ZONING BOARD MEETING MINUTES

MAY 21, 2015
Penfield Zoning Board of Appeals
Minutes

The Zoning Board meeting at 6:30 PM local time Thursday, May 21, 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>Daniel DeLaus, Chairperson</td>
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<td>Joseph Grussenmeyer</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 April 16, 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 May 21, 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. John Mueller, 37 Watersong Trail, Webster, NY 14580, NY 14580 requests an Area Variance under Article III-3-35-E of the Code to allow a pool cabana with less setback at 37 Watersong Trail. The property is owned by John Mueller and Christina Gulla and zoned R-1-20. SBL #094.01-6-29. Application #15Z-0023

Appearances by: John Mueller and Christina Gulla, 37 Waterson Trail, Webster, NY 14580
Chris Gorecki, 4 Mayer’s Garden, Webster, NY 14580

Presenter’s statements:
John Mueller
- Structure placed at current location in 2012. At that time lot behind them [4 Mayer’s Garden] was empty. The seven houses on that street were constructed last year
- When the shed was placed it was waist-high weeds, using Plot Map provided by builder and stakes present we based our measurements. Thought it was placed in compliance. Believes there was a stake/pin missing (due to weeds) that was located later when new survey was conducted
- Tried to best of abilities to follow Town Codes, applied for all permits, paid fees, called for inspections.
- Obtained estimates from several companies regarding moving shed, cost is about $1,500.00. This would be an economic hardship for us to undertake
- Asking for a variance of 6.8 feet
- About three feet distance between cabana and pool fence
- Required a large trailer to deliver, it’s a 12’x18’ Amish-built shed, well-built and difficult to move at this point
• Painted to match color of our house
• No electric service to structure
• Used for pool equipment storage primarily
• Chose size to ensure adequacy of space to store pool equipment, filled in winter to capacity
• Chose to face doors away from pool fence to be able to get things in and out without obstruction. Believed we were within setback of 11 to 12 feet
• There are other sheds in the area and several in-ground pools
• When the houses were built in the “Home-A-Rama” subdivision [Mayer’s Garden] this shed was already in place
• During the “Home-A-Rama” construction we explored the possibility of moving the shed using the builder’s equipment but they did not want the liability

Christina Gullo
• There were conversations with [Chris Gorecki] and we had said this was not our intent to make anybody’s life difficult
• We thought we did everything to the best of our ability

Chris Gorecki
• The shed was there when home purchased, told by Landmark Builders there was an agreement to move it.
• Shows photos to demonstrate close proximity property line and border fence
• Stands out and appears to be on my property
• Placed outside pool enclosure, the pool area is nice and they don’t have to look at cabana, I have to look at it
• Concerned with resale of home, there are no other similar structures in the area
• Cabana location does affect other properties as the neighborhood is still being developed and potential buyers will see this structure
• Is there a way to help John Mueller rectify this be in accordance with everyone else?
• If you approve it here does that mean we could all get approval to have these on someone else’s property?
• Would like it to be moved within setback and turned to have doors inside pool fence

John Antetomaso
• Developer of Watersong, representing builders in this development
• Arena Construction built 37 Watersong Trail in accordance with The Code
• Landmark did work with Rick Herman, not privy to the conversation they had with John and Christina
• Concerned from a sales standpoint, we have forty more lots there
• Worried other neighbors may not comply with The Code and obtain permits but rather put up a cabana or shed that’s not within regulations
• Impacts other neighbors and may deter potential buyers

Special conditions required by the Board: Not to be replaced in same location without a new variance approval.
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Adjourned
3. Lauren Seaver, 1708 Empire Blvd., Webster, NY 14580 requests a Conditional Use Permit under Article X-10-4 and Article III-3-36-K of the Code to allow a yoga pre-school at 1653 Creek Street. The property is owned by Christine Puschkin and zoned R-1-20. SBL #108.19-1-7. Application #15Z-0020.

Appearances by: Lauren Seaver, 1708 Empire Blvd., Webster, NY 14580
Christine Pushkin, 1653 Creek Street, Rochester, NY 14625
Grace Costich Schlageter, 1550 Creek Street, Rochester, NY 14625

Presenter’s statements:
Lauren Seaver
- Cooperative preschool program that incorporates yoga and movement
- Currently operating out of a yoga studio in Rochester
- Displays photos of program at current location and images of proposed location at 1653 Creek Street.
- Typically have six to nine children (ages three to five years), hoping to have up to twelve, but no more than twelve
- Semi-circular driveway is twenty feet wide (enough for two rows of cars), has adequate room for drop-off and pick-up, have fit ten cars in driveway before.
- Rolling arrival between 9 a.m. and 9:15 a.m. will not impact traffic
- Can designate one side of driveway for entering and one for exiting
- Willing to have one adult stay outside to direct drop offs and pick-ups if necessary but does not see a need as parents and students attend present routinely
- Many families within walking distance of proposed location
- Parents come in with children and help remove coats and shoes before leaving
- Hoping to have two and a half hour program, Monday through Friday between 9 a.m. and 11:30 a.m. with the possibility of a future second session from 12:30 p.m. to 3:00 p.m. (3:30 p.m. finish time for permit to allow parents to complete pick-up)
- Small program and relatively quiet, do not see this impacting the neighborhood
- Program is mostly inside, but location offers backyard
- Brought letters from various neighbors, spoke personally with neighbors and heard concerns regarding Conditional Use Permits and brought those questions to Joe Grussenmeyer, passed on his answers to concerned neighbors who now are satisfied with his responses
- Brought letters from current and potential students’ parents advocating application.
- Home owned by mother, Lauren does not occupy the residence.
- Single family home with mother-in-law suite. Suite is separated from main residence by a closet that can be used to access that addition
- Mother-in-law suite is proposed location for preschool
- Mother-in-law suite is un-occupied, has wood floors with a larger living/dining room totaling about 750 square feet, second room is a bedroom that will be used as yoga room; also a small bathroom
- Current location is yoga studio used for regular yoga classes so materials and resources for preschool must be set up prior to session and stored away following
- Proposed location would be dedicated for use by preschool
- City location is difficult for private preschool as UPK is competition
- No employees, Christine Puschkin volunteers every day and because it’s a cooperative there will be at least one parent volunteer each session
- Sometimes other parents stay, most just drop off
- One parent brings a snack for the class each day, students bring their own water
- No items will be sold
- Might go outside for part of the time to play in the back yard
- Considering putting up some sort of temporary fence within the bounds of the back yard, inquired with The Town Building Department regarding allowed fencing
- Will not impact present or future uses
- Not that loud, kids are laughing and having fun
- We’re busy doing our work and our yoga, as pictures show, this is addressed in some of the letters
- No additional exterior lighting
- Don’t need two signs, okay with one sandwich board or a removable sign, comfortable with allowed signage [under The Code]

Grace Costich Schlageter
- Retired educator and regards yoga as very important, spent time with yoga in the past
- Concerned whether this is classified as a preschool what the State requires in order to operate as a preschool
- Concerned with many parents staying and parking on street
- Concerned with number of adults supervising children being adequate
- Are there rental payments to be made by applicant to homeowner, does this violate zoning?
- Concerned with children outside, very busy street, should be fenced
- Concerned with possible lack of supervision outside during drop off and pick up of students
- Rolling arrival time is possibly okay but concerned with children within walking distance arriving unattended
- Does this program meet the requirements for a preschool according to the State and local governments?
- What are the fire safety issues that need to be addressed for this?

Lauren Seaver
- This is a preschool program, New York State requires that if the program runs for over three hours (per day) it should be registered with the State
- If the program is three hours or less than it does not need to be registered with the State, the majority of preschool programs in this area are not registered with the State if they are half day
- I’ve been in communication with the Rochester Childcare Council a lot since starting this program
- We follow the regulations for space, number of children to number of adults, we’re still in compliance with State regulations anyway
- Not certain but do not believe there are any State regulations for programs under three hours
- Had looked into registering voluntarily (even though not required) at one time, but still follow the regulations as if I were
- Planning to start operating at proposed location in September
• Do not typically have parents who stay the whole time other than the volunteer for that day, it’s not a Mommy & Me class so it shouldn’t be a whole bunch of cars staying
• Comfortable with a condition from The Board that there be no parking on the road as well as condition that there be monitoring at drop off time
• Parents always come in and help their children remove coats and backpack and meet their children at the door at pick-up time, but can have this as a written rule/policy
Christine Puschkin
• My husband will be building improved front steps for entry to proposed area
• Currently volunteer as assistant, [Lauren] and I are always there in addition with the volunteer parent so there’s always three of us minimal
• Will be charging a minimal amount of rent to cover utilities, we haven’t come up with an amount yet
• Husband has a snow-blower and goes out 5:30-6 a.m. to clear entire driveway, has done it twice a day if needed
• Prefer not to have a fixed sign, prefer to have something portable as this is a residence, do not see need for fixed sign once parents are established and know location

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<td>Table the application to give applicant more time to investigate local and State laws concerning preschool regulations, ratio of adults to students, limitations regarding number of students, fire safety regulations and determine type of signage requesting.</td>
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4. James Bammel, R.A.-Bammel Architects P.C., 6459 W. Quaker Street, Orchard Park, NY 14127 on behalf of Limestone Development Co. LLC requests an Area Variance from Article III-3-41-B of the Code to allow the construction of an addition with less setback than required at 100 Elderwood Court. The property is owned by Limestone Development Co. LLC and zoned MR. SBL #125.03-2-55. Application #15Z-0021.

Appearances By: James Bammel, R.A.-Bammel Architects P.C., 6459 W. Quaker Street, Orchard Park, NY 14127

Presenter’s Statements:
- Required to come in due to funding requirements that may allow any development in the future for any other piece of land that Limestone Development currently owns, typically being through HUD
- HUD does not allow for independent housing, which is the future plan for anything that they may consider here, to be associated with a memory care assignment.
- Intent is to expand services to meet market in this area
- 24 more beds and the same thing for the first level stages of memory care
- Two-story addition to match all existing exterior
- When this parcel was re-zoned there was a setback requirement of eighty feet as a buffer to the residences
- Site plan includes additional plantings (mostly undergrowth) as buffer for residences in area where setback is not met
- Did put out notices to have a neighborhood meeting [hosted by applicant] with concerned residents but no neighbors attended
- At Planning Board meeting some neighbors attended and agreement was made to replace some trees
- Another resident wanted ambulance sirens turned off as they approach building, this is probably a large undertaking but we will make the request
- Topography of the land falls further to the West to the point where there’s an additional story with a basement and the expense gets quite great, plus there’s wetlands in the East
- The fire access drive is as tight as we can make it
- Existing building where addition connects is on most public part so everyone in the addition can easily access shared spaces

Special conditions by the Board: Comply with proposed site plan to add plantings as buffer for neighbor to North in location where variance is granted.
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5. Manish Sanon, DDS, 2214 Penfield Road, Penfield, NY 14526 requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-B and Article VII-7-13-C of the Code to allow greater building mounted signage and more than one (1) building mounted sign at 2214 Penfield Road. The Property is owned by M Squared Development LLC and zoned BN-R. SBL #140.01-1-7.4. Application #15Z-0022.

Appearances by: Manish Sanon, DDS, 2214 Penfield Road, Penfield, NY 14526

Presenter's Statements:
- Operating at this location for almost a year
- Confusion with our existing and new patients in locating business
- Front of building is on Penfield Road and signage is there, entry to building is in rear and very non-descript
- Many patients use the cross-access which connects our parking to Pen-Fair Plaza and the Post Office
- Patients coming south on Route 250 will cut through the cross-access through Pen-Fair Plaza and end up missing the building and end up either on the congested Penfield Road or going into Urgent Care or the Spa at La Bella thinking that’s our location
- Collected about four-hundred signatures from current patients and some delivery drivers endorsing additional signage
- Patients are arriving late to their appointments or missing their appointments entirely
- Proposed signage is 9.5 feet by 3.5 feet, reverse-channel, back-lit, halo sign similar to existing sign
- This sign would be on front of building facing parking lot, beyond parking is a drainage pond, beyond that is four-hundred yards of green space, should not affect homeowners or create unnecessary glare
- Our Town’s motto is “Planned Progress”, I assume that’s why we have the cross-access roads so people can go from one business to another quickly
- Part of planned progress is identifying small businesses
- Had to pay for the cross access that goes from Tim Horton’s to Urgent Care presumably so people could go from Tim Horton’s to the doctor
- Services cater to elderly patients who have difficulty identifying building
- Directional sign gets buried by snow in winter
- Willing to scale back sign size to comply with allowed size

Special conditions required by the Board: None
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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
John Mueller, 37 Watersong Trail, Webster, NY 14580 requests an Area Variance under Article III-3-35-E of the Code to allow a pool cabana with less setback at 37 Watersong Trail. The property is owned by John Mueller and Christina Gulla and zoned R-1-20. SBL #094.01-6-29. Application #15Z-0023.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variances from Article III-3-35-E of the Code to allow a pool cabana with less setback at 37 Watersong Trail; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on May 21, 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: Joseph Grussenmeyer
Seconded: Andris Silins

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 6.8 feet from the required ten (10) foot rear setback resulting in a setback of 3.2 feet from the the rear property line to allow an existing 12 foot by 18 foot existing pool cabana at 37 Watersong Trail, subject to the following conditions:

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

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

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

4. When the cabana is replaced/reconstructed it cannot be placed in the same location without obtaining appropriate variance in advance of any such replacement and/or reconstruction.

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 or a detriment to nearby properties will be created, by the granting of the requested area variance for the existing pool cabana. The applicant has represented to the Board that the location of the existing pool cabana would not materially change the view of the pool cabana by the adjacent property owners. Compliance with the required ten (10) foot rear property line setback would not alter the view of the structure by adjacent property owners.

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 applicant could have achieved compliance with the required rear setback for the existing pool cabana. The applicant has represented to the Board that existing pool cabana was placed in the current location using then-existing stakes located along the rear property
line. He has since found that the stakes used to locate the existing pool cabana were not accurate which created the noncompliance of the rear property line.

Additionally, the applicant represented to the Board that the cost to relocate the existing pool cabana to a location complying with the required setbacks would be approximately fifteen hundred ($1500.00) dollars and the contractors contacted noted concerns that any attempts to move the existing cabana could cause damage to the structure. The applicant also expressed concerns that the existing fence on the neighbor’s property also presented problems to move the cabana to a location complying with the rear setback requirements.

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 existing pool cabana would not present any further visual impact to the neighboring property owner if the pool cabana was placed at the required rear setback.

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 drainage patterns along the rear property line were recently re-established with the development of the residence beyond the rear property line.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant represented to the Board that the surveying stakes used in determining the rear property line were inaccurate causing the rear setback violation for the existing pool cabana.

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 April 17, 2015 by the Building and Zoning Office.
2. A letter of intent dated April 17, 2015 stamped received April 17, 2015 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated March 10, 2015 stamped received April 17, 2015 by the Building and Zoning Office.

4. An instrument survey dated June 1, 2014 prepared by James Bates, Jr; LS stamped received April 17, 2015 by the Building and Zoning Office.

5. Photographs of the subject property provided by the applicant dated April 17, 2015.

6. Email received from C Gorecki 4 Mayer’s Garden.

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

Moved to approve the application for area variance for less setback:  
Joseph Grussenmeyer  
Seconded:  
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 foregoing portion of the application was carried
PENFIELD ZONING BOARD OF APPEALS
May 21, 2015

James Bammel, R.A.-Bammel Architects P.C., 6459 W Quaker Street, Orchard Park, NY 14127 on behalf of Limestone Development Co LLC requests an Area Variance form Article III-3-41-B of the Code to allow the construction of an addition with less setback than required at 100 Elderwood Court. The property is owned by Limestone Development Co LLC and zoned MR. SBL #125.03-2-55. Application #15Z-0021.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Article III-3-41-B of the Code to allow the construction of an addition with less setback than required at 100 Elderwood Court; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on May 21, 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: Andris Silins
Seconded: Carole Mulcahy

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer AYE
Carole Mulcahy AYE
Andris Silins AYE
AREA VARIANCE TO ALLOW THE CONSTRUCTION OF AN ADDITION WITH LESS SETBACK.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of twenty (20) feet from the required eighty (80) foot setback resulting in a setback of sixty (60) feet from the north property line to allow the construction of a two (2) story, twenty eight thousand, one hundred seventy five (28,175) square foot addition at 100 Elderwood Court, 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 Fire 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.

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

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

6. The applicant shall provide a landscape plan which will provide an appropriate buffer to the property immediately to the north of the proposed addition. The signature of the Town Engineer or Landscape consultant shall demonstrate compliance with this condition of approval.

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 or a detriment to nearby properties by the granting of the requested area variance the proposed addition. The applicant has demonstrated to the Board that the existing mature vegetation will be disturbed as little as possible and augmented with appropriate landscaping to fill in the buffer as required by the Planning Board.
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 applicant could not have achieved compliance with the required setback. The subject property is encumbered by an existing wetland along the east property line that impacts approximately 40% of the property. Additionally, the addition is proposed to connect to the existing proprietary health care facility at a location that would allow the staff and residents access to dining, offices, kitchen, lounges and other services provided by the facility.

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 represented to the Board that the loss of twenty (20) feet of distance from the property line would be replaced by the landscaping addition to the north property line.

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

The applicant has represented to the Board that appropriate grading and storm sewer infrastructure will be designed to accommodate the drainage around the subject property.

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 subject property is constrained by existing wetland environments that did not allow expansions of the existing use.

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 April 1, 2015 by the Building and Zoning Office.
2. A letter of intent dated March 31, 2015 stamped received April 1, 2015 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated March 31, 2015 stamped received April 1, 2015 by the Building and Zoning Office.

4. An instrument survey dated July 2013 prepared by Niagara Boundary stamped received April 1, 2015 by the Building and Zoning Office.

5. A site plan prepared by James Bammel, R.A.-Bammel Architects P.C dated March 2015 stamped received April 1, 2015 by the Building and Zoning Office.

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

Moved to approve the application for area variance for less setback:  
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 foregoing portion of the application was carried
Manish Sanon, DDS, 2214 Penfield Road, Penfield, NY 14526 requests a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-B and Article VII-7-13-C of the Code to allow greater building mounted signage and more than one (1) building mounted sign at 2214 Penfield Road. The property is owned by M Squared Development LLC and zoned BN-R. SBL #140.01-1-7.4. Application #15Z-0022.

SPECIAL PERMIT FOR SIGNAGE TO ALLOW GREATER BUILDING MOUNTED SIGNAGE AND MORE THAN ONE (1) BUILDING MOUNTED SIGN

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Signage under Article VII-7-3 from Article VII-7-13-B and Article VII-7-13-C of the Code to allow greater building mounted signage and more than one (1) building mounted sign at 2214 Penfield Road; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on May 19, 2014 at 7:00 PM to consider the said 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: Andris Silins

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer AYE
Carole Mulcahy AYE
Andris Silins AYE
NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby DENIES the application for a Special Permit for Signage to allow greater building mounted signage and more than one (1) building mounted sign at 2214 Penfield Road.

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

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

The Board determined that the proposed signage was not in harmony with the standards for permitted signs. The applicant was proposing two (2) signs with a larger cumulative total of one hundred ten (110) feet of signage, which was modified to a cumulative total of one hundred three (103) feet of signage.

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

The Board determined that the proposed signs are not compatible and are detrimental to neighborhood properties. The proposed signage if approved would have provided signage on two (2) faces (north and south) of the subject building. Additionally, the applicant has alternative options for additional signage that would comply with the provisions of the Sign Ordinance.

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 signs would not create a hazard to the public in general or to any owner or occupant of neighboring properties. The proposed signage were intended to be placed on the exterior facades of the subject building and would not interfere with any adjacent properties.

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

The Board determined that the location of the proposed signs does not in any way interfere with the lawful and aesthetic enjoyment of the public highway or neighborhood properties. The proposed signage were intended to be placed on the exterior facades of the subject building and would not interfere with any adjacent properties.
The proposed sign is necessary to enhance the business identification, because of the location of the business’ proximity to the front property line, the exterior appearance of the structure containing the business and the nature of the business.

The Board determined that the applicant did not demonstrate that the additional signage was necessary to enhance the business located at 2214 Penfield Road. The applicant has presented to the Board a list of patients who had represented that the business was difficult to locate but the Board considered the condition to be address-related and not of a lack of business identification.

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

1. A Special Permit for Signage application form dated April 13, 2014 by the Building and Zoning Office.
3. A Short Environmental Assessment Form dated April 15, 2014 received by the Building and Zoning Office.
4. Drawings of the proposed signage provided by the applicant.
5. A Monroe County Development Referral Form received by the Building and Zoning Office.
6. Testimony provided by the applicant and interested parties at the public hearing.

Moved to approve the Board’s motion to deny the application to allow greater building mounted signage and more than one (1) building mounted sign at 2214 Penfield Road:
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

The motion to deny the application was carried.