

The Planning Board held a meeting at 6:30 PM local time **Thursday, July 14, 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
Peter Weishaar, Planning Board Attorney

II. APPROVAL OF MINUTES:

The Board voted and **APPROVED** the draft meeting minutes for June 23, 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. SKETCH PLAN APPLICATION:

1. Lakeside Engineering PC, 11 Centre Park, Suite 305, Rochester, NY 14614, on behalf of Rabia and Nilefar Zouaghi, requests an informal discussion before the Board with plans for a 3-lot subdivision on ±2.48 acres at 2305 Penfield Road. The property is now or formerly owned by Rabia and Nilefar Zouaghi and zoned Residential 1-20 (R-1-20). Application #22P-0017, SBL #140.01-1-75.2.

Rod Prosser, Lakeside Engineering
Nilefar Zouaghi, Owner

- Mr. Prosser presented the Sketch Plan application for a 3-lot subdivision at 2305 Penfield Road. Two of the lots are intended to be developed initially with the third lot being set aside for later development, possibly being divided into two additional lots.

The initial lots will be accessed by an existing 16-foot-wide curb cut on Penfield Road. This will deliver automobiles to the front lot directly and the rear lot through a ten-foot-wide driveway that will expand to ± 16 feet wide at the garage.

- Mr. Prosser explained that the front lot will be $\pm 20,000$ sq. ft. and the rear parcel and any future parcels will be $\pm 25,000$ sq. ft. He believes they are in conformance with setbacks except for the rear lot needing a 50' setback. Other than that, he feels they meet the requirements for subdivision approval.
- Mr. Prosser explained that they are proposing public utilities to serve both the residences and the *potential* lots. The sanitary sewer is on the same side of the road as the proposed project. The watermain is on the opposite side of the road so the intention is to drive up to 2" diameter copper water services meeting all the requirements of MCWA to service the two lots.
- Mr. Prosser explained that the second lot is going to have easements running to it for the driveway, the water service, and the sanitary sewer lateral. The front lot will be fed directly off the road and won't need any easements.
- Mr. Prosser explained that for the drainage and grading, the plan is to take the water as it flows now to the rear of the lot. He acknowledged that there are drainage problems at the rear of the lot, much of which they believe was caused by the State Facility that went in next door. That facility discharges through a large diameter, 8" pipe that sends stormwater directly into the middle of this property. If, and when they do develop the rear property, something will have to be done to accommodate that. At this point in time, because that is such a low spot and everything goes up hill from that location, the only way they feel that can be taken care of is going to be a drainage pump station. There is a sizable cost that will go with that, which is why they want to defer that work until the second phase of the project.
- Mr. Prosser stated that this is just a sketch plan, but the application will include the subdivision map, separate drawings for utilities, drainage, and erosion management.
- Mr. Prosser then responded to the PRC Comments:
 - He believes they can do the work with a single permit for utility construction for the water services crossing the road to the two parcels.
 - He believes there is adequate water service in the area and that if a hydrant is required it should have been done when the State came through with their facility.
 - He stated that they will follow any street tree requirements of the Town.
 - He will add any other vegetation to the plans.
 - He will add the sump pump discharge and site data to the final plans.
 - He stated that the plan is for a couple sizable homes $\pm 2,000$ sf in size.

Board Member Questions:

- Chairman Hetzke asked if the Applicant would consider reconfiguring the front two lots to allow the driveway to not be 100% on Lot 1. Mr. Prosser responded that they could do that. He added that there is no reason they cannot put the driveway in the flag area of that flag-lot.
- Chairman Hetzke stated that it seems that Lot 1 has a very small rear yard.

- Chairman Hetzke asked if the two *potential* lots at the rear of the property would be accessed via Watson Road. Mr. Prosser responded yes, that is the intent if/when they develop that rear property into two different, additional residential sites.
- Chairman Hetzke asked Mr. Prosser about his statement regarding the drainage issues stemming from the State's facility next door. Mr. Prosser responded that there were drainage issues prior, but they were exacerbated by the 8" pipe that dumps into the center of this property. He added that there is no way around the drainage issue when you have an area that is low and everything around it is higher and runs off into it. It's been suggested that a pond with underdrains be used, but that isn't an option because the underdrains would have to daylight and there is nowhere for them to daylight to without a pump allowing that to happen.
- Board member Burton asked Mr. O'Connor how the Engineering Department feels about a lift station for conveying stormwater and where would that potentially go? Is that something that is conceivably approvable? Mr. O'Connor responded that he has never come across that, but it would probably be privately owned as the Town would not take dedication of that.
- Board member Burton asked Mr. Prosser about installing a lift station and a stormwater structure to take that conveyance and then with the distances shown on the plan, they would likely need a private fire hydrant. Mr. Prosser responded that he wasn't sure why. Board member Burton responded that they would have to see how the Fire Code treats that distance.
- Board member Burton added that if they have to do all of that, have they considered just making it a two-lot subdivision. Mr. Prosser responded no, they haven't. The cost of the pump station and the do-ability of it will dictate whether or not they can go forward, and the cost will be substantial. They plan to put it in a submersible location like a standard sewer pump station and it wouldn't have to be designed for the maximum runoff because they will likely have a small pond that it would sit in. He acknowledged that it will be a design challenge. It can only go to Watson Road, because there is no storm sewer available for this lot on Penfield Road.
- Board member Aken asked how big the houses were. Mr. Prosser responded $\pm 2,200$ sf.
- Board member Aken asked if they are sharing the one entry. Mr. Prosser responded yes; they are sharing the one 16-foot-wide access which is wide enough for two cars passing. The NYS DOT had no comment on this. That access is not to be used for the rear parcels, because they are landlocking them to have to come out on Watson Road with this design.
- Board member Tydings asked if the intention of these homes is for the owners. Ms. Zouaghi responded, yes.
- Board member Kanauer asked what the distance is from the back corner Lot 3 out to Watson Road. Mr. Prosser responded that is about ± 600 feet. He added that the utilities would come in from Watson Road as well.

Public Comments:

1. Ken Wanamaker, 5 Hunters Drive North

- Mr. Wanamaker's main concern is drainage. He stated that he has noticed that since the site has been cleared, the drainage has gotten worse.
- He has concerns with a "wait and see" approach with the back section of the lot and would like to see the plan for all proposed lots. He asked for clarification on the number of lots proposed – three or four?
- He has concerns about a pump station and who would maintain that.
 - Chairman Hetzke responded that more than likely that would be privately owned and maintained by the homeowner.

2. Robert Hall, 8 Fox Hill Drive

- Mr. Hall's main concern is the drainage because his property backs up to the Applicant's property and he's concerned his property will get wetter.

3. Dale Moreno, 19 Hunter's Drive North

- Mr. Moreno wanted to reiterate what has already been said...there is a significant water problem in this area. Drainage is very bad and he believes the situation has gotten worse since the new property was put in by the State.
- He is also concerned with the curb cut to this property from Penfield Road.

4. Robert Wells, 15 Hunters Drive North

- Mr. Wells stated that when he built his home, they were told this was a "forever wild" property and then ±18 years later, NYS put a group home in without any approval. They have retention ponds, but the area looks awful in his opinion.
- He feels the amount of clearing that has been done has led to many of the drainage issues he that his neighbors are experiencing currently.
- He feels there needs to be a firm plan before moving forward with the project and he is not hearing that from the Applicant.
- He has concerns about things like refuse pickup – where will they park, etc.

5. Karl Thielking, 9 Hunters Drive North

- Mr. Thielking stated that he shares all the concerns already raised. His main concern is the water and drainage issues. He feels the problems started two owners ago when that owner bulldozed the lot to level it out to increase the market value. This action filled in an existing pond that was there at the time. He added concerns about a privately owned pump station to address the water.
- He stated that there are still trees along the east side of the lot, toward Hunters Drive North, and he would like to see those trees remain.

6. Deb Wilson, 4 Fox Hill Drive

- Ms. Wilson agreed with everything that was said to that point. She added that she is not affected by the water issue, at least not at this moment. There are some trees on the property line that she is concerned about – what is the plan for those, as they are a privacy issue.
- Her concern is the strip of property that extends out to Watson Road.
- Ms. Wilson is also concerned about the traffic on Watson Road. When the State put in their property, that long driveway that is currently there was designated to be “only an exit” for that property. It’s not always “only an exit,” which is a problem. If this plan, which is obviously not complete, landlocks the two front properties, then the only entry and exit would be the long driveway out to Watson Road. That indicates there will be traffic going both ways.

7. Jason Jabbour, 17 Hunters Drive North

- Mr. Jabbour’s main concern is the drainage. His property is adjacent to the Applicant’s. He is not comfortable with the wait and see approach and property owner maintenance.
- He also has concerns with the length of the construction process, especially if the extra two lots become a reality.
- Board member Burton made the following statements:
 - This plan has not been submitted for approval, so this is just informal dialogue, the Town has laws in place that the conveyance of stormwater from one property to an adjacent property. The owner’s engineer is simply gathering information so they can gauge how the community feels about it, how the Board feels about it, and then should they decide they want to proceed with the formal application process they will submit a finite plan.
 - The Planning Board would never accept a plan that “might have two lots or might have three lots.” In order for that application to move forward toward any kind of review process, they would have to submit plans that show precisely what they intend to do and how they intend to do it, and how it conforms with the Town Code.

Board Discussion:

- Chairman Hetzke asked if the State is really draining their water onto the Applicant’s property. Mr. O’Connor responded that he needs to take another look at it. He added that Staff has had discussions with the Applicant about the fact that this is a notoriously wet area. Staff has concerns on how they are going to mitigate these issues. The Applicant came into PRC and was asked to come up with a plan on how to deal with the drainage.
- Board member Burton asked what the intent of the project is – building three houses for family or selling one to offset the cost of the others. Mr. O’Conner stated that a better idea would be to change the lots and provide private drives for all three lots off of Penfield Road rather than the Watson Road aspect.

- Mr. Sangster stated that the Applicant has been before the PRC with various ideas with varying densities. He added that they were advised of the potential for using §278 to accomplish clustering lots where they might ask for reduced setbacks.
- Board member Burton added that they would still have the issue of feeding the utilities off Penfield Road rather than feeding the utilities for the flag lot off Watson Road.

The Board voted to **TABLE** the application and have Staff compose a DRAFT Sketch Letter for Board review at the next meeting.

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

IV. PUBLIC HEARING APPLICATIONS

2. McMahon LaRue Associate P.C., 822 Holt Road, Webster, NY 14580, on behalf of Brent Rothfuss, requests under Chapter 250, Article XII-11.2 of the Code of the Town of Penfield for Preliminary and Final Subdivision Approval for the proposed 3-lot subdivision with no new construction on ±60.67 acres located at 1911 and 1977 Salt Road, Fairport. The properties are now or formerly owned by Brent, Terry, Floyd, Floyd P. Rothfuss and Charles & Constance Horst, and zoned Rural Agricultural (RA-2). Application #22P-0018, SBL #125.04-1-8.11, 125.04-1-8.2.

Al LaRue, McMahon & Larue Associates
 Tom Blank, Attorney for the Owners

- Mr. Larue explained that this is a simple subdivision of land with no construction anticipated. The entire Rothfuss farm is ±57.72 acres. They are looking to create a lot around the homestead of ±5.867 acres. They are looking to add ±2.213 to the existing parcel, Lot 3, making that a total of ±7.316 acres. That will leave the remaining lands, Lot 1 at ±49.64 acres.
- Mr. Larue stated that they have received comments from PRC and Monroe County Planning, which have all been addressed. The plans have been set up for filing, so they correspond to all the requirements.

Board Questions:

- Board member Tydings asked about existing structures. Mr. Larue responded that Lot 2 is the existing homestead and there are buildings on that lot.
- Board member Tydings asked if any variances were necessary. Mr. Sangster responded that Staff is discussing internally whether that would need to go to the ZBA for pre-existing, non-conforming to get it on the record and memorialize it for the future.

- Board member Tydings asked if there were any plans with the buildings included. Mr. Larue responded no; they didn't put the buildings on the plans because they didn't think it was necessary because they are so far away from the property lines.

Public Comments:

There were no public comments for this application.

Board Discussion:

- Mr. O'Connor stated that it should be strongly suggested that the Applicant put the buildings on the plans because the one lot could potentially require variances to bring it into compliance.
- Board member Burton asked if the resubdivision would be a trigger for the nonconforming setback. Mr. O'Connor responded yes, that is what Staff has been discussing regarding bringing them in to the Zoning Board.
- Board member Kanauer asked if the septic system (approximate) boundaries should also be included on the plans to be sure they don't cross any lines. Mr. Sangster responded yes.

The Board voted and **TABLED** the application for Subdivision, Site Plan and conditional Use Permit approval pending submission of revised plans.

<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.

3. LaBella Associates, 300 State Street, Suite 201, Rochester, NY 14614, on behalf of Rochester Gas and Electric Corporation, requests under Chapter 250, Article XII-11.2, Article XII-12.2, and Article XII-13.2 of the Code of the Town of Penfield for Preliminary and Final Subdivision, Site Plan, and Conditional Use Permit Approval for the proposed relocation and modernization of an electrical substation with associated site improvements on ±2.43 acres located at 2070 Empire Blvd. The property is now or formerly owned by JJ&A Development, LLC, and zoned Limited Business (LB). Application #22P-0019, SBL #93.02-1-1.121.

Mary Steblein, LaBella Associates
 Chris Keipper, RG&E

- Ms. Steblein presented the application for the RG&E Substation 55. She explained that RG&E is proposing a new electrical substation for increased reliability and additional capacity to the Penfield and Webster areas. This new substation would also support upgrades to transmission and distribution lines in the area.

- Ms. Steblein explained that the existing Substation 55 is on the west side of Empire Blvd. about 450 feet away from the proposed location of the rebuild. Unfortunately, the existing location cannot support redevelopment to accommodate the upgrades that are necessary while also remaining operational and thereby providing continual service to customers in the area.
 - Chairman Hetzke asked if that is what RGE normally tries to do when they upgrade – try to keep it operational and have room on the existing site to get the new infrastructure in before taking the original offline.
 - Mr. Keipper responded that ideally, they would have enough room on the existing site to perform an upgrade like this. But they are landlocked on a very small site and completing the construction there wasn't feasible.
- Ms. Steblein explained that given the rebuild of the substation, it is desirable to stay as close geographically as possible to the existing substation so that it doesn't cost additional money to the rate-payers to relocate the connections between the various lines of the substation.
- Ms. Steblein explained that the Substation 55 rebuild will include:
 - new switchgear equipment inside a Parkline, pre-engineered metal building.
 - two transformers installed at the north end of the site with oil-containment foundations.
 - various electrical infrastructure such as vaults, manholes, conduit trenches.
 - a stone surface of the yard enclosed within security fencing around the perimeter.
 - new lighting including (a Photometric will be provided later) wall pac lights on the building and perimeter security lights (on from dusk til dawn). Chairman Hetzke asked if the lights would include house-side shields for shielding glare from neighbors. Ms. Steblein responded that she would have to check on that as there is a standard light fixture that RG&E uses. Task lighting is also installed which is not on unless there is an emergency repair that is necessary.
- Ms. Steblein explained that RG&E substations are unmanned so there are no parking requirements – if someone needs to come and maintain the site, they can park within the fenced area. There is also no trash removal necessary because it is unmanned. There are also no sanitary sewer laterals or water service required because there are no facilities on the property.
- Ms. Steblein explained that this development is within the Limited Business zoning district while abutting a Residential District.
- Ms. Steblein explained that they are requesting Site Plan, Subdivision and Conditional Use Permit Approval. She explained that what is driving this application when they don't have all the design details worked out, is the desire to subdivide this 0.532-acre parcel from the larger parcel that will remain to the north.
- Ms. Steblein explained that they are aware they will need to go through the EPOD permit process and obtain a floodplain permit given there are floodplains at the north end of the site. They also understand the potential need for compensatory storage to be provided.
- Ms. Steblein stated that they are aware of several area variances that are necessary. They have applied to the ZBA for those. Variances include lot coverage, setbacks, fencing height and setback, and the buffer between the Limited Business district and

the Residential District. This is an unusual use for the property, so it doesn't lend itself well to the normal zoning considerations.

- Ms. Steblein explained that due to the proximity to the border with Webster, the application was referred to Monroe County. MC DRC comments came back and weren't terribly significant in her opinion. They were issues that the Applicant was already aware of and can address. They have received the Town's PRC comments and they know that there are many outstanding items that need to be addressed.
- Ms. Steblein responded to the PRC comments regarding the fencing, stating that they plan to revise the application and instead of the chain link fence with a barbed wire outrigger which is standard for RG&E, they will be replacing it with an Ameristar security fence. This new fence is more decorative, made of black metal and still meets the security requirement, but will look a little nicer than the chain link.
- Ms. Steblein stated that they understand a sidewalk would need to be installed in order to meet the Town's requirements even though they don't have sidewalk connecting on either side.
- Ms. Steblein stated that there was a comment about noise. She responded that there is a noise study that is in process. She stated that the two transformers have been located at the north end of the site which is as far away as they can get them from the neighboring residential properties.
 - Mr. Keipper added that they are low dB transformers: less than 40 dB at 3 meters. There won't be the same typical noise heard like from an open-air substation as this is all underground. There should be next to no noise.

Board Questions:

- Board member Aken asked what will happen to the old location once the new location is up and running. Mr. Keipper responded, stating that for that location, the substation will be removed as it won't be needed anymore. As for the property itself, that is still being discussed, they don't have a plan for it yet. The transformer itself will be used at another location.
- Board member Aken asked about proposed vegetation around the fence area. She noticed there are trees in the drawing and wanted details. Ms. Steblein responded that the plans reflect more Arborvitaes in each of the "lawn" areas. She added that they are limited in where they can add vegetation. RG&E does not want vegetation inside the substation yard as it is important to keep that a stone surface as it helps reduce step potential and danger for those who access the yard. The Applicant feels that the proposed Arborvitaes in conjunction with the decorative fencing provides a good screening.
- Board member Aken asked if the yard is stone and not pavement and how was the Applicant proposing to handle snow removal. Ms. Steblein responded, correct it is stone. Mr. Keipper responded that snow removal at most of the stations doesn't need to occur unless they need to access it.
- Chairman Hetzke asked how often there will be someone on-site. Mr. Keipper responded, "few and far between." Mr. Keipper stated that it is a brand-new substation and the reason someone would have to go in would be for switching operations if they are going to be doing work somewhere else.

- Chairman Hetzke asked about the lights stating that today, almost every commercial fixture has 0-10 volt dimming capability and in his view RG&E would have to make a very good case to have those lights on unless someone is there. Mr. Keipper responded that they have the lights because of theft and safety of the public. One of the issues they find is people trying to steal copper.
- Chairman Hetzke asked if there are security systems on these substations. Mr. Keipper responded yes.
- Chairman Hetzke asked if there is a way to make the building itself look pretty. He mentioned the substation on Plank Road that you can drive by and never know it is a substation because it looks like a regular building (more residential and fitting to the area). Mr. Keipper responded that he would have to look into that. Ms. Steblein added that there are brick veneers that they might be able to consider. Mr. Keipper responded that the building they proposed is one of their standard Parkline buildings with the intent to be prettier than the old gray substation. It's standard for a reason – everything they do is in the best interest of the rate-payer.
- Board member Burton asked if there are any energy storage systems in the building. Mr. Keipper responded that there will be (lithium-ion) batteries in the building. Board member Burton continued; lithium-ion batteries ignite and cause fires, making it necessary for emergency responders to access the facility, therefore the facility has to be plowed. He continued, they could delineate on the plans what areas will be maintained so emergency response vehicles and personnel can get into the yard and near the entrance. Mr. Keipper responded that they have standard fire protection within the facility which can be provided to the Board. He added that he is unaware of any fires being caused by the batteries and they are in use in every substation.
- Board member Kanauer asked about fire suppression systems associated with the batteries. Mr. Keipper stated that he will look into that.
- Board member Kanauer asked if there will be any storage of any kind on that lot. Mr. Keipper responded no.
- Board member Kanauer asked if there are any live conductors that someone could come in contact with. Mr. Keipper responded no; everything is underground.

Public Comments:

1. Christy Vitale, 81 Seabury Blvd, Webster

- Ms. Vitale is appalled at the proposed location. It's across the street from an apartment complex. It's right next to a ranch house owned by an excavating company. And it's surrounded on two sides by water. It will change the tenor of the neighborhood.

2. Jim Vitale, 81 Seabury Blvd, Webster

- Mr. Vitale stated the current location for the substation is more industrial in comparison to the pasture-like area of this proposal. His understanding is that RG&E wants a different location so they can upgrade services and this location would make that *easier*. He stated that it is basically sacrificing a greenspace to make it an industrial space in a residential area.
- Mr. Vitale stated that the Applicant needs four variances which means ordinances are not going to be met.

- Mr. Vitale added that if/when this substation goes in, the home assessments will go down after just going up this year.
- Chairman Hetzke asked the Applicant to go over the variances again that they are requesting from the ZBA. Ms. Steblein responded:
 - 23.8% for the maximum lot coverage
 - 65.3 ft. front setback
 - 3.8 ft. side setback
 - 14.9 ft. rear setback
 - 6 ft. fence height variance within 20 ft. of front property line
 - 3 ft. fence height for the maximum of 6 ft. in height – Ms. Steblein noted that the fence in particular is regulated by the National Electric Safety Code, so it must be a certain height in order for it to meet substation safety standards.
 - Buffer along a boundary line between the Limited Business District and the Residential Zoning District.
- Chairman Hetzke asked if other parcels have been considered. Mr. Keipper responded that ideally, they would build in the current location but there wasn't enough room. He stated that RG&E tried to obtain the parcel that the Urgent Care is currently on (2070 Empire Blvd.) because they are trying to locate a parcel next to or near the existing electric infrastructure. If they were going to move up the road, it would add millions of dollars to the cost of the project. They are trying to do what is right for the rate-payer.
- Chairman Hetzke asked if it is impossible to utilize the existing lot, and what would be required to use the existing parcel and upgrade there. Mr. Keipper stated that he would have to evaluate that more. Basically, the facility that is there won't house the breaker they need to install. He doesn't think it is feasible from a constructability standpoint. RG&E is trying to remove contingency issues for loss of the substation. They are trying to make the facility more resilient.
- Board member Aken asked about the lack of fencing around the substation on Plank Road and the need for it with this proposal. Mr. Keipper responded that there are no outdoor facilities there, including a transformer. It's a custom, indoor substation.
- Board member Burton asked if the Applicant would be receptive to giving the Board a brief report that would explain to the residents of the town why you couldn't expand your existing substation. Mr. Keipper responded, saying that is a very reasonable request.
- Board member Burton also requested that the Applicant provide the Board with a study as to why they couldn't make this proposed facility blend in with the residential neighborhood. Options like more mature trees or green wall on the fence so it would look like real vegetation would go a long way in the neighborhood. Mr. Keipper acknowledged that there are things they can do.

Board Discussion:

- Chairman Hetzke asked that Board member Burton's request (see above) be included in the Tabling Resolution.
- Board member Kanauer added that whatever they can do to make the building and the transformers look better.

- Board member Burton stated that it was interesting that Mr. Vitale (resident) was of the understanding that the expansion of the existing substation was doable and where did he get that information. He added that Mr. Keipper (RG&E) didn't necessarily discount that fact.
- Board member Aken added that Mr. Keipper's position was that it was *easier* for RG&E to move to a different location.
- Board member Kanauer asked if there might be a possibility of future expansion from two to more transformers on that site. Chairman Hetzke added that it may very well be the plan to continue to expand that site.
- Board member Burton stated that the Applicant already needs area variances so maybe they can reconfigure the switch gear and create a future indoor transformer.
- Mr. O'Connor stated that the Arborvitaes may need Town Board approval as they are proposed in the Right-of-Way.
- Board member Burton stated that the Applicant should answer the question about whether or not they considered buying or leasing an existing building.

The Board voted and **TABLED** the application for Subdivision, Site Plan and conditional Use Permit approval pending responses from the Applicant.

<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.

V. 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 has been in discussion with the Applicant. They are looking to submit reconfigured site plan layout soon, but they requested the Board table them tonight.

The Board voted and **CONTINUED TABLED** the application for Subdivision & Site Plan approval pending revised documentation from the Applicant.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)	X		Aye	
Aken		X	Aye	
Burton			Aye	
Kanauer			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 the Negative Declaration was revised based on comments and responses from the Board and was provided to the Board in the Drop for their consideration as well as the completed Parts 2 & 3 of the Long Form EAF.
- There were no further comments or questions from the Board members.

The Board voted and **ADOPTED** the Parts 2 and 3 EAF and the Negative Declaration; accordingly, the submission of a Draft Environmental Impact Statement will not be required.

<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.

- Mr. Sangster explained that the Approval Resolution goes through the findings for subdivision approval, site plan approval, the 10 Principles for Mixed-Use, and for added clarification we completed a findings sheet for Table 6.1, which outlines the District Summary Requirements for Zone A, B, and C.
- There were no further comments or questions from the Board members.

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	
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 at the last meeting the Board completed the SEQRA review and approved the Negative Declaration for the project. Since then, Board members and Staff have worked on completing the Approval Resolution which was provided in the Drop for the Board’s review.
- There were no further comments or questions from the Board members.
- Board member Burton stated for the record that for both of these mixed-use development applications he wanted to applaud the Applicants and their design teams for reconfiguring their projects to conform to a challenging set of regulations. The Board recognizes and appreciates the amount of time and effort that it has taken to get to this point.

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	
Aken			Aye	
Burton	X		Aye	
Kanauer		X	Aye	
Tydings			Aye	
				The motion was carried.

4. 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 there has been ongoing discussion with the Applicant regarding the RF Analysis. Staff is still awaiting information from Verizon.
 - Mr. Sangster stated that a response was received yesterday from Verizon regarding the review by Bergmann, the Board's Consultant. Staff is still going through the details. There are a few details that the Consultant suggested the Board get the Applicant to go on record with – one being the distance (1.0 or 1.5 miles) for visual impact.
 - Chairman Hetzke stated that he'd like for the Applicant to respond to that distance comment. Mr. Sangster added that the Applicant's Letter of Intent stated 1.5 miles while the Viewshed Map stated 1.0 mile. Chairman Hetzke asked that that be included in the Tabling Resolution, asking for clarification.
 - Board member Kanauer stated that there are structures in the area that have historical significance that are even within the 1.0 mile. He added that he'd still like to see what alternatives are available for a masking type structure for what they are proposing.
 - Mr. Sangster stated that in the response packet there was information from Terracon (Verizon's SHPO consultant) that Staff is still working through.
 - Jared Lusk responded to the structures question stating that they are restricted with what they can do based on the amount of space that they have available to them. He felt that with their recent responses, they have responded to all the Bergmann Review comments.
 - Board member Burton stated that there is a timing issue because the Board has a requirement that any new information that is presented to the Board is done so by noon on the Friday before the meeting. He added that the Applicant may have responded to some of the concerns, but until Town Staff has a chance to sort through those responses and provide information to the Board, it's not something the Board members can give guidance on.
 - Mr. Lusk responded they have heard the 1.0/1.5-mile issue and they will work on it. He also added that they have addressed the "stealth design options" previously.
 - Board member Kanauer stated that he understands because they have a defined footprint for that structure which limits the bases size therefore using the monopole. It sounds like other structures would require a more substantial footprint. He stated that it sounds like the only alternative would be the monopole structure with some sort of camouflage painting. Board member Kanauer summed it up with there being limitations with the site.
 - Mr. Lusk responded that that has been their position, they have gone back to the Fire District on several occasions to try and get more space; a different location or more space is not something the Fire District has been supportive of.

The Board voted to extend the FCC Shot Clock to September 9, 2022.

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

The Board voted and **CONTINUED TABLED** the application for Site Plan approval and Conditional Use Permit pending responses and revisions from the Applicant.

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

6. Bohler Engineering MA, LLC, 70 Linden Oaks, Rochester, NY 14625, on behalf of Kerry Ventures Fairport Nine Mile Point Road LLC, requests under Chapter 250, Article XII-11.2, Article XII-12.2, and Article XII-13.2 of the Code of the Town of Penfield for Preliminary and Final Subdivision, Site Plan, and Conditional Use Permit Approval for the proposed construction of a ±5,600 sf Chick-fil-A restaurant building with drive through and associated site improvements on ±5.1 acres located at 2130 Fairport Nine Mile Point Road and 2195 Penfield Road. The properties are now or formerly owned by Kerry Ventures Fairport Nine Mile Point Road LLC, and zoned General Business (GB). Application #22P-0015, SBL #140.01-2-4.1 and 140.01-2-6.998.

- Mr. Sangster explained that revised plans were received from the Applicant. He stated that the biggest change to note is that there has been a reduction in the parking – the large parking field on the east side of the property is no longer there. Along with that, the improvements to the rear access drive – they are continuing the sidewalk to provide pedestrian access to the front of the restaurant, but they have reduced the parking down to essentially what is required for the operation of the store.
- Chairman Hetzke stated that what was going to be an improved access drive is no longer on the table, and for him that is a deal breaker. Mr. Sangster responded that on this revised site plan, as they have proposed it, the limits of the mill overlay would be off Route 250 just east of their parking lot, and on the north side just south of their access to their parking on the north side.
- Board member Burton stated that he appreciates that the Applicant heard the Board’s concerns about parking and eliminated the 11 spaces, but there is still this odd grouping of proposed parking spaces that do not appear to be associated with any building. He

added that he personally would not be supportive of a parking lot just for the sake of a parking lot when it's not associated with a building. The Board will need clarification on the need for these parking spaces or consider calling that land banked future parking like Mr. O'Connor mentioned in the PRC comments.

- Board member Burton stated that on the Zoning analysis Table on Lot 6.998 there are zero parking spaces when in fact there are 34 shown on the plan.
- Board member Burton stated that the Board has not yet received the Applicant's response to the Architectural Consultant's review memo.
- Mr. Freitag, Bohler Engineering, stated that they came to the meeting early and went and looked at the access drive on the site noting that it is indeed in need of repair. The Applicant is once again going to repair that access road, resurfacing the entire length. That will be updated on the next set of revised plans.
- Mr. Freitag stated that the parking field in question will ideally be team member parking in the back of the site, not interfering with the customer parking.
- Chairman Hetzke asked how many team members are typically onsite at any given time? Mr. Freitag responded that a typical shift consists of ten team members and then there are overlapping shifts that they are still discussing with Code Enforcement to nail that down. For example, during lunch there could be an overlap of two shifts resulting in potentially twenty team members at that time. That leaves a flex of 14 spaces for overflow if it is ever needed during a peak time frame. Mr. Freitag stated that they will put that in writing to clarify that area.
- Chairman Hetzke asked how many spaces are in the main parking lot. Mr. Freitag responded, there are 81 spaces in the main lot.
- Chairman Hetzke asked how many tables are in the restaurant. Mr. Freitag responded, ±94 seats, including the outdoor dining.
- Board member Burton asked if they ever get full-occupancy inside the restaurant or is a good percentage of the business drive-thru. Mr. Freitag said that he has personally been in some dining rooms that you can't find a seat in. In addition to seating there are also guests standing in line to order at the counter, and there is a separate channel inside the building for take-out (pre-ordered) that would all stem from customers parking in a space.
- Mr. Freitag stated that they received the architectural comments after their re-submission was complete. They are in contact with the architect, looking at options regarding the recommendations from Chris Lopez, Town Architectural Consultant. The biggest change would be to the entry door – making that stand out more from the eastern façade. They are looking into how to make that more of a focal entrance point, including adding clear glass to the entire area.
- Board member Burton added that with that ancillary lot, since it is separate, it would also need handicap accessible parking as well. Mr. Freitag responded that they would look into the ADA Code and provide justification either way.

The Board voted and **CONTINUED TABLED** the application for Subdivision, Site Plan and conditional Use Permit approval pending further 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.

VI. ACTION ITEMS: (Administrative)

VII. HELD ITEM:

VIII. NEW BUSINESS:

There being no further business before the Board, the meeting was adjourned at **8:50 PM**.

These minutes were adopted by the Planning Board on Thursday, August 11, 2022.

FILED
PENFIELD, N.Y.
2022 AUG 12 AM 9:55
AMY M. STEKLOF
TOWN CLERK