Penfield Zoning Board of Appeals
Minutes

The Zoning Board meeting was held at 6:30 PM local time Thursday, May 18, 2017 in the Auditorium Conference Room to discuss, in a meeting open to the public, tabled matters and other business that may be before it.

I. CALL TO THE ORDER:

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<td>Daniel DeLaus, Chairperson</td>
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<td>Joseph Grussenmeyer</td>
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<td>Peter Weishaar, Legal Counsel</td>
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<td>Jim Costello, Building and Zoning Administrator</td>
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<td>Kristine Shaw, Secretary to the Board</td>
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Regarding Minutes from Zoning Board Meeting on April n/a, 2017

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II. PUBLIC HEARING:

The Chairperson briefly explained the procedures that the Zoning Board would follow during the public hearing, also guidelines to applicants and those members of the audience wishing to speak at the public hearing.

The Chairperson further went on to inform the audience that the Board may deliberate on the applications following the hearing and/or at a future work session. Those applicants and interested persons who wished to stay for the remaining portion of the meeting to listen to any deliberation on each matter are then welcome to do so.

The Zoning Board Administrator was directed to read the agenda.

NOTE: The following is meant to outline the major topics for discussion during the Zoning Board public hearings. For more detailed information, the reader should ask to listen to the recorded tape of the May 18, 2017 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.
1. Jasmen Heganovic, 521 Cedarwood Terrace, Rochester, NY 14609 requests an Area Variance from Chapter 250 Article V-5.1-F of the Code to allow the construction of a single family residence with less setback at 2775 Penfield Road. The property is owned by Jasmen Heganovic and zoned RA-2. SBL # 141.01-1-15. Application #17Z-0018.

Appearances by:
Pete Romeo
Jasmen Heganovic, 521 Cedarwood Terrace, Rochester, NY 14609
Scott Cadella, 200 Summit Drive, Rochester, NY
Bob Green, 3055 Canandaigua Rd, Macedon, NY
Matt Jewett, 2771 Penfield Road
John Macaluso, 2783 Penfield Road

Presenter’s statements:
Peter Romeo -
Asking for variance for front yard to be reduced from fifty (50) feet to thirty six (36.01) feet and the rear yard to reduce the minimum from thirty feet (30’) to twenty feet (20.0’).
The parcel is 0.453 acres. The developable parcel excluding the right of way is 0.32 feet acres or 71% of the deeded parcel.
Included on the site plan is indication of a sidewalk easement abutting Penfield Road.
There is a ground surface dedicated for a septic tank field per AEY engineering-revision dated 10-1-15. This plan is on file with the town and was approved by Monroe County Department of Health. The land that is consumed by the leach field is 80 x 65 feet.
Open space area that is land-scapeable area totals 0.43 acres.
Mr. Romeo gave many other measurements boiling down to land that is occupied by the two bedroom residence and a two car garage yields 0.029 acres.
Deducting all of this from the land surface available for agricultural production is 0.017 acres or 741 square feet.
The lot has been a nonconforming lot since 1971.
There was a 25 foot wide sliver of land added to the west property line in order to avoid the west property line from intersecting the old barn that was erected in the mid 1920’s.
It was identified as a double AA zone – the R-A-2 the lot must be no less than two (2) acres.
As was reviewed during work session – the septic system leach field has been approved by MCDH. Mr. Heganovic concurred the approval for a septic system.
There was discussion of storm water drainage during our work session and– he submitted a preliminary storm water analysis to our town engineer.
On the site plan submitted to the Town engineer, a foot note is in the south east corner showing a proposed four foot (4’) diameter dry well.
Mr. Romeo explained the site plan attached to the white board.
The existing barn has to come down or he can’t extend leach lines as required by MCDH.
There is a wood picket fence around the property with a gap left in anticipation of further development.

Jasmen Heganovic -
He can’t build anything because of so many codes and because the Town won’t let him build anything so the value is going down. One of his neighbors wants to pay $2500.00. He said his neighbors’ wants to buy for cheap, for nothing.
Continued Application #17Z-0018

He was happy to use for pre-existing just for storage – but he has spoken with Mr. Morehouse and has had to go to court with Mr. Suveges for issues.
From 2009 to 2014 there was $44,000.00 tax and zoned residential, Mr. Heganovic never knew it was residential, he always thought non-conforming pre-existing.
He says by the codes before 1981, it was almost perfect for building a house.
The Zoning Board changed codes and created his hardship then Zoning Board changed it again. He asks why the town assesses it at $22,000.00. Who else in the area on half acre has this kind of assessment? No one.
He has put a lot of money into the property, he realizes this is his problem, created his own hardship, but wonders what will the Town let him use the property for?
He spoke of the drainage issues.
He now has a court date but no matter what he gets approved for it will not be enough for his neighbors, they will ask what he is doing. Mr. Heganovic also spoke of the traffic/car issues.

Boards Comments / Questions:
Chairman DeLau -
Stated the application was previously submitted and unanimously denied therefore asked Mr. Heganovic to explain what is different with this application.
Previously the Board determined that granting the variance would make it out of character for the neighborhood.
Part of resolution read was that the variance was substantial
Dan says it could be considered a self-created hardship as he had a lawyer; but he did not understand or look into the zoning to see if he could build at the time of purchase.

Presenter answers:
Jasmen Heganovic -
The difference from previous application to now is that they now have MCDH approval and has downsized to two (2') feet less variance.
There is a brand new house built near him which didn’t need a variance, why is his house considered different?
Before 1981 it would have been ok…but he purchased in 2014 – (trying to show that he did not create the hardship)

Peter Romeo -
Relative to the significance of the setback, there are five properties nearby – he would classify this as an immediate neighborhood.
How does one define a neighborhood – there is no correct answer.
He mentions the following examples of buildings close to the road on the neighboring properties:
2701 Penfield Road (barn) – plus or minus 18 feet south of the right of way.
2716 Penfield Road is plus or minus 42 ft.
2755 Penfield Road has two buildings on the site.
House on east is 39 feet plus or minus.
House on west is 30 feet plus or minus.
2780 Penfield plus minus 37 feet.
If you average those properties 33.8 feet; as these are in immediate neighborhood.
Boards Comments / Questions:
Board Member Grussenmeyer - how much land goes with those properties?
Peter Romeo - does not know
Board Belgiorno- how many were pre-existing non-conforming
Jim Costello - says all of them were.

Supporters and Opposers:
Scott Cadella - Character witness in support of Mr. Heganovic, he’s a craftsman, a diligent hard worker, and asks can we give him guidelines, so he can do it properly. He would be a good addition to Penfield.

Bob Green – Mr. Green is in support of Mr. Heganovic’s application. He says the town is against it, no one wanted to clean it or buy it, Mr. Heganovic is the only one that took care of the property, he know he will be a good custodian to the property.

Matt Jewett – Opposed to the application. He feels the setback are significant, feels it was self-created, he was going to sell equipment on it and that was not allowed. Now he wants to put a house on with wrong setbacks and thinks it is a very significant variance request that will not fit in with the character in the neighborhood.

John and Amy Macaluso - They do not have difficulty with him building a home. They wanted to build a barn on 2.7 acres, and were denied. If Mr. Heganovic gets to build a house on such a small lot, then why couldn’t they build a barn?
It won’t fit into the landscape of the neighborhood.
Mrs. Macaluso has concern with water issues and says the parcel of land is so small, this house will be right on the road. How tall will the house be?
If we let him do this…will everyone want a house on small acreages?

Boards Comments / Questions:
Jim Costello -
Most of Penfield was zoned as half (1/2 ) acreage development, and the reason why it went to higher acreage is because we knew there would be no sanitary sewers in East Penfield probably in our lifetime. The Town Board rezoned the properties larger into one and two acre lots. The one acre lots were closer to where sanitary sewer systems would have the ability to change over at some point.
There are a few parcels in East Penfield that are less than one, two or even half an acre. The Pre Existing non-conforming comes into place here because of those properties. There are properties all over Penfield that are less than two acres and were able to be developed because they could meet the criteria set by the town and county.
For Mr. Heganovic’s property can only be zoned residential right now. Whatever it was is no longer valid because after a period of one year of a business stopping; you lose that status and lose the ability to run the business and the property goes back to residential use only.
Ninety two percent 92 % of properties in Penfield are zoned residential, you can do certain
Continued Application #17Z-0018

things on them such as agricultural or you can build churches or schools but residential is the overlying district.
If it was pre-existing prior to 1962, there were no rules, you could do what you wanted on your property, but in 1981 the Town adopted new codes; if you had a pre-existing non-conforming you could continue and here the previous owners may have used the property for a business and they may have done so after 1981, but they lose the right to use it as a business when the business stops after one year.

**Board Member Cinti** -
Speaking to Mr. Jewett - Is there anything that is specifically affects your property?

**Matt Jewett** -
He feels that the way the property is being used now will continue. He believes there is a business there and a fence doesn’t hide all the construction equipment or dump trucks coming and going.
There is no issue of people or cars coming and going, but it is clearly a business operation.

**Board Member Silins** -
If that lot turned to a home, would that alleviate some of the concerns of the lot being used the way it is today?

**Matt Jewett** -
In the three years he’s owned it, he hasn’t listened to the town, he still has trucks coming and going and even if the business goes away Matt thinks there are still significant variances.
The way he reads the plan shows a concern for a continuing business-which may be an assumption but is still a concern.

**Presenter’s statements:**
**Jasmen Heganovic** -
Mr. Heganovic explained what he has on his property. He has loader and back hoe, he says other people in neighborhood have the same things, the only difference that allows that type of equipment for them, he says, is that the town says the other people have a home on the property.

He is using the equipment to take stumps out and has never moved the equipment from the property. He has two jobs and goes as often as he can to work on the property, when he does it is sometimes to stay late, he says neighbors call police asking what he is doing so late at the property.
He says his equipment is used only on his property and they won’t be there once he is done.
If he builds a house he won’t have room for anything, as he will have to put a septic system in and it will take up half the lot.
He has stones and bricks that he intended to build a wall, a patio, and the town inspector says he can’t because it’s non-conforming; he can’t even build a set of steps.
He continued using his truck with snow plow to clean the driveway but not as a commercial use.
Mr. Heganovic confirms there will be no rubble or equipment left at the property if he gets his house put up.
Continued Application #17Z-0018

**Boards Comments / Questions:**

Chairman DeLaus -  
A resident asked a question about the height.

**Presenter Answer:**

Peter Romeo -  
From the road it will be approximately twenty seven (27) feet tall.

Special conditions required by the Board:
Staff and Counsel discussed under the State Environmental Quality Review act, this is a Type I action requiring coordinated review with the Planning Board.

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2. Nicholas Manou, 52 Kevin Drive, Rochester, NY 14625 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 at 2505 Browncroft Blvd. The property is owned by Calvary Church of Rochester, Inc. and zoned LB. SBL #123.07-2-47.1. Application #17Z-0023.

**Appearances by:**
Nicholas Manou, 52 Kevin Drive, Rochester, NY 14625

**Presenter’s statements:**
**Nicholas Manou -**
Wants to rent 2505 Browncroft for a restaurant and has been in business since he was 15 years old. He helped his father with a restaurant they owned in East Rochester and would like to open another restaurant at this time.
Will be open Mon – Sun until 9:00 p.m. - Most holidays closed.
Doesn’t have to make any changes except get approval from the Town to put a submarine restaurant there. It is 1000 square feet.
The restaurant will have an open kitchen. They might have seven foot (7’) hood, a grill, refrigeration, salads, cold and hot foods, once in a while soup and in the summer, salad.
It will be located where the old barbershop was.

**Boards Comments / Questions:**
**Board Member Grussenmeyer -**
Gave Mr. Manou the DRC (Department Review Committee) report to read which speaks of back flow preventers and ansul systems.
Requested Mr. Manou to check on all this.
Will there be outside dining- will people have to walk into parking lot to get around tables?
How many months of year does he want the outdoor dining.
Will have trash containers outside?
What kind of signage is being requested - Has a right to free standing sign.
Mr. Grussenmeyer was trying to ruin the surprise of the name of the restaurant – Mr. Manou would not give it up!

**Presenter Answers:**
**Nicholas Manou -**
Mr. Manou states he will check into all requests presented by the DRC review.
He wants to put two or three table and approximately six chairs out on the sidewalk.
The area is eight to ten (8-10) feet. He will accommodate the area for the tables as needed.
No umbrellas will be needed and he will put the tables and chairs out when the weather is nice.
He wants the same six foot (6’) sign same as the others in plaza and it will be green, and stay within the code. He is not asking for a free standing sign.
The name of the business is a secret but if it depends on the vote, he was willing to give it up today.

**Boards Comments / Questions:**
**Chairman Dan DeLaus -**
The plaza is packed on Sunday mornings – will parking be a problem?
How many people in restaurant?
Continued Application #17Z-0023

**Presenter Answers:**
**Nicholas Manou** -
He thinks his business will be pick up or delivery mostly but will have inside seating with seven or eight tables with thirty two chairs. 
The other business in the plaza have different hours and there should not be any issues regarding parking. 
Mr. Manou and his employees will park in back. 
Dumpsters will be in back for cardboard and trash. 
There will be no music in the restaurant.

Special conditions required by the Board:

For use of tables on the sidewalk they will have to maintain access along the walkway up to three tables and will have to comply with the Fire Marshal.

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3. Paul Berndt, 50 Tall Tree Lane, Penfield, NY 14526 requests an Area Variance from the approved subdivision requirements to allow an addition with less than ten (10) feet between residences at 50 Tall Tree Lane. The property is owned by Faith and Paul Berndt and zoned R-1-15. SBL #109.03-1-147. Application #17Z-0025.

Appearances by:
Randall Peacock, 70 Linden Oaks – Suite 110, Rochester, NY
Paul & Faith Berndt, 50 Tall Tree Lane, Penfield, NY 14526
Nancy O’Donaghue, 38 Tall Tree Lane.
Allan and Linda Etkin, 48 Tall Tree Lane spoke and submitted a letter from neighbor at 41 Tall Tree Lane.
Robert Dentico, contractor

Presenter’s statements:
Randall Peacock -
Mr. Berndt’s contractor submitted a building application to the town in November with a site plan to Tom Alexander, at the time he was given the ok to build as long as he meets fire separation distance of five feet. The building permit was issued.
After the permit was issued the contractor was called and told it was not ok and would need a variance.
Ms. Berndt has a medical condition and a letter from her Doctor was submitted.
They needed to look at how to modify the house in order to create a spot to put a Jacuzzi tub in association of her medical condition.
This subdivision was built in the early 80’s, they all had small lots, and buildings sit close to property lines. The homes share an ‘open space’.
Their house sits seven point six feet (7.6’) from existing property line and the adjacent neighbor sits right on property line.
The plan for the remodel is to modify the interior of the building by removing two small closets and enlarge the bathroom and proposing to put a bump out back of eight (8’) feet deep and ten foot seven inches (10’7”) wide to be a closet.
Doesn’t think it is detrimental to the neighborhood as all the houses enjoy the same rights. The addition meets the fire separation distance of five feet. It conforms to town code and will be built for fire proofing to code.
On the site plan Mr. Peacock unintentionally wrote in that it was six foot, eight inch (6.8’) set back, it is actually five foot four inches (5’4”) set back.
The corner of building is five foot four (5’4”) from the property line.
They are asking for the minimum necessary and are unable to push further from the property line as there is a three season sun room and have to keep two feet (2’) between addition and the three season room for maintenance.

Board Comments/Questions:
Chairman DeLaus -
Mr. DeLaus gave him a letter received from his neighbor.

Board Member Silins-
The space for maintenance and asked how would you get to the back yard as there is only five feet (5’) space to walk through? How would you get a shed back there?
You have to be 10’ from houses per zoning of the development.
This is a narrower lot than others in the neighborhood with pie shaped lots.
Continued Application #17Z-0025

**Board Comments/Questions:**

**Chairman DeLaus** -
During some arguments from the applicant regarding the plans being approved by the inspector, Mr. DeLaus mentioned there are other ways to find out correct codes and the town inspector is human and can make a mistake.
Is it fair to say the primary motivation is the health and the tub and not the closet space?

**Board Member Cintis** -
Have they explored closet organizers?
Is Nancy’s house the same plan?

**Presenter answers:**

**Randall Peacock** -
To get to the back yard through the five foot area, you would carry 2 x 4’s one by one.
There is a shared green space and may be easement in back.
The plan was placed it in a manner that they felt they could work with.
Designed by town inspector saying the plan was fine and could do it as long as he maintains the five foot (5’) fire separation.
There are other properties in hood where houses are closer than 10 feet.
Yes…but there is clothing stored in racks in other bedrooms.
Wants to have closet off master bedroom.
The primary reason for the addition is to accommodate the tub needed for medical reasons.

**Jim Costello** -
Can’t add to other areas of the house where there would not be too close to property line.

**Neighbors spoke** -
Spoke of interior design of the houses, lot lines, how it will look from the road, whether there are deed restrictions, why they couldn’t build out from the back, effect on property values. Why they couldn’t move the addition closer to sun room.
There was much discussion of where property lines, possible blanket easements, possible deed restrictions and how to access the back yard.

**Randy Peacock answers** -
You can’t see the addition from the road.
There are closets but not a walk in closet, it goes thru to the bathroom.
They don’t want to change the sun room; it’s built as a system which is very difficult to take apart.
Doesn’t think it makes an impact on neighbors’ house. The neighbors can still get through to the back yard.
They did have a smaller plan initially, but found it wouldn’t make much difference. They tried closet organizers but closets just too small to make it work.
Continued Application #17Z-0025

**Paul Berndt – the applicant** -
Is a Real Estate attorney and is the Title council and states there are no restrictions, no blanket easements.
When he and his wife bought the house this medical issue was not an anticipated condition.
He knows the shape of the lot and knew what he was in for and understands about the access in between the parcels.
There is no hindrance to the neighborhood, and there is no easement for neighbors to go thru his property; it would be his issue alone.

Special conditions required by the Board:

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<td>There are only 13 parcels that it effects and they have a difficulty with the layout of the land and its setup.</td>
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4. Timothy Harrington, 1586 Fairport Nine Mile Point Road, Penfield, NY 14526 requests an Expansion to a Pre-Existing Non-Conforming Structure under Chapter 250 Article VII-7.13 of the Code to allow a 2nd floor addition at 1586 Fairport Nine Mile Point Road. The property is owned by Timothy Harrington and zoned RA-2. SBL #110.03-1-5. Application #17Z-0026.

**Appearances by:**
Timothy Harrington, 1586 Fairport Nine Mile Point Road, Penfield, NY 14526

**Presenter’s statements:**
Timothy Harrington -
Currently owns a one room school house built in 1849. It has an existing second story which is basically a Cape Cod. He wants to take off roof and build a second story.

**Board statements / questions:**
**Board Member Silins:** -
Will you be closer to road?
Would you go over the garage?
Are the other cape-cod homes nearby taller?
Are the other houses closer to road?
Will you have any outside lighting?
What kind of siding will be on the addition?

**Board Member Grussenmeyer** -
What will you use for siding on the top half of house?

**Board Member Belgiorno** -
Will you be adding any trees for buffer?

**Board Member Cinti** -
Is it structurally sound to hold the 2nd story? Has an engineer looked at it?

**Jim Costello** -
Will maintain stone façade??

**Presenters answers:**
Timothy Harrington -
House is a little closer to the road than the other Cape-Cod home. No plans to build over the garage. L.E.D. recessed lighting facing downward in the soffit. Plans to maintain the stone façade on the bottom and have Masonite siding or vinyl on the new top half. The building is structurally sound to hold a second floor and has checked with an engineer. He will reinforce the walls with cement footings. There are currently 12 x 12 piers on the bottom which will be reinforced with cement.
Continued Application #17Z-0026

Special conditions required by the Board:

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<td>Allow second story above the residential area, but not over the garage</td>
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Christopher Kambar, PE-APD Engineering, 615 Fishers Run, Victor, NY 14564 on behalf of Aldi requests an Area Variance from Chapter 250 Article VII-7.7-D, Chapter 250 Article X-10.12-B, Chapter 250 Article X-10.13-B and Chapter 250 Article X-10.13-C of the Code to allow less parking, a larger freestanding sign, more building mounted signage and more than one (1) building mounted sign at 2208 Penfield Road. The property is owned by Aldi Inc. and zoned GB. SBL # 140.01-1-6.1. Application #17Z-0021.

Appearances by:
Christopher Kambar, PE-APD Engineering and Architecture, representing Aldi - 615 Fishers Run, Victor, NY 14564

Presenter’s statements:
Christopher Kambar -
He went in front of the Planning Board and they are proposing an addition to the store off the front long wall approximately nineteen feet. This will increase square footage of building and lose some parking- they are slightly deficient in parking requirements. They are allowed a twenty percent deduction if they have shared parking, which they do in the plaza. Aldi is expanding and remodeling all of their stores. They have run into some zoning issues with parking so they compiled an information parking study. There is a 74 parking stall minimum, they currently have 68 parking stalls. They are reconfiguring the parking stalls to make up a few of the parking spaces. Aldi’s is not concerned about losing parking space, as they don’t think this will be bringing in many new customers, but they think they will just have a higher price point per customers in the store. This part of variance is to allow less parking. The next variance is for more than one building mounted signage and a larger freestanding sign. Currently they have a corner type entry signage – Keeping same elevation but want a two sided entry look. They have two logo signs and two food market signs. One side faces parking lot, and one side faces Route 441 and they want it to say Aldi Food Market. There are two towers, two different heights, so they can’t just join the signs together. Bank of America was able to join their name and logo (in the plaza) (example) Aldi feels this is a pleasing look and there is similar signage in the area.

Board statements / questions:
Board Member Cinti -
How high are each letter in ‘Food Market’?
Would you want to keep the free standing sign?
How much of ‘Aldi Food Market’ covers the building. From the word ‘Aldi’ to the end of ‘Market’?
Would you go smaller?

Presenter Answers:
Christopher Kambar -
The letters in Food Market are two feet (2’) tall and Eighteen (18’) long. They will be back lit with L.E.D. lighting. They are keeping the free standing sign the way it is. The store front length is 191 feet on the side of the parking lot and 103 feet on the Route 441 side. The building itself is twenty foot, eight inches tall (20’.8”).
The Aldi logo is eight feet (8’) there is ten to twelve feet in between and ‘Food Market’ is nineteen (19’) feet = Thirty Seven feet (37’).
This is the normal size for all Aldi branding.

Jim Costello -
Explained how they come to square footage.

Christopher Kambar -
382 square feet – the amount of square footage asking for is 226 square feet.

Chairman DeLaus -
His opinion is he doesn’t think they need to put ‘Food Market’ on the building.

Board Member Grussenmeyer -
You would probably want the Aldi sign (logo sign) versus the ‘Food Market’ part.

Christopher Kambar -
He says not everyone knows that it is a food store because the name is not always recognizable to potential customers.
They want to have all the stores uniform.
The Penfield store has unique architecture.

Board Member Belgiorno -
This design is similar to the Corner Stone restaurant and they gave up their free standing sign.
If there are two building mounted sign, then they would have to give up a free standing sign.

Board Member Cinti -
Would be willing to ask corporate about giving up the free standing sign?

Christopher Kambar -
He wants an answer tonight, as they have already put it off as they had to go to the Planning Board. Mr. Kambar thinks they have a unique situation
When they rebuild the front it will be square.
Continued Application -17Z-0021

Special conditions required by the Board:

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Board Member Cinti Motion - to grant Special Permit four mounted signs and no free standing sign

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**NO SECOND** (For Board Member Cinti motion)

Board Member Grussenmeyer Motion – to grant a permit to grant two Aldi sign with no food market and no free standing sign

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**NO SECOND** (For Board Member Belgiorno motion)
Continued Vote Application -17Z-0021

Board Member Silins motion for - Two Building mounted signs and give up free standing

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Vote for the Parking Space Variance:

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<td>To approve the reduction of parking spaces.</td>
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Nathan Buczek-TY Lin International, 255 East Avenue, Rochester, NY 14604 on behalf of Sam Kaiser-Glendoveers requests an Expansion to a Pre-Existing Non-Conforming Use under Chapter 250 Article VII-7.13 of the Code to allow a parking lot expansion at 2328 Old Browncroft Blvd. The property is owned by WDFA LLC and zoned R-1-20. SBL # 108.18-1-1. Application #17Z-0024.

**Appearances by:**
Nathan Buczek, TY Lin International, 255 East Avenue, Rochester, NY 14604
Mr. Lindscoog – 40 Willow Pond Way Penfield, NY and VP-Penfield Trails Committee

**Presenter’s statements:**
Nathan Buczek -
Requesting expansion to preexisting non-conforming use to add a parking lot on the east side of property. The banquet facility currently has maximum of 200 people occupancy and they have 48 parking spaces.
People will park on Old Browncroft Blvd and it is an inconvenience for people in attendance of events and is a safety hazard because Emergency vehicles are restricted in trying to get through. The parking lot size is 120 feet wide by 150 feet which approximately 18,000 square feet.
There are site constraints and design elements for the property with Irondequoit Creek on one side and a wetland buffer on other side
There is a hill 40 feet tall where they want to put parking lot and have stage one would be for a contractor to cut hill down over time and be able to fill and grade it out to get parking lot in there. Went to Planning Board for fixed plan review and they said to come to Zoning Board for the pre-existing non-conforming use.
If they can’t get expansion they can’t move forward.

**Board Member Belgiorno -**
How many parking spaces will you add?
What are code requirements for 200 people?
Where is material going?
Why a gradual time frame of the project?
Is it to make more capacity inside or service existing?
Are you aware there have been complaints about noise?

**Nathan Buczek answers -**
Glendoveers wants to add 37 spaces. For 200 people the code requires parking for 195. Existing spaces are way under with 48 spaces. They can only fit 37 extra because once they grade it out and do tie back slopes, this is the space they are left with or they would have to get expensive retaining walls.
Where the material is going is to be determined, and hope for a contractor to take the fill out.
If no contractor will take the fill then the project doesn’t move forward.
The gradual time frame is because they have to wait for a contractor to take the fill.
They have to work out staging and phasing of the project for example if in six months they cut back and grade and run out of money, they will have to wait. It will be a gradual plan.
The new parking is to service existing patrons.
They usually have 30-40 vehicles parking off site. Sometimes they bus them in.
Mr. Buczek is not aware of complaints of noise and thinks adding parking lot shouldn’t increase noise.
Continued Application #17Z-0024

**Chairman DeLaus** -
Gave him an email to read that Board Member Belgiorno was referring to.

**Nathan Buczek** -
Will share the email with his client to address.

**Board Member Belgiorno**-
This will be a bowl effect?
How will effect drainage?
Zoning tries to make the use into greater compliance with the code – can you address this?

**Nathan Buczek** -
Will cut back the berm looking to east and the existing hill is almost vertical in spots will be pushed back, they will have two on one slopes and may need retaining walls. The grades would go toward (2 percent) toward the wetlands to the north and a berm/buffer to Old Browncroft.
Drainage – any will get collected and they are thinking to make possible to dry swales which will drain and they will have a split, a small basin to contain drainage.
We are under parked by code so we will bring us more up to code.
For the compliance question – This will keep parking on site and not on the road…so not blocking ambulance or fire trucks.

**Board Member Grussenmeyer** -
What I hear you say…
Is you need the spaces but only if we get paid by someone to take the dirt.
Is the owner booking too large a party for his space?
FLOOD PLAINS, fed state wetlands
County Park involved….issues / approval have to be addressed first,

**Nathan Buczek** -
The plan is still in the works.
The plan is if it comes down to the town saying they have to get rid of it by certain time, then that is what they will work with.
The plan was to work with a local contractor or excavator that could benefit for getting fill and owner in getting rid of dirt.
He has max of 200 capacity not sure how he is booking.

**Chairman DeLaus** -
He is supportive of more parking but there is a lot of unanswered questions particularly environmental.

**Board Member Belgiorno** -
Suggests that the Planning Department be the lead agency on this.as there are flood plains, stream protection, Federal and State wetlands, and a county park is involved.
Mr. Lindscoog – Vice President, Penfield Trails Committee
Mentioned they have trail heads located right next to Parking lot and are in current negotiations with the Town Supervisor, the Parks Department, the County of Monroe, the State of New York to have a trail link between Ellison Park and Lucien Moran Park.
They are not opposed to the parking lot expansion but the area needs updating because there is parking for the trail and a kiosk there. Also the trails committee would also like better signage there.

Board statements / questions:
Chairman DeLaus -
This will be on our agenda without anticipated time line. As far as the noise issue, that should be addressed soon.

Special conditions required by the Board:
Planning Board to do SEQR and Zoning Board will send a memo to the Planning Board that we are in favor of the project and this will be on our agenda without anticipated time line. As far as the noise issue, that should be addressed soon.

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Thomas Greiner-Nixon Peabody, 1300 Clinton Square, Rochester, NY 14604 on behalf of Verizon Wireless requests an Area Variance from Chapter 250 Article XIII-13.11-B-6-e-1 of the Code to allow the construction telecommunication facility with less setback in the right-of-way near 715 Panorama Trail South. The property is owned by Monroe County and is zoned GB. Application #17Z-0020.

**Appearances by:**
Nate Vanderwall - Nixon Peabody 1300 Clinton Square, Rochester, NY 14604
Mark Quilig – site consultant

**Presenter’s statements:**

Nate Vanderwall -
They are seeking the construction of a telecommunication facility with less setback in the right of way. Verizon wireless, licensee, and regulated by FCC and in order to maintain licenses they are obligated to provide their threshold of service throughout their licensed area so they constantly review network, current issues and anticipated issues.

They reviewed the network area in the Linden Ave site (Macro site) which is located South West of Panorama Plaza site.

The alpha sector here has become exhausted - unable to accommodate additional traffic on the network. Part of the area served is Panorama Plaza and Verizon is finding there is a high concentration of uses which is typical of retail areas - not just voice but data usage as well. These are called ‘hot spots’ and need small cell or micro cell facilities in order to handle the needed increased service requirements.

A single antenna meant to provide coverage in a finite area, which provides relief of the cell tower. Once you find hot spot, you address network issue, and where can you put it.

**Board statements / questions:**

Board Member Belgiorno and Board Member Grussenmeyer -
Inquired: what do the green and red areas indicate on the map.

**Presenters Answers:**

Nate Vanderwall -
The green area on the map is the coverage area. The red circle is search area; the bounds; of the service that will be relieved by the Linden Avenue site.

Jim Costello -
Does the cell tower have to be in center?

Nate Vanderwall -
The cell tower does not have to be in the middle but if you move it from its intended coverage area then it would not be able to meet RF (radio frequency) coverage area.

So now you’ve identified the area have to consider the height and area you are considering. The options available are the rooftop of plaza, some of the buildings in area and existing utility poles were explored.
Negotiations with DDR which owns the buildings were unsuccessful for agreements as were RGE negotiations to use their poles – they couldn’t accommodate additional equipment.
Continued Application #17Z-0020

The next option is to put up a new utility pole. They found an option in a county right of way that has existing poles and determined that was appropriate site, as it meets Radio Frequency objectives and there is an area for installation of the pole.  
It would be 29 ½ foot pole with three by one foot antenna on the top of the pole. 
This project needs site plan approval from the Planning Board which tabled the application pending a decision from the Zoning Board approval. 
The telecommunications facilities ordinance requires a 200 foot set-back for towers and it cannot meet 200 foot setback.  
Seeking variance from the ordinance requirements.

**Board Member Belgiorno** -
Asked about existing poles in the area.  
What is material base?  
Have you done a search for co-locations?  
Is there a possibility that another carrier would be add to this pole?

**Nate Vanderwall** -
There are two or three poles in front of a bank and the intersection of Penfield Road.  
The pole is made out of wood and will look like utility pole.  
Yes, they did search for co-location but there were no existing poles to co-locate on. 
This pole is just designed for a single facility.  No additional carriers could be added.

**Board Member Silins** -
If there is another pole, could you use it?  If there wasn’t one there, would they have to come in front of us?

**Jim Costello** answered  
They are trying to change requirements, right now yes they would’ve had to come before the board.

**Board Member Grussenmeyer** -
Why not use the plaza near Panera Bread or Tops?

**Nate Vanderwall** -
Through the extensive negotiations with the Landlord of the plaza he/she would not allow the pole right on the plaza site.

**Jim Costello** -
Other than getting permission from the County, what kind payment or taxation is involved? 
You aren’t getting this for free-you will have to pay someone something? What is the rational from private property to county property?

**Nate Vanderwall** -
They obtained a permit from Monroe County  
The pole will be installed by an SQF company and then Verizon entered into the licensing agreement with them.
To answer Jim Costello:

**Mark Quilet** - Tillson Tech
We could go on private property but in this instance the only place it works was in a right of way. He doesn’t know right of way laws in terms of payment across the board but typically a municipality or town can only charge amount equal to maintaining it. So the Right of Way is there to give services to community and is not necessarily rent situation.

**Board Member Comments/Questions**

**Board Member Silins** -
Asked if Micro Poles are pretty new?

**Board Member Cinti** -
Can this be tampered with by people and is it secured?
What if a snow plow hits it?

**Nate Vanderwall** -
Yes, Micro facilities are only about three or four years old. There are a variety of design installations.
It is enclosed and has a unique key for security.
Same as if any other plow hit a pole.

Special conditions required by the Board:
Zoning Board wants to have a coordinated review with Planning Board on SEQR

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Discussion of Tabled Items at Deliberation:

**Salvatore Fantauzzo – 17Z-0002 – 1661 Empire Blvd. Webster, NY 14580**

Update is - They are Submitting to Planning Board for site plan approval next week and the Planning meeting is in a month (June meeting). They completed a survey, the plan reflects the change in numbers and they’d like to move ahead and submit next week a preliminary final with the Planning Board.

**Board Member Grussenmeyer:**
What is the difference between the two plans?

**Greg McMahon** -
The house is staying as is and is being converted to offices for Sam’s businesses. The building in back will be a garage on the main level and his home on the 2nd level. The variances are set back and coverage.
New set back variances: Front set back from Rossman (80 feet is required per code) - as the existing house is at 14.29, they are asking for the new garage building of 16.79 feet – previous was 19.8 feet.
Asking for rear set back of 10 feet (30 feet is required per code)
And a side set back of three feet (20 feet is required per code)
Maximum lot coverage is 65%, they are asking for 68.6%. (increase of 3.6%)
They meet the code for parking and the front set back off Empire is pre-existing.

**Board Member Silins** -
The structure in the back is now larger than previous. It is now at 52’ x 50’ and thinks the structure is still too large.

**Board Member Cinti** -
Asked about the neighbors

**Salvatore Fantauzzo** -
Storm water litigation to be further addressed by the Planning Board.
Salvatore spoke with the various neighbors and seemed to relieve their questions and issues, regarding water, seeing Empire, seeing lights, house values, parking, about making garage a little smaller, which he would make each garage door a little, and change the stairs.

**Greg McMahon** –
The size of garage dictates the size of the upstairs. The entire second floor is not going to be living space, part of it is going to be a large deck in the back corner.

**Chairman DeLaus** –
Discussed that he thought we would have more information from Planning Board to help with decision. Chairman DeLaus told Mr. Fantauzzo that the Zoning Board at this time is generally not in favor of the variance requests, but if the Planning Board comes back and thinks it is ok, then we may change our mind.
Continued Tabled Application - 17Z-0002

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Discussion about next meeting.

There being no further business the Board adjourned this meeting at _11:05_ pm. These minutes were adopted on _____July 20, 2017_____.
