

The Planning Board held a meeting at 6:30 PM local time **Thursday, September 9, 2021** in the Town Hall Auditorium to discuss, in a meeting available to the public, tabled matters and other business that was before it.

I. CALL TO ORDER:

PRESENT: Allyn Hetzke, Jr.
Jim Burton
Bill Bastian
Bob Kanauer

ABSENT: Terry Tydings

ALSO PRESENT: Doug Sangster, Town Planner
Michael O'Connor, Assistant Town Engineer
Catherine DuBreck, Junior Planner
Lori Gray, Board Secretary
Peter Weishaar, Planning Board Attorney

II. APPROVAL OF MINUTES:

The Board voted and **APPROVED** the draft meeting minutes for August 12, 2021.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Bastian		X	Aye	
Burton	X		Aye	
Kanauer			Aye	
Tydings			Absent	
				The motion was carried.

III. PUBLIC HEARING APPLICATIONS:

1. BME Associates, 10 Lift Bridge Lane East, Fairport NY 14450, on behalf of Highland Builders, 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 Site Plan and Subdivision approval for the proposed 17 lot subdivision with associated site improvements on ±48.08 acres located at 2735 and 2745 Penfield Road, Fairport NY. The properties are now or formerly owned by Joseph DiPrima and Highland Builders and zoned Rural Agricultural (RA-2). Application # 21P-0024, SBL #141.01-1-18.21, #141.01-1-18.22

Fred Shelley, BME Associates and Dustin McLoud, Highland Builders were present.

- Fred Shelley, BME Associates, presented the application requesting preliminary and final approval for a 17-lot subdivision. It is a residential, single-family subdivision and as stated previously it's within the Town's RA-2, single-family zoning district.
- The current proposal includes roughly 48 acres of land on two separate parcels - 2735 and 2745 Penfield Road - it is located on the south side of Penfield Road, Route 441, between Gloria Drive and Jomanda Drive.
- The project includes a re-subdivision of the existing home parcel which will be approximately 8 acres. The remaining 16 parcels will comply with the town zoning ordinance and the development will include the extension or construction and dedication of a proposed public roadway, the extension of a public water main, and the construction of a stormwater management facility to be located at the northwest corner of the property. The stormwater management facility has been designed according to the DEC requirements to control the peak site runoff rates as well as provide water quality for the areas that it's receiving.
- The individual parcel development will also include installation of individual private waste water treatment systems as well as stormwater management controls. There is a dry-swale practice to provide green infrastructure practices and runoff reduction volumes for the site.
- The project is currently proposed as a two-phased project which will include the installation of approximately 1000 feet of public roadway, a public water main, and construction of the stormwater management facility, the development of lots 1, 2, 3, 15, and 16, and the re-subdivision of the existing home parcel. There is a footprint provided of the existing septic system near the turnaround and that will not be reduced or conflict with any setback requirements.
- As a result of the development, the existing home which is currently on a well, will be provided with public water services.
- The project has been submitted to and is undergoing agency review with:
 - Monroe County Department of Public Health for subdivision wastewater treatment systems and water main extension
 - Monroe County Water Authority for the water main extension
 - New York State DOT will be reviewing it for a utility permit for the water main connection and also the access for the proposed roadway.
 - New York State DEC as the site will require stormwater permit coverage as part of the development because we are disturbing over five acres of land for single-family homes.
- For the SEQRA regulations the project is considered a Type I action and we would request that the Planning Board consider declaring themselves as lead agent for the coordinated review.
- We are beginning to get some of the comments back from the agencies listed, and we've also received PRC comments from the Town and we will begin addressing those with future submissions.

Board Questions:

- Board member Burton asked about the perc tests. Mr. Shelley responded yes, they were able to obtain acceptable perc tests for the systems they have designed. There are a

couple of different systems proposed - there are a few standard, conventional systems and then there are some modified raised systems included with this proposal.

- Board member Burton continued, saying some of those leech fields are fairly close to interior lot lines and if they end up with a raised bed there is some potential discharge. He also wondered, looking at these systems that there are different sizes, so how were these systems designed without knowing what they're going to build.
- Mr. Shelley responded, each of those systems is designed for a three-bedroom home and then they're designed based on the absorption rate of the underlying soil, so that's why you'll see some different sizes of the system. Some of them had a slower perk, some of them were faster, so not quite a cookie cutter design for the septic design. He reminded the Board that it is going through the Monroe County Health Department for their review.
- Board member Burton stated that he saw the comment on the issue with the pond that's encroaching on the neighboring property and he understands that the owners have agreed to in-fill that pond and enter into an agreement with the adjacent property owner. He asked if that work been completed Mr. Shelley responded that the work has not been completed yet but they will continue to coordinate with the adjoining owners. Board member Burton asked if it is something that they anticipate having in place before this Board would be asked to issue a final approval. Mr. Shelley responded that they would probably do is to request from the owner of the adjacent parcel, set up an agreement with them, it would be pending final approval of the plans, and then the work would be completed.
- Board member Burton stated that he didn't see any width specified on the driveways for all the lots but he did note that lots 10 and 11 driveways are over 300 feet, so those driveways are required to be 12 feet where the other ones aren't. The final site plans need to indicate that those longer driveways are a minimum of 12 feet for their entire length. Mr. Shelley responded that he understood and would include those.
- Chairman Hetzke asked about the stormwater facility in the northwest corner, whether it is retention or detention. Mr. Shelley responded that the stormwater facility in the northwest corner will retain a certain volume of water below a normal water elevation, and then during certain storm events it will hold some that provides the wet water quality volume.
- Chairman Hetzke continued, so when you say it will retain a certain amount of water will that be in appearance like an open water pond or lake or will it look like a wetland? Mr. Shelley responded that it is designed as an open water pond.
- Chairman Hetzke asked approximately how deep. Mr. Shelley responded between four to six feet deep. Chairman Hetzke asked if it's there because it's the lowest part of the property. Mr. Shelley responded that's correct.
- Chairman Hetzke asked about the driveway for the neighbor and if it gets redirected onto the dedicated road. Mr. Shelley responded, that's correct.
- Chairman Hetzke asked if there are any variances required. Mr. Shelley responded no, actually one PRC comment came up for lot 16. We'll need to adjust that house location to conform to the setback there, but we don't have an issue with relocating that home - we'll pull it to the east slightly so we have room between the septic system and the house.

- Chairman Hetzke asked one follow-up question - on the perc tests you mentioned, they are for three bedroom homes, but what if somebody wants a five bedroom or a four bedroom. Mr. Shelley responded that if their home exceeds that design then a modified septic system design would need to be submitted to the health department.
- Board member Kanauer asked about the distance from the house pads to the fire hydrants for lots 12 and 10, and will that exceed 400 feet. Mr. Shelley responded that he didn't have that number, but that there's a right at the end. Board member Kanauer continued, stating, as long as the house is closer than 400 feet, otherwise the houses would have to be sprinklered. Mr. Shelley responded, he understood.

Public Comments:

1. Mary Wagner, 678 & 742 Furman Road, Fairport, NY (585)377-9117

- I'm an owner of the property that backs up to this property that they're talking about here. I'm concerned about this being an agricultural district and that it's been that way for a long time. The Town of Penfield and the state of New York spent a lot of money right across Penfield Road preserving agricultural land in this neighborhood. This is a connecting body to preserved land that's in the Town of Perinton. Our land is preserved under the conservation easements and the ones that the state has provided. We're still an active farm; we have animals; we spread manure on the property.
- The major concern is that to be able to continue to farm, we're already having a difficult time with things like deer and animals, as they're getting crunched into smaller and smaller spaces and we have a lot of deer damage on our property with our current crops. We also have some wooded area that bumps up to this property where we are allowed to allow hunting but again, it seems like that's not going to be possible if more houses are there.
For us it's kind of a critical thing is that we have people to come in and bow hunt and gun hunt because it is a way to at least try to get some of the deer population down.

2. Bryan Jones, 4 Jomanda Way, Fairport, NY (585)491-2796

- First, this is a dedicated historic district where this is. There are houses right next to where this property would be that are on the Historic Registry.
- I don't know if anything's been done as far as a traffic study but this is going to bring a lot more traffic to the area so that's also a concern.
- This is the first time he saw the map and he stated that there are some wetlands there and he didn't see those on that map. He believes on site number one there are wetlands that were always there and they were supposed to be protected wetlands.
- Chairman Hetzke responded that it's certainly something that will be considered and taken a look at.
- Mr. Jones continued, stating that some excavating has been done over there and he didn't know if they tried to do something that already got rid of some of those wetlands but there were wetlands there that were supposed to stay there.

- The other thing is that this would be by far the largest and most condensed development right off of 441, so again that that would bring a lot more traffic.

Board Deliberation:

Following the presentation of this application in the public hearing, the Planning Board continued its review during the subsequent work session that evening.

- Mr. Sangster explained that as the Applicant stated, the application is a Type I action and we have sent out lead agency letters. Responding specifically to one of the resident comments that we received, the property directly to the west, although there is another lot that sits in between a portion of it, 2701 Penfield Road is on the National Register of Historic Places.
- Further down the road, 2780 is not on the National Register but is considered a local landmark. Therefore, as part of our Type I action, we sent an Interested Agency letter to SHPO, the State Historic Preservation Office. We have received two responses back: one from their cultural resources office, stating that they had no concern, they did not feel that this application would impact the National Registered Historic Place at 2701 Penfield Road.
- Mr. Sangster continued, we did however receive information from their Archaeological Division which has requested a Phase One Archaeological Survey to be conducted on the site, prior to them rendering a decision regarding lead agency. Staff is currently working with the Applicant, following up with SHPO. In Staff's research, we did not pull it up as being within an archaeologically sensitive area, so the only thing we can see is that the state did a survey when they did their 441 realignment project and that may have triggered it on SHPO's side.
- Mr. Sangster stated that Staff is working with the Applicant to get SHPO the information they need so they will provide a letter back to the Planning Board.
- Mr. Sangster stated that we sent out Agricultural Data Statements and the Town of Perinton was notified because this property does abut the Town of Perinton-Town of Penfield border.
- A PRC memo was also sent on September 7, 2021 with Staff's concerns.
- Board member Burton stated that tonight seemed to be one of those times when he felt almost compelled to tell the audience that the Applicant is entitled, that this is a permitted use, that they're entitled to develop this property. So many times neighbors come in with very valid concerns but the concerns really should have been addressed when the Town underwent a re-zoning process, because that was their opportunity to speak about the impact of density, uses and things like being adjacent to active agricultural land and the wildlife and so forth. It seems to him that that one of the state agencies has a deer management program, agriculture and markets has one because they work very hard to protect active farmland and crop production. He was just wondering out loud if maybe the town would have a resource that they could share with the people that have the active farms. He added that he thinks that it would be kind of nice and also that when you go to send a letter out to the Applicant, we should specifically mention the wetlands and ask them to produce a wetlands map and talk about the traffic in the line of sight to the curb cut.

- Mr. O’Conner stated that there are no mapped wetlands. The only thing that is on the property is a 75 foot stream buffer. Board member Burton continued, there might not be any mapped wetlands but that doesn’t mean that there aren’t wetlands present on the property. Mr. O’Connor responded that it would be probably isolated. Board member Burton responded that at least at least we took the time and little bit of effort to address the neighbors’ concerns and ask the Applicant to provide a written response, that’s only fair to the people that are being impacted by this.
- Mr. Sangster responded that we can ask them to either provide a letter stating that they did a delineation and did not find any wetlands or if they do, to note them on the plans and whether they’re isolated.
- Board member Burton continued, there’s also that neat little wetlands brochure that the DEC puts out so maybe you make that available to this gentleman that came up and talked, so that he has a better understanding of what a true wetland area is. Mr. O’Connor responded that the current homeowner also did do a lot of work down there, he’s already disturbed whatever wetlands there were. Board member Burton concluded that they have, he may be very right about that. Mr. O’Connor clarified that he’s done that work without town approval, without a permit.
- Board member Burton stated that his only reason for mentioning it is because we here invite these people to come up and comment and oftentimes they have some really valid things and rather than just say “thank you for your comments”, it would be nice if we could maybe do a little something proactive to educate them and let them know that there’s real merit to their comments.
- Board member Bastian stated that it was about 10 years ago maybe, on the Broccolo Landscape business that’s immediately to the east. Is that where they proposed the tubing hill. The previous owners of that property, it was out back behind that property behind the Broccolo’s but it was land that they owned because that property goes way back. If you recall the turnout for that application filled the auditorium. He was surprised there were only two neighbors that spoke out about this.
- Board member Kanauer added that with the tubing thing it was a noise, an evening noise issue as well as lighting.
- Board member Burton stated that you also get a lot of cars for things like that. Traffic is a headache at times but it’s only 17 lots. It’s not going to be all at once. Board member Bastian added that for the tubing, New York State came in and said they would have to add a turn lane on 441. He thought that is what killed the project, because that was very expensive.
- Chairman Hetzke asked if there was anything else from Staff we need to address.
- Mr. Sangster responded no, I’ll say we do have information for hunters, we do issue hunting permits as the DEC has the Town Clerk issue hunting permits. We have specific provisions-we have had farmers who are not within areas where discharge of firearms is allowed to get special permits to do hunting on their agricultural properties. In this section of town hunting is allowed as long as you meet all of the state requirements for distance and size of land and things like that.
- We can table the application pending submission of any information regarding wetlands, traffic and site distance, archaeological survey. Mr. O’Connor stated that he wouldn’t include sight distance because they already have an existing driveway, the

DOT already approved that location, and they do meet the requirements. He believes it's on the plans as minimum site distance for the speed. With 17 lots, if you do a trip generation it's probably 50-60% of those people that are living there who are going to leave in the morning during the am peak, so really 50-60% of 17 lots is eight cars.

- Board member Bastian asked if we are assuming lead agency. Chairman Hetzke responded that we need to wait until SHPO is comfortable with the information they available, otherwise they could take it, that's fine. Mr. Sangster added that the primary letter from SHPO essentially said that they are waiting to reserve their comment until they receive the feedback regarding the archaeological survey. They have multiple divisions, and the Historical Resource Division is not issuing a determination on Lead Agency until the Archaeological Division received the Phase 1 survey.
- Mr. Sangster stated that he's assuming we can we will be in a position to declare lead agency by the work session on September 23, but SHPO knows it is your intent to be lead agency.

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

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Bastian		X	Aye	
Burton	X		Aye	
Kanauer			Aye	
Tydings			Absent	
				The motion was carried.

2. BME Associates, 10 Lift Bridge Lane East, Fairport NY 14450, on behalf of Shadow Lake Paddle (Fritz Odenbach), requests under Chapter 250 Article XII-12.2 and Article XIII-13.2 of the code of the Town of Penfield for Preliminary and Final Site Plan approval and modification of a Conditional Use Permit for the construction of an additional paddle tennis court between the existing courts on ±198.63 acres located at 1850 Five Mile Line Road. The properties are now or formerly owned by Shadow Lake Paddle (Fritz Odenbach) and zoned Residential 1-20 (R-1-20). Application # 21P-0027, SBL #124.01-2-45.11.

Fritz Odenbach, Owner of Shadow Lake, was in attendance to present the application.

- Mr. Odenbach started the presentation, stating they are simply checking to see if they can get an approval for another platform tennis court. They currently have five courts but with Covid and the growth of the game there's been a real demand for more.
- Mr. Odenbach stated they had originally put in two courts in 1978 and over the 80s and 90s, they added three more. Where they used to have the tennis courts, they took those out and put in volleyball courts and now this game has superseded it all and we want to keep it growing.
- Mr. Odenbach continued, saying the courts are 30 by 60 and really a pervious surface because there are 50 aluminum planks with a quarter inch between each of them, so

when it rains, the water goes right through like it's not even there. It's not like a tennis court where it's solid asphalt or concrete

- Board member Burton asked about pickle-ball. Mr. Odenbach responded that there are many facilities that offer free pickle-ball and on one of their tennis courts they have pickle-ball, but it's tough to compete against free.
- Mr. Odenbach continued, stating that there are currently six lights on each court and they are what they call a shoebox light or kind of like a pancake where it just shines straight down on the court. They are each 200 watt, so increased lighting shouldn't be a factor, especially that far off the road
- Board member Burton stated that they don't have any neighbors over there.
- Board member Bastian stated that in the past it's been a tennis court and a sand volleyball court so he sees no issue.
- Mr. Odenbach responded that the five courts right now face east and west. In the paddle court, we couldn't go too much farther because there's a lot of bad golfers like me out there and they end up on the court so we had to put it in perpendicular to the other ones. It's a great location because you can go off the back of the deck of the warming hut and get right on the court.
- Board member Bastian asked if that is the frame building, and if these courts will be open year round. Mr. Odenbach responded that the season goes from October first to April first. We're playing in the winter time. The courts are elevated and there are propane heaters underneath.

Public Comments:

There were no public comments for this application.

Following the presentation of this application in the public hearing, the Planning Board continued its review during the subsequent work session that evening.

- Chairman Hetzke asked if staff had any concerns. Mr. O'Connor responded no.
- Mr. Sangster reminded the Board that the Part 2 EAF and Draft Approval Resolution were included in their drop.

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

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Bastian	X		Aye	
Burton			Aye	
Kanauer		X	Aye	
Tydings			Absent	
				The motion was carried.

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

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Bastian	X		Aye	
Burton			Aye	
Kanauer		X	Aye	
Tydings			Absent	
				The motion was carried.

TABLED APPLICATIONS:

1. Torchia Structural Engineering & Design, P.C., 625 Panorama Trail, #2210, Rochester, NY 14625 on behalf of Mark A. Pandolf, requests under Chapter 250 Article XII-12.2 of the code of the Town of Penfield for Preliminary and Final Site Plan approval for the renovation of the existing house including the proposed construction of an addition and a free-standing garage on ±1.0 acres located at 1851 Clark Road. The property is now or formerly owned by Mark A. Pandolf and zoned Residential 1-20 (R-1-20). Application #21P-0025, SBL #123.12-1-27.

- Mr. Sangster stated that at the last meeting on August 12, 2021 the Board tabled the application because it required an area variance. The Applicant went before the Zoning Board on August 19 and their variance was approved.
- Mr. Sangster added that a draft approval resolution was prepared for the Board’s review.
- Chairman Hetzke stated that the only thing that we were really waiting for was the Zoning Board to rule on that. We did approve the Short EAF on August 12, 2021 so that should be all taken care of.
- The Board had no further concerns.

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

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Bastian		X	Aye	
Burton	X		Aye	
Kanauer			Aye	
Tydings			Absent	
				The motion was carried.

2. McMahan-LaRue Associates, P.C. 822 Holt Road, Webster, NY 14580, on behalf of Richard and Mary Montgomery, 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 lands into two lots on ±35.69 acres located at 1492 Sweets Corners Road. The property is now or formerly owned by Richard and Mary Montgomery and zoned Rural Agricultural District (RA-2). Application #21P-0023, SBL #125.02-1-2.1.

Present: Al LaRue, McMahan LaRue Associates
Dick & Mary Montgomery, Owners

- Mr. Sangster stated that the Board tabled this application on August 12, 2021 because it required an area variance. The Applicant then went before the Zoning Board on August 19, 2021. The Zoning Board reviewed the application and had concerns with the substantial nature of the variance, therefore they drafted a letter to the Planning Board, which was provided in your drop, asking for your input on the variance.
- Mr. Sangster explained that since that ZBA meeting on August 19, the Applicant has submitted new maps on which they have increased the size of the homestead lot from 2.65 acres to 3.15 acres, an increase of about half an acre which reduces the necessary variance. They are required to have 4.96 acres per code based on the size of the accessory structure.
- Chairman Hetzke stated that the original plan was about two acres and it was increased to 3.2 acres. This is essentially what we would call self-created hardship. Mr. Sangster replied, that's correct.
- Board member Kanauer asked if the original parcel was ±35. Mr. Sangster replied yes, 35.69 acres in total.
- Board member Burton stated that he understands the impetus for not wanting to lose another potential development lot. But if the Zoning Board's tolerance was that they might consider a grant with a less substantial ask on the area variance, he is happy to send this back to the Zoning Board.
- Chairman Hetzke asked if it was Board member Burton's opinion that the modification is substantial enough. Board member Burton responded that he feels the Zoning Board is not looking at it as whether or not the increase is substantial enough, but whether or not there's a de-minimis amount of area that they're requesting that the Zoning Board would feel comfortable granting the variance.
- Board member Burton added that he is comfortable with what the Applicant is doing and that it's a matter of semantics the way that the Town Code is written, so if the Zoning Board is willing to grant them the variance with the change in the area of the existing lot, then he is good with that.
- Board member Bastian stated that he too would send it back to the Zoning Board because as has been stated before, it's self-imposed. They don't want to meet the zoning standards and he understands why, but thinks it's premature for this Board. He added that he thinks that we (the Planning Board) need to send it back to the Zoning Board and let them make the decision.
- Chairman Hetzke stated that the Zoning Board is seeking from the Planning Board an opinion on whether we are in support of the variance or not. Mr. Sangster stated, that is

correct. They want the Planning Board's opinion on whether they should grant the variance, whether you, the Board supports the variance as requested.

- Board member Kanauer stated that he still thinks with the half an acre increase, it's still only roughly sixty percent of what the zoning requires.
- Chairman Hetzke agreed with Board member Kanauer saying he thought that the request for variance is completely self-created and we have zoning codes for a reason. If we want to change the zoning codes, that's one thing, but that's not up to this Board.
- Board member Bastian stated that he was in agreement with Chairman Hetzke and Board member Kanauer because we have zoning codes for a reason and there's no reason they can't increase the lot size.
- Chairman Hetzke responded, say it is 35 acres now and instead of ending up with a 33 acre parcel, they will end up with a 30 acre parcel if they comply with Town Code. Mr. Sangster replied yes, that is correct.
- Mr. Sangster said, we'd be looking to take a vote just to "Continue Tabled" the application and to send a letter to the Zoning Board *not* in support of the variance or that substantial of a variance.

The Board voted and **CONTINUED TABLED** the application for subdivision and site plan approval pending the issuance of a letter to the Zoning Board of Appeals.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Bastian		X	Aye	
Burton			Nay	
Kanauer	X		Aye	
Tydings			Absent	
				The motion was carried.

3. BME Associates, 10 Lift Bridge Lane East, Fairport, NY 14450, on behalf of Pathstone Development Corporation, 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 Facility including 136 residential apartments in two proposed buildings, ±38,470 sf of non-residential space including a daycare facility and a ±4,800 sf commercial building, all with associated site improvements on the existing ±10.653 acre property located at 1801 and 1787 Fairport Nine Mile Point Road. The property is now or formerly owned by WRM Holdings III, LLC and William Wickham, and zoned Mixed Use District (MUD). Application #21P-0020, SBL #125.01-1-3.111, 125.01-1-33.11.

Present: Peter Vars, BME Associates
Mira Mejibovsky, Passero Associates

- Mr. Sangster explained that since our last meeting or just prior to our last meeting we received both feedback from our traffic consultant at Barton Loguidice, P.C. as well as the NYS DOT with their comments on the Traffic Impact statement that was provided.

- Since then, Staff and the Applicant have met with the NYS DOT to discuss some of the concerns that the DOT had because they were not in favor of the curb cut on Route 250. They wanted all traffic to come out at the signalized intersection. We reminded them that at this point the Applicant does not have legal access to what is currently known as Penfield Square Road because that has not been dedicated to the Town as a public right-of-way, it is still a private right-of-way.
- Chairman Hetzke asked Mr. O'Connor if Staff had met with the DOT. Mr. O'Connor responded that after the DOT was aware of the Applicant not having access from the YMCA road yet, they are in agreement that they can look at providing a curb cut for the PathStone Development a little further south from Sweets Corners Road to create a bigger distance.
 - The DOT is willing to allow for right-in, right-out and a left-in at this time. It was left as: if there is any possible future development to the north of the property and they are able to provide a signal at Sweets Corners Road, that the entrance would be relocated to make it a full intersection that would allow left-in, left-out.
 - Chairman Hetzke added that that would be something that we'd have to put into a resolution that would require that.
 - Mr. O'Connor continued, hopefully the Applicant can work with the YMCA and the Town to dedicate the road from the YMCA and Penfield Square so that access would be allowed that way as well. There is a Building Fire Code that requires anything over 200 units to have double access; so with this being 132 units and Penfield Square being 186, they would be over the threshold where this whole area would need at least two points of access.
 - Chairman Hetzke asked if they understand that. Mr. O'Connor responded, yes.
- Board member Bastian asked Mr. O'Connor if they would have a full intersection at Sweets Corners Road. Mr. O'Connor responded, that's the plan if there's any future development to the north, because right now this Applicant doesn't own the property. So if that ever comes to fruition then the DOT would look at relocating the existing curb cut and providing it right across from Sweets Corners Road. Board member Bastian clarified that the DOT would allow the curb cut now and then down the road when the parcel to the north is developed, they would make that a full intersection.
- Mr. Sangster explained that Staff also met with the Applicant to discuss architecture. We received the architectural review comments from our Architectural Consultant and he expressed some concerns with the architectural style, specifically, he did not believe it reflected the historical nature of Penfield or the area, so we worked through some of those concerns with the Applicant.
- Staff has just recently sent out a PRC memo to the Applicant addressing our most recent concerns on that set of plans. The Applicant has stated they don't see any significant concerns with our requests. With that, we have our site plan checklist if the Board is comfortable moving forward
- Chairman Hetzke responded that he'd like to start down that road, but first just get some feedback from the Board about Chris Lopez's architectural memo.
- Chairman Hetzke stated that from his recollection from our initial review of the architecture, everybody was generally pleased with the style and texture that the Applicant proposed and his memo was a little bit contrary to that. Chairman Hetzke

added that there are some good points-the street level emphasis and canopies to create the human scale, that type of thing-would be good to incorporate.

- Board member Bastian stated that he was happy with the presentation we saw a couple months ago. He is okay with the existing architecture.
- Board member Burton stated that too is happy with the existing architecture, but he doesn't disagree with Chris. He stated that those provisions are in the manual for a reason and this is something that Chris has consistently rendered an opinion about through the four mixed-use developments that we've looked at. So he didn't think we stop that process, he's doing a great job of keeping all of the Applicants on the same path. He continued saying, in that respect and I think we should follow his recommendation or ask the Applicant to follow his recommendation.
- Chairman Hetzke asked, to what degree (do we follow the recommendations) because you could read this as an extremely substantial change has to happen.
- Board member Burton responded, I would leave that up to the Designer and let her look at Chris's comments and see how she can incorporate some of the things that Chris thought might lend some historical flavor from that area of the Town and see what she comes up with. He continued: I don't think we dictate to them how to achieve those goals.
- Board member Kanauer stated that from what he remembers, when we reviewed the original design, the building closer to the road incorporated a flat roof and the building to the west was more of a gabled roof. He continued, stating that a gabled roof maybe fits in more with what you might think typical buildings in Penfield would be like but on the other hand I think we acknowledged that it was a little bit different building and in fact there's another project that does incorporate some flat roof architecture. He thinks the architect should just review that and make modifications as they think and maybe there's a middle ground there.
- Mr. Sangster stated that we can certainly make a recommendation on that.
- Mr. Sangster asked if there were any specific architectural element or recommendation of Chris's that the Board found to be the most substantial one that the Applicant should focus on.
- Chairman Hetzke responded that this being Zone A for the mixed use district and Zone A areas having the highest concentration of commercial uses, it's almost as if this district is going to be a new "little city center" or community, we want it to feel like that. We're also trying to focus on pedestrian scale - people walking from place to place versus driving. We want it to be inviting and not just for the people who live or work there but for the entire community.
- Board member Kanauer stated that he thinks there are some more features now that have been added which is very positive, with a little bit more character instead of just an open area.
- Board member Burton stated that he didn't have anything specific. He'd just like to see how the Designer responds to the Architectural Review letter.
- Mr. Sangster asked if the Board is comfortable with the building placement and how the buildings are laid out on the site.
- Board member Burton responded that we may find some changes to that as a result of their response to the Architectural Review comments.

- Mr. Sangster stated that since the original iteration they have broken up the parking. One of the original comments when we first saw the application in July was that the one large parking lot felt a little too much like a shopping center. They have made inroads by dividing up the parking into multiple of parking areas with larger green spaces in between. He asked if the Board was comfortable with the parking as it's currently laid out, knowing that it may have to change a little bit especially if the DOT does require the curb cut to move further south as that may alter the vehicular circulation of the site. It may also require moving that commercial building in the northeast corner of the property or shifting that building to an alternative location, which may result in a reconfiguration of the parking.
- Board member Burton stated that during their last presentation he thought they did a very nice job of graphically showing how they responded to the comments from the previous meeting. They did pretty much what we asked them to do. He stated that he gets a little concerned with a whole bunch of little medians that have grass areas because the salt ruins the grass and they are hard to maintain, keep green and looking nice.
- Mr. Sangster stated that given the comments regarding the architecture and the Architectural Consultant's memo, does the Board feel comfortable tabling the application to see how the Applicant responds to the comments from the DOT meeting, the latest PRC memo and the Architectural Review.
- The Board members agreed.

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.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Bastian	X		Aye	
Burton			Aye	
Kanauer		X	Aye	
Tydings			Absent	
				The motion was carried.

ACTION ITEM:

1. **Penfield Heights** – Discussion on modifications for resubmission

- Mr. Sangster stated that at the last meeting the Board issued a denial resolution for the project known as Penfield Heights. Since that meeting, Staff has been in contact with the Applicant, the Applicant's engineers, and their attorney and they have provided responses to the denial resolution as well as a smaller set of revised plans.
- Mr. Sangster continued, in our denial resolution the Board invited the Applicant to resubmit if they found that they could overcome the issues that were addressed within the denial resolution.

- Mr. Sangster stated that the Applicant has resubmitted plans for the Board's consideration, just to see how the Board feels about some of the changes prior to resubmitting an application.
- Mr. Sangster stated that the most significant change is the fact that Building A, one of the 10 unit townhouses has been converted to a two-story Retail Building. The Retail Building at the corner was reduced from three stories to two stories to match. The building heights on Buildings C and D - they show them as being reduced substantially to mostly meet our 55-foot height requirement, except for a single eve on Building D that would remain 71 feet in the front and 60 in the back. Additionally, two sections of what were non-ADA compliant sidewalks at the entrance off of NYS Route 250 as well as between the Common House and the rear trail system around the pond facility will be made compliant to ADA Standards.
- Chairman Hetzke stated that he thinks that they are making progress. Is it 100% there? No, but it's moving in the right direction. He stated that he thinks that we're all open to having a new application come in without some sort of arbitrary time frame, a year or 90 days or whatever put on it. The denial had nothing to do with putting a time frame on it, it was that it doesn't meet these factors of what we're looking to do and we want to get there so I'd like to work with them to do that.
- Board member Burton added, that he felt that they were very well thought out responses to all of those issues. He continued, stating the he was not prepared to talk about the specifics of what they offered and the merits of whether or not it meets the direction that we were going.
- Board member Kanauer stated that he wouldn't have an issue with the Applicant resubmitting, with no extended time frame, with those changes so we can look at this project again.
- Board member Bastian stated that he was not able to do a thorough review but he is with the rest of the team here that he doesn't want to shut them out. He thinks they are moving in the right direction but to say they can't come back for another year or whatever the typical time frame is, he doesn't agree with that. It's not fair if they're ready to resubmit he thinks the Board should let them.
- Chairman Hetzke asked Attorney Pete Weishaar we good with that? Mr. Weishaar responded that it's kind of challenging because you don't know what the new application is going to be, but it sounds like you would be inclined to consider an application were it to be submitted in less than a year correct?
Chairman Hetzke responded with yes.

NEW BUSINESS:

There being no further business before the Board, the meeting was adjourned at 7:45 PM.

These minutes were adopted by the Planning Board on Thursday, October 14, 2021.

FILED
PENFIELD, N.Y.
2021 OCT 15 AM 9:54
ANN M. STEKLOF
TOWN CLERK