ZONING BOARD
MEETING MINUTES

SEPTEMBER 17, 2015
Penfield Zoning Board of Appeals
Minutes

The Zoning Board meeting at 6:30 PM local time Thursday, September 17, 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:

<table>
<thead>
<tr>
<th>ZBA MEMBER</th>
<th>PRESENT</th>
<th>ABSENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daniel DeLaus, Chairperson</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Joseph Grussenmeyer</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Carole Mulcahy</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Mike Belgiorno</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Andris Silins</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ADDITIONAL STAFF</th>
<th>PRESENT</th>
<th>ABSENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peter Weishaar, Legal Counsel</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Harold Morehouse, Building and Zoning Administrator</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Alison Sublett, Secretary to the Board</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Regarding Minutes from Zoning Board Meeting on August 20, 2015.

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>MOTION BY</th>
<th>SECOND</th>
<th>VOTE</th>
<th>COMMENTS/ OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeLaus</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Belgiorno</td>
<td></td>
<td>X</td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Grussenmeyer</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>August 20, 2015 Minutes</td>
</tr>
<tr>
<td>Silins</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
</tbody>
</table>
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 September 17, 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. Heather Williams, 2791 Penfield Road, Fairport, NY 14450 requests an Area Variance from Article III-3-35-B or Article III-3-35-D of the Code to allow a second garage or a larger storage building at 2791 Penfield Road. The property is owned by Heather and Scott Williams and zoned RA-2. SBL #141.01-1-13. Application #15Z-0041.

Appearances by: Heather Williams, 2791 Penfield Road, Fairport, NY 14450
Robert Faulkner-Emergency Enclosures Inc., 1464 Lake Avenue, Rochester, NY 14615
Steven LaFrance-LaFrance Architects, 1174 Clinton Avenue, Rochester, NY 14620

Presenter’s statements:
Heather
• Thanks the Board for hearing her application
• Purchased the property in 1999, the deed reads we have 5.16 acres with a house and two-story barn
• Restored house following purchase, property was previously neglected
• Barn was used for storage needs for family of ten people
• Will have an attached garage to proposed new house for extra-tall van
• Unbeknownst to us New York State took some of property for right-of-way for Penfield Road
• Property is currently 4.9 acres
• Home was built in early 1900’s and had multiple accessory structures dating to 1800’s when property was a dairy farm
• Fire burned house in November 2014
• About a month after the fire the two-story barn collapsed under weight of snow
• Insurance money is limited
• Desire to salvage attached garage from burned home to use as storage structure, not as a garage
• New proposed house will be located where collapsed barn is currently located
• Two-story barn was 4,000 square feet, existing garage is approximately 2,000 square feet
• Barns or large storage buildings fit the rural nature of the neighborhood
• Require extra storage for family of ten people

Rob
• Initially came to Williams family to secure property following fire
• Retained by Williams family for construction of new home
• Eventually to agreement regarding value of damaged property with insurance company
• Settlement enabled them to propose new plan for house in current barn location and retain existing attached garage from fire-damaged house as storage structure

Steven
• The new home will have a two-car garage
• Do not desire to have a larger attached garage as it will be disproportionate to the house

Special conditions required by the Board: None

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>MOTION BY</th>
<th>SECOND</th>
<th>VOTE</th>
<th>COMMENTS/ OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeLaus</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>Type II Action under SEQRA, requiring no further environmental review</td>
</tr>
<tr>
<td>Belgiorno</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Grussenmeyer</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Silins</td>
<td></td>
<td>X</td>
<td>Aye</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>MOTION BY</th>
<th>SECOND</th>
<th>VOTE</th>
<th>COMMENTS/ OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeLaus</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>Area variance to allow a larger storage building</td>
</tr>
<tr>
<td>Belgiorno</td>
<td></td>
<td>X</td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Grussenmeyer</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Silins</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
</tbody>
</table>
2. Peter Romeo, 309 Canterbury Road, Rochester, NY 14607 on behalf of Jasmin Heganovic requests Area Variances from Article III-3-37-A of the Code to allow the construction of a single family residence with less setback at 2775 Penfield Road. The property is owned by Jasmin Heganovic and zoned RA-2. SBL #141.01-1-15. Application 15Z-0042.

Appearances by: Peter Romeo, 309 Canterbury Road, Rochester, NY 14607
Jasmin Heganovic, 521 Cedarwood Terrace, Rochester, NY 14609
Mark Hosenfeld, 2788 Penfield Road, Fairport, NY 14450

Presenter’s statements:
Peter
- The modified raised-bed leach field is what currently determines the new site plan
- Monroe County Department of Health oversaw the perk tests
- The leach field takes well over half the site
- Current site plan proposes keeping the existing barn and adding a two-story, two-bedroom house
- The house will be a split-level with a walk-out basement and a split-level garage
- Grade slopes North to South that enable a walk-out basement and garage
- The lower level will act as a storage area
- Proposed size of house takes into consideration possible rooms such as dining and living areas and outside porch
- 34.01 feet front setback (21 feet from right-of-way), 20 feet setback from rear
- If we were to adhere to The Code setback requirements we would have a two-foot wide strip across the width of the lot to build a home
- 12 feet setback from East property line is compliant and accommodates a drainage swale that runs North to South
- Reserved a seven foot wide sidewalk easement to The Town for future sidewalks
- There is three feet of available land between the leach field and the sidewalk easement
- The site is compact in all directions
- Existing barn will be used to store construction materials during construction of home
- As the house is restricted by the limited leach field to being a two-bedroom, the barn would add to the resale value of the property
- Following completion of home the barn will be used as accessory storage building as site limits placement for shed
- Eventually the barn will have to be removed to provide additional leach field for septic system
- Regarding the photos submitted by Mr. Jewett at 2771 Penfield Road the station wagon shown in one photo belongs to Mr. Heganovic and the other vehicle belongs to a neighbor who stopped by to talk to him and the third vehicle is Mr. Heganovic’s pick-up truck
- The photographs were taken in the line of site of a utility pole, the site line by State DOT standards is taken by the edge of the paved shoulder
- The referenced drainage situation to the Southwest corner of the property, it is one foot two inches lower than North edge of [Mr. Jewett’s] lawn. Don’t believe this was caused by nature. Recent topographic survey indicates drainage from the East side of 2771 Penfield Road’s driveway slopes fully toward 2775 Penfield Road. Conclude the ponding occurring at 2775 Penfield Road is caused by the development of 2771 Penfield Road
In the process of creating a storm water management plan as required by The Town, current site plan show three swales. A dry well would be created for those swales and that would mitigate the excess water, thus deducting the amount of storm water runoff to include the water from the neighbor’s property.

Jasmin
- Desire to keep the barn as it is difficult to place a shed with large leach field
- The barn is existing and available for storage
- Barns are common in the neighborhood
- Concerned that Mr. Jewett is changing the grading along the borders of their shared property lines
- I occasionally stop on my property on trips to the dolomite mine to take a break for about ten minutes or drop off salvaged stone and plants I was not able to plant on my property and Mr. Jewett uses that opportunity to take pictures of my vehicle and complain to The Town

Mark
- Residing at 2788 Penfield Road for over fifteen years
- Average one motor vehicle accident in my yard a year, mainly in the winter
- Accidents involve various types of motor vehicles
- Had mailbox hit by motor vehicles
- Believe close proximity to road is very unwise because of my own experiences
- My property is on the North side, this property is on the South side so I do not know if that makes a difference
- Desire proposed house to be set back farther from Penfield Road

Special conditions required by the Board: None

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>MOTION BY</th>
<th>SECOND</th>
<th>VOTE</th>
<th>COMMENTS/ OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeLaus</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>Table application</td>
</tr>
<tr>
<td>Belgiorno</td>
<td>X</td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Grussenmeyer</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Mulcahy</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Silins</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
</tbody>
</table>
3. Herbert Crombach, 1499 Plank Road, Webster, NY 14580 requests an Area Variance from Article III-3-35-D of the Code to allow the construction of a larger storage building at 1499 Plank Road. The property is owned by Herbert and Kathleen Crombach and zoned RE-2. SBL #095.04-1-27. Application #15Z-0037.

Appearances by: Herbert Crombach, 1499 Plank Road, Webster, NY 14580

Presenter’s statements:
Herbert
Submits letters of support from neighbors to Board
- Desire to store old cars and a couple of trailers indoors
- Size of proposed building is approximately thirty by forty feet
- Mile up the street there is a large pole barn and just beyond that are two others
- Desire to place building on far side (East) of yard in front of fence
- No opinion on orientation of structure on that site
- Built by Amish, will be wood-framed with metal exterior
- Desire electrical service mainly on interior
- Currently renting separate interior storage spaces from neighbors for one car and a plow
- Allowing this structure would unclutter the property
- Buffer of trees and shrubbery by road to conceal structure

Special conditions required by the Board: None

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>MOTION BY</th>
<th>SECOND</th>
<th>VOTE</th>
<th>COMMENTS/ OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeLaus</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Belgiorno</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Grussenmeyer</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>Type II Action under SEQRA, requiring no further environmental review</td>
</tr>
<tr>
<td>Silins</td>
<td></td>
<td>X</td>
<td>Aye</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>MOTION BY</th>
<th>SECOND</th>
<th>VOTE</th>
<th>COMMENTS/ OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeLaus</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Belgiorno</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Grussenmeyer</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>Area variance to allow a larger storage building</td>
</tr>
<tr>
<td>Silins</td>
<td></td>
<td>X</td>
<td>Aye</td>
<td></td>
</tr>
</tbody>
</table>
4. Amy Bell, 81 Valley Green Drive, Penfield, NY 14526 requests an Area Variance from Article III-3-35-D of the Code to allow an existing shed with less setback at 81 Valley Green Drive. The property is owned by Amy Bell and zoned R-1-20. SBL #124.20-2-80. Application #15Z-0038.

Appearances by: Amy Bell, 81 Valley Green Drive, Penfield, NY 14526

Presenter’s statements:
Amy
• Purchased the property May 2014
• Survey presented at closing showed shed, did not know shed was not compliant
• December 2014 applied for a pool
• Brought to my attention that shed was not compliant
• In the process of installing fence but odd shape of yard necessitated surveying and staking of property
• Just brought to my attention tonight that neighbor is concerned with removed bushes/trees
• According to stakes these bushes/trees are on my property and needed to be removed to install the fence and also because the trees were causing algae on the shed roof and preventing water from running away from the shed when the pool is drained
• There were three dead pine trees that were removed yesterday
• Fence installer required removal of overgrowth of brush and weeds
• Overgrowth was in the power lines on rear of property as well as damaging shed
• Once fence is installed the landscaper will replace trees with something fuller such as Blue Spruce
• Prior to brush and tree removal the Springers at 89 Valley Green could not see her shed
• Once the fence is installed the Springers will be able to see part of the shed as the rear will need to be left clear to allow for drainage

Special conditions required by the Board: Proposed Blue Spruce or similar planting is required to maintain buffer between neighboring properties.

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>MOTION BY</th>
<th>SECOND</th>
<th>VOTE</th>
<th>COMMENTS/ OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeLaus</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>Type II Action under SEQRA, requiring no further environmental review</td>
</tr>
<tr>
<td>Belgiorno</td>
<td></td>
<td>X</td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Grussenmeyer</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Silins</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>MEMBER</td>
<td>MOTION BY</td>
<td>SECOND</td>
<td>VOTE</td>
<td>COMMENTS/ OTHER</td>
</tr>
<tr>
<td>------------</td>
<td>-----------</td>
<td>--------</td>
<td>------</td>
<td>---------------------------------------</td>
</tr>
<tr>
<td>DeLaus</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>Area variance for a shed with less setback</td>
</tr>
<tr>
<td>Belgiorno</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Grussenmeyer</td>
<td></td>
<td>X</td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Silins</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
</tbody>
</table>
5. Seth Clark, 1464 Marchner Road, Webster, NY 14580 requests an Area Variance from Article III-3-35-D of the Code to allow the construction of a storage building with less setback at 1464 Marchner Road. The property is owned by Seth Clark and Umbereen Mustafa and zoned RA-2. SBL #095.02-2-1.003. Application #15Z-0039.

Appearances by: Seth Clark and Umbereen Mustafa, 1464 Marchner Road, Webster, NY 14580
Mario and Hilda Menezes, 1466 Marchner Road, Webster, NY 14580

Presenter’s statements:
Seth
- Propose a 45’ x 50’ storage facility, approximately 24’ to 25’ tall
- 40’ wide easement plus 75’ water course over the sides running down the center of property, which would be costly
- Due to creek location and wet areas, variance is necessary to place structure anywhere on the property
- There is a 100 year floodplain and a 500 year floodplain on the North end of property, which is usually wet, sometimes get stuck mowing that area
- Town engineer met and discussed possibility of piping creek, too costly to pursue
- Desire an aesthetically pleasing wood framed structure with stained wood siding with metal roof
- Propose to orient face of structure to dogleg of creek so the rear corner would be 15’ from property line
- There will be no additional driveway but we would build a land bridge over one section of the creek
- Willing to accept condition of no driveway added to the structure
- The bridge will be in a shallow location of the creek and will be designed to support vehicles and will be compliant with applicable Codes
- The proposed barn would be slightly to the rear of neighboring house at 1466 Marchner Road
- There would be a lighted man door that would be facing our property
- Structure would be 75’ to 100’ from neighbor’s house, will be seen from their home
- Planted over thirty trees since purchasing the property, there are 15’ to 20’ tall oaks and maples buffering that area
- The proposed location is the highest spot on our property, 1466 Marchner Road is higher than that spot so water will not increase to their property but will be diverted to the creek

Hilda
- The submitted map is July 2003, is this acceptable? The map does not show the garage addition, changes to driveway, and fenced garden is closer to property line
- We do not support the variance request
- Concerned with land bridge supporting large vehicles owned by applicant
- The proposed dimensions are very large, almost as big as our house, placed right on the side of our property
- We will be able to see the barn from bay window, kitchen and living areas that are on the side of our home
• Concerned with drainage as barn will eliminate that area of absorption and create runoff onto our property
• Drainage is a problem on our property as well, we have water collection on rear of property near house, it is like a wetland for about two months after snow melts
• Our property is also on the floodplain Seth mentioned
• Disagree with Seth’s opinion of how water will drain in relation to our property
• Concerned with possible fire hazard as proposed structure is wood
• Desire a buffer of trees to be maintained by applicant
• Concerned with increase in snowmobiling activities on our property due to location of structure
• Applicants told us they had a barn in mind when they purchased the property, the creek was there when they purchased the property
• Was a shed on other side of the creek at one time, that is a viable location for the structure

Mario
• Once the variance is granted, what are the limits to the changes made in relation to that structure? Without the whole picture, how can you approve the variance?
• If [the applicants] are going to build barn hamper your own view and not your neighbor’s view
• We moved here for the open space, this structure will hinder our enjoyment of our view

Umbereen
• The West side of property is frequently very wet and flows to a low point between the two properties
• The West side of property holds the septic system as well as the propane tank and power lines, which makes it a narrow space for accessibility
• Immediately behind house on Northeast side of property [bend in creek] is narrow and difficult to mow
• Desire to continue to enjoy view of rear property
• Structure will not obstruct majority of open space for any adjacent neighbors
• Placing the structure in other locations on the property would prohibit our use of the property and/or risk damage to the structure due to water.

There are many options to buffer the structure from our neighbor, like the arborvitae we have on the other side of our property

Special conditions required by the Board: None

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>MOTION BY</th>
<th>SECOND</th>
<th>VOTE</th>
<th>COMMENTS/ OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeLaus</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Belgiorno</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>Type II Action under SEQRA requiring no further environmental review</td>
</tr>
<tr>
<td>Grussenmeyer</td>
<td>X</td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Silins</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>MEMBER</td>
<td>MOTION BY</td>
<td>SECOND</td>
<td>VOTE</td>
<td>COMMENTS/ OTHER</td>
</tr>
<tr>
<td>------------</td>
<td>-----------</td>
<td>--------</td>
<td>------</td>
<td>-----------------------------------------------------</td>
</tr>
<tr>
<td>DeLaus</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Belgiorno</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>Table application pending Town Engineer evaluation</td>
</tr>
<tr>
<td>Grussenmeyer</td>
<td>X</td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
<tr>
<td>Silins</td>
<td></td>
<td></td>
<td>Aye</td>
<td></td>
</tr>
</tbody>
</table>
III. WORK SESSION:

The Board discussed and voted on applications heard.

The Board discussed a proposal from the Planning Department regarding changes to approved application 15Z-0021, 100 Elderwood Court. The Board requested a memo from the Planning Department prior to the October 15, 2015 meeting and a representative from the Planning Department be present at this meeting to address questions from the Board.

Motion to adjourn by Joseph Grussenmeyer
Motion seconded by Michael Belgiorno
All members present in favor, meeting adjourned 9:18 p.m.
PENFIELD ZONING BOARD OF APPEALS
September 17, 2015

Amy Bell, 81 Valley Green Drive, Penfield, NY 14526 requests an Area Variance from Article III-3-35-D of the Code to allow an existing shed with less setback at 81 Valley Green Drive. The property is owned by Amy Bell and zoned R-1-20. SBL #124.20-2-80. Application # 15Z-0038.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-35-D of the Code to allow an existing shed with less setback at 81 Valley Green 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 September 17, 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 application as a Type II action, requiring no further review under SEQRA. 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: Daniel DeLaus
Seconded: Michael Belgiorno

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer AYE
Carole Mulcahy ABSENT
Andris Silins AYE
AREA VARIANCE TO ALLOW AN EXISTING SHED WITH LESS SETBACK.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 2.5 feet from the required ten (10) foot side setback resulting in a setback of 7.5 feet from the west property line to allow an existing 8.3 foot by 12 foot shed at 81 Valley Green 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 install one (1) blue spruce tree near the northwest corner of the existing shed.

5. 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 storage building. The applicant has represented to the Board that the shed was on the property when she purchased the residence in April 2014. At that time it was represented to her that a permit had been obtained for the structure.

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 a pump and filtration system for the in ground pool is piped to the shed and to move the shed into compliance with the Code would require the re-location of the piping for the pool.

3. Whether the requested area variance is substantial.

The Board has determined that the requested area variance was not substantial. The applicant has represented to the Board that only a small portion of the existing shed (approximately 10 square feet) encroaches into the required ten (10) foot side setback. Additionally, the applicant as a condition of approval of the area variance will be required to provide a blue spruce tree between the shed and the adjacent property line to the west.

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 Board has not been provided any information that the proposed storage building would be create any adverse impact to the adjacent property owner.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has recently purchased the property and later found the shed to be in violation of the required setback.

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 August 18, 2015 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated August 11, 2015 stamped received August 18, 2015 by the Building and Zoning Office.

4. An instrument survey prepared by Greg Bileschi, LS dated April 9, 2014 stamped received August 18, 2015 by the Building and Zoning office.

5. Photographs of the property provided by the property owned at 89 Valley Green Drive.

6. An email provided by the property owner at 89 Valley Green Drive.

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

Moved to approve the application for area variance to a shed with less setback:

   Daniel DeLaus
Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
Herbert Crombach, 1499 Plank Road, Webster, NY 14580 requests an Area Variance from Article III-3-35-D of the Code to allow the construction of a larger storage building at 1499 Plank Road. The property is owned by Herbert and Kathleen Crombach and zoned RA-2. SBL #095.04-1-27. Application #15Z-0037.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-35-D of the Code to allow the construction of a larger storage building at 1499 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 September 17, 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 application as a Type II action, requiring no further review under SEQRA. 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 ABSENT
Andris Silins AYE
AREA VARIANCE TO ALLOW THE CONSTRUCTION OF A LARGER STORAGE BUILDING.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of nine hundred (900) square feet from the allowed three hundred (300) square foot maximum size limit to allow the construction of a 30 foot by 40 foot storage building at 1499 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.

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 storage building. The applicant has represented to the Board that other properties in the neighborhood have oversized storage buildings.

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 personal equipment and items in the proposed structure. This items are presently stored in his garage, yard and two (2) other neighboring properties that he rents space.
3. Whether the requested area variance is substantial.

The applicant has represented to the Board that the requested area variance was substantial. The applicant has represented to the Board he is in need of the larger storage space for his equipment and items.

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 Board has not been provided any information that the proposed storage building would be create any adverse impact to the adjacent property owner.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has a number of larger equipment and items that he desires to store on his property.

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 August 17, 2015 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated August 15, 2015 stamped received August 17, 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 to allow a larger storage building:

Joseph Grussenmeyer
Seconded: Andris Silins

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
PENFIELD ZONING BOARD OF APPEALS
September 17, 2015

Heather Williams, 2791 Penfield Road, Fairport, NY 14450 request an Area Variance from Article III-3-35-B or Article III-3-35-D of the Code to allow a second garage or a larger storage building at 2791 Penfield Road. The property is owned by Heather and Scott Williams and zoned RA-2. SBL #141.01-1-13. Application #15Z-0041.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Article III-3-35-B or Article III-3-35-D of the Code to allow a second garage or a larger storage building at 2791 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 September 17, 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 application as a Type II action, requiring no further review under SEQRA. 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: Daniel DeLaus
Seconded: Andris Silins

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer AYE
Carole Mulcahy ABSENT
Andris Silins AYE
AREA VARIANCE TO ALLOW THE CONSTRUCTION OF A LARGER STORAGE BUILDING.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of one thousand seven hundred (1700) square feet from the allowed three hundred (300) square foot maximum size limit to allow the construction of a two thousand (2000) square foot storage building at 2791 Penfield Road, subject to the following conditions:

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

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

3. The applicant shall be required to comply with the 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 storage building. The applicant has represented to the Board that other properties in the neighborhood have oversized storage buildings and the subject property had a long history as a dairy farm with multiple large structures.

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 this past winter a storage building that measured approximately four thousand (4000) square feet had collapsed
from snowfall and that a new home is proposed to be constructed in the location of the collapsed storage building. The proposal to replace the collapsed storage building with the proposed storage building is approximately half the size.

3. Whether the requested area variance is substantial.

The applicant has represented to the Board that the requested area variance was substantial. The Board has determined that the requested area variance was not substantial because the structure would be permitted as of right if the property size been .1 acre larger.

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 proposed storage building would be constructed in the area that the existing single family residence that is proposed to be razed.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was not self-created. The applicant had experienced two (2) significant structural events in the past year that included a fire in the single family residence and the storage building collapse.

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 August 21, 2015 by the Building and Zoning Office.

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

3. A Short Environmental Assessment Form dated August 21, 2015 stamped received August 21, 2015 by the Building and Zoning Office.

4. A deed dated February 25, 1999 provided by the applicant.
5. A site plan prepared by Steven LaFrance-RA dated September 15, 2015 Stamped received August 15, 2015 by the Town of Penfield.

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

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

Moved to approve the application for area variance to allow a larger storage building: 
   Daniel DeLaus
Seconded: Michael Belgiorno

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried
AREA VARIANCE TO ALLOW A SECOND GARAGE.

WHEREAS, the applicant has requested that the portion of this application to be withdrawn from the Board’s consideration.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby accepts the request to withdraw the request for a second garage at 2791 Penfield Road