ZONING BOARD
MEETING MINUTES

MAY 17, 2016
Penfield Zoning Board of Appeals
Minutes

The Zoning Board meeting at 6:30 PM local time Tuesday, May 17, 2016, 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

Meeting started at 6:32 p.m.
Regarding Minutes from Zoning Board Meeting on April 21, 2016.

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<th>ZBA MEMBER</th>
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<tr>
<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>Mike Belgiorno</td>
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<td>Andris Silins</td>
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<th>ADDITIONAL STAFF</th>
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<tr>
<td>Peter Weishaar, Legal Counsel</td>
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<td>Harold Morehouse, Building and Zoning Administrator</td>
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<td>Kristine Shaw, Secretary to the Board</td>
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MEMBER | MOTION BY | SECOND | VOTE | COMMENTS/ OTHER
-------|-----------|--------|------|---------------------
DeLaus  |           | X      |      |                     |
Belgiorno| X         |        | Aye  | Tabled the April minutes for further review & add Ms. Mulcahy’s comments |
Grussenmeyer |        | Aye    |      |                     |
Mulcahy |           |        | Aye  |                     |
Silins  |           |        | Aye  |                     |
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 review the formal resolution for each application and ask to view the recorded video of the March 17, 2016 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. James Vordonis, 10 Folkestone Lane, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-1 of the Code to allow an existing pool deck with less side setback at 10 Folkestone Lane. The property is owned by Robin & James Vordonis and zoned R-1-20. SBL # 125.03-1-2.122. Application #16Z-0016.

Appearances by: James Vordonis, 10 Folkestone Lane, Penfield, NY 14526

Presenter’s statements:

- Purchased home with existing pool deck- requesting area variance to allow deck to remain where it is.
- Would be a hardship to tear it down and rebuild.

Board Comments:

Board Member Belgiorno –

- Asked when Mr. Vordonis purchased the property?
- Was the deck in the present location and what was the condition of the deck?
- Asked how Mr. Vordonis heard about the violation.

Mr. Vordonis –

- Purchased in 2004, the deck was there.
- The deck has remained untouched.
- Mr. D’Alessandro from the Penfield Building Department sent him a letter of the violation.

Board Member Belgiorno –

- Asked what the composition of deck is, and if Mr. Vordonis has any plans to change the deck, move or expand it.
- What would be involved in moving it if required.
- Asked for a description of existing buffering and characteristics of adjoining properties.

Mr. Vordonis –

- It is made of pressure treated wood.
- He would have to rip it out and rebuild a new one.
- Pine trees are between the deck and the next lot and is hardly visible to neighbors. The rear of property is Forever Wild woods.

Board Member Belgiorno –

- Verified that the variance is 2.4 foot from side lot.
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<td>Belgiorno</td>
<td>Approve</td>
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<td>Aye</td>
<td>Surrounded by bushes, no visual impact, no significant change to the neighborhood</td>
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2. Toni & Dwight Greenlee, 75 Parkwood Lane, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article 250-V-5.1-F-1 of the Code to allow the construction of a garage addition with less setback at 75 Parkwood Lane. The property is owned by Toni & Dwight Greenlee and zoned R-1-15. SBL # 124.17-2-61. Application #16Z-0019.

Appearances by: Toni & Dwight Greenlee, 75 Parkwood Lane, Penfield, NY 14526

Presenter’s statements:
- Asking for Variance to extend from a one to two car garage and the offset would be three (3) feet Nine (9) inches and adding a second bay that would be 16 feet.

Board Comments:
Board Member Silins –
- Inquired about design of project and noted that most of houses in the neighborhood have side entrances to their garages.
Mr. Greenlee -
- In his neighborhood, there are split levels and colonials. His is a colonial w/only 22 feet on the side and has a steep drop off and is not possible to have a side entrance. The structure goes from one block to twelve blocks on the side of the garage which is very steep.
Board Member Silins –
- Would modifications need to be made for any possible drainage issues to the neighbor.
- Will the driveway be wider all the way to street?
- Will the siding match the roofing? And will light disturb the neighbor?
Mr. Greenlee -
- No issue with drainage…water goes thru the gutter line to the back yard.
- Driveway will only be wider near the garage as they have two trees they want to keep.
- They will be replacing roof and matching everything, also has shown plans to the neighbor and he has no problem with the project.

Special conditions required by the Board:
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<td>Type II action- no further review</td>
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<td>Silins</td>
<td>Approve</td>
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<td>Aye</td>
<td>No other option to put the garage – it will clean up the yard</td>
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3. Constance Anglin, 3474 Atlantic Avenue, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-7 and Chapter 250 Article V-5.1-F-9 of the Code to allow chickens on a property with less setback and on less than five (5) acres at 3474 Atlantic Avenue. The property is owned by Constance Anglin and zoned RA-2. SBL # 110.04-1-10.401. Application #16Z-0021.

Appearances by: Constance Anglin, 3474 Atlantic Avenue, Penfield, NY 14526

Presenter’s statements:
- Wants to put a chicken coop in an area that she has that is 15 x10 feet. She has been researching how to keep and take care of chickens. Ms. Anglin has checked with Tractor Supply store and they sell chicken coops that are 2 x 4 feet and about four feet tall and then they sell fencing enclosure that is about five feet to put around the coops.
- No one could see the chickens and there are two horse farms around here.
- According to Tractor Supply store a person needs to purchase six chicks at a time per New York State rules, and no less than three. She would not have any roosters.
- Ms. Anglin has no intention of selling the eggs, just keeping them and having the chickens as pets, they only have life expectancy of three to five years and will only lay eggs for about three years. She intends to get her chickens from Higbee’s in Chili.

Board Comments -
Board Member Belgiorno –
- Asked about location of chicken coops and access to them
- Asked about her property and surrounding properties and if there is buffering in the three acres that separate her land from the front property.

Ms. Anglin –
- True North Equestrian to her east and behind them is Centerpointe Riding Academy, and there is corn field to the west of her, in front of her is a house that owns two acres. She, herself, owns two and a half acres.
- She has spoken with the neighbor in front and the horse stables owners and has their support. Ms. Anglin says it is all wooded and she has bushes in the front of her house, trees to the west and trees behind.
- She is putting the chickens on the South side of house which is more protected and does face Atlantic Ave. Also there is a stairway comes from one of the back rooms of the house and she can access the chickens in the winter without having to go around the house. There is electric access and the back of the chicken run area is the foundation of the house, the other side has a chain link fence, so it’s enclosed. She considered putting the chickens on the north side, but there is a bridal path and she didn’t want to bother who ever may use that bridle path.

Board Member Belgiorno –
- If we granted a 2 x 4 foot coop that was four feet tall would it be visible to any adjoining property

Ms. Anglin -
- No it would not be visible… there is a greenhouse room that sticks out and the coops would be tucked into the area- she may have someone build the coops so it fits right in the area. The chickens’ only need 4 foot each area and two nesting boxes.
Board Member Belgiorno –
- Comments - there is someone living in the house in front on Atlantic and asked if people were living in the house where the stable property behind her and how far away is that house from where the coop is.
- He asked about the variance requested from the back lot line.

Ms. Anglin -
- Yes people live in both houses and there is about 500 feet between her and the back house.
- Ms. Anglin said Harold knows about the lot line variance.

Harold Morehouse -
- Ordinance states that property owner needs to be 100 feet from all property lines with a structure that houses livestock and Harold came up with about 75 feet for the area in question.

Board Member Belgiorno –
- Asked about the horses being corralled and how far are they from her rear lot line.

Ms. Anglin –
- The area is about 75 feet away and there is a house in between.

Board Member Belgiorno –
- Recapped with if we granted two foot by four foot with four foot high with five by five area around it – this would be sufficient? Also he asked if they were made of wood. And stated whether or not odor would be a problem.

Ms. Anglin –
- She is happy with the dimensions and area if granted. The coops would be made of wood, and she may have a heat lamp for them in the winter. She would be keeping the chicken area clean for the health of the chickens so does not think odor will be a problem.

Board Member Mulcahy –
- Original request was 15 x 10 but now you are asking for 2 foot by four foot. Ms. Mulcahy asked who else lives there and what would Ms. Anglin do with all the eggs.

Ms. Anglin –
- She is talking about the whole space area, not the size of the coop. Ms. Anglin lives alone. She intends to share her eggs, not sell any of them.

Chairman DeLaus
- Asked to have the aerial map put up on the board to show where her house is and to illustrate the nature of her property and the surrounding properties as the Board has denied chickens to other residents and wanted everyone to see her location.

Board Member Grussenmeyer –
- Asked about her access to the Atlantic Avenue and points out how she drives four acres (approximately) just to get out to the main road.

Ms. Anglin –
- Ms. Anglin does not own the road/driveway from her house to Atlantic – It’s a shared gravel drive that belongs to True North Equestrian and the neighbor has given her right of way to use the road to get out to Atlantic Avenue.

Board Member Grussenmeyer -
- Mentions that her neighbor Ms. Blazik wrote a letter in support of her application.

Board Member Silins –
- Asked Harold how big are the parcels to east and west.
Harold Morehouse -
  • The properties are all ‘acres’ and the corn field property to the west is owned by a former Town Employee

3474 Atlantic Avenue continued
Special conditions required by the Board: She can have six chickens, no roosters, no sales of eggs or chickens

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<td>Belgiorno</td>
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<td>Type II – no negative declaration</td>
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<td>Grussenmeyer</td>
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<td>DeLaus</td>
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<td>Aye</td>
<td>Based upon geographic conditions – she will be far off the road</td>
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<td>Belgiorno</td>
<td>Approve</td>
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<td>Aye</td>
<td>The area has plenty of open space and is different than previous applications - there is plenty of buffering and trees – Stables on two sides</td>
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<td>Aye</td>
<td>There are large parcels of lands surrounding her which have livestock and doesn’t think her chickens will create any more odor or noise than the animals nearby</td>
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4. Kathryn & Justin Francisco, 18 Loch Loyal Court, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-13 of the Code to allow an in-ground pool, appurtenant deck and cabana with less setback at 18 Loch Loyal Court. The property is owned by Kathryn & Justin Francisco and zoned R-1-20. SBL # 109.13-3-17. Application #16Z-0023.

Appearances by: Kathryn & Justin Francisco, 18 Loch Loyal Court, Penfield, NY 14526
Brett Matthews –VanPutte Gardens

Presenter’s statements:
- Wants to put a pool in with less set back in the design of new pool, patio and shed.
- They have an unusual shaped lot on their cul-de-sac as it is ‘telephone shaped’. The yard is skinny along the back and wide side yards. To be able to put a pool in, it has to go in one of the side yards.
- They chose the side that would create the least impact on visibility to the neighbors
- They have given a copy of the design and spoken to all the neighbors. They had the neighbors sign a statement saying they’ve seen the plan and were ok with it. Mr. & Mrs. Francisco also discussed, noise issues, and how they would get machinery in and out.
- They plan to put up fencing that is similar to those in the neighborhood. They will have a six foot privacy fence.
- There is eleven feet to water’s edge from the property line and four feet to the pavers edge
- The plan includes a paved patio, and landscaping, and a pool shed to be built at a later time.

Board Comments -
Chairman DeLaus–
- Asked if a cabana was going to be built and if they had looked at any plans that would not require a variance.

Kathryn Francisco
- They are not really having a ‘cabana’ but a pool shed

Brett Matthews from Van Putte Gardens
- Addressed the plans as far as variance goes – explained the pool couldn’t fit anywhere else with its design, the other side of the property has big trees and is too shaded.

Board Member Belgiorno
- Asked about drainage

Brett Matthews from Van Putte Gardens
- Drainage will go away from the pool deck, and go toward the street. There is a downspout and he has a ‘remitter’ which will disperse the water toward the road system.
- There is stone around the back area of the pool and behind where the shed will go, so the water will drain throughout that area.
Special conditions required by the Board

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<td>Type II action – no further action</td>
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<td>Belgiorno</td>
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<td>Grussenmeyer</td>
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<td>DeLaus</td>
<td>Approve</td>
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<td>Aye</td>
<td>No undesirable change in the neighborhood, and the applicants have demonstrated the need for placement of the pool</td>
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<td>Belgiorno</td>
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<td>Grussenmeyer</td>
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5. Roger Whelan-Whelan & Curry Construction Services, Inc., 4103 New Court Ave, Syracuse, NY 13206 on behalf of V&J National Enterprises, LLC requests a Conditional Use Permit under Chapter 250 Article XIII-13.3 and Chapter 250 Article V-5.7-C-1-A and a Special Permit for signage under Chapter 250 Article X-10.3 from Chapter 250 Article X-10.13-C of the Code to allow a restaurant (Pizza Hut) with outside dining with more than one (1) building mounted signs at 1900 Empire Blvd. The property is owned by Baytowne Associates and zoned GB. SBL # 093.02-1-23.11. Application #16Z-0020.

Appearances by: Roger Whelan-Whelan & Curry Construction Services, Inc.,
Dave Booth from V&J National Enterprises

Presenter’s statements:
- Changing location to the old Block Buster store in Baytowne Plaza
- Need signage to be visible from Creek Street and Empire Boulevard as McDonalds and the bank are blocking the view.
- The current location of Pizza Hut will be torn down so they have to move.
- The combined total of the size of the signs is less than 96 square feet which is the allotted size.

Dave Booth
- The restaurant will be open 11:00 a.m. - 11:00 p.m. Sunday through Thursday, and 11:00 a.m. – 12:00 midnight on weekends. Dine in and carry out & delivery service.

Board Comments -
Board Member Mulcahy
- Inquired as to how many employees, if alcohol will be served and if there will be any music and what is the venting system. Inquired about private dumpster, deliveries, outdoor dining, lighting, and freezer and cooler.

Dave Booth
- There will be 25 employees, no alcohol is served and there is no music.

Roger Whelan
- There is a pizza oven that has a filter system on it before it exhausts out, with fresh air coming in. The fryer has the same filter system on it. It’s protected with a fire system on it and a sprinkler system – there will be no odors.
- Freezer and cooler are inside
- Deliveries are at the back door two times a week

Dave Booth
- They will have a private dumpster in accordance to the Baytowne requirements. It will be enclosed.
- They will have two tables with 4 chairs – they will not have umbrellas as there is an overhang and there will not be service to the outdoor tables – they will be out of the way for anyone walking on the sidewalk and it is the end of the mall. There will be an enclosed trash bin out on the sidewalk, no music vented, and no additional lighting other than what is provided by the plaza.

Board Member Mulcahy
- Why are two signs needed and how large are the signs?

Dave Booth
- The signs are needed for visibility – if you don’t have visibility from the road you lose customer service base
Roger Whelan
- Both signs are three foot tall and fourteen feet long. Lighting of the signs will be on a timer during open hours, and they are giving up the free standing sign. Pizza Hut at the old location has been there for 35 years.

Chairman DeLaus–
- Inquired if Blockbuster had two signs?

Harold Morehouse
- Blockbuster did not have two signs

Special conditions required by the Board: Limit to the two tables on the sidewalk, make sure there is room to get by and they have trash cans out there.

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<td>Mulcahy</td>
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<td>Silins</td>
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<td>Grussenmeyer</td>
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<td>Mulcahy</td>
<td>Approve</td>
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<td>Aye</td>
<td>This is permitted under GB of the code and is in harmony with the plaza. There is poor visibility from Empire and the total of the two building mounted signs are less than what is allowed &amp; they are giving up the free standing sign</td>
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<td>Silins</td>
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6. Dr. Manish Sanon, DDS-The Smile Center, 2214 Penfield Road, Penfield, NY 14526 requests a Special Permit for Signage under Chapter 250 Article X-10.3 and Chapter 250 Article X-10.13-C of the Code to allow more than one (1) building mounted sign at 2214 Penfield Road. The property is owned by M Squared Development LLC and zoned LB. SBL # 140.01-1-7.4. Application #16Z-0022

APPLICATION ADJOURNED

Special conditions required by the Board:

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7. Amy Holtz, 234 Gallant Fox lane, Webster, NY 14580 requests a Conditional Use Permit under Chapter 250 Article XIII-13.3 and Chapter 250 Article V-5.6-C-1-E of the Code to allow a business to train, board and daycare dogs at 1995 Empire Blvd. The property is owned by FICO Properties, Inc. and zoned LB. SBL # 093.11-1-14. Application #16Z-0024.

Appearances by: Amy Holtz, 234 Gallant Fox lane, Webster, NY 14580

Presenter’s statements:
- Has been renting a facility in Pittsford currently and her intention is to open her own daycare and training facility. It will be an education based daycare. She will provide high level of service. Ms. Holtz has been training dogs for 20 years. There are no other daycare areas in the Penfield/Webster area that meet her standards.

Board Comments
Board Member Grussenmeyer:
- What was in the old building?
- Will she provide medical care and/or board dogs?
- What is the parking lot situation, will the ingress and egress stay the same?
- Will the parking lot be striped and reminded Ms. Holtz to have handicapped parking spot.
- Will any new lighting be added? What kind of signs will be used?

Amy Holtz:
- The building was a veterinary facility, which boarded dogs and provided medical care, she will not provide medical care. Sean Fico owns the property and will blacktop and fix the cracks in the parking lot and she will stripe the parking lot. She has no current plans to change the lighting, but she would like a lit sign on the building and one free standing sign and will stay within the Town Code. She will not board small animals, i.e. hamsters, or cats. She may also add grooming.

Board Member Mulcahy:
- How many dogs will you have, and how many employees?

Amy Holtz:
- She will have ten to fifteen per person and will have five employees depending on the volume of the day care.

Chairman DeLaus:
- Are the dogs going to be outdoor during the day? Will the dogs be outside running around, playing? Where will they be? What buildings are around her building and how far away are they.

Amy Holtz:
- She will let dogs out to use the facilities, and the dogs will never be left unattended either inside or outside. She will let the dogs out to lay in the sun, or play a bit, but not after 8:00 p.m.
- There is a fenced area behind the building with a four foot fence which she will change to a six foot fence. The area is fenced on three sides, there is a plaza and business on both sides and apartments behind her. The area is about 150 feet away from where the dogs will be.

Chairman DeLaus:
- Inquired as to her speaking with someone out in the hall and if it was regarding the application. Have any concerns been expressed from the apartment complex for barking dog issues?
Amy Holtz:
- She was speaking with Tom deManincore. He gave her a letter in support of the application. He owns the apartments behind and a business nearby. She understands her business will be welcomed and does not foresee any noise/barking issues.

Board Member Grussenmeyer:
- What is the maximum number of dogs that will be in there at once?

Amy Holtz:
- The Humane Society recommends each dog has fifty square feet of play space, so the veterinary space she intends to use is 2400 square feet. She feels she can average thirty dogs a day. She will slowly build up the amount of dogs.

Board Member Mulcahy:
- How many cars can be accommodated in the parking lot?

Amy Holtz:
- Fourteen cars but as it is a pick up /drop off facility, she doesn’t expect many cars to be in the parking lot.

Chairman DeLaus:
- Will the drop off and pick-up be typically around the rush hours?

Amy Holtz:
- She would like to have the customers text her to let them know when they are coming so she can meet them which will allow for traffic ease.

Special conditions required by the Board:

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<td>Grussenmeyer</td>
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<td>Similar to what was already there.</td>
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Tabled applications:

1. Louis Gitsis-Odyssey Inns, Inc., 1750 Empire Blvd, Webster, NY 14580 requests a Conditional Use Permit under Chapter 250 Article XIII-13.3 and Chapter 250 Article V-5.7-C-1 to allow an expansion to an existing conditionally permitted use and an Area Variance under Chapter 250 Article V-5.7-D-3 of the Code to allow the construction of a deck/patio at 1750 Empire Blvd. The property is owned by 1750 Route 404 LLC and zoned GB. SBL # 093.15-1-52. Application #16Z-0015

APPLICATION RE-TABLED

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There being no further business to come before the Board, this meeting was adjourned 8:20 p.m. on Tuesday May 17, 2016.

These minutes were adopted by the Zoning Board of Appeals on June 14, 2016.
James Vordonis, 10 Folkestone Lane, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-1 of the Code to allow an existing pool deck with less side setback at 10 Folkestone Lane. The property is owned by Robin & James Vordonis and zoned R-1-20. SBL # 125.03-1-2.122. Application #16Z-0016.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Chapter 250 Article V-5.1-F-1 of the Code to allow an existing pool deck with less side setback at 10 Folkestone Lane; 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 17, 2016 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: Michael Belgiorno
Seconded: Daniel DeLaus

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 2.4 feet from the required ten (10) foot side setback resulting is a setback of 7.6 feet from the east property line to allow an existing pool deck at 10 Folkestone Lane; 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 requirements of the Residential Code of New York State.

4. The applicant shall be required to comply with requirements of the Property Maintenance Code of New York State and Chapter 250 Article VII-7.11 of the Code of the Town of Penfield.

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 an undesirable change would not 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 area properties have above ground pools with accessory wood decks.

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 to relocate the existing wood deck cost a considerable amount of money and components of the existing deck may not be able to be reused.
3. Whether the requested area variance is substantial.

The Board determined that the requested area variance was not substantial. The applicant has represented to the Board that the requested variance is not substantial because the adjacent property most impacted by the existing pool deck is buffered by existing mature vegetation that screens the structure. Additionally, only a small portion of the existing pool deck encroaches into the required setback which further minimizes the determination that the variance request is minimal.

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 pool deck does not interfere with the drainage patterns that exist along the adjacent property line and drainage flows to the north to an existing wooded area.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that he had purchased the property with the existing pool deck and was made aware by town staff of the violation of the required side setback requirement.

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

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

1. An Area Variance application form stamped received March 18, 2016 by the Building and Zoning Office.

2. A letter of intent dated March 16, 2016 stamped received March 18, 2016 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated March 16, 2016 stamped received March 18, 2016 by the Building and Zoning Office.

4. An instrument survey dated October 11, 2004 stamped received March 18, 2016 by the Building and Zoning office.
5. An aerial photograph of the subject property.

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

Moved to approve the application for area variance to allow an existing pool deck with less setback:

    Michael Belgiorno

Seconded:  Carole Mulcahy

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
PENFIELD ZONING BOARD OF APPEALS
May 17, 2016

Kathryn & Justin Francisco, 18 Loch Loyal Court, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-13 of the Code to allow an in-ground pool, appurtenant deck and cabana with less setback at 18 Loch Loyal Court. The property is owned by Kathryn & Justin Francisco and zoned R-1-20. SBL # 109.13-3-17. Application #16Z-0023.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Chapter 250 Article V-5.1-F-13 of the Code to allow an in-ground pool, appurtenant deck and cabana with less setback at 18 Loch Loyal Court; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on May 17, 2016 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 AYE
Andris Silins AYE
AREA VARIANCE TO ALLOW AN IN-GROUND POOL WITH LESS SETBACK.

WHEREAS, it was determined subsequently to the submission of the application for the area variance that the pool will not require a side or rear setback variance.

WHEREAS, the applicant has requested that the request for an area variance for the in-ground pool to be withdrawn.

NOW, THEREFORE, BE IT FURTHER RESOLVED the Board hereby accepts the request to withdraw the request for area variances for the in-ground pool.

Michael Belgiorno
Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
AREA VARIANCE TO ALLOW A POOL DECK WITH LESS SETBACK.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of six (6) feet from the required ten (10) foot side and rear setback requirement resulting in a setback of four (4) feet from the east and north property line to allow a paver patio deck at 18 Loch Loyal Court; subject to the following conditions:

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

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

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

4. The applicant shall be required to comply with requirements of the Property Maintenance Code of New York State and Chapter 250 Article VII-7.11 of the Code of the Town of Penfield.

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 an undesirable change would not 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 this area have in-ground pool and with a patio.

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 other locations on the property were evaluated for the proposed project but were rejected due to the general lot configuration that either provided little space to accommodate the proposed project or would have been on an area of the property that would have been directly exposed to the roadway.
3. Whether the requested area variance is substantial.

The Board determined that the requested area variance was substantial. The applicant has represented to the Board that any visual impacts that could be presented to the adjacent property owner would be mitigated by the installation of a privacy fence and landscaping.

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’s contractor presented information to the Board that the existing drainage patterns along the property lines would not be impacted by the proposed project.

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 she has desired to have chicken on her property for many years and is now in a position to act on those interests.

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

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

1. An Area Variance application form stamped received April 14, 2016 by the Building and Zoning Office.

2. A letter of intent dated April 14 2016 stamped received April 14, 2016 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 14, 2016 stamped received April 14, 2016 by the Building and Zoning Office.


5. A letter from the adjacent property owner.
6. An aerial photograph of the subject property.

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

Moved to approve the application for area variance to allow a pool deck with less setback:

Michael Belgiorno
Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
AREA VARIANCE TO ALLOW A POOL CABANA WITH LESS SETBACK.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of six (6) feet from the required ten (10) foot rear setback and an area variance of five (5) foot from the required ten (10) foot side setback resulting in a setback of four (4) feet from the north property line and a five (5) foot setback from the east property line to allow the construction of a 12 foot by 16 foot pool cabana at 18 Loch Loyal Court; subject to the following conditions:

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

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

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

4. The applicant shall be required to comply with requirements of the Property Maintenance Code of New York State and Chapter 250 Article VII-7.11 of the Code of the Town of Penfield.

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 an undesirable change would not 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 this area have in-ground pool and with a cabana.

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 other locations on the property were evaluated for the proposed project but were rejected due to the general lot
configuration that either provided little space to accommodate the proposed project or would have been on an area of the property that would have been directly exposed to the roadway.

3. Whether the requested area variance is substantial.

The Board determined that the requested area variance was substantial. The applicant has represented to the Board that any visual impacts that could be presented to the adjacent property owner would be mitigated by the installation of a privacy fence and landscaping.

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’s contractor presented information to the Board that the existing drainage patterns along the property lines would not be impacted by the proposed project.

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 she has desired to have chicken on her property for many years and is now in a position to act on those interests.

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

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

1. An Area Variance application form stamped received April 14, 2016 by the Building and Zoning Office.

2. A letter of intent dated April 14, 2016 stamped received April 14, 2016 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 14, 2016 stamped received April 14, 2016 by the Building and Zoning Office.

5. A letter from the adjacent property owner.

6. An aerial photograph of the subject property.

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

Moved to approve the application for area variance to allow a pool cabana with less setback:

   Michael Belgiorno
   Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
TOWN OF PENFIELD
3100 Atlantic Avenue, Penfield, NY 14526-9798

PENFIELD ZONING BOARD OF APPEALS
May 17, 2016

Toni & Dwight Greenlee, 75 Parkwood Lane, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article 250-V-5.1-F-1 of the Code to allow the construction of a garage addition with less setback at 75 Parkwood Lane. The property is owned by Toni & Dwight Greenlee and zoned R-1-15. SBL # 124.17-2-61. Application #16Z-0019.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Chapter 250 Article 250-V-5.1-F-1 of the Code to allow the construction of a garage addition with less setback at 75 Parkwood Lane; 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 17, 2016 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: Andris Silins
Seconded: Daniel DeLaus

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 3.7 feet from the required ten (10) foot side setback resulting is a setback of 6.3 feet from the west property line to allow the construction of a 16 foot by 22 foot garage addition at 75 Parkwood Lane; 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 requirements of the Residential Code of New York State.

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

5. The applicant shall be required to comply with requirements of the Property Maintenance Code of New York State and Chapter 250 Article VII-7.11 of the Code of the Town of Penfield.

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 an undesirable change would not 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 many other single family residences in the area have two car garages and the subject property is unique in that it only has a one car garage.

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

The Board determined that the 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 they looked to
design a side load garage which would not have needed an area variance but that alternative was rejected due to the significant change in slope to the property adjacent to the propose addition

3. Whether the requested area variance is substantial.

The Board determined that the requested area variance was not substantial. The applicant has represented to the Board that the requested area was not substantial and the minimum needed to accommodate the needs of the residents.

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 patterns that exist along the adjacent property line would not be altered and the established drainage flows to the road and the rear of the property.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant has represented to the Board that the additional garage space was needed to allow them the ability to shelter an automobile.

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

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

1. An Area Variance application form stamped received April 15, 2016 by the Building and Zoning Office.

2. A letter of intent dated April 15 2016 stamped received April 15, 2016 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 15, 2016 stamped received April 15, 2016 by the Building and Zoning Office.
4. Building plans for the proposed addition.

5. An instrument survey dated October 11, 2004 stamped received March 18, 2016 by the Building and Zoning office.

6. An aerial photograph of the subject property.

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

Moved to approve the application for area variance to allow the construction of a garage addition with less setback:  
Andris Silins  
Seconded:  Michael Belgiorno

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
Roger Whelan-Whelan & Curry Construction Services, Inc., 4103 New Court Ave, Syracuse, NY 13206 on behalf of V&J National Enterprises, LLC requests a Conditional Use Permit under Chapter 250 Article XIII-13.3 and Chapter 250 Article V-5.7-C-1-A and a Special Permit for signage under Chapter 250 Article X-10.3 from Chapter 250 Article X-10.13-C of the Code to allow a restaurant (Pizza Hut) with outside dining with more than one (1) building mounted signs at 1900 Empire Blvd. The property is owned by Baytowne Associates and zoned GB. SBL # 093.02-1.23.11. Application #16Z-0020.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Chapter 250 Article XIII-13.3 and Chapter 250 Article V-5.7-C-1-A and a Special Permit for signage under Chapter 250 Article X-10.3 from Chapter 250 Article X-10.13-C of the Code to allow a restaurant (Pizza Hut) with outside dining with more than one (1) building mounted signs at 1900 Empire 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 May 17, 2016, 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  

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<td>Andris Silins</td>
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The motion to approve the State Environmental Quality Review Act (SEQRA) determination was carried.
CONDITIONAL USE PERMIT TO ALLOW A RESTAURANT (PIZZA HUT) WITH OUTSIDE DINING

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit to allow a restaurant (Pizza Hut) with outside dining at 1900 Empire 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 be required to obtain a building permit from the Building and Zoning Office and pay the appropriate fee.

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

4. The applicant shall be permitted to place two (2) tables with four (4) seat outside the store front under the building canopy. Said tables shall not interfere with pedestrian pathway on the sidewalk under the building canopy.

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

6. The applicant shall comply with the requirements of the Building Code of New York State, Fire Code of New York State, the Property Maintenance Code of New York State and Chapter 250 Article VII-7.11 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 XIII–13.4 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 ingress and egress from the subject property would be through existing locations onto Creek street and multiple locations onto Empire Blvd.

   b. Adequacy of parking facilities.

   The applicant has represented to the Board that the site has adequate parking to support the proposed tenant and the existing tenants of the plaza.

   c. Potential impact to both present and future uses.
The applicant has represented to the Board that the proposed use would not impact the uses on the adjacent properties or to the existing tenants of the plaza.

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

The applicant has represented to the Board that the proposed use would be compatible with any of the uses in the neighborhood. The proposed use is relocating from a parcel adjacent to the subject property.

e. Type and amount of signage.

The applicant has requested approval from this Board for additional signage.

f. Potential noise level.

The applicant has represented to the Board noise would not create a nuisance to the adjacent property owners or tenants in the area.

g. Clear sight distance.

The applicant has represented to the Board that the clear sight distances at the exit from the property to Creek Street and Empire Blvd have been reviewed by staff from the Town, County and NYS DOT’s.

h. Existing and proposed buffering.

The applicant is not proposing any additional buffering for the proposed use.

i. Proposed generation of noxious odors.

The applicant represented to the Board that noxious odor would not be created by the cooking of the menu items and the proposed tenant build out will include the installation of new hood systems meeting the requirements of the Building and Fire Codes.

j. Exterior lighting.

The applicant will not be adding any additional lighting to the subject property other than required by code.

k. Proposed hours of operation.

The applicant has proposed hours of 11:00 AM to 11:00 PM Sunday through Thursday and 11:00 AM to 12:00 PM Friday and Saturday.

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 XIII–13.4(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 XIII–13.4(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 Chapter 250 Article XIII-13.4-C.

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

1. A Conditional Use Permit application form stamped received April 15, 2016 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated April 15, 2016 stamped received April 15, 2016 by the Building and Zoning Office.

3. A letter of permission from the property owner dated April 12, 2016 stamped received April 15, 2016 by the Building and Zoning Office.

4. A letter of intent dated April 15, 2016 stamped received April 15, 2016 by the Building and Zoning Office.

5. A map of the subject property prepared by the property owner stamped received April 15, 2016 by the Building and Zoning Office.

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

Motion to approve the application for a Conditional Use Permit to allow a restaurant (Pizza Hut) with outside dining.

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 application was carried.
SPECIAL PERMIT FOR SIGNAGE TO ALLOW TWO (2) BUILDING MOUNTED SIGNS

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby APPROVES the application for a Special Permit for Signage to allow two (2) 36 inch by 172 inch building mounted signs at 1900 Empire Blvd (Pizza Hut), subject to the following conditions:

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

2. The applicant shall be required to comply with the requirements of the Building Code of New York State, the Property Maintenance Code of New York State and Chapter 250 Article VII-7.11 of the Town Code.

3. 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. The proposed sign is in harmony with the standards for permitted signs and within the spirit of Article X.

The Board determined that the proposed signage is in harmony with the standards for permitted signs. The applicant has represented to the Board that the total area of the requested signage does not exceed the total area allowed for the installation of one (1) sign.

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

The Board determined that the proposed signs are compatible and are not detrimental to neighborhood properties. The applicant has represented to the Board that the proposed signage would be place on the building façade near the corner of the tenant space proposed to be leased by the applicant.

3. The proposed sign does not; by reason of its location create a hazard of any nature to the public in general or to any owner or occupant of neighborhood properties.
The Board determined that the location of the proposed signs would not create a hazard to the public in general or to any owner or occupant of neighboring properties. The proposed signage would be attached to the existing facade and comply with all building code requirements.

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

The Board determined that the location of the proposed signs does not in any way interfere with the lawful and aesthetic enjoyment of the public highway or neighborhood properties. The proposed building mounted signage would not interfere with any of the plaza interior roadways.

5. The proposed sign is necessary to enhance the business identification, because of the location of the business’ proximity to the front property line, the exterior appearance of the structure containing the business and the nature of the business.

The Board determined that the signage was necessary to identify the subject property. The applicant has represented to the Board that the additional signage was necessary. Photographs were provided to the Board showing the visibility of the tenant space from both Empire Blvd and Creek Street was significantly reduced due to distance from the roadways and building along the sightlines.

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

1. A Special Permit for Signage application form stamped received April 15, 2016, by the Building and Zoning Office.

2. A letter of intent dated April 15, 2016, 2016 stamped received April 15, 2016 by the Building and Zoning Office.

3. An instrument survey prepared by Thomas Road, LS dated July 17, 2015 stamped received March 18, 2016 by the Building and Zoning Office.

4. A Short Environmental Assessment Form dated April 15, 2016, 2016 stamped received April 15, 2016, by the Building and Zoning Office.

5. Sign drawings prepared by Cummings Signs dated April 27, 2016 stamped received April 27, 2016 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 a Special Permit for Signage to allow two (2) building mounted signs for Pizza Hut

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
TOWN OF PENFIELD
3100 Atlantic Avenue, Penfield, NY 14526-9798

PENFIELD ZONING BOARD OF APPEALS
May 17, 2016

Amy Holtz, 234 Gallant Fox Lane, Webster, NY 14580 requests a Conditional Use Permit under Chapter 250 Article XIII-13.3 and Chapter 250 Article V-5.6-C-1-E of the Code to allow a business to train, board and daycare dogs at 1995 Empire Blvd. The property is owned by FICO Properties, Inc. and zoned LB. SBL # 093.11-1-14. Application #16Z-0024.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting a Conditional Use Permit under Chapter 250 Article XIII-13.3 and Chapter 250 Article V-5.6-C-1-E of the Code to allow a business to train, board and daycare dogs at 1995 Empire 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 May 17, 2016, 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: Joseph Grussenmeyer
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 RESTAURANT (PIZZA HUT) WITH OUTSIDE DINING

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for a Conditional Use Permit allow a business to train, board and daycare dogs at 1995 Empire 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 be required to obtain a building permit from the Building and Zoning Office and pay the appropriate fee.

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

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

5. The applicant shall comply with the requirements of the Building Code of New York State, Fire Code of New York State, the Property Maintenance Code of New York State and Chapter 250 Article VII-7.11 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 XIII–13.4 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 ingress and egress from the subject property would be through existing location onto Empire Blvd.

   b. Adequacy of parking facilities.

The applicant has represented to the Board that the site has adequate parking to support the proposed use and has agreed with the Board to manage the dog drop off to better utilize the existing parking.

   c. Potential impact to both present and future uses.

The applicant has represented to the Board that the proposed use would not impact the uses on the adjacent properties. Additionally, the applicant has represented to the Board that the previous use
of the property was that of a veterinary office that had facilities for overnight boarding of patient’s animals.

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

The applicant has represented to the Board that the proposed use would be compatible with any of the uses in the neighborhood.

e. Type and amount of signage.

The applicant has represented to the Board that they would be complying with the requirements of the Code for signage.

f. Potential noise level.

The applicant has represented to the Board that noise would not create a nuisance to the adjacent property owners or tenants in the area. The applicant has explained to the Board that dog obedience is a component of the business and barking at the site would be corrected as part of obedience training.

g. Clear sight distance.

The applicant has represented to the Board that the existing egress onto Empire Blvd would not be changed by the operation of this use,

h. Existing and proposed buffering.

The applicant is not proposing any additional buffering for the proposed use.

i. Proposed generation of noxious odors.

The applicant represented to the Board that noxious odor would not be created by the use. Any animal wastes would be cleaned up daily and disposed of with the general business waste hauler.

j. Exterior lighting.

The applicant will not be adding any additional lighting to the subject property other than required by code.

k. Proposed hours of operation.

The applicant has proposed hours of 7:00 AM to 9:00 PM daily.

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 XIII–13.4(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 XIII–13.4(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 Chapter 250 Article XIII-13.4-C.

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

1. A Conditional Use Permit application form stamped received April 15, 2016 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated April 15, 2016 stamped received April 15, 2016 by the Building and Zoning Office.

3. A letter of permission from the property owner dated April 13, 2016 stamped received April 15, 2016 by the Building and Zoning Office.

4. A letter of intent dated April 13, 2016 stamped received April 15, 2016 by the Building and Zoning Office.

5. An instrument survey prepared by Gregory Bileschi, LS dated November 20, 2013 stamped received April 15, 2016 by the Building and Zoning Office.

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

Motion to approve the application for a Conditional Use Permit to allow a restaurant (Pizza Hut) with outside dining.

Moved:  
Joseph Grussenmeyer

Seconded:  
Andris Silins

Vote of the Board

Daniel DeLaus  
AYE

Michael Belgiorno  
AYE

Joseph Grussenmeyer  
AYE

Carole Mulcahy  
AYE

Andris Silins  
AYE

The motion to approve the application was carried.
Constance Anglin, 3474 Atlantic Avenue, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-7 and Chapter 250 Article V-5.1-F-9 of the Code to allow chickens on a property with less setback and on less than five (5) acres at 3474 Atlantic Avenue. The property is owned by Constance Anglin and zoned RA-2. SBL # 110.04-1-10.401. Application #16Z-0021.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Chapter 250 Article V-5.1-F-7 and Chapter 250 Article V-5.1-F-9 of the Code to allow chickens on a property with less setback and on less than five (5) acres at 3474 Atlantic Avenue; 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 17, 2016 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: Michael Belgiorno
Seconded: Joseph Grussenmeyer

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of thirty five (35) feet from the required one hundred (100) foot setback resulting in a setback of sixty (65) feet from the north property line to allow a chicken coop at 3474 Atlantic Avenue; subject to the following conditions:

1. The applicant shall be permitted to keep up to six (6) hens and zero (0) roosters at the subject property.

2. The eggs produced by the chickens shall not be sold.

3. The applicant shall be required to comply with requirements of the Property Maintenance Code of New York State and Chapter 250 Article VII-7.11 of the Code of the Town of Penfield.

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 an undesirable change would not 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 demonstrated to the Board that the properties adjacent to the area of the subject property to be used for the requested chicken coop are currently used for more intense farming operations and the use of the subject property for chickens is very much in keeping with the overall nature of this portion of the community.

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 other areas on the property could be utilized to comply with the one hundred (100) foot setback requirement but the area proposed for the chicken coop would be alongside of the existing residence and provided the applicant the easiest opportunity to maintain the chicken and chicken coop.

3. Whether the requested area variance is substantial.
The Board determined that the requested area variance was not substantial. The applicant has represented to the Board that the proposed location for the chicken coop was least impactful to the neighboring properties.

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

The Board determined that the proposed area variance would not have an adverse impact on the environmental conditions in the neighborhood. The applicant has represented to the Board that the proposed chicken coop would not create and impact to the adjacent properties or drainage patterns in the area.

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 she has desired to have chicken on her property for many years and is now in a position to act on those interests.

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

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

1. An Area Variance application form stamped received April 14, 2016 by the Building and Zoning Office.

2. A letter of intent dated April 14 2016 stamped received April 14, 2016 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 14, 2016 stamped received April 14, 2016 by the Building and Zoning Office.


5. A letter from the adjacent property owner.
6. An aerial photograph of the subject property.

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

Moved to approve the application for area variance to allow a chicken coop with less setback:

Michael Belgiorno
Seconded:          Joseph Grussenmeyer

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
AREA VARIANCE TO ALLOW A STRUCTURE HOUSING CHICKENS WITH LESS THAN FIVE (5) ACRES.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 2.52 acres from the required five (5) acre minimum lot size resulting in a lot area of 2.48 acres to allow a chicken coop at 3474 Atlantic Avenue; subject to the following conditions:

1. The applicant shall be permitted to keep up to six (6) hens and zero (0) roosters at the subject property.

2. The applicant shall be required to comply with requirements of the Property Maintenance Code of New York State and Chapter 250 Article VII-7.11 of the Code of the Town of Penfield.

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 an undesirable change would not 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 demonstrated to the Board that the properties adjacent to the area of the subject property to be used for the requested chicken coop are currently used for more intense farming operations and the use of the subject property for chickens is very much in keeping with the overall nature of this portion of the community.

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 other areas on the property could be utilized to comply with the one hundred (100) foot setback requirement but the area proposed for the chicken coop would be alongside of the existing residence and provided the applicant the easiest opportunity to maintain the chicken and chicken coop.

3. Whether the requested area variance is substantial.
The Board determined that the requested area variance was substantial. The applicant has represented to the Board that although the subject property was half the size required by the Code to house chickens this property was separated by approximately four (4) acres and the two (2) other properties that share boundaries with the subject property respectively 13 and 14 acres and were used for farming activities.

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 proposed chicken coop would not create an impact to the adjacent properties or drainage patterns in the area.

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 she has desired to have chicken on her property for many years and is now in a position to act on those interests.

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

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

1. An Area Variance application form stamped received April 14, 2016 by the Building and Zoning Office.

2. A letter of intent dated April 14 2016 stamped received April 14, 2016 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 14, 2016 stamped received April 14, 2016 by the Building and Zoning Office.


5. A letter from the adjacent property owner.
6. An aerial photograph of the subject property.

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

Moved to approve the application for area variance to allow a chicken coop with less setback:

**Michael Belgiorno**

Seconded: **Joseph Grussenmeyer**

Vote of the Board

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<tr>
<td>Daniel DeLaus</td>
<td>AYE</td>
</tr>
<tr>
<td>Michael Belgiorno</td>
<td>AYE</td>
</tr>
<tr>
<td>Joseph Grussenmeyer</td>
<td>AYE</td>
</tr>
<tr>
<td>Carole Mulcahy</td>
<td>AYE</td>
</tr>
<tr>
<td>Andris Silins</td>
<td>AYE</td>
</tr>
</tbody>
</table>

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