

The Planning Board held a meeting at 6:30 PM local time **Thursday, October 27, 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
Lori Gray, Board Secretary
Peter Weishaar, Planning Board Attorney

II. APPROVAL OF MINUTES:

The Board voted and **APPROVED** the draft meeting minutes for October 13, 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		X	Aye	
Tydings			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.

Peter Vars, BME Associates
Jason Sackett, Pathstone
Mira Mejibovsky, Passero Associates
Betsy Brugg, Oviatt Woods

- The video timestamp for this conversation is 20:30 – 1:23:30.
- Chairman Hetzke explained that a response letter was received from the Applicant addressing items in the sketch letter that was sent to them by the Board.
- Chairman Hetzke stated that if there is to be another submission, the items outlined in the sketch letter should be addressed by the Applicant. He added that this is a Type 1 Action so the Full EAF will be completed and there are several questions that will need to be addressed.
- Chairman Hetzke stated that how the application affects the character of the community is a question that needs to be answered as well as what demands will the proposed development have on services.
- Board member Burton had comments to discuss with the board. Member Burton explained that when the board provided the Applicant with questions on *diversity of housing styles*, they came back with a little matrix on the sketch plan. The matrix showed what appeared to be all the same types of housing except for the number of bedrooms. The Board then asked the Applicant to clarify that. The Applicant responded with why they think what appears to be two types of housing meets this diversity that is in the manual.
- Board member Burton explained that in the Applicant's response (#3C), they mention *workforce housing*. Member Burton explained that there is a specific workforce housing program in New York State that is not affordable housing and it's not low-income housing but it's housing aimed at that middle-earner. The program has some income limitations so that the developers can better provide options for those people who desperately need housing. Whether it is a two-or four-bedroom apartment is not relevant because if it is workforce housing it is only available to one segment of our population.
- Board member Burton explained that the Board's job is to view this through the lens of this community and how these mixed-use developments really meet the flavor of this community, providing something that is unique in the mixed-use law. He read an excerpt from the Applicant's response in #3C "...since day one, the project has been targeted for workforce housing. Housing will be provided as represented in other similar Pathstone projects."
- Board member Burton stated that by his understanding, Pathstone primarily builds affordable housing that has very specific income limits. He added that those kinds of income limits really target a small percentage of the population of the Town of Penfield. Member Burton explained that he'd looked at the 2020 Penfield Census to gain a better understanding of what the median income is in the town. Member Burton sees a dichotomy between the workforce housing statement and the housing provided as represented by similar Pathstone projects. He is wondering if the Board allows an Applicant to target a very small portion of this community, if they are meeting the intent of the Mixed-Use Manual for *diversity in housing types*.
- Board member Burton would like more clarification from the Applicant on that. Income limits on other similar Pathstone projects are very specific and those limits would basically preclude people who would otherwise be eligible for workforce housing.
- Board member Tydings asked about #4 "...the code compliance issues, and the current state of the property need to be addressed by the Town with the current landowner..." so that means the Applicant won't have anything to do with that? Mr. Vars responded,

that's correct. Mr. Vars explained that if they move forward, it would be a revised application that would only be dealing with the property at 1787 Fairport Nine Mile Road, the Wickham parcel only. Mr. Weishaar clarified that the Applicant doesn't own the property. Mr. Vars confirmed that is correct.

- Mr. Weishaar stated that he believes that the Code Enforcement Officer is aware of this situation and may have already sent a letter.
- Board member Burton asked the other members what their thought about what he brought up. Board member Kanauer stated that he would like to know more of what it means.
- Board member Burton asked if Staff is ok with the responses. Mr. Sangster responded that having looked at Mr. Lopez's layout he sees where he is coming from, but he also sees where Pathstone is coming from and how the "imaginary" line between zones A & B can complicate the layout of the buildings. The proposed layout allows the buildings to remain more compliant than if they rotate the buildings 90 degrees, pushing more residential into Zone A. He added that personally (not as a board member with a vote) he would be ok with the additional residential within the Zone A area. Mr. Sangster added that the sketch only provides so much detail; the Applicant has stated that the main entrance will be a complete street which staff is comfortable with. He explained that "complete street" means the road widths tend to be a little narrower to produce a traffic calming effect on speeds, on-street parking, and curb bump outs near the crosswalks which reduces the effective distance a pedestrian has to cross the road.
- Mr. Vars responded, stating that with the previous final application, all of these details mentioned were satisfied. That plan shows their intent, they will comply. Any future submissions will be consistent with what has already been submitted to the Board.
- Mr. Vars explained that after a year of this process, having provided the current updated sketch, and having received feedback and comments from town staff, the Board, and Mr. Lopez, the Applicant wants to be sure before they take the next step forward, that they understand the comments they have received. They want to be sure the next step forward is the right step. Their goal is to create a plan that is compliant with the Code, meets the intent of the Manual and meets the goals of the developer.
- Ms. Brugg added that the sketch letter didn't really give them very clear answers, the way this section of the Code is written there is a lot of ambiguity (i.e., variety of housing – what does that mean?). They want to be sure they are understanding the direction the Board is giving.
- Mr. Weishaar responded, stating that there is a moratorium, and he would expect that there will be a public hearing in the beginning of 2023 addressing the ambiguities that are in the Code.
- Mr. Vars stated that he didn't feel they had a level of comfort when reading the sketch letter that this was what they needed to do.
- Ms. Brugg stated that when they received the sketch letter, they really weren't sure what variety of housing really meant. Is it structure or architectural style? Income level did not occur to them.
- Board member Burton explained that clearly the Board does not believe that a whole bunch of apartments, regardless of the income levels, that vary by bedroom styles, creates some level of diversity. It is a single type of housing. It's multiple dwelling

housing, whether it's two-bedrooms or three-bedrooms, it's multiple dwelling housing. And then there's townhouses. The Board sees this as two types of housing being offered.

- Board member Burton added that they have asked a couple of times, in a couple of ways, for the Applicant to share what they intend to do. He stated that this is the first peek at what the Applicant is telling the community in their response C to question 3 in the sketch letter stating "...since day one, the project has been targeted for workforce housing. Housing will be provided as represented in other similar Pathstone projects." The Board knows the Pathstone organization as being a very good developer of primarily affordable housing projects. Affordable housing is not workforce housing; it doesn't have the same income levels or amenities.
- Board member Burton added that the Board wants to make sure, before they give this application an indication that there is merit in moving forward, that they understand what is being offered to this community and whether or not it meets the character of this community, specifically in and around the mixed-use zones, which was the intent of the Mixed-Use Manual and very clearly stated in the introductory sections of the Manual. There is a purpose here.
- Board member Burton explained that they want to make sure they understand what kind of diversity of housing the Applicant is proposing to this community that will be meeting with the character of this community. If it is workforce housing and the Board can be assured of that, that is one type of housing. If the Applicant is intending to do housing similar to that represented in other similar Pathstone projects, then the Board would like to know that too. And then the townhouses – are they going to be market rate and available to the Penfield public at large? Because this is a community that has a median income of \$93,000 per year for a family of 2.46 people. That is significant because in the affordable housing market it is all based on the number of residents per unit in terms of income limits.
- Board member Burton continued, there are values associated with these different kinds of housing and this Board has an obligation to ensure that applications meet the intent and the parts of the manual that are more clearly defined so that they are doing their job, understanding what is being proposed and then being able to offer guidance on whether or not the Board feels it meets what they are charged with.
- Mr. Vars asked if the categories of affordable, workforce and market rate housing is how variety is being defined.
- Board member Burton responded, not really, if you go into the Mixed-Use Manual and then into the zoning ordinance, there is actually a list which speaks to architectural style, but then there is another section that deals with projects that are "in keeping with the character of the community." The mixed-use development was developed specifically to integrate mixed-use projects within this community.
- Mr. Vars explained that they weren't sure how variety was defined, so they offered three different responses (i.e., types of units, income).
- Ms. Brugg stated that they are currently focused on this project, talking about workforce versus Pathstone...Penfield Heights...the Arbors...they each have different definitions of diversity. She asked if we are looking at the whole mixed-use district or parcel by parcel. Member Burton responded that we are looking at this application only.

- Chairman Hetzke stated that essentially, they are looking at both – variety on a parcel-by-parcel basis as well as the overall district.
- Mr. Weishaar stated that if you look at a project like the Arbors there is a larger variety. Member Burton added that that project was reviewed in keeping with the character of the community.
- Mr. Vars made the point that they are working with ten acres (split between Zones A & B) and that in and of itself limits flexibility because of the requirements and densities.
- Board member Burton stated that in reading the Manual, the intent is to provide options, residential and commercial, for the residents of this community. Providing options for a wide-range of folks (recent college graduates, snowbirds, empty-nesters, etc.).
- Board member Burton stated that the Board very much appreciated the dialogue, but with respect to the Applicant's response to question 3, the Board is asking the Applicant to provide a written response that clarifies the statements made in paragraph 3C.
- Mr. Vars responded, saying they would address that as part of the new application because there is the Ten Factors of Mixed-Use Design and that is one of the questions.
- Ms. Brugg asked if the number of rooms constitutes variety. Member Burton responded saying that per the conversation back in June, the number of bedrooms does not constitute variety in housing. It's still a multiple dwelling.
- Ms. Mejibovsky wanted to confirm that from an architectural aspect, different variety of building types means multi-family building, single-family building, two-story townhome, patio house, or walk-up-style apartment flats. Considering the size of this property, she feels three types can fit: a multi-family building, true townhomes (each unit has two floors), and a smaller walk-up apartment style building (separate apartments on first and second floors). That will take most of the available area on the site for the buildings. She asked if that would constitute enough building variety.
- Board member Burton responded saying that she was really talking about architectural style. The Manual refers to a variety of housing options. Again, he asked for a clarification on their response to question 3C.
- Mr. Weishaar stated that he thinks the Board is saying it is both aspects of that.
- Board member Burton stated that specific to question 3C, they are not talking about architectural styles (which is something Mr. Lopez can help with).
- Mr. Sangster stated that it can be argued that even if these are all multi-family housing, that they appeal to or provide a different style of housing or option of housing to different people. The person interested in a townhome is likely not the person interested in a corridor apartment. It can be argued that the different architectural styles of housing provide variety based on their design.
- Mr. Sackett asked, regarding question 3C, if statistical measures would be helpful. They commission market studies for these projects and have lower, moderate, higher and some unrestricted units in all their developments. Member Burton agreed that the statistics would be helpful, but his question really is: are they proposing workforce housing? Affordable housing? Or both? And if so, are there units available to members of the community without the income limits?
- Mr. Weishaar stated that workforce housing is sometimes an elusive term, not well defined and in some instances the Board has had projects where an Applicant will say this is what they are going to do and then down the line it turns out to be something

different. That's why the Board wants to make sure they know what is really proposed here.

- Chairman Hetzke stated that he sees it as a combination of the demographic that is targeted – a variety of potential residents as well as the variety of structure and types of structures so that it creates a neighborhood type feel.
- Mr. Weishaar asked what the Board feels about the proposal by Chris Lopez to re-orient the buildings. Chairman Hetzke thought Mr. Lopez had a good idea, but he acknowledges the Applicant's concern about staying in the Zone B because the Zone A requirements are more stringent. Both sides have valid points in his view.
- Mr. Vars stated that they have a conundrum in creating the best layout but also being Code compliant. He can see all the positive attributes to Mr. Lopez's plan. The problem is that it doesn't comply with the Code. By rotating the building and putting it on the east-west street we've now brought the residential building into Zone A.
- Mr. Vars proposed they consider using the planning principle of *clustering*. Understanding what the Code gives you but then use the clustering provisions to create the best layout that works with the property you have. Can we do something similar here? Looking at the BME layout – it is Code compliant. The Lopez layout may be a better layout. Mr. Vars proposed that the northeast corner that is in Zone B, right along the pedestrian spine – do you flip that to become Zone A lands?
- Chairman Hetzke clarified that Mr. Vars was suggesting moving the dotted line on the map so that the Zone B moves more to the southeast and Zone A moves up north on the east side of the pedestrian spine. Mr. Vars responded, right, that way that area is reserved; you haven't given up Zone A land, but we may get a better layout.
- Board member Burton asked if that would require a variance from the ZBA? Mr. Vars responded that that is the question, because the line itself is not codified per se.
- Board member Burton stated that he agreed with Mr. Vars in that it's entirely at his discretion to maximize the Code to the benefit of his client. If it means sacrificing potentially a better massing plan for the sake of an indeterminate line, then are we shooting ourselves in the foot? He then asked Mr. Weishaar if the Applicant would need to seek a waiver, done one of two ways – a waiver of the density requirements or a modification of the location of the delineation so that they can accomplish the density and return on investment.
 - Chairman Hetzke responded that he agrees with the latter more than the former (moving the line).
 - Counsel Weishaar asked if the Board moved the Zone A in another development.
 - Mr. Sangster responded yes, he believed the Planning Board authorized moving lands between Zones A and B with one of the other projects.
 - Member Burton asked Mr. Weishaar if the Planning Board has the authority to move the line.
 - Mr. Weishaar responded that he thought the Board had done it already on another project and he thinks the idea would be to preserve the Zone A land.
 - Mr. Weishaar also noted that they are in the middle of revising the MUD manual, so this is something that we want to make sure if that is something we want to do to make a better development, then we need to make sure the revision includes that type of authority.

- Board member Burton stated that along with their new response to question 3C, the Applicant give them a drawing of the new layout with the line moved.
- Chairman Hetzke referred to “the spirit of the law and the letter of the law” and that personally he wants these developments to follow both. He added that he’s not interested in just the letter of the law, he wants the spirit of the law to be followed as well. He added that he is open to exploring that possibility.
- Board member Kanauer stated that it makes sense. You may be changing where that Zone A, Zone B boundary is, but you’re just modifying it so that it works better.
- Board member Tydings asked if Mr. Lopez knew that his drawing didn’t meet Code. Mr. Sangster responded that he thought that Mr. Lopez thought the building in question would contain be more commercial as well.
 - Ms. Mejibovsky explained that she had spoken with Mr. Lopez about this and that his intent—he didn’t pay attention to the line. Mr. Lopez stated that the line is “imaginary” and could go anywhere you want. That was his intent. She asked if she could quote him, and he said yes.
- Chairman Hetzke stated that while he likes the downtown feel, it is still two big apartment buildings. How do we make it feel like you’re walking in a downtown village instead? How does the variety of housing structures Ms. Mejibovsky mentioned get incorporated into this?
- Ms. Mejibovsky responded that they could be behind the bigger buildings, creating courtyard areas.
- Mr. Vars referenced the Village of Fairport as an example of how they might create the village feel.
- Mr. Weishaar stated that even if the line is moved, it is still mixed-use and not just apartments so it will have to have the variety.
- Mr. Vars said that they would come back with a true Sketch Plan taking tonight’s feedback to know that they are on the right path before they jump into the full site plan application.
- Mr. Vars (Ms. Mejibovsky) brought up their response as to why they weren’t proposing units above the restaurant tenant. Board member Burton responded that it made sense.
- The Board had no further comments.

The Board voted and **CONTINUED TABLED** the application for Subdivision & Site Plan approval pending the Applicant’s response to the Sketch Letter.

<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. 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.

Counsel Weishaar and Member Kanauer both recused themselves for this application. John Mancuso, Attorney was present

- Mr. Sangster explained that this application has been on the agenda for a while. Staff has provided the Board with a draft approval resolution as well as a negative declaration for their consideration.
- Chairman Hetzke stated that he didn’t think anyone in town is excited to see a giant cell tower in the Four Corners, but the Applicant has shown the cause and the necessity for putting it there as well as the consultants that were hired to verify the data.
- The Board had no further concerns.

The Board voted and **APPROVED** the adoption of a completed Negative Declaration 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	X		Aye	
Kanauer			Recused	
Tydings			Aye	
				The motion was carried.

The Board voted and **APPROVED WITH CONDITIONS** the application for Site Plan approval and Conditional Use Permit.

<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			Recused	
Tydings			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 there was no specific request to table from the Applicant, however, no new information has been submitted since their public hearing in June.

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	X		Aye	
Kanauer			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.

- Mr. Sangster explained that RGE sent in a request to be tabled. They stated that they will likely be ready by the November 10, 2022, meeting with a revised site package.

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			Aye	
Kanauer			Aye	
Tydings		X	Aye	
				The motion was carried.

5. 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.

- Mr. Sangster explained that since the last meeting on October 13th, staff has received revised plans and responses to comments.
- Mr. Sangster explained that two revised plans were submitted showing additional landscape buffering, which was a major comment at the last meeting – buffering along the neighbors to the west, specifically along Penfield Center Road as well along the north side, along the east side of Route 250, next to the horse farm.
- Chairman Hetzke and member Kanauer stated that they haven’t had a chance to fully review the plans dated October 25th.
- Chairman Hetzke asked if any of the members saw any red flags from the original submittal of the overall project to the recent phase 2 submittal. Board member Burton added that he hasn’t reviewed the recent submissions either, but so far, he doesn’t see any red flags between the phases.
- Chairman Hetzke stated that they should complete the review by the next meeting on November 10th, in two weeks, so they can discuss it further and keep it moving forward.

The Board voted and **TABLED** the application for Final Site Plan approval pending review by the Board members and discussion at the November 10, 2022, meeting.

<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. Marathon Engineering, 39 Cascade Drive, Rochester, NY 14614, on behalf of Blessed Hope Community Church, 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 and Conditional Use Permit approval for the construction of a 4,050 sq. ft. building with associated site improvements on ±2.54 acres located at 1280 Creek Street, Webster, NY. The properties are now or formerly owned by Blessed Hope Community Church and zoned Limited Business (LB). Application #22P-0025, SBL #093.15-1-2.115.

Matt Tomlinson, Marathon Engineering
 John Wurzbacher, Pastor, Blessed Hope Community Church

- Mr. Sangster explained that the Applicant submitted responses and revised plans today, October 27, 2022.
- Mr. Sangster explained that comments were received from the architectural consultant and were sent to the Applicant who submitted responses to those as well.
- Mr. Sangster stated that staff doesn't have any concerns with the building architecture or the site. However, one question that still needs to be addressed with the Fire Marshal is whether the building would need to be sprinklered based on the proposed occupancy. That is something that can be addressed during the building permit phase.
- Board member Burton explained that he has not reviewed the most recent materials as they were not received in time, but there were some relevant comments made by the architectural consultant that the Applicant acknowledged. He stated that the application should be tabled to give the board time to review the latest plans that were submitted.

The Board voted and **CONTINUED TABLED** the application for Preliminary and Final Site Plan and Conditional Use Permit approval pending review by the Board of the latest submission of revised plans.

<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.

7. BME Associates, 10 Lift Bridge Lane East, Fairport, NY 14450, on behalf of James DiBella, requests under Chapter 250 Article XI-11.2 of the Code of the Town of Penfield for Preliminary and Final Subdivision approval for the two-lot subdivision on ±43.22 acres located at 5 Skimore Lane. The property is now or was formerly owned by James DiBella and zoned Rural Residential (RR-1). Application #22P-0026, SBL #140.02-1-2.1.

James DiBella, owner

- Mr. Sangster explained that staff is comfortable with the proposed subdivision as it generally meets all requirements. Staff has begun drafting an approval resolution conditioned on the Applicant going to the Zoning Board of Appeals for a variance for the existing metal barn based on the dimensions provided by the surveyor; it is 0.3 feet too close to a property line, triggering a zoning board requirement.
- Mr. Sangster explained that a second condition would be a continuation of the requirements that were placed on the original Rudy DiBella Subdivision which includes the prohibition of jet skis, etc.
- Mr. Sangster explained that the last condition is that since the accessory structure will exist on a lot without a primary structure, history dictates that we require a surety bond to ensure that a single-family structure is built within a reasonable timeframe, 12 months.

- The Board had no further concerns with the application.

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			Aye	
Kanauer			Aye	
Tydings	X		Aye	
				The motion was carried.

The Board voted and **APPROVED WITH CONDITONS** the application for Preliminary and Final Subdivision.

<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.

IV. ACTION ITEMS: (Administrative)

1. 1820 Empire Blvd., Taco Bell – drive-thru modifications

- Mr. Sangster explained that when the Board was originally reviewing the Taco Bell application, one of the discussion points was the concept of adding a second drive-thru. This second drive-thru would be specific to In-App orders.
- Mr. Sangster explained that as a recommendation from staff, instead of showing just the one drive-thru lane and getting the approval for just the one drive-thru, and then coming back to get approval for the second, that they show the second drive-thru with the idea that it may be necessary to move it in the future or alter it later.
- Mr. Sangster explained that their Corporate has reviewed the plans and has suggested splitting the drive-thru lanes off a single-entry point instead of doing two dedicated lanes. This will reduce the confusion of knowing which lane you are supposed to be in. Customers start in the drive-thru lane and split based on the signage. The crosswalk will also only have to cross one lane instead of two. And finally, it provides a marginal amount of additional green space through the reduction of pavement.
- Mr. Sangster stated that staff has no concerns with the re-organization.
- Board member Kanauer asked if one lane is just for pick up and the other is for ordering.
- Mr. Sangster responded yes. They had that with the original layout as well.
- Stephanie Albright, APD Engineering, explained that they are proposing a full-access

order point now versus the Go-Mobile.

- Board member clarified that it would two lanes of full order, with the canopy. Ms. Albright responded, yes.
- The Board had no further concerns.

The Board voted and **APPROVED WITH CONDITIONS** the application for Preliminary and Final Subdivision.

<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. **HELD ITEM:**

VI. **NEW BUSINESS:**

There being no further business before the Board, the meeting was adjourned at **7:55 PM.**

These minutes were adopted by the Planning Board on Thursday, November 10, 2022.

FILED
 PENFIELD, N.Y.
 2022 NOV 14 AM 9:11
 AMY M. STERLOP
 TOWN CLERK