ZONING BOARD
MEETING MINUTES
JULY 26, 2018
The Zoning Board meeting was held at 7:00 PM local time Thursday July 26, 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:

<table>
<thead>
<tr>
<th>ZBA MEMBER</th>
<th>PRESENT</th>
<th>ABSENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daniel DeLaus, Chairperson</td>
<td>X-arrived 7:30 pm</td>
<td></td>
</tr>
<tr>
<td>Joseph Grussenmeyer</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Marie Cinti</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Mike Belgiorno</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Andris Silins</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

II. Regarding Minutes from Zoning Board Meeting on June 21, 2018

<table>
<thead>
<tr>
<th>Motion made by:</th>
<th>To:</th>
<th>Second by:</th>
<th>Board Vote</th>
<th>Y</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeLaus</td>
<td>DeLaus</td>
<td>DeLaus</td>
<td>Absent for Vote</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belgiorno</td>
<td>Belgiorno</td>
<td>Belgiorno</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cinti</td>
<td>Cinti</td>
<td>X Cinti</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grussenmeyer X</td>
<td>Approve</td>
<td>Grussenmeyer</td>
<td>Piston</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Silins</td>
<td>Silins</td>
<td>Silins</td>
<td>x</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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 July 26, 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 or listen to the meeting on our website at www.penfield.org.
1. Cynthia Arieno, 16 Hotchkiss Circle, Penfield, NY 14526 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 16 Hotchkiss Circle. The property is owned by Cynthia Arieno and is zoned R-1-15. SBL #139.06-3-33. Application #18Z-0038.

Appearances by:
Cynthia Arieno, 16 Hotchkiss Circle, Penfield, NY 14526

Presenter Statements:
Ms. Arieno is seeking an area variance for less side setback for her shed due to the irregular shape and sloped property.

Board Comments/Questions:
Board Members asked several questions regarding why she needed that location, what it would look like, what the view would be for the neighbors, if there will be lighting and contents for storage.

Presenter Statements:
Her back yard is surrounded by a privacy fence and she needs a level space for it and she will still need to build up the land. It will be an eight by ten (8x10) size with vinyl siding to match the color of the house. The placement is better for accessibility plus if it were placed by code it would block window, and be practically in the middle of the yard. There will be no lighting, none of her neighbors stated an opinion. She will store things that are from the garage in the shed.

SEQRA Determination:
Motion Made by: Board Member Silins 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:
Board Members: Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes
Chairman DeLaus: Recused

Application Vote:
Motion made by: Board Member Silins to Approve and Second by Board Member Belgiorno
Board Members: Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes
Chairman DeLaus: Recused
2. Dennis Andrews, 313 Valley Green Drive, Penfield, NY 14526, requests an interpretation of the Code Enforcement Officer’s determination of the minimum setback requirement for a proposed garage addition and, if the Board agrees with determination of the Code Enforcement Officer, an Area Variance to allow a garage addition with less setback than permitted under Section 250-5.1-F (1) of the Code at 313 Valley Green Drive. The property is owned by Dennis Andrews and is zoned R-1-20. SBL #124.20-2-5. Application #18Z-0042.

Appearances by:
Dennis Andrews, 313 Valley Green Drive, Penfield, NY 14526
Sabrina Reinhardt, 15 Summer Glen Drive, Penfield, NY 14526
Phyllis Sullivan, 21 Summer Glen Drive, Penfield, NY 14526
Steve Chamberlain, 321 Valley Green Drive, Penfield, NY 14526

Presenter Statements for the Interpretation portion:
He has learned that the Code Compliance officer for the Town of Penfield has determined that his North lot line is the rear property line, Mr. Andrews says it is the side lot line. He says his North and South lines are consistent with the rest of the neighborhood properties. The North line is the longer line and has a bend in it but the North and South lines have a common rear property line. He has vehicle storage containers in his back yard thirty (30) feet from line and it was always ok and a permit was not required. The town decided it was a rear lot line. His house is on the curve of his road.

Board Comments/Questions:
Board Members had a discussion regarding these lot lines.
Board Member Belgiorno made a Motion to call the ‘long’ line a rear lot line. There was no Second to this motion.
Board Member Grussenmeyer made a Motion to call the ‘long’ line as a side lot line. Board Member Cinti Seconded. Vote on this Motion:
Board Members Grussenmeyer and Cinti: Aye
Board Member Belgiorno and Silins: Nay
Legal Counsel Pete Weishaar determined this as a Denial

Presenter Statements for the Variance portion:
Mr. Andrews is seeking a variance for less setback than allowed for his garage addition and he showed on his map where the garage will go which is ten (10) feet from the lot line.

Board Comments/Questions:
The Board Members asked what he would do with the three (3) storage trailers that are on the property and how he would use them if he had the garage addition he is requesting. The Board members inquired as to how the garage would be constructed, if there will be any lighting, stone or pavement, if there would be a garage door and how he would get the cars in and out of the back portion. They asked if there would be any commercial use.
Presenter Answers for the Variance portion:
Mr. Andrews owns eight (8) special interest vehicles. They are all registered to him. The added garage means he would be able to store all of the cars and would be able to remove two (2) of the trailers. One will be kept for transporting. He explained the construction and there would be only interior lighting; he has no intention to pave or put stone down. He will drive along the left side of his house to move the vehicles in and out. Addition will be strictly for storage, there will be no commercial use, leasing of space or repair work done.

7:30 p.m. – At this point Chairman DeLaus came in and a determination was made to take a recess.
Chairman DeLaus made a Motion to go into an Executive Session, Seconded by Board Member
Vote: Chairman and Board Members, DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes

7:50 p.m. – Returned to Public Hearings
Chairman DeLaus spoke:
He stated the Vote for the Interpretation will stand at two (2) to two (2) and had Building Inspector Andy Suveges speak to clarify, for the record, setback requirements.

Andy Suveges:
The setback requirements for the trailers and recreational vehicles, is ten (10) feet to side and or rear lot lines.
The question about the minimum required setback for the garage addition is not really related to side or rear property line; in his opinion. It is a requirement of the code the primary structure, which is the house and the attached garage, are required to have a setback of thirty (30) feet from any property line. This is measured at a ninety (90) degree angle from the rear of the structure. In Mr. Anderson’s case because there is an angle to the principal structure we have to determine the thirty (30) foot setback.

Chairman DeLaus said he has been doing this for twenty years, and this is the first time this has come up and is trying to be fair to everyone. Mr. DeLaus thanked everyone for their time and patience.

The discussion continued with the applicant regarding size of addition, buffering, how far were other houses from him, how the neighbors felt and what they would see from their yards.

The neighbors voiced opposition of this project citing an exorbitant amount of cars and storage and the project being uncharacteristic for a residential neighborhood. Concern for setting a precedent and they would like to see something in writing for future owners of the property.
Continued Application # 18Z-0042

**SEQRA Determination:**

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

___ Type I Action. Further Action ________________

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

___ Unlisted Action:

___ Further Action ________________

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

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

Application Vote:

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

There was a discussion and a revote.

Motion made by: Board Member **Grussenmeyer** to **Approve the garage** and move one trailer behind garage and Second by Board Member Cinti.

Vote: Chairman and Board Members: DeLaus, Cinti, Grussenmeyer, Silins: **Aye**
Board Member Belgiorno: **Nay**

Special Conditions or Comments by the Board:
File a variance with clerk office, only used to store property owners’ personal belongings – no commercial use and no leasing of space. Remove two of the trailers and the third needs to be moved behind the garage.
3. Ashley Fiandach-Youngman and Stephen Youngman, 20 Kings Mill Court, Penfield, NY 14526 request an Area Variance to allow a deck with less setback than permitted under Section 250-5.1-F (1) of the Code at 20 Kings Mill Court. The property is owned by Ashley Fiandach-Youngman and Stephen Youngman and is zoned R-1-20. SBL #094.18-1-53. Application #18Z-0045.

Appearances by:
Ashley Fiandach-Youngman and Stephen Youngman, 20 Kings Mill Court, Penfield, NY 14526

Presenter Statements:
Seeking approval for a two foot four inch (2’4”) variance for their deck as they put a pool in for their son for developmental reasons.
She submitted a signature list with neighbor approval.

Board Comments/Questions:
Board Members asked if there would be any drainage issues and also pointed out that they added width for wheelchair accessibility.

SEQRA Determination:
Motion Made by: Chairman DeLaus and Second by Board Member Cinti
___ 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
4. Joseph Inzinna, 44 Greening Court, Rochester, NY 14625 requests an Area Variance to allow a front porch with less front setback than permitted under Section 250-5.1-F (1) of the Code at 44 Greening Court. The property is owned by Joseph and Lynn Inzinna and is zoned R-1-20. SBL #108.15-1-12. Application #18Z-0044

Appearances by:
Joseph Inzinna, 44 Greening Court, Rochester, NY 14625

Presenter Statements:
Mr. Inzinna is asking for a variance to build a front porch, he had obtained and received approval from the Town then at the time of his post hole inspection he was told he had to have a fifty (50) foot setback from the street. He submitted a neighbor list in approval of his project.

Board Comments/Questions:
Board Members asked for a description of the porch and what kind of railing and if there were other front porches in the neighborhood.

Presenter Statements/Answers:
He will put a railing up for elderly parent and children. There are other front porches in the neighborhood but mentioned his will protrude out a little more from the house to go up to the edge of the sidewalk.

Town Staff:
Andy Suveges explained right of way versus street. The R.O.W. extends beyond edge of the road, typically eighteen feet (18’) past the road gutter. So technically you don’t own what you perceive as your front lawn.

SEQRA Determination:
Motion Made by: Board Member Grussenmeyer and Second by Chairman DeLaus
   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 Chairman DeLaus
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes
5. Katie Ostrowski, 1305 Millcreek Run, Webster, NY 14580 requests a Conditional Use Permit under Section 250-13.3 and Section 250-5.5-C (1) of the Code to allow a dog day care business at 2217 Penfield Road. The property is owned by Parker John Properties, LLC and is zoned BN-R. SBL #140.01-2-9. Application #18Z-0039.

Appearances by:
Katie & Nick Ostrowski, 1305 Millcreek Run, Webster, NY 14580
Kevin Page, 26 Braunston Drive, Fairport, NY 14450
William Maves, 28 Braunston Drive, Fairport, NY 14450

Presenter Statements:
She has a doggie spa and wants to add a day care for dogs. Business is booming and working people want to leave dogs and at this time they don’t have space to accommodate. The day care area would be located in back of the building and be secured. They would have two gates to keep dogs contained. They would not keep dogs overnight or weekends.

Board Comments/Questions:
Board Members asked questions regarding operation and fencing, barking issues and overnight stays.

Presenter Answers:
The fenced area would be thirty by thirty (30x30) feet using a six (6) foot high fence to limit visibility and distractions. The dogs would only be outdoors for short periods of time and would be supervised at all times. They can accommodate six (6) to seven (7) dogs. The lot to the west is vacant and the neighbors to the south already have a six (6) foot stockade fence and are in approval of this project. The grooming and day care area have separate entrances.

Neighbor Statements:
Neighbors spoke and are in opposition of the additional dogs because of noise from barking and the buildup of business in general in the area.

SEQRA Determination:
Motion Made by: Board Member Cinti and Second by Board Member Grussenmeyer
X Type II Action, not subject to further review under SEQRA.

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

Conditions: They have to have a fence, no overnight boarding or weekend care – review if there are any noise complaints in six (6) months. Limit number of dogs outdoors at any one time, and be cognizant of noise.
6. David P. Stott Jr. / 1665 Penfield Road, LLC, 1665 Penfield Road, Rochester, NY 14625 requests an Area Variance to allow a walk-in cooler addition with less setback than permitted under Section 250-5.7-D (3) of the Code and greater lot coverage than permitted under Section 250-5.7-D (2) of the Code at 1665 Penfield Road. The property is owned by 1665 Penfield Road, LLC and is zoned GB. SBL #138.08-1-35. Application #18Z-0041.

Appearances by:
David P. Stott Jr. and Michael Sassone—owners/1665 Penfield Road., LLC, 1665 Penfield Road, Rochester, NY 14625

Presenter Statements:
They are asking for a twelve by twenty four (12x24) foot extension on the south east side of the building for a walk in cooler with less setback than permitted.

Board Comments/Questions:
Asked for description and use of the cooler. How far from Plaza Circle and the use of Plaza Circle. They also asked for a description of the neighborhood and about green space.

Presenter Statements/Answers:
The cooler will be only accessible from the inside of the restaurant and primarily for food storage. The exterior will match the existing building with brick and wood. It will be ten (10) feet high and the compressor will be on top or on the side as they need to be able to clear out cotton wood and do maintenance. It will be twelve feet from Plaza Circle which is the access road to Home Depot; the requirement is eighty (80) feet. The cooler will be two hundred eighty eight (288) square feet which reduces the green space by twenty three point one (23.1) percent which is a little over one percent of green space. The lot was approved for a restaurant decades ago. The area is very commercial: Delta Sonic, Home Depot, a barber shop, other restaurants and plazas.

SEQRA Determination:
Motion Made by: Board Member Belgiorno and Second by Chairman DeLaus
___ 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 Belgiorno to Approve for Setback requirement and Second by Board Member Grussenmeyer
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes
Motion made by: Board Member Belgiorno to Approve for Lot coverage variance and Second by Chairman DeLaus
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes
7. Kirk Wright/Sign & Lighting Services, 530 Route 104, Ontario, NY 14519 requests a Special Permit under Section 250-10.3 of the Code to allow more than one building sign permitted under Section 250-10.3-C of the Code and building signage with greater area than permitted under Section 250-10.3-B of the Code at 1930 Empire Boulevard. The property is owned by Chris Fogarty 1930 Empire Blvd Holdings, LLC and is zoned GB. SBL #093.02-1-19. Application # 18Z-0040.

Appearances by:
Rob Spagnoletti – Sign & Lighting Services, 530 Route 104, Ontario, NY 14519
Allan Rainbow – DiMarco Group

Presenter Statements:
They are an authorized retailer of Verizon-They would like signs on all three sides of the building. Permitting allows for two hundred and forty (240) maximum square feet and one hundred twenty (120) square feet per sign on two signs and wants a third sign of one hundred seventeen point nine (117.9) square feet.

Board Comments/Questions:
Chairman DeLaus asked if the building is now being built and if Verizon will be on any future plaza signs? Mr. DeLaus stated he was hesitant to approve because they aren’t built yet and there are a lot of unknown factors at this time.

Town Staff:
Andy Suveges – The code allows one building sign per business. The size is determined by the frontage of the building. As he looked at this building he determined the maximum allowable area is one hundred (100) square feet frontage based on the two square feet of frontage from the west side of the building. The linear footage is determined by the main primary entrance of the tenant space not the whole building.

There was more discussion amongst the board for what is allowed and if the Verizon store will be listed on any of the previously approved BayTowne pylon and way finding signs.

Audience Comments/Statements:
Allan Rainbow noted an error in the legal that Chris Fogarty is not the owner of the property. He also mentioned they have not had open discussions with Verizon yet on the pylon signs going up and they don’t have construction dates for the signs.
SEQRA Determination:
Motion Made by: Chairman DeLaus and Second by Board Member Silins
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: Chairman DeLaus to Table and Second by Board Member Belgiorno
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes
We need more information regarding the BayTowne pylon signs.
8. Rochester Gas and Electric, 89 East Avenue, Rochester, NY 14649 requests an Expansion to a Pre-existing/Non-conforming Use under Section 250-7.13 of the Code to allow a cold storage building addition and a parking lot expansion at 1270 Plank Road. The property is owned by Rochester Gas and Electric and is zoned RA-2. SBL #095.03-1-33. Application # 18Z-0043.

Appearances by:
Laura Wadhams – Labella Associates, 300 State Street, Rochester, NY 14614

Presenter Statements:
RG&E is a Pre-existing non-conforming use commercial property in a residential district. The new addition is a nineteen hundred (1900) square foot cold storage space to go on the east side of the building. The whole side of the building is open, the north and south sides closed. The building will match the existing building with almond metal siding, and a galvanized roof. RG&E is running out of interior space, and need more space for trucks and they want to add a twelve (12) car parking lot with a sidewalk up to the office space because people are currently parking on the grass. There is buffer and berms around the building.

Board Comments/Questions:
Board Members asked how this application would bring the property more into compliance and if this application has been presented before any other boards? They asked what is done at this location and what is stored here.

Presenter Statements:
They will bring the property more in compliance with the building of the storage area which will not be as tall, sixteen (16) feet high as the older structure is twenty (20) feet tall and they will be able to house vehicles that are currently stored outdoors. They have been in front of the Planning Board which issued approval with conditions. The new parking lot will relieve visitors from parking on the lawn and other undesignated areas. People that come to this location are coming to a restricted area and may be other employees coming for meetings or potential employees. It is a storage and maintenance facility for their vehicles, it has utility pole and transformer storage.

SEQRA Determination:
Motion Made by: Board Member Silins and Second by Chairman DeLaus
___ 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: Board Member Silins to Approve and Second by Board Member Cinti
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes
Tabled Matters

1. 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 Second by Board Member Grussenmeyer
Board Members: Belgiorno, Cinti, Grussenmeyer, Silins: All Ayes
Chairman DeLaus absent for this vote

There being no further business the Board adjourned this meeting at 9:58 pm.
These minutes were adopted on September 20, 2018.