

# Penfield Zoning Board of Appeals

## August 19, 2021 Meeting Minutes

The Zoning Board Work session was held at 6:30 p.m. local time with the meeting immediately following on Thursday, August 19, 2021 in the Auditorium to discuss, in a meeting open to the public, tabled matters and other business that may be before it.

I. Call to Order:

ZBA MEMBER	PRESENT	ABSENT
Daniel DeLaus, Chairperson	X	
Marie Cinti	X	
Mike Belgiorno	X	
Matthew Piston	X	
Andris Silins	X	

ADDITIONAL STAFF	PRESENT	ABSENT
Peter Weishaar, Legal Counsel	X	
Endre Suveges, Building Inspector	X	
Kristine Shaw, Secretary to the Board	X	

II. Regarding Minutes from Zoning Board Meeting on July 17, 2021

Motion made by:		To:	Second by:		Board Vote	Y	N
DeLaus			DeLaus		DeLaus	X	
Belgiorno			Belgiorno	X	Belgiorno	X	
Cinti	X	<b>Approve</b>	Cinti		Cinti	X	
Piston			Piston		Piston	X	
Silins			Silins		Silins	X	

## PUBLIC HEARING:

The Chairperson briefly explained the procedures that the Zoning Board would follow during the public hearing, also guidelines to applicants and those members of the audience wishing to speak at the public hearing.

The Chairperson further went on to inform the audience that the Board may deliberate on the applications following the hearing and/or at a future work session. Those applicants and interested persons who wished to stay for the remaining portion of the meeting to listen to any deliberation on each matter are then welcome to do so.

The Zoning Board Administrator was directed to read the agenda.

NOTE: The following is meant to outline the major topics for discussion during the Zoning Board public hearings. For more detailed information, the reader should ask to listen to the recorded tape of the August 19, 2021 Zoning Board of Appeals public hearing, which is available at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York 14526 during regular business hours or listen to the meeting on our website at [www.penfield.org](http://www.penfield.org).

\*As a matter of space saving in writing the minutes let it be known that Chairman DeLaus repeatedly asks before during and after the applications for the public to write or call in their comments. I will enter when there are some and note the comments. K. Shaw-Secretary

1. Mark A. Pandolf, 1851 Clark Road, Rochester, NY, 14625 requests an Area Variance under Section 250-14.3 of the Code to allow an addition with less setback than required under Section 250-5.1-F (1) of the Code at 1851 Clark Road. The property is currently or formerly owned by Mark Pandolf & Bonnie Cialini and is zoned R-1-20. SBL #123.12-1-27. Application #21Z-0044.

Appearances by:

Mark A. Pandolf - 1851 Clark Road, Rochester, NY, 14625

Beth Remus - Fisher Road, Ontario, NY 14519

Board / Presenter Statements:

Board Member Silins says we are looking at a fourteen point thirty three (14.33) foot variance with a fifty (50) foot front setback. It is an 1890's home and this project will be an improvement. The existing home is already out of compliance as to how it sits by the road so there is nothing you could do to change that. There doesn't seem to be a whole lot of options to connect an addition because of the house layout.

The work being done is trying to push the addition back to get it more into compliance. They plan to have the addition match the rest of the house and property.

The applicant has gone to the Planning Board and the Zoning Board received a letter in approval from them.

We have also received neighbor letters of support. Do any other neighbors know about this?

Board Comments/Questions:

Mr. Pandolf said he took a couple years to work on this project and he was trying to avoid having to obtain a variance. This addition will improve the property and the site.

It is an 1890 farm house, nothing on exterior is original, and the siding, roof and windows have been replaced. They are going to turn it back into a farm house look. The addition doesn't overpower the house. They want to save and restore the farmhouse and then include an addition. There are a lot of renters that come and go so he has not spoken to more neighbors.

**SEQRA Determination:**

Motion Made by: Board Member Silins and Second by Board Member Cinti

☐ Type I Action. Further Action \_\_\_\_\_

☒ Type II Action, not subject to further review under SEQRA.

☐ Unlisted Action:

☐ Negative Declaration (Action will not result in any significant adverse environmental impacts).

☐ Further Action \_\_\_\_\_

**SEQRA Vote:**

All Ayes

**Application Vote:**

Motion made by: Board Member Silins to Approve and Second by Board Member Piston

Vote: All Ayes

2. McMahon LaRue Associates, 822 Holt Road, Webster, NY, 14580 on behalf of Richard & Mary Montgomery requests an Area Variance under Section 250-14.3 of the Code to allow a larger storage building than permitted under Section 250-5.1-F (12) (a) of the Code at 1492 Sweets Corners Road. The property is currently or formerly owned by Richard & Mary Montgomery and is zoned RA-2. SBL #125.02-1-2.1. Application #21Z-0045.

Appearances by:

Al LaRue - McMahon LaRue Associates, 822 Holt Road, Webster, NY, 14580  
Richard Montgomery – 1492 Sweets Corners Road, Penfield, NY 145260

Board / Presenter Statements:

The Montgomery's own thirty five (35) plus acres at Sweets Corners and Harris Road. They have gone to the Planning Board with a proposal to subdivide. The Planning board has tabled the application pending the outcome of the Zoning Board. They have a home and storage building on the property and they want to keep this part on a little more than two (2) acres, however, the storage building will then exceed the size allowed for this size property. They are asking for an Area variance to accommodate the storage building. The plan is to have fifteen (15) two (2) acre lots. Mr. LaRue states there will be a financial loss if they have go down to the fourteen (14) lots. There was discussion with the Board and Mr. LaRue on changing the lot sizes of the homestead property and/or the proposed building lots as the variance applied for is quite large. Mr. LaRue thinks it would be difficult to receive approval for smaller than two (2) acre building lots. Penfield Counsel, Pete Weishaar said it was discussed and tabled at the Planning Board meeting. Planning Board tabled it pending outcome of the Zoning Board. Dick Montgomery (property owner) spoke and does not want to Table the application and asked what can we do to keep this going? Chairman DeLaus explained that the Board is bound by law to take into consideration ways to minimize variances given.

**SEQRA Determination:** Not Voted on

**Application Vote:**

Motion made by: Board Member Piston to Table and Second by Board Member Belgiorno  
Vote: All Ayes

3. Parrone Engineering, 349 West Commercial Street, East Rochester, NY, 14445 on behalf of Joseph Scofero requests Area Variances under Section 250-14.3 of the Code to allow an existing accessory building that is larger than permitted under Section 250-5.1-F (12) (a) of the Code with less setback than permitted under Section 250-5.1-F (12) (b) of the Code on Lot #1 of the proposed subdivision of 1623 Plank Road. The property is currently or formerly owned by Joseph and Paula Scofero and is zoned RA-2. SBL #096.03-1-69.1. Application #21Z-0046.

Appearances by:

David Staerr, P.L.S. Parrone Engineering VP, 349 West Commercial Street, East Rochester, NY, 14445

Joseph Scofero, 1402 Salt Rd., Webster, NY 14580

Board / Presenter Comments / Questions / Statements:

Mr. Scofero is here to discuss a proposed subdivision of his property and set backs of fifteen point four (15.4) acres on Plank Road and Salt Road. There is an existing farm house on the corner of Plank Road and Salt Road, with an existing barn on the property. They are deeming the property address to be 1623 Plank Road. The configuration of adjoining lots/parcels requires a two hundred (200) foot minimum frontage. The parcel (Lot 2) on Salt Road only has four hundred eleven (411) feet so this creates a hardship of the side setback of the existing barn on Plank Road requiring fifty (50) feet for personal use. It will not be for agricultural use. They would need variance either way they reconfigure on one of the lots.

The size of barn on 1623 Plank Road requires three point seven (3.7) acres, which would then make the Lot 2 parcel undesirable for subdividing later on. They are asking for a seven tenths (7/10) relief to make the corner parcel be three (3) acres.

Mr. Scofero spoke indicating his mother has decided to sell the family farm.

Board Member Cinti mentioned the previous variance granted is null and void. Mr. Staerr said he retracted that request. The variance is of two hundred ninety seven (297) square feet. Ms. Cinti asked if he checked with his neighbors and he has. Mr. Scofero resides on lot three (3).

Chairman DeLaus commented that this variance request is a lot smaller than previous applications heard tonight.

**SEQRA Determination:**

Motion Made by: Board Member Cinti and Second by Board Member Piston

\_\_\_ Type I Action. Further Action \_\_\_\_\_

X Type II Action, not subject to further review under SEQRA.

\_\_\_ Unlisted Action:

\_\_\_ Negative Declaration (Action will not result in any significant adverse environmental impacts).

\_\_\_ Further Action \_\_\_\_\_

**SEQRA Vote:**

All Ayes

**Application Vote:**

Motion made by: Board Member Cinti to Approve and Second by Board Member Belgiorio

Vote: All Ayes

4. Peter Massong, 1441 Hogan Road, Webster, NY, 14580 requests an Area Variance under Section 250-14.3 of the Code to allow a front porch with less setback than required under Section 250-5.1-F (1) of the Code at 1441 Hogan Road. The property is currently or formerly owned by Peter Massong and is zoned RA-2. SBL #111.01-1-13. Application #21Z-0047.

Appearances via Zoom:

Peter Massong -1441 Hogan Road, Webster, NY, 14580

Board Presenter Comments / Questions / Statements:

Silins asked for clarification of the application as Mr. Massong had sent in a revision. Mr. Massong explained that the porch was going to be eight (7) feet with a two (2) foot variance. He engaged an architect and his suggestion was to go with an eight (8) foot porch making the variance needed to be two point eight (2.8) feet. In order not to have a variance at all his porch could only be five (5) feet.

He has spoken to neighbors and they have no opposition.

**SEQRA Determination:**

Motion Made by: Board Member Silins and Second by Chairman DeLaus

☐ Type I Action. Further Action \_\_\_\_\_

☒ Type II Action, not subject to further review under SEQRA.

☐ Unlisted Action:

☐ Negative Declaration (Action will not result in any significant adverse environmental impacts).

☐ Further Action \_\_\_\_\_

**SEQRA Vote:**

All Ayes

**Application Vote:**

Motion made by: Board Member Silins to Approve and Second by Board Member Cinti

Vote: All Ayes

5. Nicholas Agnello, 36 Rundel Park, Rochester, NY, 14607 requests approval for a Conditional Use under Section 250-13.3 and Section 250-5.6-C (1) (c) of the Code to allow the operation of an art gallery, residence and arcade showroom at 1676 Penfield Road. The property is currently or formerly owned by Nicholas Agnello and is zoned LB. SBL #139.05-1-56. Application #21Z-0049.

Appearances by:

Nicholas Agnello, 36 Rundel Park, Rochester, NY, 14607

Greg Grillo, 231 Bayway Drive, Webster, NY 14580

Board/ Presenter Comments/Questions/Statements:

Board Member Belgiorno stated they are asking for a change in use permit.

Mr. Agnello spoke to explain the layout. They would like to utilize the downstairs for an Art Gallery connected to a studio apartment and a common area. The second apartment would stem from the common area then go upstairs. The area downstairs is approximately twenty five hundred (2500) square feet and the upstairs apartment one thousand (1000) square feet. The rear building is about twelve hundred (1200) square feet. They have fourteen (14) parking spaces.

Board Member Belgiorno asked about when he anticipates to open, what hours is he expecting to be open and if the lighting would be changed on the building.

Mr. Agnello stated it would be about spring time with limited business hours for the first couple years. Weekends 11:00 am to 6:00 pm. No weekday opening at this time for the public.

He anticipates approximately twenty (20) hours a week. He would be only employee but would like one additional person to help him down the line.

He would like to make some changes to the light. Specifically a light on a planter box. Wants to enhance both buildings with some illumination but needs to give it more thought.

Board Member Belgiorno asked about the back building, what kind of operation, what the noise level would be, if there would be any music, and how many people/families would be allowed in.

Mr. Grillo started with a little background. He is third generation for Flower City amusements.

They have been in Rochester for eighty (80) years. His grandfather and father are the founders.

He would like to carry on this tradition and wants to put up the first vintage arcade and showroom in Penfield. They would not primarily be selling machines. He explained the games, and wants to open it for the public to view the games and play them. The plan is to be open Thursday and Friday evening 6:00 pm to 10:00 pm and Saturday 2:00 pm to 10:00 pm. He only plans to have background music. The games could be heard from the parking lot but he intends to keep the doors closed so the neighbors would not hear any overwhelming sounds if anything at all. The building area is twelve hundred (1200) square feet. He says forty (40) people could fit in there. Parking spaces were talked about and they feel they have enough space for the capacity.

Mr. Grillo is looking to have birthday parties in the future and will not serve alcohol.

Board Member Cinti asked if they would warehouse games and the answer is no from Mr. Grillo.

Board Member Silins asked if they planned on having special events and if they would have different hours. Mr. Agnello answered that he would like to have some flexibility on this.

Chairman DeLaus checked for outside comments and there were none.

**SEQRA Determination:**

Motion Made by: Board Member Belgiorno and Second by Board Member Cinti

☐ Type I Action. Further Action \_\_\_\_\_

☒ Type II Action, not subject to further review under SEQRA.

☐ Unlisted Action:

☐ Negative Declaration (Action will not result in any significant adverse environmental impacts).

☐ Further Action \_\_\_\_\_

**SEQRA Vote:** All Ayes

**Application Vote:**

Motion made by: Board Member Belgiorno to Approve and Second by Board Member Silins

**Vote:** All Ayes

There being no further business the Board adjourned this meeting 8:50 pm.

These minutes were adopted on September 16, 2021.