draining from this direction. Because the water that’s coming into our backyard is not coming from the creek. Our property and the one next to us, the creek runs between us. And the backs of our yards could be a swamp sometimes. I think that has to currently do to the fact that there’s a pavement there and they’re not appropriate drainage.

Mike: The number of spaces [proposed], are they all needed or required?
Adam: They are all needed, we’re meeting the required and they’re needed. We meet The Town requirements and they actually jive quite well with the actual demand. Currently there is a demand for parking, you’ll commonly see employees parking on the grass because there’s no spots left. So there is a need for these parking spaces and our client did consider that when we were going through the process. They were trying to minimize their impacts and their costs too, they don’t want to build a part up that’s not going to be filled. Like I said there’s thirty-eight spaces and there’s anywhere from thirty-eight to forty employees during the first shift of the daytime shifts. The front has sixteen spaces, four of which are handicap.

Mary: And those are visitor’s spaces up front.
Adam: Those are visitor and rehab patients.

Special conditions required by the Board: Memo to Planning Board to request following items be addressed in Property Maintenance Agreement:
- Landscape buffering be maintained.
- Dumpster pick-up adjusted to later time.
- Employees not take breaks for smoking and talking in employee parking area.
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4. Dr. Kristine Browne, DVM-TheraVet Acres Rehab and Fitness, 1748 Kennedy Road, Webster, New York 14580 requests a Conditional Use Permit under Article X-10-4 and Article III-3-36-K to allow veterinary rehabilitation and fitness business at 1724 Kennedy Road. The property is owned by Kristin and Dana Browne and zoned RA-2. SBL #111.01-1-8.1. Application #15Z-0011.

Appearances by: Dana and Kristine Brown – Theravet Acres Rehab and Fitness, 1748 Kennedy Road, Webster, New York 14580
Dave Woodward, 1530 Harris Road, Penfield, NY 14526

Presenter’s statements:
Dana:
- Current business established 2006 and growing steadily.
- We’ve been doing rehabilitation for dogs and horses. Right now all the rehabilitation for horses is being done off-site. We travel to their barns and [Dr. Brown] does chiropractic and acupuncture.
- Business continues to grow, currently moved out of the house at 1748 [Kennedy Road] and purchased the property and 1724 Kennedy Road where we currently live.
- The whole residence there is currently being used for veterinary purposes. Pretty much we’ve used every square inch of the property that we could at this point and we are out of room and the business is continuing to grow.
- This is something we’ve been planning for a number of years.
- We’ve met preliminarily with the Planning Board and [Building Department] on several different occasions and I have realized it’s come to the point where we need to expand.
- We looked at a number of different possibilities and this seems to make the most sense financially as well as impact-wise in the way we want to develop the new facility is use the nine-and-a-half/ten acre area to the west of our residence at 1724 Kennedy and just build a brand-new facility there that’s going to encompass everything that we need and approximately doubling our current capacity and giving us room to work more efficiently.
- Right now we’re very, very cramped.
- The current plans for the current residence at 1748 [Kennedy Road] would then be deferred back to residential use either for a family of ours or employees perhaps another veterinarian that we would be bringing in and they can use that as a residence. We wouldn’t have any of our business down on that property.
- Ingress/egress is effectively at the middle of the property here. [Indicates on site plan] Roughly the middle of the right-of-way so there’s plenty of site distance.
- Parking for staff and clients, we had a good deal for the number of people coming and going. Right now most of our appointments are set up on a one by one basis. We have had a few overlaps in appointments or if we have somebody dropping off or picking up a boarding dog. But most of our appointments are one after the other. We plan to have a second vet so we might have double appointments, we might have more people coming and dropping off dogs. But we don’t anticipate a significant increase in the amount of traffic when you look at the scale of that road.
- Everything with our current facility is designed to fit within the character of the neighborhood. I forgot to bring with me the before and after photos but if anyone
remembers what that section of Kennedy Road looked like before we purchased the property it was just a big scrubby field and we feel we’ve converted it into something that’s very nice to look at when you drive down through there. We plan to do the same with this currently open farm field.

- [The applicant] has had a vision for a number of years of having the place here in Western New York for canine, equine and feline rehabilitation. We’re well on our way to that with what we’ve currently put together at 1748 Kennedy.

- I’ve reviewed the project with our neighbors. Just today I met with our newest neighbor Ace Relyea, who just purchased [1650 Kennedy Road] and is going to be building next year. He didn’t have any concerns or issues and he’s supportive of the project. He just wants to make sure there’s not a lot of barking dogs out there.

- We currently have plenty of healthy dogs as well as therapy dogs boarding. We don’t have any noise issues. When dogs are out they are monitored by staff because we’re out there actively playing with them. Its part of our philosophy to be active, we want them to be tired. Any dog that boards with us is going to get fifteen/thirty minutes every day of active play time to get their energy out, they’re not sitting there yapping.

- There will also be with the new facility an indoor area for dogs where they can play and run around especially with the inclement weather we tend to get around here.

- The property is pretty well buffered to the North is wetlands and forest and a former Monroe County landfill, to the East is our property. To the west is this property [indicates on site map] is this property which is currently a rental and the new building which Ace is currently going to be putting up is going to be roughly over in this area.

- No significant lighting other than what’s required for parking areas. We would plan to have a sign here similar to what we currently have with lighting on that sign so people can find us in the snow storms.

- About the same proposed hours of operation that we currently operating: 8:00 a.m. to 8:00 p.m. Monday through Thursday, eight to five Friday, eight to four Saturday, possibly Sunday. We definitely have boarding staff through Sunday. Even now some of our busiest times in order to get clients in for therapy times that they want we have to run a few Sunday appointments just to keep up. Hopefully we will be able to get rid of the Sundays by having a bigger facility and enough open appointments to be able to accommodate everyone through Saturday.

- It’s effectively the same operation that we’re doing now. The only significant changes would be having the indoor arena here [indicates location on site plan] and the canine pool. [The pool] is going to be for our dogs for therapy but also for clients who want to come and free swim their dogs, exercise their dogs.
  - Especially in the wintertime it’s hard to find places with the snow drifts having to get your dogs out, get them active without causing additional injuries.
  - So having a pool for people to come we think will be asset for the community as well as another source of revenue for the business.

- There’s going to be a physical exercise/therapy area similar to what we have now. We will have underwater treadmills, hydro-therapy area, whirlpool, ultrasound, laser, shockwave therapy, exam rooms, nice entrance lobby, and front desk.

- The boarding suites - they’re called suites, not kennels. These are like small rooms. We would like to have doors so the dogs can go in and out on our controlled basis, not so the dogs can go freely. It’s an easy way for us to open the doors so the dogs can go out and do
their business and come back in. We currently get dogs out four/six times a day. Two play times after breakfast and dinner, first thing in the morning and last thing at night (about ten or eleven o’clock).

Dave:
- The Browns have run a real nice operations there.
- There’s been no issues with neighbors.
- The road is not a well-travelled road so there’s no issue with traffic.
- With drainage it pretty stays on their own property, I currently work the field there.
- With the application here I hope the Board will look favorably on that.

Boarding questions:

Andris: You said you had nineteen parking spots I think? You said you could possibly have up to forty staff at some point? How do you address the issue of additional parking? Or maybe it’s a typo, I’m not sure.

Dana: It may have been a typo. I didn’t intend to put that in.

Andris: It said it could be up to forty staff part-time/full-time. I don’t know if that means shift work so you only have five people at a time.

Dana: That’s right, we currently anticipate approximately forty full and part-time people. But as far as people there at any given time it probably wouldn’t be more than twelve, maybe fifteen at any one time. If I put in nineteen parking spots that probably was a typo.

Andris: The water area outside: will that be drainage, will it be treated, and will it be full of mosquitos at some point if it just sits there?

Dana: This is something we discussing, our architect was discussing this with us. Ideally from an economy standpoint we it would be nice to combine this with our retention pond. But for [the applicant’s] purposes of having a clean area for the dogs to play I don’t think that would work. I think we would end up with a detention pond detention pond in this area [indicates on site plan]. This we envision more of as Beverly Hillbillies would say a “cement pond”. It will be shallow on one end and a little deeper on the other so the dogs can swim. But that would be treated water that we would put in there.

Andris: Your applications also talked about events, is that events in terms of dog classes? I know you have an indoor arena, is that obedience classes where you have multiple people showing up at once and then leaving?

Dana: On a small scale. We wouldn’t have large events where we’re going to have spectators. We wouldn’t have duck diving where we’re going to have a thousand people come to an event. We would have the indoor arena available to rent out to give obedience classes, agility classes, that sort of thing. We might have ten or fifteen people. There’s a second floor conference room on the second floor that overlooks [the arena] where we can have small lectures or something along those lines. It’s where people would be able to rent that space and meet upstairs and down below in the arena area.

Andris: When people bring their horses to you – or maybe you go and pick them up – I’m not sure how you would do that, would they leave their trailers there? Would that be long-term, short-term? If you have four horses there would all that additional gear be left there with them?
Dana: No. Right now we go farms and do chiropractic and acupuncture. The four-horse barn that we would put in there is for what we call lay-up boarding. They would come and drop off the horse and then leave. So we wouldn’t see any trailer parking, they wouldn’t leave a trailer there.

Andris: As far as buffering have you heard anything from your neighbors to the West in terms of eye sight? We wouldn’t know exactly what’s going to be there but have things been raised from the Planning Board?

Dana: Not yet. We’re in for our sketch plan with the Planning Board at the next section coming up.

Carole: What about the manure from the horses that are boarding?

Dana: Currently the manure will be cleaned from the stalls once or twice a day. That is wither spread in some of the fields on the rest of the property, we have over fifty acres there. Or it gets piled up worked into some farm land. Sometimes farmers will haul it off when we accumulate a pile. If there were to be any storage of manure it will be well away from any property lines.

Special conditions required by the Board: None.

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5. Elisabeth Vella, 95 Vayo Street, Rochester, New York 14609 requests an Expansion to a Pre-Existing Non-Conforming Use under Article IV-4-15 of the Code to allow a property maintenance business at 44/50/56 Wilbur Tract Road. The property is owned by Elisabeth Vella and zoned R-1-20. SBL #'s 108.10-1-1.113, 108.10-1-1.2 and 108.10-1-1.112. Application #15Z-0012.

Appearance by:  Elisabeth Vella, 95 Vayo Street, Rochester, New York 14609
Joseph Fronato, Broker for applicant.

Presenter’s statements:
Joseph:
- Elisabeth Vella has owned the property now for eight years, prior to that it was in her family for fifteen years.
- Property’s been used since the late 1970’s as trucking storage, construction companies, and various other businesses.
- Most recently used by a tile business up until October of last year.
- We’ve located a new tenant, Blackwood Management, it’s a property management company for lawn maintenance, landscaping. They’re currently operating in the Town of Mendon.
- [Blackwood Management] is looking to expand their facility. The property has about five thousand square feet of warehouse storage space, less offices.
- Tenant is not going to expand the warehouse or the paved area. [They are] basically going to keep it as-is and use it as it’s been used since the 1970’s.
- There’s three to four employees there year-round.
- Mainly a seasonal property from Spring to Summer there will be about ten employees, not all of whom will be on site but will be going back and forth [from the other] facility.
- We’re not changing anything about the facility, we’re just putting a new tenant in an existing building.

Board questions:
Dan: What do you think they’re going to store there?
Joseph: Things for landscaping: seeds, shrubs, lawnmowers, their equipment for lawn maintenance. To the North is Agway, which borders this property. It will continue to look like its one part of it like it does now.
Dan: Any issues before, any prior complaints that you’ve heard about?
Elisabeth: It’s pretty quiet back there.
Joseph: There’s no other neighbors other than the Agway. Because the wetland is basically all around it and then there’s the road and there’s no one even to be seen.
Dan: And obviously we’re all aware of the expansion going on across the street. Do you anticipate any issues with this traffic, any dangers there?
Joseph: We’re talking three to four employees year-round the most at a time will be ten.
Elisabeth: And we’re gated and locked.
Dan: So it’s going to be a more controlled entry and exit.
Joseph: Exactly.
Special conditions required by the Board: None.

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6. Blake Miller-Upscapes Nursery & Landscape Design Center, 2343 Penfield Road, Penfield, New York 14526 requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-B and Article VII-7-12-E of the Code to allow a larger freestanding sign with less setback at 2343 Penfield Road. The property is owned by Blake Miller and zoned RR-1. SBL #140.01-1-64.1. Application #15Z-0013.

Appearances by: Blake Miller – Upscapes Nursery & Landscape Design Center, 2343 Penfield Road, Penfield, New York, 14526

Presenter’s statements:
Blake:
- Wanting to put a sign that’s going to be in recognition of our new business that we’re starting up to be a landscape nursery and landscape design center.
- Also doing retail sales of power equipment, outdoor furniture and some other items to enjoy the outdoors.
- Property is very geographically challenging because of the narrowness of the property and there are DEC wetlands. Not to mention it’s also a very hard curve.
- Asking for a variance for a setback that will be closer to the road, which will be outside of the New York State DOT right-of-way.
- Asking to have the sign closer to the street for safety and recognition. If we pull it off the road we’re getting into a wetland issue and it won’t be visible. So we’ll have passer-by traffic that will either have to turn around or slam on brakes, things of that nature that we are worried about.
- For these same reasons we are asking for a slightly larger sign. I believe The Town Code allows for a twenty-face foot sign and we are asking for twenty-four, so eight by three. It also justifies with the log, what we want to have there.
- I’ve built a few signs up and down Penfield Road already so it will be of similar construction. It will be stone facing with some sort of outdoor-proof sign.
- It will be lit up, I would say until ten o’clock. We are in a residential setting so I think past ten would be too late so I would put that on a timer. Typical landscape lightings like we’ve done at 1739 and 2340 Penfield Road. We would just put the lights on a timer and do some floods.
- We would have landscape plants around the sign that would change throughout the season. We’d do a special type of pot in pot systems so we can swap the plants out to always be in bloom and that will go hand in hand with the business and show our capabilities of what we can do. [We will] try to show a little attraction and aesthetics to the environment around there.
- Sign is also in conjunction with the site plan we had prepared with Marathon Engineers. The location of the sign does allow for a State Code of WD 50 truck turning radius so we can get semis in and out of there. I believe to be fifty four feet in length, the trailer itself plus the cabin.
- All of this would be constructed outside the wetlands and the buffer zone so we wouldn’t have any environmental impacts that we would have to worry about.

Board questions:
Dan: Did you say that you don’t need any approval from the State DOT?
Blake: No, because we are going outside of the right-of-way, we’re making sure of that.
Dan: What sort of analysis did your engineer do or did you do to support your proposition that your sign need to go on that spot for safety reasons?
Blake: We had to get a road cut permit from the DOT and so the sign locations was in conjunction with the sign permit that was filed with the DOT. I worked with Jim Fletcher in the Engineering Department [with The Town of Penfield].
Dan: And one of the factors that went in to working with Jim was where the sign should go for safety reasons?
Blake: Correct, safety, transportation, getting good in and out, and safe traffic practices. Sight distance was a big issue that we had because of the turning radius and the corner that this is located on. It’s a narrow lot to begin with and we obviously can’t put the sign in the wetlands.
Dan: Could you describe the sign for us?
Blake: We’re going to do a stacked stone sign, roughly sixteen feet wide by seven feet tall and fit the sign on the inside of this. It’s going to be in a V-shape to flare out toward the road for view-ability. We’re going to put plants and lights [indicates on rendering] here to be aesthetically pleasing.
Dan: Harold, the stone on the outside, is that considered part of the sign?
Harold: No, just the eight by three.
Dan: If you were to go eight by two-and-a-half, which brings it up to compliance doesn’t it? It’s twenty, could you live with that?
Blake: Of course we could, it’s not a deal breaker.
Dan: So you’re saying you wouldn’t need the variance for the size?
Blake: Yeah. There’s also as you can see in looking at the [topography] of the this property there’s a hill so that’s why we need the sign a little elevated off the ground and supported by a larger structure. You would not be able to see the sign if we don’t get it off the ground. So in the schematics that’s what we did, so we’ve run some different scenarios.
Carole: One this [rendering] its says Upscapes, you’re not going to use Blake Miller on your sign?
Blake: This is a separate company, ma’am. Another business that we’re creating.

Special conditions required by the Board: None.

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7. Sung Kim, 52 Seton Court, Penfield, New York 14526 requests a Conditional Use Permit under Article X-10-4 and Article III-3-77-K of the Code to allow an expansion to an existing martial art school at 1601 Penfield Road. The property is owned by Penfield TK Owner LLC and zoned GB. SBL # 138.08-1-2./PLZA. Application #15Z-0014.

Appearances by: Sung Kim, 52 Seton Court, Penfield, New York 14526

Presenter’s statements:
Sung:
- Twenty-two years ago I opened up a Tae-Kwon-Do school at 749 Panorama Trail at the current where Rochester Fitness store is, fifteen years ago I moved it into Tops Panorama Plaza where I currently exist.
- I’m looking for more space. It actually worked out well because our lease expired December 31st so we thought it would be a good opportunity to gain more space for our growing business.
- The space next to Party City, which is formerly the Fashion Bug, opened up. It’s sixty-eight fifty in terms of square footage.
- I feel it’s a good opportunity to grow our business and remain The Town of Penfield.
- We’re staying in the plaza so I think everything will pretty much stay the same.

Board questions:
Carole: As you’ve said you’ve been in the Plaza for a number of years, any complaints?
Sung: No ma’am.
Carole: How much larger is your space?
Sung: It would be about three thousand square feet larger.
Carole: Will you be having additional employees?
Sung: No, hopefully the business grows and we will have more employees. It is to make a more comfortable place for my current clients. Rights now we’ve outgrown our current location and things are little tight. I think with more space it would make a more pleasant experience for my current customers.
Carole: How many employees do you have now?
Sung: I have seven employees.
Carole: Are you open every day?
Sung: Except for Sunday. At times we come in for some staff meetings or some special training on Sundays but primarily Monday through Saturday.
Carole: Hours of operation will be the same?
Sung: I would say about eleven to nine each day. It could vary depending on activities or meetings going on. Typically on Saturdays nine ‘til five is common.
Carole: Do you generally work with individuals or do you have groups or how does that work?
Sung: Individuals, at times there are special groups. Like last week there was a Girl Scout troop that came in for a class so we accommodate some groups.
Carole: Do you sell anything there? Like clothing that you use?
Sung: Protective equipment, maybe some cool T-shirts, things like that.
Carole: Any beverages?
Sung: We do have an After-School Program where children are allowed to purchase drinks.
Carole: Any other food?
There’s snacks that are all packaged and [sealed], they’re not processed by us that After-School kids have the option to purchase.

Are you going to use the exact same sign that you currently have at the other location?

Yes, the Tae-Kwon-Do letters will be exactly the same. We are planning on changing the front logo to our new logo.

I take it the sign will be the same size as the other one?

Yes, my current sign I think is three feet tall. We’re making it three feet tall and round so it will be the same.

How much of the sign will the logo take up?

It’s going to be similar to our current logo. I would say it’s three by three so maybe a quarter of the sign.

Special conditions required by the Board:

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Tabled Application:

1. Peter Romeo, 309 Canterbury Road, Rochester, NY 14607 on behalf of Jasmin Heganovic requests Area Variances from Article III-3-37-A and Article III-3-35-D of the Code to allow the construction a single family residence with less setback and a shed with less setback and larger than allowed at 2775 Penfield Road. The property is owned by Jasmin Heganovic and zoned RA-2. SBL #141.01-1-15. Application #14Z-0060.

Harold: Applicant sent an email to Planning office requesting adjournment of vote until later sometime this Spring when they can conduct a percolation test when theoretically it should be thawed [currently snow and low temperatures make testing impossible].

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Meeting was adjourned February 19, 2015 at 9:03 p.m.
Timothy Hens, P.E., 7319 Quinlan Road, Le Roy, NY 14482 on behalf of Dr. Rahul Renjen requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-11-J, Article VII-7-12-A, Article VII-7-12-D, Article VII-7-12-E, Article VII-7-12-G of the Code to allow a freestanding sign within the right of way of Penfield Road, allow freestanding signage on a property where the building has a setback of less than thirty five (35) feet, two (2) freestanding signs, a freestanding sign with less setback, an informational sign located along Harris Whalen Park Road and less than twenty (20) from Harris Whalen Park Road at 2124 Penfield Road. The property is owned by Gordon Griffin and zoned BN-R. SBL #139.08-1-67. Application #15Z-0005.

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-7-11-J, Article VII-7-12-A, Article VII-7-12-D, Article VII-7-12-E, Article VII-7-12-G of the Code to allow a freestanding sign within the right of way of Penfield Road, allow freestanding signage on a property where the building has a setback of less than thirty five (35) feet, two (2) freestanding signs, a freestanding sign with less setback, an informational sign located along Harris Whalen Park Road and less than twenty (20) from Harris Whalen Park Road at 2124 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 February 19, 2015 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

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

Moved: Michael Belgiorno
Seconded: Andris Silins

Vote of the Board

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

The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.

SPECIAL PERMIT FOR SIGNAGE TO ALLOW A FREESTANDING SIGN WITHIN THE RIGHT OF WAY OF PENFIELD ROAD.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby APPROVES the application for a Special Permit for Signage to allow a four (4) foot by five (5) foot double faced freestanding sign within the right of way of Penfield Road at 2124 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 obtain a permit from the New York State Department of Transportation to allow the installation of the freestanding sign within the right of way of Penfield Road.

3. 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.

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. 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 dimensional size requirements of the Code.

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

The applicant has represented to the Board that the proposed double faced freestanding sign will be in keeping with the other freestanding signs that have been placed on other properties to the east of 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 sign would not create a hazard to the public in general or to any owner or occupant of neighboring properties. The applicant has represented to the Board that the proposed freestanding sign is the one of the first along this portion of recently re-zoned properties to receive development approval but did expect additional properties to the west to be developed into commercial uses and this sign would be consistent with signage intended for commercial uses.

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

The Board determined that the sign does not interfere with the lawful and aesthetic enjoyment of the public highway. The applicant has represented to the Board that the proposed double faced freestanding sign, although located within the right of way of Penfield Road, would be twenty three (23) feet from the edge of road. This distance should provide adequate space from the roadway so as not to interfere with the public highway. Additionally, the applicant will need to receive an approval from the New York State Department of Transportation which will also undergo a review of the proposed location of the freestanding sign.

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 signage is necessary to the identification of the business, especially the traffic traveling eastbound along Penfield Road.

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

1. A Special Permit for Signage application form stamped received January 28, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 28, 2015 stamped received January 28, 2015 by the Building and Zoning Office.


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


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

Moved: Michael Belgiorno
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW A SECOND FREESTANDING SIGN WITH LESS SETBACK.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby DENIES the application for a Special Permit for Signage to allow a second four (4) foot by five (5) foot double faced freestanding with less setback sign at 2124 Penfield Road.

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

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

The Board determined that the proposed second double faced freestanding sign was not in harmony with the standards for permitted signs. This request if approved would be a 100 percent increase in the freestanding signage allowed under the Code.

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

The applicant has represented to the Board that the second double faced freestanding sign is necessary because the access road is required to provide additional service to eight (8) additional properties to the west of the subject property. The Board determined that although the expectation would be to extend the access road to service other properties to the west the current request is premature as the access road may not be developed for some years to come.

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 proposed double face freestanding sign would not create a hazard to the general public or owners of neighboring properties.

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

The Board was not provided any evidence that the proposed double faced freestanding sign would create any problems with the use of Harris Whalen Park Road.
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 identification of the entrance to the proposed business could be accomplished by a standard signage allowed under Article VII-7-17 of the Code which allows up to a two (2) square foot sign for traffic control purposes.

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

1. A Special Permit for Signage application form stamped received January 28, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 28, 2015 stamped received January 28, 2015 by the Building and Zoning Office.


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


Moved to approve the Board’s motion to deny the application to allow the Special Permit for second free-standing signage:

Moved:

Seconded:

Michael Belgiorno
Carole Mulcahy

Vote of the Board

Daniel DeLaus
Michael Belgiorno
Joseph Grussenmeyer
Carole Mulcahy
Andris Silins

AYE
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ABSENT
AYE
AYE

The motion to approve the foregoing portion of the application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW AN INFORMATIONAL SIGN WITH LESS SETBACK.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby DENIES the application for a Special Permit for Signage to allow an informational with less setback at 2124 Penfield Road.

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

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

The Board determined that the proposed informational sign was not in harmony with permitted signs or within the spirit of Article VII-7-F of the Code. The use of informational signage under the Code is to identify businesses that are serviced by an internal access road. This property currently is only service by a driveway.

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

The applicant has represented to the Board that the informational sign is necessary because the access road is required to provide additional service to eight (8) additional properties to the west of the subject property. The Board determined that although the expectation would be to extend the access road to service other properties to the west the current request is premature as the access road may not be developed for some years to come.

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 proposed informational sign would not create a hazard to the general public or owners of neighboring properties.

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

The Board was not provided any evidence that the proposed informational sign would create any problems with the use of Harris Whalen Park 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 identification of the entrance to the proposed business could be accomplished by a standard signage allowed under Article VII-7-17 of the Code which allows up to a two (2) square foot sign for traffic control purposes.

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

1. A Special Permit for Signage application form stamped received January 28, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 28, 2015 stamped received January 28, 2015 by the Building and Zoning Office.


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


Moved to approve the Board’s motion to deny the application to allow the Special Permit for informational sign with less setback:

Moved: Michael Belgiorno
Seconded: Carole Mulcahy

Vote of the Board

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<td>Andris Silins</td>
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The motion to deny the foregoing portion of the application was carried.
Aline Nguyen-Mathnasium of Penfield, 1802 Penfield Road, Penfield, New York 14526 requests a Conditional Use Permit under Article X-10-4 and Article III-3-115-1 of the Code to allow a commercial school at 2157 Penfield Road. The property is owned by Wegmans Food Markets Inc. and zoned GB (TF). SBL #139.02-1-2.3. Application #15Z-0009.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Article X-10-4 and Article III-3-115-1 of the Code to allow a commercial school at 2157 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 February 19, 2015, 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 issue a negative declaration, requiring no further environmental review.

Moved: Andris Silins
Seconded: Daniel DeLaus

Vote of the Board

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

The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.
CONDITIONAL USE PERMIT TO ALLOW A COMMERCIAL SCHOOL.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit to allow a commercial school at 2157 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 be required to obtain an operation permit from the Building and Zoning Office and pay the appropriate fee.

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

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

The Board bases its decision on its findings that:

1. The proposed use is similar to the other uses in the general 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.
   b. Adequacy of parking facilities.
   The applicant has represented to the Board that the parking facility is adequate to accommodate this proposed use and the existing tenants at the subject property. The existing tenants of the subject property have different peak use times that will allow sharing of the common parking spaces.
   c. Potential impact to both present and future uses.
   The applicant has represented to the Board that the proposed use will not interfere with the present or future uses at the subject property or in the general vicinity of the property.
d. Compatibility with the general area in which it is to be located.

The proposed use is similar to other uses in the area and will complement the existing businesses in the area. This use is currently operating from a property on Penfield Road in the Five Mile Line Road 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 proposed use will not create any noxious odors.

j. Exterior lighting.

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

k. Proposed hours of operation.

The proposed hours of operation are from 3:00 PM to 8:00 PM Monday to Friday and 9:00 AM to 1:00 PM Saturday during the school year and 1:00 PM to 6:00 PM when school is in recess.
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 January 12, 2015 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated January 12, 2015 stamped received January 12, 2015 by the Building and Zoning Office.


4. A site plan prepared by Costich Engineering, dated February 16, 2010 stamped received January 12, 2015 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 a commercial school at 2157 Penfield Road

Moved: Andris Silins
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to approve the application was carried.
Adam Frosino, P.E-McFarland Johnson, 2525 SR 332 Canandaigua, New York 14424 on behalf of Penfield Place LLC requests an expansion of a pre-existing non-conforming use under Article IV-4-15 of the Code to allow an expansion of an existing nursing home and an Area Variance from Article IV-4-2-A of the Code to allow a parking lot expansion with less buffer at 1700 Penfield Road. The property is owned by Penfield Place Properties LLC and zoned BN-R. SBL #139.05-1-51. Application # 15Z-0010.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an expansion of a pre-existing non-conforming use under Article IV-4-15 of the Code to allow an expansion of an existing nursing home and an Area Variance under Article IV-4-2-A of the Code to allow a parking lot expansion with less buffer at 1700 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 February 19, 2015 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

WHEREAS, the Zoning Board of Appeals, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA) has classified this proposal as an Unlisted action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment. Therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as an Unlisted action and no further environmental review will be required.

Moved: Michael Belgiorno
Seconded: Daniel DeLaus
Vote of the Board

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

The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.

REQUEST TO EXPAND A PRE-EXISTING NON-CONFORMING USE TO ALLOW THE EXPANSION OF A NURSING HOME.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application to allow the construction of a fifteen thousand six hundred (15,600) square foot addition at 1700 Penfield Road, subject to the following conditions:

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

2. The applicant shall be required to comply with the requirements of the Building Code of New York State, Fire Code of New York State, Property Maintenance Code of New York State and Chapter 29 Article IV-4-28 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.

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

The Board considered the following factors in the decision to allow the expansion of the pre-existing non-conforming nursing home at 1700 Penfield Road:

1. The applicant has represented to the Board that the existing nursing home has been located at the subject property since 1966 years.

2. The applicant has represented to the Board that the addition is needed to provide services that are not currently provided at the subject property.
3. The applicant has represented to the Board that existing external lighting both on the building and located in the parking lot would be replaced with dark sky compliant lighting fixtures to reduce the impact to the adjacent neighbors.

4. The applicant has represented to the Board that the existing unenclosed dumpster would be enclosed.

5. The applicant has represented to the Board that site improvements would be implements at the approval of the Town Engineer to control storm water runoff from the new and existing impervious surfaces at the subject property.

6. The property is adjacent to property in a different zoning district, and in which the non-conforming use would be a permitted use. The applicant has represented to the Board that the subject property was re-zoned by the Town in 1981 to the current zoning district that does not permit a nursing home in the district. If this use were to be proposed in any of the adjacent zoning districts the use would be conditionally permitted under the Code.

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

1. An Expansion to a Pre-Existing Non-Conforming Use application form stamped received January 14, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 14, 2015 stamped received January 14, 2015 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 nursing home at 1700 Penfield Road: Michael Belgiorno Seconded: Andris Silins

Vote of the Board

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The motion to approve the application was carried.
WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article IV-4-2-A of the Code to allow a parking lot expansion with less buffer at 1700 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 January 6, 2015 at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES an area variance of fifteen (15) feet from the required fifty (50) foot buffer resulting in a buffer of thirty five (35) feet to the west property line to allow the construction of twenty (20) parking spaces at 1700 Penfield Road, subject to the following conditions:

1. The applicant shall be required to obtain approval from the Planning Board.

2. The applicant shall be required to install a landscape buffer along the west property line subject to the approval of the Planning Board and Town of Penfield Landscape Consultant.

3. The applicant shall be required to enclose the existing dumpster located along the west property line of the subject property.

4. The applicant shall be required to replace the existing lighting install on the west side to the existing building and located in the existing parking lot.

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 parking area currently exists and this proposal includes a minor expansion to the existing parking lot.

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 other than an area variance. The applicant has represented the Board that alternative locations were evaluated to construct the needed parking. Two other location were evaluated and those locations were determined to be unacceptable because of a steep slope and the need to import excessive fill material.
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 a thirty five (35) foot wide area would remain as the buffer to the existing residence to the west. This remaining buffer area will be enhanced with additional planting as approved by the Planning Board and Landscape consultant.

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 new drainage plan for the area will address storm water using NYS DEC recommended practices.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was not self-created. The applicant has represented to the Board that the subject property was re-zoned by the Town in 1981 to the current zoning district that does not permit a nursing home in the district. If this use were to be proposed in any of the adjacent zoning districts the use would be conditionally permitted under the Code.

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.

1. An Area Variance application form stamped received January 14, 2015 by the Building and Zoning Office.
3. A Short Environmental Assessment Form dated January 14, 2015 stamped received January 14, 2015 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 buffer: Michael Belgiorno
Seconded: Andris Silins
The motion to approve the application was carried
Dr. Kristine Browne, DVM-TheraVet Acres Rehab and Fitness, 1748 Kennedy Road, Webster, New York 14580 requests a Conditional Use Permit under Article X-10-4 and Article III-3-36-K to allow veterinary rehabilitation and fitness business at 1724 Kennedy Road. The property is owned by Kristin and Dana Browne and zoned RA-2. SBL #111.01-1-8.1. Application #15Z-0011.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Article X-10-4 and Article III-3-36-K to allow veterinary rehabilitation and fitness business at 1724 Kennedy 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 February 19, 2015, 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 issue a negative declaration, requiring no further environmental review.

Moved: Andris Silins
Seconded: Michael Belgiorno

Vote of the Board

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

The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.
CONDITIONAL USE PERMIT TO ALLOW A VETERINARY REHABILITATION AND FITNESS BUSINESS.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit to allow veterinary rehabilitation and fitness business at 1724 Kennedy Road, subject to the following conditions:

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

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

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

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

5. The applicant shall 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 Chapter 29 Article IV-4-28 of the Town Code

The Board bases its decision on its findings that:

1. The proposed use is similar to the other uses in the general area of the subject property.

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 presented the Board a site plan proposal that provides an ingress and egress location off Kennedy Road. This proposed access point will meet with the requirements of the Town of Penfield Director of Public Works and the Town Engineer.

   b. Adequacy of parking facilities.

   The applicant has represented to the Board that appropriate parking will be provide to service the needs of the use. This subject property will consist of 9± acres and at any time if inadequate parking were to be identified additional parking could be developed.

   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 currently in operation on a property directly to the east of the proposed site. This type of use is similar to other farm operations located on the east side of the Town.

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 in the area.

g. Clear sight distance.

The applicant has presented the Board a site plan proposal that provides an ingress and egress location off Kennedy Road. This proposed access point will meet with the requirements of the Town of Penfield Director of Public Works and the Town Engineer.

h. Existing and proposed buffering.

The applicant has represented to the Board that the property will be buffered to the neighboring properties. Additional, they will be working with a new resident of the area to address his concerns.

i. Proposed generation of noxious odors.

The applicant represented to the Board that the proposed use dispose of the animal waste using various techniques which will include spreading manure on cultivated lands of their own, offering manure to local farmers and as a last resort disposing the manure with a traditional removal company.

j. Exterior lighting.

The applicant represented to the Board that only lighting required to provide safety to the customer and employees will be utilized. All exterior lighting fixtures will be designed to light the general areas and not extend beyond the property lines.

k. Proposed hours of operation.

The proposed hours of operation are from 8:00 AM to 8:00 PM Monday to Thursday, 8:00 AM to 5:00 PM Friday, 8:00 AM to 4:00 PM Saturday and Sunday.
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 January 15, 2015 by the Building and Zoning Office.


5. A site plan prepared by Clark Patterson Lee, dated January 2015 stamped received January 15, 2015 by the Building and Zoning Office.

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

Motion to approve the application for a Conditional Use Permit to allow veterinary rehabilitation and fitness business at 1724 Kennedy Road.

Moved: Andris Silins
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to approve the application was carried.
PENFIELD ZONING BOARD OF APPEALS
February 19, 2015

Elisabeth Vella, 95 Vayo Street, Rochester, New York 14609 requests an expansion to a pre-existing non-conforming use under Article IV-4-15 of the Code to allow a property maintenance business at 44/50/56 Wilbur Tract Road. The property is owned by Elisabeth Vella and zoned R-1-20. SBL #'s 108.10-1-1.113, 108.10-1-1.2 and 108.10-1-1.112. Application #15Z-0012.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an expansion of a pre-existing non-conforming use under Article IV-4-15 of the Code to allow a property maintenance business at 44/50/56 Wilbur Tract 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 February 19, 2015 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: Andris Silins

Vote of the Board

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The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.
REQUEST TO EXPAND A PRE-EXISTING NON-CONFORMING USE TO ALLOW A PROPERTY MAINTENANCE BUSINESS.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application to allow a property maintenance business at 44/50/56 Wilbur Tract Road, subject to the following conditions:

1. The applicant shall be required to obtain an operating 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 Fire Code of New York State, Property Maintenance Code of New York State and Chapter 29 Article IV-4-28 of the Town Code.

3. 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 use at 44/50/56 Wilbur Tract Road:

1. The applicant has represented to the Board that the subject structure was constructed originally in 1966.

2. The applicant has represented to the Board that the subject property has been used over the years by a contracting company, trucking company and an excavating company, which is similar to the proposed change of use. The proposed change of use will be slightly less intense than the prior non-conforming use.

3. The applicant has represented to the Board that existing external lighting both on the building and located in the parking lot would be replaced with dark sky compliant lighting fixtures to reduce the impact to the adjacent neighbors.

4. The applicant has represented to the Board that the existing unenclosed dumpster would be enclosed.

5. The applicant has represented to the Board that site improvements would be implements at the approval of the Town Engineer to control storm water runoff from the new and existing impervious surfaces at the subject property.

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

1. An Expansion to a Pre-Existing Non-Conforming Use application form stamped received January 15, 2015 by the Building and Zoning Office.


4. A site plan dated February 2, 2015 received 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 an expansion of the pre-existing non-conforming use to allow a property maintenance business at 44/50/56 Wilbur Tract Road:

Daniel DeLaus  
Seconded:  
Michael Belgiorno

Vote of the Board

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

The motion to approve the application was carried.
Blake Miller-Upscapes Nursery & Landscape Design Center, 2343 Penfield Road, Penfield, New York 14526 requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-12-B and Article VII-7-12-D of the Code to allow a larger freestanding sign with less setback at 2343 Penfield Road. The property is owned by Blake Miller and zoned RR-1. SBL #140.01-1-64.1. Application #15Z-0013.

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-7-12-B and Article VII-7-12-D of the Code to allow a larger freestanding sign with less setback at 2343 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 February 19, 2015 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: Andris Silins

Vote of the Board

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

The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW A LARGER FREESTANDING SIGN.

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

WHEREAS, the applicant has voluntarily reduced the size of the proposed freestanding sign to comply with the requirements of the Code at the public hearing conducted on February 19, 2015;

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby ACCEPTS the applicant’s request to withdraw the application for a larger freestanding sign than permitted at 2343 Penfield Road.

Moved to accept the applicant’s request to withdraw the application for a larger freestanding sign
Moved: Daniel DeLaus
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW A FREESTANDING SIGN WITH LESS SETBACK.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby APPROVES the application for a Special Permit for Signage to allow a 2.5 foot by 8 foot double faced freestanding sign four (4) foot 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 proposed a double faced freestanding sign which complies with the size requirements of the sign ordinance.

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

The applicant has represented to the Board that the proposed double faced freestanding sign will be compatible and not detrimental to neighboring properties. The propose sign will be constructed with the ability to change foliage to complement the growing seasons.

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 applicant has represented to the Board that the location for the proposed double faced freestanding sign was reviewed in conjunction with a New York State Department of Transportation permit to allow for the construction of a wider driveway for the business. This proposed location was determined to be optimal for larger truck traffic expected to make deliveries to the property.
4. The proposed sign does not in any way interfere with the lawful and aesthetic enjoyment of the public highway or neighborhood properties.

The applicant has represented to the Board that the location for the proposed double faced freestanding sign was reviewed in conjunction with a New York State Department of Transportation permit to allow for the construction of a wider driveway for the business. This proposed location was determined to be optimal for larger truck traffic expected to make deliveries to the property.

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

The applicant has represented to the Board that the proposed double faced freestanding sign is need to enhance the business identification at the subject property. The subject property has an existing residence that is approximately 35 feet from the right of way of Penfield Road and in located along a portion of Penfield Road that bends to the south and these two components restrict visibility of the sign if located in compliance with the required twenty (20) foot setback.

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

1. A Special Permit for Signage application form stamped received January 16, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 16, 2015 stamped received January 28, 2015 by the Building and Zoning Office.


5. A sign drawing prepared by the applicant stamped received January 16, 2015 by the Building and Zoning Office.

6. Testimony provided by the applicant and interested parties at the public hearing.
Moved to approve the Board’s motion to approve the application to allow the Special Permit for Signage:

Moved: Daniel DeLaus  
Seconded: Carole Mulcahy

Vote of the Board

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<td>Daniel DeLaus</td>
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<td>Michael Belgiorno</td>
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<td>Joseph Grussenmeyer</td>
<td>ABSENT</td>
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<td>Carole Mulcahy</td>
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<td>Andris Silins</td>
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The motion to approve the foregoing portion of the application was carried.
Sung Kim, 52 Seton Court, Penfield, New York 14526 requests a Conditional Use Permit under Article X-10-4 and Article III-3-77-K of the Code to allow an expansion to an existing martial art school at 1601 Penfield Road. The property is owned by Penfield TK Owner LLC and zoned GB. SBL # 138.08-1-2./PLZA. Application #15Z-0014.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Article X-10-4 and Article III-3-115-1 of the Code to allow an expansion to an existing martial art school at 1601 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 February 19, 2015, 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 issue a negative declaration, requiring no further environmental review.

Moved: Carole Mulcahy  
Seconded: Michael Belgiorno

Vote of the Board

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

The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.
CONDITIONAL USE PERMIT TO ALLOW AN EXPANSION TO AN EXISTING MARTIAL ART SCHOOL.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit to allow an expansion to an existing martial art school at 1601 Penfield Road, subject to the following conditions:

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

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

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

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

The Board bases its decision on its findings that:

1. The proposed use is similar to the other uses in the general 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 Panorama Trail. The applicant is not proposing any changes to the existing means of ingress and egress for the subject property.

   b. Adequacy of parking facilities.

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

   c. Potential impact to both present and future uses.
The applicant has represented to the Board that the proposed use will not interfere with the present or future uses at the subject property or in the general vicinity of the property. This use is currently in operation in this plaza and are relocating to a larger space with the plaza.

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. This use is currently operating from this property.

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 Panorama Trail and the existing clear sight distance at these locations provides adequate clear sight distance for customers and patrons of the plaza.

h. Existing and proposed buffering.

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

i. Proposed generation of noxious odors.

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

j. Exterior lighting.

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

k. Proposed hours of operation.

The proposed hours of operation are from 11:00 AM to 9:00 PM during the school year and 7:00 AM to 9:00 PM outside the school year.
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 January 15, 2015 by the Building and Zoning Office.


4. A site plan prepared by DDR dated November 2013 stamped received January 15, 2015 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 an expansion to an existing martial art school at 1601 Penfield Road

Moved: Carole Mulcahy
Seconded: Andris Silins

Vote of the Board

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

The motion to approve the application was carried.