ZONING BOARD
MEETING MINUTES
JUNE 21, 2018
Penfield Zoning Board of Appeals  
JUNE 21, 2018 MINUTES

The Zoning Board meeting was held at 6:30 PM local time Tuesday June 21, 2018 in the Auditorium 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>
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<tr>
<td>Daniel DeLaus, Chairperson</td>
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<td>Joseph Grussenmeyer</td>
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<td>Marie Cinti</td>
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<td>Mike Belgiorno</td>
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<td>Andris Silins</td>
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<th>ADDITIONAL STAFF</th>
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<tr>
<td>Peter Weishaar, Legal Counsel</td>
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<td>Jim Costello, Building and Zoning Administrator</td>
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<td>Kristine Shaw, Secretary to the Board</td>
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II. Regarding Minutes from Zoning Board Meeting on April 19, 2018

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<th>Motion made by:</th>
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<th>Board Vote</th>
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III. Regarding Minutes from Zoning Board Meeting on May 17, 2018

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<th>Motion made by:</th>
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<th>Board Vote</th>
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BOTH APPROVED
IV. 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 June 21, 2018 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. Kirill Shebalin, 47 Dundas Drive, Rochester, NY 14625 requests an Area Variance to allow a shed with less side setback than permitted under Section 250-5.1-F (1) of the Code at 47 Dundas Drive. The property is owned by Kirill Shebalin and Nicole Greene and is zoned R-1-20. SBL #109.13-2-35. Application #18Z-0031.

Appearances by:
Kirill Shebalin, 47 Dundas Drive, Rochester, NY 14625
Mike Fallet 43 Dundas Dr 14625

Presenter Statements:
Mr. Shebalin is requesting a shed with a two (2) foot setback variance due to limited flat ground as most of the property is on a slope. They want to place it in the south west corner. The shed would not be visible from street and they have spoken to the neighbors on both sides, they have no issues with his project.
He will place the shed in front of where the neighbors’ basketball court and wood pile is.

Neighbor Statements:
Mr. Fallet is in agreement that the placement requested is the best place for the shed.

Board Comments/Questions:
Board Members asked about buffering, if there would be any electricity and if there was any difference in the slope by putting it at the two (2) foot rather than the ten (10) foot line.

SEQRA Determination:
Motion Made by: Board Member Grussenmeyer and Second by Board Member Silins

_ Type I Action. Further Action ________________________________

X Type II Action, not subject to further review under SEQRA.

_ Unlisted Action:
  ___ Negative Declaration (Action will not result in any significant adverse environmental impacts).
  ___ Further Action ________________________________

SEQRA Vote:
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes

Application Vote:
Motion made by: Board Member Grussenmeyer to Approve and Second by Board Member Silins
Board Members: Cinti, Grussenmeyer, Silins: Aye
Chairman and Board Members: DeLaus, Belgiorno: Nay
2. Bryan & Kerela Jones, 4 Jomanda Way, Fairport, NY 14450, request an Area Variance to allow a larger accessory building than permitted under Section 250-5.1-F (12) (a) of the Code at 4 Jomanda Way. The property is owned by Bryan & Kerela Jones and is zoned RA-2. SBL #141.01-2.2.1. Application #18Z-0034.

Appearances by:
Bryan Jones, 4 Jomanda Way, Fairport, NY 14450

Presenter Statements:
Mr. Jones is requesting an Area Variance for a fourteen (14) by sixty (60) foot extension to his Pole barn. The Pole barn is currently thirty six (36) by sixty (60) feet. He checked with the Town and at the time it was ok due to his lot size and then he found out rules had changed for the size allowed.
Mr. Jones addressed the five points regarded for a variance. He believes this is a necessary, he has a large RV he would like to store inside it. He went around and got a petition signed by neighbors to ok the project and submitted it with his application.

Board Comments/Questions:
The Board Members asked about use of the barn, lighting, any way he could install a car lift and if there would be any commercial use. Board Member Cinti asked if self-storage was an option and whether or not he would be willing to go smaller. She asked about the placement in relation to his house and the neighbors, and asked about any drainage issues. Board Member Belgiorno noted that the character of neighborhood of the neighborhood may be impacted as the building would be bigger than the house.
Chairman DeLaus asked if any other structures in the neighborhood were this size.

Presenter Statements/Answers:
Mr. Jones will use the barn and extra area to store his RV, a boat and old cars and he will allow his family to store things as well. He had thought of a car lift, but it is costly and he already has one. He prefers to keep his car on his own property rather than a Self-storage as he doesn’t trust the safety of the cars from damage or anything else. His yard slopes back and sideways and thinks there will be no issue regarding drainage. He has designed the pitch of the roof on the barn to be the same height as the house so it doesn’t stick up higher.
In regards to the size, he believes it will look better aesthetically, one reason being he wants the doors to be all the same size at eight (8) by ten (10) feet and in order to do that he has to go to fourteen feet wide. In keeping it sixty (60) feet long, it will match the size of the original structure. There are other large barns in the area.

SEQRA Determination:
Motion Made by: Board Member Cinti and Second by Board Member Silins.

X Type II Action, not subject to further review under SEQRA.

Unlisted Action:
  __ Negative Declaration (Action will not result in any significant adverse environmental impacts).
  __ Further Action ________________________

Type I Action. Further Action ________________________
Continued Application #18Z-0034

**SEQRA Vote:**
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes

**Application Vote:**
Motion made by: Board Member Cinti to Approve and Second by Board Member Silins
Chairman and Board Members: DeLaus, Cinti, Grussenmeyer, Silins: Aye
Board Member Belgiorno: Nay

Special Conditions or Comments by the Board:
Board Member Belgiorno thinks the building is just too big.
3. Joseph Franch & Susy Bordin, 71 Kings Mill Court, Penfield, NY 14526 request an Area Variance to allow a shed with less side setback than permitted under Section 250-5.1-F (1) of the Code at 71 Kings Mill Court. The property is owned by Joseph Franch & Susy Bordin and is zoned R-1-20. SBL #094.18-1-52.1. Application #18Z-0035.

Appearances by:
Susy Bordin, 71 Kings Mill Court, Penfield, NY 14526

Presenter Statements:
Ms. Bordin is requesting a variance for six (6) feet into the setback.
To the west of property is private drive and has twenty feet of setback.
To the east part of property there is a drop to swale leading to a retention pond.
In combination with side and rear setback the shed would come into almost the center of the yard.
Next year they will side it the same as their house and the doors will face the street and open onto the driveway

Board Comments/Questions:
The Board Members asked if she spoke to the neighbors and discussed other placement for the shed and asked about lighting.

**SEQRA Determination:**
Motion Made by: Board Member Silins and Second by Board Member Cinti

- Type I Action. Further Action __________________________
- Type II Action, not subject to further review under SEQRA.
- Unlisted Action:
  - ___ Negative Declaration (Action will not result in any significant adverse environmental impacts).
  - ___ Further Action __________________________

**SEQRA Vote:**
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins – All Ayes

**Application Vote:**
Motion made by: Board Member Silins to Approve and Second by Board Member Cinti
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins – All Ayes
4. Kathryn & Manuel Castro, 2164 Carter Road, Fairport, NY 14450 request an Area Variance to allow a two-story addition to an existing single-family residence with less side setback than permitted under Section 250-5.1-F (1) of the Code at 2164 Carter Road. The property is owned by Kathryn & Manuel Castro and is zoned RR-1. SBL #141.01-1-43. Application #18Z-0036.

**Appearances by:**
Manuel Castro, 2164 Carter Road, Fairport, NY 14450
Ed DeWolf, Contractor-Rose City Improvements, 234 East Miller Street, Newark, NY 14513

**Presenter Statements:**
Asking for a variance to put a fourteen (14) foot by thirty six (36) foot addition up and taking the old addition down. It will be a two bedroom addition and they would remove and replace a deck to the center area of the house, so they don’t have to change the footprint of the house. They have spoken to neighbors and they approve. The neighbor to the south has fifteen (15) plus acres and is thirty (30) yards from driveway with some trees and bushes for buffering.

**Board Comments/Questions:**
Board Member Cinti asked to describe the addition and asked what other options were considered. She inquired as to if the addition was going to come out from the front of the house.

**Presenter Statement/Answers:**
They want to use the same lines of addition from garage and porch and newest addition. Beyond garage is a pool so they cannot go that way.
The upstairs will be bedrooms, the downstairs will be a family room and exercise room that will lead off to the deck.
They looked at moving and scaling down the addition but would have to encroach into the back yard. There are no other options on current property if they are unable to do this project, they will have to look to moving. The front will match garage which is set back from the house.

Ed DeWolf, Contractor, described the reasoning behind the design.

**SEQRA Determination:**

**Motion Made** by: Board Member Cinti and **Second** by Board Member Grussenmeyer

- Type I Action. Further Action ______________________
- X Type II Action, not subject to further review under SEQRA.
- ___ Unlisted Action:
  - ___ Negative Declaration (Action will not result in any significant adverse environmental impacts).
  - ___ Further Action ______________________

**SEQRA Vote:**
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins – **All Ayes**

**Application Vote:**
**Motion made** by: Board Member Cinti to **Approve** and **Second** by Board Member Belgiorno

Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins - **All Ayes**

**Special Conditions required by the Board:**
Addition does not come out further than other addition on other side of house.
5. Clifford Pratt, 1347 Harris Road, Webster, NY 14580 requests and Area Variance to allow a larger accessory building than permitted under Section 250-5.1-F (12) (a) of the Code at 1347 Harris Road. The property is owned by Clifford & Lisa Pratt and is zoned RA-2. SBL #095.04-1-9. Application #18Z-0037.

Appearances by:
Clifford Pratt, 1347 Harris Road, Webster, NY 14580

Presenter Statements:
Mr. Pratt is requesting and Area Variance for storage pole barn. They are proposing to put it one hundred fifty (150) or two hundred (200) feet from the road so it will be in his front yard.
He found out they were partly on wetland area and handed in a Delineation Report from Diehlux, LLC with their findings. Diehlux, LLC determined there are no state-regulated wetlands located on or immediately adjacent to the proposed site.
If the Board allows the pole barn project he will take down an existing shed.
Each side of the property is lined by trees so you will only see it as you drive by.
On north side there is a house that is about two to three hundred feet away from the proposed barn and he has spoken to the neighbor and they don’t have any issues.
The barn will have lighting that will face the driveway and there are two overhead doors facing driveway and small door in back.
There will be nothing stored outdoors if the barn is approved.
Mr. Pratt mentioned there are a multitude of barns around neighborhood, so he doesn’t think it is out of character with the neighborhood.

Board Comments/Questions:
Chairman DeLaus asked some questions all the answers are indicated in the above statements from Mr. Pratt.

SEQRA Determination:
Motion Made by: Chairman DeLaus and Second by Board Member Belgiorno
___ Type I Action. Further Action ______________________
X Type II Action, not subject to further review under SEQRA.
___ Unlisted Action:
___ Negative Declaration (Action will not result in any significant adverse environmental impacts).
___ Further Action ______________________

SEQRA Vote:
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins – All Ayes

Application Vote:
Motion made by: Chairman DeLaus to Approve and Second by Board Member Belgiorno
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins - All Ayes

Special Conditions required by the Board:
No outside storage on the property and owner will take down other shed.
6. Frank Stolt/Stolt Realty, Inc., PO Box 25499, Rochester, NY, 14625 requests a Special Permit under Section 250-10.3-A of the Code to allow a freestanding sign at 1616 Penfield Road. The property is owned by Stolt Realty, Inc. and is zoned GB. SBL #123.20-2-45. Application #18Z-0033.

Appearances by:
Frank Stolt/Stolt Realty, Inc., 1618 Penfield Road, Rochester, NY, 14625

Presenter Statements:
The plaza currently has special permit for signage that was issued by the Town in 1986. They will take existing road sign and bring into compliance and add another road sign to include the names of the two businesses in the rear of the plaza. Thirty plus years ago the Town wanted plazas to just have a sign indicating a plaza but now as across the street at Panorama Plaza the businesses have individual signs as well. The building in the front has seven tenants and the existing sign will be for them and the additional sign for Advance Auto Parts and the Post Office.

Board Comments/Questions:
Board Member Belgiorno asked about the third parcel in front which is empty and asked if they are putting the sign on that parcel and asked if it was undevelopable. Mr. Belgiorno asked to see a depiction of the proposed sign and asked if the two buildings appeared as separate plazas. He asked if the name Pen Valley Plaza part was going to stay and if there will be any lighting. To clarify the current signs are in compliance with the code with exception of the restriction from 1987. Board Member Silins asked about the height of the signs.

Presenter Statements/Answers:
Mr. Stolt said the front parcel used to be a gas station and have no plans of developing it. He put a sketch up of the proposed sign and indicated it would be made according to code. Mr. Stolt said, the two areas seem to be separate even though they are connected by parking lots and driveways. As far as the Pen Valley sign, it was requested from the Town of Penfield at the time. The signs will have LED lighting. He would like the sign a little higher because there is a traffic control device on the road and there are big trees right next door.

SEQRA Determination:
Motion Made by: Board Member Belgiorno and Second by Board Member Silins

___ Type I Action. Further Action ________________
___ Type II Action, not subject to further review under SEQRA.
X Unlisted Action:

X Negative Declaration (Action will not result in any significant adverse environmental impacts).

___ Further Action _______________________

SEQRA Vote:
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins – All Ayes
Continued Application 18Z-0033

**Application Vote:**
**Motion made** by: Board Member Belgiorno to **Approve** and **Second** by Board Member Silins
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins - **All Ayes**

Special Conditions Required by the Board:
Parcel #1616 is the front parcel – this is where the sign is going for Advance Auto Parts and the Post Office that is on Parcel #1618 to the rear of the plaza. The existing road sign at #1620 will be updated.
7. Bruce Howlett/Benji’s Pizza & Grill, 1998 Empire Boulevard, Webster, NY 14580 requests a Conditional Use Permit under Section 250-13.3 and Section 250-5.6-C (1) (a) of the Code to allow outdoor dining at 1998 Empire Boulevard. The property is owned by Empire Park Management, LLC and is zoned LB. SBL #093.02-1-12.002. Application #18Z-0032.

Appearances by:
Jim Benjamin, Owner-Benji’s Pizza & Grill, 1998 Empire Boulevard, Webster, NY 14580

Presenter Statements:
Mr. Benjamin is requesting to add six (6) tables to an existing enclosed dining area and will add landscaping. The tenants of plaza have no objections. The restaurant has been in the plaza six (6) months. His store is usually open when the other tenants are closed. No tenants using it right now but they have expressed interest in taking their breaks there if there were tables.

Board Comments/Questions:
Board Members inquired about use of umbrellas and mentioned to double check with Code Enforcement before installing. Make sure there are trash cans. Inquired about music and lighting. Will there be table service or smoking allowed?

Presenter Answers/Statements:
He will be taking out a swinging gate. As far as music they have no plans yet, but may in the future have a guitarist. The lighting will be beaded lights, some up to the gazebo at ten (10) feet high. The restaurant closes at 9:00 p.m. It is a counter service establishment and no smoking allowed.

SEQRA Determination:
Motion Made by: Chairman DeLaus and Second by Board Member Belgiorno
___ Type I Action. Further Action ______________________
___ Type II Action, not subject to further review under SEQRA.
X Unlisted Action:
   X Negative Declaration (Action will not result in any significant adverse environmental impacts).
   ___ Further Action ______________________

SEQRA Vote:
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins – All Ayes

Application Vote:
Motion made by: Chairman DeLaus to Approve and Second by Board Member Belgiorno
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins - All Ayes
Tabled Matters

1. 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 Section 250-7.13 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.

Application Vote:
Motion made by: Board Member Belgiorno to Approve and Second by Board Member Silins.
Board Members: Belgiorno, Cinti, Silins - Aye
Chairman and Board Member DeLaus, Grussenmeyer - Nay

Special Conditions Required by the Board:
According to the Planning Board there will be no parking on one side

SEQRA determination/Vote:
Planning board determined
Tabled Matters continued

2. Pellittiere & Jonsson, PLLC, 441 Penbrooke Drive, Suite 112, Penfield, NY, 14526 requests Area Variances to allow less parking than required under Section 250-7.7-D of the Code, a building with less front setback than required under Section 250-5.5-D (3) of the Code and less side setback than required under Section 250-5.5-D (3) of the Code and a taller building than permitted under Section 250-5.5-D (4) of the Code at 2316 Fairport Nine Mile Point Road. The property is owned by 2316 Nine Mile Point, LLC and zoned BN-R, SBL #140.01-2-62. Application #18Z-0020.

Application Vote:
Motion made by: Board Member Cinti to Continue Table and Seconded by Chairman DeLaus Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins All Ayes

There being no further business the Board adjourned this meeting at 8:46 p.m.
These minutes were adopted on July 26, 2018