ZONING BOARD
MEETING MINUTES

APRIL 16, 2015
Penfield Zoning Board of Appeals
Minutes

The Zoning Board meeting at 6:30 PM local time Thursday, April 16, 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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<th>ZBA MEMBER</th>
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<td>Daniel DeLaus, Chairperson</td>
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<td>Andris Silins</td>
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<th>ADDITIONAL STAFF</th>
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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 March 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.

1. Michael Poh, 1133 State Road, Webster, New York 14580 request an Area Variance from Article III-3-37-A of the Code to allow a garage addition with less setback at 1133 State Road. The property is owned by Michael Poh and zoned RR-1. SBL #094.02-1-44-102. Application #15Z-0019.

Appearances by: Michael Poh, 1133 State Road, Webster, New York 14580

Presenter’s statements
- Asking for more space.
- Working on classic cars as a hobby.
- Not enough room in the garage to store the classic cars and the daily driver cars.
- 40’ x 14’ addition
- Addition will house two vehicles [tandem] to include the possibility of a truck that is longer.
- Existing garage is 20’ x 36’ and houses a ’53 Chevy, my Dad’s cars, some equipment used to work on cars.
- Don’t have enough room for other projects I’d like to get started.
- Planning on vehicles and possibly a boat in proposed addition.
- One nine foot door in the front of proposed addition and a door to access the new addition from existing garage.
- No additional lighting to exterior, already two exterior lights on garage, not lighting on the side at all.
- Will be additional blacktop to access the addition, already have a turnaround so it would be filled up right to the garage.
- In the spring it gets really wet behind existing garage [shows photos to illustrate].
- There’s standing water immediately behind garage in springtime [shown in photo]. It seeps into garage and is a problem all along space between rear of house and garage.
- Adding onto the rear of garage not advisable due to water problem and accessibility of space.
- The area of proposed addition has no water drainage issues.
- Small patio of back of house used for parties and picnics, we want to extend that to make it larger.
- Sidewalk between house and patio and existing garage that we want to keep detached.
- Desire separation between house and garage for separate activities.
- Utilities for house come in between garage and house.
- On side of property where proposed addition would go is a stone pad and blacktop turnaround.
- Neighbor does not have issue with addition.
- Makes sense to place addition in proposed location.
- Will be sided to match garage and will not be an eyesore. Same color and material as existing garage, architectural shingles. We’re going to move windows over to addition [from current side of garage] and will extend eight feet further into the backyard than rear of current garage.
- Only require 2.6 foot variance.
- Father brings his cars over and uses tools in current garage, does not store his cars in garage.

Special conditions required by the Board: None

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Application adjourned at request of applicant.
3. Robert Keiffer, P.E.-TY Lin International, 255 East Avenue, Rochester, New York 14604 on behalf of India Community Center of Rochester Requests an expansion for an existing Conditional Use Permit under Article III-3-36-A and Article X-10-4 of the Code to allow a storage building addition at 2171 Monroe County Line Road. The property is owned by India Community Center of Rochester, Inc. and zoned RA-2. SBL #141.02-1-5.1. Application #15Z-0018.

Appearances by: Robert Keiffer, P.E.-TY-Lin International, 255 East Avenue, Rochester, New York 14604

Presenter’s statements:
- Back in March of 2002 The Town passed a Conditional Use Permit to allow a summer camp and bath house at the India Community Center.
- Summer Program turned out to be very successful, nationally recognized.
- Have two two-week programs that run during the summer and it is always at capacity.
- The activity on the site has resulted in need for additional storage.
- Proposing to add a 16’ 8” x 28’ 6” addition to the back (East side) of principal structure that would be used exclusively for storage.
- There would be two man-doors into the space from the driveway to load materials and a stairway on the [interior] that allows you to get into the principal structure.
- Style of construction identical to what is [existing], architectural shingles, vinyl siding, a new window, the pitch of the roof will match.
- Proposed addition does not change the intensity of use on the property at all.
- Inside main building is their gathering area, they do performances dinners there.
- There’s chairs to be moved and tables and theatrical props and so forth. There always seems to be a shortage of places to put this stuff.
- Needed for dry goods storage during the camping sessions.
- Addition will make running rest of operation more efficient.
- No sight distance issues or work done in the right-of-way.
- Generate no noise, no odor, fairly inert shell that will be used for storage.
- Designed at a lower elevation from rest of building, won’t be visible from any adjoining properties.
- Floor of addition a few feet lower than existing building to continue slope of roof.
- March 28, shortly after submitting this application, a neighbor in the vicinity called 911 due to a loud noise. Event occurring was a private party not sponsored by the India Community Center. The Sherriff’s office came. They agreed to turn the music down but unfortunately the people there turned the music back up after the officer left. The officer returned and shut the party down.
- When this incident was brought to the attention of the ICC Board of Directors the administration passed a resolution that there would be a restriction on the number of hours and if there was going to be music at any of these functions that were not sponsored by the ICC they were going to be required to hire an ICC sound person to manage the music and be sure that the doors are closed. [Resolution submitted to Board]
• I believe this resolution will solve the issue. Been involved with the India Community Center for a number of years and sincerely believe that they are trying to be good neighbors.
• The ICC rents the facility to allow events such as anniversary parties, wedding receptions about three or four times a year.

Special conditions required by the Board: India Community Center must abide by their Board Resolution concerning hours and noise for special events and private parties.

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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
PENFIELD ZONING BOARD OF APPEALS
April 16, 2015

Michael Poh, 1133 State Road, Webster, New York 14580 requests an Area Variance from Article III-3-37-A of the Code to allow a garage addition with less setback at 1133 State Road. The property is owned by Michael Poh and zoned RR-1. SBL # 094.02-1-44.102. Application # 15Z-0019.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variances from Article III-3-37-A of the Code to allow a garage addition with less setback at 1133 State 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 April 16, 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: Michael Belgiorno
Seconded: Joseph Grussenmeyer

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer AYE
Carole Mulcahy AYE
Andris Silins AYE
AREA VARIANCE TO ALLOW A GARAGE ADDITION WITH LESS SETBACK.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 2.6 feet from the required ten (10) foot side setback resulting in a setback of 7.4 feet from the from the west property line to allow the construction of a fourteen (14) foot by forty (40) foot garage addition at 1133 State Road, subject to the following conditions:

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

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

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

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

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

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

   The Board determined that no undesirable change will be produced in the character of the neighborhood. The applicant has demonstrated to the Board that the garage addition will be constructed and finished with materials that are similar or the same as the existing exterior material on the existing detached garage.

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 garage addition could not be constructed on another alternate side of the existing detached garage. The applicant has demonstrated to the Board that the south side of the garage has existing drainage problems that make this location unsuitable for the proposed addition and the area between the detached garage and the existing residence has the public utilities located in the space that has made this area undesirable for the proposed addition.
3. The Board determined that the requested area variance was not substantial.

The applicant has represented to the Board that the requested area variance was not substantial. The applicant has represented to the Board that the neighbor’s residence directly adjacent to the proposed garage addition is setback from the property line and the distance between the proposed garage addition and existing neighbor’s residence would be more than twenty (20) feet.

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

The Board determined that the proposed area variance would not have an adverse impact on the environmental conditions in the neighborhood. The applicant has represented to the Board that the area along the side of the existing garage where the proposed garage addition would be constructed does not have any existing drainage concerns and the construction of the garage addition would not alter this existing drainage pattern.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that he is a car enthusiast and enjoys working on hot rods and needed the additional garage area for his personal convenience.

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 March 13, 2015 by the Building and Zoning Office.


3. A Monroe County Development Referral Form received by the Building and Zoning Office April 16, 2015.


6. Building plans of the proposed garage addition prepared by the applicant stamped received March 13, 2015 by the Building and Zoning Office.

7. Photographs of the subject property provided by the applicant dated March 13, 2015.

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

Moved to approve the application for area variance for less setback:  
Michael Belgiorno  
Seconded:  
Carole Mulcahy

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried
Robert Keiffer, P.E.-T Y Lin International, 255 East Avenue, Rochester, New York 14604 on behalf of India Community Center of Rochester requests an expansion for an existing Conditional Use Permit under Article III-3-36-A and Article X-10-4 of the Code to allow a storage building addition at 2171 Monroe County Line Road. The property is owned by India Community Center of Rochester, Inc. and zoned RA-2. SBL # 141.02-1-5.1. Application #15Z-0018.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an expansion for an existing Conditional Use Permit under Article III-3-36-A and Article X-10-4 of the Code to allow a storage building addition at 2171 Monroe County Line 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 April 16, 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 Belgioirno

Vote of the Board

Daniel DeLaus AYE
Michael Belgioirno AYE
Joseph Grussenmeyer AYE
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 STORAGE BUILDING ADDITION.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit to allow a 16 foot 8 inch by 28 foot 6 inch storage building addition at 2171 Monroe County Line 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 a Certificate of Compliance from the Building and Zoning Office.

4. 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.

5. The applicant shall comply with the resolution passed by the Board of Trustees of the ICC dated April 7, 2015 which pertains to the use of ICC facilities by parties or activities on the subject property received April 15, 2015 by the Building and Zoning Office.

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 means of ingress and egress to the facility will not be altered as part of the proposed storage building addition.

   b. Adequacy of parking facilities.

   The applicant has represented to the Board that parking demand will not change due to the addition on the storage building.

   c. Potential impact to both present and future uses.

   The applicant has represented to the Board that the proposed storage building addition will not change the present and future uses at the subject property.
d. Compatibility with the general area in which it is to be located.

The applicant has represented to the Board that the storage building addition will be constructed to look the same as the existing building and will not be visible from the adjacent properties.

e. Type and amount of signage.

The applicant has represented to the Board that no additional signage would be required.

f. Potential noise level.

The applicant has represented to the Board that the proposed storage building addition will not create any additional noise once constructed. Additionally, the applicant has submitted a letter that the Board of Trustees of the ICC had passed a resolution addressing the noise associated with events that have been held at the ICC facility. This resolution will provide stricter requirements for the events held at the facility and reduce the likelihood that event noise would be offensive to the adjacent property owners.

g. Clear sight distance.

The applicant has represented to the Board that the proposed storage building addition would not change the existing clear sight distance at the road access to Monroe County Line Road.

h. Existing and proposed buffering.

The applicant has represented to the Board that the existing site is buffered by existing mature vegetation that would not be encroached by the proposed addition.

i. Proposed generation of noxious odors.

The applicant represented to the Board that the proposed storage building addition would 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 to the Board that the proposed storage building addition would not have an impact on the hours of operation of the facility.

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 March 10, 2015 by the Building and Zoning Office.

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

3. A letter of intent dated March 10, 2015 stamped received March 10, 2015 by the Building and Zoning Office.

4. A site plan prepared by Robert Keiffer, P.E.-TY Lin International dated March 10, 2015 stamped received March 10, 2015 by the Building and Zoning Office.

5. A building plan prepared by Robert Keiffer, P.E.-TY Lin International dated March 10, 2015 stamped received March 10, 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 a storage building addition at 2171 Monroe County Line Road.

Moved: Andris Silins
Seconded: Michael Belgiorno

Vote of the Board

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

The motion to approve the application was carried.