Penfield Zoning Board of Appeals  
February, 2019 MINUTES

The Zoning Board meeting was held at 7:00 PM local time Thursday February 21, 2019 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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<th>ZBA MEMBER</th>
<th>PRESENT</th>
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<tr>
<td>Daniel DeLaus, Chairperson</td>
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<td>Marie Cinti</td>
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<td>Mike Belgiorno</td>
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<td>Matthew Piston</td>
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<td>Andris Silins</td>
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II. Regarding Minutes from Zoning Board Meeting on January 17, 2019

<table>
<thead>
<tr>
<th>Motion made by:</th>
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<th>Second by:</th>
<th>Board Vote</th>
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<tr>
<td>DeLaus</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 February 21, 2019 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.

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The meeting was opened by Board Member Belgiorno and the first order of business during the work session was to review and vote on the SEQRA determination for the Zoning Board application # 18Z-0007 for 1280 Creek Street, Rochester, NY 14625 - application from February 2018. The Planning Board had made previous determination and the Zoning Board needed to as well.

Erik Graff, 90 Coventry Road, Pittsford, NY 14534 requests a Conditional Use Permit under Chapter 250-5.6-C (1) (e) of the Code and Area Variances from Chapter 250-5.6-D (3), Chapter 250-13.10-A (3) and Chapter 250-13.10-A (6) of the Code to allow a daycare center with less front setback, greater building area, and less buffer than permitted at 1280 Creek Street. The property is owned by Retlaw Recked, Inc. and zoned LB. SBL #093.15-1-2.115. Application #18Z-0007.

SEQRA Determination:

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

__ Type I Action. Further Action _______________________

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

X 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: Belgiorno, Cinti, Silins: All Ayes
Chairman DeLaus not present for the voting and Board Member Piston is recused.

Application Vote:

Motion made by: Board Member Belgiorno to Approve and Second by Board Silins

Board Members: Belgiorno, Cinti, Silins: All Ayes
Chairman DeLaus not present for the voting and Board Member Piston is recused.
1. Robert H. Kaye, 263 Parkview Drive, Rochester, NY, 14625 requests an Area Variance to allow a larger storage building than permitted under Section 250-5.1-F (12) (a) of the Code at 263 Parkview Drive, Rochester, NY, 14625. The property is owned by Robert and Faith Kaye and is zoned R-1-20. SBL #108.14-1-42. Application #19Z-0002.

Appearances by:
Robert H. Kaye, 263 Parkview Drive, Rochester, NY, 14625

Presenter Statements:
Mr. Kaye is requesting an Area Variance for a twelve by twenty four (12x24) foot shed, for personal storage. He has a summer car that would be costly to store elsewhere. The plans will comply with setbacks, be sided to match his house and matching garage door.

Board Comments/Questions:
Will it be attached to ground? Additional questions regarding the driveway, if there are similar structures in the neighborhood, costs involved, size and location ideas.

Presenter Statements:
It will be on a concrete pad and attached to that. He is not going to extend the driveway as the car is infrequently used and rarely takes it out. Mr. Kaye does not believe there are similar structures in his neighborhood. He had gotten quotes to expand the garage with estimates of thirty five (35) to over forty thousand dollars ($40,000.00). Shed costs would be five (5) to seven (7) thousand dollars ($7,000.00). It is the smallest size he could work with, he wouldn’t be able to get to the shed if it was behind the house.

Neighbor Comments/Questions:
Jeff Peters - 262 Parkview Dr – Rochester, NY 14625
Mr. Peters is in support of the application.

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).
___ 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, Piston, Silins: All Ayes

Application Vote:
Motion made by: Board Member Belgiorno to Approve and Second by Board Member Silins
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Piston, Silins: All Ayes
2. David Samuelson/Advantage Federal Credit Union, 70 Metro Park, Rochester, NY, 14623 and Calvary Chapel of Rochester, Inc., 2505 Browncroft Boulevard, Rochester, NY 14625 request a Special Permit under Section 250-10.3-A of the Code to allow the replacement of a previously approved existing freestanding sign at 2515 Browncroft Boulevard. The property is owned by Advantage Federal Credit Union and is zoned BN-R. SBL #123.07-2-45. Application #19Z-0003.

Appearances by:
David Samuelson, Facilities Director /Advantage Federal Credit Union, 70 Metro Park, Rochester, NY, 14623
Charles Sullivan, Calvary Chapel

Presenter Statements:
Advantage Federal Credit Union purchased property 2012 and fulfilled their sign requirements on the building and on the property. They have a third free standing sign on the property and are unable to use it as it would exceed the amount of identification signs per Town code. They canvased tenants of the plaza to see if there were any interest for them to use sign and there was no response. Calvary Chapel requested to use the sign and the bank said yes but did not understand a variance was required to change the appearance of the sign.

Board Comments/Questions:
Board members asked why the need for such a large size, for the church when none of the other tenants care to be identified. The board indicated there are other churches along Browncroft that don't have huge signs. Asked about membership numbers. Asked about polling tenants to see if they wanted to use the sign in the past. Chairman DeLaus recapped the original 1991 approval resolution which stated that many tenants would be represented on the sign.

Presenter Statements:
Charles Sullivan from Calvary Chapel stated the size of the sign hasn’t changed they are just adding to it. It is the only identification sign the church has to service the street. He says other churches are noticeable as churches, his church is part of a plaza and the old gas station is hiding his church making it difficult for anyone to know it is there. Membership has decreased and he thinks the sign will draw people in and let them know they are in the plaza.

SEQRA Determination:
Motion Made by: Board Member Belgiorno and Second by Silins
___ Type I Action. Further Action ______________________
___ Type II Action, not subject to further review under SEQRA.
X 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, Piston, Silins: All Ayes

Continued Application Vote #19Z-0003

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

Condition: Future tenants wanting to use the sign, need to come to the Board for approval.
3. John H. Sciarabba/LandTech, 710 Latta Road, Rochester, NY, 14612 on behalf of PEMM, LLC, 2697 Lakeville Road, Avon, NY, 14414 requests a Conditional Use Permit under Section 250-13.3 and Section 250-5.7-C (2) of the Code to allow the continued operation of an existing gasoline service station/convenience store by a new operator at 1617 Penfield Road. The property is now or formerly owned by Marathon Petroleum Company, LP and is zoned GB. SBL #138.08-1-2.2. Application #19Z-0004.

All three applications read, heard and voted on separately: 19Z-0004, 19Z-0005, 19Z-0007

Appearances by:
John H. Sciarabba/LandTech, 710 Latta Road, Rochester, NY, 14612
Ken Perelli, Vice President PEMM/Quicklees

Presenter Statements:
John H. Sciarabba/LandTech representing PEMM/Quicklees is headquartered in Avon, NY. First two stores on Penfield Road are replacements as used in the past. The Atlantic Avenue location will be a convenience store/gas station-they also own five acres behind and will be making changes in the future.

Board Comments/Questions:
Board Members discussed sign requirements and if there will be any underground tank issues, traffic patterns and lighting changes?

Presenter Statements:
Ken Perelli, Vice President PEMM LLC – None of the locations are having any big changes. They will be standard convenience store/gasoline services at each. Hours will be approximately 5:00 a.m. to 11:00 p.m. They will meet all code requirements for signage and there are no tank removal plans for any of the locations. At this time, for 3290 Atlantic they are only asking for transfer of ownership. The repair bays will be empty for the time being; other projects are planned for the future. All properties will have normal upkeep and repairs done. They will obtain permits for signs as needed.

**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.

_X_ Unlisted Action:

_X_ 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, Piston, Silins: **All Ayes**

**Application Vote:**
**Motion made** by: Chairman **DeLaus** to **Approve** and **Second** by Board Member **Cinti**
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Piston, Silins: **All Ayes**
4. John H. Sciarabba/LandTech, 710 Latta Road, Rochester, NY, 14612 on behalf of 2175 Penfield Road, LLC/PEMM, LLC, 2697 Lakeville Road, Avon, NY, 14414 requests a Conditional Use Permit under Section 250-13.3 and Section 250-5.7-C (2) of the Code to allow the continued operation of an existing gasoline service station/convenience store by a new operator at 2175 Penfield Road. The property is owned by 2175 Penfield Road, LLC and is zoned GB. SBL #139.02-1-4. Application #19Z-0005.

See notes on application #3

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.
X Unlisted Action:
   X 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, Piston, Silins: All Ayes

Application Vote:
Motion made by: Chairman DeLaus to Approve and Second by Board Member Cinti
Chairman and Board Members: DeLaus, Belgiorno, Cinti, Piston, Silins: All Ayes
5. John H. Sciarabba/LandTech, 710 Latta Road, Rochester, NY, 14612 on behalf of 3304 Atlantic Avenue, LLC/PEMM, LLC, 2697 Lakeville Road, Avon, NY, 14414 requests approval under Section 250-7.13 of the Code to allow the continuation of an existing gasoline service station/convenience store by a new operator at 3290 Atlantic Avenue. The property is now or formerly owned by 3290 Atlantic Avenue, LLC and is zoned MUD. SBL #110.03-1-22. Application #19Z-0007.

See notes on application # 3

**SEQRA Determination:**
Motion Made by: Chairman DeLaus and Second by Board Member Piston

___ Type I Action. Further Action _________________

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

X Unlisted Action:

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

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

___ Further Action _________________

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

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

Condition: The car repair portion and car sales operations will cease. This is a continuation of a pre-existing non-conforming use with the sales of the sheds. The sale of the sheds may continue.
6. Bruce E. Howlett/Spiedielicious, 1112 East River Road, Avon, NY, 14414 requests a Conditional Use Permit under Section 250-13.3 and Section 250-5.6-C (1) (a) of the Code to allow a sit-down restaurant with 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 #19Z-0006.

Appearances by:
Chelsea & Paulie Lea on behalf of Bruce Howlett Spiedielicious, 1112 East River Road, Avon, NY, 14414

Presenter Statements:
Chelsea Lea explained what Spiedie’s is. Spiedie’s are a marinated chicken, cubed, skewered and grilled on a wood fire grill. They are from Binghamton and moving into the Benji’s space.

Board Comments/Questions:
Board Member Cinti asked about proposed changes, hours, type of service, outdoor seating, music, and/or parking issues?

Presenter Statements:
Changes will be aesthetic; paint, counter tops, flooring. Inside they are changing out the grill and adding a brick oven and some fryers. The sign outside will stay the same. The hours will be six (6) days week 11:00 a.m. to 8:00 p.m. The restaurant is considered a quick casual environment. They have a small outdoor fenced in area for a few tables. They are contemplating some music but need to explore that yet. There is plenty of parking.

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

Further Action _______________

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

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

Chairman and Board Members: DeLaus, Belgiorno, Cinti, Piston, Silins: All Ayes

Condition: Needs to follow Town ordinances for music. No more than four (4) tables.
7. Steve Walsh, 39 Salem Road, Irondequoit, NY, 14622 requests Area Variances to allow less lot width than required under Section 250-5.1-F (1) of the Code and a storage building with less side setback than required under Section 250-5.1-F (12) (b) of the Code at 1953 Harris Road. The property is now or formerly owned by Malcolm Traub and is zoned RA-2. SBL #125.04-1-2.5. Application #19Z-0008.

Appearances by:
Brian Marks, Marks Engineering; representing Steve Walsh

Presenter Statements:
Mr. Marks stated Mr. Walsh’s intentions are to establish a single family residence and to construct a Pole barn; forty six (46) feet wide by sixty (60) feet long and the width being east to west needs one variance for the twenty (20) foot side set back from the south line.
The barn will be smaller than the house and will be less than twenty (20) feet high.

Board Comments/Questions:
Board Members went over the dimensions. How did you determine placement, and the height? How much consideration for neighboring parcels? Any buffering considerations? They discussed that this was a ‘flag lot’ for placement of the barn. What would the uses be and if he could go smaller to not need a variance. They asked about lighting and if there would be any commercial use.

Presenter Statements:
The placement of the barn was determined by driveway access to the barn and drainage discharge, even with piping underneath the drainage goes to lowest part of property.
The site is overgrown brush there, no additional buffering was considered. The height will be less than twenty (20) feet to the peak. Lighting will be at the egress door and two (2) lights on face of building to the east. It will be pole barn style with a metal roof. The lot is nineteen hundred (1900) feet deep and not feasible to use ‘flag’ as it is too far in. The homeowner will use it for personal storage, workshop, but nothing commercial. This is a non-conforming lot in width but if it is pre-existing non-conforming they would not need a variance. The Town has already deemed it buildable. To comply with code, he could only go twenty feet wide and it would have to be very long.

Neighbor Comments/Questions:
Mark Weiland - 1957 Harris Rd, Penfield, NY 14526
Mr. Weiland is opposed to the application but if the barn complied with setback he still wouldn’t like it but he understands the property owner would be in compliance and he would have no say. He would prefer to see a lot of buffering.

Board Comments/Questions:
The Board discussed possible changes to the application with Mr. Walsh to discuss with the homeowner and would like to table the application for further discussion.
Continued Application #19Z-0008

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).
    ___ 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, Piston, Silins: All Ayes

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

There being no further business the Board adjourned this meeting at 8:35 pm.
These minutes were adopted on March 21, 2019.