

The Planning Board held a meeting at 6:30 PM local time **Thursday, June 24, 2021** in the Town Hall Auditorium to discuss, in a meeting available to the public, tabled matters and other business that was before it.

Due to the Covid-19 Virus and the closing of town operations consistent with Governor's Executive Orders, including Executive Order 202.1, which suspended certain provisions of the Open Meetings Law, and Executive Order 202.97, which postponed public meeting unless they can be held remotely through the use of telephone conference, video conference, and/or other similar service, the **June 24, 2021** Planning Board meeting was held remotely beginning at 6:30 PM. In-person public access to the Town Hall facility was not permitted. This meeting was video recorded and broadcast LIVE via the town's website [www.penfield.org](http://www.penfield.org), on the Town's Government Access Cable Channel 1303. The meeting will be later transcribed. For questions regarding video coverage please contact Penfield TV at (585) 340-8661.

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**I. CALL TO ORDER:**

		<u>LOCATION</u>
PRESENT:	Allyn Hetzke, Jr.	On site
	Terry Tydings	On site
	Bob Kanauer	On site
	Jim Burton	On site
	Bill Bastian	On site
	Doug Sangster, Town Planner	On site
	Michael O'Connor, Assistant Town Engineer	On site
	Lori Gray, Board Secretary	On site
	Peter Weishaar, Planning Board Attorney	Absent

**II. APPROVAL OF MINUTES:**

The Board voted and **APPROVED** the draft meeting minutes for June 10, 2021.

Vote:	Moved by:	Burton	Seconded by:	Kanauer
Chairperson:	Hetzke - Aye	Bastian - Aye	Burton - Aye	
		Kanauer - Aye	Tydings - Aye	

Motion was carried.

**III. TABLED APPLICATIONS:**

1. DH Lewis Engineering, PLLC, 3832 Cory Corners Road, Marion, NY 14505, on behalf of Eric & Susan Stroyer, requests under Chapter 250 Article XII-12.2 and Article XI-11.2 of the code of the Town of Penfield for Preliminary and Final Subdivision & Site Plan approval for a five (5) lot subdivision with associated site improvements on a ±15.416 acre lot, located at 1030 Plank Road. The property is now or formerly owned by Eric & Susan Stroyer, and zoned Rural Residential District (RR-1). Application #21P-0015, SBL #94.04-1-32.11.

On hand via remote access to present the application:

Don Lewis, DH Lewis Engineering, PLLC

- Mr. Sangster stated that since the Board last met, Staff has issued another PRC memo. At this point only technical issues remain.
- Mr. Sangster stated that Mr. Lewis has been in contact with the Fire Marshal regarding the pull offs, fire access, sprinklers, etc.
- Chairman Hetzke asked if all departments were comfortable moving forward. Mr. Sangster responded with yes.
- The Board had no further concerns.

The Board voted and **APPROVED** the adoption of completed Short EAF pursuant to SEQRA.

Vote:	Moved by:	Tydings	Seconded by:	Bastian
Chairperson:	Hetzke - Aye	Bastian - Aye Kanauer - Aye	Burton - Aye Tydings - Aye	

Motion was carried.

The Board voted and **APPROVED** the application for subdivision and site plan approval with conditions.

Vote:	Moved by:	Tydings	Seconded by:	Kanauer
Chairperson:	Hetzke - Aye	Bastian - Aye Kanauer - Aye	Burton - Aye Tydings - Aye	

Motion was carried.

2. McMahon LaRue Associates, P.C., 822 Holt Road, Webster, NY 14580, on behalf of Gerber Homes & Additions, LLC, requests under Chapter 250 Article XII-12.2 and Article XI-11.2 of the code of the Town of Penfield for Preliminary and Final Subdivision & Site Plan approval for a four (4) lot subdivision under Town Law §278, with associated site improvements on a ±7.189 acre lot, located at 1357 Jackson Road, Webster, NY. The property is now or formerly owned by Gerber Homes & Additions, LLC, and zoned Rural Residential District (RR-1). Application #21P-0016, SBL #94.04-1-21.11.

On hand via remote access to present the application:

Al LaRue, McMahon LaRue Associates, PC  
John Graziose, Gerber Homes & Additions, LLC

- Mr. Sangster stated that since the last meeting, Staff has forwarded on the contact information of the neighbor (Huttunen, 1351 Jackson Rd) who called into the Public Hearing. The Applicant and their engineer have reached out to that neighbor.
- Chairman Hetzke asked if there were any outstanding issues. Mr. Sangster responded no.
- The Board had no further concerns.

The Board voted and **APPROVED** the adoption of completed Short EAF pursuant to SEQRA.

Vote: Moved by: Bastian Seconded by: Burton

Chairperson: Hetzke - Aye Bastian - Aye Burton - Aye  
Kanauer - Aye Tydings - Aye

Motion was carried.

The Board voted and **APPROVED** the application for subdivision and site plan approval with conditions.

Vote: Moved by: Burton Seconded by: Bastian

Chairperson: Hetzke - Aye Bastian - Aye Burton - Aye  
Kanauer - Aye Tydings - Aye

Motion was carried.

3. McMahon LaRue Associates, P.C., 822 Holt Road, Webster, NY 14580, on behalf of Leo Spezio, Jr. and Cynthia Spezio, requests under Chapter 250 Article XI-11.2 of the code of the Town of Penfield for Preliminary and Final Subdivision approval for the subdivision of land on ±6.325 acres located at 1232 & 1236 Salt Road. The properties are now or formerly owned by Leo Spezio, Jr. and Cynthia Spezio and zoned Rural Agricultural District (RA-2). Application #21P-0017, SBL # 096.10-2-3.2 and 096.01-2-3.3.

On hand via remote access to present the application:

Al LaRue, McMahon LaRue Associates, PC

- Mr. Sangster stated that the Board didn't have many concerns with the application, but we wanted to leave the comment period open. No additional public comments have been received.
- The Board had no further concerns.

The Board voted and **APPROVED** the adoption of completed Short EAF pursuant to SEQRA.

Vote: Moved by: Kanauer Seconded by: Tydings

Chairperson: Hetzke - Aye Bastian - Aye Burton - Aye  
Kanauer - Aye Tydings - Aye

Motion was carried.

The Board voted and **APPROVED** the application for subdivision approval with conditions.

Vote: Moved by: Kanauer Seconded by: Tydings

Chairperson: Hetzke - Aye Bastian - Aye Burton - Aye  
Kanauer - Aye Tydings - Aye

Motion was carried.

4. SWBR, 387 East Main Street, Suite 500, Rochester, NY 14604, on behalf of Penfield Heights, LLC, requests under Chapter 250 Article XII-12.2 and Article XI-11.2 of the code of the Town of Penfield for Preliminary and Final Subdivision & Site Plan approval for a mixed use development project including townhouses, apartments, a common house, commercial, retail and office spaces with associated site improvements on ±6.6 acres located at 1820 & 1810 Fairport Nine Mile Point Road. The properties are now or formerly owned by Penfield Heights, LLC and Sebastian & Concetta Curatolo and zoned Mixed Use District (MUD). Application #21P-0018, SBL #s 125.01-1-25.1, 125.01-1-25.2.

On hand via remote access to present the application:

Ami Notis, Penfield Heights, LLC  
Alex Amering, Costich

- Mr. Sangster reviewed the application stating that prior to the Public Hearing, Staff sent out a PRC Memo detailing their concerns. It was a rather lengthy memo, and responses were received today but we are still waiting on the revised set of plans.
- Chairman Hetzke suggested that the Board go over some of their initial comments and concerns with the proposal.
- Public Open Space – According to the MUD Manual: “Public open space shall be available to all dwelling units within the mixed use development.” The common building, pool, outdoor kitchen, etc. appear to be available to residents *only if they pay a fee*.
  - Chairman Hetzke stated the he didn’t know if the MUD manual specifically prohibits private recreation or “club type” uses. However, what other parts of the application meet the MUD requirements?
  - Board member Burton responded that in many ways it boils down to the wording used. Would this actually be referred to as “public open space”? Is this something the applicant should elaborate on?
  - Chairman Hetzke stated that in his opinion it would not be considered public open space. It would be more private-use space if it’s only available to residents and only

- if they pay a fee to participate, it's not like a public park.
- Board member Bastian asked about the wording and if it is that restrictive. Then he asked how it is different from Harris Hill Park where residents have to pay a fee to use amenities like the pavilion. Chairman Hetzke pointed out that Harris Hill Park is open to any town resident. Board member Bastian stated that clarification is needed from the applicant.
  - Board member Tydings stated that he didn't interpret it like that, but it wouldn't hurt to have clarification on the wording.
  - Mr. Sangster stated that this was a comment brought up by Town Staff as part of the PRC comments and that he believed their response was that "they would further delineate that area in future submissions."
  - Board member Burton asked that in the Tabling Resolution, we ask for further clarification from them.
  - Board member Burton stated that as he does these reviews, he is thinking ahead to future developments; thinking about the potential precedent that will be set and how it will affect the next applicant. Chairman Hetzke agreed. Board member Tydings asked how the public space in the first MUD (Penfield Square) is doing.
  - Outside Seating Areas – shall have at least 5 feet of unobstructed pedestrian space. Chairman Hetzke stated that the Applicant should reply to that comment.
  - Interior Sidewalks – some of the interior sidewalks are designed at 4.5 feet but the MUD manual suggests a minimum of 5 feet.
    - Chairman Hetzke asked what the argument was for 5 feet versus 4.5 feet. Is it splitting hairs or is there a legit reasoning?
    - Mr. Sangster stated that ideally we like to see it wider than 5 feet as it then opens it up to a little easier multi-modal transportation.
    - Board member Burton responded that primary sidewalks are wider 7-8 feet wide depending on where they are. He added that five feet is the code requirement, based on the unit of width for a pedestrian is 22 inches. Two people in opposing directions swinging their arms creates a need for the extra space. It appears that the rest of the sidewalks in the development meet the other criteria for 7-8 feet. The "arteries" that are jutting in between the buildings are what don't appear to be wide enough.
  - Use of Mass Transit – MUD encourages the use of mass transit along Route 250 and developments.
    - Chairman Hetzke acknowledged that this is difficult because there aren't any bus lines that go up and down Route 250. Mr. Sangster confirmed that there are not.
    - Chairman Hetzke stated that it's possible that once they hit critical mass in that area this will be a possibility. How or what can we reasonably expect from an applicant?
    - Board member Burton responded that maybe it should be similar to the Town's sidewalk policy.
    - If there were enough mixed use developments in the Route 250 corridor, could we reach out to RGRTA and ask them to start running some more lines? Mr. Sangster responded that it would need to be part of an ongoing conversation with RGRTA.
    - Mr. Sangster continued, saying that with the sidewalk policy even if the sidewalk is not installed, the Town takes an easement in the event we come back in the future. Maybe it could be something where if they don't do a bus stop now, they allocate an area that could support one in the future so that if/when a bus line comes the provision

is there.

- Chairman Hetzke also added that maybe there is a fee that is put into a “pool” that is set aside for that future event.
- Board member Burton added that because it’s Route 250, the DOT would also have to be involved.
- Board member Burton expressed that in the not so distant future there could be 5-6 developments in the Route 250 corridor and then maybe all the people working and living in this area would sure love to have public transportation.
- Chairman Hetzke added that even within the district there may be a need down the road. We may want to try and plan for that eventuality.
- Board member Burton suggested that the applicant be asked to tell us how this could be accommodated.
- Chairman Hetzke added that if they are all going to benefit should they all contribute?
- Building Heights – This was originally proposed at 70 feet high on the east side of building D which is outside the permitted height.
  - Chairman Hetzke stated that he thinks there are probably differing opinions on how big that problem is.
  - Board member Burton reminded the Board that when the applicant was first asked about the height difference, they didn’t appear to have considered an alternate design that either complied or deviated from the maximum height just a little bit. Right now we are  $\pm 15$  feet over the maximum, and yes it is a small portion of the roof line in the development, but the highest roof lines in any development stick out and that is what you see when you drive down the road.
  - Board member Burton continued, stating he’s not opposed to the architectural design, and how they have provided symmetry with those two buildings that rise up a little higher at the peak, but do we want to establish this precedent for future MUD.
  - Board member Kanauer stated that on the last set of elevations they showed first and second floor elevations, but he’d like to see peak elevations for the buildings. He also stated that with that peak elevation number and the elevation at the crest of Route 250, we would know the actual height of the buildings from the roadway.
  - Mr. Sangster suggested that something done in previous applications was to do a balloon-fly. That could be something the Board considers having them do just to show perspective from Route 250, what 70 feet up would look like. Chairman Hetzke agreed it was a good idea.
  - Board member Tydings agreed that something should be done. He is not opposed to keeping them restricted to the required heights.
  - Board member Burton stated that the site does in fact drop drastically from west to east, so it is possible that we ask them to give us a section from the crown of the road to the height of the peak and maybe it would lessen the appearance of the additional height.
  - Board member Bastian asked what drives the maximum height of the buildings. Chairman Hetzke responded that it was a somewhat arbitrary number from the mixed use committee – people not wanting anything more than four stories high. There is really no science behind it, it was an aesthetic choice by that committee. Board member Burton added that the committee did look at other zoning districts and they studied zoning districts in other parts of the country in mixed use developments to see

- what was appropriate for certain heights.
- Board member Burton clarified that he's not totally opposed to the proposed plans, but that he is taking what was presented to the Board and comparing it to the MUD manual.
  - Board member Kanauer added that another height factor is the pitch of that roof because it appears that roof is close to a 12 pitch so it's a pretty high roof just because of the architecture.
  - Building Density – the Mixed Use manual states a limit of 20 units an acre in the A zone.
    - Chairman Hetzke stated that by his calculations the density for this project should be  $\pm 99$  units. Mr. Sangster clarified that the property is a little larger than the  $\pm 4.95$  acres because they are looking to use approximately one acre of 1810 Fairport Nine Mile Point Rd., so the acreage of the parcel they are intending to use ends up being  $\pm 6.6$  acres.
    - Board member Burton stated that density is the most coveted thing in a community, particularly a MUD, therefore if we allow this applicant to exceed the density requirement, we are setting a precedent for future MUD.
    - Mr. Sangster stated that their proposed acreage is  $\pm 6.632$  acres and at 20 units per acre, they are right at the limit with 132. Board member Bastian stated they are at the maximum density allowed by code.
    - Chairman Hetzke added that the 132 units is with combining the two parcels. Mr. Sangster responded yes, that is with the additional  $\pm 1.62$  acres.
  - Visibility – visibility of parking areas from the public
    - Chairman Hetzke asked the other members if there were big concerns about this.
    - Board member Burton stated that the other two applications have been held to this standard of the parking areas being out of view. He went on to say that it would be relatively easy to reconfigure the retail building and provide some mature buffering so that there isn't a parking lot out by Route 250. This was also brought up during their first presentation that continued into the second presentation with no alternative.
    - Chairman Hetzke pointed out that on the west side of Route 250, Penfield Square has parking that wraps around the large building on the east side and though there is a berm there, you can still see it from the road. He thought there were trees planted there to ultimately shield it. Board member Burton stated that there was a parking lot that was relocated to the back of the parcel for this very reason.
    - Board member Bastian mentioned the YMCA, which predates the MUD manual but it is still a very large and visible parking lot.
    - The Board members all voiced their agreement to see alternatives to the parking lot being located next to Route 250.
  - Shared Parking – shared parking for residential units must be located within a maximum of 300 feet of dwelling unit entrances.
    - Chairman Hetzke asked if there were lots where they are further than 300 ft away.
    - Mr. Sangster pointed out the lot on the north side between the gathering area and the common house. He also stated that there isn't an entrance on the north side of Building D where this parking lot is located. Staff asked about this area in PRC comments and the applicant indicated they would likely be using it as employee parking as well as additional parking for the common house.
    - Board member Kanauer asked if there are handicap spots in that lot. Mr. Sangster

- responded that there are none. The handicap spots are in closer proximity to the building entrances.
- Board member Burton noted that where you have multiple parking lots (in a complex) handicap accessible spaces have to be dispersed in every area.
- Chairman Hetzke stated that the shared parking and accessible spaces are things that need to be addressed by the applicant.
- Community Spaces / ADA – community spaces do not appear to be handicap accessible.
  - Board member Burton stated that Mr. Sangster brought this up in the Sketch Letter to the Applicant. The area that stuck out the most was the elevated area with the windmill. They can't have an elevated gathering space that isn't handicap accessible. Mr. O'Connor stated that the elevation is on the east side and at grade on the west side.
  - Board member Burton stated that the Applicant should show the Board how these requirements are being met.
  - Mr. Sangster stated that in their responses, the applicant stated they were going to look into this and make sure it is ADA compliant.
- Fire Code – roadways don't comply with appendix D of the Fire Code.
  - Board member Burton reiterated that the Fire Code is not under the purview of the Board or even the Town.
  - Mr. Sangster acknowledged that the Applicant has been in contact with the Fire Marshal regarding the fire regulations they need to comply with. They are going to have Costich do a turning template using the Fire Marshal's specifications.
  - Board member Burton added that for the record, when buildings are higher than 30 feet there needs to be aerial apparatus access. 26' wide road and 15' feet off the building = a total of 41 feet obligation.
  - Chairman Hetzke stated that this should also go in the tabling resolution.
- Chairman Hetzke mentioned the MUD Checklist provided to them by Staff, but acknowledged that they aren't ready for it. Board member Burton added that there are too many revisions to be made at this point in time. All board members were in agreement.
- Mr. Sangster stated that we are waiting for the revised plans based on the written responses to PRC comments as well as the Sketch Letter.

The Board voted and **CONTINUED TABLED** the application for Preliminary/Final Subdivision & Site Plan approval pending the submission of additional materials and revised plans for the Board's review and consideration.

Vote:	Moved by:	Burton	Seconded by:	Bastian
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Chairperson:	Hetzke - Aye	Bastian - Aye	Burton - Aye
		Kanauer - Aye	Tydings - Aye

Motion was carried.



**IV. ACTION ITEM:**

1. Application #20P-0005

1918 Jackson Road – Stafford Park, Resubdivision Plat Map

- Mr. Sangster explained that the Applicant has an interested buyer for Lots 14 & 15 – and the house they would like to build won't fit within the setbacks of one of the lots, so they are looking to purchase two lots and merge them into one.
- This action would take the overall subdivision from 20 to 19 lots total.
- Mr. Sangster confirmed that no variances will be necessary and that staff has no concerns with the merging of the two lots.
- The Board had no further concerns.

The Board voted and **APPROVED** the Resubdivision of Lots 14 & 15 for the Stafford Park Subdivision.

Vote: Moved by: Bastian Seconded by: Tydings

Chairperson: Hetzke - Aye Bastian - Aye Burton - Aye  
Kanauer - Aye Tydings - Aye

Motion was carried.

There being no further business before the Board, the meeting was adjourned at 7:25 PM.

These minutes were adopted by the Planning Board on Thursday, July 8, 2021.

FILED  
PENFIELD, N.Y.  
2021 JUL -9 AM 10:19  
AMY M. STEKLOF  
TOWN CLERK