ZONING BOARD OF APPEALS
MEETING MINUTES

MARCH 19, 2015
Penfield Zoning Board of Appeals
Meeting Minutes Worksheet

The Zoning Board meeting at 6:30 PM local time Thursday, March 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>Carole Mulcahy</td>
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<td>Peter Weishaar, Legal Counsel</td>
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<td>Harold Morehouse, Building and Zoning Administrator</td>
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<td>Alison Sublett, Secretary to the Board</td>
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Regarding Minutes from Zoning Board Meeting on February 19, 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.

Public hearing applications:

1. Kathleen Richardson, 35 Bunker Hill Drive, Rochester, New York 14625 requests Area Variances from Article III-3-35-D-2 and Article III-3-37-A of the Code to allow an existing shed with less setback and exceeding the maximum size for a shed and an existing basketball court with less setback at 35 Bunker Hill Drive. The property is owned by Kathleen Richardson and zoned R-1-20. SBL #108.19-1-68.1. Application #15Z-0016.

Appearances by:
Kathleen Richardson, 35 Bunker Hill Drive, Rochester, New York, 14625
Ken Sweany, 58 Bunker Hill Drive, Rochester, New York, 14625
Karen Arzt, 43 Bunker Hill Drive, Rochester, New York, 14625
Suzanne Monczyski, 27 Bunker Hill Drive, Rochester, New York, 14625
Joseph Ryan, 1724 Creek Street, Rochester, New York, 14625

Presenter’s statements
Kathleen:
• The shed was put in in 2007, built on site.
• At that time I thought they built it in accordance to The Code.
• My husband took care of it and we are no longer together.
• When I was notified I came to the Town hall to get the application for the variance.

Board questions:
Carole: What is the height [of the shed]?
Kathleen: I’m not sure.
Ken: It’s probably seven or so inside.
Kathleen: It’s about seven feet or eight feet.
Carole: What is it constructed of—what materials?
Kathleen: Wood and siding.
Ken: It’s a pressure-treated base, texture 1-11 siding. I’m a contractor, it’s fairly well-built, and it’s not shoddy.
Carole: And you use this for storage?
Kathleen: I do, I keep my lawnmower and patio furniture, the kids’ basketball/sports stuff.
Carole: Does that pretty well fill it up or do you have other space in there?
Kathleen: No, on one side is the lawnmower and the kids’ stuff and on the other side is the furniture but there’s still more space. But for the most part it takes up all my outdoor furniture.
Carole: For the record do you want to tell us where it’s located on the property?
Kathleen: It’s in the far right hand corner of the property.
Carole: How large is your property?
Kathleen: Just over half an acre.
Carole: Is there anything in front of the shed?
Kathleen: Trees.
Carole: What is the foundation like? Is it cinderblocks on the corners, is there a foundation of what?
Ken: There’s eight by eights and they’ve filled it with stone so that it’s a gravel base that the entire unit sits on.
Carole: So it would be hard to move it forward?
Ken: It would take a crane, it’s not a small shed where you could just roll it out. The foundation would have to be taken apart, it would have to be moved, the stone would have to be moved and then the unit would have to be put back on it.
Carole: Are there any other structures in your yard?
Kathleen: I have the basketball court and of course the pool is closer to the house.
Ken: But no other outbuildings.
Kathleen: Right, no buildings or anything like that.
Carole: And you wouldn’t know the cost of moving it?
Ken: It would be four to eight thousand dollars.
Carole: Do you have any idea what it cost when you built it?
Kathleen: It was forty-five hundred dollars.
Carole: Is there any buffering around or behind it?
Kathleen: There are woods behind, Joe and Kathy’s property is behind me [1724 Creek Street]. And there’s a picket fence.
Carole: Do you have electricity going out to the shed?
Kathleen: I do.
Carole: What condition would you say it’s in?
Kathleen: It’s excellent.
Carole: So we’re dealing with two issues here: the size, which is seventy-five square feet larger than what is allowed in our Code; and we’re dealing with a rear setback which is three point three feet, which means you need a six point seven foot variance. Now that will take care of the shed, now we go on to the basketball court. I was there but
with the snow I couldn’t really see where the court was. How long has the court been there?

Kathleen: So the basketball court’s been there-that came after the shed-so it’s been at least six years.

Carole: And the size of it?


Kathleen: Thirty by forty-five.

Carole: What kind of base does it have, what kind of flooring is it?

Kathleen: It’s just blacktop.

Ken: Crushed stone with asphalt on top of it.

Carole: Is the backboard and the basket in the setback area there?

Ken: Yes, it’s on the back side.

Carole: Do you have this lit in the evenings?

Kathleen: Only when the kids are out there playing.

Carole: But it is lit at nighttime?

Kathleen: Yes.

Carole: How late do you usually have it lit?

Kathleen: The kids are rarely out there, it’s usually by dusk inside or in the pool.

Carole: Is it your kids and other kids too?

Kathleen: All the neighborhood kids [gestures to neighbors in attendance].

Carole: You said in your letter of intent that the contractor was paid to obtain the permit, obviously he didn’t get a permit. Do you have any proof of that, do you have the letter?

Kathleen: I don’t, all I have is just his receipt here, but it doesn’t really say anything about-it doesn’t say.

Carole: Well since it is three point five feet from the East you’re going to need a six point five variance.

Mike: Where’s the exterior lighting on the court? Where are the lights themselves?

Kathleen: There’s lights on the shed and the light for the- so the hoop is on the back end of the basketball court and the light is on the right-hand side of the basketball court, so it lights up the court.

Mike: Is it on a separate pole?

Kathleen: It’s on a separate pole.

Mike: About how tall off the ground?

Kathleen: Oh it’s- the top of the shed.

Mike: And is it directional, down or up or?

Kathleen: No, it’s almost just one of those football- like a stadium light, but it’s small.

Ken: It’s a spotlight and it’s shining down on the court. It is only lighting the court, this is not a baseball diamond lit up at night that you’re going to see from other houses.

Carole: The light doesn’t extend over to the neighbors then?

Kathleen: No.

Karen: I’m right next to her so I would be the one who it would shine onto and it has absolutely no interference with my life, with my yard, or with my house.

Mike: There’s no exterior lighting on the shed or of the shed itself? There’s a light on the shed directed to the basketball court?
Kathleen: The lighting is in the front of the shed and then of course I have lighting inside the shed.

Mike: Right. But the shed itself isn’t lit up?

Kathleen: No.

Dan: Can we get an estimate on what it would cost to bring the basketball court into compliance?

Kathleen: It was seven thousand dollars to put it in.

Ken: It would be half that to dig it up and move it.

Dan: So it’s a hardship is your point?

Ken: Yes.

Carole: We did receive letter from your neighbors, one from 27 Bunker Hill and one from 43 Bunker Hill, that’s Karen who just heard from. And the other one is from Richard and Susan [Monczyski]. Both of these couples are in favor of keeping them, they have no problem so we will enter these letters into the record.

Susan: If equipment were brought in to move any of this it would affect both my yard and Karen’s yard in a negative way, it would tear it all up.

Joseph: The shed right now is on a bed of stones, the shed is fine the basketball court is fine. If I ever wanted to try to sell the property, and I probably don’t, would I encumber-? What questions to I need to ask, I don’t want to impose anything on my neighbor but is it going to encumber me from any future decisions on my property if I give variance to this?

Dan: The answer to that honestly is yes, because if we grant a variance to her that is a variance, it’s going to run with the land. She could move tomorrow and whoever purchases from her is going to enjoy that variance. So when you go to sell your house a prospective buyer may say “That basketball court is awful close, do they have a permit?” Well, yeah they have a variance so that is not going anywhere. Now [the applicant] could always take it down if she wants. And or get rid of the shed if she wants, that’s up to her. But is it something that’s going to be a burden in some sense on your property, yes it is. From a practical and legal standpoint if you’re selling your house and somebody came in they said “wow”, they may very well ask that question.

Mike: I think the answer to your question is do you feel it encumbers your property now?

Joseph: No.

Mike: That impact isn’t going to have any greater impact.

Joseph: Good point. The area, if you’ve seen it, we have all our grass and then this a wooded area left natural.

Kathleen: Everybody takes really good care of their lawns back there, it’s very beautiful, and it’s like a park back there.

Mike: You can’t do anything else with as far as expanding it without getting permission again so if you needed to replace it you could replace it at the same size and the same layout. Other than that you can’t go beyond that without getting some sort of Zoning Board approval.

Carole: And your problem with selling the property wouldn’t be so much the basketball court, in my opinion it would be the shed. Because if you stand in her backyard you can see four or five other sheds all around, they’re all small and they’re all in compliance. So
hers stands out as being extra-large, so that in my opinion would be more of a 
detriment to selling than the basketball court.

Joseph: It is placed correctly in the right spot, there’s a row of trees, and it’s hardly even 
noticeable.

Carole: The problem is its too large and it’s too close to the lot line.

Joseph: Here’s a question: right now the shed is crushed stone and it’s really not fixed to the 
ground, what if we left it just the way it is and didn’t fix it to the ground and if 
anyone wanted to sell their house and fix it later it could be moved?

Carole: Right, if they wanted to spend all those thousands of dollars to move it.

Joseph: Right, I’m just saying- and I’m certainly not going to have her move the shed- I’m 
not going to vote negative to my neighbor.

Dan: Right, that’s why I said to you that if a variance is granted then the next person who 
owns that property gets to enjoy it. But the shed’s not going to last forever, so if and 
when it starts wearing out and falls into disrepair is somebody going to build one on 
extactly the same spot? Maybe, maybe not, I probably won’t be sitting here when that 
happens. Usually this Board we deal with variance requests before the things are put 
up. But honestly it’s not uncommon for us to deal with situation like this. For 
whatever reason, misunderstanding, lack of knowledge about The Code, contractor, 
we had one time a builder built something in Penfield and thought he was in Webster 
because of the mailing address and was going by the Webster Code. So we try to do 
our best to sort of go back in time and would we grant this request if the shed wasn’t 
there or if the basketball court wasn’t there, while at the same time recognizing 
hardships that the applicant would experience if we say “take it down.” Also hearing 
if there have been any problems from the shed in this case and the basketball court. 
What do neighbors say? And of course the cost, the hardship to take it down. I think 
we’ve gone over all of this tonight. It’s really good to see neighbors, regardless of 
what their opinion is, come in and make their opinions known. It makes it easier for 
us to make our decision so I want to thank you all for coming in tonight.

Special conditions required by the Board:
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2. R. Mitchell Ide-Ide Honda, 875 Panorama Trail S, Rochester, New York 14625 requests a Conditional Use Permit under Article III-3-77-K and Article X-10-4 of the Code to allow a commercial parking facility at 765 Panorama Trail S. The property is owned by Panorama Trail Associates LLC and zoned GB. SBL #138.08-1-48. Application #15Z-0008

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

Presenter’s statements:
Rich: I am requesting to be able to park at 765 Panorama Trail as we need the storage badly.

Board Questions:
Mike: How long have you been using- there’s vehicles currently parked there.
Rich: Yes we have about seventy-five vehicles there currently. We have been parking them there, without knowing we were doing anything wrong, and got a letter from [Code Enforcement] and now we’re here.
Mike: About when did you start?
Rich: About end of last year, around the time the previous lease was up. About the end of October.
Mike: The cars that are there now, were they parked elsewhere before this? Or are they cars on top of what you already have?
Rich: A combination of both. We’ve kind of had a perfect storm of problems this year between the weather, the snow taking up about thirty of our parking spots, despite having a poor sales month in February cars still kept coming in. So we actually have our highest day supply in history, that’s how many cars you have versus how many days it takes to sell them. We have built a parking lot up in East Rochester next to our Volkswagen store that is full. We used to park rent space up in East Rochester on Despatch and the vehicles would quite often get vandalized there and also we had to pay to rent the space. Again with owning this property and having it cleared out we began parking there and it turns out that especially with our remodel that you guys know about and everything else going on we need the parking. We don’t enjoy parking cars off-site. That’s not ideal for us when we have to go off-site and grab ‘em, it’s purely out of necessity.
Mike: So you have about seventy-five vehicles there now. It looks pretty full.
Rich: Yes.
Mike: Would you ask for parking greater than that number?
Rich: No, I’m asking for seventy-five.
Mike: Okay, I don’t know where else you would put them because we know you can’t stack cars. Are you anticipating making any changes to the property physically?
Rich: Right now presently it’s a question of putting the cars there. As far as down the road I don’t know. We’ve had our hands full with what we’re working on at Honda.
Mike: And basically the only people that would be there moving cars are your employees?
Rich: Yes.
Mike: You wouldn’t have the general public there for any reason.
Rich: No, that’ll be an off-site facility. The nice thing with Hondas is that they’re so similar with trim levels that all the redundant ones we can put over there and still be able to pull a car up and show it to people.

Mike: And you’re obviously going to leave the driveway clear?

Rich: Yeah.

Mike: You wouldn’t have a problem if that was a condition? You know, leaving that access area there clear?

Rich: No, we need to get in and out of there anyway. We try to make it as easy for ourselves to get the cars in and out.

Mike: Because it’s owned in the same family there’s no lease I’d assume?

Rich: Correct.

Mike: Do you have a length of time that you’re requesting for this permit? A year, two years, three years?

Rich: Ah, forever [chuckles]. Right now we’re using it as needed. We’re hoping to sell down some vehicles, it’s the ides of March, and you need a vehicle? We got a lot. We want to be able to use it on a necessity basis. We don’t plan of having this many cars on a regular basis, but with everything that’s happened we’re trying to make parking as good as possible at the Honda store so taking more cars off-site makes it easier.

Mike: We usually do have a limit on the term. Could you live with three [years] to start?


Andris: Typically you would foresee then if there’s thirty spots short at a current dealership you would see forty cars would be more of a normal number as the summertime comes around most likely?

Rich: I don’t want to make any promises right now that I can’t keep because right now we’re double-parking employees so once we regain some of those spots I’m trying to move employees to the back of the building. With the snow [thawing] it should free-up some spots, I think what that’s going to create is a more realistic parking situation at Honda, not really alleviating much of the problem just making it more easy. It’s fun finding parking at our store right now.

Special conditions required by the Board: Three-year term on conditional use permit
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3. Lalit Shah, 2041 Penfield Road, Penfield, New York, 14526 requests an Area Variance under Article III-3-48-C-8 and Article IV-4-2-F of the Code allow the construction of an addition with less setback and buffer and a modification of a Special Permit for Signage under Article VII-3 of the Code to allow an increase in freestanding signage at 2041 Penfield Road. The property is owned by Lalit Shah and zoned PD. SBL #139.08-2-1.111. Application #15Z-0007.

Appearances by: Neeraj Shah, 28 Pond View Lane, Penfield, New York, 14526

Presenter’s statements:
Neeraj:
- Concerns [parents’] property.
- Located in the Planned Development District, means I have to speak to many Boards.
- Requesting a garage to complement an approved plan by the Planning Board on November 12, 2013.
- Project aims to construct a five hundred twenty eight square foot garage, I believe it’s a single-car garage in front of the existing building.
- The existing building, the original building is the one that has the tax practice in it, that’s my father’s tax practice, that’s the main business. And Dr. Nichol’s dentist practice, that’s the other business.
- My father is elderly and owned this business for quite a long time. Recently his health has deteriorated, he’s become frail and he’s been experiencing a lot of back and knee problems.
- In the beginning of this year he actually had to go to his doctor and the Town of Penfield and got a Handicap Permit because he walks very gingerly.
- This is important because tax season occurs in January to April so some of the pictures that I showed you [included in submitted application and presented to Board at hearing] shows what the conditions can be like and this winter was pretty rough.
- He works at odd hours, we both do as I am a CPA as well, so we both work at odd hours. We come into the office often before the snow plow has a chance to get to the office and leave well after- not with clients but the back office work and everything.
- The parking layout for this building can be seen on the [site map]. So even if the snow plow came and my father would have to take one of the handicap spaces it leaves only one other handicap space available for customers. There’s a large distance between where my father would have to walk down so that would need to be snow plowed and his health just can’t bear that.
- Right now he parks right in front of the entrance because he can’t really walk that far and we don’t want him to slip and fall and injure himself.
- This [application] is only for his health.
- Over the last year or so we’ve made much progress on the property.
- The smaller annex which you can see on this [site map]. The original building is three thousand square feet, the smaller annex which houses my CPA and law practice is at the rear of the parking lot. That’s thirteen hundred square feet. That’s been completed, I’m doing business out of that.
- A six thousand square foot building has started to go up. Construction vehicles remain on the property because we anticipate it completed shortly now that the weather has
broken. Most of that exterior has been done. I guess they have to do some final touches, grading and all that stuff, the skeleton has been put up.

- There is an incentive to move efficiently with this garage addition.
- We missed this tax season and he didn’t get hurt but he was parking in front of the entrance where there was not a parking space.
- So we’d rather finish the garage addition while we still have the construction equipment on site instead of bringing in large equipment at a later date.
- The main thing I would like to convey is that I would like to minimize the impact on our adjacent neighbors by completing this project at the same time as the larger building is being finished. Completing these projects together would prevent bringing in the large construction vehicles again on site and the impacts are temporary in nature.
- What I’ve done so far this year is I’ve presented this same idea to the Town Board during its work session on January fourteenth.
- I’ve given a public presentation on March fourth to the Town Board.
- On March twelfth I’ve given this presentation to the Planning Board. This is all because it’s in the Planned Development district. Today I [stand] here before you.
- There’s two reliefs that we’re asking for. I’ll start with the area variance.
- The application is set to relieve what may be a fifty feet setback to thirty-nine point one feet setback for the proposed garage. But it’s important to note if you can refer back to the [submitted documents], the photos can kind of explain why that relief is necessary.
- We would construct this garage parallel to the end of the six-thousand square feet building. We wouldn’t go any closer to the road. The six-thousand square foot building is actually fifty point nine five and it’s further actually from Penfield Road. And our garage would extend the same distance.
- The reason why a thirty-nine point one foot setback is needed, as I sat with the engineer who did the survey, is if you see the thick lines that delineate Penfield Road and the medium line that’s right to the left of it, a while ago New York State must have executed a taking right in front of my father’s and the dentist’s office so the setback legally goes to that taking right.
- But in reality the distance to Penfield Road is the same. So it’s a relief legally but if a human or a dog was walking down the sidewalk they wouldn’t see the difference that the garage is extending any further than any other property.
- For the sign variance: one June 19, 2012 the Zoning Board approved two twenty square foot signs on the property.
- Before this development took place my father owned the tax lot 2041 Penfield Road and the tax lot 30 Sanders Farm Road, they were just next to each other. We would have been able to put two signs [one sign on each] of those two separate parcels. But we combined the property so we requested at that time two twenty square foot signs for safety and identification purposes because we removed the circular drive on Penfield Road and defined the other entrance on Sanders Farm Road.
- We’re asking for one of the signs to be a thirty square foot sign.
- Since that time at June 19, 2012 we were only going to have the two buildings up.
- On September 12, 2013 the Planning Board approved the construction of my annex, my CPA business and my law business. So now those businesses are only in the existing
building and my annex, it doesn’t even include the six-thousand square foot building which is going to have at least one tenant. *Explains uses of buildings on site map.*

- The six thousand square foot building we can assume is at least one tenant. It’s laid out in at least four different units, fifteen hundred square feet each.
- The Code allows for a single fifty square foot sign on our parcel because of the number of businesses there.
- This is the first commercial property from the Four Corners if you’re going to Wegmans. Instead of seeing a large fifty square foot sign on the property I think it would be more pleasant to look at a twenty square foot sign and a thirty square foot sign kind of going along with the terrain.
- The twenty square foot sign that’s on the corner of Sanders Farm Road and Penfield Road would be the same and we’re asking to change existing sign, of which I’ve given a photo, from what is a four by five to five by six.
- We’ve been residents of the Town of Penfield since 1980. I’ve done all my schooling here in Penfield, I graduated in ’92, my brother graduated in ’93. My parents have owned this property since 1986. We really feel fortunate to call Penfield our home. I’ve started a family and my kids are going to be going to the same elementary school as I did, on Scribner Road.
- We thank the Board for considering our application and hope it renders a favorable decision. I look forward to answering any questions at this time.
- We are in receipt of a couple of comments, the Monroe County Planning comments which I guess that’s just normal protocol and the PRC comments which I guess that’s just Planning Board, that was dated March 5th but we haven’t gotten a chance to even review that as corporate tax deadlines were on March 15th and CLC tax is due tomorrow. So I’ll be reviewing that with my father this upcoming week.

Board Questions:

Andris: The garage will be used for a single car?
Neeraj: I don’t remember, I think it’s a single car because it’s for my father.
Andris: Right, that’s what I was going to ask you because the garage that is [proposed] is a two-car garage easily. Typically a two-car garage is twenty by twenty or a little bit bigger.
Neeraj: It might be a two-car garage but we want to make sure if that place is necessary he has a place for a wheelchair or something like that. If it’s a single car he wouldn’t be able to use it as a handicap kind of rationale. Right now he doesn’t need a wheelchair but if you’ve ever met my father he’s going on seventy but he’s working like he’s twenty. He’s not stopping any time soon. He loves seeing his clients and everything. So if you look at what we’re trying to do we just want to make it impossible for him to slip and fall. So he would pull up into that garage and we’re going to break that exterior wall and there would be a door that would go right into his office. There’s no other place that we can put that garage. The Planning Board asked “can we put it on the other side?” that would take away parking and it would go into Dr. Nichols’ office, it doesn’t go into my father’s office.
Andris: Could the garage be narrower so you wouldn’t need quite as much of a setback variance?
Neeraj: We’re looking for this much variance because we’ve tried to make everything consistent with all the look and everything. So this would be parallel to the sidewalk.

Andris: From the old variance that was given with the six-thousand square foot building was you wanted to make it even or close to the same distance that the existing structure was. And now you’re going twenty-two feet farther than that so it kind of contradicts what you were saying before. I’m trying to figure out if we can get by with a smaller garage so we aren’t granting as much of a variance.

Neeraj: If you look at the survey, maybe they were looking at how the perpendicular line to where the diagonal taking line is so the setback would be the same but I’m not talking about that. I’m talking about if you walk down the sidewalk and yes it would be just my father but a single car garage would not work for him. I don’t know how handicap works.

Andris: You spoke of a wheelchair, would you in theory need a ramp inside of the garage then?

Neeraj: That’s what I’m thinking. Right now I don’t think he needs it but we want to make it so that if at a later date there needs to be some improvements or something that it’s not going to make us demolish the- it doesn’t make sense for that. Right now I don’t know what the contractors drew inside but my father thinks he can do cartwheels right now, which he can’t. Right now I don’t think he’s planning on a ramp. When he twisted his back so much that he had to go to Penfield ambulance and he had to get a walker and the doctor gave him muscle relaxants and that gave away his knees so he was in very bad shape and whenever he visits people even in the hospital or something I often ask my mom, and my mom doesn’t walk that fast, and I say “where’s Dad?” and he’s really far back. So this is really just to make it comfortable for him.

Andris: In terms of the signs, when I was looking at the old approval for the variance it looks like you guys were trying to encourage more traffic to come to the Sanders side, wouldn’t you want that to be the larger sign to encourage the traffic to use that entrance versus the small driveway.

Neeraj: No, I don’t think an argument to say that you need a fifty or seventy square foot sign to say that we’re trying to cater that Sanders Farm [entrance]. My annex now has a couple of businesses there. So [we want] to put in that twenty square foot sign closest to all these businesses. So my law firm, that needs signage, my CPA firm that needs signage, Bombar Nuts needs signage, Tax, International Talent and Dr. Nichols. A thirty square foot sign- we don’t care either way, but I just think it’s more appropriate even aesthetically looking at Penfield Road when you’re rising the hill it’s a twenty square foot sign first and then a thirty square foot sign as you go up instead of something more obvious. We could do the same thing with a fifty square foot sign, we would get the same layout and everything but I just think that the twenty square foot sign and the thirty square foot sign would be sufficient.

Andris: A little more reserved.

Neeraj: Yeah. If you look at how it is on Penfield Road in front of my Dad’s office, we’ve tried to keep that whole part green. And I’ve enjoyed it like that just because it’s more pleasant to look at than my old office that was on Lyell Avenue or Jefferson Road how it looks. I think it just looks better as you’re going down Penfield Road.
Mike: This three-sign thirty [square] foot one is going to go where #1 is on [survey map]? Sort of where the existing one-
Neeraj: Yes that’s it, sign one, that’s exactly where it is.
Mike: And then sign two is going to be this? Mike points to rendering in submitted documents. Whatever businesses are in that new building?
Neeraj: Yeah, when we put up the skeleton of the building, we don’t have any tenants yet, but that would be those.
Mike: So you just showed this to indicate size?
Neeraj: Yes.
Dan: Do you anticipate coming back and asking for any uh-
Neeraj: No.
Dan: If everything turns out well in terms of renting out the space you think you have enough with that [signage]?
Neeraj: Yeah I think we have enough, in terms of signage we have enough with this. To recruit tenants for that six thousand square foot they would need signage too and it’s my hope we would get in total fifty square foot that The Code would give us in one single sign. If we can’t get this rented then the other option would be to tear down this smaller sign and just put up a bigger fifty foot which I don’t think that would be nice.

Board deliberations:
Mike: Should we condition that [the applicant] is not allowed a building mounted sign as we are approving two freestanding signs?
Neeraj: My building is way in the back and I have a tax practice, my Dad has a tax practice, I still get people coming all the time to my place saying “can you do my tax return?” and I always have to send them back and everything. They’re confused a lot of times where they are. It’s only one address, 2041 Penfield Road, it’s by nature a father and son thing but we’re two separate businesses so I don’t do my father’s clients, my father doesn’t do my clients. For the public to know where they’re going, I don’t have the money right now to put up a small sign facing my [building]. My Dad isn’t planning on doing anything on his. But for me I’m not restricted right now but if you grant this condition I would have to plaster things on my windows, a lot of things on my windows.
Dan: You don’t have a problem with the restriction on the two buildings closer to the road?
Mike: And that’s really the more visually impacting.
Neeraj: I have every day, especially tax season, it’s a common parking lot and a lot of times [clients] think that’s just a dentist’s office and this is the tax office but they don’t know that both places are tax.
Mike: How are you going to address that? You have the same last name, you’re both CPAs?
Neeraj: We’re father and son so we refer business to one another so I’m not competing against him or anything like that. If you go to my website I always tell [clients] that my office is in the back. But other individuals/customers just try to come in and check. It’s nice to delineate one from another.
Dan: So long story short you want to have the right to put a building mounted sign on your building?
Neeraj: Yes.
Andris: Could some of that be solved with a directional sign saying *Shah CPA* with an arrow pointing to the back?
Neeraj: I know, but my building is way in the back with the parking lot and you wouldn’t be seeing it from the road, you would only see it as you go all the way to the parking lot. I’m a big believer in simplicity, the parking is just in one column, so I don’t want to have more directional things. It would just look perfect to have a small thing underneath the-
Mike: How big of a sign would you want?
Neeraj: About this big gestures using arms to illustrate size. I would need to put my two businesses on it, so “Shaw CPA Firm” and “Shah Law Firm.” It wouldn’t be a huge sign.
Andris: So something similar to one of these panels? Indicates submitted rendering of freestanding sign
Neeraj: Not even that big. I mean I’m not good with measurements or anything.
Harold: The main entrance into the office, is it on the East side of the building?
Neeraj: My office? Facing east so my sign would be on that side.
Harold: He would be eligible for eighty-four square feet of building mounted signage.
Andris: You wouldn’t see that from the road.
Dan: How about if we restrict the two closer to the road and if he wants a building mounted sign on his more than fifty you have to come in for permission?
Neeraj: I’d appreciate it.
Dan: Let’s do that. If he needs a larger one he can come in and make his case.

Special conditions required by the Board: Limited to fifty square foot sign on rear building.
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<td>Silins</td>
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<td>Aye</td>
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<td>Aye</td>
<td>2 Freestanding signs with less setback (one 20 square feet and one 30 square feet in size) and one building mounted sign on the rear building no larger than 50 square feet.</td>
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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.

Continued Tabled

Special Request

Harold: We have a special request from Dr. Sannon of 2214 Penfield Road, the Smile Center, on May 19, 2014 he requested a special permit for signage. He’s the dental practice that is just to the East of Aldi’s and to the West of Urgent Care on Penfield Road. We denied him the second building mounted sign and he is asking to come back into this Board before the one year period that he has to wait to appear again before this board.

Dan: How many more months?

Pete: I think two more months.

Harold: At this point in time the best I can do if you agree that this is a different application I can get it into April. If you don’t agree I can have him come in May. I think he’s had some time to operate on the property and he’s starting to get numbers of people-

Dan: So he’s got a better argument really? But it’s the same application.

Harold: I’m not going to argue that it’s the same application or not. He’s just asked me to come to the Board and ask if you feel if it’s a different application that can be heard in April versus May.

Pete: The Code provision refers to new evidence or conditions that significantly or further change to an extent that further consideration is warranted.

Mike: I don’t think that being in business is a condition.

Andris: Plus all these people that found it still signed the petition

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<td>Aye</td>
<td>Does not meet The Code provisions to allow application before one year of previous hearing</td>
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Meeting adjourned 8:27 p.m.
PENFIELD ZONING BOARD OF APPEALS
March 19, 2015

Kathleen Richardson, 35 Bunker Hill Drive, Rochester, New York 14625 requests Area Variances from Article III-3-35-D-2 and Article III-3-37-A of the Code to allow an existing shed with less setback and exceeding the maximum size for a shed and an existing basketball court with less setback at 35 Bunker Hill Drive. The property is owned by Kathleen Richardson and zoned R-1-20. SBL #108.19-1-68.1. Application #15Z-0016.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variances from Article III-3-35-D-2 and Article III-3-37-A of the Code to allow an existing shed with less setback and exceeding the maximum size for a shed and an existing basketball court with less setback at 35 Bunker Hill Drive; 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 March 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 a Type II action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment. Therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as a Type II action and no further environmental review will be required.

Moved: Carole Mulcahy
Seconded: Daniel DeLaus

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer ABSENT
Carole Mulcahy AYE
Andris Silins AYE
AREA VARIANCE TO ALLOW AN EXISTING SHED EXCEEDING THE MAXIMUM SIZE.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of seventy five (75) square feet from the allowed two hundred (200) square foot maximum size for a shed resulting in a two hundred seventy five (275) square foot shed at 35 Bunker Hill Drive, subject to the following conditions:

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

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

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

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

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

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

The Board determined that no undesirable change will be produced in the character of the neighborhood. The Board was presented evidence by the applicant and testimony by neighbors of the applicant that this type of structure is commonly found in the area of the subject property.

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 existing shed could be relocated to a location on the property that complied with the requirements of the Code but this effort would have cost upwards of $5000.00.

3. Whether the requested area variance is substantial.
The Board determined that the requested area variance was not substantial. The applicant has represented to the Board that the additional storage space is needed to store lawn and garden equipment, patio furniture and pool supplies and equipment. Without the additional storage space some of the items intended to be stored in the shed would be outside and visible to the neighboring property owners.

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 area variance would not have an adverse impact on the environmental conditions in the neighborhood. The applicant has represented to the Board that the shed was constructed a number of years ago and no complaints have been voiced by the owners of the adjacent properties. The owners of the adjacent properties that would have been most impacted by any negative impacts of improper drainage appeared before the Board and testifies that they have not been impacted by any additional drainage because of the placement of the shed.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that it was her understanding that her ex-husband had negotiated with the contractor to obtain the building permit from the Building and Zoning Office.

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

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

1. An Area Variance application form stamped received February 10, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated February 10, 2015 stamped received February 10, 2015 by the Building and Zoning Office.

5. Building plans of the existing deck prepared by the applicant stamped received December 1, 2014 by the Building and Zoning Office.

6. Photographs of the subject property provided by the applicant dated February 10, 2015.

7. Letters from the adjacent property owners supporting the applicant’s request for the area variance.

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

Moved to approve the application for area variance for less setback: **Carole Mulcahy**
Seconded: **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 foregoing portion of the application was carried.
AREA VARIANCE TO ALLOW AN EXISTING SHED WITH LESS SETBACK.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 6.7 feet from the required ten (10) foot rear setback resulting in a setback of 3.3 feet from the rear property line to allow a 11.9 foot by 24.1 foot shed at 35 Bunker Hill Drive, subject to the following conditions:

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

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

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

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

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

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

The Board determined that no undesirable change will be produced in the character of the neighborhood. The Board was presented evidence by the applicant and testimony by neighbors of the applicant that this type of structure is commonly found in the area of the subject property.

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 existing shed could be relocated to a location on the property that complied with the requirements of the Code but this effort would have cost upwards of $5000.00.

3. Whether the requested area variance is substantial.
The Board determined that the requested area variance is substantial. The applicant represented to the Board that the area around the existing shed was buffered to the adjacent properties by mature landscaping consisting of trees and shrubs. Additionally, the area of the existing shed is distant to the neighbor’s residences on the adjacent properties.

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 area variance would not have an adverse impact on the environmental conditions in the neighborhood. The applicant has represented to the Board that the shed was constructed a number of years ago and no complaints have been voiced by the owners of the adjacent properties. The owners of the adjacent properties that would have been most impacted by any negative impacts of improper drainage appeared before the Board and testifies that they have not been impacted by any additional drainage because of the placement of the shed.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that it was her understanding that her ex-husband had negotiated with the contractor to obtain the building permit from the Building and Zoning Office.

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

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

1. An Area Variance application form stamped received February 10, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated February 10, 2015 stamped received February 10, 2015 by the Building and Zoning Office.

5. Building plans of the existing deck prepared by the applicant stamped received December 1, 2014 by the Building and Zoning Office.

6. Photographs of the subject property provided by the applicant dated February 10, 2015.

7. Letters from the adjacent property owners supporting the applicant’s request for the area variance.

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

Moved to approve the application for area variance for less setback: Carole Mulcahy
Seconded: 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 foregoing portion of the application was carried.
AREA VARIANCE TO ALLOW AN EXISTING BASKETBALL COURT WITH LESS SETBACK.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 6.5 feet from the required ten (10) foot side setback resulting in a setback of 3.5 feet from the east property line to allow a 30 foot by 45 foot basketball court at 35 Bunker Hill Drive, subject to the following conditions:

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

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

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

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

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

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

The Board determined that no undesirable change will be produced in the character of the neighborhood. The Board was presented evidence by the applicant and testimony by the neighbors that the basketball court is an amenity to the children in the area in that it provides a recreational option on the property.

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 existing basketball court could be modified to comply with the requirements of the Code but this effort would have cost upwards of $8000.00.

3. Whether the requested area variance is substantial.
The Board determined that the requested area variance is substantial. The applicant represented to the Board that the area around the existing basketball court was buffered to the adjacent properties by mature landscaping consisting of trees and shrubs. Additionally, the area of that the existing basketball court is located is distant to the neighbor’s residences on the adjacent properties.

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 area variance would not have an adverse impact on the environmental conditions in the neighborhood. The applicant has represented to the Board that the basketball court was constructed a number of years ago and no complaints have been voiced by the owners of the adjacent properties. The owners of the adjacent properties that would have been most impacted by any negative impacts of improper drainage appeared before the Board and testifies that they have not been impacted by any additional drainage because of the placement of the shed.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that it was her understanding that her ex-husband had negotiated with the contractor to obtain the building permit from the Building and Zoning Office.

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

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

1. An Area Variance application form stamped received February 10, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated February 10, 2015 stamped received February 10, 2015 by the Building and Zoning Office.

5. Building plans of the existing deck prepared by the applicant stamped received December 1, 2014 by the Building and Zoning Office.

6. Photographs of the subject property provided by the applicant dated February 10, 2015.

7. Letters from the adjacent property owners supporting the applicant’s request for the area variance.

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

Moved to approve the application for area variance for less setback: Carole Mulcahy
Seconded: 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 foregoing portion of the application was carried.
R. Mitchell Ide-Ide Honda, 875 Panorama Trail S, Rochester, New York 14625 requests a Conditional Use Permit under Article III-3-77-K and Article X-10-4 of the Code to allow a commercial parking facility at 765 Panorama Trail S. The property is owned by Panorama Trail Associates LLC and zoned GB. SBL #138.08-1-48. Application #15Z-0008

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Article III-3-77-K and Article X-10-4 of the Code to allow a commercial parking facility at 765 Panorama Trail S; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on March 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: Michael Belgiorno
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 PARKING FACILITY.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit to allow a commercial parking facility at 765 Panorama Trail S, subject to the following conditions:

1. The Board has granted the Conditional Use Permit for a period of three (3) years at which time the applicant shall be required to re-appear before this Board for continuation of the approved permit.

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

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

4. The applicant shall be required to keep all drive aisles clear of vehicles.

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 in the area.

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 Panorama Trail S. 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 subject property is intended to be use as overflow parking for the primary use which is located at 875 Panorama Trail S. The property will only be staffed by employees transferring vehicles to the primary use at 875 Panorama Trail S.

   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 provide the applicant the ability to inventory vehicles as sales fluctuate seasonally.

e. Type and amount of signage.

The applicant has represented to the Board that no signage will be required for the use of the property.

f. Potential noise level.

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

g. Clear sight distance.

The applicant is not proposing any modifications to the existing egress locations onto Panorama Trail S and the existing clear sight distance at this location provides adequate clear sight distance for employees of the business.

h. Existing and proposed buffering.

The applicant has represented to the Board that the property is buffered by existing landscaping and additional buffering would not be needed from the businesses 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 applicant has represented that the only time the property would be staffed would be at times when the vehicles were needed to be transferred to the primary dealership.

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 14, 2015 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated January 14, 2015 stamped received January 14, 2015 by the Building and Zoning Office.


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

Motion to approve the application for a Conditional Use Permit to allow a commercial parking facility at 765 Panorama Trail S.

Moved: Michael Belgioirno
Seconded: Carole Mulcahy

Vote of the Board

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

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

Lalit Shah, 2041 Penfield Road, Penfield, New York, 14526 requests an Area Variance under Article III-3-48-C-8 and Article IV-4-2-F of the Code allow the construction of an addition with less setback and buffer and a modification of a Special Permit for Signage under Article VII-3 of the Code to allow an increase in freestanding signage at 2041 Penfield Road. The property is owned by Lalit Shah and zoned PD. SBL #139.08-2-1.111. Application #15Z-0007.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variances under Article III-3-48-C-8 and Article IV-4-2-F of the Code allow the construction of an addition with less setback and buffer and a modification of a Special Permit for Signage under Article VII-3 of the Code to allow an increase in freestanding signage at 2041 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 March 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 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
AREA VARIANCE TO ALLOW AN ADDITION WITH LESS SETBACK

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of forty one (41) feet from the required eighty (80) foot front setback resulting in a setback of thirty nine (39) feet from Penfield Road to allow a 22 foot by 24 foot garage at 2041 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 obtain a Certificate of Compliance from the Building and Zoning Office.

3. The applicant shall be required to comply with the Building Code of New York State, the Property Maintenance Code of New York State, the Fire Code of New York State and Article IV-4-24 of Chapter 29 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. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the area variance.

The Board determined that no undesirable change will be produced in the character of the neighborhood. The Board was presented evidence by the applicant that the intent of the property owner was to construct the garage in line with the office building under construction directly to the west of the proposed garage. The right-of-way also changes in front of this structure, which would otherwise be in line with the structure to the west (and which does not require a variance).

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 proposed garage could not be located elsewhere on the subject property. The applicant represented to the Board that the intended use of the garage was for the property owner who has experienced increased debilitating mobility problems and the garage would allow weather protection and access to the existing office used by the property owner.
Placing the garage at other locations would not be feasible because there is another tenant in the building and the garage is placed to access the part of the building used by the property owner.

3. Whether the requested area variance is substantial.

The Board determined that the requested area variance was not substantial. The applicant has represented to the Board that the distance from the road or sidewalk to the garage would not be discernible to the public because the right-of-way changes in front of this structure.

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 area variance would not have an adverse impact on the environmental conditions in the neighborhood. The applicant has represented to the Board that appropriate grading and drainage improvements would be implemented at the recommendation of the Town Engineer.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that the need for the addition was to accommodate the property owner.

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

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

1. An Area Variance application form stamped received January 8, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 8, 2015 stamped received January 8, 2015 by the Building and Zoning Office.

4. A site plan dated December 30, 2014 prepared by Gregory McMahon, P.E. stamped received January 8, 2015 by the Building and Zoning Office.
5.  A building plan dated December 16, 2014 prepared by Louise Carine, P.E. stamped received January 8, 2015 by the Building and Zoning Office.

6.  Photographs of the subject property provided by the applicant.

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

Moved to approve the application for area variance for less setback:  Andris Silins  
Seconded:  Carole Mulcahy

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
AREA VARIANCE TO ALLOW AN ADDITION WITH LESS BUFFER.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of eleven (11) feet from the required fifty (50) foot buffer resulting in a buffer of thirty nine (39) feet to the north property line to allow a 22 foot by 24 foot garage at 2041 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 obtain a Certificate of Compliance from the Building and Zoning Office.

3. The applicant shall be required to comply with the Building Code of New York State, the Property Maintenance Code of New York State, the Fire Code of New York State and Article IV-4-24 of Chapter 29 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. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the area variance.

The Board determined that no undesirable change will be produced in the character of the neighborhood. The Board was presented evidence by the applicant that the intent of the property owner was to construct the garage in line with the office building under construction directly to the west of the proposed garage. The right-of-way also changes in front of this structure, which would otherwise be in line with the structure to the west (and which does not require a variance).

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 proposed garage could not be located elsewhere on the subject property. The applicant represented to the Board that the intended use of the garage was for the property owner who has experienced increased debilitating mobility problems and the garage would allow weather protection and access to the existing office used by the property owner.
Placing the garage at other locations would not be feasible because there is another tenant in the building and the garage is placed to access the part of the building used by the property owner.

3. Whether the requested area variance is substantial.

The Board determined that the requested area variance was not substantial. The applicant has represented to the Board that the distance from the road or sidewalk to the garage would not be discernible to the public because the right-of-way changes in front of this structure.

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 area variance would not have an adverse impact on the environmental conditions in the neighborhood. The applicant has represented to the Board that appropriate grading and drainage improvements would be implemented at the recommendation of the Town Engineer.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that the need for the addition was to accommodate the property owner.

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

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

1. An Area Variance application form stamped received January 8, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 8, 2015 stamped received January 8, 2015 by the Building and Zoning Office.

4. A site plan dated December 30, 2014 prepared by Gregory McMahon, P.E. stamped received January 8, 2015 by the Building and Zoning Office.
5. A building plan dated December 16, 2014 prepared by Louise Carine, P.E. stamped received January 8, 2015 by the Building and Zoning Office.

6. Photographs of the subject property provided by the applicant.

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

Moved to approve the application for area variance for less setback:  
Andris Silins  
Seconded:  
Carole Mulcahy

Vote of the Board

Daniel DeLaus  AYE
Michael Belgjorno  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 MODIFICATION OF A FREESTANDING SIGN.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby APPROVES the application for a Special Permit for Signage to allow an increase in freestanding signage at 2041 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 Chapter 29 of the Town Code.

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

4. The property owner shall not be permitted to have any building mounted signage on the building located nearest to the intersection of Sanders Farm Road and 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 applicant has represented to the Board that the proposed freestanding sign complies with the dimensional size requirements of the Code. The freestanding signage proposed with the two (2) freestanding signs will comply with the total freestanding signage allow by the code for this property.

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

The applicant has represented to the Board that the proposed freestanding sign will be in keeping with the residential nature of the area. The proposed freestanding signage, which is a twenty (20) square foot sign located near the corner of Sanders Farm Road and a thirty (30) square foot sign located near the existing entrance off Penfield Road, will be less obtrusive to the residence in the area than a single code permitted fifty (50) square foot sign.
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 not requested to change the location of the thirty (30) square foot sign only to increase the size of the existing sign from twenty (20) square feet to thirty (30) square feet.

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

The Board determined that the proposed change to the freestanding sign would not interfere with the lawful enjoyment of the public highway or neighborhood properties. Although the proposed sign is larger than the existing sign the applicant represented that two (2) smaller signs would be less obtrusive than the allowed fifty (50) square foot 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. An Area Variance application form stamped received January 8, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated January 8, 2015 stamped received January 8, 2015 by the Building and Zoning Office.

4. A site plan dated December 30, 2014 prepared by Gregory McMahon, P.E. stamped received January 8, 2015 by the Building and Zoning Office.

5. A building plan dated December 16, 2014 prepared by Louise Carine, P.E. stamped received January 8, 2015 by the Building and Zoning Office.
6. Photographs of the subject property provided by the applicant.

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

Moved to approve the application for a Special Permit for signage to allow an increase to an existing freestanding sign: **Andris Silins**
Seconded: **Carole Mulcahy**

Vote of the Board

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<td>Andris Silins</td>
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The motion to approve the foregoing portion of the application was carried.