ZONING BOARD
MEETING MINUTES
NOVEMBER 15, 2018
Penfield Zoning Board of Appeals
November 15, 2018 MINUTES

The Zoning Board meeting was held at 7:00 PM local time Thursday November 15, 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>
<th>PRESENT</th>
<th>ABSENT</th>
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<tbody>
<tr>
<td>Daniel DeLaus, Chairperson</td>
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<tr>
<td>Marie Cinti</td>
<td>X</td>
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<td>Mike Belgiorno</td>
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<td>Andris Silins</td>
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<tr>
<th>ADDITIONAL STAFF</th>
<th>PRESENT</th>
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<tr>
<td>Peter Weishaar, Legal Counsel</td>
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<td>Endre Suveges, Building Inspector</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 October 18, 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>
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<tr>
<td>DeLaus</td>
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<td>Belgiorno</td>
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<td>Cinti</td>
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<td>Abstain</td>
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<td>Silins</td>
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<td>Approve</td>
<td>Silins</td>
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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 November 15, 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. Jason Long, 22 Pineview Drive, 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 22 Pineview Drive. The property is owned by Jason Long and Gisela Armbruster and is zoned R-1-15. SBL #139.10-4-20. Application #18Z-0054.

Appearances by:
Jason Long, 22 Pineview Drive, Penfield, NY 14526

Presenter Statements:
Looking for a variance for side property line of three feet (3’) from line because the current shed location is optimal due to issues with a gate, grading and the back yard is already fenced in.

Board Comments/Questions:
Board Members inquired as to why three feet (3’) as we need to give the least amount and asked if there would be any trouble with five foot (5’) off line from the edge of gate? Any electric or lighting? He asked if the picture of the shed in the application was an accurate depiction.

Presenter Statements:
Wanted more room from back of shed to get away from the fence. Five feet (5’) would be okay but if he has a ramp it may encroach on the gate area. Storage is for bikes, mowers.

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

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).

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, Silins: - All Ayes

Application Vote:
Motion made by: Board Member Silins to Approve and Second by Board Member Belgiorno
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Silins – All Ayes
2. Christopher Abbe, 59 Horizon Drive, 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 59 Horizon Drive. The property is owned by Christopher and Tammy Abbe and is zoned R-1-20. SBL #108.20-2-58. Application #18Z-0055.

Appearance by:
Christopher Abbe, 59 Horizon Drive, Rochester, NY 14625

Presenter Statements:
They want to add an eight by twelve (8’x12’) covered front porch. The building materials will complement the existing structure. He gave us a survey map of the neighbor for reference as he does not have his own.

Board Comments/Questions:
Board Member Belgiorno stated we do need Mr. Abbe to obtain his own survey map as a condition and said we would table the application but could hear the rest of his information. Board Members asked about the size, if there will be footers and will there be double pillars? How will he tie it into the walkway, how tall the porch would be, and will the roof match? Are there any similar structures in the neighborhood? Board asked about the four by fours (4x4’s) up top and if they stick out.
Mr. Suveges stated the setback has to do with the vertical wall not any overhang items.

Presenter Statements:
The size fits with the house, good for a table and chairs. They have a vinyl sided house and the porch be a craftsman style and the posts will be inside the perimeter. They will make a walkway to the driveway, it will be up one step and the roof will match the house. Color will be same as trim on house. Approximate height will be ten to eleven feet (10-11”).

SEQRA Determination:
Motion Made by: NOT VOTED ON
___ 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).
___ Unlisted Action:
   ___ Negative Declaration (Action will not result in any significant adverse environmental impacts).
___ Further Action ______________________

SEQRA Vote:
Chairman and Board Members: N/A

Motion made by: Board Member Belgiorno to Table Second Board Member Silins
Chairman and Board Members: DeLaus, Cinti, Belgiorno, Silins - All Ayes

Conditions: A survey map is needed before a decision is made.
3. Gary Schreib, 2189 Carter Road, Fairport, NY 14450 requests and Area Variance to allow a larger storage building than permitted under Section 250-5.1-F (12) (a) of the Code at 2189 Carter Road. The property is owned by Gary and Judith Schreib and is zoned RR-1. SBL #140.02-1-25.12. Application #18Z-0056.

Appearance by:
Gary Schreib, 2189 Carter Road, Fairport, NY 14450

Presenter Statements:
They ran out of room for their lawn maintenance items, cars, chain saws, lawn furniture, tractor, etc. and are requesting a large storage building. They are two hundred fifty to two hundred seventy five feet (250’-275’) off the road and in the center of the property. Same colors as house, same shingles and siding, no additional utilities will be added.

Board Comments/Questions:
Board Members asked about exterior lighting and if he anticipated any drainage issues. There is a creek nearby. Will they be moving any trees? They already have structures which are big, how did he come up with the size for the addition? Will it be used for anything commercial? Board members inquired as to the roof line, percentage of storage, distance from his pool and distance from the neighbors and about trees for buffer and if he could go smaller.
Mr. Suveges mentioned he is in a Woodland Environmental Overlay district and would need to obtain an EPOD permit from Engineering.

Presenter Statements:
A spotlight will be put up, but no additional lighting. There is a slope and the old building did not have any drainage problems and where the barn is going is one of the most level areas. When you look at the addition from the front it will not look like anything was added. They will be removing two Ash trees which are dead due to the Ash bore and ants. The size came from measuring the cars and needs for lawn furniture and tractor. They will not use it for commercial purposes. They will build a barn type roof and designed the additional roof to be lower but will it tie in and look natural. They are on five and a half (5 ½) acres and in the middle of the property and have neighbor approval. He will get the EPOD permit and said going smaller would not do it for his storage and not be worth it.

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

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

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

Further Action _________________________
Continued Application #18Z-0056

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

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

Conditions: The structure not to exceed the existing height.
4. Stephen M. Haak, 1235 Northrup Road, Penfield, NY 14526 requests an Area Variance to allow an accessory building with greater height than permitted under Section 250-5.1-F (12) (c) of the Code at 1235 Northrup Road. The property is owned by Stephen and Helen Haak and zoned RA-2. SBL #110.01-1-5.3. Application #18Z-0057.

Appearance by:
Stephen M. Haak, 1235 Northrup Road, Penfield, NY 14526

Presenter Statement:
Mr. Haak explained his previous application and then explained his hand outs. He wanted the first floor to be ten (10) feet in height and an eight (8) foot door. He talked to the contractor which suggested adding a loft which pushed him higher than the twenty (20) foot height limit. In his previous application he didn’t put the height in or make the drawing to scale. He will match the previous structure and did go over one and a half (1½) foot height.

Board Comments/Questions:
Board members noted that back in May with his first application he was very conscientious about the details so they are concerned now about his inattention to details. Although Mr. Haak mentions ‘inadvertently’ these things happened but it seems he just may not have known about the height restriction. In his first application, he said sixteen (16) feet height and this was put in the application although maybe he didn’t know it was going to be an issue? So even if he hadn’t made a decision about the loft yet, it would be the same height and when you made the decision to add the loft he didn’t ask the town if it was ok to change the plan. Mr. Haak was asked what he would do if the Board denied this request.
Board Member Belgiorno stated that visibility was always an issue and in looking at the old meeting, this is a different application all together, it was clearly stated in the old application that there were ten (10) foot walls and a six (6) foot high roof. Sixteen (16) feet and twenty one (21) feet is a lot different.
Board Members asked if the Contractor knew the Town code and how much it would cost to take the structure down and re do it.
There was discussion as to if this was considered a shed or a storage building and conferred with Mr. Suveges regarding 12 C of the code referring to sheds, and B in the code is referring to storage buildings. Mr. Suveges said it is supposed to encompass all the buildings and all set backs are the same.

Presenter Answers:
The height was dictated by the width. If he brought the roof lower it would not have looked symmetrical to the old barn. Mr. Haak states that if he said sixteen (16) feet, it was a guess. He says the only concern was variance off the lot size and never gave a thought to height. It may have been written in the application but that it was just a rendering and a guess. The trusses included the loft in original application and he realized the day after trusses went up, due to a neighbors’ watchful eye that the height may be too high but had to continue to finish it as the trusses were already up. Mr. Haak continued to profess he didn’t draw it to scale and thought we were only approving the set-back not the height. The building is still thirty be thirty (30 x 30) and his contractor never mentioned height or whether it met Town codes. He thinks it would cost Twenty thousand dollars ($20,000.00) to take down and couldn’t afford to put it back up.

Continued Application #18Z-0057
Prior to the votes the Board discussed further the Statute / code information regarding sheds versus storage building and height restrictions for either.

**SEQRA Determination:**

**Motion Made** by: Chairman DeLaus and Second by Belgiorno
- 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).
- 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

**Motion made** by: Chairman DeLaus to **Approve** Second Board Member Silins
Chairman and Board Members: DeLaus, Belgiorno, Silins - **Aye**
Board Member Cinti – **Nay**
5. Paul Colucci/DiMarco BayTowne Associates, LLC, 1950 Brighton Henrietta Town Line Road, Rochester, NY 14623 requests a Conditional Use Permit under Section 250-5.7-C (1) (k) and Section 250-13.3 of the Code to allow outdoor community events at 1970 Empire Boulevard. The property is owned by DiMarco Family Empire, LLC and is zoned GB. SBL #093.02-1-13.1. Application #18Z-0053.

Appearance by:
Paul Colucci/DiMarco BayTowne Associates, LLC, 1950 Brighton Henrietta Town Line Road, Rochester, NY 14623
Allan Rainbow and Paul Dickinson, Howie Jackobson

Presenter Statement:
Seeking conditional use permit/approval to host outdoor events at Brandt Pt Park. They have eluded to this before and had created a green space in the development parcel which was always envisioned for hosting events on a seasonal basis between May 1 and October 31. There will be an installation of a forty by eighty foot (40x80) tent and use utilize existing plaza parking. The schedule of events will be explained. They have already had meetings with the town with regards to type of events.
Mr. Jacobsen wants to do events to benefit the community such as a Farmers Market and Craft Market. They won’t do weather constrictive events.
Baked goods, agriculture items, Artisan chefs, cooks will come, Craft beer tasting, they will have permits as required. The plan is to have twenty five to thirty (25-30) vendors at any time. They would like a duo of acoustic guitars 4:00 pm to 8:00 pm on Wednesdays. They may have some food trucks.
Many activities to be coordinated with the Town, Town businesses and non-profits. They would like to have Arts and Craft days, school bands, two (2) week long Art Fairs, a seniors day, a harvest fest, a pumpkin day, recycling, and antique auto shows. Two times a month they want a family movie night and want to start at 7:30 they can be done by 10:00 and a movie screen can go inside the tent. Movies will be free or donation of one to five (1 to 5) dollars, which will go to a local charity.
His staff will supervise and any event will be over by 10:00. They would like to have light music, no bands, no weddings or business or personal use, requesters would have to come to the town. Plaza merchants may want to use it and will get permits if needed. The goal is to have this be a very community centered venue.

Board Comments:
Board members said it sounds great, but asked how much use was anticipated, as it seems to be a very intense use. They questioned if there would be enough parking; who makes decision on the type of events allowed, will the events always be public or private, and who holds the legal responsibilities? What they considered weekend days and the hours for them? The Board asked about signage had concerns about noise level and how it would be limited if the tent would have heaters and would it be secured when not in use? Would the group be willing to start off with a limited time frame to see how it all goes?
Continued Application #18Z-0053

Presenter Answers:
There is plenty of parking; twelve (12) per one thousand (1000) which is higher than the commercial standard. Although not all the merchant buildings are up yet, the DiMarco group had always envisioned the space for the use implied and are sure they have plenty of parking space to accommodate. The DiMarco team will make the decision if people can have an event and right now they are only booking community events. The DiMarco/Baytowne group is insured and will cover anything. The DiMarco group will be sure to adhere to noise ordinance rules/levels but if they are told they can’t have a band, then they won’t. The weekend days will be Friday and Saturday; so the hours would be 10:00 a.m. to 10:00 p.m. and Sunday through Thursday will be considered weekdays with the hours being 10:00 a.m. to 8:00 p.m. with the understanding that not all events will be full days. There will be a sign on the tent and around Brandt Pointe area. They are not anticipating the use of portable heaters due to the time frame and seasons of use involved. Security will be there daily and anything that would be in the tent would be taken out and stored. The walls will be rolled up so as to let light in for the growth of the grass and to deter any issues. The DiMarco group plans to have portable johns or nicer facilities for sanitation and trash will be picked up and maintained by on-site personnel. The groups is ok with a minimum of a two year period to start.

SEQRADetermination:
Motion Made by: Chairman DeLaus and Second by 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 environment impacts).
  ___ Unlisted Action:
     ___ Negative Declaration (Action will not result in any significant adverse environment impacts).
     ___ Further Action _______________________

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

Motion made by: Chairman DeLaus to Approve for two years Second Board Member Cinti
Chairman and Board Members: DeLaus, Cinti, Belgiorno, Silins - All Ayes

Conditions:
To start with a two year term, whoever uses, needs to obtain permits, insurances, permission and Fire Marshal inspections as needed. The weekdays will be Sunday through Thursday until 8:00 p.m. and weekends are Friday and Saturday until 10:00 p.m. Dates: May 1st to October 31st. All events will be open to community and Sanitation, and trash receptacles provided and cared taken care of. Mr. Suveges mentioned signage is limited to business and if they put up temporary signage, then they are limited to three (3) per calendar year for one week at a time. There was discussion regarding type of signage allowed on the tent.

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.

SEQRA Determination/discussed at April, 2018 meeting: This will be a coordinated review

Application Vote:
Motion made by: Board Member Cinti Continue Table Second By Board Member Silins
Chairman and Board Members: DeLaus, Cinti, Silins - All Ayes
Board Member Belgiorno: Abstain

There being no further business the Board adjourned this meeting at 9:00 pm.
These minutes were adopted on January 17, 2019