

The Planning Board held a meeting at 6:30 PM local time **Thursday, May 26, 2022**, 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.  
Kelly Aken  
Jim Burton  
Bob Kanauer  
Terry Tydings

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

ABSENT: Peter Weishaar, Planning Board Attorney

**II. APPROVAL OF MINUTES:**

The Board voted and **APPROVED** the draft meeting minutes for April 28, 2022.

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

The Board voted and **APPROVED** the draft meeting minutes for May 12, 2022.

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

### III. TABLED APPLICATIONS

1. 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.
  - Mr. Sangster explained that Staff is still finalizing a formal determination regarding what can be classified as non-residential use. The intent is to provide it to the Board in the next week or so, for discussion at the next meeting on June 9, 2022.
  - There are no other updates.

The Board voted and **CONTINUED TABLED** the application for Subdivision & Site Plan approval pending further review of the recent submissions and the determination of the percentage of non-residential space.

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

2. Costich Engineers, 217 Lake Ave., Rochester, NY 14608, on behalf of Atlantic 250 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 phase 1 of a mixed-use development project including townhomes, apartments, a community center, commercial retail, and office spaces with associated site improvements on ±73 acres located at 1600,1611,1615,1643,1657 Fairport Nine Mile Point Road, 1255 Penfield Center Road, and 3278 Atlantic Ave. The properties are now or formerly owned by Atlantic 250 LLC and zoned Mixed-Use District (MUD). Application # 21P-0029, SBL #110.03-01-04.215, #110.03-1-4.212, #110.03-1-4.205, #110.03-1-25.2, #110.03-01-25.1, #110.03-1-4.206, #110.03-1-24.
  - Mr. Sangster explained that Staff is working on the documents regarding the SEQRA Determination as well as the Draft Approval Resolution. When the final drafts are completed, they will be provided for the Board's review.

The Board voted and **CONTINUED TABLED** the application for Subdivision and Site Plan approval pending the completion of the SEQRA Determination and Draft Approval Resolution.

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

3. 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 #22P-0003, SBL #s 125.01-1-25.1, 125.01-1-25.2.

- Mr. Sangster explained that this Board was waiting on the outcome of the Applicant appearing before the Zoning Board of Appeals. The Applicant was before the ZBA or a variance for the building height. That variance was granted last Thursday, May 19.
- Mr. Sangster explained that Staff is working on the documents regarding the SEQRA Determination as well as the Draft Approval Resolution. When the final drafts are completed, they will be provided for the Board's review.

The Board voted and **CONTINUED TABLED** the application for subdivision and site plan approval pending review of the recent submissions.

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

4. Marathon Engineering, 39 Cascade Drive, Rochester, NY 14614, on behalf of Heritage Christian Services, requests under Chapter 250, Article XI-11.2 and Article XII-12.2 of the Code of the Town of Penfield for Preliminary and Final Site Plan and Subdivision approval on the proposed construction and operation of a  $\pm 3,700$  sf one story, 6-bed home on a  $\pm 1.3$  acre parcel to be subdivided from the existing  $\pm 2.7$  acres located at 2730 Atlantic Avenue. The property is now or formerly owned by Heritage Christian Services and zoned Residential 1-20 (R-1-20). Application #22P-0011, SBL #124.01-1-2.
  - Mr. Sangster explained that since the last meeting, the Applicant went before the Zoning Board of Appeals for a setback for a pre-existing, non-conforming garage. The Zoning Board tabled that application at their meeting on May 19.
  - Mr. Sangster explained that the Applicant provided responses to PRC comments, including a Vehicle Stacking Diagram for the Board's review. Staff has had a chance to review it and the biggest changes are that they are moving that southern access point 20 feet to the north, further away from the intersection with Scribner Road and Atlantic Avenue. Staff has no further concerns.
  - Mr. Sangster said that Staff has completed a Part 2 EAF & Draft Approval Resolution.
  - Chairman Hetzke asked if there was a reason why the Zoning Board tabled the application. Mr. Sangster responded that they had a rather lengthy discussion on it and based on his viewing of the video, the Zoning Board showed some concern with whether it should be a variance in the first place. There was discussion with the Board's Attorney on whether a pre-existing, non-conforming structure like this would require a variance. The Attorney stated that Staff had determined that when a change is happening to something like a subdivision, the cleanest way to move forward is to bring it in for a variance so that it is no longer a pre-existing, non-conforming but rather a conforming lot with a variance, which runs with the land.
  - Chairman Hetzke stated that he liked that they provided the Stacking Diagram and that he is comfortable with it. He also stated that they could condition the approval on receipt of the ZBA variance. Mr. Sangster confirmed that this is something routinely done with resolutions.
  - Board member Burton wanted to go on record and say that after the previous two applications and continuing to repurpose this parcel, he appreciates what the Applicant has done to take what was a challenging project for the community and make it something do-able and still be able to get the use out of this parcel. He added that he has no problem with the application.
  - Board member Tydings asked if the PRC comments were addressed. Mr. O'Connor responded that they were submitted last Friday with the Drop Inventory.

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

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

The Board voted and **APPROVED** the application for Preliminary and Final Subdivision and Site Plan with conditions.

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

5. Nixon Peabody LLP, 1300 Clinton Square, Rochester, NY 14604, on behalf of Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless, 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 a Conditional Use Permit for the proposed construction and operation of a 124' wireless telecommunications facility (plus 4' lightning rod) and associated site improvements on the 880 sf leased parcel of the ±2.88 acres at 1838 Penfield Road. The property is now or formerly owned by Penfield Fire District and zoned Four Corners (FC). Application #22P-0012, SBL #139.06-2-49.1.

- Mr. Sangster explained that two consultants to be hired were introduced to the Town Board at their meeting the night before. The Town Board has authorized us to enter into contracts with Bill Johnson, for the technical, RF analysis, and site selection for the Zoning Board, and Bergmann Associates for the visual impact analysis for the Planning Board.
- Mr. Sangster stated that there are no new updates. Once the consultants are on retainer, they will be provided with the same information the Board was provided with to conduct their analysis and get their findings to the Planning and Zoning Boards.
- Board member Kanauer asked if we know what the time frame is. Mr. Sangster responded, saying that Staff let the consultants know where the shot clock currently stands (June 17, 2022) and that they made the request to complete the analysis in that time frame, so the Boards would be able to take action before the shot clock expires. If not, we may discuss with Verizon the possibility of extending the shot clock.

The Board voted and **CONTINUED TABLED** the application for Site Plan approval and Conditional Use Permit pending the results of the third part review.

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

6. T.Y. Lin International Engineering & Architecture, P.C., 255 East Avenue, Rochester, NY 14604, on behalf of McDonald's USA, LLC, requests under Chapter 250, Article XII-12.2 of the Code of the Town of Penfield for Preliminary and Final Site Plan for the proposed construction of an additional drive-thru menu board adjacent to the existing drive-thru location, a small building addition, and associated site improvements on ±1.12 acres located at 1850 Empire Blvd. The property is now or formerly owned by McDonald's USA, LLC, and zoned General Business (GB). Application #22P-0014, SBL #93.02-1-23.2.

- Board member Burton recused himself from the application.
- Mr. Sangster stated that on May 5, 2022, PRC comments were provided to the Applicant. One of those comments was to provide a survey map showing where everything is on site as well as accurate site boundaries because there is some concern that they are not meeting lot coverage requirements so a variance might be required.
- Mr. Sangster stated that responses to the PRC comments or the Board's Tabling Resolution have not been received at this time.
- Chairman Hetzke added that they also asked about curbing the south end of the site for greenspace.

The Board voted and **CONTINUED TABLED** the application for site plan approval pending the submission of revised plans and responses to comments.

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

**IV. ACTION ITEMS: (Administrative)**

**V. HELD ITEM:**

**VI. NEW BUSINESS:**

Penfield Planning Board  
May 26, 2022

There being no further business before the Board, the meeting was adjourned at **6:50 PM.**

These minutes were adopted by the Planning Board on Thursday, June 9, 2022.

FILED  
PENFIELD, N.Y.  
2022 JUN 10 AM 9:54  
AMY M. STEKLOF  
TOWN CLERK