ZONING BOARD
MEETING MINUTES

JUNE 15, 2015
Penfield Zoning Board of Appeals
Minutes

The Zoning Board meeting at 6:30 PM local time Monday, June 15, 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>Joseph Grussenmeyer</td>
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<td>Carole Mulcahy</td>
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<td>Andris Silins</td>
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<td>Joseph Platania, Legal Counsel</td>
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<td>Harold Morehouse, Building and Zoning Administrator</td>
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<td>Alison Sublett, Secretary to the Board</td>
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Regarding Minutes from Zoning Board Meeting on May 21, 2015.

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<td>Minutes for May 21, 2015 Meeting</td>
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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 June 15, 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:


Appearances by: Erwin Allman, 17 Cristine Circle, Penfield, NY 14526
Susan Verrone, 18 Cristine Circle, Penfield, NY 14526

Presenter’s statements:
Erwin Allman
• Requesting a tiny variance for garage addition
• Used property map and overlaid on rendering of proposed addition to show setback area
• Verified by measuring sixty feet from the curb as the property line is ten feet from the curb and staked out area
• Only corner of porch requires variance of less than three feet (approximately)
• Curve of road affects setback requirement in one area of proposed addition, house on property to North is closer to road than ours [on straight part of street]
• Cost effective way to expand garage and add desired South-facing porch
• Siding and paint will match
• Acting as general contractor and performing some of the work myself
• Roof will be replaced at completion of addition, drainage will remain same
• Tree will be removed to make room for porch

Susan Verrone
• Erwin spoke to my husband was not present for conversation regarding proposed addition
• Want to understand definition of setback [applicant and Board explain]
• Concerned with view from my living room of garage addition and boat parked outside

Special conditions required by the Board: None

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2. Mark Saresky, 1356 Plank Road, Webster, NY 14580 requests an Area Variance from Article III-3-35-D-3 of the Code to allow a larger storage building at 1356 Plank Road. The property is owned by Mark Saresky and zoned RA-2. SBL #095.03-1-18. Application #15Z-0026.

Appearances by: Mark Saresky, 1356 Plank Road, Webster, NY 14580
Ed Lindskoog, 40 Willow Pond Way,
Susan Unckless, 1340 Plank Road, Webster, NY 14580

Presenter’s statements
Mark Saresky
- Seeking to erect a pole barn larger than allowed
- Currently property is almost three acres
- Will primarily be used to store equipment used to maintain property
- Own two bucket trucks used to maintain large trees on property, determined size of barn based on size of these trucks and other equipment to be stored and still have room to get around and work on hobbies
- Three trailers, two bucket trucks, chip truck, and tractor currently stored under tent
- Tent will be removed and vehicles moved into barn
- Son uses second bucket truck to assist with property maintenance
- Proposed barn is 60’ x 40’ with 14’ walls, peak approximately 16’-17’, wood frame with steel exterior
- Color will be Barn Red, no exterior lighting
- Will not be removing trees
- Parallel to house, adjacent walkway and about 20’ from garage, entrance will face road
- Dirt driveway runs parallel to property line and is shared with neighbor
- Will not be adding pavement
- Neighbors are either side of property have no objections
- Two vehicles on rear of property belong to sons, vehicles will not remain on property permanently
- Intend to store tools used for hobbies
- Help/mentor many people with repairing cars (family, church family, neighbors)
- No intention of running business on property
- [Regarding letter to The Board submitted by neighbor, Susan Unckless, at 1340 Plank Road] Believe [Susan] is referring to sons making noise on property in past with dirt bikes; sons are grown and no longer reside on property
- There are two pole barns on properties behind me, one is similar to size of proposed barn
- Property is heavily wooded on both sides
- Will not be visible from road, peak of barn will match peak of garage
- No increased noise, currently vehicle repairs occur in driveway but will occur instead in barn
- Vehicle repairs start no earlier than eight o’clock and cease no later than six o’clock
- Agree to have nor more than two vehicles for repair on property at a time

Ed Lindskoog
- Supports application
• Mark has promised upon his retirement to help the Boy Scouts with maintaining their equipment
• Asset to the Town of Penfield, [Mark] has a vast amount of knowledge

Susan Unckless
• Opposed to application
• Had problems in the past with Mark concerning noise
• Not concerned with view, will not be able to see proposed building
• Presently a lot of construction vehicles on property
• Concerned with possible noise issues regarding vehicle repairs
• No noise issues lately, but concerned with potential increase
• Also concerned with construction noise of barn

Findings:

1. Do the variances create an undesirable change to the character of the neighborhood or a detriment to nearby properties?
   Not visible from road.

2. Are the requested area variances substantial?
   Yes, the variance is substantial.

3. Will the proposed variances have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
   Improve look of property by providing permanent storage for utility vehicles and reduce noise from repairs.

4. Was the alleged difficulty self-created?
   Yes, the difficulty is self-created

Special conditions required by the Board: Remove tent, no more than two vehicles for repair on site at one time, make effort to limit noise from repairs as much as possible.
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3. Peter & Laurie Pincus, 44 Devonshire Drive, Penfield, NY 14526 requests an Area Variance from Article III-3-37-A of the Code to allow an addition at 44 Devonshire Drive. The property is owned by Peter & Laurie Pincus and zoned R-1-15. SBL #139.06-2-21. Application #15Z-0028.

Appearances by: Peter Pincus, 44 Devonshire Drive, Penfield, NY 14526
Michael Trapanovski, AIA-Human Dwelling Architecture, 1850 Baird Road, Penfield, NY 14526

Presenter’s statements:
Peter Pincus
• Requesting variance for box window in front of proposed addition
• Lot is relatively small
• House was nine-hundred square feet when purchased
• Had a child and added a [336 square feet] addition on rear of property
• Already have a deck on the rear
• If we added on rear addition we would have no backyard
• Building onto the front of house makes more sense
• Have another child and need addition
• Box window has no foundation, only part of proposed addition requiring variance
• Adjacent neighboring properties across street have far less setback from road of maybe ten feet
• We did consider other options over the last four years in planning this addition (adding on across entire rear, adding second story, adding across entire front) all are cost-prohibitive
• Current proposed addition will allow for master suite
• Aware of potential complications for future renovations involving plumbing for proposed addition

Michael Trapanovski
• Calculations for setback are based on survey conducted in 2011
• Calculated setback of box window rough framing, not finished
• Would like variance of two feet for window

Special conditions required by the Board: None
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<td>Two foot variance</td>
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APPLICATION WITHDRAWN
5. Zachary Romano, 9 ½ Main Street, Fairport, NY 14450 requests a Special Permit for Outside Storage under Article IV-4-24 to allow a storage trailer at 1183 Bay Road. The property is owned by The Cleveland Mary Group LLC and zoned LB. SBL #093.11-1-44. Application #15Z-0025

Appearances by:  Zachary Romano, 9 ½ Main Street, Fairport, NY, 14450
Pauline Sherwood, 10 Leedale Drive, Webster, NY, 14580

Presenter’s statements:
Zachary Romano
• Trailer will be used for storage of strictly overflow bottles and cans for a redemption center
• Currently own a redemption center in Fairport that is about 1600 square feet
• 1183 Bay Road tenant space is only 1450 square feet
• Trailer is a little more than 200 square feet
• Store and trailer will be emptied at a minimum every fourteen days (by DEC regulation)
• Trailer will be permanently on-site and not moved
• Behind karate studio and not seen from road
• No nearby neighbors and fence on one side and trees buffering location
• Proposed location is not used for parking and will not affect traffic
• Will limit nuisance traffic driving through parking lot
• Trailer will be locked
• Prefer not to invest in permanent structure as this is a lease property
• Tractor trailer will pick up product from store and trailer, adequate space in rear lot for pick up
• Trailer will only be seen by employees

Pauline Sherman
• My backyard fence backs up the area in question
• Concerned with which tenant space would be occupied
• Concerned with traffic and limited parking
• Satisfied with answers given by applicant

Special conditions required by the Board: None
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6. Robert Halpin-The Halpin Firm, 4588 Route 224, Montour Falls, NY 14865 on behalf of SHADP LLC requests a Conditional Use Permit under Article X-10-4 and Article III-3-36-E of the Code to allow a change of ownership of the Small World Nursery at 2406 Browncroft Boulevard. The property is owned by Rita P Barton Revocable Trust and zoned R-1-20. SBL #123.06-1-19. Application #15Z-0027.

Appearances By:  Leland T. Williams, Esq., 95 Allens Creek Road, Rochester, NY 14618  
                 Rita P. Barton, 2406 Browncroft Boulevard, Rochester, NY 14625  
                 Smit Patel, 223 Oak Hill Road, Horseheads, NY 14845

Presenter’s Statements:  
Leland Williams  
• Since just before World War II this facility is only used as nursery  
• Both the property and business are being sold  
• Eleven employees  
• Eighteen parking spaces  
• Buyers have all licenses, this [hearing] is last requirement for sale transaction

Rita Barton  
• Property is one and three quarters acres  
• Will not be changing facility  
• Ages of children are infants through pre-school, no after-school program  
• Licensed for 87 children but have never had that many, currently there are 50 children in attendance  
• Five rooms for the children  
• We have a curriculum but it is not a school, it’s discovery of learning  
• All caregivers are licensed and have degrees in early childhood education  
• Hours are 7 a.m. to 6 p.m.  
• There are many egresses, each classroom must have two egresses  
• Children play outside often, and year-round  
• Three playgrounds: toddler playground, main playground and a pavilion  
• Compatible with area  
• Opened at beginning of World War II so women with children could go to work  
• Food is catered by The Association for the Blind, no food preparation on site  
• Do not sell any products  
• Music is played indoors

Smit Patel  
• The operation will be the same, no changes planned  
• Undetermined whether signage will change, name of business will not change  
• Can repoint spotlight that is problematic for neighboring property  
• Do not plan to change color of building

Special conditions required by the Board:  Redirect spotlight disturbing neighboring property
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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
2. Lauren Seaver, 1708 Empire Boulevard, 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.

Special Conditions required by the Board: Temporary fencing must be in place when class is outdoors

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<td>DeLaus</td>
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<td>Aye</td>
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<td>Belgiorno</td>
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<td>Aye</td>
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<td>Grussenmeyer</td>
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<td>Aye</td>
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<td>Mulcahy</td>
<td>Approve</td>
<td>Aye</td>
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<td>Conditional Use Permit</td>
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<td>Silins</td>
<td>Second</td>
<td>Aye</td>
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Meeting adjourned 8:30 p.m.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-37-A of the Code to allow a garage and porch addition at 17 Cristine Circle; 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 June 15, 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:                                   Michael Belgiono

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of two (2) feet from the required fifty (50) foot front setback resulting in a setback of forty eight (48) feet from the right of way of Cristine Circle to allow the construction of a 16 foot by 28 foot garage and porch addition at 17 Cristine Circle, 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, the Property Maintenance Code of New York State and Article IV-4-28 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 or a detriment to nearby properties by the granting of the requested area variance for the garage and porch addition. The applicant has represented to the Board that the view of the proposed addition would not change by the additional area subject of the area 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 benefit sought by the applicant could not be achieved by some other method other than an area variance. The applicant has represented to the Board that the residence
is smaller than other residences in the area and the additional space is needed for storage and work shop.

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 total area that would be in violation of the required fifty (50) foot setback would be approximately twenty five (25) square 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 drainage patterns at the front of the residence would not change. The storm water would be collected by gutters on the proposed addition and piped to the existing storm sewer system or run down the existing driveway to the road-side gutter.

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 additional space was needed for storage and work area.

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 May 11, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 11, 2015 stamped received May 11, 2015 by the Building and Zoning Office.

4. An instrument survey prepared by John Cronin; LS stamped received May 11, 2015 by the Building and Zoning Office.
5. Drawings of the proposed addition provide by the applicant.

6. 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
Carole Mulcahy

Seconded:

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
June 15, 2015

Peter & Laure Pincus, 44 Devonshire Drive, Penfield, NY 14526 requests an Area Variance from Article III-3-37-A of the Code to allow an addition at 44 Devonshire Drive. The property is owned by Peter & Laurie Pincus and zoned R-1-15. SBL #139.06-2-21. Application #15Z-0028.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-37-A of the Code to allow an addition at 44 Devonshire 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 June 15, 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 AN ADDITION

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of two (2) feet from the required fifty (50) foot front setback resulting in a setback of forty eight (48) feet from the right of way of Devonshire Drive to allow the construction of a one hundred seventy eight square foot addition at 44 Devonshire 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, the Property Maintenance Code of New York State and Article IV-4-28 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 or a detriment to nearby properties by the granting of the requested area variance. The applicant has represented to the Board that the residences across the street have a smaller setback to the right of way of Devonshire Drive than that is the subject of this application.

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

The Board determined that the benefit sought by the applicant could not be achieved by some other method other than an area variance. The applicant and his design professional has represented to the Board that a number of alternatives were explored and rejected due to cost and problems with interior design flow.
3. The Board determined that the requested area variance was not substantial.

The applicant has represented to the Board that the requested area variance is not substantial. The applicant has represented to the board that although the proposed addition is one hundred seventy eight (178) square feet in size the total area that would not comply with the requirements of the Code amounts to thirteen (13) square 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 storm water would be collect by gutters on the proposed addition and piped to the existing storm sewer system or discharged to the yard swales.

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 family is growing and the addition is needed to accommodate the family needs.

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 May 15, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 20, 2015 stamped received May 20, 2015 by the Building and Zoning Office.


5. Drawings of the proposed addition prepared by Human Dwelling Architecture received 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 NAY
Andris Silins AYE

The motion to approve the foregoing portion of the application was carried
Zakary Romano, 9 ½ Main Street, Fairport, NY 14450 requests a Special Permit for Outside Storage under Article IV-4-24 to allow a storage trailer at 1183 Bay Road. The property is owned by The Cleveland Mary Group LLC and zoned LB. SBL #093.11-1-44. Application #15Z-0025.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Special Permit for Outside Storage under Article IV-4-24 to allow a storage trailer at 1183 Bay 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 June 15, 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: Daniel DeLaus
Seconded: Andris Silins

Vote of the Board

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

The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.
SPECIAL PERMIT FOR OUTSIDE STORAGE TO ALLOW A STORAGE TRAILER

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Special Permit for Outside Storage and Display to allow the installation of storage trailer at 1183 Bay Road for use of the tenant know as Can Kings, 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 comply with the requirements of the Building and Zoning Administrator and Fire Marshal.

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 Article IV-4-28 of Chapter 29 of the Town Code.

4. The applicant shall be required to empty the storage container at an interval not to exceed fourteen (14) days or as prescribed by New York State DEC regulations whichever is less.

The Board bases its decision on its findings that:

1. Such storage and display is an accessory use to the main business conducted or to be conducted on the premises.

The applicant has represented to the Board that he is interested in operating a redemption center at the subject property and the available tenant space does not provide adequate space to store the redeemed cans/containers/bottles. The proposed trailer will provide the necessary space to store the redeemed products until they are picked up for transport to a recycling center.

2. In a LB, FC, B-NR, or GB district, such storage and display is not within one hundred (100) feet of the line of a residential zoning district. In an LI district, such storage or display shall not occur within one hundred fifty (150) feet of the line of any residential zoning district.

The applicant has represented to the Board that the location of the proposed storage trailer would be greater than one hundred (100) feet to the nearest residential zoning district. The storage trailer would be place behind and existing out building currently used by a martial art studio. This out building would buffer the storage trailer from view at the road and the rear of the property is buffered by existing vegetation and a fence.

3. Such storage and display is not at such distance from any public highway as to interfere with the safe use of such traffic.

The applicant has represented to the Board that the storage trailer would be located at the rear of the property and would not create a problems to the public highway or the internal road on the subject property.
4. Such storage and display does not unreasonably interfere with the quiet enjoyment of property by adjacent property owners.

The applicant has represented to the Board that he has discussed the location of the proposed storage trailer with existing tenant of the subject property and the property owner of the property to the west of the location for the proposed storage trailer and all have indicated to him that the area for the trailer should not create any problems with the existing uses on the properties.

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

1. A Special Permit for Outside Storage and Display application form stamped received May 15, 2015 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated May 12, 2015 stamped received May 15, 2015 by the Building and Zoning Office.


4. A Monroe County Development Referral Form received by the Building and Zoning Office.

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

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

7. A site plan prepared by Passero Associates received by the Building and Zoning Office.

Motion to approve the application for a Special Permit for Outside Storage and Display at 2180 Penfield Road

Moved: Daniel DeLaus
Seconded: Andris Silins

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
Mark Saresky, 1356 Plank Road, Webster, NY 14580 requests an Area Variance from Article III-3-35-D-3 of the Code to allow a larger storage building at 1356 Plank Road. The property is owned by Mark Saresky and zoned RA-2. SBL #095.03-1.18. Application #15Z-0026.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-35-D-3 of the Code to allow a larger storage building at 1356 Plank 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 June 15, 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: 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 A LARGER STORAGE BUILDING

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of two thousand one hundred fifty (2150) square feet from the allowed two hundred fifty (250) square foot accessory building size resulting in a storage building two thousand four hundred (2400) square foot in size to allow the construction of a 40 foot by 60 foot storage building at 1356 Plank 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, the Property Maintenance Code of New York State and Article IV-4-28 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 place all the vehicles and equipment currently stored at the property in the storage building.

6. The applicant shall be required to remove the existing membrane structure used to provide weather protection to his personal vehicle and equipment.

7. The applicant would be permitted to have two (2) vehicles not registered to residents of the property on the property for not-for-profit repairs.

8. The applicant shall be permitted to repair equipment and vehicle between the hours of 8:00 AM to 6:00 PM.

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 applicant has represented to the Board that other properties in the area have larger storage building than would be generally permitted by the Code.

Additionally, the applicant has represented to the Board that the proposed storage building would not be easily visible from the adjacent properties or the Plank Road. The property is substantially buffered by mature vegetation to the adjacent properties and by an existing garage and breezeway would buffer the storage building from Plank Road.

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

The Board determined that the benefit sought by the applicant could not be achieved by some other method other than an area variance. The applicant has represented to the Board that he desires to store his personal vehicles and equipment in the proposed structure that are currently stored on the property and provide a work shop to repair equipment and vehicles.

3. The Board determined that the requested area variance was not substantial.

The applicant has represented to the Board that the requested area variance is substantial. The Board was critical of the requested area variance for the proposed storage building due to the excessive size. The Board determined that the benefit of requiring the personal vehicles and equipment to be stored inside of the proposed storage building and the elimination of the membrane structure used to provide weather protection for the personal vehicles and equipment was compelling to warrant the requested relief.

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 existing drainage conditions in the subject property would not be negatively altered by the additional of the proposed storage building.

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 additional space was needed for storage of personal vehicles and equipment and work area.
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 May 15, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 12, 2015 stamped received May 15, 2015 by the Building and Zoning Office.


5. Copied of Zoning Board of Appeals approval resolutions dated July 15, 2010 and April 21, 2011.


7. Drawings of the proposed storage building provide by the applicant.

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: Andris Silins

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried
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.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting 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; 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 an unlisted action. Furthermore, the Zoning Board of Appeals has determined that this proposal will not have a significant effect on the environment and therefore, the submission of a draft Environmental Impact Statement will not be required.

Motion to classify this application as an unlisted action and issue a negative declaration, requiring no further environmental review.

Moved: Carole Mulcahy
Seconded: Joseph Grussenmeyer

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno 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 YOGA PRE-SCHOOL

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit to allow a yoga pre-school at 1653 Creek Street, 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 permit from the Building and Zoning Office and pay the appropriate fee.

3. The applicant shall be permitted to operate 1 class in the AM from 9:00 AM to 11:30 AM and 1 class in the PM from 12:30 PM to 3:00 PM.

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

The Board bases its decision on its findings that:

1. The proposed use is similar to the other uses in the general subject property and with the current uses 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 two (2) access locations onto Creek Street that will allow parents to access and leave the site without any conflicts.

   b. Adequacy of parking facilities.

   The applicant has represented to the Board that the existing driveway is wide enough to allow four (4) or more cars to be parked and allow vehicle to pass by without any interference.

   c. Potential impact to both present and future uses.

   The applicant has represented to the Board that the proposed use is not very intensive and would be limited to twelve (12) students for a time period of less than three (3) hours per day.

   d. Compatibility with the general area in which it is to be located.
The applicant has represented to the Board that a private school exists approximately ½ mile away off Creek Street

e. Type and amount of signage.

The applicant has represented to the Board that at this time the only signage that would be used would be a temporary portable freestanding sign complying with the requirements of Article VII of the Town Code.

f. Potential noise level.

The applicant has represented to the Board that the only noise associated with the use would be the sound of children playing.

g. Clear sight distance.

The applicant has represented to the Board that the clear sight distance at the existing egress to Creek Street is approximately one thousand (1000) feet.

h. Existing and proposed buffering.

The applicant has represented to the Board that the existing vegetation providing buffering to the adjacent properties would not be altered.

i. Proposed generation of noxious odors.

The applicant has represented to the Board that the use would not generate any noxious odors and only snacks are provided to the students, which are provided by the parents.

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 two (2) sessions would be provided with starting times at 9:00 AM and 12:30 PM.

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 27 2015 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated March 26, 2015 stamped received March 27, 2015 by the Building and Zoning Office.

3. A letter of intent dated March 26, 2015 stamped received March 27, 2015 by the Building and Zoning Office.


5. Correspondence received from M Rolleston, L Vogel, M Willy, R Button

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 yoga pre-school at 1653 Creek Street.

Moved: Carole Mulcahy  
Seconded: Andris Silins

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 Halpin-The Halpin Firm, 4588 Route 224, Montour Falls, NY 14865 on behalf of SHAPD LLC requests a Conditional Use Permit under Article X-10-4 and Article III-3-36-E of the Code to allow a change of ownership of the Small World Nursery at 2406 Browncroft Blvd. The property is owned by Rita P Barton Revocable Trust and zoned R-1-20. SBL #123.06-1-19. Application #15Z-0027.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting Conditional Use Permit under Article X-10-4 and Article III-3-36-E of the Code to allow a change of ownership of the Small World Nursery at 2406 Browncroft Blvd; 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 June 15, 2015, at 7:00 PM to consider the said application and hear all persons in favor of or opposed to the application; and

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

Motion to classify this application as an unlisted action and issue a negative declaration, requiring no further environmental review.

Moved: Carole Mulcahy  
Seconded: Andris Silins

Vote of the Board

Daniel DeLaus AYE  
Michael Belgiorno 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 CHANGE OF OWNERSHIP OF THE SMALL WORLD NURSERY

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit to allow a change of ownership of the Small World Nursery at 2406 Browncroft Blvd, 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 comply with the requirements of the Fire Code of New York State, the Property Maintenance Code of New York State and Chapter 29 Article IV-4-28 of the Town Code.

The applicant shall be required to redirect, remove or shield any existing flood lights located on the rear of the existing structure that the light from the fixture impacts the adjacent property owners.

The Board bases its decision on its findings that:

1. The use has been located at the subject property from the 1940’s and has been in continuous operation without any laps of operation.

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 property will not be altered.

   b. Adequacy of parking facilities.

      The applicant has represented to the Board that there are eighteen (18) parking spaces on the subject property and this has been adequate to support the needs of the use.

   c. Potential impact to both present and future uses.

      The applicant has represented to the Board that to their knowledge the use has not created an impact to the adjacent properties in the area. A comment was presented to the Board regarding exterior lighting on the rear of the existing building which will be corrected to the satisfaction of the authorized official.

   d. Compatibility with the general area in which it is to be located.

      The applicant has represented to the Board that this use has existing at the subject location since the 1940’s.
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 only noise associated with the use would be the sound of children playing.

g. Clear sight distance.

The applicant has represented to the Board that the sight distance at the existing egress to Browncroft Blvd would not be altered.

h. Existing and proposed buffering.

The applicant has represented to the Board that the property is buffered to the adjacent properties by mature vegetation and this would not be altered.

i. Proposed generation of noxious odors.

The applicant has represented to the Board that the use would not generate any noxious odors and the food service for the children is catered by an offsite company.

j. Exterior lighting.

The applicant will not be adding any additional lighting to the subject property and would be working with the staff to correct a lighting issue that was brought to their attention by a neighboring property owner.

k. Proposed hours of operation.

The applicant has represented to the Board that the hours of operation are from 7:00 AM to 6:00 PM Monday through Friday.

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 May 15 2015 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated May 12, 2015 stamped received May 15, 2015 by the Building and Zoning Office.


5. A Town Board resolution dated August 1968.

6. An email received from D Jacobson dated June 8, 2015

7. 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 change of ownership of the Small World Nursery at 2406 Browncroft Blvd.

Moved: Carole Mulcahy
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 approve the foregoing portion of the application was carried