

The Planning Board held a meeting at 6:30 PM local time **Thursday, September 8, 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  
Bob Kanauer  
Terry Tydings

ABSENT: Jim Burton

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

**II. APPROVAL OF MINUTES:**

The Board voted and **APPROVED** the draft meeting minutes for August 11, 2022.

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

**III. PUBLIC HEARING APPLICATIONS**

- POSTPONED UNTIL OCTOBER 13 AT THE REQUEST OF THE APPLICANT**  
Costich Engineers, 217 Lake Ave., Rochester, NY 14608, on behalf of Atlantic 250 LLC, requests under Chapter 250 Article XII-12.2 of the Code of the Town of Penfield for Final Site Plan approval for the remaining phases of a mixed-use development project including townhomes, apartments, a community center, commercial retail, and office spaces with associated site improvements on ±98.67 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 # 22P-0023, 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.

2. McMahan LaRue Associates, P.C., 822 Holt Road, Webster, NY14580, on behalf of Christopher & Tracy Smith, requests under Chapter 250 Article XI-11.2 and Article XII-12.2 of the Code of the Town of Penfield for Final Subdivision and Site Plan approval for a proposed five (5) lot subdivision where three (3) lots will be designed for single-family homes with associated site improvements on ±53.805 acres located at 1755 Sweets Corners Road. The properties are now or formerly owned by Christopher and Tracy Smith and zoned Rural Agricultural (RA-2). Application #22P-0024. SBL #126.01-01-32.

Bryan White, McMahan LaRue Associates  
Christopher Smith, Owner

- Board member Kanauer recused himself from this application.
- Mr. White presented the details of this application. He explained that the parcel is located at the southeast corner of Gloria Drive and Sweets Corners Road. They are seeking final approval for a five-lot subdivision where three of those parcels will be developed for single-family homes.
- Mr. White explained that they have been working through the approval process with Town Staff regarding sidewalk easements. They have also been working with the Monroe County Water Authority to obtain their approval for water service as well as a 15-foot-wide easement for the watermain on Gloria Drive.
- Mr. White explained that the three parcels will be serviced through a septic field; they are working with Monroe County Health Department to get that approval.
- Mr. White described characteristics unique to the property including a cemetery located toward the southwest corner of this parcel. They moved the location of the driveway to give a buffer to that cemetery, so they didn't encroach on that area. There is a drainage ditch that runs through the center of the property that is a regulated water source, so they are staying away from that. All grading will be contained within the silt fence. There is a drainage ditch located at the southeast corner of Gloria Drive and Sweets Corners Road that they will be sensitive to when grading and it will also be contained with a silt fence.

Board Questions:

- Board member Tydings asked if they are planning to develop the three lots. Mr. White responded, correct, lots 2, 4, and 5 will be developed. Lot 1 will be retained by the Smiths at this point and Lot 3 will be sold to another individual.
- Board member Tydings asked if the Applicant has seen the Monroe County DRC Planning comments. Mr. White stated that those have been reviewed and most of the concerns were addressed in the initial submission.
- Board member Tydings asked if the Applicant has seen the PRC comments. Mr. White stated that they addressed those comments and also provided the sidewalk easement documents. Board member Tydings asked if they are planning on installing a sidewalk or seeking the waiver. Mr. White responded that they will be seeking the waiver.
- Board member Tydings asked if anyone was living there right now, or the properties adjacent to it. Mr. White responded that the adjacent land isn't part of their subdivision, but it is currently occupied.

- Board member Tydings asked if there are any drainage problems that they are aware of. Mr. White responded no, not currently. They have been told by the farmer who is currently leasing the property that there is some drainage tile in certain portions of the field but that was a comment that was addressed as well.
- Chairman Hetzke asked if the lot that is, kind of in the middle, is part of this application. Mr. White responded that that residence is not part of this subdivision application.
- Board member Aken asked if there is a plan to build on Lot 3 once it is sold. Mr. White responded, there is no plan to develop that parcel; they want to keep that wild. The neighbor across the street wants to purchase the property to maintain their line of sight.
- Board member Aken asked about Lot 1. Mr. White stated that those are the remaining lands and there is no immediate plan for future development. Those lands will be left over from this subdivision.
- Chairman Hetzke confirmed that Lot 2 is  $\pm 2.8$  acres and Lot 5 is  $\pm 3$  acres. Mr. White responded, that is correct.
- Board member Tydings asked if the Applicant lives on one of the lots. Mr. Smith responded, no not currently, his intention is to move to Lot 2.

Public Comment:

- Randy Makoski, 1715 Sweets Corners Road
  - Mr. Makoski owns the property that is surrounded by this subdivision.
  - Mr. Makoski asked if the application was for one single-family home on each lot. Chairman Hetzke responded, they are showing single-family homes on lots 2, 4, 5. Mr. Sangster also responded, saying that the Residential zoning is for 1 house per lot.
  - Mr. Makoski wanted to confirm that lot 4 was the only lot that was “subdividable” in the future. Mr. White stated that Lots 5, 4, 3 will be sold off to separate owners. He added that the prospective owner of Lot 4 has no intent to subdivide further.
  - Mr. Makoski asked if Lot 4 was being purchased by a corporation or an individual. Mr. White responded, individual.
  - Mr. Makoski asked if there is a plan for a lake or pond on Lot 4. Mr. White responded, not that he is aware of a lake or pond. Mr. Sangster added that if the owner was ever interested in a pond, they would have to go through the Engineering Dept. to do so.
- Sarah Claypool, 1740 Gloria Drive
  - Ms. Claypool is concerned about the drainage ditch located on Lot 5. That ditch carries across the properties and into their yard.
- Mark Gibson, 1770 Sweets Corners Road
  - Mr. Gibson had concerns with the Lot 2 driveway and whether it is directly across the road from his driveway.
  - Chairman Hetzke stated that Lot 2 is  $\pm 2.822$  acres.
  - Mr. Sangster stated that the driveway appears to be slightly to the left.
  - Mr. Gibson asked what the minimum acreage is in Penfield to build a single-family dwelling. Mr. Sangster responded, in this zoning district it is two acres.

Board Deliberation:

- Chairman Hetzke asked if there are any concerns from PRC or Staff. Mr. O’Connor responded that everything is technical in nature. The Applicant has already addressed the PRC comments.
- Mr. Sangster stated that the biggest conditioning item is the requirement that if they find anything archaeologically significant on Lot 4, a full archaeological survey would be required.

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

The Board voted and **APPROVED** the application for Subdivision 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			Absent	
Kanauer			Recused	
Tydings	X		Aye	
				The motion was carried.

**IV. 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.

Present: Peter Vars, BME Associates  
Mike Bogojevski, BME Associates

Mira Mejibovsky, Passero Associates  
Betsy Brugg, Oviatt Woods

- Mr. Sangster explained that at the last meeting the Applicant shared three concept-level drawings that represent a significant change from what had been previously proposed. Instead of utilizing the originally proposed nine acres (a portion of the Grossmans and Wickham properties) they are looking at the entire Wickham property. They are also looking to reorient the buildings toward the rear of the property and bringing out a primary roadway directly across from Sweets Corners Road. The Applicant is looking for feedback prior to redeveloping these plans into fully engineered site plans to get the Boards comfort level with the orientation of the buildings, and the balance of Zones A & B requirements.
- Chairman Hetzke stated that they are trying to get some feedback from Board members who were no present at the last meeting.
- Board member Burton sent the following comments:
  1. Of the three proposed new options for the Pathstone Mixed-Use Development, the Board generally favors Option 1 as shown on drawing sheet SK-01.
  2. The Legend noted in the upper right corner of the drawing is labeled as Alternate 3A, but perhaps should be labeled as Alternate #1.
  3. The Applicant should clarify spaces in each building that contribute to the aggregate total square footage for proposed non-residential development. (The Board should discuss whether the clubhouse should qualify as non-residential) (I believe it should qualify)  
*{Note the legal definition in the Uniform Code: BC310.1 Residential Group R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the Residential Code of New York State.}*
  4. The Applicant should provide a matrix for the entire project that shows the different type and location of residential housing being proposed, in accordance with the Mixed-Use Development Manual. (Table 6.1.5)
- Board member Tydings agreed that Option A was the better of the choices.
- Mr. Sangster commented that the “variety of housing types” was also an item to be addressed.
- Chairman Hetzke asked if the Board was ready to put together a letter (essentially a sketch letter) expressing their comments. Mr. Weishaar stated that this would be similar to a sketch letter with less detail, expressing the Board’s thoughts on the proposal. It would be good way to provide feedback to the Applicant as well as capture member Burton’s comments.
- Chairman Hetzke asked if the overall layout, conceptually, is on the right track. The members all agreed.
- Chairman Hetzke restated that they just want to be sure they stay within the spirit of the mixed-use community.
- Mr. Sangster added that a sketch letter would allow the Board to add additional, generalized comments, as where resolutions tend to have very specific conditions.

- Board member Tydings asked if this plan, with the shift and reorientation, will have the appropriate amount of greenspace. Chairman Hetzke responded yes, but that would be part of the new submission.
- Board member Tydings asked if they are happy regarding their number of units. Mr. Sangster responded that the total number of units hasn't changed at 136.
- Chairman Hetzke asked about the Zone A, Zone B borders which are not *exact* in the MUD Manual and how to define the boundaries of those zones, not just on this parcel, but on parcels throughout the MUD. And what leeway does the Board have in movement of those boundaries? Mr. Weishaar responded that as the Town looks at the MUD moratorium and makes tweaks to the Code, that should be something that is looked at as far as how that should be defined and what type of flexibility the Planning Board ought to have or not have.
- Board member Tydings asked if the Applicant will be cleaning up the front area (Grossman's) given the concept is to the back to the property. Mr. Sangster stated that they could add that to the letter.
- Board member Tydings added that he liked Ms. Mejibovsky's design of the townhouses. Mr. Weishaar clarified that that was in reference to the "variety of housing types" in the MUD Manual. Mr. Sangster asked if the Board was interested in adjusting the balance of apartments and townhouses (i.e., decreasing the number of apartment units and increasing the number of townhome units). Chairman Hetzke responded that it would be nice to have an eclectic community with a diversity of housing types; he likes the idea of the pedestrian spine becoming more like a street.
- Board member Tydings asked if there was a daycare still proposed. Mr. Sackett responded from the audience that they are still in talks, so the daycare is still a possibility.
- Mr. Weishaar asked if Staff could have the letter ready for the next meeting on September 22. Mr. Sangster responded that the letter can be drafted based on previous and current comments and circulate it and have it ready in a week. Mr. Weishaar stated that the Board could take action at the next meeting so there is no more delay.
- Mr. Weishaar asked about readvertising for a public hearing but not requiring a whole new application. Mr. Sangster responded that we have a mechanism in our application process that allows for having a second public hearing or re-hearing – it would be the same application, we would just republish a legal notice of what is currently being proposed. It should have a new public hearing being it is significantly different from the original proposal.

The Board voted and **CONTINUED TABLED** the application for Subdivision & Site Plan approval pending the drafting and circulation of a letter detailing the Board's thoughts on the concept plans submitted.

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

2. 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  $\pm 2.88$  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.

John Mancuso, Attorney  
Jared Lusk, Nixon Peabody

- Board member Kanauer recused himself from the application.
- Mr. Sangster explained that we are getting to the end of the review of this project, finalizing SEQRA review and final recommendations.
- Mr. Sangster explained that as part of the Board's review, they have been taking a good look at the visual impacts of the cell tower, noting that there isn't much we can do to buffer the top of the tower but that there may be some ground level mitigation.
- Chairman Hetzke invited Mr. Lusk to speak on behalf of the Applicant.
- Mr. Lusk stated for the record that they have been involved in this conversation since November 2021. He added that they were present on August 15, 2022, and they have repeatedly asked about these conditions. He was disappointed that they received this phone call on the morning of the Planning Board meeting because they have had this good-faith relationship in conversations and hiring consultants. They have proposed additional landscaping at the request of the Board though they aren't clear what they are hiding because planting trees will help block the view from what?
- Chairman Hetzke stated that there was a concern from the Historic Preservation District and Penfield Historic Board that the SHPO document that was submitted did not take into account the fact that Penfield has its own organization, including buildings that aren't necessarily listed on the National or State Register and the State only addressed those that are on their register.
- Mr. Lusk responded that he appreciates all of that and Verizon wants to be cooperative in this.
- Mr. Lusk addressed a couple questions – Is Verizon interested in pursuing additional landscaping? The answer is – Verizon would prefer not to, because they think the mitigation, they have proposed around the fence is sufficient. He commented on the drawing and the trees planted to the north of the site. He explained that they have provided trees on the east and northeast sides of the compound. He asked – what are we really gaining? If the Board(s) are interested in pursuing additional landscaping, Verizon (as a policy) will not engage in planting trees and things on other people's property. He concluded that based on the SHPO Review, extra landscape isn't warranted given the "pavilion-style" structure they are already proposing.
- Mr. Lusk stated that the closest historic building is the church and there is nothing about the Verizon tower that will impair the view of that building. It is close in terms of proximity but it's not blocking the view so what is the impact that we are shielding from?

- Mr. Lusk concluded that Verizon is willing to have a discussion to understand what the priorities are. But from a practical perspective they are not going to enter onto other people’s property. If the Town is interested in doing that, Verizon would discuss making a reasonable monetary contribution to the Town.
- Chairman Hetzke responded that he understands the liability concerns. Having funds available for that type of buffering seems to be a reasonable solution to him. He stated that he is not sure what mechanism is in place for that to happen.
- Chairman Hetzke acknowledged the need for the service, however, there is no one he knows of who is excited about seeing a cell tower in the Four Corners. What we are trying to do is mitigate those visual impacts as much as we can.
- Mr. Lusk asked for a meeting with Doug and Town Staff to have a discussion.
- Mr. Mancuso stated that that is a procedure that can be implemented. In terms of the process moving forward, this would be a tabling motion subject to a coordination between the Town and Applicant regarding the development of additional landscaping implementation and potential monetary contribution for off-site tree plantings.
- Board member Tydings asked if the Applicant still has to go to the Zoning Board. Mr. Mancuso responded yes, that is next Thursday, September 15.

The Board voted and **CONTINUED TABLED** the application for Site Plan approval and Conditional Use Permit pending the resolution of the discussions.

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

3. 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 the Staff has been in discussion with the Applicant who has requested that they be continued tabled to have additional time to address Town comments.

The Board voted and **CONTINUED TABLED** the application for Subdivision, Site Plan and Conditional Use Permit approval 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		X	Aye	
Burton			Absent	
Kanauer	X		Aye	
Tydings			Aye	
				The motion was carried.

4. 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.

- Staff has been in discussion with the Applicant who is working to get their revised site plan package together and requested to be tabled until September 22, 2022.

The Board voted and **CONTINUED 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			Absent	
Kanauer			Aye	
Tydings		X	Aye	The motion was carried.

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

1. 667 Panorama Trail - Durst Imaging

Betsy Brugg, Woods Oviatt  
Andy Hart, Bergmann Associates

- Mr. Sangster explained that this is the location of the old Penfield Raquet Club / Apex Fitness. Durst Imaging is interested in purchasing the property and redeveloping it into an office space.
- Mr. Sangster explained that the Applicant is coming to the Planning Board for a site plan modification. There is no significant change to the building, only interior renovations. They are looking to add a loading dock on to the northwest corner of the building, in the back.
- Mr. Sangster explained they are looking to take out a curbed island and do some pavement improvements. Overall, greenspace will increase as they are looking to

add a couple of new curbed islands that would be larger than what they are looking to remove.

- Mr. Sangster explained that the pavement would be striped to allow larger trucks to occasionally deliver larger machines (i.e., copiers, printers).
- Chairman Hetzke stated that he has had some knowledge of this plan and it seems like a nice re-use of the building.
- Board member Tydings asked if they are tractor trailers that use the loading dock and will there be enough room. Mr. Hart responded, correct, and then stated that they had submitted a truck turning template.
- Board member Kanauer stated that he had driven through the site to get an idea of the layout and he is assuming that Staff has reviewed the radii for turning. Mr. O'Connor responded, yes, they look good.

The Board voted to **APPROVE** the Site Plan modifications with conditions.

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

**VI. HELD ITEM:**

**VII. NEW BUSINESS:**

There being no further business before the Board, the meeting was adjourned at **7:27 PM.**

These minutes were adopted by the Planning Board on Thursday, September 22, 2022.

FILED  
PENFIELD, N.Y.  
2022 SEP 23 AM 9:40  
AMY M. STEKLOFF  
TOWN CLERK