ZONING BOARD
MEETING MINUTES

JUNE 14, 2016
Penfield Zoning Board of Appeals Minutes

The Zoning Board meeting at 6:30 PM local time Tuesday, June 14, 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

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<tr>
<th>ZBA MEMBER</th>
<th>PRESENT</th>
<th>ABSENT</th>
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<tr>
<td>Daniel DeLaus, Chairperson</td>
<td></td>
<td>X</td>
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<tr>
<td>Joseph Grussenmeyer</td>
<td></td>
<td>X</td>
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<tr>
<td>Carole Mulcahy</td>
<td></td>
<td>X</td>
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<tr>
<td>Mike Belgiorno</td>
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<td>X</td>
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<tr>
<td>Andris Silins</td>
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<tr>
<th>ADDITIONAL STAFF</th>
<th>PRESENT</th>
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<tbody>
<tr>
<td>Peter Weishaar, Legal Counsel</td>
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<td>Harold Morehouse, Building and Zoning Administrator</td>
<td>X</td>
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<td>Kristine Shaw, Secretary to the Board</td>
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Meeting started at 6:33 p.m.
Regarding Minutes from Zoning Board Meeting on April 21, 2016 as amended.

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<tr>
<td>DeLaus</td>
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<td>Belgiorno</td>
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<td>Aye</td>
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<tr>
<td>Grussenmeyer</td>
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<td>Aye</td>
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<td>Mulcahy</td>
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<td>Aye</td>
<td>As amended</td>
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<td>Silins</td>
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Regarding Minutes from Zoning Board Meeting on May 17, 2016.
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 June 14, 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. Mindy Zoghlin-Bansback Zoghlin, PC, 31 Erie Canal Drive, Rochester, NY 14626 on behalf of Anthony Pilato requests Area Variances from Chapter 250 Article V-5.1-D-1-b and Chapter 250 Article V-5.1-1-D-1-d of the Code to allow an in-law apartment exceeding thirty (30) percent of the total area of the residence and that does not have an internal access point that connect the in-law apartment to the primary residential unit at 1617 Creek Street. The property is owned by Anthony Pilato and is zoned R-1-20. SBL #108.15-1-31.1. Application #16Z-0025

Appearances by: Bridget O’Toole, Bansback Zoghlin P.C., Associate Attorney, 31 Erie Canal Drive, Suite A Rochester, NY 14626
Bob Keifer, Professional Engineer – 255 East Avenue, Rochester, NY

Presenter’s statements:
Bridget O’Toole
- Representing Mr. Pilato of 1617 Creek Street and is requesting an area variance to make an in-law apartment in the loft of the existing barn that is not attached to the main residence and does not have. A variance is needed because the in-law apartment won’t have internal access and is a little over 30 percent area.
- Bridget recited previous granted applications, such as Gary Lyon at 1474 Creek Street on 3-20-1997. Mr. Lyons demolished an existing attached garage and reconstruct a new detached garage with a separate in-law apartment above it. Ms. O’Toole stated 339 Embury Road that had a nonattached carriage house approved and in 2003 a 2000 square foot apartment at 1555 Creek Street.
- History of the property of 1617 Creek street- It is slightly over a five acre parcel, it has a house and two barns, connected with office area in it. The property is bordered by three residents to the north and eight residents in Samala Cir. The parcel has large trees on it and there is a row of large trees that blocks the view of the barn.
- His ex-wife and daughter live in the main single family house. One driveway serves the property of the residence and barns
- Mr. Pilato wants to construct a 1275 square foot in-law apartment in the loft of the eastern barn.
- Mr. Pilato fits the criteria as he is the ‘in law’/father to his daughter
- There is no undesirable change and he will not be making any physical changes to the barn. It will maintain a residential character of the neighborhood.
- The ingress and egress is by the same common driveway.
- The benefit cannot be obtained by any other method as it would not be feasible for all three members to live in the primary structure and would be a significant expensive to add to the house.
- The requested variance is 35% of the combined residential
- There will not be an adverse environmental impact on the neighborhood.
- It may be self-created difficulty but the applicant is not required to meet all requirements.
• Ms. O’Toole is not sure why there is no connection from the barn to the house, but stated that there would be no leasing or renting in the future. Per Penfield code there would only be another ‘in law’ or no one at all.
• This will be Mr. Pilato’s primary residence.

Bob Keifer spoke as to the need of square footage variance.

• The architects came up with the design to fit within the structural integrity of the barn and in compliance with the goals of Mr. Pilato. You can’t tell from the exterior that the apartment is bigger than allowed. The interior will be consistent with the floor plan and any other space will be for personal storage only, no commercial storage.
• Bob spoke to the requirement of the connection in that an in law apartment is for ‘family’, and this is a nontraditional family, but should be able to have the benefit of commonly sharing the property.

Board Comments:
Chairman DeLaus wanted more information regarding square footage and the issue of the requirement that there be a connection between the in law space and residence. Comments are above
Board Member Belgiorno cited the town code in which the in law apartment upon vacating would be accessed as full use part of the main house. If any of the people leave then this leaves open for the two that are left to move into this second dwelling.
Board Member Grussenmeyer
There was a previous application that was withdrawn for this property for a business and there is an office on the bottom first floor; he just wanted to double check that there was not going to be a business run from this location.
Board Member Mulcahy
Inquired as to the parking situation for the family members and garage/barn uses.
Board Member Silins
Inquired as to this being Mr. Pilato’s only residence or if he had others.

Special conditions required by the Board: No further in law construction or addition to main home

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<tbody>
<tr>
<td>DeLaus</td>
<td>X</td>
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<td>Aye</td>
<td>Type II action- no further declaration</td>
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<tr>
<td>Belgiorno</td>
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<td>Aye</td>
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<tr>
<td>Grussenmeyer</td>
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<td>Aye</td>
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<td>Mulcahy</td>
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<td>Silins</td>
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<tr>
<td>DeLaus</td>
<td>Approve</td>
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<td>Aye</td>
<td>Both variances – previous approved applications were granted. Engineering construction issues also apply for reason to approve.</td>
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<tr>
<td>Belgiorno</td>
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<td>Nay</td>
<td>Opposed – Doesn’t think it fits the Penfield code with no attachment to primary residence</td>
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<td>Grussenmeyer</td>
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<td>Mulcahy</td>
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<td>Silins</td>
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<td>Aye</td>
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2. Robert Blankfield, 1805 Five Mile Line Road, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-12-b of the Code to allow the construction of a shed with less rear setback at 1805 Five Mile Line Road. The property is owned by Robert Blankfield and zoned R-1-20. SBL #124.01-1-9. Application #16Z-0026.

Appearances by: Robert Blankfield, 1805 Five Mile Line Road, Penfield, NY 14526

Presenter’s statements:
Robert Blankfield
- House was purchased with an existing shed, it is three and a half feet from rear west property line.
- He wants to put up a 12 x 12 storage shed on the property line to be able to use maximum amount of yard for entertaining.
- Dolomite Quarry is behind him and a letter of support was submitted a letter from Jack Odenbach.
- She will be for yard and pool equipment. Mr. Blankfield is building it himself and it will be a framed construction with a cement floor. The height is seven foot walls and peak will be 10 feet. There is electricity in the shed for the pool pump.
- They have a lot of gardens and don’t see where else they could put the shed.

Board Comments:
Board Member Mulcahy stated there were no previous permits issued and he needs to have a setback of ten feet which will make this a 100% variance. Inquired as to where else in the yard the shed could be placed.
Chairman DeLaus inquired as to how he would maintain the back of the shed even though Mr. Odenbach stated he would allow the shed on the property line but there is concern for future owners.

Special conditions required by the Board: Approve a 6.5 foot variance from the rear lot line.

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<tr>
<td>DeLaus</td>
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<td>Belgiorno</td>
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<tr>
<td>Grussenmeyer</td>
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<td>Aye</td>
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<tr>
<td>Mulcahy</td>
<td>X</td>
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<td>Aye</td>
<td>Type II action- no further action required</td>
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<tr>
<td>Silins</td>
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<td>Aye</td>
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<td>MEMBER</td>
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<tr>
<td>DeLaus</td>
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<td></td>
<td>Aye</td>
<td>Notes that the letter from Dolomite quarry is not legally binding for future</td>
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<tr>
<td>Belgiorno</td>
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<td>Aye</td>
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<tr>
<td>Grussenmeyer</td>
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<td></td>
<td>Aye</td>
<td>Issue with going on the rear property for maintenance. He thinks the pool could’ve been moved.</td>
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<tr>
<td>Mulcahy</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>There will not be any undesirable change, he will add buffering, and there is no adverse effect. There is a need to some area behind the shed for maintenance</td>
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<tr>
<td>Silins</td>
<td></td>
<td>X</td>
<td>Aye</td>
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</table>
3. Erica & Jeff Wagner, 27 Kings Mill Court, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-12-b of the Code to allow the construction of a shed with less rear setback at 27 Kings Mill Court. The property is owned by Erica & Jeff Wagner and zoned R-1-20. SBL #094.18-1-41. Application #16Z-0027.

Appearances by:  Jeff Wagner, 27 Kings Mill Court, Penfield, NY 14526

Presenter’s statements:
- Wants to put the shed in the center with five foot setback with crushed stone base and landscaping around it. His yard is about .35 acres. The use will be yard equipment, bicycles, and patio equipment.
- It will be a Lancaster Amish 12 x 8 foot shed, matching the colors and siding of the house. There will be no electricity or lighting.
- There will be no change of character to the neighborhood as other neighbors have sheds with five foot setbacks.
- Storage will be needed so they can get their cars in the garage.
- There is approximately 30 yards of unused land then a drainage ditch, then behind that is a church on Five Mile Line Rd.
- Mr. Wagner submitted a letter of support from David and Nicole Roberts-23 Kings Mill Ct.

Board Comments:
Board Member Belgiorno stated that there are other homes in the neighborhood that have been granted less setbacks.

Special conditions required by the Board: Five feet setback

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<tr>
<td>DeLaus</td>
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<td>Aye</td>
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<td>Belgiorno</td>
<td>X</td>
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<td>Aye</td>
<td>Type II – negative declaration-no further action</td>
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<td>Grussenmeyer</td>
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<td>Aye</td>
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<td>Mulcahy</td>
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<tr>
<td>DeLaus</td>
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<tr>
<td>Belgiorno</td>
<td>Approved</td>
<td></td>
<td>Aye</td>
<td>This application will, not change look of the neighborhood. Owner has a huge buffer in the rear, shallow back yard, other neighbors have been approved at 5 feet setback</td>
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<tr>
<td>Grussenmeyer</td>
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<td>Aye</td>
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<tr>
<td>Mulcahy</td>
<td>X</td>
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<td>Aye</td>
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<td>Silins</td>
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<td>Aye</td>
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4. Coleen & Robert Goodwin, 7 Watersong Trail, Webster, NY 14580 requests an Area Variance from Chapter 250 Article VII-7.1-D of the Code to allow a fence taller than 3 feet less than twenty (20) feet from the Right-of-Way of Watersong Trail at 7 Watersong Trail. The property is owned by Coleen & Robert Goodwin and zoned R-1-20. SBL # 094.01-6-10. Application #16Z-0028.

Appearances by: Robert Goodwin, 7 Watersong Trail, Webster, NY 14580

Presenter’s statements:
- Seeking an area variance to use a six foot privacy fence in the rear of the lot, as they live on a corner lot – it will be a vinyl white stockade fence.
- The set back is 20 feet and right on that line is a 20 foot maple tree. The 10 foot variance will put the tree inside of the fence & maximizes their yard. The side yard faces a dead end street at this time and the rear yard faces all incoming traffic so there is no privacy. There is vacant property behind them at this time.
- The fence will not encroach on any easements
- The installer will put a part of the fence (10 feet) along the sides for stability. A three foot fence would only be good for small pets but not afford privacy.

Board Comments:
Board Member Belgioirno inquired if he would be extending the fence in the future along the south line.
Board Member Grussenmeyer stated the board would need to approve the extension on both ends of the fence so there would not be any 10 foot gaps if Mr. Goodwin added fencing to the sides later and the board could approve it with this application rather than having Mr. Goodwin coming back.

Special conditions required by the Board:

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<tr>
<td>DeLaus</td>
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<tr>
<td>Belgioirno</td>
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<td>Aye</td>
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<td>Type II</td>
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<td>Grussenmeyer</td>
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<td>Mulcahy</td>
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<td>Silins</td>
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<td>DeLaus</td>
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<tr>
<td>Belgiorno</td>
<td>X</td>
<td></td>
<td>Aye</td>
<td>Privacy issue is valid and it’s on opposite side away from the corner.</td>
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<td>Grussenmeyer</td>
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<td>Aye</td>
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<td>Mulcahy</td>
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5. Christopher Kaltenbach, 1744 Qualtrough Road, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-1 of the Code to allow the construction of a deck and patio at 1744 Qualtrough Road. The property is owned by Christopher Kaltenbach and zoned R-1-20. SBL # 108.20-2-36. Application #16Z-0030.

Appearances by: Christopher Kaltenbach, 1744 Qualtrough Road, Penfield, NY 14526
Presenter’s statements: Christopher Kaltenbach
- Seeking a five foot area variance for a 16 x 16 deck and 512 square foot patio of 2 3/8” thick brick pavers and crushed stone. The deck is designed to this size because that is the way the boards are made and will provide good seating and it will be about 30” off the ground with one set of stairs.
- There is buffering on the property line between his house and Brian Heppard on the North and Brian has no issues with the construction. The owner at 222 Woody Lane, has expressed approval as well.
- Putting in the rear of property for privacy from Qualtrough road and behind the house there are a multiple exit doors from the house and garage to the deck/patio.
- His house is turned facing the intersection so it is angled differently.

Board Comments:
Board Member Mulcahy inquired about making the deck smaller – Mr. Kaltenbach said the reason for the design is due to the dimension of the boards.
Board Member Silins mentioned there are unique characteristics to his lot and Mr. Kaltenbach mentioned it was due to the construction of the house on the lot at an angle.

Special conditions required by the Board: Five foot variance

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<td>DeLaus</td>
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<tr>
<td>Belgiorno</td>
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<td>Grussenmeyer</td>
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<td>Mulcahy</td>
<td>X</td>
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<td>Aye</td>
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<td>Type II Action - No further action</td>
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<tr>
<td>Silins</td>
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<td>Aye</td>
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<td>DeLaus</td>
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<tr>
<td>Belgiorno</td>
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<td>Aye</td>
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<tr>
<td>Grussenmeyer</td>
<td>X</td>
<td></td>
<td>Aye</td>
<td>Only five feet from, no undesirable change, no other place to put it back 45 feet, no adverse effect</td>
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<tr>
<td>Mulcahy</td>
<td>X</td>
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<td>Aye</td>
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<tr>
<td>Silins</td>
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<td>Aye</td>
<td>This is a unique lot at 45 degree angle</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

Appearances by: Dr. Manish Sanon, DDS-The Smile Center, 2214 Penfield Road, Penfield, NY 14526

Presenter’s statements:
- Dr. Sanin wants a second building mounted sign on the front of the building so new patients and delivery personnel can find his location.
- He’s been at this location for two years on a weekly basis, patients or delivery people will go to Labella Spa or Urgent Care looking for them. When you are coming in from the access road you see Labella Spa and that’s where people think the office is.
- Patients will show up late, or miss their appointment and not be in a timely manner for the office.
- They have applied in the past but this time the application is for a reduced size sign.
- Tim Horton’s has two signs, Subway has three signs, and Urgent Care is getting two signs.
- There will be halo lighting bouncing off the building onto the sign.
- There is a drainage ditch and the trees have been cleared out so now you can see the building better but it has no sign.
- Dr. Sanin does not have any objection to not having a free standing sign.
- More people are conducting business in the plaza so they will come through the access road to his office – even first time patients.

Board Comments:
Board Member Silins asked if sign will be illuminated and noted that since the trees are cleared now you can see the building and inquired as to any objections to not having a freestanding sign. Board Member Belgiorno inquired as to why customers coming for the first time through the access road rather than using Penfield Road Chairman DeLaus – noted that the total square footage sign request is below the amount allowed.

Special conditions required by the Board: No freestanding monument sign

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<td>DeLaus</td>
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<td>Belgiorno</td>
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<td>Silins</td>
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<td>Unlisted action – negative declaration</td>
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<td>Silins</td>
<td>Approve</td>
<td></td>
<td>Aye</td>
<td>Town Board setting precedent with allowing more signs due to access road, also the foliage is now cleared</td>
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7. Anthony Caraglio-Stoneyard Beer Hall & Grill, 223 Basket Road, Webster, NY 14580 requests a Conditional Use Permit under Chapter 250 Article XIII-13.3 and Chapter 250 Article V-5.6-C of the Code to allow restaurant with outside dining at 1517 Empire Blvd. The property is owned by Josephine Joan DiVincenzo Living Trust and zoned LB. SBL #108.06-1-5. Application #16Z-0029.

Appearances by: Anthony Caraglio-Stoneyard Beer Hall & Grill, 223 Basket Road, Webster, NY 14580
Rick DiVincenzo

Presenter’s statements:
Anthony Caraglio
- Conditional use permit to operate and continue using the property as a full service restaurant. Previously the property was Sanibel Banquet hall and then the Recovery Room.
- Operate the same thing, using full property – continue the square footage with the free standing sign that is already out on Empire Blvd will just redesign with Stoneyard Grill name. It will be lit with a fluorescent lit sign…Dusk till 2 a.m.
- Ingress, Egress is already there.
- The restaurant will use the already established outdoor patio for outdoor service, & will use the lighting that is already installed. Music will be provided piped out there with the built in speakers on site. American Style beer hall – it was banquet hall when it was DiVincenzo’s Italian restaurant, and while it was The Recovery room a bar was created, they have 28 taps for beer and they will use these for local craft beer and other smaller names.
- He also has an operating agreement with the owner Jay Nichols to utilize the Stoneyard Grill name and operate Caraglio pizza on the site.
- They will have 40 – 50 employees and will keep popular menu items from Brockport restaurant and add new ones.
- In the future if they start making beer, they would use a two and half barrel system which would be five kegs and only served on site, no mass producing or distribution.

Rick DiVincenzo
- Spoke to promote the establishment and that they were doing a great job.

Board Comments:
Board Member Grussenmeyer sited previous problem with complaints from neighbors regarding the dumpster. Dumpster location will be around the back far side of building and kept cleaned up. There is a little hole near the front door that needs to be filled in as someone could get hurt.

Chairman DeLaus inquired as to on site brewing and any special requirements for brewing, which Mr. Caraglio said they may do in the future, but no plans right now.
Harold Morehouse stated there was nothing detailed to the Penfield code, but later with the distilling there may be building code requirements, but they would be internal
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<td>Belgiorno</td>
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<td>X</td>
<td>Aye</td>
<td>Unlisted no further action needed</td>
<td>Negative Declaration</td>
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<td>Grussenmeyer</td>
<td>X</td>
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<td>Belgiorno</td>
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<td>Grussenmeyer</td>
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<td>Aye</td>
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8. 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 DISMISSED WITHOUT PREJUDICE

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<tr>
<td>Belgiorno</td>
<td>X</td>
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<td>Dismissed without Prejudice</td>
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<td>Grussenmeyer</td>
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There being no further business to come before the Board, this meeting was adjourned 8:55 p.m. on Tuesday June 14, 2016.

These minutes were adopted by the Zoning Board of Appeals on July 21, 2016.
PENFIELD ZONING BOARD OF APPEALS

June 14, 2016

Mindy Zoghlin-Bansback Zoghlin, PC, 31 Erie Canal Drive, Rochester, NY 14626 on behalf of Anthony Pilato requests Area Variances from Chapter 250 Article V-5.1-D-1-b and Chapter 250 Article V-5.1-1-D-1-d of the Code to allow an in-law apartment exceeding thirty (30) percent of the total area of the residence and that does not have an internal access point that connect the in-law apartment to the primary residential unit at 1617 Creek Street. The property is owned by Anthony Pilato and is zoned R-1-20. SBL #108.15-1-31.1. Application #16Z-0025

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Chapter 250 Article V-5.1-D-1-b and Chapter 250 Article V-5.1-1-D-1-d of the Code to allow an in-law apartment exceeding thirty (30) percent of the total area of the residence and that does not have an internal access point that connect the in-law apartment to the primary residential unit at 1617 Creek Street; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on June 14, 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: Carole Mulcahy

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer AYE
Carole Mulcahy AYE
Andris Silins AYE
AREA VARIANCE TO ALLOW AN IN-LAW APARTMENT EXCEEDING THIRTY (30)
PERCENT OF THE TOTAL AREA OF THE RESIDENCE.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the
application for an area variance of two hundred twenty five (225) sq. ft. from the allowed
maximum one thousand fifty (1050) sq. ft. to allow a one thousand two hundred seventy five
(1275) sq. ft. in-law apartment at 1617 Creek Street; 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 file an In-Law Apartment Affidavit with the miscellaneous
   records at the Monroe County Clerk’s Office prior to receiving a Certificate of Occupancy.

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

5. The applicant shall be required to provide documentation to the Town of Penfield Authorized
   Official demonstrating that the individual/individuals residing in the in-law apartment comply
   with the definition of in-law as written in the Code every three (3) years.

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 the proposed in-law apartment would be located
in an existing structure that was historically used as livestock barn. This structure would be
continued to be utilized as an accessory structure and no exterior features would be changed other
than to provide an entrance for the apartment and windows for the living spaces.
2. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance.

The Board determined that the benefit sought by the applicant could not be achieved by some other method other than an area variance. The applicant has represented to the Board that the square foot area of the in-law apartment was driven by the existing construction of the barn and a desire to not substantially alter the building design.

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 architect was designing the in-law apartment to fit into the existing structural posts and beams of the building. Additionally, the conversion of part of the eight thousand (8000) sq. ft. barn for the one thousand two hundred seventy five (1275) sq. ft. in-law apartment would constitute approximately fifteen (15) per cent of the barn area.

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 no changes would be necessary to the property that would alter the existing drainage patterns on the property.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant had recently purchased the subject property and desires to live on the grounds with his adult daughter and ex-wife.

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 28, 2016 by the Building and Zoning Office.

2. A letter of intent dated April 25, 2016 stamped received April 28, 2016 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 25, 2016 stamped received April 28, 2016 by the Building and Zoning Office.


5. Architectural drawings prepared by Al Arlotta, RA, dated March 15, 2016 stamped received April 28, 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 an in-law apartment exceeding thirty (30) percent of the total area of the residence:

   Daniel DeLaus
   Seconded: Joseph Grussenmeyer

Vote of the Board

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<td>Daniel DeLaus</td>
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<td>Michael Belgiorno</td>
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<td>Joseph Grussenmeyer</td>
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<td>Carole Mulcahy</td>
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<td>Andris Silins</td>
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The motion to approve the foregoing portion of the application was carried.
AREA VARIANCE TO ALLOW AN IN-LAW APARTMENT THAT DOES NOT HAVE AN INTERNAL ACCESS POINT THAT CONNECT THE IN-LAW APARTMENT TO THE PRIMARY RESIDENTIAL UNIT.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance to allow an in-law apartment without an internal access point that connects to the primary residential unit at 1617 Creek Street; 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 file an In-Law Apartment Affidavit with the miscellaneous records at the Monroe County Clerk’s Office prior to receiving a Certificate of Occupancy.

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

5. The applicant shall be required to provide documentation to the Town of Penfield Authorized Official demonstrating that the individual/individuals residing in the in-law apartment comply with the definition of in-law as written in the Code on a three (3) yearbases.

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 the proposed in-law apartment would be located in an existing structure that was historically used as livestock barn. This structure would be continued to be utilized as an accessory structure and no exterior features would be changed other than to provide an entrance for the apartment and windows for the living spaces.
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 although the relationship between Mr. Pilato and his ex-wife is amicable they do not wish to reside in the same physical structure. Additionally, given the location of the barn and its distance from the residential structure it is not feasible to connect them.

3. Whether the requested area variance is substantial.

The Board determined that the requested area variance was substantial. Although the general request would be considered a one hundred (100) percent variance this proposal would not create any additions to the property outside of the existing footprints of the existing structures.

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 no changes would be necessary to the property that would alter the existing drainage patterns on the property.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created. The applicant had recently purchased the subject property and desires to live on the grounds with his adult daughter and ex-wife.

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 28, 2016 by the Building and Zoning Office.

2. A letter of intent dated April 25, 2016 stamped received April 28, 2016 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 25, 2016 stamped received April 28, 2016 by the Building and Zoning Office.


5. Architectural drawings prepared by Al Arlotta, RA, dated March 15, 2016 stamped received April 28, 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 an in-law apartment exceeding thirty (30) percent of the total area of the residence:

Daniel DeLaus
Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried
PENFIELD ZONING BOARD OF APPEALS
June 14, 2016

Robert Blankfield, 1805 Five Mile Line Road, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-12-b of the Code to allow the construction of a shed with less rear setback at 1805 Five Mile Line Road. The property is owned by Robert Blankfield and zoned R-1-20. SBL #124.01-1-9. Application #16Z-0026.

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-12-b of the Code to allow the construction of a shed with less rear setback at 1805 Five Mile Line Road; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on June 14, 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: Carole Mulcahy
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 SHED WITH LESS REAR SETBACK.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of 6.5 feet from the required ten (10) foot rear setback resulting in a setback of 3.5 feet from the west property line to allow the construction of a 12 foot by 12 foot shed at 1806 Five Mile Line 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 requirements of the Residential Code of New York State, 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 the subject property currently has an existing 8 foot by 12 foot shed 3.5 feet from the rear property line that is in need of replacement and the proposed shed would be located in the same vicinity as that of the existing shed.

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

The Board determined that the benefit sought by the applicant could not be achieved by some other method other than an area variance. The applicant has represented to the Board that the shed could not be placed in compliance with the 10 foot setback because of the placement of an existing above ground pool.
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 variance is not substantial because the existing shed is located the same distance from the rear property line as would the proposed shed.

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 no changes would be necessary to the property that would alter the existing drainage patterns on the property.

5. Whether the alleged difficulty was self-created.

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

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

1. An Area Variance application form stamped received May 6, 2016 by the Building and Zoning Office.

2. A letter of intent dated April 22, 2016 stamped received May 6 2016 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated April 11, 2016 stamped received May 6, 2016 by the Building and Zoning Office.

4. A letter in support of the applicant’s variance request from the property owner to the rear of the subject property dated May 4, 2016.
5. An instrument survey prepared by Gregory Bileschi, LS dated May 13, 2005 stamped received May 6, 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 shed with less setback:

   Carole Mulcahy
   Seconded: Andris Silins

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
PENFIELD ZONING BOARD OF APPEALS
June 14, 2016

Erica & Jeff Wagner, 27 Kings Mill Court, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-12-b of the Code to allow the construction of a shed with less rear setback at 27 Kings Mill Court. The property is owned by Erica & Jeff Wagner and zoned R-1-20. SBL #094.18-1-41. Application #16Z-0027.

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-12-b of the Code to allow the construction of a shed with less rear setback at 27 Kings Mill 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 June 14, 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: Carole Mulcahy

Vote of the Board

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

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of five (5) feet from the required ten (10) foot rear setback resulting in a setback of five (5) feet from the north property line to allow the construction of a 8 foot by 12 foot shed at 27 Kings Mill Court; subject to the following conditions:

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

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

3. The applicant shall be required to comply with requirements of the Residential Code of New York State, 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 the proposed shed would not change the character of the neighborhood because the property directly behind the subject property is a larger parcel that is currently use as a church. Additionally, other properties in this neighborhood have been granted area variances by this Board for relief from the rear setback requirement.

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

The Board determined that the benefit sought by the applicant could not be achieved by some other method other than an area variance. The applicant has represented to the Board that the rear yard area of the subject property is sloping and the most level location for the proposed shed is along the property line shared with the church.
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 properties in this neighborhood are smaller in size and depth and strict compliance with the setback standard would restrict the use of the rear yard.

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 installation of the proposed shed would not alter the drainage patterns in the rear yard.

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 need for the area variance was self-created but due to the small lot size he felt would be justified.

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

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

1. An Area Variance application form stamped received May 11, 2016 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 6, 2016 stamped received May 11, 2016 by the Building and Zoning Office.

4. An instrument survey prepared by Edward Freeman, LS dated June 1, 2012 stamped received May 11, 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 an area variance to allow the construction of a shed with less rear setback:

   **Michael Belgiorno**
   
   Seconded: **Carole Mulcahy**

Vote of the Board

<table>
<thead>
<tr>
<th>Name</th>
<th>Vote</th>
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<tr>
<td>Daniel DeLaus</td>
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<td>Michael Belgiorno</td>
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<td>Joseph Grussenmeyer</td>
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<td>Carole Mulcahy</td>
<td>AYE</td>
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<tr>
<td>Andris Silins</td>
<td>AYE</td>
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The motion to approve the foregoing portion of the application was carried.
Penfield Zoning Board of Appeals
June 14, 2016

Coleen & Robert Goodwin, 7 Watersong Trail, Webster, NY 14580 requests an Area Variance from Chapter 250 Article VII-7.1-D of the Code to allow a fence taller than 3 feet less than twenty (20) feet from the Right-of-Way of Watersong Trail at 7 Watersong Trail. The property is owned by Coleen & Robert Goodwin and zoned R-1-20. SBL # 094.01-6-10. Application #16Z-0028.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting an Area Variance from Chapter 250 Article VII-7.1-D of the Code to allow a fence taller than 3 feet less than twenty (20) feet from the Right-of-Way of Watersong Trail at 7 Watersong Trail; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on June 14, 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 A FENCE TALLER THAN 3 FEET LESS THAN TWENTY (20) FEET FROM THE RIGHT-OF-WAY.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby approves the application for an area variance of three (3) feet from the allowed three (3) foot fence height resulting in a six (6) foot tall fence within twenty (20) feet of the right of way of Watersong Trail at 7 Watersong Trail; subject to the following conditions:

1. The applicant shall be permitted to construct a six (6) foot tall fence from the southwest rear corner of the existing residence to within ten (10) feet of the right of way of Watersong Trail, thence south along the right of way to a point ten (10) east of the southwest corner of the rear property line, thence easterly long the rear property line.

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 represented to the Board that the land directly behind the subject property is currently undeveloped.

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 an existing mature maple tree is set at the twenty (20) feet off the property line and compliance with the height standard would require them to install the fence further into the property and losing additional rear yard area for recreation.

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 variance is not substantial because clear sight distance at the intersection and the driveway would not be impacted.

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 installation of the proposed fence would not alter the drainage patterns in the rear or side yard.

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 this difficulty was self-created. The existing maple tree was planted prior to discussions about the fence and knowledge of the fence standards for the Town of Penfield.

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

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

1. An Area Variance application form stamped received May 12, 2016 by the Building and Zoning Office.

2. A letter of intent dated May 11, 2016 stamped received May 12, 2016 by the Building and Zoning Office.

3. A Short Environmental Assessment Form dated May 11, 2016 stamped received May 12, 2016 by the Building and Zoning Office.

4. An instrument survey prepared by Gregory Bileschi, LS dated June 17, 2015 stamped received May 12, 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 an area variance to allow a fence taller than three (3) feet less than twenty (20) feet from the right of way:

Seconded:  

Michael Belgiorno  
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
June 14, 2016

Christopher Kaltenbach, 1744 Qualtrough Road, Penfield, NY 14526 requests an Area Variance from Chapter 250 Article V-5.1-F-1 of the Code to allow the construction of a deck and patio at 1744 Qualtrough Road. The property is owned by Christopher Kaltenbach and zoned R-1-20. SBL # 108.20-2-36. Application #16Z-0030.

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 the construction of a deck and patio at 1744 Qualtrough Road; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on June 14, 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: Carole Mulcahy
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 THE CONSTRUCTION OF A DECK WITH LESS REAR SETBACK.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board hereby APPROVES the application for an area variance of five (5) feet from the required fifty (50) foot rear setback resulting in a setback of forty five (45) feet from the east property line to allow the construction of a 16 foot by 16 foot wood deck at 1744 Qualtrough 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 requirements of the Residential Code of New York State, 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 the neighborhood have structures similar to the proposed deck. Additionally, the right of way at the rear of the property and the north property line have existing mature vegetation the buffer the adjacent property owners.

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

The Board determined that the benefit sought by the applicant could not be achieved by some other method other than an area variance. The applicant has represented to the Board that the deck size was the minimum size needed to allow deck furniture and access around the furniture.

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 only a small portion of the corner of the proposed deck would be in violation of the fifty (50) foot setback requirement.

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 installation of the proposed deck would not alter the drainage patterns in the rear yard.

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 need for the area variance was self-created because of the uniqueness of the property having right of ways on three (3) sides of the parcel.

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

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

1. An Area Variance application form stamped received May 23, 2016 by the Building and Zoning Office.


3. A Short Environmental Assessment Form dated May 23, 2016 stamped received May 23, 2016 by the Building and Zoning Office.

4. An instrument survey prepared by Bruce Fries, LS dated April 14, 2008 stamped received May 23, 2016 by the Building and Zoning Office.

5. Drawings of the proposed deck and patio provide by the applicant.

6. An aerial photograph of the subject property.
7. Testimony provided by the applicant and interested parties at the public hearing.

Moved to approve an area variance to allow the construction of a deck with less rear setback:

- Carole Mulcahy
- Joseph Grussenmeyer

Seconded:

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried.
Penfield Zoning Board of Appeals
June 14, 2016

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

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting 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; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on June 14, 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: Andris Silins
Seconded: Daniel DeLaus

Vote of the Board

Daniel DeLaus AYE
Michael Belgiorno AYE
Joseph Grussenmeyer AYE
Carole Mulcahy AYE
Andris Silins AYE
SPECIAL PERMIT FOR SIGNAGE TO ALLOW MORE THAN ONE (1) BUILDING MOUNTED SIGN

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board hereby approves the application for a Special Permit for Signage to allow a second building mounted sign at 2214 Penfield Road, subject to the following conditions:

1. The applicant shall be permitted to construct one (1) single faced 30.07 sq. ft. building mounted sign on the north façade of the existing building at 2214 Penfield Road.

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

3. 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.

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. 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 current signage request would not exceed the total allowed signage for one (1) sign for this use.

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

The Board determined that the proposed sign are compatible and are not detrimental to neighborhood properties. The applicant has represented to the Board that the proposed second building mounted sign would be visible only by the adjacent businesses to the rear of the existing building.
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 applicant has represented to the Board that the proposed building mounted sign would be installed on the existing façade and would not interfere with any of the neighboring properties.

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

The Board determined that the location of the proposed signs does not in any way interfere with the lawful and aesthetic enjoyment of the public highway or neighborhood properties. The applicant has represented to the Board that the proposed building mounted sign would be placed on the north façade facing away from Penfield Road.

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 business has received numerous comments from patients of the business commenting on the visibility of the main entrance.

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

1. A Special Permit for Signage application form stamped received April 16, 2016 by the Building and Zoning Office.

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

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

4. Sign drawings prepared by Vital Signs stamped received April 16, 2016 by the Building and Zoning Office.

5. 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 more than one (1) building mounted sign.

Moved: Andris Silins
Seconded: Carole Mulcahy

Vote of the Board

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

The motion to approve the foregoing portion of the application was carried
Penfield Zoning Board of Appeals
June 14, 2016

Anthony Caraglio-Stoneyard Beer Hall & Grill, 223 Basket Road, Webster, NY 14580 requests a Conditional Use Permit under Chapter 250 Article XIII-13.3 and Chapter 250 Article V-5.6-C of the Code to allow a restaurant with outside dining at 1517 Empire Blvd. The property is owned by Josephine Joan DiVincenzo Living Trust and zoned LB. SBL #108.06-1-5. Application #16Z-0029.

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 of the Code to allow a restaurant with outside dining at 1517 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 June 14, 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 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: 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 State Environmental Quality Review Act (SEQRA) determination was carried.
CONDITIONAL USE PERMIT TO ALLOW A RESTAURANT 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 (Stoneyard Beer Hall & Grill) with outside dining at 1517 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 an Operation Permit from the Fire Marshal’s Office and pay the appropriate fee.

3. The applicant shall be permitted to utilize the existing outside patio for dining.

4. The applicant shall be required to properly maintain the dumpster proposed for the use.

5. The applicant shall comply with the requirements of the Fire Code of New York State, the Property Maintenance Code of New York State and Chapter 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 an 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.

   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. This use is similar to other businesses that have received approval from this Board over the last 15 years.

   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. This proposed restaurant would be replacing a restaurant that had operated at this location for the last 10-15 years.

e. Type and amount of signage.

The applicant will continue using the existing double faced freestanding sign that had received approval from this Board on August 17, 2006 to allow a larger double faced freestanding sign.

f. Potential noise level.

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

g. Clear sight distance.

The applicant has represented to the Board that the clear sight distances at the exit from the property to Empire Blvd provides adequate visibility to vehicular traffic.

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 odors would not be created by the cooking of the menu items.

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 2:00 AM 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 May 13, 2016 by the Building and Zoning Office.

2. A Short Environmental Assessment Form dated May 13, 2016 stamped received May 13, 2016 by the Building and Zoning Office.

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


5. A Monroe County Development Referral Form stamped received May 31, 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 with outside dining.

Moved: Joseph Grussenmeyer
Seconded: Michael Belgiorno

Vote of the Board

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

The motion to approve the application was carried.
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.

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 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; and

WHEREAS, the Zoning Board of Appeals of said Town of Penfield held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield New York on April 21, 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 Tabled the application at the April 21st and May 17th meetings to allow the applicant the opportunity to provide the Board with additional information on the proposed deck/patio design and size; and

WHEREAS, the applicant has failed to provide to the Board the requested information on the design and size of the proposed deck/patio.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board hereby DENIES without PREJUDICE the application for a Conditional Use Permit to allow an expansion to an existing conditionally permitted use and an area variance to allow the construction of a patio with less setback at 1750 Empire Blvd.

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

1. A Conditional Use Permit application form stamped received March 15, 2016 by the Building and Zoning Office.
2. A Short Environmental Assessment Form dated March 15, 2016 stamped received March 15, 2016 by the Building and Zoning Office.

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

4. A Monroe County Development Referral Form stamped received March 31 2016 by the Building and Zoning Office.

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

Motion to DENY without prejudice the application for an expansion to an existing Conditional Use Permit and an Area Variance to allow the construction of deck/patio at 1750 Empire Blvd.

Moved: Michael Belgiorno
Seconded: Joseph Grussenmeyer

Vote of the Board

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

The motion to deny the application was carried.