

Penfield Zoning Board of Appeals

November 18, 2021 Meeting Minutes

The Zoning Board Work session was held at 6:30 p.m. local time with the meeting immediately following on Thursday, November 18, 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	
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
Heidi Boehl, Supervisor, Building Dept	X	

II. Regarding Minutes from Zoning Board Meeting on October 21, 2021

Motion made by:		To:	Second by:		Board Vote	Y	N
DeLaus			DeLaus		DeLaus	X	
Belgiorno			Belgiorno	X	Belgiorno	X	
Piston	X	Approve	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 welcomed 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 November 18, 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.

* 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

NOTICE:

Tonight's meeting brings the last meeting for Mike Belgiorno and his retirement from the Penfield Zoning Board. He's been on the board for twenty-four (24) years. Kind words were given regarding his dedication, professionalism, and how well he knows the code and brings up appropriate questions and will make educated and thoughtful decisions. Mrs. Belgiorno, Joan, has also dedicated much of her time to our Town.

Both Mr. and Mrs. Belgiorno have given much time and talent to the Town of Penfield and its residents. Mike expressed his enjoyment of working on the board and how he tried to help the town in some manner.

You will be greatly missed Mike, and never forgotten. Have a great retirement!

1. Amy Catalano/Vital Signs, 764 Ridge Road, Webster, NY, 14580 on behalf of Genesee Valley Physical Therapy requests approval for a Special Use Permit for signage under Section 250-10.3-A of the Code to allow a second building-mounted sign whereas a maximum of one building-mounted sign is permitted under Section 250-10.13-C of the Code at 2200 Penfield Road. The property is currently or formerly owned by Penn Fair Plaza, LLC and is zoned GB. SBL #140.01-1-3.1. Application #21Z-0057.

Appearances:

Daniel Geen – Owner/Founder of Genesee Valley Physical Therapy (GVPT) since 1987 and in Penfield since 2003.

Amy Catalano - Vital Signs

Board / Presenter Comments / Questions / Statements:

The business will be moving to 2200 Penfield Rd from 401 Penbrooke Road and cars would access from Route 250, heading Southbound on Route 250, it would be easier and safer to see a sign from that direction.

Board Member Piston discussed the various multiple business signs around the area and noted that this request is proposing almost double the allowable signage and has a concern for the size GVPT is asking for. He asked if the signs could be smaller and asked if he would like to table to check with his sign company.

Chairman DeLaus asked about the logo on the sign and if it could be removed to make the sign smaller. He also asked about if patients use a GPS if they would be able to find the practice. They mentioned their patients may not use GPS as they may be an older generation.

There is a directory sign, but he is not sure if they will be on the sign.

SEQRA Determination: NOT VOTED ON YET

Application Vote:

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

Vote: All Ayes

2. Craig D. Smith, 1174 Penfield Center Road, Penfield, NY, 14526 requests Area Variances under Section 250-14.3 of the Code to allow a second accessory storage building whereas a maximum of one accessory storage building is permitted under section 250-5.1-D (4) of the Code that is also taller than permitted under Section 250-5.1-F (12) (c) of the Code at 1174 Penfield Center Road. The property is currently or formerly owned by Craig & Judy Smith and is zoned RR-1. SBL #110.01-1-68.1. Application #21Z-0058.

Appearances by:

Craig Smith

Board / Presenter Comments / Questions / Statements:

Board Member Silins went over the application regarding the two (2) storage buildings and why he needs what he is asking for.

Mr. Smith mentioned he would like a storage mezzanine area and the pitch and width size dictates the size of thirty (30) feet height. It was a cost-effective way to get the most out of the storage. The second storage unit has been there thirty years, it holds fuels, pesticides to keep away from the house. He mentions you would have to have an aerial view to even see it, he has five (5) plus acres and no one would see it. Board Member Silins asked why he can't consolidate the combustibles into the proposed building.

Mr. Smith said there would be a cost to make it safe in the new building and a cost to demolish the old building. Mr. Smith mentions that the farm property to his west has three (3) buildings. He does want water and electricity in the proposed building.

Chairman DeLaus mentioned we received email and letters of support.

SEQRA Determination:

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

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 Belgiorno

Vote: All Ayes

3. Kenneth Feicht, 4 Tall Tree Drive, Penfield, NY, 14526 requests an Area Variance under Section 250-14.3 of the Code to allow a larger accessory storage building than permitted under Section 250-5.1-F (12) (a) of the Code at 4 Tall Tree Drive. The property is currently or formerly owned by Kenneth & Mary Feicht and is zoned R-1-15. SBL #109.03-1-166. Application #21Z-0059.

Appearances:

Kenneth and Mary Feicht

Board / Presenter Comments / Questions / Statements:

Board Member Silins went over the application and the fact that it was a lot larger than allowed. Mr. Feicht mentioned it would be the most storage for his needs. The colors will match the siding of the house, it will have windows and an entry way with a light above the door. And there are others similar in the neighborhood. A smaller shed would cost more than this one.

SEQRA Determination for the whole action:

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 to Silins to Approve and Second by Chairman DeLaus

Vote: All Ayes

4. Antonia & Alexander Poggi, 3839 Lake Avenue, Rochester, NY, 14612 request approval for a Conditional Use under Section 250-13.3 and Section 250-5.6-C (1) (a) of the Code to allow the operation of a restaurant (Capone's Bar & Italian Eatery) at 1517 Empire Boulevard. The property is currently or formerly owned by Josephine Joan DiVincenzo Living Trust and is zoned LB. SBL #108.06-1-5. Application #21Z-0060.

Appearances:

Antonia Poggi
Aileen Calderon
Rick DiVincenzo – Property owner

Board / Presenter Comments / Questions / Statements:

Board Member Belgiorno went over the application and that the building has been a restaurant use for thirty-two (32) years. Ms. Poggi wants to have an Italian theme but cater to sports bar. Aileen wants to provide excellent Italian food, and family oriented, have dinner and come back later to have a beer and enjoy some music or watch a game. Hours would be Sunday to Thursday 11am to 12 am, and weekends 11am to 2am. Thinks they may have 20-30 employees, and they will only do cosmetic painting and repairs to the outside. They will keep existing lighting and signage area. They would like to have some live music and there is extensive sound buffering and there have been no complaints about live music in the past. There is plenty of parking on site. They would like to also have approval for outdoor dining as well. Mr. DiVincenzo spoke in support of the application. (previous owner/builder)

SEQRA Determination for the whole action:

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

- 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

5. Peter Vars P.E./BME Associates, 10 Lift Bridge Lane East, Fairport, NY, 14450 on behalf of Luis Ribeiro requests an Area Variance under Section 250-14.3 of the Code to allow a greater density of residential units per acre than allowed under Section 250-5.12-I (1) of the Code relating to the proposed development of Lot 3 (300 YMCA Way) and Lot 4 (100 YMCA Way) of the Penfield Square Mixed Use Development. The properties proposed for development are currently or formerly owned by Penfield Sq III, LLC and Penfield Sq IV, LLC and are zoned MUD. SBL #125.01-1-25.33 & #125.01-1-25.34. Application 21Z-0061.

WITHDRAWN

6. Jessica Rapach, 8 Scarborough Park, Rochester, NY, 14625 requests approval for a Special Use Permit for signage under Section 250-10.3-A of the Code to allow (2) subdivision identification signs within the right-of-way and with less setback then required under Section 250-10.16-B of the Code. The signs are proposed to be located at the entrances to the Piccadilly Park subdivision within the right-of-way adjacent to the properties located at 1620 Qualtrough Road and 1617 Scribner Road. The right-of-way is owned by the Town of Penfield and is located within the R-1-20 zoning district. Application #21Z-0062.

Appearances:

Jessica Rapach

Board / Presenter Comments / Questions / Statements:

Chairman DeLaus summed up the application for a request for signage at the Piccadilly Park subdivision. The neighborhood wants to replace the existing signs from twenty-five (25) years ago. Fedyk (builder) put the original signs in, one sign is gone due to deterioration, the other sign is still standing but rotting and needs to be replaced.

They are working with the sign maker that made the original sign and they would like nice new stone, faux stone and wood, the wording will be 3D, and painted for longevity.

Ms. Rapach had to go to the Town Board for approval due to the signs being in the right of way and received approval with conditions of maintenance. She has a maintenance plan and team in the neighborhood set up and will do quarterly inspections and maintain it. Ms. Rapach sent out estimates to the neighbors for a vote on the type of sign and to see if they would go for this idea. There are about one hundred (100) houses in the neighborhood. Ninety-six (96) homeowners returned her email, and ninety-four (94) votes were returned to her wanting the signs and willing to take care of it. She got three (3) different companies and quotes. If for whatever reason people come and go and the neighborhood approval stops, they have a clause stating that the town may remove the signs if they ever need to.

Chairman DeLaus asked if anyone checked on sight distance for seeing as they turn. Ms. Rapach stated the signs are lower than the original signs specifically so they can see over the signs.

SEQRA Determination:

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

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: Chairman DeLaus to Approve with conditions and Second by Board Member Silins

Vote: All Ayes

7. Jerry A. Goldman, Esq./Woods, Oviatt Gilman, LLP, 1900 Bausch & Lomb Place, Rochester, NY, 14604 on behalf of WOVE, LLC requests approval for a Conditional Use under Section

250-13.3 and Section 250-5.7-C (k) of the Code to allow the operation of a vehicle rental business (Avis Car Rental) at 1855 Empire Boulevard. The property is currently or formerly owned by WOVE, LLC and is zoned GB. SBL #093.11-1-36.1. Application #21Z-0063.

Appearances:

Jerry Goldman – Woods, Oviatt Gilman
Greg Kimber - COO of Scutti enterprises (owner of property)
Gary Dempsey - Avis car rental

Board / Presenter Comments / Questions / Statements:

They are here looking for a Conditional Use to allow them to replace the T-Mobile location at Baytowne Square Plaza with an Avis Rental car location. He discussed in length the car parking spaces at the plaza.

Mr. Belgiorno wanted to clarify the marked spaces for the inventory of cars kept for rental and they mentioned they have room behind the location as well.

Hours of operation will be 8:00 AM to 6:00 PM Monday through Friday, 8:00 AM, TO 3:00 PM Saturdays, and 3:00 PM to 12:00 PM Sundays. They will two (2) employees.

SEQRA Determination for the whole action:

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

Vote: All Ayes

There being no further business the Board adjourned this meeting 8:00 pm.
These minutes were adopted on January 20, 2022.